

# **AMENDED AND RESTATED ARTICLES OF INCORPORATION**

**OF**

## **PLEASANT ACRES HOME OWNERS ASSOCIATION**

These Amended and Restated Articles of Incorporation of Pleasant Acres Home Owners Association (the "Association"), a Minnesota nonprofit corporation organized under Minnesota Statutes Chapter 317A (known as the Minnesota Nonprofit Corporation Act (the "Act")), amend, restate, and supersede in their entirety, the existing Articles of Incorporation of the Association which were filed in the office of the Minnesota Secretary of State on March 19, 1968 (the "Existing Articles"). Unless otherwise defined herein, the terms used in these Amended and Restated Articles of Incorporation shall have the same meaning assigned to them in the Amended and Restated By-Laws (defined below).

### **ARTICLE I**

#### **NAME**

The name of this corporation is Pleasant Acres Home Owners Association.

### **ARTICLE II**

#### **PURPOSES AND POWERS**

The purposes for which the Association is formed, and its powers, are as follows:

1. To act as the association described in the Amended and Restated By-Laws of the Association, which Amended and Restated By-Laws amend and restate, and replace and supersede, in their entirety the existing By-Laws of the Association that were last amended on April 21, 1997 (and which may have been amended, modified, or be in more than one version). The Association is a Minnesota nonprofit corporation subject to the Act. Said Amended and Restated By-Laws, as may be amended, restated, or supplemented from time to time, are referred to herein as the "Amended and Restated By-Laws."
2. To provide for the maintenance, preservation, architectural control, operation, management, and administration of the Property, and to preserve the value, and the architectural and physical character, of the Property.
3. To exercise the powers and duties now or hereafter granted to, or imposed by law or the Amended and Restated By-Laws upon, the Association, and to do all other lawful acts or things reasonably necessary for carrying out the Association's purposes; provided, that no actions shall be authorized or undertaken which violate any state or federal laws applicable to nonprofit corporations.

### **ARTICLE III**

#### **NO PECUNIARY GAIN**

The Association shall not afford pecuniary gain, incidentally or otherwise, to the Members by reason of their membership in the Association. However, subject to approval by the Board, as provided in the Amended and Restated By-Laws, a Member may be reimbursed for out-of-pocket expenses incurred in carrying out duties on behalf of the Association, or a Member may be reasonably compensated for goods or services furnished to the Association in an independent, arms-length business transaction.

### **ARTICLE IV**

#### **DURATION**

The duration of the Association shall be perpetual.

### **ARTICLE V**

#### **REGISTERED OFFICE**

The address of the registered office of the Association is 3910 Leslee Curve, Excelsior, Minnesota 55331.

### **ARTICLE VI**

#### **DIRECTORS**

The business of the Association shall be managed by the Board, which shall consist of at least three (3) persons, or such other number as provided in the Amended and Restated By-Laws. The members of the Board shall be elected and carry out their duties as provided in the Amended and Restated By-Laws. An action by the Board (other than an action requiring approval of the Members) may be taken by written action signed, or consented to by "authenticated" "electronic communication" (as those terms are defined in the Act), by the number of directors of the Association that would be required to take the same action at a meeting of the Board at which all directors were present.

### **ARTICLE VII**

#### **NO CAPITAL STOCK**

The Association shall have no capital stock.

### **ARTICLE VIII**

#### **MEMBERSHIP/VOTING**

The members of the Association shall be those persons or entities described as Members in the Amended and Restated By-Laws. Membership in the Association shall not be transferable. No more than one membership shall be allocated to each Parcel (and membership shall be established as set forth in the Amended and Restated By-Laws). The Members shall have the voting rights and interests described in the Amended and Restated By-Laws. Cumulative voting by Members shall not be permitted. Except as may specifically set forth in

the Amended By-Law or the Act, the Members shall not be subject to any personal liability for the obligations of the Association.

**ARTICLE IX**

**AMENDED AND RESTATED BY-LAWS**

The Association shall be governed by the Amended and Restated By-Laws, as may be amended, supplemented, restated, or otherwise modified, from time to time. The Amended and Restated By-Laws may be amended, supplemented, restated, and/or revoked only by the Members, as provided in the Amended and Restated By-Laws and under Minnesota law.

**ARTICLE X**

**MEETINGS**

The Association shall hold meetings of its Members, at such times and in such manner as specified in the Amended and Restated By-Laws.

**ARTICLE XI**

**AMENDMENTS**

Amendment of these Amended and Restated Articles of Incorporation shall require the prior approval of Members who hold in excess of fifty percent (50%) of the total votes in the Association, at a meeting duly held for such purposes, or voting by ballot in lieu of a meeting; except that the registered office of the Association may be changed by the filing of a Certificate of Change of Registered Office in accordance with law.

**ARTICLE XII**

**DISSOLUTION**

The Association may be dissolved as provided in the Act.

**IN WITNESS WHEREOF**, we, the President and the Secretary of the Association, have subscribed our names on this \_\_\_\_\_ day of \_\_\_\_\_, 2018, and hereby certify that these Amended and Restated Articles of Incorporation were approved by the Board and by the required vote of the Members, in accordance with the requirements of the Existing Articles, the Association's existing By-Laws, and the Act, effective as of the date of filing of these Amended and Restated Articles of Incorporation in the office of the Minnesota Secretary of State.

\_\_\_\_\_  
President

\_\_\_\_\_  
Secretary

**PLEASANT ACRES HOME OWNERS ASSOCIATION**

**ARTICLES OF AMENDMENT**

**OF**

**ARTICLES OF INCORPORATION**

We, the undersigned, being the President and the Secretary of Pleasant Acres Home Owners Association (the "Association"), a Minnesota nonprofit corporation, do hereby certify that the Amended and Restated Articles of Incorporation of the Association which are attached hereto have been duly adopted under, and in accordance with, Minnesota Statutes Chapter 317A and the existing Articles of Incorporation and the existing By-Laws of the Association, and shall amend, restate, and supersede in their entirety the existing Articles of Incorporation of the Association.

