

BY-LAWS  
OF  
ELLCOTTVILLE SKI CLUB, INC

Adopted: \_\_\_\_\_, 2023

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BY-LAWS  
OF  
ELLCOTTVILLE SKI CLUB, INC.

Adopted October 7, 2023

Preamble

Ellicottville Ski Club, Inc. ("the Club") is a New York Not-For-Profit Corporation established for the primary purposes of providing social and athletic activities for Club members and their guests and promoting the advancement and improvement of the sport of skiing and other winter sports, scheduling ski competitions, and promoting good fellowship among skiers.

ARTICLE I - MEMBERS

Section 1. Members Authorized. The Club shall have three (3) classes of Members as follows: General, Honorary, and Non-Resident, collectively "the Member[s]".

Section 1.1 General Members. Any person twenty-one (21) years of age or older shall be eligible for General Membership. Whenever a married person or person living in a domestic partnership desires to apply for General Membership, it shall henceforth be required that both spouses/domestic partners must individually complete and submit an application for General Membership. The applications of spouses/domestic partners for General Membership shall be voted upon by the Board of Directors as a single joint application. In the event an applicant's spouse/domestic partner does not desire to become a General Member, the applicant may request that the Board of Directors consider a waiver of the requirement that both spouses/domestic partners must apply for General Membership. In the event an existing General Member shall subsequently marry or become a domestic partner, the spouse/domestic partner of the General Member, in order to be entitled to full General Membership privileges, must make an application for General Membership. Spouses/domestic partners who choose not to make an application for individual General Membership shall be considered to be a "Guest" as set forth herein in Section 7. All applications for membership or change in membership class shall be in writing in a format approved by the Board of Directors. To be considered for election to membership an application must be complete and filed within the time frame established by the Board of Directors. The number of General Members may be limited by the Board of Directors.

Section 1.2 Honorary Members. Any General Member may become an Honorary Member upon written application to and approval by the Board of Directors if that Member (i) is at least seventy-five (75) years of age and (ii) has been a General Member in good standing for at least twenty-five (25) years. Honorary Members shall enjoy all rights and privileges of General Members, except they may not be elected to the Board of Directors and may not vote at any meeting of Members. All applications for change in membership class shall be in writing to the Board of Directors.

Section 1.3 Non-Resident Members. A Non-Resident Member shall be any General Member (i) who has first applied for and been admitted as a General Member and has paid the initiation fee required pursuant to these By-Laws, (ii) who is in good standing as a General Member, and (iii) whose written application for designation as a Non-Resident Member is approved by the Board of Directors. Non-Resident Members must reside at least 300 miles distance from Ellicottville and not maintain a residence in or around Ellicottville. A Non-Resident Member shall enjoy all rights and privileges of a General Member, except they may not be elected to the Board of Directors and may not vote at any meeting of Members. Upon residing within 300 miles of Ellicottville or maintaining a residence in or around Ellicottville, said Non-Resident Member shall be reclassified as a General Member. All applications for change in membership class shall be in writing to the Board of Directors.

Section 2. Sponsors. All applicants for membership must be sponsored by three (3) Members, each of whom has been a Member of the Club for at least five (5) years. No Member may sponsor more than one (1) applicant concurrently and no current member of the Board of Directors may sponsor an applicant for membership. If a Member sponsors an applicant and subsequently becomes a member of the Board of Directors, such Member shall withdraw his or her sponsorship of such applicant, effective as of the date on which such Member becomes a member of the Board of Directors.

Section 3. Election of Members. General Members of the Club shall be elected by the Board of Directors by secret ballot from applications submitted in proper form and timely manner. All reports, proceedings, determinations, and actions in connection with the election of General Members shall be held in

honorable secrecy. Two (2) adverse votes shall preclude any candidate from membership. Any adverse vote may be reconsidered at the same or any subsequent Board of Directors meeting. Membership shall be acted upon in the following order:

- 1<sup>st</sup>. New spouse/domestic partner of a member
- 2<sup>nd</sup>. Children of members
- 3<sup>rd</sup>. Past members wishing to rejoin the club
- 4<sup>th</sup>. New applicants.

