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STATE OF NORTH CAROLINA

**BYLAWS OF MIDDLE POINT AT SLOOP  
POINT ASSOCIATION**

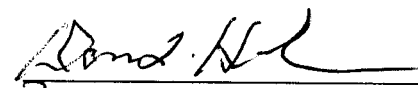
COUNTY OF PENDER

NOW COMES MIDDLE POINT AT SLOOP POINT ASSOCIATION  
and hereby certifies that the attached is the Bylaws of MIDDLE POINT AT SLOOP POINT  
ASSOCIATION.

This the 16<sup>th</sup> day of NOVEMBER 2010.

**MIDDLE POINT AT SLOOP POINT ASSOCIATION**

By:

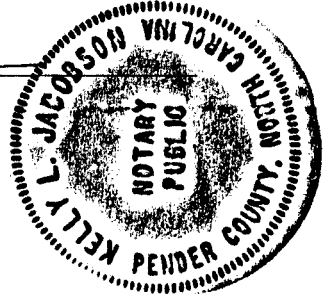
  
1304.20 President

STATE OF NORTH CAROLINA  
COUNTY OF Pender

I, Kelly L Jacobson, a Notary Public in and for the State and County  
aforesaid, do hereby certify that Don L. Helms personally came before me this day and  
acknowledged that he/she is Board President of Middle Point at Sloop Point Association a N.C.  
non-profit corporation and that he/she, as Board President, being authorized to do so, executed  
the foregoing on behalf of the Association. (Don Helms)

Witness my hand and notarial seal, this the 16<sup>th</sup> day of November 20 10

Kelly L Jacobson  
Notary Public



My Commission expires:

9-12-2011



Pender County, NC Register of Deeds

BYLAWS

FOR

MIDDLE POINT AT SLOOP POINT ASSOCIATION

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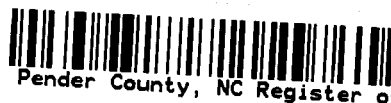
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ADOPTED AS OF

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Pender County, NC Register of Deeds  
BYLAWS

FOR  
MIDDLE POINT HOMEOWNERS' ASSOCIATION, INC.

ARTICLE I

NAME AND DEFINITIONS

Section 1.1 Name. The name of the association shall be Middle Point at Sloop Point Association (the "Association").

Section 1.2 Definitions. Terms specifically defined in the Declaration of Covenants, Conditions and Restrictions for Middle Point Subdivision, as may be amended from time to time, and including all attachments (hereinafter referred to as the "Declaration") shall have the same meaning in these Bylaws, unless the context shall otherwise prohibit.

ARTICLE II

MEMBERSHIP AND VOTING

Section 2.1. Membership. Any person or entity shall automatically become a member of the Association upon becoming an Owner of a Lot, which is subject to assessment pursuant to the Declaration and may become a member in no other manner. When there is more than one (1) record Owner (excluding those having such interest merely as security for the performance of an obligation), each such Owner shall be a member of the Association.

Section 2.2. Application for Membership. Application for membership shall consist of notice to the Association that the applicant has become an Owner of a Lot, which is subject to assessment pursuant to the Declaration.

Section 2.3. Transfer of Membership. Memberships are not transferable. Membership occurs only upon the occurrence of those events set out in the Articles and the Declaration.

Section 2.4. Suspension or Termination of Membership. The membership rights of a member shall not be suspended so long as the Owner continues to hold title to a Lot, is not in violation of any provision of the Declaration, these Bylaws and any rule or regulation adopted by the Association, and is not in arrears in the payment of any assessment. (The term "Bylaws" as used herein shall include any amendments made, from time to time, to the Bylaws.)

Section 2.5. Classes of Members. The Association shall have two (2) classes of voting membership:

(a) Class A Members. Class A Members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

(b) Class B Member. Class B Member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(i) When the total votes outstanding the Class A membership equal the total votes outstanding in the Class B membership, or

(ii) On December 31, 2006.

Section 2.6. Vote/Voting Rights. Owners shall have one (1) vote for each Lot owned. Members shall be entitled to vote on all matters as to which members may be entitled to vote under the North Carolina Nonprofit Corporation Act and the Declaration, unless specifically provided otherwise in these Bylaws, the Articles of Incorporation, or the Declaration. (The term "Articles of Incorporation" as used herein shall include any amendments made, from time to time, to the Articles of Incorporation.)

Section 2.7. Additional Provisions Governing Voting.

(a) Multiple-Person Owners. In the event that any Lot is owned by more than one (1) Owner, and if only one (1) of the Owners is present at a meeting of the Association, that Owner so present shall be entitled to cast the vote for the Lot. If more than one (1) of the Owners of a Lot is present, the vote appurtenant to that Lot shall be cast only in accordance with unanimous agreement of such Owners who are present at the meeting and such agreement shall be conclusively presumed if any of them purports to cast the vote appurtenant to that Lot without protests being made forthwith to the individual presiding over the meeting by any of the other Owners having an ownership interest in the lot.

(b) Voting Certificate. If a member is not a natural person, the vote by such member may be cast by any natural person authorized by such member. Such natural person must be named and a certificate signed by an authorized officer, partner, member, or trustee of such Owner and filed with the Secretary; provided, however, that any vote cast by a natural person on behalf of such member shall be deemed valid unless successfully challenged prior to the adjournment of the meeting at which the vote is cast. Such certificate shall be valid until revoked by a subsequent certificate similarly executed and filed with the Secretary. Wherever the approval or disapproval of a member is required by the Declaration, the Association's Articles of Incorporation, these Bylaws, or any rules and regulations promulgated by the Association, such approval or disapproval may be made by any person who would be entitled to cast the vote of such member at any meeting of the Association.