\_\_\_\_\_  
President

\_\_\_\_\_  
Secretary

STATE OF MINNESOTA    )  
  ) ss.  
COUNTY OF \_\_\_\_\_)

This instrument was acknowledged, subscribed to, and sworn to, before me this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by \_\_\_\_\_, the President of Pleasant Acres Home Owners Association, a Minnesota nonprofit corporation, on behalf of said corporation.

\_\_\_\_\_  
Notary Public

STATE OF MINNESOTA    )  
  ) ss.  
COUNTY OF \_\_\_\_\_)

This instrument was acknowledged, subscribed to, and sworn to, before me this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by \_\_\_\_\_, the Secretary of Pleasant Acres Home Owners Association, a Minnesota nonprofit corporation, on behalf of said corporation.

\_\_\_\_\_  
Notary Public

STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF \_\_\_\_\_)

This instrument was acknowledged, subscribed to, and sworn to, before me this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by \_\_\_\_\_, the President of Pleasant Acres Home Owners Association, a Minnesota nonprofit corporation, on behalf of said corporation.

\_\_\_\_\_  
Notary Public

STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF \_\_\_\_\_)

This instrument was acknowledged, subscribed to, and sworn to, before me this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by \_\_\_\_\_, the Secretary of Pleasant Acres Home Owners Association, a Minnesota nonprofit corporation, on behalf of said corporation.

\_\_\_\_\_  
Notary Public

## **AMENDED AND RESTATED BY-LAWS**

**OF**

### **PLEASANT ACRES HOME OWNERS ASSOCIATION**

These Amended and Restated By-Laws of Pleasant Acres Home Owners Association (the "By-Laws") were approved by the Board of Directors (the "Board") of Pleasant Acres Home Owners Association (the "Association"), a Minnesota nonprofit corporation, and by the Members authorized to cast two-thirds (2/3) of the votes in the Association that were cast by ballot (in lieu of a meeting of the Members), all in accordance with the requirements of Minnesota Statutes Chapter 317A, known as the Minnesota Nonprofit Corporation Act (the "Act"), and the Existing By-Laws (defined below). References to section numbers in these By-Laws shall refer to sections of these By-Laws, unless otherwise indicated herein.

**WHEREAS**, the Association has the main purpose of organizing, establishing, conducting, and maintaining facilities and accommodations on, and to enable the Association's members (collectively, the "Members," and, individually, a "Member") to enjoy outdoor recreation on, the Property (defined below), and

**WHEREAS**, the Association is the owner of the real property (and all improvements thereon and thereto) located in Carver County, Minnesota, in the city of Chanhassen, and legally described on Exhibit A attached hereto (the "Property"). The Association became the owner of the Property pursuant to that certain Quit Claim Deed, dated May 28, 1968, and recorded in the office of the County Recorder in and for Carver County, Minnesota (the "Recorder"), on May 28, 1968, as Document No. 04057 (the "Deed"), and

**WHEREAS**, the Association and the Members desire to amend and restate the existing By-Laws of the Association (which were last amended on April 21, 1997), as may be amended, modified, or of more than one version (the "Existing By-Laws"), as set forth herein, with the intent that these By-Laws shall replace and supersede the Existing By-Laws in their entirety.

**THEREFORE**, the Existing By-Laws are hereby amended and restated, and replaced and superseded, in their entirety as follows:

#### **SECTION 1**

##### **GENERAL**

The Association was organized pursuant to Minnesota Statutes Chapter 317, and is now governed by the Act. The Association has the main purpose of organizing, establishing, conducting, governing, and maintaining facilities and accommodations on, and to enable the Members to enjoy outdoor recreation on, the Property.

## SECTION 2

### MEMBERSHIP

2.1 Member Qualification. A person or entity is qualified to be a Member if that person or entity has a recorded ownership interest in an addressed parcel of real property (a "Parcel") that is part of the real property legally described in Exhibit B attached hereto (the real property legally described in said Exhibit B is referred to herein as the "Community"), which real property is referenced in the Deed. A person or entity having a recorded ownership interest in a Parcel is referred to herein as an "Owner."

2.2 Establishment of Membership. An Owner shall be a Member once that Owner pays to the Association the Annual Dues (as defined in Section 6.4.k) for the year of membership and (if applicable) the Initiation Fee (as defined in Section 6.4.k). The Member's membership in the Association shall expire (and the Member shall cease to be a Member) at the end of the last day of the Association's fiscal year to which the last paid Annual Dues (relating to that Member's Parcel) apply. If a person or entity is a Member for a particular fiscal year of the Association, and then wishes to be a Member for the Association's next fiscal year, that person or entity can do so only by paying to the Association the Annual Dues for that next fiscal year, the Initiation Fee (if applicable), and all other Charges (as defined in Section 6.4.k) that were charged by the Association to that person or entity (as a Member) prior to the first day of that next fiscal year. If the title to a Parcel is conveyed or transferred, and if the Owner of that Parcel immediately prior to the effective date of such conveyance or transfer is a Member, then the person or entity to whom that title is conveyed or transferred shall be a Member for the balance of the Association's fiscal year to which the last paid Annual Dues (relating to that Parcel) apply but only if that person or entity pays to the Association the Initiation Fee (if applicable).

2.3 Registration of Members. Upon request of the Association, a Member shall register with the Secretary of the Association (the "Secretary"), in writing, (i) the name, address, and e-mail address, of the Member, (ii) other Member contact information reasonably requested by the Association, and (iii) the address at which the Member desires to receive notice of any meeting of the Members, if other than address of that Member's Parcel, or the consent of the Member to receive notice by electronic communication and the designation of the email address, facsimile number, or other available form of electronic communication by which the Member desires to receive notice, in accordance with Section 317A.450 of the Act. Each Member shall have a continuing obligation to advise the Association in writing or by authenticated electronic communication (as the terms "authenticated" and "electronic communication" are defined below) of any changes in the foregoing information.

2.4 Certain Obligations. A Member shall be liable and responsible to the Association for all Charges charged to that Member by the Association and which are due and payable by the Member to the Association, and for all other amounts, charges, fees, and costs as are set forth in these By-Laws (including, but not limited to, the reasonable attorney's fees and other legal expenses incurred by the Association with regard to that Member). A person or entity who/that, at one time, was a Member but who/that is no longer a Member, shall also be liable and responsible to the Association for all Charges and for all other amounts, charges, fees, and costs as are set forth in these By-Laws (including, but not limited to, the reasonable attorney's fees and

other legal expenses incurred by the Association with regard to that person or entity or the membership that was held by that person or entity).

