RECORDING GOVERNING DOCUMENTS

The Recorder of Deeds Office would like to provide the following information for Civic Associations, Condominium Associations and Maintenance Corporations to review for preparing and recording their governing documents.

To prepare your documents for compliance with Delaware Code, please review the Delaware Uniform Common Interest Ownership Act (“DUCIOA”), which is located in Title 25, Chapter 81 of the Delaware Code. Link: http://delcode.delaware.gov/title25/c081/index.shtml. The Common Interest Community Ombudsman suggests that it is “best practice” to formalize governing documents by signed and notarized certification by an officer of the community. Please note that although DUCIOA does not apply to Civic Associations, it may provide useful guidance for drafting their governing documents. For specific recommendations and questions please seek the advice of private lawyer.

We have provided an example of what a certificate of Amendment might look like, See Exhibit A and a copy of a, recorded By-Laws for review and information, See Exhibit B.

Documents must also meet margin and recording requirements of the New Castle County Recorder of Deeds Office, See exhibit C. You can add a cover sheet if necessary to allow for the recording stamp and required information see Exhibit D.
DUCIOA requires bylaws to identify “Which of its officers may prepare, execute, certify, and record amendments” to governing documents; and "A method for amending the bylaws by the unit owners.” Section 81-121 (b) requires an amendment to the "bylaws amendments to be adopted and recorded in conformity with any procedures and requirements for amending the instrument specified in those instruments" or consistent with the requirements of DUCIOA. But they must be “adopted” in the manner required in the document.

Depending on the bylaws being amended, “Adoption” could be by motion and vote of the appropriate group, (could be majority of the members, or some bylaws allow the board to approve.) Roberts Rules also recommends Certification by the Secretary that the proper procedures were followed. For example that on a certain day, at a meeting called for that purpose, after a quorum was established, the required number of the persons voting in person or by proxy approved the amended bylaws.

A certificate of amendment might look like this:

CERTIFICATE OF AMENDMENT
of
THE [BYLAWS/CODE OF REGULATIONS]
of
[NAME OF COMMUNITY]
MADE this [#] day of [Month ], 20##, by the [Board/Council] of the [name the community], pursuant to Article ## of the [name of community bylaws/code of regulations] dated [blank] [Date], and recorded in the Office of the Recorder of Deeds in and for [New Castle] County, Delaware, in Deed Book ###, Page, ##, to memorialize the action of the [Board./Council] of the [name of community] taken at its [special/annual] meeting of [date], where a quorum was present and the requisite percentage of unit owners voted in favor of the following amendment, pursuant to [statutory cite to DUCIOA, e.g. 81-121(b), bylaws, or 25 Del. C. §2207] to amend and restate the said [bylaws/code of regulations] by adopting the following change:

Replacement of the current bylaws [code of regulations] with the foregoing restated and amended bylaws [code of regulations]

As thus amended, the [name of community] bylaws [code of regulations] shall remain in force and effect.

In witness whereof, the Board [Council] of the [name of community] has caused the name by [name of president or other officer] it’s Pres., [or other required officer] to be hereunto set and duly attested by [name of Sec.] it secretary, the day and year first above written.

Sealed and delivered in the presence of: signature line witness

[name of community]

By:________________
    President

Attest:________________
    Secretary

IN WITNESS WHEREOF, the undersigned being the members of the [executive board; or board, or Council] of [name of association], have executed this instrument on this ____ day of ________, 20____.
[name of association]                                                                 Witness

By: _________________________ (seal)                      ______________
[name of officer]                                                                   [witness name]

STATE OF DELAWARE    :
[NEW CASTLE] COUNTY :  

BE IT REMEMBERED, That on this blank day of blank, 20__personally came before me, the
Subscriber, a Notary Public for the State of Delaware, [name of officer], who acknowledged
himself to be the [title of officer] of the [name of association] and that he executed the foregoing
amended bylaws as his respective act and deed and the act and deed of the board of directors.

IN WITNESS WHEREOF, I have set my hand and official seal:

_________________________  
Notary Public

My Commission Expires:___________

[Notary name, stamp or seal]
SECRETARY'S CERTIFICATE

The undersigned, [name], acting in her capacity as [position], [Maintenance Corporation], hereby certifies that:

1. I am duly elected and acting Secretary of the Corporation.

2. Attached hereto as Exhibit “A” is a true, accurate and complete copy of the By-Laws of the Corporation, which By-Laws have not been amended, rescinded or modified in any way as the date hereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 29th day of July, 2014.

