

BY-LAWS

AUDUBON SQUARE COMMUNITY ASSOCIATION, INC.

ARTICLE I

Name and Location

Section 1. Name and Location. The name of this Association is as follows:

AUDUBON SQUARE COMMUNITY ASSOCIATION, INC.

Its principal office and mailing address is initially located at:

P.O. Box 255
Rockville, Maryland 20850

ARTICLE II

Definitions

Section 1. Declarant. "Declarant", as used herein, means: AUDUBON SQUARE JOINT VENTURE, a Maryland Limited Partnership.

Section 2. The Project. The "project" as used herein, means that certain community being developed by the Declarant in Montgomery County, Maryland, known as "AUDUBON SQUARE".

Section 3. Declaration. "Declaration", as used herein, means that certain Declaration made by the Declarant on the 1st day of January, 1980, which Declaration was recorded on the 14th day of January, 1980, in Liber 5643 at folio 842 among the Land Records for Montgomery County, Maryland.

Section 4. Mortgages. "Mortgages", as used herein, means the holder of any recorded mortgage, or the party secured or beneficiary of any recorded deed of trust, encumbering one or more of the lots. "Mortgage", as used herein, shall include deed of trust. "First Mortgage", as used herein, shall mean a mortgage with priority over other mortgages. As used in these By-Laws, the term "Mortgagee" shall mean any mortgagee and shall not be limited to institutional mortgagees. As used in these By-Laws, the term "institutional mortgagee" or "institutional holder" shall include banks, trust companies, insurance companies, mortgage insurance companies, savings and loan associations, mutual savings banks, credit unions, trusts, pension funds, mortgage companies, Federal National Mortgage Association ("FNMA"), Federal Home Loan Mortgage Corporation ("FHLMC"), all corporations and any agency or department of the United States Government or of any state or municipal government. As used in these By-Laws the term "holder" or "Mortgagee" shall include the parties secured by any deed of trust or any beneficiary thereof.

Section 5. Other Definitions. Unless it is plainly evident from the context that a different meaning is intended, all other terms used herein shall have the same meaning as they are defined to have in the Declaration.

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ARTICLE III

Membership

Section 1. **Membership.** The Association shall have two classes of voting membership which shall be known as "Class A" and "Class B":

(a) Every person, group of persons, corporation, partnership, trust or other legal entity, or any combination thereof, who is a record owner of a fee interest in any lot which is part of the premises described in Article II of the Declaration, or which otherwise becomes subject by the covenants set forth in the Declaration to assessment by the Association, shall be a Class A member of the Association; provided, however, that any such person, group of persons, corporation, partnership, trust or other legal entity who holds such interest solely as security for the performance of an obligation shall not be a Class A member solely on account of such interest. Each Class A member shall be entitled to one (1) vote for each lot in which such member holds the interest required for Class A membership.

(b) The Class B member shall be the Declarant, its nominee or nominees, and shall include every person, group of persons, corporation, partnership, trust or other legal entity, or any combination thereof, who shall obtain any Class B membership by specific assignment from the Declarant. The Class B member or members shall have one Class B membership for each lot in which such member holds the interest otherwise required for Class A membership. Each Class B member shall be entitled to three (3) votes for each lot in which such member holds the interest otherwise required for Class A membership. Each Class B membership shall lapse and become a nullity on the first to happen of the following events:

- (i) thirty (30) days following the date on which the total authorized, issued and outstanding Class A memberships equal the total authorized, issued and outstanding Class B memberships multiplied by three (3); or
- (ii) on January 1, 1987; or
- (iii) Upon the surrender of said Class B memberships by the then holders thereof for cancellation on the books of the Association.

Upon the lapse or surrender of any of the Class B memberships as provided for in this Article, the Declarant shall thereafter remain a Class A member of the Association as to each and every lot in which the Declarant then holds the interest otherwise required for such Class A membership. In the event additional property is annexed to the property described in Article II of the Declaration subsequent to the date specified in Section 1 (b)(i) or Section 1 (b)(ii) of this Article, then the Declarant shall be a Class B member as to each lot which it owns in such annexed property subject to the limitations set forth in this Article.

The members of the Association shall have no preemptive rights, as such members, to acquire any memberships of this Association that may at any time be issued by the Association except as may be specifically provided in this Article.

Section 2. Membership Certificates. In the event the Board of Directors considers it necessary or appropriate to issue membership certificates or the like, then each such membership certificate shall state that the Association is organized under the laws of the State of Maryland, the name of the registered holder or holders of the membership represented thereby, and shall be in such form as shall be approved by the Board of Directors. Membership certificates shall be consecutively numbered, bound in one or more books, and shall be issued therefrom upon certification as to the transfer of title to the lot to which such membership is appurtenant. Every membership certificate shall be signed by the President or a Vice President and the Secretary or an Assistant Secretary and shall be sealed with the corporate seal. Such signatures and seal may be original or facsimile.

