

BYLAWS  
OF  
HARWICK/BRIDGEPORT HOMEOWNERS' ASSOCIATION, INC.

ARTICLE ONE

NAME, SEAL AND OFFICES

**Section 1. Name.** The name of this corporation is HARWICK/BRIDGEPORT HOMEOWNERS' ASSOCIATION, INC. ("the Association").

**Section 2. Seal.** The seal of the Association shall be circular in form and shall bear the words "CORPORATE SEAL." The Board of Directors may change the form of the seal or the inscription thereon at its pleasure.

**Section 3. Offices.** The principal office of the Association shall be at 1045 Burke Street, Winston-Salem, Forsyth County, North Carolina 27101 or at such other place as the Board of Directors may from time to time designate.

ARTICLE TWO

DEFINITIONS

**Section 1. Plan of Ownership.** The real properties located in the County of Forsyth, and State of North Carolina, as shown on the maps described on Exhibit A, have been subjected to the provisions of a certain Declaration of Covenants, Conditions and Restrictions dated the \_\_\_\_ day of July, 1995, recorded in Deed Book \_\_\_\_\_ Page \_\_\_\_\_, Forsyth County Registry (the "Declaration"), by Developer and has been subdivided into Lots and Common Properties in accordance with the maps, creating a system of ownership of the Lots, and assessments for the maintenance and operation of the Common Properties in accordance with the Declaration.

**Section 2. Applicability of Bylaws.** The provisions of these Bylaws are applicable to the property subject to the Declaration and any other property which the Association may acquire from time to time and to the use and occupancy thereof.

**Section 3. Personal Application.** All present and future Lot Owners, trust beneficiaries, mortgagees, lessees, and occupants of the Lots, and their employees, and any other person who may use any portion of any property owned by the Association in any manner are subject to these Bylaws, the Declarations, and to the Rules and Regulations established by the Board as hereinafter set forth. The acceptance of a deed of conveyance or the entering into a lease or the act of occupancy of a Lot shall constitute an agreement that these Bylaws, the Rules and Regulations, and the provisions of the Declaration, as they may be amended from time to time, are accepted, ratified and will be complied with.

**Section 4. Other Declarations.** The following words, when used in the Declaration, any amended or supplemental Declaration, or these Bylaws or any amendment hereto (unless the context shall require otherwise), shall have the following meanings:

- (a) "Assessments" or "assessments" or "Common Charges" shall mean and refer to the assessments and charges levied against the Owners of Lots in the Property, as hereinafter defined, and the words assessments or Assessment shall have the same meaning as "Common Charges."
- (b) "Association" shall mean and refer to Harwick/Bridgeport Homeowners' Association, Inc. and "Bylaws" shall mean and refer to the Bylaws of the Association.
- (c) "Board" shall mean and refer to the Board of Directors of the Association.
- (d) "C.B." shall mean and refer to C.B. Development Company, Inc.
- (e) "Common Expenses" shall mean and refer to:
  - (1) All amounts expended by the Association in the operating, administering, managing, repairing, replacing and improving the streets or Common Properties, including, without limitation, costs of utilities; all amounts expended by the Association in insuring the streets or Common Properties; all amounts expended by the Association in legal, engineering or architectural fees; all similar fees which may be incurred by the Association from time to time in performing the functions delegated to the Association by the Declaration; and all amounts expended in any form by the Association in enforcing any provision of the Declaration, the Articles of Incorporation of the Association (the "Articles") or these Bylaws.
  - (2) All amounts expended by the Association in carrying out any duty or discretion as may be required or allowed by the Declaration, the Articles, or these Bylaws.
  - (3) All amounts declared to be Common Expenses in the Declaration or these Bylaws.
  - (4) All taxes and special assessments which may be levied from time to time by any governmental authority upon the Common Properties.
- (f) "Common Properties" shall mean and refer to that portion of the Property (as hereinafter defined) described on Exhibit B attached hereto, and the improvements located thereon, together with any and all other real property hereinafter acquired by the Association.
- (g) "Developer" shall mean and refer collectively to C.B., Grover Shugart, Jr., Brian D. Shugart and James O. Yopp, Jr., and any person or entity who is specifically assigned all or a portion of the rights and interests of Developer hereunder.
- (h) "Living Area" shall mean and refer to those heated and/or air-conditioned areas within a Living Unit which shall not include garages, carports, porches, patios, storage areas, breezeways, terraces or unfinished basements.

- (i) "Living Unit," "dwelling" or "building" shall mean and refer to any building or portion of a building situated upon any Lot which is part of the Property, designed and intended for use and occupancy as a residence by a single family.
- (j) "Lot" shall mean and refer to any plot of land within the property shown upon any recorded subdivision plat of the Property or any portion thereof, with the exception of Common Properties as heretofore defined.
- (k) "Member" shall mean and refer to all those Owners who are members of the Association.
- (l) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot situated upon the Property; but notwithstanding any applicable theory of any lien or mortgage law, shall not mean or refer to any mortgagee or trust beneficiary unless and until such mortgagee or trust beneficiary has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.
- (m) "Property" shall mean and refer to all of that certain real property located in Forsyth County, North Carolina, as more particularly described on Exhibit A attached hereto.
- (n) "Shugart" shall mean and refer to Shugart Enterprises. Inc.

### ARTICLE THREE

#### MEMBERSHIP CLASSIFICATION

**Section 1. Membership Classes.** The Association shall have two (2) membership classes:

- (a) "Class A Members" - The Class A Members shall consist of all of the Owners of Lots other than Developer. Each Class A Member shall be entitled to one (1) vote for each Lot owned; provided, however, when more than one (1) person or entity holds an interest in a given Lot, all such persons shall be Members, and the vote for such Lot shall be as provided in Article Five, Section 3.
- (b) "Class B Members" - The Class B Members shall be any of the Developer, C.B. and/or Shugart, each of which shall be entitled to three (3) votes for each Lot owned.