(c) Suspension of Voting Rights. The Association has the right to suspend the voting rights and right to the use of its recreational facilities by an Owner for any period during which assessment against such Owner's Lot remains unpaid. In addition, the Association has the right to suspend the voting rights and the right to the use of its recreational facilities by an Owner for a period not to exceed sixty (60) days for any infraction of the Association's published rules and regulations.

(d) Delinquency. No member who has had such member's voting right suspended pursuant to the foregoing may vote at any meeting of the Association or be elected to serve on the Executive Board or be appointed to serve on any committee if the amount necessary to bring such member's account current has not been paid by the record date set pursuant to Section 3.7 hereof for the applicable members' meeting (in the case of a member voting or being elected to serve on the Executive Board) or has not been paid by the date of appointment, in the case of appointment to serve on any committee.

Section 2.8. Manner of Voting. Voting, except for the election of directors which shall be by written ballot, by members at a meeting shall be by voice vote or a show of hands unless any member present at the meeting requests, and by an affirmative vote of a majority of the votes cast the members consent to, a vote by written ballots. Except in the election of directors as provided in Section 4.3 herein, if a quorum is present, action on a matter at a meeting of members is approved by the affirmative vote of a majority of the votes cast, unless a greater vote is required by the North Carolina Nonprofit Corporation Act, the Association's Articles of Incorporation, the Bylaws, or the Declaration.

Section 2.9. Proxies. A member may vote either in person or by proxy. Proxies shall be in writing, shall be dated, shall be signed by the member or a person authorized by the member, or in cases where multiple members are the Owners of one (1) Lot, by or on behalf of all such Owners. A proxy shall be valid for eleven (11) months unless a different period is expressly provided in the proxy and all proxies shall be filed with the Secretary of the Association. A revocable appointment of proxy is revoked by the person appointing the proxy by (a) attending any meeting and voting in person, or (b) signing and delivering to the Secretary of the Association or other officer or agent authorized to tabulate proxy votes either a writing stating that the appointment of the proxy is revoked or a subsequent appointment form.

Section 2.10. Delegation of Use. As long as an Owner does not have such Owner's voting rights or the right to the use of the Association's recreational facilities suspended pursuant to Section 2.7(c) above, then such member may delegate the member's right of enjoyment to the Common Area and facilities to the members of such Owner's family, such Owner's tenants, or contract purchasers who reside on the Owner's Lot. Upon request of the Association, such delegation shall be accomplished by written notice by the Owner to the Secretary of the Association specifically naming those individuals to whom such member is delegating the member's right of enjoyment pursuant to this Section, which writing shall indicate the relationship of such person or persons to the delegating Owner.

Section 2.11. Informal Action. Any action which may be taken at a meeting of the members may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the persons who would be entitled to vote upon such action at a meeting, and delivered to the Secretary of the corporation for inclusion in the minutes or filing with the corporate records.



## ARTICLE III

MEETING OF MEMBERS

Section 3.1. Place of Meetings. All meetings of members shall be held at the principal office of the Association or at such other place within or without the State of North Carolina as shall be designated in the notice of the meeting.

Section 3.2. Annual Meetings. The first annual meeting of members of the Association shall be held within one (1) calendar year from the date of incorporation of the Association. Thereafter, the annual meeting of members shall be held at such date and time as may be determined on an annual basis by the Executive Board and stated in the notice of such members' meeting. The annual meeting of members shall be held for the purpose of electing directors of the Association, such other purposes as may be included in the notice of such meeting, and for the transaction of such other business as properly may be brought before the meeting; provided, however, that notwithstanding that quorum may have been established at such meeting, unless one-third (1/3) or more of the votes entitled to be cast at an election of directors are represented in person or by proxy at such meeting, the only matters that may be voted upon at an annual meeting of members are those matters that are described in the meeting notice.

Section 3.3. Special Meetings. Special meetings of the members may be called at any time by (a) the President, or (b) the Board of Directors of the Association, and shall be called by the Secretary of the Association within thirty (30) days upon receipt of a written request signed, dated, and delivered to the Secretary by the holders of at least ten percent (10%) of all the votes entitled to be cast on any issue proposed in such request to be considered at the meeting.

Section 3.4. Notice of Meetings. Notice of meetings of any members shall be given by the President, Secretary, or other person calling the meeting by any means that is fair and reasonable, and for this purpose, written or printed notice stating the time, place, and date of the meeting shall be delivered (a) not less than ten (10) nor more than fifty (50) days before the date thereof, either in person or by facsimile, or by first class, certified, or registered mail, or (b) not less than thirty (30) nor more than fifty (50) days before the date thereof, if such notice is mailed by other than first class, registered, or certified mail, to each member of record entitled to vote at such meeting, unless the North Carolina Nonprofit Corporation Act or the Association's Articles of Incorporation require that such notice be given to all members with respect to such meeting. If mailed, such notice shall be deemed to be effective when deposited in the United States mail, correctly addressed to the member at the member's address as it appears on the current record of members of the Association, with postage thereon prepaid. For this purpose, a member's address shall be the mailing address of each Lot or to any other mailing address designated in writing by the Owner to the Secretary of the Association.

