

BISHOP ESTATE ASSOCIATION, INC.

THE BLUE BOOK



Photo Credit: Jeffrey T. Vincent (used by permission)

Including the following texts:

Grant

Declaration of Easements, Restrictions and Covenants

Addendum No. 1

Resolution of June 24, 1998

By-Laws of the Bishop Estate Association, Inc.

COMPILED AND UPDATED AS OF JULY 1, 2015, for the convenience and reference of the members of the Bishop Estate Association. Please consult the recorded documents for authoritative versions.

GRANT¹

Received 4/8/74

No. 2975

We, James Stokes Hatch and Jeanne G. Hatch, husband and wife, both of Lenox in the County of Berkshire and Commonwealth of Massachusetts, for the consideration of One (\$1.00) Dollar paid, grant to The Bishop Estate Association, Inc., a corporation duly organized and existing under the provisions of Chapter 180 of the General Laws (Ter. Ed.) of the Commonwealth of Massachusetts and having a principal office at 120 Kemble Street in said Lenox, an easement for conservation and recreation purposes in, over and upon that portion of the land of the grantors on Old Stockbridge Road and Kemble Street in said Lenox marked "Conservation Easement Area", and shaded or cross-hatched on the sketch attached hereto and made a part hereof, so as to maintain the said easement area predominantly in its natural state in perpetuity solely for the use and enjoyment of the members from time to time of The Bishop Estate Association, Inc., and of their guests and family members, subject to (i) such rules and regulations with regard to such use and enjoyment as may be promulgated by the grantee from time to time and (ii) the restrictions, easements and covenants set forth in a Declaration of the grantors registered and recorded herewith.

The said land of the grantors comprises a portion of the premises described in Certificate of Title No. 4513 issued from the Berkshire Middle Registry District of the Land Court and all the premises described in a deed from Frederick M. Myers, Jr., recorded with Berkshire Middle District Registry of Deeds in Book 926 at page 578.

Provided, however, that in furtherance of these purposes, we, the said grantors and our heirs, executors, administrators, devisees and

¹ Recorded April 12, 1974 in the Berkshire Middle Registry District of the Land Court in Book 948, Page 701.

assigns, and the said grantee and those claiming by, through, and under it, shall not perform any of the following proscribed acts in or upon the easement area nor permit others to perform any of the same:

1. No building, sign, fence, mobile home or other temporary or permanent structure shall be constructed, placed or permitted to remain therein or thereon;
2. No soil, loam, peat, gravel, sand, rock or other mineral substance, and no ash, refuse, trash, vehicle bodies or parts, rubbish, building rubble, junk, waste or other non-earth material shall be placed, stored, or dumped therein or thereon;
3. No soil, loam, peat, gravel, sand, rock, or other natural deposit shall be excavated, relocated or removed within the said easement area or therefrom; and
4. No trees, grasses, or other vegetation shall be cut or removed therefrom;

EXCEPT that the said grantee shall have the right to plant, prune, cut and mow such vegetation, grasses, trees and shrubs as may be required to conserve and maintain the easement area and its natural growth in a healthy state of preservation;

WITH THE FURTHER EXCEPTION that the grantors shall have and do reserve to themselves the right to construct, install, maintain, use, repair and replace in, upon, under and through the easement area such pipes, poles, conduit, transformer pads, wires, lines, access driveways and roads as may be required to serve the said premises with water, telephone, gas, electric, cable T.V., sewers, access roads and other utility type services, and the right to grant easements for any and all of the same, all in the approximate locations as shown on the sketch hereto:

EXECUTED as a sealed instrument this 11th day of March, 1974.

*James Stokes Hatch
Jeanne G. Hatch*

COMMONWEALTH OF MASSACHUSETTS

Berkshire, ss

April 8, 1974

Then personally appeared the above-named James Stokes Hatch and Jeanne G. Hatch and acknowledged the foregoing instrument to be their free act and deed.

Before me,

Notary Public

My commission expires
May 1, 1975

And Lenox Savings Bank, holder of a mortgage from James Stokes Hatch and Jeanne G. Hatch to it dated January 22, 1973, and recorded with said Deeds in Book 932 at page 1129, and registered with said Registry District as Document No. 14456, noted on said Certificate of Title No. 4513, does hereby assent to the foregoing grant of easement and covenants and agrees to hold its said mortgage subject to the same.

LENOX SAVINGS BANK

By _____

**DECLARATION OF
EASEMENTS, RESTRICTIONS, AND COVENANTS²**

We, JAMES STOKES HATCH and JEANNE G. HATCH, husband and wife, (the "Declarants") both of Lenox in the County of Berkshire, and The Commonwealth of Massachusetts, being the owners of 21 parcels of land on Old Stockbridge Road and Kemble Street in said Lenox, said premises comprising in part Lots 3, 4, 5 and 6 as shown on Land Court Plan 991C filed in the Land Registration Office in Boston, Massachusetts, a copy of a portion of which is filed with Certificate of Title No. 4513, issued from the Berkshire Middle Registry District of the Land Court, and in part Lots 7 through 23, inclusive, as shown on a plan entitled "The Bishop Estate" comprising 4 sheets by Robert G. Brown & Assoc., Inc., Engineers and Surveyors, and recorded with Berkshire Middle District Registry of Deeds in Book 417G at pages 118 through 121, inclusive, which premises are also shown on the sketch annexed to the Grant of Easement to The Bishop Estate Association, Inc., recorded and registered simultaneously herewith, said sketch being made a part hereof by reference;

In order to ensure the orderly development of said premises for residences without undue disturbance to the natural and aesthetic qualities of the premises and to maintain insofar as possible an harmonious relationship of design, landscaping and location between the structures to be built upon the parcel and between the said structures and the natural features of the premises as they now exist:

DO HEREBY MAKE and declare that each of said Lots is and shall be subject to the restrictions, covenants, conditions and charges herein imposed upon each and all of said Lots for the benefit of each and all other Lots above described, except insofar as by the terms hereof any of such restrictions, covenants, conditions and charges is limited in application to any particular Lot or Lots, hereby creating reciprocal, legal and equitable

² Recorded April 12, 1974 in the Berkshire Middle Registry District of the Land Court in Book 948, Page 705.

rights and servitudes to run with the land to benefit and bind all of the owners from time to time of said Lots.

I. The Declarants have caused the formation of The Bishop Estate Association, Inc., a Massachusetts corporation organized under the provisions of Chapter 180 of the General Laws, (Ter. Ed.) as the organization of Lot Owners to supervise the care, maintenance, and development of the premises consistent with the provisions of this instrument and the grant of easement referred to above.

A. Each owner of a Lot within said premises shall automatically be a member of said corporation with one vote for each such Lot so owned; provided, however, that if a Lot is held under multiple ownership all of such owners must decide amongst themselves as to how their vote shall be cast, since each vote must be cast as a unit.

B. Upon acquisition of title to a Lot, the owner of the same shall notify the corporation in writing of such acquisition setting forth the full name or names of the new owner, their mailing address and the recording data relative to the deed of conveyance.

C. Each owner of a Lot by acceptance of a deed to such Lot shall be deemed to have covenanted and agreed to pay annual dues for each Lot so owned as established by such corporation and such other assessments and charges as shall be levied from time to time by the corporation with regard to each such Lot.