**Section 2. Assessments.** The rights of membership are subject to the payment of annual and special assessments levied by Association, the obligation of which assessments is imposed against each Owner of, and becomes a lien upon, the Lot or Lots against which such assessments are made, and further becomes the personal obligation of the then Member as provided by Article Six of the Declaration pursuant to the terms therein.

The amount of the initial general assessment for the period through December 31, 1995 shall be \$300 per Lot which shall be due and payable on a prorated basis by an Owner upon the sale of a Lot by Developer and/or C.B. and/or Shugart to a Class A Member; provided, however, that no Lot owned by a Class B Member shall be subject to an annual assessment unless and until such Lot is occupied, at which time the assessment shall be increased to the same annual assessment as Class A Members.

**Section 3. Maximum Annual Assessment.** Commencing January 1, 1996, the maximum annual assessment shall be established by the Board and unless otherwise provided in the Declaration or these Bylaws, and may be increased by the Board without approval of the Members by an amount not to exceed ten percent (10%) of the maximum assessment of the previous year. The maximum assessment may be increased without limit by a vote of two-thirds (2/3) of the votes of Members who are voting, in person by proxy, at a meeting duly called for this purpose.

**Section 4. Special Assessments for Capital Improvements.** In addition to the annual assessments authorized above, the Association may levy, in any calendar year, a special assessment against Lots for such reasons as are provided in the Articles, the Declaration or these Bylaws. Either the Board or the Members may levy and impose special assessments upon a majority vote; provided, however, with respect to the Members, the special assessment may only be levied and imposed by a majority vote of each class of Members. The purposes for which special assessments may be levied include, but are not limited to, providing funds to pay the Common Expenses in excess of the general assessment fund then on hand to pay same and providing a fund for capital improvements and extraordinary expenses. Payment of any special assessment is due within thirty (30) days from the date of such billing. Any Owner late in paying such bill will be personally liable for, and such owner's Lot will be subject to a lien for, penalties, late charges and any other expenses incurred in the collection of said bill.

**Section 5. Date of Commencement of Annual Assessments.** The initial general assessment as to a Lot shall be due and payable in full by an Owner upon the sale of a Lot by Developer to an Owner. The annual general assessment as to said Lot shall thereafter be due and payable in full by the later of (a) January 1 of each year, or (b) fifteen (15) days after the amount of the general assessment is set by the Board and notice is given to the Owners.

**Section 6. Due Dates.** The Board shall annually set the amount of the annual assessment against each Lot and send written notice of each assessment to every member subject thereto. The due dates for such assessments shall be as set forth in Section 5 above.

The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specific Lot have been paid.

The due date of any special assessment under Section 4 hereof, or any assessments against any particular Lot(s) permitted by these Bylaws or the Declaration, shall be fixed in the resolution authorizing such assessment.

**Section 7. Effect of Non-Payment of Assessments, Remedies of the Association.** In addition to all other enforcement and remedy provisions set forth in these Bylaws and all other remedies, legal or equitable, in the case of failure of an Owner to comply with the terms and provisions of this Article III, the following relief shall be available:

- (a) The Association, an aggrieved Owner or Owners, on behalf of the Association, or any Owner on behalf of all the Owners shall have the right to bring an action and recover sums due, damages, injunctive relief, and/or such other and further relief as may be just and appropriate;
- (b) The Association shall have the right to remedy the violation and assess the costs of remedying same against the offending Owner as a special assessment.

- (c) Upon an Owner's failure to pay any general or special assessment, the Association shall have the right to suspend such Owner's voting rights and the use by such Owner, his agents, employees and invitees of the Common Properties for any period during which an assessment against the Owner, or the Owner's Lot, remains unpaid.

The remedies provided in this Article are cumulative, and are in addition to any remedies provided by law. The failure of the Association or any person to enforce any restriction or obligation contained herein, in the Declaration or the Articles shall not be deemed to waive the right to enforce such restrictions or obligations thereafter as to the same violation or subsequent violation of similar character.

The Association may avail itself of any and all remedies set forth above without hearing, and no formal hearing procedures are herein established.

## ARTICLE FOUR

### PURPOSES AND POWERS

The Association shall operate on a not-for-profit basis in accordance with its Articles. The Association will not provide pecuniary gain or profit, direct or indirect, to its Members. The purposes for which it is formed are:

**Section 1. General.** To promote the recreation, health, safety and welfare of the residents within the Property, and for this purpose to:

- (a) Own, acquire, lease, build, operate and maintain the Common Properties;
- (b) Maintain unkept lands or trees;
- (c) Supplement municipal services;
- (d) Fix Assessments to be levied against the Common Properties;
- (e) Enforce any and all covenants, restrictions and agreements applicable to the Property;
- (f) Pay taxes, if any, on the Common Properties; and
- (g) Insofar as permitted by law, to do any other thing that, in the opinion of the Board will promote the common benefit and enjoyment of the residents of the Property.

**Section 2. Dispose of Assets.** To mortgage, pledge, hypothecate or otherwise grant any form of security interest in and to its properties or accounts receivable, and to dispose of its assets; provided that upon dissolution, the assets shall be dedicated to an agency or utility to be devoted, as nearly as practicable, to purposes the same as those to which they were required to be devoted by the Association. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted as nearly as practicable to purposes the same as those to which they were required to be devoted by the Association. No such disposition of Association properties shall be effective to divest or diminish any right or title of any Member vested in him under the recorded covenants and

deeds applicable to the Property unless made in accordance with the provisions of such covenants and deeds.

