

**DIAMONDHEAD COUNTRY CLUB**

**AND**

**PROPERTY OWNERS**

**ASSOCIATION, INC.**

**BYLAWS,  
RULES AND REGULATIONS,  
AND  
COVENANTS**

**(Revised April 2016)**



## **OVERVIEW**

- The Bylaws govern the operation of the POA. See pages 2 through 19.
- The Rules and Regulations govern the operation of the POA and the amenities owned by the POA. See pages 20 through 42.
- The Covenants regulate use of the individual lots. See pages 43 through 45.

## DIAMONDHEAD COUNTRY CLUB & PROPERTY OWNERS ASSOCIATION, INC.

### **BYLAWS**

(Revised April 2016)

#### **ARTICLE 1. PURPOSE**

Diamondhead Country Club and Property Owners Association, Inc., a Mississippi nonprofit corporation, herein referred to as "the Corporation," shall conduct its affairs for the mutual benefit of the membership hereof and for the civil improvement, operation, maintenance, management, ownership, buying, selling, and handling of the common facilities, areas, country club, recreational facilities of Diamondhead.

#### **ARTICLE II. MEMBERSHIP**

**Section 2.1 Persons Who Shall Be Members.** The membership of the Corporation shall be the owners or purchasers of real property in the Diamondhead development in Hancock County.

**Section 2.2 Membership Inseparably Appurtenant to Real Property owned or being purchased.** Membership in the Corporation shall be inseparably appurtenant to real property owned or being purchased by members and upon the transfer of ownership or the making of a contract for the sale of such real property, the membership appurtenant thereto shall be deemed to be transferred to the contract purchaser or grantee. No membership may be conveyed or transferred in any other manner whatsoever.

**Section 2.3 No Member May Withdraw Except by Transfer of Title.** No member may withdraw except by transfer of title or upon contracting for the sale of the real property to which such membership is appurtenant.

**Section 2.4 Member in Good Standing.** A member in good standing is defined as a member who is not more than thirty (30) days past due in the payment of charges and/or assessments to the Corporation and who is not in violation of the declaration of Restrictions, Conditions, Easements, Covenant, Agreements, Liens, and Charges ("Declarations") affecting the lot or lots of which the member has received written notice from the

Corporation or the Architectural Committee (as provided for in the Declaration) describing the violation which (I) provides the member a thirty (30) day period to correct the violation and (II) provides the member the opportunity to appear before the Architectural Committee in the event that the member requests a hearing in writing. If a hearing is not requested, the member shall be deemed in violation after the thirty (30) day period provided. If a hearing is requested and the Architectural Committee unanimously determines the member to be in violation after the hearing, it shall provide the member an additional period of not less than thirty (30) days, but not more than ninety (90) days to correct or remedy the violation. If the violation is not corrected in the period specified, the member shall be deemed to be in violation, a violation shall be deemed to be remedied if the member receives a variance from the Architectural Committee as to the conditions causing the violation of the Declaration.

**Section 2.5 Member Not in Good Standing.** Except as provided by Section 3.7 hereof a member who is not in good standing shall be suspended from (I) the right to vote on such matters which may come before a membership meeting and (II) all other privileges associated with the membership in the Corporation including the privilege to the common facilities of the Corporation, including the golf courses, country club, marina, swimming pools and other recreational facilities.

### **ARTICLE III. MEMBERSHIP MEETINGS**

**Section 3.1 Annual Meetings.** There shall be an annual meeting of the members of the Corporation, which meeting shall be held on the third Saturday in June in each year, or as near to that date as practical for the transaction of such business as may come before the meeting. Officers and Directors shall be elected at the annual meeting coinciding with the expiration of their term in office.

**Section 3.2 Special Meeting.** A special meeting of the members of the Corporation may be called at any time by a majority of the Directors, the President, or by at least ten percent (10%) of the members of the Corporation except as otherwise provided by statute or in the articles of incorporation or any amendment thereto.