### SECTION 3 VOTING

3.1 Entitlement. A Member shall be entitled to vote on matters concerning the affairs of the Association that require the vote of the Members under these By-Laws, the Association's Amended and Restated Articles of Incorporation, as amended from time to time (the "Articles"), and the Act.

3.2 Authority to Cast Vote. At any meeting of the Members, a Member shall be entitled to cast a vote on those matters that must be approved by the Members. One (1) vote is allocated to each Parcel; provided, that the Parcel is owned by a Member. If a Parcel is owned by more than one (1) Member, only one such Member may cast the vote allocated to the Parcel. If such Members fail to agree as to who shall cast the vote allocated to the Parcel, or fail to register pursuant to Section 2.2, that vote shall not be cast.

3.3 Voting by Proxy. A Member may cast the Member's vote, and be counted as present at any meeting of the Members, by executing a written proxy naming another Member entitled to act on that Member's behalf, and delivering the same to the Secretary before the commencement of any such meeting. All proxies granted by a Member shall be effective until the earliest of the following events: (i) revocation by the granting Member by written notice or by personally attending and voting at the meeting for which the proxy is effective, (ii) the date specified in the proxy, if any, (iii) the time at which the granting Member is no longer a Member, (iv) eleven (11) months after the date of the proxy, or (v) any other applicable event specified in Section 317A.453 of the Act. The Association has the authority to establish the form of the written proxy and the proxy rules.

3.4 Voting by Ballot in Lieu of a Meeting. The entire vote by the Members on any issue may be taken by electronic means or by ballots mailed or delivered to the Members, in compliance with the Act, in lieu of holding a meeting of the Members. Such a vote shall have the force and effect of a vote taken at a meeting of the Members; provided, that the total votes cast are at least equal to the votes required for a quorum. The Board shall set a voting period within which the ballots or other voting responses must be received by the Association, which period shall be not less than fifteen (15) nor more than forty-five (45) days after the date of mailing or delivery of the notice of the vote and voting procedures to the Members. The Board shall provide notice of the results of the vote to the Members within a reasonable period of time after the expiration of the voting period (any delay in providing such notice shall in no way invalidate or otherwise affect the action(s) approved by the Members by ballot). All requirements for a meeting of the Members, or for being present in person at a meeting of the Members, shall be deemed satisfied by a vote taken in compliance with the requirements of this Section. The voting procedures authorized by this Section shall not be used in combination with a vote taken at a meeting of the Members. However, voting by electronic means and by mailed ballots may be combined if each is done in compliance with the Act. The voting procedures authorized by this Section shall be subject to the following additional requirements and procedures:



- a. The notice of the pending vote shall: (i) clearly state the proposed action or matter, (ii) indicate the percentage (and, if applicable, the number) of responses/votes needed to meet the quorum requirements, (iii) state the percentage (and, if applicable, the number) of approvals necessary to approve each action or matter, and (iv) specify the time and date by which the ballot must be received by the Association in order to be counted.
- b. The ballot shall: (i) set forth each proposed action or matter and (ii) provide an opportunity to vote for or against each proposed action or matter.
- c. Approval by this Section is valid only if (i) the percentage (or number) of votes cast equals or exceeds the quorum that would otherwise be required to be present at a meeting of the Members authorizing the action or matter, and (ii) the number of approval votes equals or exceeds the percentage (or number) of votes that would otherwise be required to approve the action or matter at a meeting of the Members at which the total number of votes cast was the same as the number of votes cast by ballot or other means.
- d. The notice of the vote to a Member may be given to the Member by a form of "electronic communication" (as that term is defined in Section 3.4f) consented to by the Member, and is effective when given. The notice is deemed given: (i) if by facsimile communication, when directed to a telephone number at which the Member has consented to receive notice, (ii) if by electronic mail, when directed to an electronic mail address at which the Member has consented to receive notice, (iii) if by a posting on an electronic network on which the Member has consented to receive notice, together with separate notice to the Member of the specific posting, upon later of the posting or the giving of the separate notice, and (iv) if by another form of electronic communication by which the Member has consented to receive notice, when directed to the Member. Consent by a Member to notice given by electronic communication may be given to the Association in writing or by "authenticated" (as that term is defined in Section 3.4f) electronic communication. Consent by a Member to receive notice by electronic communication in a certain manner constitutes consent to receive a ballot by electronic communication in the same manner. The Association is entitled to rely on any consent so given until revoked by the Member, provided that no revocation affects the validity of any notice given before the receipt by the Association of revocation of the Consent.
- e. A ballot delivered by a Member to the Association by electronic communication is valid only if authenticated.
- f. The term "electronic communication," as used in these By-Laws, means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient of the communication, and that may be directly reproduced in paper form by the recipient through an automated process. The term "authenticated," as used in

these By-Laws, means, with respect to an electronic communication, that the communication is delivered to the principal place of business of the Association, or to an officer or agent of the Association authorized by the Association to receive the communication, and that the communication sets forth information from which the Association can reasonably conclude that the communication was sent by the purported sender. The terms defined in this Section 3.4f are subject to change as the definitions of such terms are modified in the Act.

3.5 Vote Required. A majority of the votes cast at any properly constituted meeting of the Members, or cast by ballot in accordance with Section 3.4, shall decide all matters properly brought before the Members, except where a different vote or voting procedure is required by the Act or these By-Laws. The term “majority,” as used herein, shall mean in excess of fifty percent (50%) of the votes cast at a meeting (in person or by proxy), or voting by ballot. Cumulative voting shall not be permitted.

## SECTION 4

### MEETINGS OF MEMBERS

4.1 Place. All meetings of the Members shall be held at the office of the Association or at such other place in the state of Minnesota reasonably accessible to the Members as may be designated by the Board in any notice of a meeting of the Members.

