

ALPENWALD VILLAGE, INC.

BY-LAWS

I. Purposes and Powers

The purposes and powers of the Alpenwald Village, Inc. are those set forth in the Corporation's Articles of Association and are such additional purposes and powers as the Corporation's Members may delegate to the Corporation from time to time.

II. Members

A. Class of Members. The Corporation shall have one class of members. Qualifications and rights shall be as follows:

1. Every beneficial owner, as distinguished from a holder of security,<sup>1</sup> of a lot in the Development shall be a Member of the Corporation.

2. Membership shall include an undertaking by the applicant to comply with and be bound by the Articles of Association, these By-Laws and amendments thereto, and the policies, rules, and regulations at any time adopted by the Corporation in accordance with these By-Laws.

3. Membership in the Corporation shall terminate on such member's ceasing to be a beneficial owner of a lot in the Development.

B. Voting Rights. Each Member in good standing shall be entitled to vote on each matter submitted to a vote of the members, provided however, that each Member shall be the sole beneficial owner of a lot in the Development. A Member shall have one (1) vote regardless of how many lots the Member owns. When two or more persons own a lot, or in the event of re-subdivision of a lot or lots, only one vote for such lot owned shall be allowed, and such joint owners shall designate and register with the Secretary, prior to the matter being voted on, the name of the owner entitled to cast such single vote on behalf of all said joint lot owners. The Secretary may accept as a valid designation of voting rights a letter from Members owning a lot or lots jointly or in common which substantially complies with the Designation of Voting Rights Form attached to these By-Laws as Appendix A.

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<sup>1</sup> The term "security" refers to but is not limited to mortgages, liens, easements and the like.

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1. At meetings of the membership, all votes shall be cast in person, or by proxy registered with the Secretary as hereinabove provided.

2. The Board of Directors are authorized to and may establish rules and regulations providing for voting by mail.

3. A beneficial owner who is a Member of the Corporation may assign the Member's membership rights to the tenant residing in or on the Member's lot or lots. Such assignment shall be effected by the filing with the Secretary of a written notice of assignment, signed and dated by the Member. The Member may include within such notice of assignment the period of time during which the assignment of membership rights is valid. Such assignment of membership rights shall expire upon the tenant permanently vacating the Member's lot or lots.

### III. Meeting of Members

A. Annual Meeting. An annual meeting of the Members for the purpose of hearing reports from all Officers and standing committees and for electing directors and officers shall be held in the County of Bennington, State of Vermont in May of each year, beginning with the Year 1993. The time and place of the Annual Meeting shall be fixed by the Directors.

B. Regular Meetings. In addition to the annual meetings, regular meetings of the Members shall be had at such time and place as shall be determined by the Board of Directors.

C. Special Meetings. A special meeting of the Members may be called by the Board of Directors. A special meeting of the Members must be called within three (3) days by the President, or the Board of Directors, if requested in writing by not less than Ten (10) of the Members having voting rights.

D. Notice of Meetings. Written notice stating the place, day and hour of any meeting of Members shall be delivered either personally or by mail to each Member entitled to vote at such meeting, not less than 7 days before the date of such meeting, or at the direction of the Secretary.

E. Quorum. Twenty (20) Members having voting rights shall constitute a quorum at any meeting of the Members. In the absence of a quorum, a majority of the Members present may adjourn the Meeting from time to time without further notice.

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F. Proxies. At any Meeting of the Members, a Member entitled to vote may vote by proxy executed in writing and signed by the Member. A proxy shall not be valid unless the proxy states date the proxy was signed by the Member. No proxy shall be valid after Three (3) months from the date of its execution, unless otherwise provided in the proxy. The Secretary may accept as a valid proxy a letter from a Member which substantially complies with the Proxy Form attached to these By-Laws as Appendix B.

G. Voting by Mail. When the Directors or Officers are to be elected by the Members, or when there is an act requiring the vote of the Members, such election or vote on such proposed action may be conducted by mail in such manner as the Board of Directors shall determine. Except as otherwise expressly provided in the By-Laws, the Board of Directors shall, in its sole discretion, determine whether or not a matter, appropriate for a vote of the Members, shall be decided by a vote by mail.