**Section 3.3 Place of Meeting.** All meetings of the members of the Corporation shall be held in Diamondhead Subdivision, Hancock County, Mississippi. Members of the corporation, whether inside or outside the City of Diamondhead, may participate electronically in any membership meeting, provided that they participate in a manner allowing them to read or hear the proceedings substantially concurrent with the occurrence, vote on matters

submitted to the members, pose questions and make comments. This section shall not require the Corporation to provide the means by which members may participate in meetings electronically, although the Corporation may do so at its discretion.

**Section 3.4 Notice of Meeting.** Except as otherwise required by statute, notice of each meeting of the members, whether annual or special, shall be given not less than thirty (30) nor more than sixty (60) days before the day on which the meeting is to be held to each member of record by delivering a written or printed notice thereof to each member, personally, or by mailing such notice, postage prepaid, addressed to such member at the post office address registered with the Corporation. In the case of special meetings, no business other than that specified in the notice of meeting shall be transacted at such special meeting.

For the purpose of this section, written notice of meetings may be delivered by email to members who authorize the Corporation to do so. Authority to deliver notices by email must be made in writing to the Secretary of the Board of Directors. A member who has granted authority to deliver notices by email may revoke that authority by delivering written notice of revocation to the Secretary of the Board of Directors. Any notice sent to the email address designated by the member is deemed delivered to the member 24 hours after the time sent unless it is returned as undeliverable within that time. In the event of two consecutive emails are returned undeliverable, the member's authorization to give notice by email shall be deemed revoked and notice will be given by another means.

In the case of annual meetings, any motion which would have the effect of rescinding or amending a prior action of the Board of Directors must be submitted to the Secretary in writing and such motion must be distributed to the entire membership for consideration and vote either in person or by proxy.

**Section 3.5 Waivers, etc.** Anything herein contained to the contrary notwithstanding, notice of any meeting of the members of the Corporation shall not be required as to any member who shall attend such meeting in person or by proxy; and, if any member of the Corporation shall in person, or by attorney duly authorized, waive notice of any meeting, whether before or after such meeting, notice thereof shall not be required as to him.

**Section 3.6 Quorum.** At all meetings of the members of the Corporation (except as otherwise provided by statute, by the articles of the Corporation, or by the bylaws), presence, in person or by proxy duly authorized of fifteen (15%) percent of the members shall constitute a quorum for the transaction of business; but, in the absence of a quorum a majority of the members present in person or by proxy may adjourn from time to time, but

not for a period of more than thirty (30) days at any one time, until a quorum shall attend. At any such reconvened meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting as originally called. No notice of any reconvened meeting need be given.

**Section 3.7 Voting.** Each member in good standing of the Corporation shall be entitled to cast one vote for the election of Officers and Directors; provided, however, that not more than one vote shall be cast for any one parcel of property, regardless of the number of co-owners thereof. On any matter other than the election of Officers and Directors which may come before a membership meeting, members in good standing shall be entitled to cast one vote for each parcel of property owned by them and upon which assessments are being charged (other than exempt developer lots). The vote for any parcel of real property owned or being purchased jointly by husband and wife may be cast by either spouse. The vote for any real property being held by or being purchased by more than one person under some form of joint or several ownerships other than between husband and wife may be cast by any one of such persons upon presentation of written authority. Except as herein or in the Certificate of Incorporation otherwise provided, all Corporate action shall be determined by vote cast by a majority of the membership present in person and/or by proxy at a meeting at which a quorum is present. An exception to the foregoing shall be that absentee voting will be allowed in any election of POA officers and directors. Absentee ballots must be deposited in POA election lock box or be delivered via U.S. Mail to the election auditor prior to close of business the day preceding the election.