D. Any and all dues or assessments levied by the corporation shall be a charge and continuing lien upon the Lot with regard to which they are levied until paid, which lien may be enforced by the corporation in the same manner provided by statute for the foreclosure of a mortgage containing the statutory power of sale. The costs of collection and enforcement of such lien, including reasonable attorney fees, shall be added to the amount of such charge and the

Lot Owner so charged shall be personally liable therefore in addition to the charge. The lien provided for herein shall be subordinate to the lien of any bona fide first mortgage now existing or hereafter placed upon any of said Lots.

II. The Declarants have, by instrument of even date registered and recorded simultaneously herewith, granted to The Bishop Estate Association, Inc., an easement for conservation and recreation purposes over certain portions of said premises in order to preserve and protect such portions insofar as possible from the encroachment of man-made improvements and development. Said grant and the provisions of this instrument are at all times to be construed each in the light of the other upon the premise that together they set forth the plan of the Declarants to provide for the least disturbance of the natural beauties of the premises consistent with the use of the same for residences.

III. The Bishop Estate Association, Inc., shall have the primary responsibility for the supervision and enforcement of the provisions of this Declaration; provided, however, that the owner or owners from time to time of each of said Lots shall have the right to enforce any and all of the same to the extent permitted by law.

IV. The Declarants reserve to themselves the right to amend this instrument to the extent necessary to subject to its provisions any other lands hereafter acquired by them or either of them, whether individually or in any fiduciary capacity, which are contiguous to said premises or any part thereof but for the intervention of a street or way.

V. The Declarants reserve to themselves the right to amend this instrument to the extent necessary to subject to its provisions the premises shown as Lot 1 on Land Court Plan 991B providing the owners of said Lot 1 shall by appropriate instrument agree thereto upon terms and conditions satisfactory to Declarants and The Bishop Estate Association, Inc.

VI. Land use restrictions:

- A. No Lot shall be further subdivided.
- B. No buildings or other structures of any kind shall be erected, placed or allowed to stand on any Lot except one detached dwelling house designed as a residence for one family, one garage adapted for the storage of not more than three automobiles (which may be constructed as an integral part of the dwelling house or as a detached building), suitable garden, tool and pet structures, fences as hereinafter provided, an outdoor fireplace, a swimming pool and a tennis court. This subparagraph shall not be applicable to existing structures upon Lots 10 and 6.
- C. No trees or shrubs shall be removed from a Lot except pursuant to construction or grading plans approved under the provisions of Paragraph VII post.
- D. No loam, sand, gravel, peat or rock shall be removed from a Lot except that resulting from construction or grading pursuant to approved plans, nor shall any of the same be relocated upon a lot except pursuant to approved construction or grading plans.
- E. No business, professional or commercial activities of any nature, whether for profit or otherwise, shall be conducted on any Lot and no signs shall be displayed thereon except one small sign bearing only the name or names of the Lot owner or owners and the street number of the Lot.³

³ See Addendum No. 1 attached—Not Recorded—Enacted by Members at Membership Meeting held on July 20, 2002.

F. No animals of any kind shall be kept or maintained upon any Lot except domestic household pets, provided that they are not kept, bred or maintained for any commercial purpose.

G. No boats, snowmobiles, campers, trailers or other recreational equipment may be stored on any Lot unless garaged.

H. No commercial vehicles shall be parked in the open on a Lot overnight. No non-operative or unregistered motor vehicle shall be on or kept on any Lot unless garaged.

I. No structure of a temporary character, trailer, basement, tent, shack, garage or other out-building shall be utilized at any time as a residence, either temporarily or permanently.

J. Trash, garbage or other waste shall be kept in closed sanitary containers. Such containers and laundry clotheslines shall be placed on a Lot within its house site are in such a manner as to minimize visibility from any other house site area.

K. No exterior tank for the storage of fuel may be maintained on any Lot unless buried or housed in a structure approved by the Bishop Estate Association, Inc.

L. The present natural and artificial courses of water, drainage and runoff upon, in and under each and all of the Lots shall not be directed or redirected in any manner so as to alter the present flow except with the prior approval of The Bishop Estate Association, Inc. Said Association shall have the right to change or alter any such flow to the extent necessary for the proper maintenance and repair of the "Paved Roads existing and proposed" shown on said sketch.

M. Any structure on any Lot which may be destroyed or damaged by fire, windstorm or other casualty must be rebuilt or

restored within one year from the date of such casualty or razed and all debris removed within six months from the date of the casualty.

N. No cesspool, septic system or other private means of sewage disposal shall be maintained or used in or upon any Lot except such as were in existence and in use on November 1, 1973. This subparagraph shall not be applicable to Lot 11 or to the rights granted to it under the provisions of Paragraph XIII(C) hereof.

VII. Construction restrictions:

A. No residential building shall be placed upon any Lot except within the "House Site Area" upon said Lot as delineated on said sketch.

B. No building, fence, wall or other structure shall be erected, altered, added to, rebuilt, placed or permitted to remain on any Lot until complete plans and specifications showing the nature, kind, shape, height, materials, floor plans, color schemes, locations, approximate costs of said structures and the landscaping and grading plans of the Lot and other pertinent data shall have been submitted to and approved in writing by The Bishop Estate Association, Inc., and an executed copy of such approval shall have been recorded or registered with said Deeds or Registry District, whichever be applicable. The Bishop Estate Association, Inc., shall have the right within sixty (60) days after the initial submission of such complete plans to refuse to approve any such plans or specifications or any such landscaping and grading plans which are not suitable or desirable, in its opinion, for aesthetic or other considerations, included but not limited to the suitability of the proposed structure and the materials of which it is to be built to the natural features of the premises or to the structures built, under construction or approved for construction on any of said Lots. In the event of any

such disapproval, a written statement of the reasons therefor shall be supplied to the party having submitted the same.

C. The exterior construction of any building erected, altered or placed on any Lot and the landscaping and grading in connection therewith shall be completed within one year after commencement of construction. No building materials or construction equipment may be stored on any Lot except during such a construction period.

D. Concurrent with the construction of a dwelling house upon a Lot, there shall be installed and maintained at the junction of the access driveway to said Lot and the road leading to the same an outside electric light of 75W on a pole of a type approved by The Bishop Estate Association, Inc. Exterior lighting of abnormal intensity or color is prohibited.

VIII. Maintenance of structures, etc.:

A. No building, fence, wall, drainage system or other structure shall be razed, removed or relocated upon any Lot except with the prior written consent of The Bishop Estate Association, Inc.

B. All buildings, fences, walls and other structures upon and the grounds of such Lot shall be maintained in a neat and attractive manner and kept in good repair and the Lot shall be kept free of underbrush, briars, brambles, dead trees and shrubs, dead plants, trash, debris or garbage.

IX. The restrictions herein set forth are supplemental and complementary to the Zoning By-Laws of the Town of Lenox and shall not be affected by any change in or variance of such By-Laws; provided, however, that no restriction shall be deemed to authorize or condone any use of a Lot in violation of such By-Laws.