4.2 Annual Meetings. An annual meeting of the Members shall be held in each fiscal year on a date, and at a reasonable time and place, designated by the Board. At each annual meeting of the Members, (i) the persons who are to constitute the Board shall be elected pursuant to Section 6, (ii) a report shall be made to the Members on the activities and financial condition of the Association, and (iii) any other matter which is included in the notice of the annual meeting, and is a proper subject for discussion or decision by the Members, shall be considered and acted upon at the meeting.

4.3 Special Meetings. Special meetings of the Members may be called by the President of the Association (the “President”) as a matter of discretion. Special meetings of the Members shall be called by the President or Secretary within thirty (30) days following receipt of the written request of (i) a majority of the members of the Board or of (ii) at least thirty percent (30%) of the Members. The meeting shall be held within sixty (60) days following receipt of the request. The request shall state the purpose of the meeting, and the business transacted at the special meeting shall be confined to the purposes stated in the notice. The purpose for which the meeting is requested and held must be lawful and consistent with the Association’s purposes and authority under the Act, these By-Laws, and the Association’s Amended and Restated Articles of Incorporation (the “Articles”).

4.4 Notice of Meetings. Not less than twenty-one (21) nor more than thirty (30) days in advance of any annual meeting of the Members, and not less than seven (7) nor more than thirty (30) days in advance of any special meeting of the Members, the Secretary shall send notice of the time, place and agenda of the meeting to all persons who are Members as of the date of sending the notice. The notice shall be sent to the Members by United States mail, or by

hand delivery, to the Parcel owned by the Member or to such other address as the Member may have designated in writing to the Association. In addition, and to the extent not otherwise prohibited by, or in conflict with, provisions of the Act or other provisions of Minnesota law, a notice of any meeting of the Members may be given to a Member by the Association by a form of electronic communication, pursuant to the requirements of Section 317A.450, Subdivision 5, of the Act. Notice of meetings at which a vote is to take place upon amendments to the Articles shall also be given separately to each officer and director of the Association.

4.5 Quorum/Adjournment. The presence of Members, in person or by proxy, having the authority to cast a majority of the votes in the Association, shall constitute a quorum at all meetings of the Members for the transaction of any business, except that of adjourning the meeting to reconvene at a subsequent time. Any meeting may be adjourned from time to time, but until no longer than thirty days later, without notice other than announcement at the meeting as initially called. If a quorum is present at the reconvened meeting, any business may be transacted which might have been transacted at the meeting as initially called had a quorum then been present. If a quorum has been established at a meeting or a reconvened meeting, the quorum shall continue to exist for the meeting in question notwithstanding the departure of any Member originally in attendance in person or by proxy.

4.6 Agenda. The agenda for meetings of the Members shall be established by the Board, and shall be sent to all Members along with the notice of the meeting.

## SECTION 5

### ANNUAL REPORT

The Board shall prepare an annual report of the Association, a copy of which shall be provided to each Member at or prior to the annual meeting of the Members. The annual report shall contain, at a minimum:

- a. Capital Expenditures. A statement of any capital expenditures approved for the current year and the succeeding year.
- b. Bank/Investment Accounts. A statement of the balance in each bank/investment account.
- c. Financial Statements. A copy of the statement of revenues and expenses for the Association's last fiscal year, and a balance sheet as of the end of said fiscal year.
- d. Litigation and Judgments. A statement of the status of any pending litigation or judgments to which the Association is a party.

## SECTION 6

### BOARD OF DIRECTORS

6.1 Number and Qualification. The affairs of the Association shall be governed by the Board. As of the date these By-Laws were fully-approved, the Board was composed of nine

(9) directors. On the date of the first annual meeting of the Members occurring after the date these By-Laws were fully-approved, the Board shall be composed of five (5) directors, each of whom shall be a Member or a duly authorized representative of a Member if the Member is an entity other than a natural person which has the capacity to hold title to real estate. If a Parcel is owned by more than one (1) Member, no more than one (1) of those Members (or no more than one (1) duly authorized representative of the Member if the Member is an entity other than a natural person) shall be a director at any given time.

6.2 Term of Office. Regardless of the length of terms of the directors in existence as of the date these By-Laws were fully-approved, the terms of all of the directors in existence as of the date these By-Laws were fully-approved shall expire at the first annual meeting of the Members occurring after the date these By-Laws were fully-approved. The terms of office of the directors elected at that annual meeting shall be one (1) year for two (2) directors and two (2) years for three (3) directors. The three (3) directors receiving the greatest number of votes at that annual meeting shall serve the two (2)-year terms. Thereafter, the term of each director shall be two (2) years. The term of a director shall expire upon the election of a successor director at the appropriate annual meeting of the Members; provided, that a director shall continue in office until a successor is elected. A number of nominees equal to the number of vacancies, and receiving the greatest numbers of votes, shall be elected, notwithstanding that one (1) or more of them does not receive a majority of the votes cast. A director appointed or elected to fill an uncompleted term shall serve until the natural termination of that term, unless removed in accordance with these By-Laws. There is no cumulative voting for directors.

6.3 Nominations. Nominations for election to the Board at each annual meeting of the Members may be made by a nominating committee appointed by the Board; provided, that Members may also make nominations at any time at or before the annual meeting. The nominating committee (if established) shall consist of Members who are representative of the general membership of the Association, and shall establish fair and reasonable procedures for the submission of nominations. Each nomination shall be made only with the consent of the nominee.

6.4 Powers. The Board shall have all powers necessary for the administration of the affairs of the Association, and may exercise for the Association all powers and authority vested in or delegated to the Association (and not expressly reserved to the Members) by law, these By-Laws, or the Articles. The powers of the Board shall include, without limitation, the power to:

- a. adopt, amend, and revoke (i) policies and/or procedures (collectively, the "Policies and Procedures") for the operation and administration of the Association and for the use, administration, and operation of the Property, and (ii) rules and regulations (collectively, the "Rules") for the conduct of the Members (and their family members, guests, tenants, and visitors) on the Property and for the use, administration, and operation of the Property. Such Policies and Procedures, or Rules, may include, but shall not be limited to, the establishment, implementation, and administration of the assignment and waiting list system for use by the Members of the docks (the "Docks") and boat slips (the "Slips") located on the Property and along the lakeshore of the Property, as well as the conditions under which a Member's right to use a Dock or a Slip may be terminated or suspended,

and may include the establishment, modification, and enforcement of an Initiation Fee (defined below);