A secret ballot procedure for Property Owners Association members to vote will be followed for the election of officers and directors and approval of propositions at the annual corporation meeting

**Section 3.8 Proxy.** Each member of the Corporation may vote by proxy, which is dated and signed by the member and duly filed with the Secretary of the Corporation prior to any annual or special meeting. The executed proxy shall contain the POA member's full name and POA membership number to whom the proxy is appointed. If the appointed Member is not in good standing or if the proxy is unassigned, the ballot will only be considered for quorum qualifying purposes only and counted as one (1) ballot. No proxy shall be voted ninety (90) days after its date.

A signed and dated appointment of proxy may be filled with the Secretary of the Corporation in person, by U.S. mail, or by email or any other electronic means, and the appointment of proxy is effective when received by the Secretary.

**Section 3.9 Conduct.** All regular and special meetings of the membership of the Corporation shall be conducted on conformance with Roberts Rules of Order.

**Section 3.10. Action Without a Meeting.** The members of the Corporation may act without a meeting if the Corporation delivers a written ballot to every member entitled to vote on the action. Ballots may be delivered to members in person, by email pursuant to other provisions of this section, or by mail delivered to the post office address with the Corporation. The action will be approved when the number of votes cast, either in person or by proxy, is at least equal to the quorum required for a meeting under section 3.6, and the number of votes cast in favor of approval is at least what would be required to approve the action at a meeting under Section 3.7. Along with the written ballot, the Corporation will specify the time and manner by which the ballot must be returned to the Corporation in order to be counted and also will inform the member of the number of responses needed to meet the quorum requirement and the percentage of approvals necessary to approve each action.

For purpose of this section, written ballots may be delivered by email to any member who authorizes the Corporation to deliver ballots by email. Authority to deliver ballots by email must be made in writing to the Secretary of the Board of Directors. A member who has granted authority to deliver ballots by email may revoke that authority by delivering written notice of revocation to the Secretary of the Board of Directors. Any notice sent to the email address designated by the member is deemed delivered to the member 24 hours after the time sent unless it is returned as undeliverable within that time. In the event of two consecutive emails are returned undeliverable, the member's authorization to deliver ballots by email shall be deemed revoked and delivery must be made by other means.

#### **ARTICLE IV. OFFICERS**

**Section 4.1 Members Shall Elect Officers of Corporation.** The members of the Corporation shall elect the officers of the Corporation. At any election, the person receiving the greatest number of votes for any particular office shall be elected.

**Section 4.1 (a) Elections.** Each candidate shall have the right, along with not more than two (2) designated members in good standing or their attorney, to observe and monitor all phases of the election process. Any candidate or observer who desires to monitor voting while polls are open shall remain in a specifically designated area and shall be prohibited from conversing with anyone except with the Election Chairman. The Secretary shall have the authority to determine if a member is in good standing and qualified to vote either in person or by proxy, and the number of votes such person shall be entitled to vote. The



Secretary, with the consent of the Board, shall be appointed as Election Chairperson and shall conduct the election in accordance with election procedures. If the Secretary's name appears on the ballot, the appointment of Chairperson and the duties thereof shall be passed to a current Board member, with the consent of the Board, whose name does not appear on the ballot.

**Section 4.2 Officers.** The elected officers of the Corporation shall be a President, a Vice President, a Secretary, and a Treasurer. No person may hold more than one elected office at a time. All officers must be members in good standing of the Corporation.

**Section 4.3 President.** The President shall be the general executive and administrative officer of the Corporation. The President shall preside, when present, at all meetings of the members of the Board of Directors. Subject to the approval of the Board of Directors, he shall have power to sign membership certificates; to fix the compensation of all officers, executives, employees and agents; to appoint agents and employees of the Corporation whose appointment is not otherwise provided for; to remove or suspend such agents or employees as shall not have been appointed by the Board of Directors; and to exercise all the powers usually appertaining to the office of President of a corporation.

**Section 4.4 Vice President.** The Vice President shall perform all such duties and services as shall be assigned to or required of the Vice President, from time to time, by the Board of Directors or the President and shall act in the place of the President, exercising all his/her powers and performing his/her duties, during his/her absence or disability.