Section 4.        Initiation Fees and Dues. Upon election to membership, all new Members shall pay the initiation fee that has been established by the Board of Directors and is then in effect. All new General Members shall also pay the annual dues and any assessments payable by the General Members for the year of their election.

Section 5.        Payment of Indebtedness. A statement setting forth indebtedness to the Club (dues and assessments, if any) will be rendered by mail, electronically, or by such other method as the Treasurer deems reasonable to each Member prior to October 15<sup>th</sup> of each year. Any Member whose dues or assessments have not been paid by November 15<sup>th</sup> may be dropped from membership in the Club. In no case will there be any refund of initiation fees, dues, or assessments (if any) paid.

Section 6.        Discipline. Any Member or any immediate family of a Member whose conduct, in the sole discretion of the Board of Directors, is alleged to adversely affect or be likely to adversely affect the welfare or well-being of the Club or its Members, or whose continuance as a Member is alleged to be objectionable, shall be given the opportunity to promptly appear, either in person or by electronic communication, before the Board of Directors to discuss the basis for the allegation(s). Following the discussion as set forth above and upon an affirmative vote of two thirds (2/3) of the entire Board of Directors, the Board of Directors may impose such disciplinary measures as it deems appropriate, including the suspension or forfeiture of membership. In no case shall the disciplined Member be entitled to any refund of initiation fees, dues, or assessments (if any) paid.

Section 7.        Guests. Subject to such House Rules as may be adopted by the Board of Directors, all Members in good standing shall have the privilege of bringing guests to the Club. While they are with their hosts, guests shall have full use of the Club's facilities, subject to the House Rules of the Club. Guest privileges must not be abused, and no one shall be allowed guest privileges in lieu of joining the Club. It shall be the duty of the Board of Directors to ensure that no abuse is made of guest privileges. Members shall be responsible for the conduct of guests and for any charges incurred by their guests.

Section 8.        Children of Current Members. Subject to the House Rules of the Club, any child of a Member under twenty-one (21) years of age shall have full privileges for use of the Club's facilities. At the conclusion of the Holiday Valley ski season, any child of a Member who has attained twenty-one (21) years of age and has not already become a General Member in his or her own right shall cease to have full privileges for the use of the Club's facilities and shall be considered to be a "Guest" as that term is set forth in Article I Section 7 herein.

Section 9.        Evidence of Membership. The Board of Directors may determine, in its sole discretion, the form of proof of membership, if any. Membership is not transferable.

Section 10.       Annual Meeting of Members. A meeting of Members shall be held for the election of Directors and the transaction of other business between September 1st and December 31st of each year on any day and time as determined by the Board of Directors or by the President. The Board of Directors shall present at the Annual Meeting of Members a written report verified by the President and Treasurer, or by a majority of the Directors, showing in appropriate detail the following:

- (i) the assets and liabilities of the Club;
- (ii) the principal changes in assets and liabilities;
- (iii) the revenue or receipts of the Club;
- (iv) the expenses or disbursements of the Club for both general and restricted purposes; and
- (v) the number of Members of the Club as of the date of the report, together with a statement of increase or decrease in such number and a statement of the place where the names and places of residence of the current Members may be found.

The Annual Report shall be filed with the records of the Club and a copy included in the minutes of the Annual Meeting of Members.

Section 11. Special Meetings of Members. Special meetings of Members may be called at any time by the President or the Board of Directors for a date and time set by them. The General Members may also request that a special meeting be held by delivering to the Secretary a written request for a special meeting signed by at least fifty (50) General Members in good standing. The request must specify the purpose of the meeting and a date and time for the meeting that is not less than thirty (30) days from the date the request is delivered to the Secretary. The Secretary shall send out notice of a special meeting within ten (10) business days after receipt of the request.

Section 12. Place of Member Meetings. The Board of Directors, in its sole discretion, may determine that meetings of Members be held at the principal office of the Club or at such other place, within or without the State of New York, as may be fixed by the Board of Directors.