- b. adopt and amend budgets for revenues, expenditures, and reserves;
- c. establish one or more than one adequate reserve fund for maintenance, repair, and replacement of those portions of the Property that the Association is to maintain, repair, or replace on a periodic basis;
- d. hire and discharge managing agents and other employees, agents, and independent contractors;
- e. institute, defend, or intervene in litigation or administrative proceedings on matters relating to the Association;
- f. make contracts and incur liabilities;
- g. regulate the use, maintenance, repair, replacement, and modification of, and cause improvements to be made as part of, the Property and of any other real property (and improvements thereon) owned, operated, or used by the Association;
- h. maintain, repair, replace, and modify the Property, any other real property (and improvements thereon) owned, operated, or used by the Association, and any personal property owned by the Association;
- i. subject to Section 6.4.n, acquire, hold, encumber, and convey in its own name any right, title, or interest to real estate or personal property, and to purchase personal property deemed appropriate or necessary by the Board; provided, that any conveyance or other transfer of all, or any portion, of the Property shall require prior approval by the Members having the authority to cast at least sixty-seven percent (67%) of the total voting interest in the Association (which vote may take place at a meeting of the Members or by ballot voting in lieu of the meeting);
- j. grant or amend rights-of-way, easements, leases, and licenses through, over, or under the Property for public roadways, public utilities, and other public purposes, and for public and private cable, internet, satellite, and other electronic communications systems; and to grant or amend other easements, leases, and licenses through, over, or under the Property;
- k. establish, impose, receive, and collect (and set due dates for payment of, and set criteria for payment of) payments, fees, late fees, charges, annual membership dues (the "Annual Dues"), special dues (the "Special Dues"), and a Member initiation fee (the "Initiation Fee") (such payments, fees, late fees, charges, Annual Dues, Special Dues, and Initiation Fee are referred to herein collectively as the "Charges") from Members (and from prospective Members) for services provided to Members, which are a condition of membership in the Association, or which are otherwise established or authorized under these Bylaws, and establish procedures for the collection of the Charges.

- l. impose late charges, penalties, and other fees and costs (and, in addition to any such late charges, penalties, and other fees and costs, impose interest at the rate of eight percent (8%) per annum on the unpaid Charges) for a Member's late payment of the Charges, and establish and implement procedures for the collection of unpaid Charges from Members;
- m. establish, impose, receive, and collect reasonable fines for violations of the Policies and Procedures and the Rules;
- n. borrow money, and encumber or pledge the assets of the Association as security therefor; provided, that any borrowings in any twelve (12) month period which exceed, in aggregate, twenty-five percent (25%) of the Association's anticipated revenue set forth in the Association's then annual budget, shall require prior approval by the Members having the authority to cast at least sixty-seven percent (67%) of the total voting interest in the Association (which vote may take place at a meeting of the Members or by ballot voting in lieu of the meeting);
- o. impose, receive, and collect reasonable charges for the review, preparation and recording of amendments to these By-Laws or the Articles, statements of unpaid Charges, or furnishing copies of Association records;
- p. provide for the indemnification of its officers, directors, and committee members, and maintain directors' and officers' liability insurance (and all other insurance or bonding required by these By-Laws or deemed reasonable and appropriate by the Board);
- q. provide for reasonable procedures governing the conduct of meetings and the election of directors;
- r. appoint, regulate, and dissolve committees, establish rules for operating the committees, and establish the qualifications and criteria for committee members;
- s. govern and administer the Property in accordance with all laws, conditional use permits, and all other governmental restrictions, regulations, and procedures affecting or otherwise related to the Property, all including, but not limited to, that certain NON-CONFORMING USE PERMIT #92-5, dated June 22, 1992, issued by the City of Chanhassen, Minnesota; and
- t. exercise any other powers conferred by law or these By-Laws, or the Act, or which are necessary and proper for the governance, operation, and administration of the Association and the Property.

6.5 Meetings and Notices. An annual meeting of the Board shall be held within ten days following each annual meeting of the Members. At each annual meeting of the Board, the officers of the Association shall be elected.

- a. Regular meetings of the Board shall be held at least on a semi-annual basis, at such times as may be fixed from time to time by a majority of the directors. A

schedule, or any amended schedule, of the regular meetings shall be provided to the directors, and posted or published for the information of Members, as provided in Section 6.5.f.

- b. Special meetings of the Board shall be held when called (i) by the President, or (ii) by the Secretary within ten (10) days following the written request of a majority of the directors. Notice of any special meeting shall be given to each director not less than three (3) days nor more than twenty-one (21) days in advance thereof, subject to Section 6.5.c. Notice to a director shall be deemed to be given when deposited in the United States mail postage prepaid to the address of such director, or when personally delivered, verbally or in writing, by a representative of the Board.
- c. Any director may at any time waive notice of any meeting of the Board verbally, in writing, or by attendance at the meeting. If all the directors are present at a meeting of the Board, no notice shall be required, and any business may be transacted at such meeting.
- d. A conference among directors by a means of "remote communication" (as that term is defined in the Act), through which the directors who are not physically present in the same location may communicate with each other on a substantially simultaneous basis, is a Board meeting if (i) the same notice is given of the conference as would be required for a meeting of the Board, and (ii) the number of directors participating in the conference constitutes a quorum. Participation in a meeting by this means constitutes presence at the meeting.
- e. A director may participate in a meeting of the Board by means of conference telephone or, if authorized by the Board, by such other means of "remote communication" (as that term is defined in the Act), in each case through which that director, other directors participating in that meeting, and all directors physically present at that meeting, may participate with each other during that meeting. Participation in a meeting by that means constitutes presence at that meeting.
- f. Except as otherwise provided in this Section, meetings of the Board must be open to the Members. To the extent practicable, the Board shall give reasonable notice to the Members of the date, time, and place of a Board meeting. If the date, time, and place of meetings are announced at a previous meeting of the Board, distributed to Members in writing, posted in a location accessible to the Members and designated by the Board from time to time, or if an emergency requires immediate consideration of a matter by the Board, notice is not required. "Notice" has the meaning given in Section 11.1. Notwithstanding the foregoing, meetings may be closed at the discretion of the Board to discuss the following:
  - (1) personnel matters;

- (2) pending or potential litigation, arbitration or other potentially adversarial proceedings between Members, between the Board or the Association and Members, or other matters in which any Member may have an adversarial interest, if the Board determines that closing the meeting is necessary to discuss strategy or to otherwise protect the position of the Board or the Association or the privacy of a Member;
- (3) criminal activity involving a Member, director, or an officer, if the Board determines that closing the meeting is necessary to protect the privacy of the victim or that opening the meeting would jeopardize investigation of the activity; or
- (4) attorney/client privileged information and matters.