X. Each owner of any of the aforesaid Lots, whether having acquired title to the same by grant, devise or otherwise, by virtue of such ownership does covenant and agree that each of the restrictions, conditions, covenants and charges in this instrument set forth shall run with such Lot and be binding upon himself and all of his successors-in-title; provided, however, that each such owner shall be personally liable only for his violations, breaches or defaults of the same while such owner.

XI. All restrictions, conditions, covenants, and charges imposed upon said premises and the several Lots comprising the same by this instrument and upon any other land that shall become subject hereto pursuant to the provisions of Paragraphs IV or V, shall continue in full force and effect until December 31, 2003⁴; provided, however, the same may be continued in force and effect thereafter for further periods of not more than twenty (20) years at a time by an instrument of extension executed by the owners of record of 50% or more of the Lots subject to the provisions of this Declaration at the time of recording such instrument with said Deeds and registering the same with said Registry District, provided such initial instrument of extension is so recorded and registered on or before December 30, 2003, and any further like instrument of extension is so recorded and registered on or before the expiration of the extension period then in force.

XII. Where strict conformity to the provisions of Paragraphs VII and VIII hereof would cause undue hardship or injustice to a Lot owner in the use of his said premises, The Bishop Estate Association, Inc., shall have the authority to approve an exception thereto, provided that there is substantial compliance with said provisions and provided further that other Lots are not adversely affected thereby to a material degree.

XIII. Pursuant to the right reserved to themselves in said Grant of Easement to The Bishop Estate Association, Inc., recorded and registered

⁴ Extended to December 30, 2023 by Extension Document dated January 9, 1998 recorded June 24, 1998 in Book 1610 Page 26, Document No. 496250.

simultaneously herewith, Declarants hereby create, declare and grant the following easements in, over and upon the Lots indicated for the benefit of the particular Lots stated, each of which easements shall run with the land, all references to Lots, locations and area titles being related to and shown on the said sketch:

A. Each and every Lot, excepting Lot 11, to wit: Lots 3 through 10 and 12 through 23, both inclusive, shall have the right to use in common with all other of said Lots the "Paved Roads-existing and proposed" lying within the "Easement Areas for Roads and Utilities", delineated on said sketch, for all purposes for which roads are customarily used; the right and obligation to maintain, rebuild, widen, repair and plow all of the "Paved Roads-Existing and Proposed" shown on said sketch being vested in The Bishop Estate Association, Inc.

B. Lot 11 shall have the right to construct an access driveway leading from its House Site Area over the portion of Lot 10 lying between the westerly side of Lot 11 and the easterly side of the paved road on said Lot 10 to said paved road and to use that portion of the paved road on said Lot 10 running southerly from the junction of said access driveway and the said paved road thence over land now or formerly of Myers to Kemble Street.

C. Lot 11 shall have the right to connect such septic tank system as shall be installed upon said Lot to the existing leaching field located upon Lot 10 or to a suitable and adequate leaching field area in such other location upon said Lot 10 as the owner thereof shall designate. In the former case and so long as said existing leaching field shall be used by Lot 11, it shall use and maintain the same in common with Lot 10. In the latter case Lot 11 shall have the right to construct, use and maintain a leaching field in the designated area. Notwithstanding that Lot 11 shall have connected to and be using the existing leaching field on Lot 10, the owner of Lot 10 shall have the

right upon reasonable notice to cause Lot 11 to disconnect its septic system from said leaching field and to establish its own leaching field in the designated area.

D. Lot 10 shall have the right to use and maintain the existing electric wires, lines and poles over and upon said Lot 11 supplying electric power to said Lot 10.

E. Lot 10 shall have the right to use and maintain the existing telephone wires, lines and cable under and through Lots 14, 15 and 16 supplying telephone service to said Lot 10.

F. Each and every Lot excepting Lot 11 shall have the right to connect to and use the sewer system when the same is constructed and made operative, which system shall be located within the "Sewer Easement Area", and each and every Lot excepting said Lot 11 and Lots 12, 15 and 16 shall be subject to an easement for the construction, maintenance, repair and use of such sewer system and its attendant pipes and manholes through and under and upon so much of the Lot as is within the "Sewer Easement Area", shown on said sketch for the benefit of the Lots having the right to connect to and use the same. In connection therewith Lot 14 shall have the right to install its connection to such sewer system through and under Lot 3. The approximate location of each Lot's sewer connection is indicated by a line drawn from the "Sewer Easement Area" to the applicable "House Site Area" upon said sketch. The right and obligation to maintain, repair and rebuild said system within said "Sewer Easement Area" is hereby vested in The Bishop Estate Association, Inc.

G. Easements are created for and granted to each Lot not abutting upon any "Paved Road-Existing and Proposed" or through which such a road does not run, or if such a road does run through such a Lot, where the topography is such as to limit direct access

thereto except over an adjacent Lot, for the purpose of construction, maintaining and using an access driveway to such roads as follows:

1. For the benefit of Lot 3 over Lot 22,
2. For the benefit of Lot 4 over Lot 20,
3. For the benefit of Lot 17 over Lot 18,
4. For the benefit of Lot 18 over Lot 17,
5. For the use in common of Lots 21 and 22 over an area not more than 125 feet in length and 20 feet in width (10 ft. thereof being over and upon said Lot 21 and the remaining 10 ft. in width being over and upon said Lot 22),

all of such access driveways being shown on said sketch in their approximate locations. Each Lot having the benefit of such an easement for an access driveway shall have the further right and easement to connect to and use the water system when the same is constructed and made operative, and other utilities by pipes, wires, lines, cable, pads and conduits installed, used and maintained through and under the land upon which its said access driveway is located.

H. Each and every Lot excepting Lots 10, 11, 12 and 13 shall be subject to easements for the benefit of all other Lots excepting Lots 11, 12 and 13 to install, construct, maintain, use, repair and replace in, upon, under and through the "Easement Areas for Roads and Utilities" such pipes, poles, conduits, transformer pads, wires and lines as may be necessary to serve all such other Lots with telephone, water, gas, electric, cable T.V. and other utility type services; and provided further that the Declarants and their successors-in-title shall have the right to confirm such easements by direct grant of the same to the utility company or companies providing any such service or services. The right and obligation to maintain, repair and replace all such utility type services, except those as shall be the property of a municipal or public utility or other third party, is hereby vested in The Bishop Estate Association, Inc.

I. Lot 6 shall have the right to use and maintain the existing water pipes and mains serving said Lot 6 through and under Lot 18 until water service is made available to said Lot 6 in, upon, under and through the "Easement Areas for Roads and Utilities".

J. Lot 10 shall have the right to use and maintain the existing water pipes and mains serving said Lot 10 through and under Lot 14.

XIV. In amplification of the provisions of subparagraph A of Paragraph XIII hereof, it is declared that none of the Lots shown on said sketch and said plans shall have the right to use or pass over or upon so much of the "Paved Roads-Existing and Proposed" as lie upon Lot 10, nor shall any of the same have the benefit of the grant of easement recorded with said Deeds in Book 926 at page 583, excepting only Lot 11 which shall have such rights therein as are set forth in subparagraph B of said Paragraph XIII.

XV. Each of said Lots, excepting Lot 11, shall have the benefit of the right of way leading from Kemble Street through Lot 1 as shown on said Land Court Plan 991B for all the usual purposes of a way.