Section 13. Participation in Meetings Remotely. The Board of Directors, in its sole discretion, may determine that meetings of Members be held remotely partially or entirely by means of electronic communication. The electronic service or platform shall be the place of the Member meeting, if the meeting is held solely by means of electronic communication. If the meeting is held partially by means of electronic communication, those General Members or their proxies participating by electronic means shall be deemed to be present at the meeting "in person". Any meeting held by means of electronic communication shall include reasonable measures:

- (i) To verify that each person participating electronically is a Member or a proxy of a Member,
- (ii) To provide each Member participating electronically with a reasonable opportunity to participate in the meeting, including but not limited to an opportunity to propose, to object, and, if a General Member in good standing, to vote upon a specific action to be taken by the Members, and to see, read or hear the proceedings of the meeting substantially concurrently with those proceedings, and
- (iii) To record and maintain a record of any votes or other actions taken by electronic communication at the meeting.

Section 14. Notice of Member Meetings. Notice shall be given of all Member meetings. The notice shall state the purpose, place, date, and time of the meeting. The notice shall also include, if applicable, information regarding how a Member may participate in the meeting by electronic communications (e.g., video conference). Notice shall be given at least thirty (30) days prior to said meeting.

Section 15. Waivers of Notice. Notice of a meeting need not be given to any Member (a) who submits a signed waiver of notice either before or after the meeting, or (b) who attends the meeting without protesting the lack of notice to him or her prior to or at the start of the meeting. Waivers may be provided (a) in a writing signed by the Member or the Member's proxy either in hard copy or by affixing a signature by any reasonable means (e.g., fax or electronic signature), or (b) by e-mail, provided that the transmission of the waiver includes information from which the recipient can reasonably determine that the transmission was authorized by the individual submitting the waiver.

Section 16. Qualification of Voters. Every General Member of record of the Club, in good standing, shall be entitled at every Member meeting to one (1) vote. The Board of Directors may fix a date as the record date for the purpose of determining the General Members entitled to vote at any Member meeting or any adjournment thereof, or to express consent to or dissent from any proposal without a meeting. The record date shall not be more than fifty (50) nor less than ten (10) days before the date of the meeting.

Section 17. Quorum. At least one-third (1/3) of the General Members in good standing must be present (in person or by proxy) to constitute a quorum for the transaction of any business at a Member meeting. When a quorum is once present, it is not broken by the subsequent withdrawal of any Members or any adjournment of the meeting. If a quorum is not present at a Member meeting, the Members present may adjourn the meeting to another time and place. Notice of the adjourned meeting shall be provided to all Members.

Section 18. Organization. At every Member meeting the President, or in the absence of the President, the Vice President, or in the absence of such officers, a person selected by the Members present, shall

function as chairperson of the meeting. The Secretary or, in the absence of the Secretary, any Assistant Secretary, shall function as secretary of the meeting, and in the absence of both the Secretary and any Assistant Secretary, a person selected by the Members present shall function as secretary of the meeting.

Section 19. Voting. Except for the election of Directors and as otherwise required by law, the vote of a majority of the General Members in good standing present (in person or by proxy) at the meeting at which a quorum is present shall constitute action by the Members. Directors shall be elected by a plurality of the votes cast at a Member meeting.

Section 20. Proxies. Every General Member entitled to vote at a Member meeting may authorize another person or persons to act for such General Member by proxy. Proxies shall be in a form approved or provided by the Board of Directors. Every proxy must be authorized by the General Member or the General Member's attorney-in-fact. No proxy shall be valid after the expiration of eleven months from the date thereof unless otherwise provided in the proxy. Every proxy shall be revocable at the pleasure of the General Member executing it, except as otherwise provided by law. Proxies may be provided (a) in a writing signed by the General Member either in hard copy or (b) by e-mail, provided that the transmission of the proxy includes information from which the recipient can reasonably determine that the transmission was authorized by the individual submitting the proxy. Proxies are not assignable.

