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BY: TODD RABY

REGISTER



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MACON COUNTY, NC

TODD RABY

REGISTER OF DEEDS

NC FEE \$26.00

ADOPTED AT ANNUAL MEETING  
OF MEMBERS ON JULY 8, 1995,  
AND AMENDED ON JULY 4, 1998  
AND AMENDED ON SEPTEMBER 25, 2010  
AND AMENDED ON JULY 8, 2017

By-Laws  
Of  
Cold Springs Property Owners Association, Inc.

**ARTICLE ONE  
OFFICES**

Section 1.1. Principal Office. The principal office of the corporation (referred to herein as the "Association") shall be located at the home of whoever is, from time to time the senior officer of the Association who is a year round resident of the Cold Springs Development (referred to herein as the "Development",) in Macon County, North Carolina.

Section 1.2. Registered Office. The registered office of the Association required by law to be maintained in the State of North Carolina may be, but need not be, identical with the principal office.

Section 1.2. Other Offices. The Association may have offices at other places, either within or without the State of North Carolina, as the Board of Directors may designate or as the affairs of the Association may require from time to time.

**ARTICLE TWO  
MEMBERS**

Section 2.1. Classes of Members. There shall be one class of members.

Section 2.2. Qualification of Members. The qualifications for membership are as set forth in the Restrictive Agreement dated July 8, 1995, between the Association and the Owners described therein (here known as "Members",) which is recorded in Deed Book Z20, at Pages 2066-2075, in the

Section 2.3. Voting Rights. There shall be one natural person with respect to each Lot in the Development who shall be entitled to vote at any meeting of the Members. Such person shall be designated by the owner(s) of such Lot and shall thereafter be known and referred to as a "Voting Member." A Voting Member shall be a natural person who is either:

- (a) The sole fee simple owner of such Lot; or
- (b) If there is not a natural person who is the sole fee simple owner of such Lot, that person who has been designated the Voting Member for the owner(s).

Section 2.4. Approval or Disapproval of Matters. Whenever the Association requires a decision of its Members upon any matter, such decision shall be expressed on behalf of the membership by the Voting Members of the Association.

Except as hereinafter expressly provided, the Association shall take such action as is specified by a vote of a majority of the Voting members who vote upon such action.

The Association shall take no action regarding the expenditure of funds for capital improvements or other such capital expenditures without the affirmative approval of not less than two-thirds (2/3) of the Voting Members who vote upon such action.

With respect to the adoption of the General Operations Budget as provided in Section 3.8.J of these By-Laws, Members who own an improved Lot or upon whose Lot construction activity on a habitable dwelling has been commenced shall be entitled to the number of votes equal to the number of shares assessable against such Lot pursuant to Section 9.2.(a) hereof.

### **ARTICLE THREE MEETINGS OF MEMBERS**

Section 3.1. Annual Meeting. An annual meeting of the Members shall be held at the Stables in the Tack Room at the Development or at any other place designated by the Board on July 4 of each year if such date is a Saturday, but if not, then on the Saturday following July 4 of each year, at an hour to be set by the Board from time to time, at its discretion, for the purpose of electing directors and for the transaction of such other business as may come before the meeting. If the election of directors is not held on the day designated herein for any annual meeting, or at any adjournment thereof, the Board of Directors shall cause the election to be held at a special meeting of the Members as soon thereafter as is convenient.



Section 3.2. Special Meetings. Special meetings of the Members may be called by the President, the Board of Directors, or not less than twenty-five percent (25%) of the Voting Members, at the principal office of the Association or at such other place as the Secretary may designate. If no designation is made, the place of the meeting shall be the principal office of the Association in the State of North Carolina, but if all the Voting Members shall meet at any time and place, either within or without the State of North Carolina, and consent to the holding of a meeting, such meeting shall be valid without call or notice, and at such meeting any Association action may be taken.

Section 3.3. Notice of Meetings. Written or printed notice stating the place, day and hour of any meeting of the Members shall be delivered either personally or by mail, to each member entitled to vote at such meeting, not less than fifteen (15) nor more than thirty (30) days before the date of such meeting by or at the direction of the President, or the Secretary, or the officers or persons calling the meeting. In case of a special meeting or when required by statute or by these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. If mailed, the notice of the meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Voting Member at his address as it appears on the records of the Association, with postage thereon prepaid.

The proposed Capital Expenditures and General Operations Budgets will be submitted with the Notice of Annual Meeting, and an appointment of proxy form will accompany the same.

Section 3.4. Informal Action by Voting Members. Any action required by law to be taken at a meeting of the members, or any action that 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, is signed by all the Voting Members with respect to the subject matter thereof.