IV. Board of Directors

A. General Powers. The affairs of the Corporation shall be managed by the Board of Directors, subject to instructions of the members of the Corporation at a regular meeting, or subject to the approval of the Membership as expressed by a vote of the Membership.

B. Number, Tenure and Qualifications. The number of Directors shall be not less than Seven (7). Each Director shall be a Member of the Corporation. Each Director shall hold office until second (2nd) Annual Meeting following the Director's original qualification shall have been held and until the Director's successor shall have been elected and qualified.

Exceptions to the provision for two (2) year tenure shall be in the case of a Director first taking office following the organizational meeting of the Corporation. Of the first seven (7) Directors, four (4) shall hold office until the second subsequent annual meeting, and three (3) shall hold office until the third (3rd) annual meeting. The determination of the respective terms shall be by lot.

Any increase in the number of Directors shall be in units of two (2), with initial terms being for one (1) year and two (2) years, respectively, with the determination to be by lot.

The Board of Directors, or a nominating committee duly appointed by the Board of Directors, may present nominee(s) for the position of Director to the Membership at the Annual Meeting.

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C. Regular Meetings. The Board of Directors shall meet regularly at least four (4) times each year, at a time and place the Board of Directors shall select.

D. Special Meetings. A special meeting of the Board of Directors may be called by or at the request of the President or of any one (1) Director.

E. Notices. Notice of any special meeting of the Board of Directors shall be given at least three days prior thereto, by written notice delivered personally or sent by first class mail to each Director. Any Director may waive notice of any meeting.

F. Quorum. A majority of the Board of Directors then holding office shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, but if less than a majority of the Directors are present at said meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice.

G. Manner of Acting. The act of a majority of the Directors present at a meeting of the Board of Directors at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by law, the Articles of Incorporation or the By-Laws.

The Board of Directors may act on and carry out any matter properly and appropriately determined by the Members of the Corporation determined by a vote at a meeting of the Members or by a vote by mail.

Any action required or permitted to be taken in any meeting of the Board of Directors may be taken without a meeting of the Directors so long as the Secretary obtains the Directors' consent to the action in writing and the written consents are filed with the Secretary's records regarding meetings of the Board of Directors. Such consents shall be treated for all purposes as a vote at a meeting.

H. Vacancies. Any vacancy occurring in the Board of Directors shall be filled first by the first Alternate Director, and the second vacancy occurring shall be filled by the second Alternate Director. The Alternate Director shall fulfill the unexpired term of his/her predecessor in office.

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I. Alternate Directors. The number of Alternate Directors shall be not less than Two (2), which shall be designated by lot as first Alternate Director and second Alternate Director. Each Alternate Director shall be a Member of the Corporation. Each Alternate Director shall hold office until the next Annual Meeting after the Alternate Director's original qualification. Alternate Directors shall have all the same rights and responsibilities of a Director except that Alternate Directors cannot be an officer of the Corporation, move or second any proposed action of the Board of Directors, vote, or call meetings of the Board of Directors. Alternate Directors shall not be counted for purposes of establishing a quorum of the Board of Directors.

J. Conflicts of Interest. A Director shall avoid the appearance of impropriety when fulfilling the duties of Director. A Director should abstain from participating in or acting upon a matter appropriate for action by the Board of Directors when such matter directly and substantially affects the Director's lot within the Development, involves direct or indirect pecuniary gain to the Director, or involves direct or indirect pecuniary gain to a member of the Director's family.

Nothing contained herein shall preclude a Director from exercising any rights the Director may have as a Member of the Corporation. Nothing contained herein shall preclude a Director from being reimbursed for out-of-pocket expenses incurred in performing the duties of Director or such other duties as may be authorized by the Corporation. Nothing contained herein shall preclude a Director from participating in and acting upon any matter which affects all of the lots within the Development, or which affects the lots within the Development generally, or which affects the rights and interests of the Corporation or its Members generally. Nothing contained herein shall preclude a Director from participating in and acting upon any matter which involves rules, regulations, standards, practices, procedures, rights or interests of general application to the Corporation and its Members.