The minutes of, and the documentation discussed or submitted at, such closed meeting shall not be made available for review or copying pursuant to Section 8.5. Nothing in this Section imposes a duty on the Board to provide special facilities for meetings. The failure to give notice as required by this Section shall not invalidate the Board meeting or any action taken at the meeting, but shall not impair Members' rights to exercise other remedies against the Directors.

6.6 Quorum and Voting. A majority of the directors constitutes a quorum for the transaction of business at any meeting thereof. A quorum, once established, continues to exist, regardless of the subsequent departure of any directors. Each director has one vote. The vote of a majority of the directors present at any meeting at which a quorum is present is sufficient to adopt any action. Proxies shall not be permitted.

6.7 Action Taken Without a Meeting. The Board shall have the right to take any action in the absence of a meeting which it could take at a meeting, by a written action signed by, or consented to by "authenticated" "electronic communication" (as those terms are defined in the Act) by, the number of directors that would be required to take the same action at a meeting of the Board at which all directors are present (as provided in the Articles); provided, that a copy of the proposed written action is given to all directors for review prior to its signing (or prior to its consent by authenticated electronic communication).

6.8 Vacancies. A vacancy in the Board other than a vacancy under Sections 6.2 and 6.9, shall be filled by a natural person elected by a majority vote of the remaining directors, regardless of their number. Each natural person so elected (whether by the Board or by the Members, as provided in these By-Laws or under Minnesota law) to fill a vacancy in the Board shall serve out the term vacated.

6.9 Removal. A director may be removed from the Board, with or without cause, by a majority vote at any annual or special meeting of the Members; provided, (i) that the notice of the meeting at which removal is to be considered states such purpose, (ii) that the director to be removed has a right to be heard at the meeting, and (iii) that a new director is elected at the meeting by the Members to fill the vacant position caused by the removal. A director may also



be removed by the Board if such director (i) has more than two (2) absences from Board meetings and/or Members meetings during any twelve (12) month period or (ii) is more than sixty (60) days past due with respect to the payment of any Charges to the Association. Such vacancies shall be filled by the vote of the Members as previously provided in this Section.

6.10 Compensation. The directors of the Association shall receive no compensation for their services in such capacity. The directors may be reimbursed for out-of-pocket expenses incurred in the performance of their duties. A director or an entity in which the director has an interest may, upon approval by the Board, be reasonably compensated under a contract for goods and services furnished to the Association in a capacity other than as a director; provided (i) that the contract is approved by a majority vote of the Board, excluding the interested director, and (ii) that the director's interest is disclosed to the Board prior to approval.

6.11 Fidelity Bond. Fidelity bonds or insurance coverage for unlawful taking of Association funds shall be obtained and maintained on all directors and officers authorized to handle the Association's funds and other monetary assets.

6.12 Standard of Responsibility. A director shall discharge his or her duties in good faith, in a manner the director reasonably believes to be in the best interest of the Association, and with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

## SECTION 7

### OFFICERS

7.1 Principal Officers. The principal officers of the Association shall be a President, a Vice President, a Secretary, and a Treasurer, each of whom shall be elected by the directors. The Board may from time to time elect such other officers and designate their duties as in the Board's judgment may be necessary to manage the affairs of the Association. A person may hold more than one (1) office simultaneously, except a person shall not hold the offices of President and Vice President simultaneously. Only the President and Vice President must be a member of the Board. Each officer of the Association shall be a Member, or a duly authorized representative of a Member if the Member is an entity other than a natural person. If a Parcel is owned by more than one (1) Member, no more than one (1) of those Members (or no more than one (1) duly authorized representative of the Member if the Member is an entity other than a natural person) shall be an officer at any given time.

7.2 Election. The term of each officer of the Association is one (1) year. The officers of the Association shall be elected annually by the Board at its annual meeting and shall hold office at the pleasure of the Board.

7.3 Removal. Upon an affirmative vote of a majority of the members of the Board, any officer may be removed, with or without cause, and a successor elected, at any regular meeting of the Board, or at any special meeting of the Board called for that purpose.

7.4 President. The President shall be the chief executive officer of the Association, and shall preside at all meetings of the Board and the Association. The President shall have all of the powers and duties which are customarily vested in the office of president of a corporation, including without limitation the duty to supervise all other officers and to execute all contracts and similar obligations on behalf of the Association. The President shall have such other duties as may from time to time be prescribed by the Board.

7.5 Vice President. The Vice President shall take the place of the President, and perform the duties of the office of the President, whenever the President shall be absent or unable to act. The Vice President shall also perform such other duties as shall from time to time be prescribed by the Board.

7.6 Secretary. The Secretary is responsible for recording the minutes of all meetings of the Board and the Members. The Secretary shall be responsible for keeping the books and records of the Association, and shall give all notices required by these By-Laws or the Act unless directed otherwise by the Board. The Board may delegate the Secretary's administrative functions to a managing agent; provided, that such delegation shall not relieve the Secretary of the ultimate responsibility for the Secretary's duties.

7.7 Treasurer. The Treasurer is responsible for all financial assets of the Association, and shall be covered by a bond or insurance in such sum and with such companies as the Board may require. The Treasurer shall (i) be responsible for keeping the Association's financial books, Annual Dues rolls, and accounts; (ii) cause an annual financial report to be prepared, subject to review or audit by the Association's accountants (as may be deemed necessary by the Board from time to time); (iii) keep accurate financial records of and for the Association, and shall submit them to the Board for its examination upon request; (iv) cause all moneys and other monetary assets of the Association to be deposited in the name of or to the credit of the Association in depositories designated by the Board; (v) cause the proper obligations of the Association to be paid when due; and (vi) perform all other duties incident to the office of Treasurer. The Board may delegate the Treasurer's administrative functions to a managing agent; provided, that such delegation shall not relieve the Treasurer of the ultimate responsibility for the Treasurer's duties.