STATE OF DELAWARE
COUNTY OF NEW CASTLE

BE IT REMEMBERED, that on this 29th day of July, 2014, personally came before me, the Subscriber, a Notary Public for the State of Delaware, in her capacity as Secretary of [Maintenance Corporation], known to me personally to be such and acknowledged this Certificate to be her act and deed.

GIVEN under my Hand and Seal this 14th day of May, 2011.

Notary Public

[Stamp]
BY-LAWS OF
MAINTENANCE CORPORATION
MIDDLETOWN, DELAWARE

ARTICLE I

The name of the corporation is the Maintenance Corporation, hereinafter referred to as the "Corporation". The principal office of the Corporation shall be located at (Home of president or other director), but meetings of members and directors may be held at such places within the State of Delaware, County of New Castle, as may be designated by the Board of Directors.

The name and address of the Corporation's registered agent in the State of Delaware is as set forth in the Certificate of Incorporation.

ARTICLE II
CORPORATE SEAL

The corporate seal shall have inscribed thereon the name of the corporation and the year of its incorporation.

ARTICLE III
MEETING OF MEMBERS

Section 1. First Meeting of the Members. The first meeting of the members shall be called by the initial Board of Directors and shall be for the purpose of nominating an interim Board of Directors consisting of homeowners of The interim Board of Directors shall send each homeowner notice of the meeting at least (30) days before the meeting to elect a permanent Board of Directors. The notice shall specify the place, day and hour of the meeting and shall state that the purpose of the meeting is to nominate a permanent Board of Directors. The notice shall list each office and describe the duties associated with such office. Nominations shall be accepted by proxy received by the interim Board of Directors 45 days prior to the meeting to elect the permanent Board of Directors. A list of nominations shall be prepared by the interim Board of Directors. The list of nominees, a proxy ballot and notice of the meeting to elect a permanent Board of Directors, including the place, day, and hour of the meeting, shall be mailed, postage prepaid, to each member entitled to vote at such meeting. The interim Board of Directors shall oversee the election and shall remain in office until another Board is duly elected. Elections shall be by ballot, by plurality vote. Notwithstanding any contrary provision in the governing documents, quorum requirements for nominations and election of the first Board of Directors consisting of homeowners shall be duly satisfied in the meetings are properly noticed in conformance with this section.

Section 2. Annual meetings. The first annual meeting of the members subsequent to the transfer of control to the homeowners shall be held within one year from the date of transfer meeting, and each subsequent regular annual meeting of the members shall be held within the same month of each year following, at which meeting they shall elect by ballot, by plurality vote, a Board of Directors and may transact such other business as may come before the meeting.
Section 3. Special meetings. Special meetings of the members may be called at any time by the President and must be called on the request, in writing or by the vote of the majority, of the Directors, or at the request in writing of five (5) or more members of the Corporation.

Section 4. Notice of meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of the notice, postage prepaid, at least fifteen (15) days before the meeting to each member entitled to vote at the meeting, addressed to the member's address last appearing on the books of the corporation, or supplied by the member to the corporation for the purpose of notice. The notice shall specify the place, day and hour of the meeting and, in the case of a special meeting, the purpose of the meeting. No change in the time or place of a meeting for the election of Directors, as fixed by these By-laws, shall be made within ten (10) days before the day on which such election is to be held. In case of any change in such time or place for such election of Directors, notice thereof shall be given to each member entitled to vote in person, or mailed to his or her last known post office address, at least ten (10) days before the election is held.

Section 5. List of members. A complete list of members entitled to vote (in good standing), arranged in alphabetical order, may be prepared by the Secretary and may be open to the examination of any member at the principal office of the Corporation for ten (10) days prior thereto, and during the whole term of the election, as well as at the place of the election meeting at that day and time.

Section 6. Proxies. Each member entitled to vote shall, at every meeting of the members, be entitled to vote in person or by proxy, in writing and signed by him or her. Every proxy shall be revocable and shall automatically cease upon conveyance of the lot. Such right to vote shall be subject to the right of the Board of Directors to close the transfer books or to fix a record date for voting members as hereinafter provided and if the Directors shall not have exercised such right, no vote shall be cast at any election for Directors by anyone who shall have accepted membership in the Corporation within twenty (20) days of such election. Only one (1) vote shall be cast with respect to each lot in the Asbury Chase subdivision.