V. Officers

A. Officers. The Officers of the Corporation shall be a president, a vice-president, a secretary and a treasurer.

B. Qualification and Method of Election. The Officers shall be Members of the Corporation, shall be elected by the Board of Directors, and shall serve for a term of one (1) year. The Officers shall be members of the Board of Directors.

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C. President. The President shall preside at all meetings of the Corporation and of the Board of Directors at which the President is present, shall exercise general supervision of the affairs and activities of the Corporation, and shall serve as a member ex officio of all standing committees. The President shall appoint the members of the standing and special committees of the Board of Directors.

D. Vice-President. The Vice-President shall assume the duties of the President during the President's absence.

E. Secretary. The Secretary shall keep the minutes of all of the meetings of the Corporation and of the Board of Directors, which shall be an accurate and official record of all business transacted. The Secretary shall be custodian of all corporate records.

F. Treasurer. The Treasurer shall receive all corporate funds, keep them in a bank approved by the Board of Directors, and pay out funds only on notice signed by him and by one other Officer. The Treasurer shall be a member ex officio of the finance committee, if such committee is created by the act of the Board.

G. Vacancies. A vacancy in any office because of the death, resignation, removal, disqualification, or otherwise, may be filled by any member of the board of Directors for the unexpired portion of the Officer's term.

**VI. Fees, Dues and Assessments**

A. Admission Without Fee. Record ownership of a beneficial interest in any lot within the Development, without payment of an admission fee, shall establish the lot owner as a Member of the Corporation.

B. Annual Assessment. Each year the Annual Assessment shall be established by the Board of Directors at or prior to the Annual Meeting, to be effective on the date of the Annual Meeting. Annual Assessments shall be due on July 1st each year. Annual Assessments shall be assessed against each lot in the Development; any Member owning more than one lot shall pay the annual assessment for each and every lot owned. Each Member is personally, jointly and severally liable for all annual assessments assessed against the Member's lot or lots. Annual Assessments shall be assessed, maintained and expended pursuant to the Declaration of Protective Property Rights and shall be assessed to fund and sustain the Corporation, its purposes, activities and responsibilities.

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C. Special Assessments. Special Assessments may be levied on Members of the Corporation only by a vote of two-thirds (2/3) of the majority of all Members of the Corporation present at a duly noticed meeting of the Corporation. The procedure for voting on proposed Special Assessments shall be the same as the procedure provided herein for voting on Amendments to the By-Laws.

D. Default in Payment of Assessments.

1. When any Member shall be in default in the payment of Assessments for a period of 90 days from the date on which such Assessments become payable, the defaulting Member shall, for purposes of voting, not be considered as a Member in good standing. In addition, such defaulting Member shall be removed from active membership and placed on the "Inactive List". Such defaulting Member shall not be reinstated until the Member has paid current all Assessments then due and owing, in full, and until such time as such Member is reinstated, the Member shall have no rights of any kind arising out of membership in the Corporation.

2. Pursuant to the Declaration of Protective Property Rights, the Assessment shall be and is secured by a lien against the lot assessed, enforceable by the Board of Directors. In addition to the foregoing, if any Member shall fail to pay any Assessment as the same become due, on the failure of payment of an Assessment after 30 days notice of such delinquency, given by the Corporation by first class mail to such defaulting Member at said Member's last known address, the Corporation shall have the right to file a Notice of Lien in favor of the Corporation in the Land Records and proceed thereon in accordance with the provisions of the then law for the foreclosure and/or enforcement of liens.

3. The Corporation shall have the right to commence an in personam action against any Member or Members for collection of unpaid Assessments. The Corporation shall also have the right to commence an in personam action against any former Member or Members for collection of unpaid Assessments accruing during the time in which said former Member or Members owned said lot or lots. The action may be brought in any Court of competent jurisdiction. This remedy is in addition to, and is not be limited by, any other remedy the Corporation may have for collecting unpaid Assessments. When a lot is or was owned by more than one beneficial owner, the Corporation may commence such action against one or more of said beneficial owners as the Corporation shall, in its sole discretion, determine is reasonable and expedient.