Section 3. Lost Certificates. The Board of Directors may direct a new certificate or certificates to be issued in place of any certificate or certificates previously issued by the Association and alleged to have been destroyed or lost, upon the making of an affidavit of that fact by the person claiming the membership certificate to be lost or destroyed. When authorizing such issuance of a new certificate or certificates, the Board of Directors may, in its discretion, and as a condition precedent to the issuance thereof, require the registered holder or holders of such lost or destroyed certificate or certificates, or his legal representative, to advertise the same in such manner as the Board of Directors shall require and to give the Association a bond in such sum as the Board of Directors may require as indemnity against any claim that may be made against the Association on account of the issuance of such new certificate.

Section 4. Liquidation Rights. In the event of any voluntary or involuntary dissolution of the Association each Class A member of the Association shall be entitled to receive out of the assets of the Association available for distribution to the members an amount equal to that proportion of such assets which the number of Class A memberships held by such member bears to the total number of Class A memberships of the Association then issued and outstanding.

ARTICLE IV

Meeting of Members

Section 1. Place of Meeting. Meetings of the memberships shall be held at the principal office or place of business of the Association or at such other suitable place within the State of Maryland which is reasonably convenient to the membership and as may from time to time be designated by the Board of Directors.

Section 2. Annual Meetings. The first annual meeting of the members of the Association shall be held at such time and place as may be designated by the Board of Directors; provided, however, that the first annual meeting of members shall be held within one (1) year from the date of filing of the Articles of Incorporation of the Association. Thereafter, the annual meetings of the

members shall be held on the third Tuesday of January each succeeding year. At such meeting there shall be elected by ballot of the members a Board of Directors in accordance with the requirements of Article V of these By-Laws. The members may also transact such other business as may properly come before them.

Section 3. Special Meetings. It shall be the duty of the President to call a special meeting of the members as directed by resolution of the Board of Directors or upon a petition signed by at least twenty percent (20%) of each class of the then members, having been presented to the Secretary; provided, however, that no special meetings shall be called, except upon resolution of the Board of Directors, prior to the first annual meeting of members as hereinabove provided for. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

Section 4. Notice of Meetings. It shall be the duty of the Secretary to mail a notice of each annual or special meeting, stating the purpose thereof, as well as the time and place where it is to be held, to each member of record, at his address as it appears on the membership books of the Association or, if no such address appears, at his last known place of address, at least ten (10) but not more than ninety (90) days prior to such meeting. Notice by either such method shall be considered as notice served. Attendance by a member at any meeting of the members shall be a waiver of notice by him of the time, place and purpose thereof. Notice of any annual or special meeting of the members of the Association may also be waived by any member either prior to, at, or after any such meeting.

Section 5. Roster of Membership. The Board of Directors of the Association shall maintain a current roster of the names and addresses of each member to which written notice of meetings of the members of the Association shall be delivered or mailed. Each unit owner shall furnish the Board of Directors with his name and current mailing address.

Section 6. Quorum. The presence, either in person or by proxy, of members representing at least fifty-one percent (51%) of the then members of record, shall be requisite for, and shall constitute a quorum for the transaction of business at all meetings of members. If the number of members at a meeting drops below the quorum and the question of a lack of a quorum is raised, no business may thereafter be transacted.

Section 7. Adjourned Meetings. If any meeting of members cannot be organized because a quorum has not attended, the members who are present, either in person or by proxy, may, except as otherwise provided by law, adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called.

Section 8. Voting. At every meeting of the members, each Class A member shall have the right to cast one (1) vote for each Class A membership which he owns on each question. Each of the Class B members shall have the right to cast three (3) votes for each Class B membership which he owns on each question. The vote of the members representing fifty-one percent (51%) of the total of the votes of the membership present at the meeting, in person

or by proxy, calculated as aforesaid, shall be necessary to decide any question brought before such meeting, unless the question is one upon which, by the express provision of law or of the Articles of Incorporation, or of the Declaration or of these By-Laws, a different vote is required, in which case such express provision shall govern and control. The vote for any membership which is owned by more than one person may be exercised by any of them present at any meeting unless any objection or protest by any other owner of such membership is noted at such meeting. In the event all of the co-owners of any membership who are present at any meeting of the members are unable to agree on the manner in which the votes for such membership shall be cast on any particular question, then such vote shall not be counted for purposes of deciding that question. In the event any membership is owned by a corporation, then the vote for any such membership shall be cast by a person designated in a certificate signed by the President or any Vice President of such corporation and attested by the Secretary or an Assistant Secretary of such corporation and filed with the Secretary of the Association, prior to or during the meeting. The vote for any membership which is owned by a trust or partnership may be exercised by any trustee or partner thereof, as the case may be, and, unless any objection or protest by any other such trustee or partner is noted at such meeting, the Chairman of such meeting shall have no duty to inquire as to the authority of the person casting such vote or votes. No Class A member shall be eligible to vote, either in person or by proxy, or to be elected to the Board of Directors, who is shown on the books or management accounts of the Association to be more than sixty (60) days delinquent in any payment due the Association.