Section 7. Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, thirty percent of the total members entitled to vote (30%) (members in good standing) shall constitute a quorum (counting one member for each lot regardless of the number of persons holding title to such lot) for any action except as otherwise provided in the Articles of Incorporation, the Maintenance Declaration, or these By-laws. If, however, a quorum shall not be present at any meeting, the members entitled to vote there may adjourn the meeting, without notice other than announcement at the meeting. If the meeting was adjourned due to a failure to meet the quorum requirement, a second meeting, properly noticed for the same purpose may be scheduled at which time any action may be approved by the majority of those members in good standing in attendance in person or by proxy.
ARTICLE IV
BOARD OF DIRECTORS: SELECTION; TERM OF OFFICE

Section 1. Number. The property and business of the Corporation shall be managed and controlled by its Board of Directors, consisting of two (2) or more Directors, not to exceed five (5). Directors must be members of the Corporation.

Section 2. Election. At the election meeting of the Corporation, the members shall elect the Vice President and Treasurer for a two year term, President and Secretary for a one year term. Up to two (2) Ad Hoc Directors for a two year term and two (2) for a one year term. Subsequently elected Board of Directors shall all serve a two year term. The Directors shall hold office until the next annual election and until their successors are elected and qualify.

Section 3. Removal. Any Director may be removed from the Board, with cause, by a majority vote of the members of the Corporation or the Board of Directors. In the event of death, resignation or removal of a Director, a successor shall be selected by the remaining members of the Board, though less than a quorum, by majority vote, and shall serve for the unexpired term of his or her predecessor.

Section 4. Compensation. No Director shall receive compensation for any service he or she may render to the Corporation. However, any Director may be reimbursed for actual expenses incurred in the performance of his or her duties.

Section 5. Action taken without a meeting. The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

ARTICLE V
MEETING OF DIRECTORS

Section 1. Regular meetings. After each annual election of Directors, the newly elected Directors may meet for the purpose of organization, the election of officers, and the transaction of other business, at such place and time as shall be fixed by the Directors, and if a majority of the Directors be present at such place and time, no prior notice of such meeting shall be required to be given to the Directors. The place and time of such meeting may also be fixed by written consent of the Directors.

Section 2. Special meetings. Meetings of the Directors may be called by the President on five (5) days' notice in writing or on two (2) days' notice by telephone to each Director and shall be called by the President in like manner on the written request of two (2) Directors. A majority of the Directors shall constitute a quorum, but a smaller number may adjourn from time to time; without further notice, until a quorum is secured.
ARTICLE VI
POWERS AND DUTIES OF THE BOARD

Section 1. Powers. The Board of Directors shall have the power to:
(a) Adopt and publish rules and regulations governing the use of the common properties and facilities, and the personal conduct of the members and their guests, and to establish penalties for infractions;
(b) Exercise for the Corporation all powers, duties and authority vested in or delegated to this Corporation and not reserved to the membership by other provisions of these By-laws, the Articles of Incorporation, or the Maintenance Declaration;
(c) Declare the office of a member of the Board of Directors to be vacant in the event the member shall be absent from three (3) consecutive regular meetings of the Board of Directors;
(d) Employ a manager, an independent contractor, or other employees as they deem necessary, and to prescribe their duties;
(e) Close the membership rolls of the Corporation for a period not exceeding ten (10) days preceding the date of any meeting of members.

Section 2. Duties. It shall be the duty of the Board of Directors to:
(a) Cause to be kept a complete record of all of its acts and corporate affairs and to present a statement of its acts and corporate affairs to the members at the annual meeting of the members or at any special meeting when the statement is requested in writing by five (5) or more members of the Corporation;
(b) Supervise all officers, agents and employees of this Corporation, and to see that their duties are properly performed;
(c) As more fully provided here, and in the Maintenance Declaration, to:

1. Determine the amount of the annual assessment against each lot for approval by majority vote of the Board of Directors; and
2. Send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period.
(d) Procure and maintain adequate liability and hazard insurance on property owned by the Corporation;
(e) Cause all open space and common facilities to be maintained as required.
ARTICLE VII
COMMITTEES

The Board of Directors may, by resolution or resolutions passed by a majority of the whole Board, designate such committees as it deems necessary or desirable, each such committee to consist of one (1) or more of the Directors of the Corporation. Such committees shall meet at stated times or on notice to all by any of their own number. They shall fix their own rules of procedure. A majority shall constitute a quorum, but the affirmative vote of a majority of the whole committee shall be necessary in every case. Such committees shall have and may exercise the powers of the Board of Directors to the extent as provided in such resolution or resolutions.