**Section 3. Mergers and Consolidations.** Subject to the provisions of the recorded covenants and restrictions applicable to the Property, as described in the Declaration, and to the extent permitted by law, the Association may participate in mergers and consolidations with other non-profit corporations organized for the same purposes, provided that any such merger or consolidation shall have the assent of sixty-seven percent (67%) of the votes of each class of Members eligible to vote at a meeting duly called for this purpose, written notice of which shall be mailed to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

**Section 4. Mortgages; Other Indebtedness.** The Association shall have the power to mortgage or grant deeds of trust (hereinafter referred to as "mortgages") on the Common Properties only to the extent authorized in this Section 4. The total debts of the Association, including the principal amount of such mortgages, outstanding at any time, shall not exceed the total of two (2) years' annual Assessments established at that time, provided that authority to exceed said maximum in any particular case may be given by an affirmative vote of sixty-seven percent (67%) of the votes of each class of Members at a meeting duly called for this purpose, written notice of which shall be mailed to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

**Section 5. Dedication of Properties or Transfer of Function to Public Agency or Utility.** The Association shall have the power to dispose of the Common Properties only as authorized under the recorded covenants and restrictions applicable thereto contained in the Declaration.

**Section 6. Dissolution.** The Association may be dissolved only upon the assent given in writing and signed by the Members constituting sixty-seven percent (67%) of the members of each class eligible to vote. Written notice of a proposal to dissolve, setting forth the reasons therefor and the disposition to be made of the assets shall be mailed to every Member and mortgagee at least ninety (90) days in advance of any action taken.

**Section 7. Disposition of Assets Upon Dissolution.** Upon dissolution of the Association, the assets, both real and personal, of the Association shall be dedicated to an appropriate public agency or association to be devoted, as nearly as practicable, to purposes the same as those to which they were required to be devoted by the Association.

## ARTICLE FIVE

### MEMBERS

**Section 1. Eligibility.** Membership in the Association shall be in accordance with the Declaration.

**Section 2. Voting.** Voting shall be in accordance with the Declaration. A majority of the total votes cast at a meeting at which a quorum is present shall be binding upon all Owners for all purposes, except when a higher percentage is required by these Bylaws, the Declaration or by law.

**Section 3. Votes in the Event of Multiple Ownership of a Lot.** In the event a Lot is owned by more than one person, each such person shall be a Member; provided, however, the vote for such Lot shall be exercised as they, among themselves, shall agree, but in no event shall more than one

(1) vote or any fractional vote be cast with respect to said Lot. A co-Owner of a Lot may permit the other co-Owner of the Lot to vote his interest by furnishing the other co-Owner with a proxy. In the absence of any co-Owner, a vote for a Lot cast by a co-Owner shall be held to be by valid proxy of the absent co-Owner, unless challenged at the time the vote is cast.

**Section 4. Annual Meetings.** Annual meetings shall be held on such date each year as the Board shall determine. At each annual meeting, there shall be elected by ballot of the Owners, a Board of Directors in accordance with the provisions of Section 1 of Article Six hereof, and Members may also transact such other business as may properly come before them.

**Section 5. Place of Meeting.** Meetings of the Members shall be held at the principal office of the Association or such other suitable place convenient to the Members as may be designated by the President of the Association.

**Section 6. Special Meetings.** It shall be the duty of the President to call a special meeting of the Members when so directed by resolution of the Board of Directors or upon petition signed by not less than twenty-five percent (25%) of the aggregate of Members. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

**Section 7. Notice of Meetings.** Except as with respect to meetings pursuant to Section 11 below, it shall be the duty of the Secretary to mail a notice of each annual or special meeting of the Members, not less than ten (10) days nor more than eighty (80) days, prior to such meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Member as recorded on the records of the Association, at the Lot address or at such other address as such Member shall have designated by notice in writing to the Secretary. The mailing of a notice of meeting in the manner provided in this Section shall be considered service of notice.

**Section 8. Waiver of Notice.** Any Member may, at any time, waive notice of any meetings of the Members in writing, and such waiver shall be deemed equivalent to the giving of such notice. A Member's presence at a meeting will be considered a waiver of the right to such notice.

**Section 9. Order of Business.** The order of business at all meetings of the Members shall be, to the extent required, as follows:

- (a) Roll call;
- (b) Proof of notice of meeting or waiver of notice;
- (c) Reading of minutes of the preceding meeting;
- (d) Reports of officers;
- (e) Report of the Board of Directors;
- (f) Report of the Committees;
- (g) Election of members of the Board of Directors;
- (h) Unfinished business;
- (i) New business;
- (j) Adjournment.

**Section 10. Parliamentary Procedure.** At all meetings of the Members, or of the Board, Roberts' Rules of Order, as to such date amended, shall be followed, except in the event of conflict, these Bylaws or the Declaration, as the case may be, shall prevail.

**Section 11. Notice of Meeting for Increased General Assessments.** Written notice of any meeting for the purpose of voting for authorized general assessments in excess of the amount of general assessment permitted to be fixed by the Board shall be sent to all Members not less than thirty (30) nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of Members shall constitute a quorum. If the quorum is not present, another meeting may be called subject to the same notice requirement, and the same quorum requirement as the preceding meeting. No such subsequent meeting shall be held sooner than thirty (30) days following the preceding meeting. The determination of the validity of ballots and proxies shall be in the sole discretion of the Board.

**Section 12. Quorum.** Except as otherwise provided herein, at any meeting of Members, a majority of Members present in person or by proxy shall constitute a quorum.

**Section 13. Proxies.** At all meetings of Members, a Member may vote in person or by proxy. All proxies must be in writing and filed with the Secretary at least ten (10) days prior to any meeting for which the Member desires said proxy to be effective. No proxy shall extend beyond a period of eleven (11) months, and every proxy shall automatically cease upon a Member's sale of his Lot.