XVI. The further restriction is imposed upon Lot 6 that it shall continue to use the existing overhead telephone and electric wires and poles supplying such services to the structure on said Lot only until such time as such services shall become available to such Lot through underground facilities located in the "Easement Areas for Roads and Utilities" located upon said Lot. When such underground facilities become available to said Lot, the same shall be connected to and the said overhead wires and poles shall be removed, all without unreasonable delay.

XVII. The Bishop Estate Association, Inc., joins in this instrument for the purpose of accepting the obligations and duties imposed upon it by the terms hereof and does hereby agree to perform each and all of the same.

Said corporation does further covenant and agree with Declarants and those claiming by, through, and under them that it does and shall hold the easement granted to it this day by said Declarants, by instrument registered and recorded simultaneously herewith, subject to the provisions of this instrument.

XVIII. The Declarants do hereby covenant and agree with The Bishop Estate Association, Inc., that they will at their own expense on or before December 31, 1975, install or cause to be installed the roads, water and sewer systems and gas, electric and telephone services within the areas shown on said sketch and in conformity therewith at their own expense and without charge for such initial installations to The Bishop Estate Association, Inc., or the owner of any of said Lots who shall hereafter acquire title to any of the same.

XIX. That if any provision of this Declaration, or the application thereof to any person or lot of land shall be held invalid or unenforceable by a Court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the other provisions hereof nor the application or enforcement thereof to any other person or lot.

EXECUTED as a sealed instrument this 11th day of March 1974.

James Stokes Hatch

Jeanne G. Hatch

THE BISHOP ESTATE ASSOCIATION, INC.

By *James Stokes Hatch*, President and Treasurer

COMMONWEALTH OF MASSACHUSETTS

Berkshire, ss

1974

Then personally appeared the above-named James Stokes Hatch and Jeanne G. Hatch and acknowledged the foregoing instrument to be their free act and deed.

Before me,

Notary Public

My commission expires:
May 1, 1975

Charles R. Alberti
Notary Public

And Lenox Savings Bank, holder of a mortgage from James Stokes Hatch and Jeanne G. Hatch to it dated January 22, 1973, and recorded with said Deeds in Book 932 at Page 1129 and registered with said Registry District as Document No. 14456, noted on said Certificate of Title No. 4513, does hereby assent to the foregoing Declaration of Easements, Restrictions and Covenants, and covenants and agrees to hold its said mortgage subject to the same.

EXECUTED as a sealed instrument this _____ day of _____ 1974.

LENOX SAVINGS BANK

By _____

ADDENDUM No: 1

As used in Subd. VI E of the DECLARATION OF EASEMENTS, RESTRICTIONS AND COVENANTS (the "Declaration") applicable to Bishop Estate and The Bishop Estate Association, Inc. the phrase "business, professional or commercial" shall be defined as those vocations, occupations, hobbies, avocations, uses and/or other activities (a) not permitted as of right in an R-1A District under the Town of Lenox Zoning ByLaw, as amended from time to time; (b) constituting religious, educational or farming purposes; (c) prohibited by the other Restrictive Covenants contained in the Declaration (even if permitted in the Zoning ByLaw). However "business, professional or commercial" shall not include self-employed resident occupants in their private homes working at an occupation which is limited to within, and carried on within, the home, employing no persons outside of the household, utilizing no outside structure or equipment, and requiring no more off-street parking facilities than would ordinarily be used in and by the household, and attracting no more traffic than that ordinarily utilized by the household; except that any or all of the foregoing conditions may be waived, modified or changed, by the members of The Bishop Estate Association, Inc.

**RESOLUTION AFFECTING
THE BISHOP ESTATE ASSOCIATION, INC.
DECLARATION OF EASEMENTS, RESTRICTIONS AND COVENANTS**

Originally registered as Document No. 14919 noted on Certificate of Title No. 4513 and recorded with the BERKSHIRE MIDDLE REGISTRY DISTRICT OF THE LAND COURT in Book 948 Page 705, as Extended by Document No: 496250 Recorded June 24, 1998 in Book 1610 Page 26 (hereinafter collectively called the "Declaration"):

Said Resolution is as follows:

WHEREAS: 1. Paragraph VII B of the Declaration of Easements, Restrictions and Covenants, provides that approvals of physical alterations, improvements, expansion, new construction (collectively hereinafter called "New Improvements") affecting the exterior of a structure be prior approved by the Board of this Association and an executed copy of such approval be recorded or registered with the Deeds or Registry District; and

2. On or before April 30, 2004, applications for approval were approved by the then applicable Board (and in some instances requiring modifications to comply with the then Board's requests or suggestions), but the approvals were never recorded as required by said Paragraph VII B;

The members of this Association, at an annual meeting duly called and held on July 17, 2004, at which a quorum was present and affirmatively voted, RESOLVED AS FOLLOWS:

A. All buildings, fences, walls and other structures, including landscaping and grading, as existing and situated on or within any Lot, as at April 30, 2004, are hereby approved and grandfathered, including, but not limited to, nature, kind, shape,

height, materials, floor plans, color schemes and location, without the requirement or necessity to record or register with the Deeds or Registry District any approvals relating to New Improvements affecting the exterior of a structure occurring on or before April 30, 2004; and

- B. Any requested approval of New Improvements affecting the exterior of a structure on and after May 1, 2004, if and when approved by the then applicable Board, shall be recorded and registered with the Deeds or Registry District, substantially in the form as hereto annexed as Exhibit A, prepared and recorded or registered at the applicant's expense; and
- C. It is intended that a copy of this Resolution shall be enclosed or attached to each "Blue Book" relating to this Association, but failure to enclose or attach this Resolution to any Blue Book shall not change, affect, or diminish, the provisions of this Resolution as expressed in Sections A and B above.

The premises and Lot covered by and affected by this Instrument are the same premises and Lots as are covered by and affected by the Declaration, namely as at this date 21 parcels of land on Old Stockbridge Road and Kemble Street in the Town of Lenox, County of Berkshire, State of Massachusetts, said premises comprising in part Lots 3, 4, 5 and 6 shown on Land Court Plan 991C filed in the Land Resolution Office in Boston, Massachusetts, a copy of a portion of which is filed with Certificate of Title No. 4513, issued from the Berkshire Middle Registry of the Land Court, and in part Lots 7 through 23 inclusive, as shown on a plan entitled "The Bishop Estate" comprising four (4) sheets by Robert G. Brown & Assoc. Inc. Engineers and Surveyors, and recorded with Berkshire Middle District Registry of Deeds in Book 417G at Page 118 through 121 inclusive, which premises are also shown on the sketch annexed to the Grant of Easement to The Bishop Estate Association, Inc. dated March 11, 1974, registered as

Document No. 14918 noted on Certificate of Title No. 4513 and recorded with the aforesaid Registry of Deeds in Book 948 at Page 701.

This instrument is dated as of July 17, 2004 and is executed as a sealed instrument.

THE BISHOP ESTATE ASSOCIATION, INC.

By Gregory Whitehead
Gregory Whitehead, President

COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE,SS

On this [14] day of [September], 2004, before me, the undersigned notary public, personally appeared Gregory Whitehead, proved to me through satisfactory evidence of identification which was [Ma. License] to be the person whose name is signed on the preceding Document, and who acknowledged to me that he signed it voluntarily for its stated purpose in his capacity as President of The Bishop Estate Association, Inc., a corporation.