ARTICLE VIII
OFFICERS OF THE CORPORATION

The officers of the Corporation shall be a President, one or more Vice-Presidents, Secretary, Treasurer, and such other officers as may from time to time by chosen by the Board of Directors. The officers of the Corporation shall hold office until their successors are chosen and qualify in their stead. Any officer chosen or appointed by the Board of Directors may be removed with or without cause at any time by the affirmative vote of a majority of the whole Board of Directors. If the office of any officer or officers becomes vacant for any reason, the vacancy shall be filled by the affirmative vote of a majority of the whole Board of Directors.

Section 1. Duties of the President. The President shall be the chief executive officer of the Corporation. It shall be his duty to preside at all meetings of the members and Directors; to have general and active management of the business and the Corporation; to see that all orders and resolutions of the Board of Directors are carried-into effect; to execute all agreements and other instruments in the name of the Corporation, and to affix the corporate seal thereto when authorized by the Board of Directors.

He shall have the general supervision and direction of the other officers of the Corporation and shall see that their duties are properly performed.

He shall submit a report of the operations of the Corporation for the year to the Directors at their meeting next preceding the annual meeting of the members and to the members at their annual meeting.

He shall be ex-officio a member of all committees and shall have the general duties and powers of supervision and management usually vested in the office of the President of a corporation.

Section 2. Vice-President. The Vice-President or Vice-Presidents, in the order designated by the Board of Directors, shall be vested with all powers and required to perform all the duties of the President in his absence or disability and shall perform such other duties as may be prescribed by the Board of Directors.
Section 3. President Pro Tem. In the absence or disability of the President and the Vice Presidents, the Board may appoint from their own number a president pro tem.

Section 4. Secretary. The Secretary shall attend all meetings of the Corporation, the Board of Directors, and any committee meetings. S/He shall act as clerk thereof and shall record all of the proceedings of such meetings in a book kept for that purpose. He shall give proper notice of meetings of members and Directors and shall perform such other duties as shall be assigned to him by the President or the Board of Directors.

Section 5. Treasurer. The Treasurer shall have custody of the funds and securities of the Corporation and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation and shall be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Directors.

He shall disburse the funds of the Corporation as may be ordered by the Board or President, taking proper vouchers for such disbursements, and shall render to the President and Directors, whenever they may require it an account of all his transactions as treasurer, and of the financial condition of the Corporation, and at the regular meeting of the Board next preceding the annual members' meeting, a like report for the preceding year.

He shall keep an account of the members of record in such manner and subject to such regulations as the Board of Directors may prescribe.

He shall give the Corporation a bond, if required by the Board of Directors, in sum and in form and with corporate security satisfactory to the Board of Directors for the faithful performance of the duties of his office and the restoration to the Corporation, in case of his death, resignation or removal from office, of all books, papers, vouchers, money and other property of whatever kind in his possession, belonging to the Corporation. Such bond and security shall, if required, be provided at the Corporation's expense. He shall perform such other duties as the Board of Directors may from time to time prescribe or require.

Section 6. Delegation of duties. In case of the absence or disability of any officer of the Corporation or for any other reason deemed sufficient by the majority of the Board, the Board of Directors may delegate his powers or duties to any other officer or to any Director for the time being.
ARTICLE IX
ASSESSMENTS

Section 1. Creation of the lien and personal obligation of assessments. By the Declaration, each member is deemed to covenant and agrees to pay to the Corporation:

(a) Annual assessments or charges; and

(b) Special assessments.

The annual and special assessments, together with interest and costs of collection, as provided below, shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made. Each assessment, together with interest, costs and reasonable attorney's fees shall be the personal obligation of the person who was the owner of the property at such time as the assessment was due.

Section 2. Purpose of assessments. The assessments levied by the Corporation shall be used for the purpose of maintaining the private open spaces and common facilities in the subdivision, and all improvements located thereon, including, but not limited to, any storm water management facilities, common landscaping features, and any of the other purposes as set forth in the Certificate of Incorporation or Maintenance Declaration or deemed necessary by the Board of Directors.

Section 3. Annual assessment. An annual assessment shall be set by a majority vote of the Corporation's Board of Directors and approved by a majority of the Corporations' members in good standing voting in person or by proxy at the regular annual meeting.