Notwithstanding the foregoing, if the notice provided for the above clearly would not be fair and reasonable under the circumstances then existing, then notice appropriate for the circumstances shall be given; PROVIDED, HOWEVER, THAT notice for a meeting where any of the following matters are to be approved in all events shall be given as provided in the first paragraph of this Section: (i) director conflict of interest or indemnification, (ii) amendment to the Association's Articles of Incorporation, Bylaws,

or Declaration (iii) plan of merger or dissolution, or (iv) a sale of assets other than in the regular course of the Association's activities. Also, and notwithstanding the foregoing, specific notice for certain matters as to which members may vote is provided in the Declaration, and with regard to such matters, notice to members shall be given that is consistent both with the requirements for notice in the Declaration and the requirements for notice in the first paragraph of this Section.

In the case of an annual or regular meeting of members, the notice of meeting need not specifically state the business to be transacted thereat or include a copy or summary of any proposed action, unless one (1) of the matters to be considered is a proposed amendment to the Declaration (in which case the notice of meeting shall so specifically state and shall include a copy or summary of the proposed amendment to the Declaration, or unless any of the foregoing expressly is required by the provisions of the North Carolina Nonprofit Corporation Action. In the case of a special meeting, the notice of meeting specifically shall state the purpose or purposes for which the meeting is called, and only those matters, which are stated in the notice, may be acted upon at a special meeting of members.

Also, notice of an annual, regular, or special meeting of members shall give notice of any matter a member intends to raise at the meeting if the Association receives a written request to do so by members entitled to call a special meeting pursuant to Section 3.3 ("Special Meetings") of this Article, and such written request is received by the Secretary or President of the Association at least ten (10) days before the Association gives notice of such meeting.

If any meeting or members is adjourned by the vote of a majority of votes cast on the motion to adjourn to a different date, time, or place, notice need not be given of the new date, time, or place if the new date, time, or place is announced at the meeting before adjournment and if a new record date is not fixed for the adjourned meeting. If a new record date for the adjourned meeting is or must be fixed pursuant to North Carolina law, notice of the adjourned meeting must be given as provided in this Section to the members of record entitled to vote at the meeting as of the new record date.

Section 3.5. Waiver of Notice of Meetings. Any member may waive notice of any meeting before or after the meeting. The waiver must be in writing, signed by the member, and delivered to the Association for inclusion in the minutes or filing with the corporate records. A member's attendance, in person or by proxy, at a meeting (a) waives objection to lack of notice or defective notice of the meeting, unless the member or the member's proxy at the beginning of the meeting objects to holding the meeting or transaction business thereat, and (b) waives objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the member or the employer's proxy objects to considering the matter before it is voted upon.

Section 3.6. Quorum. Unless provided otherwise by the Association's Articles of Incorporation, these Bylaws, or the Declaration, thirty percent (30%) of the votes entitled to be cast on a matter, represented in person or by proxy, shall constitute a quorum on that matter at the opening of a meeting of members. Once a member is represented for any purpose at a meeting, such member is deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting unless a new Record Date (defined in Section 3.7 below) is or must be set for the adjourned

meeting under the North Carolina Nonprofit Corporation Act. Notwithstanding that a quorum may have been established at a meeting, unless one-third (1/3) or more of the votes entitled to be cast in an election of directors are represented in person or by proxy at such meeting, the only matters that may be voted upon at an annual or regular meeting of members are those matters that are described in the meeting notice.

Section 3.7. Record Date to Determine Members and List of Members. The date for determining which Owners are members and therefore entitled to vote ("Record Date") shall be the close of business on the seventieth (70<sup>th</sup>) day prior to the date of the meeting, unless the Executive Board shall determine a Record Date closer to the meeting date.

## ARTICLE IV

### EXECUTIVE BOARD

Section. 4.1. General Powers. The activities and affairs of the Association shall be directed by the Board of Directors or by such Executive Committee or other committees as the Board may establish pursuant to these Bylaws.

Section 4.2. Number, Term and Qualifications. The initial directors of the Association, who shall serve as directors until their successors shall be elected and qualify, are set forth in the Articles of Incorporation of the Association. Subsequent to the initial directors, the number of directors constituting the Board of Directors of the Association shall be five (5). (The Board of Directors of the Association shall be referred to herein from time to time as the "Executive Board.") At the first annual meeting of members, the five (5) directors to be elected shall be divided into two (2) classes, with one (1) class of three (3) directors, each to serve for a first term of one (1) year, and with one (1) class of two (2) directors, each to serve for a first term of two (2) years, and until their successors shall be elected and shall qualify. After the first term, the successors in each class of directors shall be elected to serve for terms of two (2) years and until their successors shall be elected and shall qualify. In the event of any increase in the number of directors, the additional directors shall be so classified that all classes of directors shall be increased equally, as nearly as may be, and, in the event of any decrease in the number of directors, all classes of directors shall be decreased equally, as nearly as may be. Each director shall hold office for a term of two (2) years or until such director's death, resignation, retirement, removal or disqualification. Despite the expiration of a director's term, the director continues to serve as such until the director's successor is elected and qualifies, or there is a decrease in the number of directors. Directors must be members of the Association.

Section 4.3. Election of Directors. Except as provided in Section 4.5 of this Article, the directors shall be elected at the annual meeting of members; and those persons who receive the highest number of votes by the members entitled to vote in the election at a meeting at which a quorum is present shall be deemed to have been elected. If any member entitled to vote for directors so demands, election of directors shall be by ballot.