**Section 4.5 Secretary.** The Secretary shall attend to the giving of notice of all meetings of the members and of the Board of Directors and shall keep and attest true records of all proceedings thereat. The Secretary shall have charge of the corporate seal and have authority to attest any and all instruments or writings to which the same may be affixed. The Secretary shall keep and account for all books, documents, papers and records of the Corporation, except which are hereinafter directed to be in charge of the Treasurer. The Secretary may designate agents to assist the Secretary in the performance of these duties.

The Secretary shall have authority, whenever directed to do so by the Board of Directors, to sign membership certificates and shall generally perform all the duties usually appertaining to the office of Secretary of the Corporation.

**Section 4.6 Treasurer.** The Treasurer shall have the care and custody of all monies, funds and securities of the Corporation, and shall deposit or cause to be deposited all funds of the Corporation and with such depositories as the Board of Directors shall, from time to time, direct. The Treasurer shall have power to endorse for deposit or collection, or

otherwise, all checks, drafts, notes, bills of exchange or other commercial paper payable to the Corporation, and to give proper receipts or discharges therefore. The Treasurer shall keep all books of account relating to the business of the Corporation, and shall render a statement of the Corporation's financial condition annually and/or whenever required to do so by the Board of Directors or the President. The Treasurer shall furnish to the auditing firm appointed by the Board of Directors all information required to make an annual audit. The Treasurer may designate agents to assist the Treasurer in the performance of these duties.

The Treasurer, in conjunction with the General Manager, shall prepare a budget for the following year and submit it to the Board of Directors not later than October 1 of each year.

**Section 4.7 Additional Powers and Duties.** In addition to the foregoing especially enumerated duties and powers, the several officers of the Corporation shall perform such other duties and exercise such further powers as may be provided in these bylaws or as the Board of Directors may, from time to time, determine.

The management and operation of the Architectural Committee shall be discharged by the Association by and through its President, Vice-President, and Secretary.

**Section 4.8 Term of Office.** The officers of the Corporation shall hold office for two years and until their respective successors are elected. As the term of each officer expires, the members shall, at the annual meeting of the year of expiration of such term of office, elect successors to such offices.

**Section 4.9 Removal.** An officer of the Corporation shall not be removed from office except for cause. In order to remove an officer from office for cause, a special meeting of the members must be called for that purpose and at such a meeting a majority of the members of the Corporation present and/or voting by proxy must vote for such removal.

**Section 4.10 Vacancies.** If a vacancy occurs in any office, a special meeting of the members may be called for the purpose of electing a successor; or, the Board of Directors may appoint a successor to fill the unexpired term if such unexpired term is for twenty-four (24) months or less.

**Section 4.11 Elected Officers Shall Be Members of the Board of Directors.** The officers of the Corporation shall also be members of the Board of Directors of the Corporation. When any person is elected an officer, he/she shall automatically become a member of the Board of

Directors and, except for the outgoing President, when such person is no longer an officer, for any reason, he/she shall automatically cease to be a member of the Board of Directors.

**Section 4.12 Compensation of Officers.** The officers shall receive such salary or compensation as may be fixed by the Board of Directors only after recommendation to an approval by the membership.

## **ARTICLE V. DIRECTORS**

**Section 5.1 Number and Qualifications.** The Board of Directors shall consist of eleven (11) members, all of whom shall be at least 21 years of age. All members of the Board shall also be members in good standing of the Corporation. The four elected officers shall automatically be members of the Board of Directors, and the immediate Past President shall also be a member of the Board until he/she is replaced by the succeeding Past President. There shall be six (6) other members of the Board of Directors in addition to the four officers and the immediate Past President.

**Section 5.2 Manner of Election.** The members of the Corporation shall elect the six (6) non-officer directors of the Corporation. At any election, the three (3) candidates receiving the greatest number of votes shall be elected.

**Section 5.3 Term of Office.** The terms of office of each non-officer director shall be as follows:

At the 1984 election of the Directors, the three candidates receiving the highest number of votes shall serve for four (4) years. The other three candidates elected shall serve for two (2) years. At the following election, membership meeting, and thereafter, three candidates shall be elected for four (4) year terms.