[Margaret R. O'Brien]
Notary Public

My Commission Expires:

[EXHIBIT A]

APPROVAL OF THE BISHOP ESTATE ASSOCIATION, INC.
PURSUANT TO
DECLARATION OF EASEMENTS, RESTRICTIONS & COVENANTS
RECORDED IN BOOK 948, PAGE 701 &c & BOOK 948, PAGE 705 &c

Pursuant to the Declaration of Easements, Restrictions and Covenants recorded on April 12, 1974 in the Berkshire Middle District Registry of Deeds in Book 948, Page 701 &c and Book 948, Page 705 &c and extended by Instrument recorded in said Registry of Deeds in Book 1610, Page 26, The Bishop Estate Association, Inc., hereby approves

The above approval related to Lot No ____ of Bishop Estate.

Witness my hand and seal this ____ of _____, 20__ as President of The Bishop Estate Association, Inc.

THE BISHOP ESTATE ASSOCIATION, INC.

BY: _____
(name of President) President

COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE,SS

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the preceding Document, and who acknowledged to me that he signed it voluntarily for its stated purpose in his capacity as President of The Bishop Estate Association, Inc., a corporation.

Notary Public
My Commission Expires:

BY-LAWS OF THE BISHOP ESTATE ASSOCIATION, INC.

ARTICLE I

Definitions

Section 1

"Association" means The Bishop Estate Association, Inc., a non-profit corporation duly organized under the laws of the Commonwealth of Massachusetts.

Section 2

"Articles" mean the Articles of Organization of the Association.

Section 3

"Easement" means that certain "Grant of Easement" for conservation and recreation purposes granted by James Stokes Hatch and Jeanne G. Hatch to the Association recorded and registered with Berkshire Middle District Registry of Deeds and with Berkshire Middle Registry of the Land Court, respectively.

Section 4

"Restrictions" means that the provisions contained in that certain "Declaration of Easements, Restrictions and Covenants" recorded and registered with said Deeds and said Registry District, respectively.

Section 5

"Conservation Easement Area" means that area shown on a sketch annexed to the "Grant of Easement", referred to in Section 3 above, which is shaded or cross-hatched on said sketch.

Section 6

"The Bishop Estate" means a group of 21 contiguous parcels of land on Old

Stockbridge Road and Kemble Street in Lenox, Massachusetts, being shown as Lots 3 through 6 inclusive on Land Court Plan 991C and Lots 7 through 23 inclusive on a series of plans recorded with said Deeds in Book 417G, pages 118, 119, 120 and 121.

Section 7

"Lot" means a parcel of land designated as a Lot on said Plans.

Section 8

"Owner" means the person, persons, or legal entity who from time to time holds fee simple title, pursuant to a duly recorded or registered deed, to a Lot in The Bishop Estate.

Section 9

"Sponsor" means an incorporator of the Association and refers to James Stokes Hatch and Jeanne G. Hatch or either of them.

Section 10

"Member" means a member of the Association and automatically includes all persons who, and all legal entities which, are record owners of a Lot, the same being "general members", and the incorporators who are hereby designated "sponsor members". Reference to "members", without qualification, shall refer to both classes of members.

Section 11

"Board" means the Board of Directors of the Association.

Section 12

"Common purposes" means the purposes for which the Association was established, as set forth in the Association's Articles of Organization as the same may be from time to time amended.

ARTICLE II

Membership Rights

Section 1

Classes of Members. There shall be two (2) classes of members, designated "sponsor members" and "general members" respectively. The incorporators of the Association shall be the sole sponsor members and at such time as they decease or resign as such the class of sponsor member shall cease to exist. Each owner of a Lot in The Bishop Estate upon acquisition of title of record to any such Lot shall by virtue of such acquisition become a general member of The Bishop Estate Association, Inc. and shall retain such membership, subject to the By-Laws thereof, during such ownership and until such ownership ceases. Sponsor members and general members shall have all and the same rights and be subject to the same qualifications, as provided in said By-Laws, except that sponsor members shall have the right as a class to elect one (1) person to serve as a Director on the Board and that sponsor members shall not pay dues, assessments or charges to the Association other than in his or her capacity as a general member.

Section 2

Membership Certificates. So long as The Bishop Estate comprises the aforesaid twenty-one (21) lots there shall at any one time be not more than 21 general membership certificates issued and outstanding. Such certificates shall be non- transferable, shall be signed by the President or Vice President and by the Treasurer and shall indicate on the face thereof the Lot with respect to which certificate is issued and shall name as a general member thereon the record Owner(s) of said Lot. A general member shall be issued one (1) general membership certificate for each Lot owned by him. One (1) non-transferable sponsor membership certificate shall be issued to each of the sponsors, which shall be likewise signed and shall bear the name of the sponsor member.

A sponsor member shall also be a general member if he or she is the Owner of a Lot, and shall have the right to vote in both capacities on all matters calling for member voting.

There shall initially be twenty-three (23) membership certificates issued and outstanding and the same shall consist of twenty-one (21) general membership certificates and two (2) sponsor membership certificates.

Section 3

Membership Rights. Each general member shall have the right to use and enjoy the property of the Association, subject to such rules and regulations as the Board shall from time to time adopt.

Section 4

Voting Rights. Holders of sponsor membership certificates and of general membership certificates shall each have the right to cast one vote, as a unit, for each certificate so held, at meetings of the members of the Association; provided, however that the holder of any such general membership certificate shall not then be delinquent in the payment of any dues, assessments or charges to the Association. Any certificate holder may vote by written proxy dated not more than six (6) months before the meeting and filed with the Clerk at the meeting before being voted. Where there is more than one Owner of the same Lot attending a meeting, it shall be necessary for said persons to act unanimously in order for their vote to be cast. Where only one such person attends any such meeting, he may vote for himself and as agent for any absent Owner of his Lot. Where none of such persons attends any such meeting, any written proxy must be signed by all such persons and dated and filed as aforesaid.

At the written request of all of the Owners of any Lot, they may tender their certificate to the Clerk for cancellation and reissuance in the name of the first mortgagee of their Lot.

No person shall continue to enjoy membership rights after he has sold, transferred or conveyed his Lot and no first mortgagee shall enjoy any voting rights after said mortgage has been discharged.

Section 5

Restrictions on Transfer. No general member shall be entitled to sell, transfer or pledge his certificate, except that he may by written proxy authorize the record first mortgagee of any Lot he owns to vote in his stead. At such time as any general member shall by recorded deed convey his interest in any Lot, he shall surrender his certificate to the Board. The Association shall thereupon cancel same and issue a new certificate to the transferee of his Lot.

Upon the death of any Lot owner, his legal representative shall submit such certificate to the Board for cancellation and the issuance of a new certificate in the name of the heir(s) or devisee(s) of such Lot or Lots.

No sponsor member shall be entitled to sell, transfer, or pledge his certificate. Upon the death or resignation of a sponsor member, his certificate shall be surrendered by his or her legal representative to the Board and the Association shall thereupon cancel same.