Whenever in these By-Laws any action is required to be taken by a specified percentage of "each class of the then members" of the Association, then such action shall be required to be taken separately by the specified percentage of the votes of the then outstanding Class A members of the Association and the specified percentage of the votes of the then outstanding Class B members of the Association. Whenever in these By-Laws any action is required to be taken by a specified percentage of "both classes of the then members" of the Association or by a specified percentage of the "then members" of the Association, then such action shall be required to be taken by the specified percentage of the votes of the then outstanding cumulative membership of the Association.

Section 9. Proxies. A member may appoint any other member or the Declarant or the Management Agent as his proxy. In no case may any member (except the Declarant or the Management Agent) cast more than one (1) vote by proxy in addition to his own vote. Any proxy must be in writing and must be filed with the Secretary in form approved by the Board of Directors before the appointed time of each meeting. Unless limited by its terms, any proxy shall continue until revoked by a written notice of revocation filed with the Secretary or by the death of the member; provided, however, that no proxy shall be effective for a period in excess of one hundred eighty (180) days unless granted to a mortgagee or lessee of the lot to which the votes are appurtenant.

Section 10. Rights of Mortgagees. Any institutional mortgagee of any lot who desires notice of the annual and special meetings of the members shall notify the Secretary to that effect by Registered Mail, Return Receipt Requested. Any such notice shall

contain the name and post office address of such institutional mortgagee and the name of the person to whom notice of the annual and special meetings of the members should be addressed. The Secretary of the Association shall maintain a roster of all institutional mortgagees from whom such notices are received and it shall be the duty of the Secretary to mail or otherwise cause the delivery of a notice of each annual or special meeting of the members to each such institutional mortgagee, in the same manner, and subject to the same requirements and limitations as are otherwise provided in this Article for notice to the members. Any such institutional mortgagee shall be entitled to designate a representative to attend any annual or special meeting of the members and such representative may participate in the discussion at any such meeting and may, upon his request made to the Chairman in advance of the meeting, address the members present at any such meeting. Such representative shall have no voting rights at any such meeting. Such representative shall be entitled to copies of the minutes of all meetings of the members upon request made in writing to the Secretary.

Section 11. Order of Business. The order of business at all regularly scheduled meetings of the members shall be as follows:

- (a) Roll call and certificate of proxies.
- (b) Proof of notice of meeting or waiver of notice.
- (c) Reading and disposal of minutes of preceding meeting, if any.
- (d) Reports of officers, if any.
- (e) Reports of committees, if any.
- (f) Unfinished business.
- (g) New business.
- (h) Election or appointment of inspectors of election
- (i) Election of directors.
- (j) Adjournment

In the case of special meetings, items (a) through (d) shall be applicable and thereafter the agenda shall consist of the items specified in the notice of the meeting.

Section 12. Rules of Order and Procedure. The rules of order and all other matters of procedure at all annual and special meetings of the members shall be determined by the Chairman of such meeting.

Section 13. Inspectors of Election. The Board of Directors may, in advance of any annual or special meeting of the members appoint an uneven number of one or more inspectors of election to act at the meeting and at any adjournment thereof. In the event inspectors are not so appointed, the Chairman of any annual or special meeting of members shall appoint such inspectors of election. Each inspector so appointed, before entering upon the discharge of his duties, shall take and sign an oath faithfully to execute the duties of inspector of election at such meeting. The oath so taken shall be filed with the Secretary of the Association. No officer or Director of the Association, and no candidate for Director of the Association, shall act as an inspector of election at any meeting of the members if one of the purposes of such meeting is to elect Directors.

ARTICLE V

Directors

Section 1. Number and Qualifications. The affairs of the Association shall be governed by the Board of Directors composed of an uneven number of at least five (5) natural persons and more than nine (9) natural persons, a majority of whom (after the lapse of all of the Class B memberships as provided in Article III of these By-Laws) shall be members of the Association.

From and after the annual meeting of the members which next follows the date on which the total authorized, issued and outstanding Class A memberships held by persons other than the Declarant equal fifteen (15), at least one-third (1/3) of the Directors shall be selected from and by the Class A members.

Prior to the lapse of all of the Class B memberships as provided in Article III of these By-Laws, the number of Directors shall be determined, from time to time, by a vote of the initial Directors hereinafter named. Thereafter, the number of Directors shall be determined by a vote of the members at the annual meeting of members and the number of Directors may be changed by a vote of the members at any subsequent annual or special meeting of the members; provided, however, that (a) the limitations of this Section shall continue to apply; and (b) no such change shall operate to curtail or extend the term of any incumbent Director.

Section 2. Initial Directors. The initial Directors shall be selected by the Declarant and need not be members of the Association. The names of the Directors who shall act as such from the date upon which the Declaration is recorded among the Land Records of Montgomery County, Maryland, until the first annual meeting of the members or until such time as their successors are duly chosen and qualified are as follows: James E. Cafritz, Robert L. Heisler, Thomas C. Krisman, T. Kevin Carney and Henry M. Witt.