7.8 Compensation. The officers of the Association shall receive no compensation for their services in such capacity. The officers may, however, be reimbursed for out-of-pocket expenses incurred in the performance of their duties. An officer or an entity in which the officer has an interest may be reasonably compensated under a contract for goods and services furnished to the Association in a capacity other than as an officer; provided, (i) that the contract is approved by a majority vote of the Board, excluding the interested party, and (ii) that the officer's interest is disclosed to the Board prior to approval.

7.9 Standard of Responsibility. An officer shall discharge his or her duties in good faith, in a manner the officer reasonably believes to be in the best interest of the Association, and with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

## SECTION 8

### OPERATION OF THE ASSOCIATION

8.1 Annual Budget. The Board shall, for each fiscal year of the Association, prepare an annual budget of expenses for the Association (the "Budget"), and establish and charge Annual Dues to the Members on a fair and equal basis to fund the Budget.

- a. The Board shall fix the amount of the Annual Dues to be owed by the Members, and advise the Members in writing of the Annual Dues at least thirty (30) days prior to the beginning of the Association's fiscal year when the Annual Dues shall be due and payable to the Association. The failure of the Board to timely fix the Annual Dues, and advise the Members of the Annual Dues, shall not relieve the Members of their obligation to continue paying the Annual Dues in the amount currently charged, as well as any increases subsequently established and charged by the Association.
- b. Subject to any limitation, condition, or qualification in these By-Laws or in the Act, the Board may amend or otherwise modify the Budget at any time, and adjust the amount, and schedule of payment, of the Annual Dues. In addition, the Board may, at any time, establish, and charge to the Members, Special Dues for unforeseen or unbudgeted expenses of the Association; provided, that any Special Dues which exceed, in aggregate, twenty-five percent (25%) of the Association's anticipated revenue set forth in the Association's then annual budget, shall require prior approval by the Members having the authority to cast at least sixty-seven percent (67%) of the total voting interest in the Association (which vote may take place at a meeting of the Members or by ballot voting in lieu of the meeting). Approved Special Dues shall be due and payable upon the date specified by the Board, or, where the Special Dues are approved by the Members, the date specified in the resolution or action approved by the Members (if no such date is set forth in the resolution or action, the Board has the authority to establish the date).
- c. The Budget shall include an adequate reserve fund for the replacement of those portions of the Property for which the Association has the obligation to replace on a periodic basis, and for the replacement of the Docks and the Slips.
- d. The Association shall furnish copies of each Budget to a Member, upon request of such Member.

8.2 Maintenance, Repair, and Replacement. The Association shall maintain the Property in a safe and maintained condition, and shall maintain, repair, and replace (all on a periodic basis and when deemed necessary at the discretion of the Board) all portions of the Property (and improvements thereon), the Docks, and the Slips.

8.3 Payment of the Charges. The Annual Dues, which shall be paid annually by the Members to the Association, shall be due and payable on the date, and on the schedule, established by the Board from time to time. Payment by the Members to the Association of other

Charges shall be due and payable to the Association as established by the Board. No Member shall have any right of withholding, offset, or deduction against the Association with respect to any Charges, regardless of any claims alleged against the Association or its officers or directors. Any rights or claims alleged by a Member may be pursued only by separate action.

8.4 Default in Payment of the Charges. If any Member does not make payment of any Charges to the Association on or before the date when the Charges are due and payable to the Association, subject to such grace periods as may be provided by the Association, the Board may charge to the Member, and such Member shall be obligated to pay to the Association, late charges as established by the Board (and, in addition, interest) for the unpaid Charges. The Association shall be entitled to recover from a Member who does not make payment of Charges to the Association on or before the date when the Charges are due and payable to the Association, and such Member shall be personally liable to the Association for, all expenses, including reasonable attorneys' fees and other legal expenses, incurred by the Association in collecting the unpaid Charges (regardless of whether any such attorneys' fees and other legal expenses are incurred by the Association during or after such Member's membership in the Association).

- a. The Board shall have the right and duty to attempt to recover all Charges, together with any charges, attorneys' fees, or expenses incurred by the Association and relating to the collection of the Charges. In addition, the Board shall have the right and duty to attempt to recover any and all collection or contingency fees or costs charged to the Association by a collection agency or other person or entity acting on behalf of the Association in collecting any delinquent amounts owed to the Association by a Member.
- b. The rights and remedies referred to in this Section shall not limit the remedies available to the Association under the law or under other provisions of these By-Laws.

8.5 Records. The Board shall cause to be kept at the registered office of the Association, or at such other place as the Board may determine from time to time, records of the actions of the Board, minutes of the meetings of the Board, minutes of the meetings of the Members, names of the Members, and detailed and accurate records of the receipts and expenditures of the Association. With the exception of records that may be privileged or contain confidential information, all Association records, including receipts and expenditures and any vouchers authorizing payments, shall be available for examination by Members for a proper purpose, upon reasonable notice and during normal business hours.

8.6 Financial Audit and Review. The Board may, at its discretion, cause the financial records of the Association to be "audited" or "reviewed" by an independent certified public accountant at intervals deemed appropriate by the Board. A copy of the Association's audited financial statements, or a financial review, shall be provided to a Member, upon request of that Member.

8.7 Enforcement of Obligations. All Members are obligated and bound to observe and comply with the provisions of these By-Laws, the Articles, the Policies and Procedures, the

Rules, the Act, and all other governmental codes, regulations, ordinances, and statutes governing or affecting the Association and the Property. The Association may impose any or all of the charges, sanctions, and remedies authorized by these By-Laws, the Articles, or the Act, to enforce and implement its rights and to otherwise enable it to manage, operate, and administer the Association and the Property.