## ARTICLE SIX

### BOARD OF DIRECTORS

**Section 1. Function, Number and Qualification.** The affairs of the Common Properties and appurtenant duties of the Lots shall be operated by the Association which, in turn, shall be governed by a Board of Directors (to be not less than three (3) in number) who need not be Members. Unless and until the Members shall otherwise determine at a meeting duly noticed, the initial Board of Directors and any subsequent Board of Directors shall consist of five (5) Directors who shall hold office until the election of their successors. Each of the initial Directors shall have one (1) vote. Beginning with the first annual meeting of Members to be held on February 15, 1996, the Members shall elect the Board of Directors, which shall be divided into three (3) classes as follows: one (1) Director to serve for a term of one (1) year; two (2) Directors to serve for a term of two (2) years; and two (2) Directors to serve for a term of three (3) years. Thereafter, the successors in each class of Directors shall be elected to serve for terms of three (3) years. In the event of any increase or decrease in the number of Directors, the additional or eliminated directorships shall be so classified or chosen so that all classes of Directors shall remain or become as nearly equal in number as possible.

**Section 2. Powers and Duties.** The Board shall have the powers and duties necessary for the administration of the affairs of the Association and shall do all such acts and things as are not by law or by these Bylaws directed to be exercised and done by the Owners. Such powers and duties of the Board shall include but not be limited to, the following:

- (a) Operation, care, upkeep and maintenance of the Common Properties;
- (b) Determination of an annual budget and the Common Expenses required for the affairs of the Property;
- (c) Establishing, levying, assessing and collecting of the Assessments ("Common Charges") from the Owners;



- (d) Employment and dismissal of the personnel necessary for the maintenance, repair, replacement and operation of the Common Properties;
- (e) Opening of bank accounts in the name of the Association and designating the signatories required therefor;
- (f) Purchasing or leasing or otherwise acquiring in the name of the Association or its designee, corporate or otherwise, Lots offered for sale or lease or surrendered by their Owners to the Board or to the Association;
- (g) Purchasing of Lots, including at foreclosure or other judicial sales, in the name of the Association or its designee, corporate or otherwise;
- (h) Selling, leasing, subleasing, encumbering, mortgaging, voting the votes appurtenant to (other than for the election of members of the Board), or otherwise dealing with Lots acquired by the Association or its designee, corporate or otherwise;
- (i) Organizing corporations to act as designees of the Association in acquiring title to Lots on behalf of all Owners;
- (j) Granting of licenses over the Common Property;
- (k) Obtaining and maintaining insurance on the Property and designating a commercial bank, insurance company or similar institution with trust powers as Trustee;
- (l) Making of repairs, additions and improvements or alterations to and restoration of the Property;
- (m) Leasing or otherwise acquiring the title to use either exclusively or in common with others, recreational and other facilities for the benefit of the Owners;
- (n) Adopting and amending reasonable rules and regulations (the "Rules and Regulations") governing the conduct of all people on the Property and the operation and use of the Property. The Board shall have the power to levy liquidated damages against any Owner(s) for violation therefor or for violation of any provision of these Bylaws or the Declaration, for which any Owner (or his guests or tenants) is responsible, provided that no such levy may be for more than Five Dollars (\$5.00) for any one violation; but for each day a violation continues after notice, it shall be considered a separate violation. Collection of damages may be enforced against the Owner(s) responsible as if the damages were a common charge owed by the particular Owner(s);
- (o) The Board may also enforce, by any legal means, the provisions of the Declaration, the Bylaws and the Rules and Regulations for the use of the Property;
- (p) To appoint and remove at pleasure, all officers, agents and employees of the Association, prescribe their duties, fix their compensation, and require of them such security or fidelity bond as it may deem expedient. Nothing contained in these Bylaws shall be construed to prohibit the employment of any Member, Officer or Director of the Association in any capacity whatsoever.

**Section 3. Management.** The Board of Directors may employ or enter into a contract or agreement with a manager for the Property (the "Manager") for a period of not more than twelve (12) months, with the right of the Association to cancel such contract with thirty (30) days notice for cause, at a compensation or consideration established by the Board to perform such duties and services as the Board shall authorize. The Board shall send all Directors a copy of any such cancellation notice. The Board of Directors may authorize such Manager to perform such duties as it deems appropriate.

**Section 4. Removal of Directors.** At any time, at any regular or special meeting of the Owners, any one or more of the members of the Board may be removed with cause by a majority of all Owners following notice therefor in the call of the meeting and a successor may thereafter be elected to fill the vacancy thus created.

**Section 5. Vacancies.** Vacancies on the Board of Directors caused by any reason other than the removal of a member thereof by a vote of the Owners eligible to vote, shall be filled by a vote of a majority of the remaining directors at a regular or special meeting of the Board held promptly after the occurrence of any such vacancy, even though the directors present at such meeting shall constitute less than a quorum and each person so elected shall be a member of the Board for the remainder of the term of the director so replaced, and until his successor shall be duly elected.

**Section 6. Organizational Meeting.** The first regular meeting of the Board following a meeting of the Owners at which the Directors are elected, shall be held within ten (10) days thereafter at such time and place as shall be fixed by the Owners at such meeting. No notice shall be necessary to the members of the Board in order to legally constitute such a meeting, provided a quorum shall be present at such first regular meeting.

**Section 7. Regular Meetings.** Regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of the directors. Notice of regular meetings of the Board shall be given by the Secretary to each director personally or by mail or telegraph at least three (3) days prior to the day named for the meeting.

**Section 8. Special Meetings.** Special meetings of the Board may be called by the President upon three (3) days notice to each director, given personally or by mail or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board shall be called by the President or Secretary in like manner and on like notice upon the written request of at least two (2) directors.

**Section 9. Waiver of Notice.** Any director may at any time waive notice of any meeting of the Board in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board shall constitute a waiver of notice by him of the time and place thereof. If all members of the Board are present at any meeting of the Board, no notice shall be required, and any business may be transacted at such meeting.

**Section 10. Quorum of the Board of Directors.** At all meetings of the Board, the presence of one-half (1/2) of the directors at such meeting shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present shall constitute the decision of the Board.

**Section 11. Fidelity Bonds.** The Board shall have the option, but not the obligation, to obtain, to the extent reasonably available, for all officers, employees and agents of the Association

handling or responsible for Association funds. a fidelity bond in the amount of one hundred fifty percent (150%) of the anticipated funds to be held by such officers, employees or agents. The premiums on such bonds shall constitute a Common Expense.