Section 6

Annual Meeting. The Annual Meeting of the members of the Association shall be held at the principal place of business of the corporation in the Commonwealth or at such other place within the Commonwealth as the Board of Directors shall fix, as appearing by the notice of the meeting, on the third Saturday in July in each year (or if that day be a legal holiday, on the next succeeding Saturday not a holiday) at 10:00 a.m. to elect a Board of Directors, a Treasurer and a Clerk and for the transaction of such other business as may properly come before the meeting.⁵ If no Annual Meeting is held in accordance with the foregoing provisions, a Special Meeting may be held in lieu thereof and any action taken at such meeting shall have the same effect as if taken at the Annual Meeting.

Section 7

Special Meetings. Special Meetings of the members may be called by the President or by a majority of the Board of Directors. Upon written

⁵ As amended at the Annual Meeting, July 21, 2012.

application of members entitled to vote at the meeting who hold at least one-third part in interest of the membership certificates entitled to vote thereat, treating each certificate as a unit, Special Meetings shall be called by the Clerk or in the case of the death, absence, incapacity or refusal of the Clerk, by any other officer of the corporation.

Section 8

Notice of Meetings. A written notice of every meeting of the members stating the place, time and hour thereof and the purpose for which the meeting is to be held shall be given by the Clerk or by such other officer as is provided in these By-Laws at least five (5) days but not more than thirty (30) days before the meeting to each member entitled to vote thereat and to each member who, by law, by the Articles of Organization or by these By-Laws, is entitled to such notice, provided, however, that notice to any one person noted as a member on a certificate shall be deemed sufficient notice to all persons thereon noted. Such notice shall be delivered in hand to each such member at his residence or usual place of business, or shall be mailed to him, postage prepaid, or sent by email, addressed to his post office address or email address as it appears upon the books and records of the corporation.⁶ No notice need be given to any member if a written waiver of notice, executed before or after such meeting by the member or his attorney thereunto authorized, is filed with the records of the meeting. If notice of any such meeting shall be waived in writing by all members entitled to notice thereof, no call of such meeting shall be required.

It shall be the duty of each member to notify the corporation of his post office address and email address.⁷

Section 9

Quorum. At all meetings of members a quorum for the transaction of business shall consist of the holders of record in person or by proxy of a

⁶ As amended at the Annual Meeting, July 21, 2012.

⁷ As amended at the Annual Meeting, July 21, 2012.

majority in interest of all membership certificates, treating each certificate as a unit, outstanding and entitled to vote at that meeting, but a lesser number may adjourn any meeting from time to time without further notice.

Section 10

Action at Meetings. When a quorum is present, the holders of a majority of the membership certificates, treating each certificate as a unit, in person or by proxy and voting on a matter, or if there are two or more classes of members entitled to vote as separate classes, then in the case of each such class the holders of a majority of the membership certificates of that class present in person or by proxy and voting on a matter shall decide any matter to be voted on by the members except where a greater vote is required by law, the Articles of Organization or these By-Laws. Any election by members shall be determined by a plurality of the votes cast by the members entitled to vote in the election provided, however, that in the matter of election of a Director by sponsor members, a plurality of the votes cast by the holders of sponsor membership certificates shall elect. No ballot shall be required for any such election unless requested by a member present in person or by proxy at the meeting and entitled to vote in that election. The Association shall not directly or indirectly vote any membership interest.

Section 11

Action Without Meeting. Any action required or permitted at any meeting of the members, including the election of Directors or officers, may be taken without a meeting if the holders of all of the membership certificates issued, outstanding, and authorized to vote on a matter consent to the action taken by a writing, signed by each such member and filed with the records of the meeting of the members.

ARTICLE III

Directors

Section 1

Election. A Board of Directors of not less than three (3) nor more than five (5) persons shall be elected at the Annual Meeting of members or at a Special Meeting held in lieu thereof.

The initial Board shall consist of the two (2) sponsor members and such other person as they shall appoint, all of whom shall hold office until their successors are duly elected and qualified.

At such time as there are five (5) or more general members, the Board shall consist of five (5) directors and it shall become a requisite of office that each Director be a member.

Sponsor members shall elect one (1) such Director and general members shall elect the remaining two (2) or four (4) Directors, as the case may be.

Commencing with the first Annual Meeting of members to be held July 20, 1975 the members at each Annual Meeting shall elect Directors as aforesaid.

Section 2

Tenure of Office. Except as otherwise provided by law, by the Articles of Organization or by these By-Laws, a Director elected at the Annual Meeting of the members shall hold office until the next Annual Meeting of the members and thereafter until his successor is elected and qualified. A Director elected at other than the Annual Meeting of the members shall hold office until the next Annual Meeting of the members and the election and qualification of his successor. Any Director may resign by delivering his written resignation to the corporation at its principal office or to the President or Clerk of the Association. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event.

Section 3

Removal. Any Director may be removed from office with or without cause by vote of a majority of the members entitled to vote in the election of Directors at a meeting called at least in part for such purposes; provided, however, that any Director elected by a particular class of member may be removed only by vote of the holders of a majority of the membership certificates of such class. Any Director other than a sponsor Director may be removed from office for cause by a vote of a majority of the Directors then in office. No Director shall be removed for cause without reasonable notice and an opportunity to be heard before the body proposing to remove him.

Section 4

Vacancies. If any vacancy in the Board of Directors shall exist, such vacancy shall be filled by vote of the members of the same particular class as elected the Director whose seat has become vacant at the Annual Meeting or at a Special Meeting called for that purpose.

Section 5

Meetings. The Board of Directors shall hold a regular Annual Meeting for the election of a President and such other officers as the Board shall determine and for the transaction of such other business as may properly come before the meeting as soon as is practicable after the Annual Meeting of the members or the Special Meeting held in lieu thereof and at the same place. No notice of such meeting shall be required.

Special Meetings of the Board of Directors may be held at any time upon the call of the President or a Vice President or the Clerk or of any two Directors, by written notice, specifying the purpose of the meeting, served on, or sent or mailed to each Director not less than five (5) days before the meeting.

Notice of a meeting need not be given to a Director if a written waiver of notice, signed by such Director, is filed with the records of the meeting, nor shall any such notice be required as to any Director who attends the

meeting without protesting prior thereto or at its commencement of the lack of notice to him.

Section 6

Quorum and Action at Meetings. At any meeting of the Board of Directors, a majority of the Directors then in office shall constitute a quorum for the purpose of transacting business but less than a quorum may adjourn any meeting from time to time without further notice until a quorum is present; provided, however, that whenever the Board of Directors shall consist of Directors elected by two or more classes of members a quorum in such case shall consist of a majority of the Directors then in office of each class. At any meeting of the Directors at which a quorum is present, the affirmative vote of the majority of those present shall be sufficient to decide any matter, except those matters requiring a greater vote as specified by law, by the Articles of Organization, or by these By-Laws.

Any action by the Board of Directors may be taken without a meeting if a written consent thereto is signed by all the Directors and filed with the records of the Directors' meeting. Such consent shall be treated as a vote of the Board of Directors for all purposes.

Section 7

Chairman. The Directors may elect from their number a Chairman of the Board who shall preside at all meetings of the Board of Directors and may have such additional powers and responsibilities, executive or otherwise, as may from time to time be vested in him by resolution of the Board of Directors.