Section 3.5. Quorum. Voting Members, in person or through their proxies, holding forty percent (40%) of the votes that may be cast at any meeting shall constitute a quorum at such meeting. If a quorum is not present at any meeting of Voting members, a majority of the Voting members present may adjourn the meeting without further notice.

Section 3.6. Proxies. At any meeting of the Members, a Voting Member may vote in person or through his proxy designated by appointment of proxy executed in writing by the Voting Member or his duly authorized attorney in fact. No appointment of proxy shall be valid after six (6) months from the date of its execution unless otherwise provided in the appointment of proxy.

Section 3.7. Voting by Mail. When directors or officers are to be elected by members, or when a Capital Expenditures Budget or General Operations Budget are to be voted upon, such election and/or vote(s) may be conducted by mail in such manner as the Board of Directors shall determine.

Section 3.8. Order of Business. The order of business at all annual meetings shall be as follows:

- A. Roll Call;
- B. Proof of Notice of Meeting;
- C. Adoption of Minutes of Previous Meeting;
- D. Reports of Officers;
- E. Reports of Committees;
- F. Appointment of Inspectors of Election;
- G. Election of Directors;
- H. Unfinished Business;
- I. Capital Expenditures Budget;
- J. General Operations Budget;
- K. New Business; and
- L. Adjournment.

The order of business of all special meetings shall be determined by the Secretary of the Association.

#### **ARTICLE FOUR BOARD OF DIRECTORS**

Section 4.1. General Powers. The affairs of the Association shall be managed by its Board of Directors. Directors need not be residents of the State of North Carolina, but each director shall be vested with a possessory interest in a Lot for which the owner thereof is a member of the Association.

Section 4.2. Number, Tenure and Qualifications. The number of directors shall be no less than five (5) and no more than seven (7). Directors shall be elected at the annual meeting of the members, and the term of office of each director shall be two (2) years commencing immediately after his or her election and running until the election and qualification of his or her successor. No person may be elected a director unless he or she is a member of this Association in good standing. No person who has been elected to two consecutive terms may be elected to serve again until he or she has been off the Board for at least one year.

Section 4.3. Regular Meetings. A regular meeting of the Board of Directors shall be held without any notice other than this By-Law immediately after, and at the same place as, the annual meeting of Members. The Board of Directors may provide, by resolution, the time and place for holding additional regular meetings without notice other than such resolution. Additional regular meetings shall be held at the principal office of the Association in the absence of any contrary designation in the resolution.



Section 4.4 Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the President or any three directors, and shall be held at the principal office of the Association or at such other place as the directors may determine.

Section 4.5. Notice. Notice of any special meeting of the Board of Directors shall be given at least twenty (20) days prior thereto by written notice delivered personally or sent by mail or telegram to each director at his address as shown by the records of the Association. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail in a sealed envelope so addressed, with postage thereon prepaid. If notice is given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. Any director may waive notice of any meeting. The attendance of a director at any meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. The business to be transacted at the meeting need not be specified in the notice or waiver of notice of such meeting, unless specifically required by law or by these By-Laws.

Section 4.6. Quorum. A majority of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board; but if less than a majority of the directors are present at any meeting, a majority of the directors present may adjourn the meeting without further notice.

Section 4.7. Board Decisions. The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by law or by these By-Laws.

Section 4.8. Committees. (a) Committees of Directors. The Board of Directors, by resolution adopted by a majority of the directors in office, may designate one or more committees, each of which shall consist of one or more directors, which J committees, to the extent provided in such resolution, shall have and may exercise the authority of the Board of Directors in the management of the Association; but the designation of such committees and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any individual director, of any responsibility imposed on it or him or by law.

(b) Other Committees. Other committees not having and exercising the authority of the Board of Directors in the management of the Association may be designated by a resolution adopted by a majority of the directors present at a meeting at which a quorum is present. Except as otherwise provided in such resolution, members of each such committee shall be members of the Association, and the president of the Association shall appoint the members thereof. Any member thereof may be removed by the person or persons authorized to appoint such member whenever in their judgment the best interests of the Association shall be served by such removal.

Section 4.9. Vacancies. Any vacancy occurring in the Board of Directors and any directorship to be filled by reason of an increase in the number of directors shall be filled by the Board of Directors. A director appointed to fill a vacancy shall serve for the unexpired term of his predecessor in office.

## **ARTICLE FIVE OFFICERS**

Section 5.1. Officers. The officers of the Association shall be a President, Vice-President, Secretary, Treasurer and such other officers as may be elected in accordance with the provisions of this Article. The Board of Directors may elect or appoint such other officers, including one or more assistant secretaries and one or more assistant treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed, from time to time, by the Board of Directors. Any two or more offices may be held by the same person, except the offices of President and Secretary.