Section 3. Powers and Duties. The Board of Directors shall have all the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by law or by the Declaration or these By-Laws directed to be exercised and done by the members. The powers and duties of the Board of Directors shall include, but shall not be limited to, the following:

To provide for the

(a) care, upkeep and surveillance of the common areas and community facilities and services in a manner consistent with law and the provisions of these By-Laws and the Declaration; and

(b) establishment, collection, use and expenditure of assessments and carrying charges from the members and for the assessment, the filing and enforcement of liens therefor in a manner consistent with law and the provisions of these By-Laws and the Declaration; and

(c) designation, hiring and dismissal of the personnel necessary for the good working order and proper care of common areas and community facilities and to provide services

LAW OFFICES
MCKEEVER,
FITZPATRICK & CANADA
324 HUNGERFORD COURT
ROCKVILLE, MD. 20850
(301) 782-1400

the project in a manner consistent with law and the provisions of these By-Laws and the Declaration; and

(d) promulgation and enforcement of such rules and regulations and such restrictions on or requirements as may be deemed proper respecting the use, occupancy and maintenance of the common areas and community facilities as are designated to prevent unreasonable interference with the use of the common areas and community facilities by the members and others, all of which shall be consistent with law and the provisions of these By-Laws and the Declaration; and

(e) authorization, in their discretion, of the payment of patronage refunds from residual receipts when and as reflected in the annual report; and

(f) to enter into agreements whereby the Association acquires leaseholds, memberships and other possessory or use interests in real or personal property for the purpose of promoting the enjoyment recreation or welfare of the members and to declare expenses incurred in connection therewith to be common expenses of the Association; and

(g) to purchase insurance upon the common areas and community facilities in the manner provided for in these By-Laws and

(h) to repair, restore or reconstruct all or any part of the common areas and community facilities after any casualty loss in a manner consistent with law and the provisions of these By-Laws and to otherwise improve the common areas and community facilities; and

(i) to lease, grant licenses, easements, rights-of-way and other rights of use in all or any part of the common areas and community facilities; and

(j) to purchase lots and to lease, mortgage or convey the same, subject to the provisions of these By-Laws and the Declaration; and

(k) to appoint the members of the Architectural or Environmental Review Committee provided for in the Declaration and to appoint the members of such other committees as the Board of Directors may from time to time designate.

Section 4. Management Agent. The Board of Directors may employ for the Association a management agent or manager (the "Management Agent") at a rate of compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall from time to time authorize in writing. The Association shall not undertake "self-management" or otherwise fail to employ a management agent or manager without the prior written approval of all of the institutional holders of all first mortgages on the lots. Any management agreement entered into by the Association shall provide, inter alia, that such agreement may be terminated by either party upon sixty (60) days' written notice thereof to the other party. The term of any such management agreement shall not exceed one year; provided, however, that the term of any such management agreement may be renewable by mutual agreement of the parties for successive one-year periods.

LAW OFFICES
OF
FREDERICK A. CANNON
112 WASHINGTON SQUARE
BETHESDA, MD 20814
(301) 262-1000

Section 5. Election and Term of Office. The term of the Directors named herein shall expire when their successors have been elected at the first annual meeting of members and are duly qualified. The election of Directors shall be by secret written ballot, unless balloting is dispensed with by the unanimous consent of the members present at any meeting, in person or by proxy. There shall be no cumulative voting. At the first annual meeting of the members, the term of office of the Director receiving the greatest number of votes shall be fixed for three (3) years. The term of office of the Director receiving the second greatest number of votes shall be fixed for two (2) years and the term of office of the other Director or Directors shall be fixed for one (1) year. At the expiration of the initial term of office of each respective Director, his successor shall be elected to serve a term of three (3) years. In the alternative, the membership may, by resolution duly made and adopted at the first annual meeting of members, or at any subsequent annual meeting, resolve to fix the term for each Director elected at any such meeting at one (1) year. Directors shall hold office until their successors have been elected and hold their first regular meeting.

Section 6. Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a Director by a vote of the membership shall be filled by vote of the majority of the remaining Directors, even though they may constitute less than a quorum, and each person so elected shall be a Director until a successor is elected by the members at the next annual meeting to serve out the unexpired portion of the term; provided, however, that until the lapse of all of the Class B memberships as provided in Article III of these By-Laws the Declarant shall appoint Directors to fill vacancies created in the Board of Directors.

Section 7. Removal of Directors. At an annual meeting of members, or at any special meeting duly called for such purpose (but only after the lapse of all of the Class B memberships as provided in Article III of these By-Laws) any Director may be removed with or without cause by the affirmative vote of the majority of the votes of the members present and voting, in person or by proxy, and a successor may then and there be elected to fill the vacancy thus created. Any Director whose removal has been proposed by the members shall be given an opportunity to be heard at the meeting. The term of any Director who is a Class A member of the Association and who becomes more than sixty (60) days delinquent in payment of any assessments or carrying charges due the Association may be terminated by resolution of the remaining Directors and the remaining Directors shall appoint his successor as provided in this Article.

Section 8. Compensation. Except upon resolution of two-thirds (2/3) of each class of the then members of the Association, no compensation shall be paid to Directors for their services as Directors. After the first annual meeting of the members, no remuneration shall be paid to any Director who is also a member for services performed by him for the Association in any other capacity unless a resolution authorizing such remuneration shall have also been adopted by the Board of Directors before such services are undertaken. Directors may be reimbursed for their actual out-of-pocket expenses necessarily incurred in connection with their services as Directors.