Section 8

Committees. The Board of Directors may, by the affirmative vote of a majority of the entire Board, appoint committees which shall have and exercise such powers as may be permitted by law and as shall be conferred or authorized by the resolutions appointing them. A majority of any such committees may determine its action and fix the time and place of its meetings, unless the Board of Directors shall otherwise provide. The

Board of Directors shall have power at any time to fill vacancies in, change the membership of, or discharge any such committee.

Section 9

Powers. The Board of Directors, subject, to the provisions of law and the Articles of Organization and except as in these By-Laws are otherwise provided, shall have the entire charge, control and management of the Association and its property and business. Without limiting the foregoing, the Board shall have the power:

- A. To supervise the care, maintenance and development of The Bishop Estate, as it may exist from time to time for the benefit of the members of the Association;
- B. To enforce the restrictions, covenants, conditions and charges contained in said Declaration so as to ensure the orderly development of The Bishop Estate for residences without undue disturbance to the natural and aesthetic qualities of the premises so as to maintain, insofar as possible, harmonious relationships of design, landscaping and location between the structures to be built upon the premises and between the said structures and the natural features of the premises;
- C. To regulate the use by members of the Conservation Easement Area so as to minimize undue disturbance to the natural and aesthetic qualities of said area; and
- D. To employ such persons and enter into such contracts and agreements as may be necessary to carry out the purposes of the Association;
- E. To levy annual dues upon each and all lots and the owners thereof, and such other assessments and charges as the Board shall deem advisable (said dues, assessments and charges being hereafter referred to interchangeably and/or collectively as "charges"), said charges to be assessed in the same amount with respect to each Lot. Said charges shall represent each Lot's respective share of the estimated cash requirements of the Association for the forthcoming twelve (12) month period. Said charges shall be made annually on or before August 1, of each year and in any interim period as required. Said charges shall be applied to the

payment of expenses incurred or to be incurred by the Association for the collective benefit of the members and incident thereto for insurance premiums, operating expenses, legal and accounting fees, the payment of any deficit remaining from a previous period, and the creation and replenishment, of a reserve fund for contingent and/or unanticipated expenses;

F. To assess against any delinquent Owner interest at the rate of nine (9) per cent per annum on any portion of his charges not paid when due;

G. To have and to hold a lien, for charges not paid when due, against any Lot with respect to which they are levied, which lien shall continue until paid, and to enforce such lien in the same manner provided by statute for the foreclosure of a mortgage containing the statutory power of sale, as provided in said Restrictions;

H. To purchase, lease or otherwise acquire by gift or in any lawful manner, any and all real and/or personal property or rights incident thereto, which in the judgment of the Board may be beneficial to the Association;

I. To appoint and, at its discretion, to remove or suspend such subordinate officers and agents as it from time to time thinks fit.

ARTICLE IV

Officers

Section 1

Enumeration. The Officers of the Association shall consist of a President, a Treasurer, a Clerk, and such other officers, including one or more Vice Presidents, Assistant Treasurers, Assistant Clerks and Secretary, as the Directors may appoint.

Section 2

Tenure. The term of office of all Officers shall be one year and until their respective successors are elected and qualify, but any Officer other than the Treasurer or Clerk may at any time be removed from office, with or

without cause, by the affirmative vote of a majority of members of the Board of Directors then in office at a meeting called for that purpose. If removal of any officer be proposed for cause, reasonable notice shall be provided such officer and an opportunity to be heard by the Board. A vacancy in any office arising from any cause may be filled for the unexpired portion of the term by the Board of Directors. A vacancy in the office of Treasurer or Clerk arising from any cause may be filled for the unexpired portion of the term by the members at a Special Meeting of members called, at least in part, for that purpose. Any Officer may resign by delivering his written resignation to the Association at its principal office or to the President or Clerk, and such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event.

Section 3

Qualifications. The President may, but need not be, a Director. All Officers except the Clerk must be members. Any two or more offices may be held by the same person, provided that the President and Clerk shall not be the same person. The Clerk shall be a resident of Massachusetts unless the Association has a resident agent appointed for the purpose of service of process. Any Officer may be required by the Directors to give bond for the faithful performance of his duties to the corporation in such amount and with such sureties as the Directors may determine.

Section 4

President. The President shall be the chief executive officer of the Association and shall, subject to the direction of the Board of Directors, have general supervision and control of its business. The President, as soon as reasonably possible after the close of each fiscal year, shall submit to the Board of Directors a report of the operations of the corporation for such year and a statement of its affairs and shall from time to time report to the Board of Directors all matters within his knowledge which the interests of the corporation may require to be brought to its notice. Unless

otherwise provided by the Board of Directors, he shall preside, when present, at all meetings of members and of the Board of Directors.

Section 5

Vice President. In the absence or disability of the President, his power and duties shall be performed by the Vice President, if only one, or if more than one, by the Vice President designated for the purpose by the Board. Each Vice President shall time designate [sic].

Section 6

Treasurer. The Treasurer shall keep full and accurate accounts of receipts and disbursements in books belonging to the Association and shall deposit all monies and other valuable effects in the name and to the credit of the Association in such depositaries as shall be designated by the Board or in the absence of such designation in such depositaries as he shall from time to time deem proper. He shall disburse the funds of the Association as ordered by the Board, taking proper vouchers for such disbursements. He shall promptly render to the President and to the Board such statements of his transactions and accounts as the President and Board respectively may from time to time require. The Treasurer shall perform such duties and have such powers additional to the foregoing as the Board may designate.

Section 7

Clerk. The Clerk shall record in books kept for that purpose all votes and proceedings of the members and, if there be no Secretary, of the Board of Directors. Unless the Board of Directors shall appoint a transfer agent and/or registrar or other officer or officers for the purpose, the Clerk shall be charged with the duty of keeping, or causing to be kept, accurate records of all membership certificates outstanding, membership certificates issued, and membership cancellations subject to such other or different rules as shall be adopted from time to time by the Board. Such records may be kept solely in the membership certificate books. The Clerk shall perform such duties and have such powers additional to the foregoing as the Board shall designate. The Assistant Clerk, if one be

elected or appointed, shall perform the duties of the Clerk during the Clerk's absence as well as such other duties as may be assigned to him by the Board. In the absence of the Clerk or Assistant Clerk at any meeting of members or, if there be no Secretary of the Board of Directors, a Clerk *pro tempore* shall be chosen by the meeting to perform the duties of the Clerk thereat.