Section 5.2. Election and Term of Office. The officers of the Association shall be elected annually by the Board of Directors at the regular annual meeting of the Board of Directors. If the election of officers is not held at such meeting, such election shall be held as soon thereafter as is convenient. New offices may be created and filled at any meeting of the Board of Directors. Each officer shall hold office until his successor has been duly elected and qualified.

Section 5.3. Removal. Any officer elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interests of the Association would be served thereby.

Section 5.4. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors for the unexpired portion of the term.

Section 5.5. Powers and Duties. The several officers shall have such powers and shall perform such duties as may from time to time be specified in resolutions or other directives of the Board of Directors. In the absence of such specifications, each officer shall have the powers and authority and shall perform and discharge the duties of officers of the same title serving in nonprofit corporations having the same or similar general purposes and objectives as this corporation.

## **ARTICLE SIX CONTRACTS, CHECKS, DEPOSITS AND FUNDS**

Section 6.1. Contracts. The Board of Directors may authorize any officer or officers, agent or agents of the Association, in addition to the officers so authorized by these By-Laws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of



the Association, and such authority may be general or may be confined to specific instances. Except upon an affirmative vote of the Members, as specified in Section 2.4., no non-budgeted expense in excess of \$15,000 may be expended by the Board of Directors in any one Budget Year.

Section 6.2. Checks, Drafts or Orders. All checks, drafts or orders for payment of money, notes or other evidences of indebtedness issued in the name of the Association shall be signed by such officer or officers, agent or agents of the Association, and in such manner as shall from time to time be determined by resolution of the Board of Directors. In the absence of such determination by the Board of Directors, such instruments shall be signed by the Treasurer or an Assistant Treasurer and countersigned by the President or a Vice-President of the Association.

Section 6.3. Deposits. All funds of the Association shall be deposited from time to time to the credit of the Association in such banks, trust companies, or other depositories as the Board of Directors may select.

Section 6.4. Gifts. The Board of Directors may accept on behalf of the Association any contribution, gift, bequest or devise for any purpose of the Association.

#### **ARTICLE SEVEN BOOKS AND RECORDS**

Section 7.1. The Association shall keep correct and complete books and records of accounts and shall also keep minutes of the proceedings of its members, Board of Directors, committees having and exercising any of the authority of the Board of Directors, and the membership committee, and shall keep at the principal office a record giving the names and addresses of the members entitled to vote. All books and records of the Association may be inspected by any member or his agent or attorney for any proper purposes at any reasonable time.

#### **ARTICLE EIGHT BUDGET YEAR**

Section 8.1. The Budget Year of the Association shall begin on July 1 of each year and end at midnight on June 30 the following year.

#### **ARTICLE NINE ASSESSMENTS**

Section 9.1. Assessments for Capital Expenditures. Each Lot to which a membership is appurtenant shall be liable to bear one (1) share of the expenses incurred for capital expenditures as authorized by the Capital Expenditures Budget provided within Section 3.8.1 hereof.

Section 9.2. Assessments for General Operations Budget. Each Lot to which a membership is appurtenant shall be liable for its share of assessments for operating expenses required by the General Operations Budget provided for in Section 3.B.J. hereof, in the following manner:

- (a) Improved Lot, or a Lot upon which construction activity upon a habitable dwelling has been commenced – 3 shares.
- (b) Unimproved Lot – 1 share

Section 9.3. Payment of Assessments. All assessments shall be due and payable on or before the 31<sup>st</sup> day of August for each year in which the assessment has been levied. Assessments shall be prorated from the first day of the month during which any hitherto non-assessable property shall be brought within the assessment authority of the Association.

Section 9.4. Delinquent Assessments. When any member is in default in the payment of an assessment for a period of thirty (30) days from the due date for which such assessment became payable, his Assessment shall be deemed delinquent.

Section 9.5. Collection of Delinquent Assessments. The Board of Directors shall be empowered to enforce the collection of all assessments provided in these By-Laws and in said Restrictive Agreement dated July 8, 1995. The Board of Directors may direct the officers, agents and attorneys of the Association to pursue in the Association's name those remedies provided for herein and in said Restrictive Agreement dated July 8, 1995, with regard to the collection of delinquent assessments.

Section 9.6. Creation of Lien. Delinquent Assessments shall bear such late charges as the Board from time to time sets, commencing on the due date of the Assessment. The said delinquent amount and accrued late charges shall be a charge and a continuing lien on the Lot against which the Assessment is made. If any Assessment is not paid within 30 days after the due date, the Association may file a claim of Lien with the Clerk of Superior Court, Macon County, North Carolina. In such instance, the services rendered by the Association for the benefit of the Lot for which the Assessment was levied shall be deemed to "improve" the Lot or create "improvement" to the Lot as defined in the General Statutes of North Carolina. The lien arising therefrom shall constitute a "lien of mechanics, laborers, and materialmen dealing with the owner" and may be perfected and enforced pursuant to the provisions of Chapter 44A or any other applicable Chapter. The lien created hereby shall not, however, be superior to any institutional mortgage or deed of trust recorded prior to the filing of the Claim of Lien. Any action to enforce the lien may, at the Association's option, include the collection of Assessments levied of the delinquent Assessments.