**Section 12. Compensation.** No member of the Board shall receive any compensation from the Association for acting as a director.

**Section 13. Liability of the Board of Directors.** The directors shall not be liable to the Association or to the Members for any mistake or judgment, negligent, or otherwise, except for their own individual, willful misconduct or bad faith. The Association shall defend, indemnify and hold harmless, to the extent permitted by law, each of the directors against all liability arising out of their conduct on behalf of the Association, unless such conduct shall have been willful misconduct or in bad faith. It is intended that the directors shall have no personal liability with respect to any contract made by them on behalf of the Association (except as Members). It is also intended that the liability of any Member arising out of any contract made by the Association with respect to the Common Properties, or out of the aforesaid indemnity in favor of the Board shall be limited to the Member's interest in the Common Properties.

**Section 14. Fiscal Year.** The Board shall establish a fiscal year.

**Section 15. Fiscal Affairs.** It shall be the duty of the Board to:

- (a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members or at any special meeting when such is requested in writing by one-fourth (1/4) of the membership;
- (b) Supervise all officers, agents and employees of the Association and see that their duties are properly performed;
- (c) As more fully provided in the Declaration:
  - (1) Annually fix the amount of the assessment against each Lot for each assessment period.
  - (2) Cause to be prepared a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Member or his designee; and at the same time,
  - (3) Cause written notice of each assessment to be sent to every Owner subject thereto.
- (d) Issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether any assessment has been paid. Such certificate shall be conclusive evidence of any assessment therein stated to have been paid.

## ARTICLE SEVEN

### OFFICERS

**Section 1. Designation.** The principal officers of the Association shall be the President, the Secretary and the Treasurer, all of whom shall be elected by the Board. The President and the Vice-

President shall be elected from among the members of the Board. The Board may elect a Treasurer, Assistant Treasurer, Secretary and Assistant Secretary, and such other officers, as in its judgment may be necessary, who need not be Owners. Any person or officer or employee of a corporate, partnership or fiduciary Owner shall be eligible for such election.

**Section 2. Election of Officers.** The officers of the Association shall be elected annually by the Board and shall hold office at the pleasure of the Board.

**Section 3. Removal of Officers.** Upon the affirmative vote of a majority of the members of the Board any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

**Section 4. President.** The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Members and of the Board. He shall have all the general powers and duties which are usually vested in the office of the president of a corporation, organized under the laws of the State of North Carolina, including but not limited to, the power to appoint committees from time to time as he may, in his discretion, decide is appropriate to assist in the conduct of the affairs of the Association.

**Section 5. Vice-President.** The Vice-President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice-President is able to act, the Board shall appoint some other member of the Board to act in the place of the President on an interim basis. The Vice-President shall also perform such other duties as shall, from time to time, be assigned to him by the Board or by the President.

**Section 6. Secretary.** The Secretary shall keep the minutes of all meetings of the Members and of the Board; he shall have charge of such books and papers as the Board and these Bylaws may direct; he shall give all notices required by the Bylaws unless otherwise provided; and he shall, in general, perform all duties incident to the office of the secretary of a corporation organized under the laws of the State of North Carolina.

**Section 7. Treasurer.** The Treasurer shall have responsibility for Association funds and securities and shall cause the financial records and books of account belonging to the Association to be kept. He shall be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Association, in such depositories as may from time to time be designated by the Board, and he shall, in general, perform all the duties incident to the office of the treasurer of a corporation organized under the laws of the State of North Carolina.

**Section 8. Signatories to Documents.** All agreements, contracts, deeds, leases, checks and other documents of the Association shall be executed by any officer of the Association or by such other person(s) as may be designated by the Board. Vouchers for the payment of Association funds shall be approved by the Treasurer before payment.

**Section 9. Compensation of Officers.** No officer shall receive any compensation from the Association for acting as such.

## ARTICLE EIGHT

### OPERATION OF THE PROPERTY

**Section 1. Determination of Common Expenses and Fixing of Common Charges.** The Board shall, from time to time, and at least annually, prepare a budget for the Common Properties, determine the amount of the Common Charges payable by the Owners to meet the Common Expenses and allocate and assess such Common Charges among the Owners according to their share as established by the Declaration. The Board shall advise all Owners promptly, in writing, of the amount of Common Charges payable by each of them respectively, as determined by the Board, as aforesaid, and shall furnish copies of each budget on which such Common Charges are based to all Owners and to their mortgagees upon request. The Common Expenses shall include, among other things;

- (a) The cost of repairs and maintenance of the Common Properties and appurtenant interests;
- (b) All premiums on all policies of insurance required to be or which have been obtained by the Board pursuant to the provisions of Article Six herein, and the fees and expenses, if any, of the Trustee, if any; provided, however, that as long as the Developer is engaged in the construction or erection of improvements on the Common Properties, it shall pay the portion of insurance premiums allocable to builder's risk insurance (including liability coverage for construction operations and completed operations);
- (c) Such amounts as the Board may deem proper for the improvement and operation of the Property, including without limitation an amount for its working capital, a general operating reserve, a reserve fund for replacements, and sums necessary to make up any deficit in the Common Expenses for any prior year;
- (d) Expenses incurred in leasing or otherwise acquiring the right to use either exclusively or in common with others, recreational or other facilities for the benefit of Owners;
- (e) Such amounts, as may be required for the purchase or lease by the Board, or its designee, corporate or otherwise, on behalf of all Owners, of Lot(s) whose Owner(s) have elected to sell or lease such Lot(s), or Lot(s) to be acquired by foreclosure proceedings or proceedings in lieu of foreclosure or which is to be sold at judicial sale;
- (f) Any other expense in connection with the Common Properties or their improvements which the Board deems to be of mutual benefit to the Owners or Members.