(a) Nominations Committee. Nominations for election to the Executive Board may be made by a Nomination Committee. If appointed, the Nominations Committee shall be appointed by the Executive Board. If appointed, the



Nominations Committee shall develop election procedures and administer such procedures as are approved by the Executive Board providing for election of directors by members at the meetings, and, where appropriate, at special meetings. If appointed, the Nominations Committee shall serve from the date of their appointment through the close of the annual meeting or, where appropriate, the special meetings, at which the election for members of the Executive Board is to be held.

(b) Nominations. Persons qualified to be directors may be nominated for election by the Nominations Committee and the names submitted in writing to the President of the Association and the Executive Board sixty (60) days before the meeting at which the election is to be held. The Nominations Committee may make as many nominations for election to the Executive Board as it shall in its discretion determine, but in no event less than the number of vacancies or terms to be filled. Any written nominations presented by the Nominations Committee shall be accompanied by a statement signed by the nominees indicating the willingness of such nominees to serve as directors. Additional nominations may be made from the floor at the meeting at which the election is held for each vacancy on the Executive Board for which no more than one (1) person has been nominated by the Nominations Committee. The nominee must either be present at said meeting and consent to the nomination or have indicated in writing his or her willingness to serve as a director.

(c) Qualifications. No person shall be eligible for election as a member of the Executive Board unless such person is an Owner or is the individual nominee of an Owner, which is other than an individual. No Owner or representative of such Owner shall be elected as a director or continue to serve as a director if such Owner is more than sixty (60) days delinquent in meeting any financial obligation owed to the Association, if such delinquency is not cured by the record date set pursuant to Section 3.7 hereof for such members' meeting in the case of an election of directors.

Section 4.4. Voting, Quorum, and Manner of Acting. Each director shall be entitled to one (1) vote on all matters that come before the Association. A majority of the directors in office immediately before a meeting begins shall constitute a quorum for the transaction of business at any meeting of the Executive Board. Unless a higher vote is required by the Association's Articles of Incorporation, these Bylaws, the North Carolina Nonprofit Corporation Act, or the Declaration, the act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Executive Board. A director who participates in a meeting by any means of communication by which all directors may simultaneously hear each other during the meeting shall be deemed present at a meeting for all purposes.

Section 4.5. Removal or Resignation of Directors and Filling of Vacancies.

(a) Removal. Any director may be removed from office at any time with or without cause by a vote of members whenever the number of votes cast in favor of removal of the director exceeds the number of votes cast against such removal. A director may not be removed by the members at a meeting unless the notice of the meeting states that the purpose, or one (1) of the purposes, of the meeting is removal of the director. If any directors are so removed, new directors may be elected at the same meeting.



(b) Vacancies. A vacancy caused by a removal of a director by the members shall be filled by a vote of the members. A vacancy among the directors of members shall be filled by the remaining directors at a meeting of the Board held for such purpose promptly after the occurrence of such vacancy. If the directors remaining in office do not constitute a quorum of the Board, the directors may fill the vacancy by the affirmative vote of a majority of the remaining directors, or by the sole remaining director, as the case may be. The term of a director elected to fill a vacancy in a directorship elected by members expires at the next election of directors by members, and the term of the director filling any other vacancy expires at the end of the unexpired term that such director is filling.

(c) Resignation. A director may resign at any time by giving notice to the Executive Board, the President or the Secretary. Unless such notice specifies a later effective date or subsequent event upon which it will become effective, such resignation shall take effect upon the receipt thereof and the acceptance of such resignation shall not be necessary to make it effective. A director shall be deemed conclusively to have resigned upon disposition of the ownership of the Lot, which made such individual eligible to be a director or upon any other event of disqualification set forth in these Bylaws.

Section 4.6. Powers and Duties of the Board. The business and affairs of the Association shall be managed by the Executive Board. The Executive Board shall have all of the powers and duties necessary for the administration of the affairs of the Association, including, but not by way of limitation, all powers as set forth in Article 3 of Chapter 55A of the North Carolina General Statutes (North Carolina Nonprofit Corporation Act), as the same may be amended from time to time, and may do all such acts and things as are not required by the Declaration or Bylaws to be exercised and done by the members. The Executive Board shall delegate to one (1) of its members or to an individual or entity employed for such purpose the authority to act on behalf of the Board on such matters relating to the duties of the managing agent (as defined in Section 5.3 hereof), if any, which may arise between meetings of the Board as the Board deems appropriate. In addition to the duties imposed by any other provision of the Declaration or by any resolution of the Association that may hereafter be adopted, the Board shall perform the following duties and take the following actions on behalf of the Association:

(a) Provide services to the members in accordance with the Declaration, and provide for maintenance, repair and restoration of the Common Area and, to the extent provided in the Declaration, of the Lots, and as otherwise provided in the Declaration.

(b) Designate, hire, dismiss and, where appropriate, compensate the personnel necessary to provide for the maintenance, repair and restoration of the Common Area and, to the extent provided in the Declaration, of the Lots, and provide goods and services to the Owners, as well as purchase equipment, supplies and materials to be used by such personnel in the performance of their duties.

(c) Collect the assessments, deposit the proceeds thereof in depositories designated by the Executive Board and use the proceeds to carry out the maintenance, repair and restoration of the Properties to the extent the Association is so authorized by the Declaration and pursuant to the terms and conditions regarding assessments in the Declaration.