**ARTICLE TEN  
SEAL**

Section 10.1. The corporate seal shall be the same as that impressed to the right of this Article Ten.

**ARTICLE ELEVEN  
WAIVER OF NOTICE**

Section 11.1. Whenever any notice is required to be given under the provision of Chapter 55A of the General Statutes of North Carolina, or under the provisions of the Articles of Incorporation or the By-Laws of the Association, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

**ARTICLE TWELVE  
RULES**

Section 12.1. Adoption of Rules. The Board of Directors shall have the power to adopt from time to time Rules for the operation of the Association and its property, so long as such Rules do not conflict with the Articles of Incorporation, the By-Laws or the Restrictive Deed Covenants in effect at the time of adoption of the Rules.

Section 12.2. Enforcement of Rules. Such Rules may be enforced by the Association in a proceeding at law or in equity against any person or entity violating or attempting to violate any Rule, either to restrain such violation or to recover damages. The failure by the Association of any Member to enforce any Rule for any period of time shall not be deemed a waiver or estoppel of the right to enforce such Rule thereafter.

Section 12.2. Severability. Should any such Rule be declared unenforceable, for any reason, by the adjudication of any court or other tribunal, such judgment shall not affect the other provisions of such Rules, which shall be severable and which shall remain in full force and effect.

Section 12.3. Variances. Variances from any Rule must be obtained in advance from the Board of Directors in writing.

**ARTICLE THIRTEEN  
AMENDMENT OF BY-LAWS**

Section 13.1. These By-Laws may be altered, amended or repealed and new By-Laws may be adopted by a majority of the members present at any regular meeting or at any special meeting, if at least fifteen (15) days written notice is given of intention to alter, amend or repeal or to adopt new By-Laws at such meeting.


**ARTICLE FOURTEEN  
IDEMNIFICATION OF DIRECTORS AND OFFICERS**

Section 14.1. (a) Except to the extent from time to time prohibited by law, the Association shall indemnify and hold harmless any director or officer of the Association against any and all liabilities and reasonable litigation expenses, including attorneys' fees, incurred by such person in connection with any action, suit, or proceeding, whether civil, criminal, administrative or investigative, in which he or she is made or threatened to be made a party by reason of being or having been such director or officer. The term "liabilities" shall include any payments in satisfaction of any judgment, money decree, fine, excise tax or penalty, and amounts paid in settlement of any claim, action or proceeding, subject to the provisions of (c) below. The term "reasonable litigation expenses" shall include reasonable costs and expenses and attorneys' fees and expenses actually incurred in connection with the enforcement of the rights to indemnification granted hereby or by applicable law, if such enforcement is successful in whole or in part.

(b) To the fullest extent from time to time permitted by law, the Association shall pay to any such director or officer expenses, including attorneys' fees and expenses, incurred in defending any such action or proceeding in advance of the final disposition of such action, suit or proceeding.

(c) The Association shall not be liable to indemnify any person for amounts paid in settlement of any claim, action or proceeding affected without the consent of the Board of Directors. The Board of Directors will not unreasonably withhold its consent to any proposed settlement.

(d) Any person who has served as a director or officer for or on behalf of the Association shall be deemed to be doing so in reliance on, and as consideration for, the rights of indemnification provided herein. The rights of indemnification provided herein shall inure to the benefit of any such person whether or not he or she is an officer or director at the time such liabilities or expenses are imposed or incurred and in the event of death shall be extended to the legal representative of such director or officer. The rights of indemnification provided herein shall be in addition to and not exclusive of any other rights to which such person may be entitled under any statute, agreement, insurance policy or otherwise.

  
Sumter Bradwell  
CSPOA Board Secretary

LESLIE A. COOK  
Notary Public, North Carolina  
Macon County  
My Commission Expires  
October 04, 2023

Macon County County, North Carolina  
I certify that the following person(s) personally appeared before me  
this day, each acknowledging to me that he or she voluntarily signed  
the foregoing document for the purpose stated therein and in the  
capacity indicated.

Sumter Bradwell  
Name of Principal(s)

Date: 9/18/2020

Leslie A. Cook  
Official Signature of Notary Public

Leslie A. Cook Notary Public  
Notary's printed or typed name

My Commission Expires October 4, 2023