Section 21. Inspectors of Election. The Secretary and a General Member selected by the President shall act as inspectors at the meeting or any adjournment thereof. The Inspectors shall determine the number of General Members present at the meeting, the number of General Members eligible to vote, whether a quorum is present at the Member meeting, and the validity and effect of proxies. The Inspectors shall receive and count votes, hear and determine all challenges and questions arising in connection with the right to vote, determine the result, and do such acts as are proper to conduct the election or vote with fairness to all Members. Upon request of the Chair of the meeting or any General Member present, the Inspectors shall make a report in writing of any challenge, question, or matter determined and execute a certificate of any fact found. Any report or certificate made shall be prima facie evidence of the facts stated and of the vote as certified.

## ARTICLE II - BOARD OF DIRECTORS

Section 1. Power of Board of Directors and Qualification of Directors. The Board of Directors shall be responsible for the management and control of all affairs of the Club, shall elect the Members and officers of the Club and, pursuant to Article II Section 3.4 herein, fill any vacancies on the Board of Directors. The Board of Directors shall have the power to adopt, repeal, and/or amend the House Rules. Excepting these By-Laws, the Board of Directors shall also have the power to adopt, repeal, and/or amend all further rules affecting the management or welfare of the Club, including the admission of Members, rights and duties of Members and guests, election of officers, and all other matters not otherwise stated herein. Each Director shall be a General Member in good standing for at least three (3) years and have expressed to the President a willingness to serve on the Board of Directors.

Section 2. Nomination of Directors. At least one (1) month prior to the Annual Meeting of Members the President shall appoint a Nominating Committee. The Nominating committee shall be composed of five (5) General Members, two (2) of whom shall be current members of the Board of Directors. The Nominating Committee shall nominate three (3) candidates for election to the Board of Directors. Additional nominations for candidate(s) for election to the Board of Directors may be made and seconded by any General Member in good standing by complying with the means, manners and methods for nominating and seconding candidates adopted by the Board of Directors and set forth in the Notice of Meeting. The names of all the Nominating Committee's candidates shall be set forth in the Notice of Annual Meeting.

Section 3. Constitution of the Board of Directors.

Section 3.1 Number and Term of Office. The Board of Directors shall consist of nine (9) Directors. The number of Directors may be changed by a vote of the majority of the entire Board of Directors, provided that no decrease in the number of Directors shall shorten the term of any Director. Directors shall serve a term of three (3) years. Directors shall be divided into three (3) classes of approximately the same size. The General Members in good standing shall elect one class of Directors at each Annual Meeting of the Members by plurality vote. Directors shall serve until their successors are elected and qualified. A Director's term shall commence on the next January 1<sup>st</sup> following the Annual Meeting of Members. Between the announcement of their election and January 1<sup>st</sup>, the new Directors shall attend all Board of Directors meetings for the purpose of acquainting themselves with the operations and pending business of the Club. During this period the newly elected

Directors shall have no voting powers except for the ability to vote for the election of officers for the ensuing year. Retiring Directors shall also be eligible to vote in such election of officers.

Section 3.2 Term Limits. Directors may serve a maximum of two (2) consecutive full three (3) year terms, after which time a Director must be absent from the Board of Directors for a minimum of one (1) year before being eligible to serve again as a Director.

Section 3.3 Resignations and Removal of Directors. Any Director of the Club may resign at any time by giving written notice to the President or to the Secretary. Such resignation shall take effect at the time specified therein or, if no time be specified, then on delivery. The Board of Directors is not required to accept the resignation for the resignation to take effect. Any Director may be removed by a unanimous vote of the remaining Directors.

Section 3.4 Vacancies. All vacant Board of Directors positions shall be filled within two (2) months of the effective date of the vacancy by the Board of Directors appointing a General Member in good standing (the "Interim Appointment"). The term of the Interim Appointment shall expire on the 31<sup>st</sup> of December following the next Annual Meeting of Members. The remaining term, if any, of the vacant Board of Directors position(s) shall be filled by a separate vote of the General Members in good standing at the Annual Meeting of Members following the Interim Appointment. Nominations for Director(s) to fill the remaining term shall be made in the same manner as provided in Article II Section 2 herein.