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4. Interest shall accrue on any Annual Assessment not paid on or before July 1st of the year in which said amount is assessed at the rate of Twelve (12%) percent per annum. Interest shall accrue on any other Special Assessment, fee or dues if not paid within 30 days of the assessment of said Special Assessment, fee or dues at the rate of Twelve (12%) percent per annum. Interest accruing on any unpaid assessment, fee or dues shall be incorporated in and secured by the lien for annual assessments provided pursuant to the Declaration of Protective Property Rights.

5. In the event that a Member shall fail to pay any assessment, fee or dues as herein provided, the Member shall be liable to the Corporation all the Corporation's reasonable costs and expenses, including reasonable attorney's fees incurred to collect said assessment, fee or dues. Costs, expenses and attorney's fees accruing to collect said unpaid assessment, fee or dues shall be incorporated in and secured by the lien for annual assessments provided pursuant to the Declaration of Protective Property Rights.

E. Assignment of Assessments. When any Member whose Assessments are paid shall, during the year in which Assessment(s) are paid, sell his or her lot in the Development, the Member shall be entitled to assign to the buyer of such lot the benefit of the paid up Assessment paid for the lot sold.

## VII. Fiscal Year

The fiscal year of the corporation shall be the calendar year.

## VIII. Committees

A. Standing and Ad Hoc Committees. The President of the Corporation may create and appoint such standing committees as the President determines is reasonable and necessary to conduct the business of the Corporation. Standing Committees shall have the authority to act on behalf of the Corporation and the Board of Directors pursuant to and consistent with the powers and responsibilities delegated to such Committee by the Board of Directors or the Members of the Corporation.



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B. Use & Design Committee. The Use & Design Committee shall exercise the Corporation's rights and responsibilities pursuant to the Declaration of Protective Property Rights regarding the review and approval of the erection, alteration, removal, improvement or replacement of dwellings and/or related structures on Members' lots in the Development.

1. The President of the Corporation shall nominate three (3) persons who are Members of the Corporation to serve upon the Use & Design Committee. The Board of Directors shall appoint the members of the Use & Design Committee by vote of a majority of the Directors present at a duly constituted meeting of the Board of Directors. The President may be appointed to the Committee or may serve as an ex officio member of the Committee, as the President shall elect. Each member of the Committee shall serve a one (1) year term beginning at the time of the Annual Meeting. There shall be no limit on the number terms a Member may serve on the Committee.

2. The Use & Design Committee shall receive, review and act upon every request for permission to erect, alter, remove, improve or replace any dwelling or related structure on a lot within the Development. The Committee shall maintain a permanent record of all requests for such permission submitted by the Members. The meetings of the Committee shall be open to the Membership, and the members of the Committee shall deliberate in public. Two Committee members shall constitute a quorum of the Committee.

3. The Use & Design Committee shall act promptly upon a Member's request for permission, rendering a decision in writing and maintaining a permanent record thereof. All written decisions of the Committee shall contain the date of the Committee's decision. The Use & Design Committee shall approve or deny a Member's request for permission by a majority of the Committee members present at a duly constituted meeting of the Committee.

4. Decisions of the Use & Design Committee may be reviewed by the Board of Directors, so long as a written request for Board Review is post-marked or delivered to the Secretary within 10 days of the date of the Committee's decision. The Board shall review the request for permission at a duly constituted meeting of the Board of Directors. By a majority vote of the Directors present at a meeting of the Board of Directors, the Board may approve, alter amend or deny the decision of the Use & Design Committee. The decision of the Board shall be in writing, mailed to the Member(s) requesting such permission.

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5. The Committee may develop advisory guidelines consistent with the provisions of the Declaration of Protective Property Rights regarding the erection, alteration, removal, improvement and replacement of dwellings and related structures on lots within the Development. The Committee's advisory guidelines shall be binding upon the Committee and the Members of the Corporation if such guidelines are approved by a two-thirds (2/3) majority of the Corporation's Members entitled to vote.