ARTICLE V

Indemnification of Directors and Officers

Every person now or hereafter serving as a Director or Officer of the Association shall be indemnified and held harmless by the Association from and against any and all loss, cost, liability, and expense that may be imposed upon or incurred by him in connection with or resulting from (1) any claim, action, suit or proceeding, civil, criminal or administrative, including any appeal therein or therefrom, in which he may become involved or with which he may be threatened, as a party or otherwise, by reason of his being or having been a Director or Officer of the Association, whether or not he continues to be such at the time of such loss, cost, liability or expense shall have been imposed or incurred, and (2) any action, suit or proceeding, including any appeal therein or therefrom, brought by him to recover the indemnity provided by this Article. As used herein, the term "loss, cost, liability and expense" shall include, but not be limited to, counsel fees and disbursements and amounts of judgments, fines or penalties against, and amounts paid in settlement by, any such Director or Officer; provided, however, that no such Director or Officer shall be entitled to such indemnity: (A) with respect to expenses incurred in defending a civil or criminal action or proceeding in advance of the final disposition of such action or proceeding, except upon receipt of the written undertaking by the person indemnified to repay such payment if he shall be adjudicated (without such adjudication having been reversed) to be not entitled to indemnification under Section 6 of Chapter 180, M.G.L. (Ter. Ed.) as from time to time amended; or (B) with respect to any matter

as to which such person shall have been adjudicated (without such adjudication having been reversed) in any proceeding not to have acted in good faith in the reasonable belief that his action was in the best interests of the Association.

Such right of indemnification shall inure to the benefit of the heirs, executors or administrators of such Director or Officer, shall not be deemed exclusive or in limitation of any other rights to which any such Director or Officer may otherwise be entitled by a matter of law or which may be lawfully granted to him, and shall be in addition to, and not in limitation of any other privilege or power which the Association may lawfully exercise to indemnify or reimburse its Directors or Officers.

If any part of this Article shall be found in any action, suit or proceeding to be invalid or ineffective, the validity and effect of the remaining parts (as construed without regard to such invalid or ineffective part) shall not be affected.

ARTICLE VI

Checks, Notes, Contracts and Other Instruments

Section 1

Checks, etc. All checks, drafts, bonds, notes, or other obligations for the payment of money shall be signed by the President or Treasurer of the Association or some other person designated by the Board of Directors.

Section 2

Contracts. All contracts of the Association shall be executed by the President or the Treasurer of the Association or in such other manner as may be designated by the Board of Directors.

Section 3

Conflict of Interest. No contract or other transaction between the Association and an individual, firm or other association or corporation shall be affected or invalidated by reason of the fact that any of the

Directors or Officers of the Association are pecuniarily or otherwise interested in, or are directors or officers of such other association or corporation, and any firm of which any director or officer may be a member, may be a party or parties to, or may be pecuniarily or otherwise interested in any contract or transaction of the Association, or in which the Association is interested, provided that the fact that he or such firm is so interested shall have been fully disclosed, or shall have been known to the Board of Directors or to the approving majority thereof; any Director of the Association who is also a director or officer of such other association or corporation or who is so interested may be included in determining the existence of a quorum at any meeting of the Board of Directors which shall not authorize any such contract or transaction with like force and effect as if he were not such director or officer of such other corporation or not so interested.

ARTICLE VII

Fiscal Year

The initial fiscal year of the Association shall begin upon the effective date of filing of the Articles of Organization of the Association with the Secretary of the Commonwealth of Massachusetts and shall end on the last day of June 1974. Thereafter each fiscal year shall end on the last day of June in each year.

ARTICLE VIII

Seal

The seal of the Association shall be circular in form, and subject to alteration by the Board of Directors, bear the name of the Association the word, "Massachusetts" and the numerals "1974".

ARTICLE IX

Amendments

These By-Laws, or any of them, may be amended, altered or repealed at any time by two-thirds majority of the members, provided that notice of the substance of the proposed amendment is stated in the notice of the meeting, if such notice is not waived as herein above provided, except that:

- (a) No amendment shall be effective to impair or dilute the rights, duties or obligations of any or all members pursuant to the Easement or the Restriction, both as from time to time amended.
- (b) No amendment shall be effective to impair or dilute the rights of any class of membership without the affirmative vote of two-thirds of each class of membership.
- (c) Voluntary dissolution of the Association shall require the unanimous vote of all members of the Association.
- (d) No rights held by the Association, whether pursuant to the Easement or to the Restriction, both as from time to time amended, or otherwise, and no land or facilities owned by the Association, shall be sold, transferred or conveyed by the Association without the unanimous vote of all members of the Association.

ARTICLE X

Effect of Provisions of Law and Articles of Organization

Each of the provisions of these By-Laws shall be subject to and controlled by any specific provision of law or the Articles of Organization

of the Association, as amended, and in effect from time to time, which relates to its subject matter.

ARTICLE XI⁸

Interpretation of the Terms “Business, Professional or Commercial”

In Section VI (E) of the Restrictions, the terms “Business, Professional or Commercial” shall be defined as those vocations, occupations, hobbies, avocations, uses and/or other activities: (1) not permitted as of right in an R-1A Zoning District as set forth in the Lenox Zoning Bylaw, as amended from time to time (the “Zoning Bylaw”); (2) constituting religious, educational, or farming purposes; and/or (3) prohibited by the other Restrictions even if permitted in the Zoning Bylaw. However, the terms “Business, Professional or Commercial” shall not include self-employed resident occupants in their private homes providing the following conditions apply: (a) the occupant is working at an occupation which is limited to within, and carried on within, the home; (b) no persons are employed in the occupation who do not reside in the home; (c) the occupation does not use any outside structure or equipment; (d) the occupation does not require the use of more off-street parking than would ordinarily be used in and by the household; and (e) the occupation does not generate more traffic than that ordinarily generated by household activities.

ARTICLE XII⁹

Rental of properties

In Section VI (E) of the Restrictions, the provision prohibiting “business, professional or commercial activities of any nature” shall be interpreted to apply to a lease of any house on a Lot, unless the Lot Owner leasing his or

⁸ Added at the Annual Meeting, July 21, 2012.

⁹ Added at the Annual Meeting, July 21, 2012.

her Lot complies with the terms of this Article XII of the By-laws. 1) No Lot, house or structure may be leased for a term of less than two weeks, but not more than two times per calendar year. 2) The Lot Owner shall submit a complete copy of the rental agreement to the Board of Directors, together with a damage deposit of five hundred dollars (\$500), prior to occupancy by the renter. Said deposit shall be returned to the Lot Owner upon completion of the rental, assuming no damage is caused by the renters to the property of the Bishop Estate Association Inc. nor to the property of any of its Members. In the event that any such damage occurs, the Association and/or the affected Lot Owner shall be reimbursed up to the full amount of the deposit; provided that the payment of the deposit to any affected Lot Owner and/or the Association shall be in addition to any other rights and remedies available to said Lot Owners and/or the Association and the use of one remedy shall not be taken to exclude the right to use any other. 3) The renter shall be provided with a copy of the Association bylaws and be fully informed of their rights and obligations as guests of the Bishop Estate, regarding the use of conservation lands and interior roadways. 4) If during the course of occupancy, a renter demonstrates a disregard for the provisions of these Bylaws, the Board shall so notify the Lot Owner who shall thereupon be precluded from extending the tenancy of such occupant beyond the original lease term.

ARTICLE XIII¹⁰

Use of roadways

All members of the Association, together with their guests, shall have the right to use the interior roadways of the Bishop Estate for walking, bicycling or other non-mechanized recreational activities. Members shall also have the right to use said roadways for transit between Old Stockbridge Road and Kemble Street as required, in accordance with speed

¹⁰ Added at the Annual Meeting, July 21, 2012.

limits established by the Board. Use of the roadways by all other parties, and for all other uses is strictly prohibited as a trespass.

APPROVED:

James Stokes Hatch
Jeanne G. Hatch