**Section 5.4 Duties and Powers.** The Board of Directors shall have control and management of the affairs and business of the Corporation. The directors shall in all cases act as a board, regularly convened and, in the transaction of business, the act of the majority present at a meeting, except as otherwise provided by law, or the Certificate of Incorporation, or these bylaws shall be the act of the Board, provided a quorum is present. The directors may adopt such rules and regulations for the conduct of their meetings and the management of the Corporation as they may deem proper, not inconsistent with law or these bylaws. The Board of Directors is specifically charged with enforcing the Association Rules and Bylaws to include enacting penalties or other disciplinary action against violators. Dues or special assessments must be approved by at least 2/3 of all the members of the Board at

a regular meeting or at a special meeting called for that purpose. (Note: this means 8 members). The Board shall employ a reputable CPA firm to make an annual financial audit.

The Board will prepare a budget and publish it in the December Newsletter each year for the following year.

The Board of Directors shall select an auditing firm so that the annual audit is completed not later than 90 days after the close of the fiscal year.

**Section 5.5 Meetings.** The Board of Directors shall meet for the appointment of committees and for the transaction of any other business as soon as practicable after the adjournment of the annual meeting of the members, and other meetings of the Board shall be held at such times as the Board may from time to time determine. In addition, the Board shall hold an open meeting on the third Friday of each March and October.

Special meetings of the Board of Directors may be called by the President at any time; and he must, upon the written request of any three directors, call a special meeting to be held not more than seven (7) days after the receipt of such request.

**Section 5.6 Notice of Meetings.** Notice of special meetings shall be served upon each director in person, by email pursuant to the other provisions of this section, or by mail addressed to him at the last known post office address registered with the Corporation, at least two days prior to the date of such meeting, specifying the time and place of the meeting and the business to be transacted thereat. At any meeting at which all of the directors shall be present, although held without notice, any business may be transacted which might have been transacted if the meeting had been duly called.

For purpose of this Section, written notice of a special meeting may be delivered by email to any director who authorizes other directors to provide such notices by email. Authority to deliver ballots by email must be made in writing to the other directors. A director who has granted authority to deliver ballots by email may revoke that authority by delivering written notice of revocation to the other directors. Any notice sent to the email address designated by the member is deemed delivered to the director 24 hours after the time sent unless it is returned as undeliverable within that time. In the event two consecutive emails are returned undeliverable, the director's authorization to deliver ballots by email shall be deemed revoked and delivery must be made by other means.

**Section 5.7 Place of Meeting.** All meetings of the Board of Directors shall be held within the

Diamondhead Subdivision, Hancock County, Mississippi.

**Section 5.8 Quorum.** At any meeting of the Board of Directors, except as otherwise provided in these bylaws, the presence of a majority of the Board shall be necessary to constitute a quorum for the transaction of business. However, should a quorum not be present, a lesser number may adjourn the meeting to some further time, not more than seven (7) days later.

**Section 5.9 Voting.** At all meetings of the Board of Directors each director shall have one (1) vote.

**Section 5.10 Compensation.** Reimbursement of expenses incurred for legitimate corporation business may be approved by the Board of Directors upon receipt of an itemized statement from such Director.

**Section 5.11 Vacancies.** If any vacancy occurs in any non-officer directorship, or in the immediate Past President directorship, a special meeting of the members may be called for the purpose of electing a successor; or the Board of Directors may appoint a successor to fill the unexpired term if such unexpired term is for twenty-four (24) months or less.

**Section 5.12 Removal of Directors.** Non-officer Directors and the immediate Past President director shall not be removed from office except for cause. In order to remove a non-officer director or the immediate Past President director from office for cause, a special meeting of the members must be called for that purpose and at such meeting a majority of the members of the Corporation present in person and/or by proxy must vote for such removal.