Section 9. Organization Meeting. The first meeting of a newly elected Board of Directors shall be held within ten (10) days of election at such place as shall be fixed by the Directors at the meeting at which such Directors were elected, and no notice shall be necessary to the newly elected Directors in order legally to constitute such meeting, provided a majority of the whole Board of Directors shall be present at such first meeting.

Section 10. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors, but at least two (2) such meetings shall be held during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each Director, personally or by mail, telephone or telegraph, at least six (6) days prior to the day named for such meeting.

Section 11. Special Meetings. Special meetings of the Board of Directors may be called by the President on three (3) days' notice of each Director, given personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least one-half (1/2) of the Directors.

Section 12. Waiver of Notice. Before, at, or after any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board of Directors shall be a waiver of notice by him of the time, place and purpose thereof. If all the Directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

Section 13. Quorum. At all meetings of the Board of Directors a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at any meeting at which a quorum is present shall be the acts of the Board of Directors. If at any meeting of the Board of Directors there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 14. Action Without Meeting. Any action by the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting if all of the members of the Board of Directors shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board of Directors.

Section 15. Rights of Mortgagees. Any institutional mortgagee of any lot who desires notice of the regular and special meetings of the Board of Directors shall notify the Secretary to that effect by Registered Mail - Return Receipt Requested. Any such notice shall contain the name and post office address of such institutional mortgagee and the name of the person to whom notice of the regular and special meetings of the Board of Directors

should be addressed. The Secretary of the Association shall maintain a roster of all institutional mortgagees from whom such notices are received and it shall be the duty of the Secretary to mail or otherwise cause the delivery of a notice of each regular or special meeting of the Board of Directors to each such institutional mortgagee, in the same manner, and subject to the same requirements and limitations, as are otherwise provided in this Article for notice to the members of the Board of Directors. Any such institutional mortgagee shall be entitled to designate a representative to attend any regular or special meeting of the Board of Directors and such representatives may participate in the discussion at any such meeting and may, upon his request made to the Chairman in advance of the meeting, address the members of the Board of Directors present at any such meeting. Such representative shall be entitled to copies of the minutes of all meetings of the Board of Directors upon request made in writing to the Secretary.

Section 16. Fidelity Bonds. The Board of Directors shall require that all officers, Directors and employees of the Association regularly handling or otherwise responsible for the funds of the Association shall furnish adequate fidelity bonds or equivalent insurance against acts of dishonesty in accordance with the requirements of Article VII of these By-Laws. The premiums on such bonds or insurance shall be paid by the Association.

ARTICLE VI

Officers

Section 1. Designation. The principal officers of the Association shall be a President, a Vice President, a Secretary, and a Treasurer, all of whom shall be elected by the Board of Directors. Prior to the lapse of all of the Class B memberships as provided in Article III of these By-Laws, the officers of the Association need not be members of the Association. Thereafter, except for the President, the officers of the Association need not be members of the Association. The Board of Directors may appoint an assistant secretary and an assistant treasurer and such other officers as in their judgment may be necessary. The offices of Secretary and Treasurer may be filled by the same person.

Section 2. Election of Officers. The officers of the Association shall be elected annually by the Board of Directors at the organization meeting of each new Board and shall hold office at the pleasure of the Board of Directors.

Section 3. Removal of Officers. Upon an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed either with or without cause, and his successor elected at any regular meeting of the Board of Directors, at any special meeting of the Board of Directors called for such purpose.

Section 4. President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the members and of the Board of Directors. He shall have all of the general powers and duties which are usually vested in the office of president of a corporation.

Section 5. Vice President. The Vice President shall take the place of the President and perform his duties whenever the Presi-

dent shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board shall appoint some other member of the Board to do so on an interim basis. The Vice President shall also assist the President generally and shall perform such other duties as shall from time to time be delegated to him by the Board of Directors.

Section 6. Secretary. The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the members of the Association. The Secretary shall give notice of all annual and special meetings of the members of the Association in conformity with the requirements of these By-Laws. The Secretary shall have custody of the seal of the Association, if any. The Secretary shall have charge of the membership transfer books and of such other books and papers as the Board of Directors may direct and he shall, in general, perform all of the duties incident to the office of Secretary.

Section 7. Treasurer. The Treasurer shall have responsibility for funds and securities of the Association and shall be responsible for keeping, or causing to be kept, full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for causing the deposit of all monies and other valuable effects in the name, and to the credit of the Association in such depositories as may from time to time be designated by the Board of Directors.