Section 4. Special assessment. In addition to the annual assessments authorized above, the corporation may levy in any calendar year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the common area, or any of the other purposes set forth in the Certificate of Incorporation or Maintenance Declaration, or deeded necessary by the Board of Directors. A special assessment, if necessary, shall be set by a majority vote of the members who are voting in person or by proxy at the annual meeting or at a meeting duly called for this purpose.

Section 5. Uniform rate. Both annual and special assessments must be fixed at a uniform rate for all lots or as described in the maintenance declaration.

Section 6. Remedies for non-payment of assessments. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of (18%) per annum, and the maintenance corporation may bring an action at law against the owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such
assessment. No owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the common area or abandonment of his or her lot.

ARTICLE X
BOOKS AND RECORDS

The books, records and papers of the Corporation shall by formal request within a reasonable time period, be subject to inspection by any member. The Maintenance Declaration, the Articles of Incorporation and the By-laws of the Corporation shall be available for inspection by any member. Copies may be requested at reasonable cost not to exceed five dollars ($5.00) per document.

ARTICLE XI
CORPORATION PAYMENTS

All checks, drafts or orders for the payment of money shall be signed by the President and the Treasurer or by such other officer or officers as the members of the Corporation may approve.

ARTICLE XII
MEMBERS OF RECORD

The Corporation shall be entitled to treat the title holder or holders of record of any lot in the subdivision as members in fact of the Corporation, and accordingly shall not be bound to recognize any equitable or other claim to or interest in such lot or memberships on the part of any other person, whether or not it shall have express or other notice thereof, save as expressed by the laws of Delaware.

ARTICLE XIII
FISCAL YEAR

The fiscal year of the Corporation shall be at such time as deemed by the Board of Directors.

ARTICLE XIV
AMENDMENT

These By-laws may be amended, altered, repealed or added to at any regular meeting of the members or at any special meeting called for that purpose, by affirmative vote of seventy-five percent (75%) of the members of the Corporation at any time after the first meeting of the members of the Corporation following the election of the permanent Board of Directors comprised of homeowners.

ARTICLE XV
DEFINITIONS

The following definitions are applicable hereto:

1. "Corporation" shall mean and refer to the "maintenance corporation", as defined in Paragraph 2 of the Maintenance Declaration, its successors and assigns, and to the proper-named corporate entity to be formed as provided hereunder.
2. "Lot" or "lot" shall mean and refer to lots as shown on the Record Major Subdivision Plan of

3. "Member" shall mean and refer to every person or entity who holds title to any such lot
depicted on the Plan.

4. "Owner" shall mean and refer to the record owner of a fee simple title to any lot.

5. "Common Facilities" shall mean and refer to all private open space designated on the
record plan and also any common areas or common amenities that may be depicted on the
record plan including, but not limited to, streets, curbs, sidewalks, all storm water management
facilities including recharge systems, parks, recreational facilities, landscaping, parking areas,
rights-of-way, easements, monuments and markers, and all improvements now and hereafter
located thereon.

6. "Initial Board of Directors" shall mean the Board of Directors that was in place prior to July 17,
2012.

7. "Interim Board of Directors" shall mean the Board of Directors elected by the members on
July 17, 2012.

8. "Permanent Board of Directors" shall mean the Boards of Directors duly elected in the future
and after the turnover of open space by________________________ according to the
provisions of these Bylaws.

9. "Good Standing" shall mean all assessments are paid in full.
ARTICLE XVI
INCORPORATED BY REFERENCE

All of the terms, conditions, matters and information contained and more fully set forth in the Certificate of Incorporation and Maintenance Declaration are incorporated by reference.

IN WITNESS WHEREOF, we being all the Directors of the Maintenance Corporation, have hereunto set our hands this 10 day of April month 2013 year.

Signed 6/10/14 for Submission to
New Castle County

Signed before me on this 10th day of June 2019

Bylaws 02/2013
EXHIBIT C

1”
Recording Information Only

Prepared By Name and Address:
Return To Name and Address:

Parcel Number:

2 ½”
Recording Information Only

New Castle County, Delaware/First Page Only
For Documents Affecting Real Property
Must Be Typed or Printed With Characters At Least 15 Pitch In Size

8 ½ x 11 or 8 ½ by 14

³⁄₄” margin on bottom and left and right margins