**Section 2. Payment of Common Charges.** All Owners shall be obligated to pay the Common Charges assessed by the Board annually or at such other time or times as the Board shall determine. The Board may authorize Common Charges to be collected by a mortgagee of one or more Lots or by the Manager.

**Section 3. No Waiver of Liability for Common Expenses.** No Member may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Properties or by abandonment of his Lot.

**Section 4. Non-Liability After Conveyance.** No Owner shall be liable for the payment of any part of the Common Charges assessed against his Lot subsequent to a sale, transfer or other conveyance made pursuant to the provisions of these Bylaws.

**Section 5. Successor's Liability for Common Charges.** A grantee who acquired a Lot shall not be personally liable for any charge for unpaid assessments due prior to his purchase, unless expressly assumed by the grantee. However, the Lot conveyed shall be subject to a lien for any such unpaid assessment.

**Section 6. Default in Payment of Common Charges.** In the event of default by any Member in paying to the Association the Common Charges as determined by the Board, such Member(s) shall be obligated to pay interest at the highest rate permitted by applicable law on such Common Charges from the due date thereof until collected, together with all expenses, including attorney fees incurred by the Association in any proceeding brought to collect such unpaid charges. The Association may attempt to recover such Common Charges, together with interest thereon, and the expenses of the proceeding, by a proceeding brought against such Member, or by foreclosure of the lien on such Lot under powers granted by the Declaration. The right to use any property owned by the Association may be suspended by the Board during any period when the Common Charges are in default.

**Section 7. Foreclosure of Liens for Unpaid Common Charges.** In any action brought by the Association to foreclosure a lien on a Lot because of any unpaid Common Charges, the Owner shall be required to pay reasonable rental for use of his Lot from the date of non-payment of the Common Charges and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Association, acting on behalf of all Owners, shall have the power to purchase such Lot at the foreclosure sale and to acquire, hold, lease, mortgage, vote the votes appurtenant thereto (other than for the election of members of the Board of Directors), convey or otherwise deal with the same. A suit to recover a money judgment for unpaid Common Charges shall be maintainable without foreclosure or waiving the liens securing the same.

**Section 8. Maintenance, Repair and Replacement.** The Association shall maintain, repair and replace all improvements (including landscaping) on the Common Properties; and in the event that such maintenance, repair or replacement was caused by the negligence or misuse of an Owner, such expense shall be charged to such Owner.

**Section 9. Additions, Alterations or Improvements by the Board.** Whenever, in the judgment of the Board, the Common Properties shall require additions, alterations or improvements costing Ten Thousand and 00/100 Dollars (\$10,000.00) or more which are not to be at the expense of an individual Owner for his own benefit, and the making of such addition, alteration or improvement shall have been approved at an annual or special meeting of the Owners by not less than fifty percent (50%) of the Owners, the Board shall proceed with such additions, alterations or improvements and assess all Owners for the cost thereof as a Common Charge. Any additions, alterations or improvements costing less than Ten Thousand and 00/100 Dollars (\$10,000.00) or less may be made by the Board without further approval of the Owners of the Lots, and the costs thereof will constitute part of the Common Expenses.

**Section 10. Water, Cable Television and Sewer Charges.** Each Owner shall be required to pay any water, gas, cable television and sewer charges pertaining to his Lot. Such charges may be separately metered or may be determined in accordance with an engineering determination by the Board of Directors and billed in accordance therewith. The water and sewer services supplied to the

Common Properties shall be billed separately and the Association shall pay such bills as a Common Expense.

**Section 11. Electricity.** Electricity shall be supplied by the public utility company servicing the area directly to each Lot, and any Common Properties, the exclusive use of which is reserved to any such Lot, through a separate meter, and each Owner shall be required to pay the charges for such meter. The electricity servicing the remaining Common Properties shall be metered separately, and the Association shall pay all charges for such meters as a Common Expense.

## ARTICLE NINE

### USE OF THE PROPERTIES

**Section 1. Restrictions on the Use of The Properties.** In order to provide for congenial occupancy of the Property and for the protection of the values of the Lots, the use of the Property shall be restricted to and shall be in accordance with the terms of the Declaration.

## ARTICLE TEN

### MORTGAGEES

**Section 1. Notice to Association.** An Owner who mortgages or grants a deed of trust with respect to his Lot shall notify the Association of the name and address of the mortgagee. The Association shall maintain such information in a book entitled "Mortgagees of Lots."

**Section 2. Statement of Common Charges.** The Association, whenever so requested in writing by an Owner, a prospective Owner, a mortgagee or a prospective mortgagee of a Lot, shall promptly report any then unpaid Common Charges due from, or any other default by, the Owner of the mortgaged Lot.

**Section 3. Notice of Default.** The Association, when giving notice to an Owner of default in paying Common Charges or other default, shall send a copy of such notice to each holder of a mortgage covering such Lot, if the name and address of such mortgagee has previously been furnished to the Association.

**Section 4. Examination of Books.** Each Owner or mortgagee of a Lot shall be permitted to examine the books of account of the Association at a reasonable time on business days.

## ARTICLE ELEVEN

### INSURANCE

**Section 1. Coverage.** To the extent available, the Association may obtain and maintain insurance coverage as set forth in Sections 2, 3 and 4 of this Article Eleven. All insurance affecting the Property shall be governed by the provisions of this Article Eleven. Premiums of insurance obtained by the Association shall be a Common Expense.