**Section 5.13 Resignation.** Any director may resign his office at any time, such resignation to be made in writing and to take effect when the written resignation is received at the Association office.

**Section 5.14 Qualifying as a Candidate for the Office of Directors and Officers.** On or before midnight April 1 of any year during which a regular election of Directors and Officers will be conducted, any member in good standing of the Diamondhead Country Club and Property Owners Association, Inc., may qualify as a candidate for Director or Officer by filing a written notice with the Secretary at the business office of the Corporation. In the event April 1<sup>st</sup> falls on a weekend, Saturday or Sunday, the deadline shall be extended to midnight of the next business day following April 1. No candidate shall run for more than one office. All candidates' names shall appear in alphabetical order on the ballot for the election at the Annual Membership meeting. Each person's name appearing on the

printed ballot may submit a personal resume not to exceed one hundred (100) words describing their background and qualifications and this resume shall be distributed to each member of the Corporation in its monthly newsletter. No recommendations or expressions of preference shall be shown on the ballot or in any piece of literature mailed to the membership by the Corporation.

## **ARTICLE VI. ENFORCEMENT OF RULES AND REGULATIONS**

### **Section 6.1 Administration.**

- A. The officers, management staff and other authorized agents of the Association are charged with the responsibility of administering and enforcing the rules and regulations as may be, from time to time, adopted by the Board of Directors.
  
- B. The Board of Directors will appoint a committee who will receive, review, respond and act on all written complaints from all committees, members, management staff, and other authorized agents of the Association. This committee will meet on a regular basis at a specified time, or where urgent action is considered necessary, the committee may call a special meeting to take action.
  
- C. Those certain Declarations listed on Appendix A and filed of record in the Office of the Chancery Clerk of Hancock County, Mississippi ("Declarations"), are incorporated in full as a permanent section of these Bylaws, except that any provision of those Declarations purporting to set forth a date for the expiration of any Declaration, or part thereof, is not incorporated into these Bylaws. Appendix A is intended to be a list of all declarations of restrictions, conditions, easements, covenants, agreements, liens and charges concerning any part of the Diamondhead subdivision. To the extent any such declaration is not listed on Appendix A, the omitted declaration is incorporated in full as a permanent section of these Bylaws the same as if it were listed on Appendix A, except that any provision of the omitted declaration purporting to set forth a date for the expiration of the omitted declaration, or part thereof, is not incorporated into these Bylaws.

- D. Except as provided in Article VI, Section 6.1(C), each Declaration listed on Appendix A, as incorporated into these Bylaws by Article VI, Section 6.1(C), may be amended only in the manner set forth by the particular terms and provisions of that Declaration. Specifically, any amendment to any Declaration must be approved by a vote of the members as set forth by the terms and provisions of the Declaration to be amended. Notwithstanding any other provision of these Bylaws, Sections 6.1(C) and 6.1(D) of Article VI of these Bylaws may not be repealed, amended, altered or otherwise changed in any way or by any manner or method, without approval of 85% of the total membership and the approval of the Board of Directors.

#### **Section 6.2 Actions.**

- A. Initiation of a complaint will result in a citation being issued stating the alleged offender's name, address (if known), the date, time and nature of the violation, the name of parties making the complaint and the advice that the matter will be presented to the committee at their next meeting and that the accused may appear at that time or submit a written statement for the committee's information.
- B. The committee will authenticate the accuracy of the complaint and offer the accused person(s) the opportunity to appear before the committee or to offer a written statement to be considered by the committee. No action by the Committee will be taken until the accused person(s) have been given the opportunity to appear or offer a statement to the committee.
- C. If the person is found to have violated the rules and regulations as specified, the committee will assess appropriate penalties as considered necessary as shown in section 6.3
- D. A person found to have violated the rules and regulations may appeal the action to the Board of Directors at their next regular meeting provided he has previously made either an appearance before the committee or offered a written statement to the committee at its hearing on his case. If no appeal is made within ten (10) days of the committee's action the action of the committee will be final.