- (d) Adopt, amend and repeal any reasonable rules and regulations not inconsistent with the Declaration.
- (e) Open bank accounts on behalf of the Association and designate the signatories thereon.
- (f) Enforce by legal means the provisions of the Declaration, these Bylaws and rules and regulations as are in effect from time to time.
- (g) Act with respect to all matters arising out of any eminent domain proceeding affecting the Common Area.
- (h) Notify the member of any litigation against the Association involving a claim in excess of ten percent (10%) of the amount of the annual budget.
- (i) Obtain and carry appropriate insurance and pay the premiums therefore and adjust and settle any claims there under.
- (j) Pay the costs of all authorized goods and services rendered to the Association and not billed to Owners of Lots or otherwise provided for in the Declaration.
- (k) Acquire, hold and dispose of Lots and mortgage the same without the prior approval of the Association if such expenditures and hypothecations are included in the budget.
- (l) Charge reasonable fees for the use of the Common Area and for services, including without limitation, to charge reasonable admission and other fees for the use of any recreational facility located upon the Common Area provided, however that any such fees shall be charged uniformly to all Lot Owners, including any charges made for persons to whom an owner has delegated the Owner's right to enjoyment of the Common Area and facilities pursuant to Section 2.10 hereof.
- (m) Suspend the right of any Owner or other occupant of a Lot, and the right of such Owner's or occupant's household, guest, employees, customers, tenants, agents and invitees to use any recreational facilities, areas or amenities located in the Common Area, including without limitation, to suspend the aforementioned rights as specified in Section 2.7(c).
- (n) Prepare an annual budget.
- (o) Adopt an annual budget and make assessments (general or special), against the Owners to defray the common expenses of the Association, establish the means and methods of collecting such assessments from the Owners and establish the period of the installment payment, if any, of the assessments for common expenses.
- (p) Borrow money on behalf of the Association when required for any valid purpose.

(q) Grant easements, rights-of-ways or licenses over and through the Common Area as may be determined necessary or desirable by the Executive Board.

Section 4.7. Meeting of Directors.

(a) Regular Meetings. A regular meeting of the Executive Board shall be held immediately after, and at the same place as, the annual meeting of members. In addition, the Executive Board may provide, by resolution, the time and place, either within or without the State of North Carolina, for the holding of additional regular meetings.

(b) Special Meetings. Special meetings of the Executive Board may be called by or at the request of the Chairperson of the Board, if any, the President or any two (2) directors. Such meetings may be held either within or without the State of North Carolina.

(c) Notice of Meetings. Regular meetings of the Executive Board may be held without notice. The person or persons calling a special meeting of the Executive Board, at least two (2) days before the meeting, shall give notice thereof by any usual means of communication. Such notice need not specify the purpose for which the meeting is called. Any duly convened regular or special meeting may be adjourned by the directors to a later time without further notice.

Notwithstanding the foregoing provisions of this Section, notice for any meeting of directors shall be made as may be required otherwise by the North Carolina Nonprofit Corporation Act, including without limitation, meetings of directors where any of the following matters are to be approved: (a) amendment to the corporation's Articles of Incorporation or Bylaw, (b) plan of merger or dissolution, or (c) a sale of assets other than in the regular course of the Association's activities.

(d) Waiver of Notice. Any director may waive notice of any meeting before or after the meeting. The waiver must be in writing, signed by the director entitled to the notice, and delivered to the Association for inclusion in the minutes or filing with the corporate records. The attendance by a director at, or the participation of a director in, a meeting shall constitute a waiver of any required notice of such meeting, unless the director, at the beginning of the meeting (or promptly upon the director's arrival thereat), objects to holding the meeting or to transacting any business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

(e) Presumption of Assent. A director of the Association who is present at a meeting of the Executive Board or at a meeting of any committee of the Executive Board at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless (a) such director objects at the beginning of the meeting (or promptly upon the director's arrival thereat) to holding the meeting or to transacting any business at the meeting, or (b) such director's contrary vote is recorded or such director's dissent or abstention from the action taken otherwise is entered in the minutes of the meeting, or (c) such director files written notice of dissent or abstention to such action with the person presiding at the meeting before the adjournment thereof or forwards such notice by registered mail to the Secretary of the Association immediately after the adjournment of the meeting. Such right of dissent or abstention is not available to a director who voted in favor of the action taken.



Section 4.8. Action by Directors Without Meeting. Action required or permitted to be taken at a meeting of the Executive Board may be taken without a meeting if the action is taken by all members of the Board and evidenced by one (1) or more written consents signed by each director before or after such action, describing the action taken, and delivered to the Secretary of the Association for inclusion in the minutes or filing with the corporate records.

Section 4.9 Hearing Procedure. Except as authorized and permitted by the Declaration, the Executive Board shall not impose a fine or penalty, undertake permitted remedial action, suspend voting or infringe upon other rights of a member or other occupant for violations of the Declaration, the Bylaws, and the Association's rules and regulations unless and until the following procedure is followed:

(a) Demand. Written demands to cease and desist from an alleged violation shall be served upon the alleged violator specifying (i) the alleged violation; (ii) the action required to abate the violation; and (iii) a time period, not less than ten (10) days, during which the violation may be abated without further sanction, if such violation is a continuing one, or a statement that any further violation may result in the imposition of a sanction after notice and hearing if the violation is not continuing.