8.8 Required Insurance Coverage. Notwithstanding Section 6.4.q, the Association shall obtain and maintain a master policy or policies of insurance in accordance with the insurance requirements set forth herein, issued by a reputable insurance company or companies authorized to do business in the state of Minnesota, as follows:

- a. Commercial general liability insurance covering the use, operation, and maintenance of the Property, and the use, operation, and maintenance of other lands or improvements which the Association is obligated to maintain (if any), against claims for death, bodily injury, and property damage, and such other risks as are customarily covered by such policies for projects similar in type, location, and use to the Property. The policy shall have minimum limits of One Million Dollars (\$1,000,000.00) per occurrence. The policy shall, if reasonably available, contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Member because of negligent acts of the Association or other Members.
- b. Workers' compensation insurance as may be required by law.

In the event a claim is made on any insurance carried by the Association (whether such insurance is referred to, or authorized, in this Section 8.8, in any other provision of these Bylaws, or otherwise), and if the Board reasonably determines that a Member caused (or allowed to be caused) the incident, act, or omission giving rise to the claim, the Association hereby has the authority and power to charge to that Member all or a portion of the relevant deductible on that claim, and all or any of any other expenses, charges, or fees incurred by the Association that in any way relate to or concern that claim or to the incident, act, or omission giving rise to that claim. Such deductible, and all such other expenses, charges, or fees, charged to that Member shall be that Member's personal liability to the Association.

## SECTION 9

### AMENDMENTS

These By-Laws may be amended, and the amendment shall be effective, upon the satisfaction of the following conditions:

9.1 Approval. The amendment must be approved by Members who have authority to cast a majority of the total votes in the Association that are cast (i) by Members at a duly held meeting of the Members, or (ii) by Members by ballot in lieu of a meeting of the Members); and

9.2 Notice. A copy of the proposed amendment and, if a meeting is to be held, notice of such meeting, shall be mailed by U.S. mail, or hand delivered, to all Members authorized to cast votes. To the extent not otherwise prohibited by, or in conflict with, provisions of the Act or

other provisions of Minnesota law, a notice of such meeting of the Members may be given to a Member by a form of electronic communication, pursuant to the requirements of Section 317A.450, Subdivision 5 of the Act; and

9.3 Effective Date; Recording. The amendment shall be effective on the date of approval by the required vote of the Members and need not be recorded in the Recorder's office.

## SECTION 10

### INDEMNIFICATION

The Association shall, to the extent the alleged liability is not covered by insurance, indemnify every individual acting in any official capacity on behalf of the Association, pursuant to, and within the limitations set forth in, Section 317A.521 of the Act.

## SECTION 11

### MISCELLANEOUS

11.1 Notices. Unless specifically provided otherwise in, or otherwise allowed by, the Act or these By-Laws, all notices required to be given by or to the Association, the Board, the Association officers, or the Members shall be in writing and shall be effective upon hand delivery, or upon mailing if properly addressed with postage prepaid and deposited in the United States mail; except that registrations pursuant to Section 2.2 shall be effective upon receipt by the Association. Notwithstanding the foregoing, and to the extent not otherwise prohibited by, or in conflict with, provisions of the Act or other provisions of Minnesota law, a notice of any meeting of the Members may be given to a Member by a form of electronic communication, pursuant to the requirements of Section 317A.450, Subdivision 5 of the Act.

11.2 Severability. The invalidity or unenforceability, of any part of these By-Laws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these By-Laws.

11.3 Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way limit or proscribe the scope of these By-Laws or the intent of any provision hereof.

11.4 Conflicts in Documents. In the event of any conflict among the provisions of the Act, the Articles, and these By-Laws, the Act shall control unless it permits the Articles or these By-Laws to control. As among the Articles and these By-Laws, the Articles shall control.

11.5 Waiver. No restriction, condition, obligation, or provision contained in these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

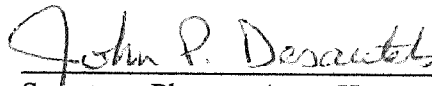
11.6 No Corporate Seal. The Association shall have no corporate seal.

11.7 Fiscal Year. The fiscal year of the Association shall be as determined by the Board.

11.8 Construction. Where applicable, the gender of any word used herein shall also mean each other gender or each other gender identifier, and the singular of any word used herein shall mean the plural, or vice versa. References to the Act, or any section thereof, shall be deemed to include any statutes amending or replacing the Act, and the comparable sections thereof.

The undersigned, the Secretary of Pleasant Acres Home Owners Association, hereby executes these By-Laws, and certifies that they were adopted by the Board and approved by Members authorized to cast two-thirds (2/3) of the votes in the Association that were cast by ballot (in lieu of a meeting of the Members), all in accordance with the requirements of the Existing By-Laws and/or Minnesota law.

Dated: 11/1/2018



Secretary, Pleasant Acres Home  
Owners Association

**AMENDED AND RESTATED BY-LAWS  
OF  
PLEASANT ACRES HOME OWNERS ASSOCIATION**

**EXHIBIT A**

**LEGAL DESCRIPTION OF THE PROPERTY**

The following real property located in Carver County, Minnesota:

That part of Government Lot 5, Section 5, Township 116, Range 23, lying South of the South line of Pleasant Acres, according to the recorded plat thereof, (said South line being parallel to and 412.50 feet North of the South line of said Government Lot No. 5), East of the Easterly right-of-way line of Carver County Road No. 15 (formerly known as County Road No. 3, or Glencoe Road), and North of a line drawn parallel to and 262.50 feet North of said South line of said Government Lot No. 5.



**AMENDED AND RESTATED BY-LAWS  
OF  
PLEASANT ACRES HOME OWNERS ASSOCIATION**

**EXHIBIT B**

**LEGAL DESCRIPTION OF THE COMMUNITY**

(1) The plat of Pleasant Acres, Carver County, Minnesota; (2) the plat of Pleasant Acres 2nd Addition, Carver County, Minnesota; and (3) the unplatted lands owned, as of May 28, 1968, by Lee R. Anderson (a widow) (who is the party of the first part in that certain Quit Claim Deed, dated May 28, 1968, and recorded in the office of the County Recorder in and for Carver County, Minnesota, on May 28, 1968, as Document No. 04057), in Section 6 , Township 116, Range 23, and in Government Lot 5, Section 5, Township 116, Range 23, Carver County, Minnesota.