**Section 6.3. Penalties.** Violations of Rules & Regulations are subject to suspension, fines or assessments as set forth in the Diamondhead Country Club & Property Owners Association, Inc. Rules and Regulations, Section III. Penalty Assessments.

#### **ARTICLE VII. MISCELLANEOUS**

**Section 7. 1 Indemnification of Officers, Directors, Employees and Agents.**

- A. This Corporation shall indemnify any person who was or is a party or threatened to be made a party to any threatened, pending or completed claim, action, suit proceeding, whether civil, criminal, administrative or investigative, including appeals (other than an action by or in the right of the Corporation) by reason of the fact that he is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or joint venture against expenses (including attorney's fees), judgments, fines and amounts paid in settlement actually and reasonably believed to be in, or not opposed to, the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful.

The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea to nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interest of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

- B. This Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or joint venture against expenses (including attorney's fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to be the best interests of the Corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Corporation unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.



- C. To the extent that a director, officer, employee or agent of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in subsections (a) and (b) or in defense of any claim, issue or matter therein this Corporation shall indemnify such person against expenses (including attorney's fees) actually and reasonably incurred by him in connection herewith, notwithstanding that he has not been successful on any other claim, issue or matter in any such action, suit or proceeding.
- D. Any indemnification under subsections (A) and (B) unless ordered by a court - shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in subsections (A) and (B).

Such determination shall be made (1) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to, or who have been wholly successful on the merits or otherwise with respect to such claim, action, suit or proceeding, or (2) if such a quorum is not obtainable, or even if obtainable a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or (3) if not made in the instance provided or in (1) or (2) above, by the members.

- E. Expenses (including attorney's fees) incurred in defending a civil or criminal claim, action, suit or proceeding when authorized in the manner provided in Subsection (D) may be paid by the Corporation upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount if and to the extent that it shall ultimately be determined that he is not entitled to be indemnified by the Corporation as authorized in this section.
- F. The indemnification provided for herein shall not be deemed exclusive of and shall be in addition to any other rights (whether created prior or subsequent to the adoption of this Article of the Bylaws) to which those indemnified may be entitled under any statute, rule of law, provision of articles of incorporation, bylaws, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

**Section 7.2 Surety Bonds.** The Treasurer and such other officers or agents of the Corporation as the Board of Directors may direct, from time to time, shall be bonded for the faithful performance of their duties, in such amounts and by such surety companies as the Board of Directors may determine. The premiums on such bonds shall be paid by the Corporation, and the bonds so furnished shall be in the custody of the Secretary.

**Section 7.3 Seal.** The Corporate Seal shall be circular and in the form affixed hereto. Said seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

**Section 7.4 Membership Certificates.** The Board of Directors may authorize the issuance of certificates to the members of the Corporation evidencing such membership.

**Section 7.5 Signature of Negotiable Instruments.** All bills, notes, checks or other instruments for the payment of money shall be signed or countersigned in such manner and by such parties as, from time to time, may be prescribed by resolution (whether general or special) of the Board of Directors.

**Section 7.6 Severability.** The provisions of these bylaws are severable. If any provision hereof is for any reason held invalid, such invalidity shall in no way affect the remaining provisions hereof.

## **ARTICLE VIII. AMENDMENTS**

### **Section 8.1 Manner of Amending.**

Except as expressly limited in Article VI, Section 6.1(D), these Bylaws may be altered, amended, repealed or new bylaws adopted with approval by the members of two-thirds (2/3) of the votes cast at an annual or special meeting, or the majority of the voting power, whichever is less AND the approval of the Board of Directors, EXCEPT for amendments related to the number of directors, the composition of the Board, the term of office of the Directors, or the method or way in which directors are elected or selected, which must be approved by members only.

NOTE:

AMENDMENTS TO BYLAWS MUST BE MADE ONLY IN ACCORDANCE WITH MISSISSIPPI LAW FOR NONPROFIT ASSOCIATIONS.