6. The members of the Committee shall be bound by the provisions of Section IV, Subsection J of the By-Laws regarding conflicts of interest. In addition thereto, no Committee member shall act upon any matter related to the Committee member's lot or lots, or upon any matter related to a lot or lots owned by a family member of such Committee member. In the event a conflict of interest shall arise, the Committee member shall immediately recuse himself or herself and the President shall appoint, without the necessity of obtaining the approval of the Board of Directors, a substitute Committee member to act solely upon the request for permission which is the subject of a conflict of interest.

### IX. Status as a Non-Profit Corporation

Notwithstanding any other provisions of these articles, the Corporation is organized exclusively for one or more of the purposes as specified in Section 501(c)(3) of the Internal Revenue Code of 1954, and shall not carry on any activities not permitted to be carried on by a corporation exempt from Federal income tax under IRC Section 501(c)(3) or corresponding provisions of any subsequent Federal tax laws.

No part of the net earnings of the corporation shall inure to the benefit of any member, trustee, director, officer of the corporation, or any private individual (except that reasonable compensation may be paid for services rendered to or for the corporation), and no member, trustee, officer of the corporation or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the corporation.

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No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office.

Notwithstanding any other provision of these By-Laws or the Articles of Incorporation, the Corporation shall not carry on any other activities not permitted to be carried on

(i) by a Corporation exempt from Federal income tax under § 501(c)(3) of the Internal Revenue Code of 1954; or

(ii) by a Corporation, contributions to which are deductible under § 170(c)(2) of the Internal Revenue Code of 1954.

Accordingly, the Corporation shall not carry on any activities not permitted by the laws and regulations applicable to non-profit corporations pursuant to the Vermont Non-Profit Corporation Act, Chapter 19 of Title 11 of the Vermont Statutes Annotated.

X. Amendments

Any proposed amendments to the By-Laws may be submitted in writing at any meeting of the members of the Corporation. Such proposed amendments shall be discussed at the Meeting of the Members following the meeting at which the proposed amendment was submitted, and shall be voted on by the Members of the Corporation at a date that shall not be earlier than the second meeting following the initial submission of the proposed amendment. Such proposed amendment must be signed by three (3) Members of the Corporation, shall be read to the membership by the Secretary at the meeting of Membership when submitted and at the meeting of the Membership when voted upon, and shall be printed in the Minutes distributed to all Members by mail. A proposed amendment shall become effective when approved by a two-thirds (2/3) majority of the Members entitled to vote.

## BY-LAWS

### XI. Dissolution

Upon the dissolution of the Corporation, the Board of Directors shall, after paying or making provision for the payment of all of the liabilities of the Corporation, dispose of all of the assets of the Corporation exclusively for the purposes of the Corporation in such manner, or to such organization or organizations organized and operated exclusively for charitable, educational, religious, or scientific purposes as shall at the time qualify as an exempt organization or organizations under § 501(c)(3) of the Internal Revenue Code of 1954, as the Board of Directors in its sole discretion shall determine. Any such assets not so disposed of shall be disposed of by the Bennington Superior Court for the State of Vermont, or such other court of competent jurisdiction in the county in which the principal office of the Corporation is then located, exclusively for such purposes or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

### XII. Definitions

To aid in the understanding of the By-Laws the following terms are defined as follows:

"**Assessments**" means the annual and/or special charges assessed against a lot or lots within the Development by the Board of Directors of Alpenwald Village, Inc.

"**Board**" means the duly elected/appointed Board of Directors of Alpenwald Village, Inc.

"**Corporation**" means Alpenwald Village, Inc.

"**Declaration of Protective Property Rights**" means the restrictive covenants originally promulgated and recorded by American Land & Development Co., Inc. constituting covenants running with the land affecting all lots within the Development.

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"Development" means those lands lying within the Towns of Readsboro and Stamford, Vermont shown on a certain map prepared by Dufresne-Henry Engineering Corporation<sup>2</sup> and entitled "Alpenwald Subdivision", originally being subdivisions of American Land & Development Co., Inc., commonly known as "Alpenwald Development" and/or "Noble Estates".