Section 4. Board of Directors Meetings. Meetings of the Board of Directors may be held without notice and shall be held whenever called by the President, or by at least two (2) members of the Board of Directors upon written request to the Secretary.

Section 5. Quorum.

(a) Two-thirds (2/3) of the entire Board of Directors shall be a quorum for the transaction of business.

(b) A majority of the Directors present, whether or not a quorum is present, may adjourn any meeting to another time and place without notice to any Director.

Section 6. Voting by the Board of Directors.

(a) As used in these By-Laws, "entire Board of Directors" means the actual number of Directors set by the Board.

(b) Each Director shall have one (1) vote. Directors shall not vote by proxy.

(c) Except as set forth in subsections (i), (ii) and (iii) below, the vote of a majority of the Directors present at a meeting at which a quorum is present shall constitute action by the Board of Directors.

(i) The sale, transfer, lease, exchange, mortgage, pledge or other disposition of real property or any other item that constitutes all or substantially all of the assets of the Club must be approved first by two-thirds (2/3) vote of the entire Board of Directors and then submitted to the General Members for approval by two-thirds (2/3) vote.

(ii) Any merger or consolidation of the Club, as well as any dissolution of the Club, must be approved first by two-thirds (2/3) vote of the Board of Directors present at a meeting at which a quorum is present and then submitted to the General Members, who must approve such action by two-thirds (2/3) vote.

(iii) No monies in excess of \$20,000 for any one project or expense, unless deemed an emergency expense relating to the functionality of the Club or the safety of the Members, will be authorized to be expended by the Board of Directors absent the consent of a majority of the General Members in good standing. A Special Meeting of the Members shall be called by the President to vote on the proposed project or expenditure, a description of which shall accompany the Notice of Special meeting. A



vote of a majority of the General Members in good standing, shall be necessary to authorize such project or expenditure, provided that the affirmative votes cast in favor of such action shall at least equal a quorum.

Section 7. Board of Directors Vote Without Meeting. Any action required or permitted to be taken by the Board of Directors may be taken without a meeting if all members of the Board of Directors consent to the adoption of a resolution authorizing the action. The resolution and the written consents of the Directors shall be filed with the minutes of the Board of Directors meeting. Consents may be provided (a) in a writing signed by the Director either in hard copy or by affixing a signature by any reasonable means (e.g., fax or electronic signature) or (b) by e-mail, provided that the transmission includes information from which the recipient can reasonably determine that the transmission was authorized by the Director submitting the consent.

Section 8. Participation in Meetings Remotely. Any or all Directors or any committee members may participate in a meeting by means of a telephone conference, electronic video screen communication or similar communications equipment ("Electronic Participation"). Electronic Participation may be for the entire meeting or only for specific vote(s) provided that before casting his or her vote, the Director or committee member(s) participating via Electronic Participation was present for the discussion of the matter(s) subject to the vote. Electronic Participation shall constitute presence "in person" at a meeting provided that all persons participating in the meeting can see, read, or hear the proceedings of the meeting substantially concurrently with those proceedings, and each individual is afforded the opportunity to participate in all matters before the Board of Directors or committee, including, but not limited to, proposing, objecting to, and voting upon a specific action taken at the meeting.

### ARTICLE III - COMMITTEES

#### Section 1. Committees.

Section 1.1. Kinds of Committees & How Constituted. There shall be a House & Grounds Committee, a Social Committee, a Long-Range Planning Committee, a Membership Committee, an Insurance Committee, and a Technology Committee. The President shall annually submit a list of Chairs for such committees, each of whom shall be a member of the Board of Directors. The Board may also from time to time select or authorize the appointment of other committees and define their powers and duties. The President may do likewise, subject to the approval of the Board of Directors.

Section 1.2. House & Grounds Committee. The House & Grounds Committee is responsible for the proper upkeep and maintenance of the Club facilities and property. Its Chair may appoint committee members as he or she deems appropriate.