(b) Notice. At any time within twelve (12) months following such demand, if the violation continues past the period allowed in the demand for abatement without penalty or if the same rule is subsequently violated, the Board or its delegate shall serve the violator with a written notice of a hearing to be held by the Covenants Committee if such committee is appointed, and if not the Executive Board of the Association in executive session. The notice shall contain: (i) the nature of the alleged violation; (ii) the time and place of the hearing, which shall not be less than ten (10) days from the giving of the notice; (iii) an invitation to attend the meeting and produce any statement, evidence and witness on his or her behalf; and (iv) the proposed sanction to be imposed. The notice prescribed herein may be served by mailing a copy of said notice to the alleged violator by placing said notice in the United States mail, postage prepaid, by any method as permitted for the service of summons set forth in Rule 4 of the North Carolina Rules of Civil Procedure or by the delivery of said notice by any officer, director or agent of the Association to the alleged violator or to any person who may be served on the alleged violator's behalf as provided in said Rule 4.

(c) Hearing. The hearing shall be held in executive session of the Covenants Committee, if such committee is appointed, or if not the Executive Board of the Association pursuant to the notice affording the member a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director or agent who deliver such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed. In addition, a written statement of the results of the hearing and the sanction, if any, imposed shall be mailed by the United States mail, postage prepaid, by the Association to the violator.



(d) Appeal. Following a hearing before the Covenants Committee of the Association, if such committee is appointed, the violator shall have the right to appeal the decision to the Executive Board. To perfect this right, a written notice of appeal must be received by the managing agent of the Association, President or Secretary of the Association within thirty (30) days following the hearing date, said written notice to contain information by which the Executive Board may notify the alleged violator of the date of the appeal hearing. If no Covenants Committee is appointed by the Executive Board, no right of appeal shall exist.

## ARTICLE V

### MANAGING AGENT

Section 5.1. Compensation. The Executive Board may employ for the purpose of administering the Condominium a "managing agent" at a compensation to be established by the Board.

Section 5.2. Requirements. The managing agent shall be a bona fide business enterprise, which manages common interest communities. Such firm or its principals shall have a minimum of two (2) years experience in community association management and shall employ persons possessing a high level of competence in the technical skills necessary to properly manage the Properties and the Association. The managing agent must be able to advise the Executive Board regarding the administrative operation of the Properties and the Association and shall employ personnel knowledgeable in the areas of insurance, accounting, contract negotiation, and property management. Otherwise, the managing agent may be a full-time employee of the Association who shall organize, staff, train and administer the in-house personnel solely to manage the Properties and the Association.

Section 5.3. Duties. The managing agent shall perform such duties and services, as the Executive Board shall direct. Such duties and services may include, without limitation, the duties listed in Section 4.6(a), (b), (c), (f), (j), and (n). However, the Executive Board may not delegate to the managing agent the powers set forth in Section 4.6(d), (e), (g), (h), (i), (k), (l), (m), (o), (p), and (q).

Section 5.4. Standards. The Executive Board shall impose appropriate standards of performance upon the managing agent. Unless the managing agent is instructed otherwise by the Executive Board:

(a) the cash method of accounting shall be employed and expenses required by these Bylaws to be charged to one (1) or more but less than all Owners shall be accounted for and reported separately;

(b) two (2) or more individuals shall be responsible for handling cash to maintain adequate financial control procedures;

(c) cash account of the Association shall not be commingled with any other entity's accounts;

(d) no remuneration shall be accepted by the managing agent from vendors, independent contractors or others providing goods or services to the Association whether in the form of commissions, finder fees, service fees or otherwise; any discounts received shall benefit the Association;

(e) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Executive Board;

(f) a financial report shall be prepared for the Association at least quarterly, containing: (i) an "income statement" reflecting all income and expense activity for the preceding period on an accrual basis; (ii) an "account activity statement" reflecting all receipt and disbursement activity for the preceding period on a cash basis; (iii) an "account status report" reflecting the status of all accounts in an "actual" versus "projected" (budget) format; (iv) a "balance sheet" reflecting the financial condition of the obligations which are in excess of budgeted amounts by an amount exceeding the operating reserves or ten percent (10%) of a major budget category (as distinct from a specific line item in an expanded chart of accounts); and (vi) a "delinquency report" listing all Owners who are delinquent in paying assessments and describing the status of any actions to collect such assessments; and

(g) the managing agent, upon termination of such agent's contact with the Association by either party, shall, within five (5) business days of such termination, turn over all books and records of the Association held by such managing agent to the President or Secretary of the Association

## ARTICLE VI

### OFFICERS

Section 6.1. Number and Qualification. The officers of the Association shall consist of a Chairperson of the Board, if any, a President, one (1) or more Vice Presidents, a Secretary, a Treasurer and such Assistant Secretaries, Treasurers and other officers as the Executive Board from time to time may elect. All officers shall be Owners, officers or corporate Owners, partners or partnership Owners, or members of limited liability company Owner and shall be members of the Executive Board. Any two (2) or more offices may be held by the same person, except that no officer may act in more than one (1) capacity where action of two (2) or more officers is required.

Section 6.2. Election and Term. The officers of the Association shall be elected by the Executive Board. Such elections may be held at any regular or special meeting of the Board. Each officer shall hold office for a term of one (1) year or until such officer's death, resignation, retirement, removal or disqualification, or until the election and qualification of such officer's successor.