ARTICLE VII

Insurance

Section 1. Insurance. The Board of Directors of the Association shall obtain and maintain, to the extent reasonably available, at least the following:

(a) casualty or physical damage insurance in an amount equal to the full replacement value (i.e., 100% "replacement cost" exclusive of land, foundation and excavation) of the common areas and community facilities (including all building service equipment and the like) with an "Agreed Amount Endorsement" or its equivalent, a "Demolition Endorsement" or its equivalent and a "Contingent Liability from Operation of Building Laws Endorsement" or its equivalent, without deduction or allowance for depreciation, as determined annually by the Board of Directors with the assistance of the insurance company affording such coverage, such coverage to afford protection against at least:

- (i) loss or damage by fire and other hazards covered by the standard extended coverage endorsement; and
- (ii) such other risks as shall customarily be covered with respect to projects similar in construction, location and use, including, but not limited to, sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, water damage, boiler and machinery explosion or damage, and such other insurance as the Board of Directors may from time to time determine and

(b) a comprehensive policy of public liability insurance with a "Severability of Interest Endorsement" or its equivalent in such amounts and in such forms as may be considered appropriate by the Board of Directors (but not less than One Million and No/100 Dollars (\$1,000,000.00) covering all claims for bodily injuries and/or property damage arising out of a single occurrence) including, but not limited to, water damage liability, legal liability, hired automobile liability, non-owned automobile liability, liability for property of others and, if applicable, elevator collision, garage keeper's liability, hose liquor liability, and such other risks as shall customarily be covered with respect to projects similar in construction, location and use of the common areas and community facilities or any portion thereof.

(c) workmen's compensation insurance to the extent necessary to comply with any applicable law; and

(d) a "Legal Expense Indemnity Endorsement" or its equivalent, affording a protection for the officers and Directors of the Association for expenses and fees incurred by any of them in defending any suit or settling any claim, judgment or cause of action to which any such officer or Director shall have been made a party by reason of his or her services as such; and

(e) such other policies of insurance, including insurance for other risks of a similar or dissimilar nature and fidelity coverage as required by these By-Laws, as are or shall hereafter be considered appropriate by the Board of Directors. The Board of Directors shall maintain adequate fidelity coverage to protect against dishonest acts on the part of officers and Directors of the Association, trustees and volunteers for the Association and such employees and agents of the Association who handle or are responsible for the handling of funds of the Association. Such fidelity coverage shall meet at least the following requirements:

- (i) all such fidelity bonds and policies of insurance shall name the Association as obligee or named insured, as the circumstances may require; and
- (ii) all such fidelity bonds and policies of insurance shall be written in an amount equal to at least one hundred fifty percent (150%) of the estimated annual operating budget of the Association, including reserves; and
- (iii) all such fidelity bonds and policies of insurance shall contain waivers of any defense based upon the exclusion of volunteers and other persons who serve without compensation from any definition of "employee" or similar expression; and
- (iv) all such fidelity bonds and insurance shall provide that they may not be cancelled or substantially modified (including cancellation for non-payment of premium) without

at least thirty (30) days prior written notice to any and all obligees and insured named thereon and to any mortgagee of any lot who requests such notice in writing.

Section 2 Limitations. Any insurance obtained pursuant to the requirements of this Article shall be subject to the following provisions:

(a) all policies shall be written or reinsured with a company or companies licensed to do business in the State of Maryland and holding a rating in the upper thirty (30) percentile in the current edition of Best's Insurance Guide.

(b) exclusive authority to negotiate losses under said policies shall be vested in the Board of Directors of the Association, or its authorized representative.

(c) in no event shall the insurance coverage obtained and maintained pursuant to the requirements of this Article be brought into contribution with insurance purchased by the owners of the lots or their mortgagees, as herein permitted, and any "no other insurance" or similar clause in any policy obtained by the Association pursuant to the requirements of this Article shall exclude such policies from consideration.

(d) such policies shall contain no provision relieving the insurer from liability because of loss occurring while the hazard is increased in the building, whether or not within the control or knowledge of the Board of Directors and shall contain no provision relieving the insurer from liability by reason of any breach of warranty or condition caused by the Board of Directors or any members of the Association, or any of their respective agents, employees, tenants, mortgagees or invitees or by reason of any act of neglect or negligence on the part of any of them.

(e) all policies shall provide that such policies may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least thirty (30) days prior written notice to any and all insureds named thereon, including any mortgagee of any lot who requests such notice in writing.

(f) all policies of casualty insurance shall provide that, notwithstanding any provisions thereof which give the carrier the right to elect to restore damage in lieu of making a cash settlement, such option shall not be exercisable without the prior written approval of the Board of Directors or when in conflict with the provisions of these By-Laws or the provisions of the Declaration.

(g) all policies shall contain a waiver of subrogation by the insurer as to any and all claims against the Association, the Board of Directors, the members of the Association and their respective agents, employees or tenants, and of any defenses based upon coinsurance or invalidity arising from the acts of the insured.

ARTICLE VIII

Casualty Damage - Reconstruction or Repair

Section 1. Use of Insurance Proceeds. In the event of damage or destruction to the common areas and community facilities by fire or other casualty, the same shall be promptly repaired, replaced or reconstructed in substantial conformity with the original plans and specifications for the common areas and community facilities with the proceeds of insurance available for that purpose, if any. The Association shall not use the proceeds of casualty insurance received as a result of damage or destruction of the common areas and community facilities for purposes other than the repair, replacement or reconstruction of the common areas and community facilities without the prior written consent and approval of the holders of all first mortgages of record on the lots.