**Section 2. Physical Damage.** All buildings and improvements (as defined in Subparagraph (d) hereof), and all of the personal property owned by the Association, shall be insured, for the

benefit of the Association, the Owners and mortgagees as their interests may appear, against risks of physical damage as follows:

- (a) Amounts - As to real property, for an amount of equal to not less than One Hundred Percent (100%) of its replacement costs; and as to personal property, for an amount equal to its actual cash value. Prior to obtaining any insurance on real property under this Section, and at least annually thereafter, the Board shall obtain an estimate from an insurance agent, or otherwise qualified person, for the purpose of determining the replacement cost of such real property.
- (b) Risks Insured Against - The insurance shall afford protection against loss or damage by reason of:
  - (1) Fire and other perils normally covered by the intended coverage;
  - (2) Vandalism and malicious mischief;
  - (3) Such other risk of physical damage as from time to time may be customarily covered with respect to buildings and improvements similar in construction, location without limitation, builder's risk coverage for improvements under construction; and
  - (4) Such other risks of physical damage as the Board may from time to time deem appropriate.
- (c) Other provisions - The insurance shall include, to the extent reasonably obtainable and without limitation, the following provisions:
  - (1) Waivers by the insurer of rights of subrogation, other than those based on fraud or criminal acts, against the Association and the Owners;
  - (2) That the insurance shall not be affected or diminished by reason of any other insurance carrier by any Owner or mortgagee;
  - (3) That the insurance shall not be affected or diminished by failure of any Owner or any occupants or any owners of any improvements to comply with any warranty or condition when such failure to comply is not within the control of the Association;
  - (4) Such deductible as to loss, but no co-insurance features, as the Board, in its sole judgment, deems prudent and economical;
  - (5) That the insurance may not be cancelled or substantially modified (except for the addition of property or increases in amount of coverage) without at least thirty (30) days prior written notice to the name insured;
  - (6) The standard mortgagee clause, except that any loss otherwise payable to name mortgagees shall be payable in the manner set forth in Subparagraph (c)(7) hereof;
  - (7) Proceeds for losses shall be payable to the Association or any Trustee designated by the Board; and



(8) The name insured shall be the Association for the benefit of the Owners.

- (d) Definition - As used in this Section, the term "all buildings and improvements" shall include, without limitation, all Common Properties and personal property of the Association, and replacements thereof, and may exclude building fixtures, alterations, installations or additions situated within a portion of the Property used and owned exclusively by an individual Owner and made or acquired at the expense of an individual Owner of that portion of the Property.

**Section 3. Liability Insurance.** The Board shall obtain and maintain public liability insurance for bodily injury and property damage in such limits as the Board may from time to time determine, insuring the Association, the Board and each Owner with respect to his liability arising from the ownership, maintenance or repair of the Common Properties which is the responsibility of the Association including without limitation, liability arising from construction operations. Such liability insurance shall also cover cross-liability claims among Owners and the Association. The Board shall review such limits at least annually. The insurance provided under this Section shall include, without limitation, the following provisions:

- (a) That the insurance shall not be affected or diminished by any act or neglect of any Owner or any occupants or any Owners of any improvements when such act or neglect is not within the control of the Association;
- (b) That the insurance shall not be affected or diminished by the failure of any Owner or any occupants or owners of any improvements to comply with any warranty or condition when such failure to comply is not within the control of the Association; and
- (c) Waivers by the insurer of rights of subrogation, other than those based on fraud or criminal acts, against the Association and the Owners.

**Section 4. Workmen's Compensation Insurance.** The Board shall obtain and maintain workmen's compensation insurance to meet the requirements of the laws of the State of North Carolina.

**Section 5. Owners' Hazard Insurance.** Nothing herein contained shall require any Owner to pay to the Association any amount for hazard insurance on any property owned by the individual Owner. Each Owner shall be responsible for his own individual hazard insurance coverage on his Lot and all improvements thereon to the extent required under the Declaration, except to the extent actually insured by any policies obtained by or through the Association for the benefit of individual Owners. However, each Owner shall be responsible for ascertaining whether or not the Association has obtained any such insurance for the benefit of individual Owners. The Association may require an Owner to exhibit his hazard insurance policy.

**Section 6. Other Insurance.** The Board is authorized to obtain and maintain such other insurance as it may, from time to time deem appropriate.

## ARTICLE TWELVE

### DAMAGE TO OR DESTRUCTION OF PROPERTY

**Section 1. Duty to Repair or Restore.** Any portion of the Common Properties, damaged or destroyed, shall be repaired or restored promptly by the Association.

**Section 2. Estimate of Cost.** Promptly after damage to or destruction of the Common Properties, and thereafter as it deems advisable, the Board of Directors shall obtain reliable and detailed estimates of the cost of repair or restoration. If such cost, in the opinion of the Board of Directors, may exceed Five Thousand Dollars (\$5,000.00), the Board of Directors shall retain the services of an architect to assist in the determination of such estimates and in the supervision of repair and restoration.

**Section 3. Collection of Construction Funds.** Construction funds may consist of insurance proceeds, condemnation awards, proceeds of assessments against Owners and other funds received on account of or arising out of injury or damage to the Common Properties.

- (a) **Insurance Proceeds** - The Board shall adjust losses under physical damage insurance policies of the Association. Such losses shall be payable in accordance with Section 2(c)(7) of Article Eleven herein;
- (b) **Condemnation Awards** - Any condemnation awards with respect to the Common Properties shall be payable to the Association;
- (c) **Assessments Against Owners** - If the insurance proceeds and condemnation awards are insufficient to effect the necessary repair or restoration of the Common Properties, such deficiency shall be charged against all Owners as a Common Expense. The proceeds of assessments for such Common Expenses shall be paid to the Association or any Trustee appointed by the Board;
- (d) **Payments by Others** - Any other funds received on account of or arising out of injury or damage to the Common Properties shall be paid to the Board or to any Trustee.

**Section 4. Plans and Specifications.** Any repair or restoration must be either substantially in accordance with the architectural and engineering plans and specifications for the original improvements or according to plans and specifications approved by the Board.