Section 6.3. Removal and Resignation. Any officer or agent may be removed by the Executive Board at any time with or without cause; but such removal shall be without prejudice to the contract rights, if any, of the person so removed. An officer may resign at any time by notifying the Association, orally or in writing, of such resignation. A resignation shall be effective upon receipt by the Association unless it specifies in writing a later effective date. In the event a resignation so specifies a later effective date,

the Executive Board may fill the pending vacancy prior to such date; however, the successor to the resigning officer may not take office until the effective date. An officer's resignation does not affect the Association's contract rights, if any, with such officer.

Section 6.4. Vacancies. A vacancy in any office may be filled by appointment by the Executive Board. The individual appointed to fill a vacancy shall serve for the remainder of the term of the officer such individual replaces.

Section 6.5. Chairperson of the Board. There may be a Chairperson of the Executive Board elected by the directors from their number at any meeting of the Board. The Chairperson, if elected, shall be an officer of the Association and shall preside at all meetings of the Executive Board and perform such other duties as may be directed by the Board.

Section 6.6. President. The President shall be the principal executive officer of the Association and, subject to the control of the Executive Board, shall supervise and control the management of the Association in accordance with these Bylaws. The President, when present, shall preside at all meetings of members. The President, with any other proper officer, may sign any deeds, leases, mortgages, bonds, contracts or other instruments which lawfully may be executed on behalf of the Association, except where required or permitted by law otherwise to be signed and executed and except where the signing and execution thereof shall be delegated by the Executive Board to some other officer or agent. In addition, the President shall prepare, execute, certify and record amendments to the Declaration on behalf of the Association. In general, the President shall perform all duties incident to the office of President and such other duties as from time to time may be assigned by the Executive Board.

Section 6.7. Vice President. In the absence of the President or in the event of the President's death, inability or refusal to act, the Vice Presidents in the order of their length of service as Vice Presidents, unless otherwise determined by the Executive Board, shall perform the duties of the President, and when so acting shall have all the powers of and be subject to all the restrictions upon the President. Any Vice President shall perform such other duties as from time to time may be assigned by the President or by the Executive Board.

Section 6.8. Secretary. The Secretary shall: keep the minutes of all meetings of the Association and of the Executive Board; have charge of such books and papers as the Board may direct and as may be required by Article 16 of the North Carolina Nonprofit Corporation Act; give or cause to be given all notices required to be given by the Association; give each Owner notice of each assessment against such Owner's Lot as soon as practicable after assessment is made; provide for each Owner, upon request, a copy of the rules and regulations of the Association; maintain a register setting for the place to which all notices to members hereunder shall be delivered; make it possible for any member to inspect and copy at reasonable times and by appointment the records of the Association in accordance with and as required by the North Carolina Nonprofit Corporation Act; and, in general, perform all the duties incident to the office of Secretary.

Section 6.9. Assistant Secretaries. In the absence of the Secretary or in the event of the Secretary's death, inability or refusal to act, the Assistant Secretaries in the order of their length of service as Assistant Secretaries, unless otherwise determined by the Executive Board, shall perform the duties of the Secretary, and when so acting shall have all the powers of and be subject to all the restrictions upon the Secretary. Assistant Secretaries shall perform such other duties as from time to time may be assigned by the Secretary, by the President, or by the Executive Board.

Section 6.10. Treasurer. The Treasurer shall have custody of all funds and securities belonging to the Association and shall receive, deposit or disburse the same under the direction of the Executive Board. The Treasurer shall maintain appropriate accounting records as may be required by law and, in general, perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned by the President or by the Executive Board.

Section 6.11. Assistant Treasurers. In the absence of the Treasurer or in the event of the Treasurer's death, inability or refusal to act, the Assistant Treasurers in the order of their length of service as Assistant Treasurers, unless otherwise determined by the Executive Board, shall perform the duties of the Treasurer, and when so acting shall have all the powers of and be subject to all the restrictions upon the Treasurer. Assistant Treasurers shall perform such other duties as from time to time may be assigned by the Treasurer, by the President, or by the Executive Board.

## ARTICLE VII

### COMMITTEES

Section 7.1. Covenants Committee. The Executive Board may establish a Covenants Committee, and if so, shall establish such committee pursuant to Section 7.4 below.

Section 7.2. Nominations Committee. The Executive Board may establish a Nominations Committee as set forth in Section 4.3(a) of these Bylaws.

Section 7.3. Architectural Review Committee. The Executive Board may establish an Architectural Review Committee, and if so, shall establish such committee pursuant to Section 7.4 below. If established.

Section 7.4. Committees of the Board. The Executive Board, by resolution of a majority of the number of directors in office, may designate two or more directors to constitute an Executive Committee and such other committees as the Board shall deem advisable, each of which, to the extent authorized by the North Carolina Nonprofit Corporation Act and provided in such resolution, shall have any may exercise all of the authority of the Executive Board in the management of the Association. Each committee member serves at the pleasure of the Executive Board. The provisions of these Bylaws governing meetings, action without meeting, notice and waiver of notice, and quorum and voting requirements of the Executive Board apply to any committees of the Executive Board established pursuant to this Section. The designation of committee of the Executive board and the delegation thereto of the Board's authority shall not operate

to relieve the Executive Board, or any member thereof, of any responsibility imposed upon him or her by law.

Section 7.5. Other Committees. Other committees not having and exercising the authority of the Executive Board in the management of the Association may be designated by resolution adopted by a majority of the directors present at a meeting at which a quorum is present. Such committee shall have such duties and responsibilities as may be set forth in the resolution designating the committee.