Section 2. Proceeds Insufficient. In the event that the proceeds of insurance are not sufficient to repair damage or destruction of the common areas and community facilities caused by fire or other casualty, or in the event such damage or destruction is caused by any casualty not insured against, then and in either of those events, upon resolution of the Board of Directors, the repair, replacement or reconstruction of the damage shall be accomplished promptly by the Association at its common expense.

ARTICLE IX

Fiscal Management

Section 1. Fiscal Year. The fiscal year of the Association shall begin on the first day of January every year, except for the first fiscal year of the Association which shall begin at the date of recordation of the Declaration among the Land Records for Montgomery County, Maryland. The commencement date of the fiscal year herein established shall be subject to change by the Board of Directors should the practice of the Association subsequently dictate.

Section 2. Principal Office - Change of Same. The principal office of the Association shall be as set forth in Article I of these By-Laws. The Board of Directors, by appropriate resolution, shall have the authority to change the location of the principal office of the Association from time to time.

Section 3. Books and Accounts. Books and accounts of the Association shall be kept under the direction of the Treasurer in accordance with generally accepted accounting practices, consistently applied. The same shall include books with detailed accounts, in chronological order, of receipts and of the expenditures and other transactions of the Association and its administration and shall specify the maintenance and repair expenses of the common areas and community facilities, services required or provided with respect to the same and any other expenses incurred by the Association. The amount of any assessment or portion of any assessment, required for payment of any capital expenditures or reserves of the Association shall be credited upon the books of the Association to the "Paid-in-Surplus" account as a capital contribution by the members. The receipts and expenditures of the Association shall be credited and charged to other accounts under at least the following classifications:

(a) "Current Operations" which shall involve the control of actual expenses of the Association, including reasonable allowances for necessary contingencies and working capital funds in relation to the assessments and expenses hereinelsewhere provided for; and

(b) "Reserves for Deferred Maintenance" which shall involve the control of monthly funding and maintenance of such deferred maintenance costs and reserves as are approved by the Board of Directors from time to time; and

(c) "Reserves for Replacement" which shall involve the control of such reserves for replacement as are provided for in these By-Laws and as may from time to time be approved by the Board of Directors; and

(d) "Other Reserves" which shall involve the control over funding and charges against any other reserve funds which may from time to time be approved by the Board of Directors; and

(e) "Investments" which shall involve the control over investment of reserve funds and such other funds as may be deemed suitable for investment on a temporary basis by the Board of Directors; and

(f) "Betterments" which shall involve the control over funds to be used for the purpose of defraying the cost of any construction or reconstruction, unanticipated repair or replacement of the common areas and community facilities and for expenditures for additional capital improvements or personal property made or acquired by the Association with the approval of the Board of Directors.

Section 4. Auditing. At the close of each fiscal year, the Treasurer shall cause to be prepared a financial statement reflecting the financial condition of the Association, including an income and expense statement, which statement shall be delivered to the Board of Directors. The Association shall furnish the members and any mortgagee requesting the same with said annual financial statement, including the income and disbursement of the Association, within ninety (90) days following the end of each fiscal year.

Section 5. Inspection of Books. The books and accounts of the Association, vouchers accrediting the entries made thereupon and all other records maintained by the Association shall be available for examination by the members and their duly authorized agents or attorneys, and to the institutional holder of any first mortgage on any lot and its duly authorized agents or attorneys, during normal business hours and for purposes reasonably related to their respective interests and after reasonable notice.

Section 6. Execution of Corporate Documents. With the prior authorization of the Board of Directors, all notes and contracts shall be executed on behalf of the Association by either the President or a Vice President, and all checks shall be executed on behalf of the Association by such officers, agents or other persons as are from time to time so authorized by the Board of Directors.

Section 7. Seal. The Board of Directors may provide a suitable corporate seal containing the name of the Association, which seal shall be in the charge of the Secretary. If so directed by the Board of Directors, a duplicate seal may be kept and used by the Treasurer or any assistant secretary or assistant treasurer.

ARTICLE X

Amendment

Section 1. Amendments. Subject to the other limitations set forth in these By-Laws, these By-Laws may be amended by the affirmative vote of members representing two-thirds (2/3) of the then members of record at any meeting of the members duly called for such purpose in accordance with the provisions and requirements of these By-Laws.

Section 2. Proposal of Amendments. Amendments to these By-Laws may be proposed by the Board of Directors of the Association or by petition signed by at least twenty-five percent (25%) of the total votes of the members, which petition shall be delivered to the Secretary. A description of any proposed amendment shall accompany the notice of any annual or special meeting of the members at which such proposed amendment is to be considered and voted upon.

ARTICLE XI

Mortgage - Notice - Other Rights of Mortgagees - FHA/VA

Section 1. Notice to Board of Directors. Any owner of any lot in the project who mortgages such lot shall promptly notify the Board of Directors of the name and address of his mortgagee and, if requested so to do, shall file a conformed copy of such mortgage with the Board of Directors. The Board of Directors shall maintain a suitable roster pertaining to such mortgages.