Section 1.3. Social Committee. The Social Committee is responsible for overseeing the complete planning and execution of all social functions at the Club. Its Chair may appoint committee members as he or she deems appropriate.

Section 1.4. Long-Range Planning Committee. The Long-Range Planning Committee shall be comprised of the five (5) most recent past Presidents of the Club, the current President, and the Chair of the House & Grounds Committee. The President shall serve as Chair of this Committee and may appoint such other members as he or she deems appropriate. It is the responsibility of this committee to make recommendations to the Board of Directors concerning long-range facilities planning.

Section 1.5. Membership Committee. The Membership Committee shall be chaired by the Vice President and shall be responsible: for promulgation of rules and procedures to be employed by the Club in the application process for new General Members, for distributing applications for membership, for receiving and reviewing such applications for accuracy and completeness, and for presenting the applications for General Membership to the Board of Directors for their consideration.

Section 1.6. Insurance Committee. The Chair of the Insurance Committee shall be appointed by the President. The Insurance Committee shall be responsible for reviewing, no less than once a year, all insurance policies in which the Club is the named insured, additional insured, or loss payee. The Insurance Committee shall make an annual report to the Board of Directors. Such report shall provide a list of all insurance coverages/policies then in effect as well as the annual premiums associated with said insurance coverages/policies. The Insurance Committee shall also annually make written recommendations to the Board of

Directors detailing any proposed additions, deletions, amendments, or modifications to the existing insurance coverages/policies that the Insurance Committee has determined to be in the best interests of the Club.

Section 1.7. Technology Committee. The Chair of the Technology Committee shall be appointed by the President. The Technology Committee shall be responsible for the communication, security, safety, media, and fire prevention needs of the Club. The Technology Committee shall investigate, obtain quotations from suppliers and contractors, work with the House & Grounds Committee, and report its findings and recommendations to the Board of Directors as circumstances require.

Section 2. Committee Meetings. Meetings may be held without notice and shall be held at such time and place as may be fixed by the Chair of the committee or by vote of a majority of all the members of the committee. Participation in committee meetings remotely is allowed as stated in Article 2, Section 8.

Section 3. Quorum and Voting. Unless otherwise provided by resolution of the Board of Directors (i) a majority of all of the members of a committee shall constitute a quorum for the transaction of business, and (ii) the majority vote of committee members present at a meeting at which a quorum is present shall constitute action by a committee. The procedures and manner of acting of all committees shall be subject at all times to the directions of the Board of Directors.

Section 4. Tenure of Members of Committees. Each committee and every committee member shall serve at the pleasure of the Board of Directors.

#### ARTICLE IV - OFFICERS

Section 1. Officers. The officers of the Club shall include the President, Vice President, Secretary, Treasurer, and such other officers as the Board of Directors shall designate.

Section 2. Election of Officers. All officers shall be elected by the Board of Directors annually by majority vote. The office of President and Vice President shall be elected from members of the Board of Directors. The offices of the Secretary and Treasurer, as well as any Assistants, shall be elected from current-term members of the Board of Directors or past-term members of the Board of Directors. If elected from past-term members of the Board of Directors, said officer shall have no authority to propose any amendment to these By-Laws or to make or second any motion at any meeting of the Board of Directors or to vote on any matters before the Board of Directors, but shall only fulfill the duties of the office to which he or she was elected. All officers shall hold office until the election and qualification of their successors.

Section 3. Duties of President. The President shall be the chief executive officer of the Club and shall exercise such powers and perform such duties as are customary and such further powers and duties as are conferred upon him or her by these By-Laws and by action of the Board of Directors.

Section 4. Duties of Vice President. In the absence of the President, the Vice President shall possess his or her powers and perform his or her duties. The Vice President shall serve as Chair of the Membership Committee.

Section 5. Duties of Secretary. The Secretary shall exercise such powers and perform such duties as are customary. He or she shall keep the corporate minutes of the Club. It shall be his or her duty to keep up-to-date copies of these By-Laws and to present a copy of each to every newly elected Director.