**Section 5. Disbursement of Construction Funds.** Any Trustee appointed by the Board shall deduct from the construction funds its actual costs, expenses and a reasonable fee for the performance of its duties, and such Trustee, or the Association if no Trustee is appointed, shall disburse the balance in the following manner:

- (a) **Payment of Repair or Restoration** - Any Trustee or the Association shall apply such balance to pay directly, and to reimburse the Association for the payment of the costs of repair or restoration of the Common Properties including the cost of temporary repairs for the protection of the Common Properties pending the completion of permanent repairs and restoration;
- (b) **Surplus Funds** - If, after the payment of all repairs and restoration, there remains any surplus fund, such funds shall be paid to Owners in proportion to the contributions resulting from assessments levied against them pursuant to Section 3(c) of this Article: provided, however, that no Owner shall receive a sum greater than that actually contributed by him. Any surplus remaining after such payments shall be paid to the Association and shall be part of its general income;

- (c) **Determination Not to Repair or Restore** - If there is substantially total destruction, as determined by the Board, of all of the improvements on the Common Properties, and three-fourths (3/4) of the Owners vote not to proceed with repair or restoration, any balance of construction funds shall be paid to the Association and placed in a reserve for capital improvements on the Common Properties. In the event of dispute as to the fact of substantially total destruction, that issue shall be submitted to arbitration in accordance with the rules of the American Arbitration Association and in accordance with North Carolina law.

**Section 6. Trustee.** The Board may, but is not required, to, enter into and keep in force a trust agreement with a bank in the State of North Carolina with trust powers to receive, administer and disburse funds pursuant to Article Thirteen herein. Any such trust agreement shall incorporate the Declaration and Bylaws by reference and shall provide that upon termination thereof, all monies or funds held by the Trustee shall be turned over only to a successor trustee which shall also be a bank in the State of North Carolina with trust powers. No amendment of the Declaration or these Bylaws affecting Article Eleven or this Article Twelve shall be binding on the Trustee until the Trustee receives notice of such Amendment.

## ARTICLE THIRTEEN

### RECORDS

**Section 1. Records.** The Association shall keep detailed records of the actions of the Board, minutes of the meetings of the Board, minutes of the meetings of the Owners, names of the Owners and mortgagees, and financial records and books of account for the Property, including a chronological listing of receipts and expenditures, as well as a separate account for each Lot which, among other things, shall contain the amount of each assessment of Common Charges against such Lot, the date when due, the amount paid thereon, and the balance remaining unpaid. Unless the Owner notifies the Association of a change in ownership, the Association may rely on the name of Owners appearing on the municipal tax assessor's list as of the last municipal assessment date.

**Section 2. Statement.** A written report and statement summarizing all receipts and expenditures of the Association shall be rendered by the Board to all Owners at least annually.

**Section 3. Annual Report.** In addition to the annual statement referred to above, an Annual Report of the receipts and expenditures of the Association, prepared but not necessarily audited by an independent certified public accountant, shall be rendered by the Board to all Owners and to all mortgagees of Lots whose names appear in the book entitled "Mortgagees of Lots" and who make written request to the Association promptly after the end of each fiscal year.

**Section 4. Examination of Records.** Each Owner and mortgagee shall be permitted to examine the books of account of the Association at reasonable times on business days, but not more than once a quarter.

## ARTICLE FOURTEEN

### MISCELLANEOUS

**Section 1. Notices.** All notices hereunder shall be sent by mail to the Association at its office, in Winston-Salem, North Carolina: to the Owners at the address of the Lot or to such other

address as may have been designated by such Owner from time to time in writing to the Association; and to mortgagees at their addresses designated by them from time to time in writing to the Association. All notices from or to the Association shall be deemed to have been given when mailed, except notices of changes of address which shall be deemed to have been given when received.

**Section 2. Captions.** The captions herein are inserted as a matter of convenience and for reference, and in no way define, limit or describe the scope of these Bylaws or the intent of any provisions thereof.

**Section 3. Gender.** The use of the masculine or neuter gender in these Bylaws shall be deemed to include the feminine gender, and the use of singular shall be deemed to include the plural, when the context so requires.

**Section 4. Tort Liability.** Each Owner shall be deemed to have released and exonerated each other Owner and the Association, and the Association shall be deemed to have released and exonerated each Owner, from any tort liability other than that based on fraud or criminal acts to the extent which such liability is satisfied by the proceeds of liability insurance carried by an Owner or by the Association.

## ARTICLE FIFTEEN

### INVALIDITY, CONFLICT AND WAIVER

**Section 1. Invalidity.** The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability or effect of the balance of the Bylaws.

**Section 2. Conflict.** These Bylaws are set forth to comply with the requirements of the North Carolina Non-Profit Corporation Act and the Declaration. In the event of any conflict between these Bylaws and the provisions of such Act or of the Declaration, the provisions of such Act or the Declaration, as the case may be, shall control.

**Section 3. Waiver.** No restriction, condition or covenant contained in these Bylaws shall be deemed to have been waived by reason of failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

## ARTICLE SIXTEEN

### AMENDMENTS TO BYLAWS

**Section 1. Method of Amendment.** These Bylaws may be altered, amended or added to at any duly called meeting of the Owners, provided:

- (a) That the notice of the meeting shall contain a substantial statement of the proposed amendment;
- (b) That the amendment be approved in writing by the holders of mortgages on not less than Fifty-One Percent (51%), in the aggregate, of the Lots subject to mortgages;
- (c) That the amendment be approved by the Board of Directors of the Association; and

- (d) That said amendment shall be fully consistent with a duly recorded amendment to the Declaration executed by the President and Secretary of the Association; however, no amendment to the Declaration, or the recordation thereof, shall be necessary unless such amendment to these Bylaws creates an inconsistency with the Declaration.
- (e) That the amendment be approved by a majority of the votes of each class of Members eligible to vote except that if the amendment affects only one class of Members, then the amendment must be approved by a majority of the votes of the Members of the class eligible to vote.

**Section 2. Effect of Amendments Upon Encumbrances.** No amendment or modification of these Bylaws will affect or impair the validity or priority of any mortgage encumbering any Lot, nor the validity or priority of any other proper lien.