"Directors" means the duly elected/appointed Directors of Alpenwald Village, Inc.

"§ 501(c) (3) of the Internal Revenue Code of 1954" means said Code section and includes any corresponding provision of any future United States Internal Revenue Law regarding non-profit corporations.

"Lot" means a parcel of land within the Development as described on a certain map prepared by Dufresne-Henry Engineering Corporation, described more particularly hereinabove.

"Officers" means the duly elected/appointed President, Vice-President, Secretary and Treasurer of Alpenwald Village, Inc.

"President" means the duly elected/appointed President of Alpenwald Village, Inc.

"secretary" means the duly elected/appointed Secretary of Alpenwald Village, Inc.

"Treasurer" means the duly elected/appointed Treasurer of Alpenwald Village, Inc.

"Vice-President" means the duly elected/appointed Vice-President of Alpenwald Village, Inc.

<sup>2</sup> The Map described herein is dated November 13, 1968, and was revised January 24, 1969, January 29, 1969, March 10, 1969, May 15, 1969, August 1, 1969, October 1, 1969, October 11, 1969, October 27, 1969, February 1, 1970 and September 05, 1970.

LAW OFFICES OF  
JACOBS, MCCLINTOCK & SCANLON  
BENNINGTON, VERMONT 05201

**BY-LAWS**

**Appendix A**

**DESIGNATION OF VOTING RIGHTS**

We, the undersigned, are the beneficial owners of Alpenwald Lot(s) numbered \_\_\_\_\_ . We hereby designate

\_\_\_\_\_ Address

to exercise, or not exercise, any and all rights we may have to cast a vote at any meeting of the Membership of Alpenwald Village, Inc. This designation shall be effective as of the \_\_\_\_ day of

\_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
Name

\_\_\_\_\_  
\_\_\_\_\_  
Address

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\_\_\_\_\_  
Address

LAW OFFICES OF  
JACOBS, McCLINTOCK & SCANLON  
BENNINGTON, VERMONT 05201

BY-LAWS

Appendix B

PROXY

I, the undersigned, am the beneficial owner of Alpenwald Lot(s) numbered \_\_\_\_\_ and I am a Member of Alpenwald Village, Inc. having voting rights. I hereby designate the following person as my proxy:

\_\_\_\_\_  
\_\_\_\_\_  
Address

My duly designated proxy may exercise, or not exercise, any and all rights I may have to cast a vote at any meeting of the Membership of Alpenwald Village, Inc. This proxy shall be effective as of the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_. This proxy shall expire on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, unless sooner terminated.

Dated at \_\_\_\_\_, \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_.

\_\_\_\_\_

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JACOBS, McCLINTOCK & SCANLON  
BENNINGTON, VERMONT 05201

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Appendix C

NOTICE OF LIEN

LOT OWNER AND OBLIGOR:

LIEN HOLDER: Alpenwald Village, Inc.

NOW COMES the undersigned duly authorized agent for Alpenwald Village, Inc. who hereby files its claim and notice of lien pursuant to the Declaration of Protective Property Rights duly recorded in the Land Records as restrictive covenants running with the land owned by the above name Lot Owner/Obligor. Said Lot Owner is obligated for Charges and/or Assessments to Alpenwald Village, Inc. in the amount of \$\_\_\_\_\_ regarding Lot(s) Numbered \_\_\_\_\_.

Dated at Readsboro, Vermont this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

ALPENWALD VILLAGE, INC.

BY: \_\_\_\_\_, Director and  
Duly authorized agent

TOWN CLERK'S ACKNOWLEDGMENT

Acknowledgment of filing with Town of \_\_\_\_\_, the undersigned Town Clerk does hereby acknowledge filing of the aforesaid Notice of Lien this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, with the Town of \_\_\_\_\_, at Book/Volume \_\_\_\_\_ and Page \_\_\_\_\_.

\_\_\_\_\_  
Town Clerk

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