Section 6. Duties of Treasurer. The Treasurer shall exercise such other powers and perform such other duties as are customary. The Treasurer of the Club shall be charged with the collection, custody, and disbursement of the funds of the Club. The Treasurer is also charged with maintenance of financial records and the creation of reports of all financial activity as called for by the Board of Directors and these By-Laws.

Section 7. Removal of Officers. Any officer may be removed for cause by a unanimous vote of the remaining Directors.

Section 8. Resignation. Any officer may resign his or her office at any time by giving written notice to the Board of Directors, to the President, or to the Secretary. Any such resignation shall take effect at the time specified therein, or, if no time be specified, then upon delivery. The Board of Directors is not required to accept the resignation for the resignation to take effect.

Section 9. Vacancies. The Board of Directors shall fill a vacancy in any office.

#### ARTICLE V - INDEMNIFICATION AND INSURANCE

Section 1. Authorized Indemnification. Unless clearly prohibited by law or Section 2 of this Article, the Club shall indemnify any person ("Indemnified Person") made, or threatened to be made, a party in any action or proceeding, whether civil, criminal, administrative, investigative, or otherwise, including any action by or in the right of the Club, by reason of the fact that he or she (or his or her testator or intestate), whether before or after adoption of this Section, (a) is or was a Director or officer of the Club, or (b) in addition is serving or served, in any capacity, at the request of the Club, as a Director or officer of any other Club, or any partnership, joint venture, trust, employee benefit plan or other enterprise. The indemnification shall be against all judgments, fines, penalties, amounts paid in settlement (provided the Club shall have consented to such settlement), and reasonable expenses, including attorneys' fees and costs of investigation, incurred by an Indemnified Person with respect to any such threatened or actual action or proceeding, and any appeal thereof.

Section 2. Prohibited Indemnification. The Club shall not indemnify any person if a judgment or other final adjudication adverse to the Indemnified Person (or to the person whose actions are the basis for the action or proceeding) establishes, or the Board of Directors in good faith determines, that such person's acts were committed in bad faith or were the result of active and deliberate dishonesty and were material to the cause of action so adjudicated or that he or she personally gained in fact a financial profit or other advantage to which he or she was not legally entitled.

Section 3. Advancement of Expenses. The Club shall, on request of any Indemnified Person who is or may be entitled to be indemnified by the Club, pay, or promptly reimburse the Indemnified Person's reasonably incurred expenses in connection with a threatened or actual action or proceeding prior to its final disposition. However, no such advancement of expenses shall be made unless the Indemnified Person makes a binding, written commitment to repay the Club, with interest, for any amount advanced for which it is ultimately determined that he or she is not entitled to be indemnified under the law or Section 2 of this Article. An Indemnified Person shall cooperate in good faith with any request by the Club that common legal counsel be used by the parties to such action or proceeding who are similarly situated unless it would be inappropriate to do so because of actual or potential conflicts between the interests of the parties.

Section 4. Indemnification of Others. Unless clearly prohibited by law or Section 2 of this Article, the Board of Directors may approve Club indemnification as set forth in Section 1 of this Article or advancement of expenses as set forth in Section 3 of this Article, to a person (or the testator or intestate of a person) who is or was employed by the Club or who is or was a volunteer for the Club, and who is made, or threatened to be made, a party in any action or proceeding, by reason of the fact of such employment or volunteer activity, including actions undertaken in connection with service at the request of the Club in any capacity for any other Club, partnership, joint venture, trust, employee benefit plan or other enterprises.

Section 5. Proceedings Initiated by Indemnified Person. Notwithstanding any other provision in this Article, the Club shall not indemnify or advance expenses to an Indemnified Person for any liability or costs incurred in a proceeding or claim initiated or brought voluntarily by an Indemnified Person and not by way of defense (such as by counterclaim, cross-claim or third-party claim) or participated in as an intervenor or amicus curiae by the person seeking indemnification, unless such indemnification or advancement of expenses is found to be appropriate and is approved by two-thirds (2/3) vote of the entire Board of Directors.