## ARTICLE VIII

### INDEMNIFICATION AND COMPENSATION

#### Section 8.1. Indemnification and Insurance.

(a) Indemnification. The Association shall indemnify, to the fullest extent permitted by law and this Article, any person who is or was a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding (and any appeal therein), whether civil, criminal, administrative, arbitrative, or investigate and whether or not brought by or on behalf of the Association, by reason of the fact that such person is or was a director or officer of the Association, or is or was serving at the request of the Association as a director, officer, partner, trustee, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise or as a trustee or administrator under an employee benefit plan, or arising out of such party's activities in any of the foregoing capacities, against all liability and litigation expense, including reasonable attorneys' fees; PROVIDED, however, that the Association shall not indemnify any such person against liability or expense incurred on account of each person's activities which were at the time taken known or believed by such person to be clearly in conflict with the best interests of the Association or if such person received an improper personal benefit from such activities. The Association likewise shall indemnify any such person for all reasonable costs and expenses (including attorneys' fees) incurred by such person in connection with the enforcement of such person's right to indemnification granted herein.

The Association shall pay all expenses incurred by any claimant hereunder in defending a civil or criminal action, suit, or proceeding as set forth above in advance of the final disposition of such action, suit, or proceeding upon receipt of and undertaking by or on behalf of such claimant to repay such amount unless it ultimately shall be determined that such claimant is entitled to be indemnified by the Association against such expenses.

The Executive Board of the Association shall take all such action as may be necessary and appropriate to authorize the Association to pay the indemnification required by this Bylaw, including without limitation, (a) a determination by a majority vote of disinterested directors (i) that the activities giving rise to the liability or expense for which indemnification is requested were not, at the time taken, known or believe by the person requesting indemnification to be clearly in conflict with the best interests of the Association and (ii) that the person requesting indemnification did not receive an improper personal benefit from the activities giving rise to the liability or expense for which indemnification is requested, and (b) to the extent needed, giving notice to the members of the Association.

Any person who at any time after the adoption of this Bylaw serves or has served in any aforesaid capacity for or on behalf of the Association shall be deemed to be doing or to have done so in reliance upon, and as consideration for, the right of indemnification provided herein. Such right shall inure to the benefit of the legal representatives of any such person and shall not be exclusive of any other rights to which such person may be entitled apart from the provision of this Bylaw.

(b) Directors and Officers Liability Insurance. The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, an officer, a member of a committee and the managing agent, if any, against any liability asserted against such person and incurred by such person in any such capacity or arising out of such person's status as such, whether or not the Association would have the power to indemnify such person against such liability under the provisions of this Section. Further, the availability of the Association's indemnity shall not relieve any insurer of any liability under an insurance policy held by the Association.

Section 8.2. Compensation of Directors and Officers. No salary or other compensation shall be paid by the Association to any director or officer of the Association for serving or acting as such, but this shall not preclude the payment of salary or other compensation for the performance by any person serving as a director or officer for services provided to the Association in a capacity other than that of director or officer nor shall it preclude the reimbursement of reasonable, ordinary and necessary expenses incurred in serving or acting as a director or officer.

## ARTICLE IX

### BOOKS AND RECORDS MAINTENANCE AND AVAILABILITY

The Association shall keep books and records as required by Article 16 of the North Carolina Nonprofit Corporation Act. The books and records of the Association shall be available for inspection by the members and their attorneys and accountants pursuant to the terms and conditions of Article 16 of the North Carolina Nonprofit Corporation Act.

## ARTICLE X

### CONTRACTS, LOANS, CHECKS AND DEPOSITS

Section 10.1. Contracts. Consistent with the purpose of the Association as set forth in the Association's Articles of Incorporation, the Executive Board may authorize any officer or officers or any agent or agents, to enter into any contract or to execute and delivery any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances. The Executive Board may enter into employment contracts on such terms and conditions, as the Board deems necessary or desirable. Any officer of the Association may be designated by Board resolution to sign a statement of common expenses on behalf of the Association.

Section 10.2. Loans. No loans shall be contracted on behalf of the Association and no evidences of indebtedness shall be issued in its name unless authorized by a

resolution of the Executive Board. Such authority may be general or specific in nature and scope. Notwithstanding the foregoing, no loan, guaranty, or other form of security shall be made or provided by the Association to or for the benefit of any of its directors, officers, employees, or members, if any.

Section 10.3. Checks and Drafts. All checks, drafts, or other orders for the payment of money issued in the name of the Association shall be signed by such officer or officers or such agent or agents of the Association and in such manner as from time to time shall be determine by resolution of the Executive Board.

Section 10.4. Deposits. All funds of the Association not otherwise employed from time to time shall be deposited to the credit of the Association in such depositories, as the Executive Board shall direct.

## ARTICLE XI

### GENERAL PROVISIONS

Section 11.1. Seal. The corporate seal of the Association shall consist of two concentric circles between which is the name of the Association and in the center of which is inscribed SEAL; and such seal, in the form approved and adopted by the Executive Board, shall be the corporate seal of the Association.

Section 11.2. Amendments. These Bylaws may be amended or repealed and new Bylaws may be adopted as is provided by the North Carolina Nonprofit Corporation Act.

Section 11.3. Fiscal Year. The fiscal year of the Association shall be fixed by the Executive Board.