Section 2. Consents. Any other provision of these By-Laws or of the Declaration to the contrary notwithstanding, neither the members, the Board of Directors nor the Association shall, by act or omission, take any of the following actions without the prior written consent and approval of the holders of all first mortgages of record on the lots:

(a) abandon, partition, subdivide, encumber, sell or transfer any of the common areas and community facilities; provided, however, that the granting of rights-of-way, easements and the like for public utilities, or for other purposes consistent with the use of the common areas and community facilities by the members of the Association shall not be considered a transfer within the meaning of this Section; or

(b) modify or amend any material or substantive provision of the Declaration or these By-Laws.

Section 3. Casualty Losses. In the event of substantial damage or destruction to any part of the common areas and community facilities, the Board of Directors of the Association shall give prompt written notice of such damage or destruction to the holders of all first mortgages of record on the lots. No provision of

these By-Laws shall entitle any member of the Association to any priority over the holder of any first mortgage of record on his lot with respect to the distribution to such member of any insurance proceeds.

Section 4. Condemnation or Eminent Domain. In the event any portion of the common areas or community facilities is made the subject matter of any condemnation or eminent domain proceeding, or is otherwise sought to be acquired by any condemning authority, then the Board of Directors of the Association shall give prompt written notice of any such proceeding or proposed acquisition to the holders of all first mortgages of record on the lots. No provision of these By-Laws shall entitle any member of the Association to any priority over the holder of any first mortgage of record on his lot with respect to the distribution to such member of the proceeds of any condemnation award or settlement.

Section 5. FHA/VA. Provided that any lot in the project is then encumbered by a deed of trust or mortgage which is insured by the Federal Housing Administration or guaranteed by the Veterans Administration and, provided further, that there are then Class B memberships of the Association outstanding, neither the members, the Board of Directors nor the Association shall, by act or omission, take any of the following actions without the prior written consent and approval of the Federal Housing Administration and the Veterans Administration, as the circumstances may require:

(a) abandon, partition, subdivide, encumber, sell or transfer any of the common areas and community facilities; provided, however, that the granting of rights-of-way, easements and the like for public utilities or for other purposes consistent with the use of the common areas and community facilities by the members of the Association shall not be considered a transfer within the meaning of this Section; or

(b) abandon or terminate the Declaration; or

(d) modify or amend any provision of the Declaration or these By-Laws.

ARTICLE XII

Interpretation - Miscellaneous

Section 1. Conflict. These By-Laws are subordinate and subject to all provisions of the Declaration and to the provisions of the Articles of Incorporation of the Association. All of the terms hereof, except where clearly repugnant to the context, shall have the same meaning as they are defined to have in the Declaration. In the event of any conflict between these By-Laws and the Declaration, the provisions of the Declaration shall control; and in the event of any conflict between these By-Laws and the Articles of Incorporation of the Association, the provisions of the Articles of Incorporation shall control.

Section 2. Notices. Unless another type of notice is herein-elsewhere specifically provided for, any and all notices called for in these By-Laws shall be given in writing.

Section 3. Severability. In the event any provision or provisions of these By-Laws shall be determined to be invalid, void or unenforceable, such determination shall not render invalid, void or unenforceable any other provisions hereof which can be given effect.

Section 4. Waiver. No restriction, condition, obligation or provisions of these By-Laws shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

Section 5. Captions. The captions contained in these By-Laws are for convenience only and are not a part of these By-Laws and are not intended in any way to limit or enlarge the terms and provisions of these By-Laws or to aid in the construction thereof.

Section 6. Gender, etc. Whenever in these By-Laws the context so requires, the singular number shall include the plural and the converse, and the use of any gender shall be deemed to include all genders.

FIRST AMENDMENT TO BYLAWS OF
AUDUBON SQUARE COMMUNITY ASSOCIATION, INC.

THIS FIRST AMENDMENT to the Bylaws of the Audubon Square Community Association is adopted pursuant to the written consent of members representing two-thirds of the total voting power of the Audubon Square Community Association, under the authority of Article X, Section 1 of the Bylaws.

RESOLVED, that Article IV, Section 2, is amended to read as follows:

"The first annual meeting of the members of the Association shall be held at such time and place as may be designated by the Board of Directors; provided, however, that the first annual meeting of members shall be held within one (1) year from the date of filing of the Articles of Incorporation of the Association. The annual meetings of the members shall be held on the third Tuesday of May beginning in 1991 and each succeeding year. At such meeting there shall be elected by ballot of the members a Board of Directors in accordance with the requirements of Article V of these By-laws. The members may also transact such other business as may properly come before them."

IN WITNESS WHEREOF, this First Amendment to the Bylaws has been adopted as provided above effective the 16th day of January, 1990.

Shonda Greenberg
President
Audubon Square Community Ass

I, the undersigned, the duly elected and acting Secretary of Audubon Square Community Association, a nonprofit corporation, do hereby certify:

That the within and foregoing First Amendment to Bylaws was duly adopted on the 16th day of January, 1990, and that the same does now constitute the First Amendment to the Bylaws of said corporation.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 20 day of March, 1990.

Deborah J. Maloed