Section 6. Determination of Indemnification. Indemnification mandated by a final order of a court of competent jurisdiction will be paid. After termination or disposition of any actual or threatened action or proceeding against an Indemnified Person, if indemnification has not been ordered by a court of competent jurisdiction, the Board of Directors shall, upon written request by the Indemnified Person, determine whether and to what extent indemnification is permitted pursuant to these By-Laws. Before indemnification can occur, the Board of Directors must explicitly find that such indemnification will not violate the provisions of Section 2 of this Article. No Director with a personal interest in the outcome, or who is a party to such actual or threatened action or proceeding concerning which indemnification is sought, shall participate in this determination. If a quorum of disinterested Directors is not obtainable, the Board of Directors shall act only after receiving the opinion in writing of independent legal counsel that indemnification is proper in the circumstances under the applicable law and these By-Laws.

Section 7. Binding Effect. Any person entitled to indemnification under these By-Laws has a legally enforceable right to indemnification which cannot be abridged by amendment of these By-Laws with respect to any event, action, or omission occurring prior to the effective date of such amendment.

Section 8. Insurance. The Club shall purchase Directors' and Officers' liability insurance if authorized and approved by the Board of Directors. To the extent permitted by law, such insurance may insure the Club for any obligation it incurs as a result of this Article or operation of law, and it may directly insure the Directors, officers, employees, or volunteers of the Club for liabilities against which they are not entitled to indemnification under this Article, as well as for liabilities against which they are entitled or permitted to be indemnified by the Club.

Section 9. Nonexclusive Rights. The provisions of this Article shall not limit or exclude any other rights to which any person may be entitled under law or contract. The Board of Directors is authorized to enter into agreements on behalf of the Club with any Director, officer, employee, or volunteer providing them rights to indemnification or advancement of expenses in connection with potential indemnification in addition to the provisions therefore in this Article, subject in all cases to the limitations of Section 2 of this Article.

#### ARTICLE VI - GENERAL

Section 1. Office. The office of the Club shall be at such place in the County of Cattaraugus, State of New York, as the Board of Directors may determine.

Section 2. Adoption of Policies and Procedures. The Board of Directors or designated committee of the Board of Directors, by resolution, shall adopt such House Rules, regulations, policies, and procedures as it may deem necessary and appropriate to the operation of the Club, including, but not limited to, a Conflict of Interest Policy, provided, however, that no rule, regulation, policy, or procedure may be adopted by the Club that is contrary to these By-Laws and applicable law as may be amended from time to time.

Section 3. Interpretation. The interpretation of the By-Laws and House Rules of the Club and their enforcement shall rest solely with the Board of Directors.

Section 4. Books and Records. There shall be kept at the office of the Club: (i) correct and complete books and records of account, (ii) minutes of the proceedings of the Members and of the Board of Directors, and any report created by a committee of the Board of Directors, (iii) a current list of the Directors and officers of the Club, (iv) a list of all Members with classes of membership, including names and addresses, (v) a copy of these By-Laws, (vi) a copy of the Club's application for recognition of exemption with the Internal Revenue Service, and (vii) copies of the past seven (7) years' information returns and form 990-T's (if any) or any other from required to be filed by any federal, state, or local agency, and (viii) the title search/abstract for any real property owned by the Club.

Section 5. Fiscal Year. The fiscal year of the Club shall begin on October 1<sup>st</sup> and end on September 30<sup>th</sup>.

#### ARTICLE VII - AMENDMENTS

A resolution to enact, amend or repeal any provision of these By-Laws may be proposed by two-thirds (2/3) of the entire Board of Directors or upon a written petition signed by one-third (1/3) of the General Members in good standing. Notice of any proposed amendment or revocation shall be sent to all Members thirty (30) days prior to the meeting of the Members (Annual or Special) at which a vote shall be taken. On condition that the quorum requirement is satisfied, a resolution to enact, amend, or revoke any provision of these By-Laws shall require an affirmative vote of two-thirds (2/3) of the votes cast by the General Membership in good standing.