

*BY-LAWS HIGHLANDS COVE
PROPERTY OWNERS ASSOCIATION*

**BYLAWS OF
HIGHLANDS COVE PROPERTY OWNERS ASSOCIATION
A NORTH CAROLINA NON-PROFIT CORPORATION**

ARTICLE I

Identity

These are the Bylaws of the HIGHLANDS COVE PROPERTY OWNERS ASSOCIATION, INC. a North Carolina non-profit corporation, (the "Association").

For purposes of these Bylaws, terms specifically defined either in the Declaration of Covenants, Restrictions et al. (the "Declaration") for the residential community to be known as "Highlands Cove" and located off US Highway 64 in Jackson County, North Carolina (herein "Highlands Cove"), or the North Carolina NonProfit Corporation Act, Chapter 55A, North Carolina General Statutes (herein "the Corporation Act"), or the North Carolina Planned Community Act, Chapter 47F, North Carolina General Statutes (herein "the Community Act") shall have the same meaning herein. Unless the Declaration or ByLaws expressly provide otherwise, the procedures and substantive matters governing the Association can be determined by reference to the Corporation Act or the Community Act. In the event of any conflict between the Corporation Act or the Community Act, the Community Act shall control.

ARTICLE II

Qualifications and Responsibilities

of Members

2.1. Members. Every Owner of a Lot or Unit in Highlands Cove shall be a member of the Association, and shall remain a member until he ceases to be an Owner of a Lot or Unit.

2.2. More Than One Owner. When there is more than one Owner of a Lot or Unit, all such persons shall be members of the Association.

2.3. Registration. It shall be the duty of each Owner of a Lot or Unit to register his/her name and his/her mailing address with the Secretary of the Association. If an Owner of a Lot or Unit does

not so register, the Association shall be under no obligation to recognize his or her privileges of being a member. In addition, an Owner of a Lot or Unit shall register with the Secretary the name and mailing address of any applicable person, firm or company holding a note secured by a first deed of trust lien on that Lot or Unit (the "First Mortgage"). In no event shall an Owner of a Lot or Unit avoid personal responsibility for the obligations of being a member, including the payment of assessments, from his or her failure to register.

2.4. Prohibition of Assignment. The interest of a member in the Association assets cannot be transferred or encumbered except as an appurtenance to his Lot or Unit.

ARTICLE III

Members' Meetings and Voting

3.1. Place. Meetings of the members shall be held at such place within Highlands Cove or within Jackson County, North Carolina, as may be designated from time to time by the Board of Directors of the Association (the "Board").

3.2. Annual Meeting. The members shall meet at least once each year in August, the day being specified in the notice of such meeting given pursuant to Section 3.4. At each annual meeting the members may transact any business properly coming before them.

3.3. Special Meetings. Special meetings of the members may be called at any time by the President or by a majority of the Board, and shall be called and held within sixty (60) days after written request thereof signed by members of the Association entitled to cast at least fifty-one percent (51%) of the total votes in the Association is delivered to any officer or Director of the Association. No business shall be transacted at a special meeting except that which is stated in the notice thereof.

3.4. Notices. Notice of all meetings of the members, stating the time and place, and accompanied by a complete agenda thereof, shall be given by the President or Secretary to each member. Such notice shall be in writing, and shall be hand delivered or sent prepaid by United States mail to the members at the addresses of their respective Lots or Units and to other addresses as any member may have designated to the President or Secretary as it appears on the records of the Association, at least sixty (60) days in advance of any annual or special meeting. Notice shall be

deemed delivered when deposited in the United States mail addressed to the member at his address for the respective Lot or Unit and/or as it appears on the records of the Association. The Association may vote or transact business on any matter at an annual meeting whether or not specific notice of said item had been given in the notice of the annual meeting. However, for special meetings, only items which were included in the meeting's notice to members can be voted on.

3.5. Quorum: Adjournment if no Quorum. A quorum shall consist of members present, in person or by proxy, entitled to cast at least fifty-one percent (51%) of the total votes in the Association. If a quorum is not present, the meeting may be adjourned to a later date by the affirmative vote of a majority of those present in person or by proxy. The quorum requirement for the next meeting called due to the lack of a quorum shall be twenty-six (26%) percent of the total votes in the Association.

3.6. Vote. Except for Declarant-owned Lots or Units, each Lot or Unit is entitled to one (1) vote. During the Declarant Control Period, Lots or Units owned by Declarant shall be entitled to two (2) votes. Any reference in the Act to votes allocated in the Association shall include the votes provided to the Declarant above. When there is more than one Owner of a Lot or Unit, said Owners shall designate in writing the person authorized to vote for said Lot or Unit.

3.7. Manner of Casting Votes. Votes may be cast in person or by proxy. A proxy must be in writing, be signed by all owners of the Lot or Unit, the votes of which are subject to the proxy, be given only to another member or to a Security Holder of that Lot or Unit, and be filed with the Secretary on or before the meeting. A proxy shall be valid until revoked in writing by all Owners of such Lot or Unit or by the attendance and announcement to the person presiding over the Association meeting of all Owners of such Lot or Unit. A proxy should denote the vote desired on a specific issue and/or general authorization to the proxy holder to vote according to his discretion. A proxy is void if not dated. A proxy terminates 11 months after its date, unless it specifies a shorter term.

3.8. Required Votes. All questions shall be decided by a majority of the votes cast on the question, unless the provisions of applicable law, the Declaration or these Bylaws require a greater vote.

3.9. Action by Members Without Meeting. Any action that may be taken at a meeting of the members, may be taken without a meeting if such action is authorized in writing setting forth the action taken and is signed by all members, or if such action is taken in any other manner permitted by law.

3.10. Prohibition of Cumulative Voting. There shall be no cumulative voting.

3.11. Declarant Control Period. "Declarant Control Period" shall mean the time in which Declarant has to exercise certain exclusive rights such as, but not limited to, appointing and/or removing the Board of Directors of the Association and vetoing amendments to the Declaration. The Declarant Control Period shall be the earlier of twenty-five (25) years after the date of the Declaration or when all of Highlands Cove (platted at such times and in such phases as determined in Declarant's sole discretion) has been sold or transferred to parties other than a Declarant or such earlier time as determined in Declarant's sole discretion. The Declarant's right to appoint and/or remove members of the Board of Directors is qualified as provided in subsection 4.3(b) below.

ARTICLE IV

Directors

4.1. First Board. The first Board shall consist of three (3) persons appointed by the Declarant.

4.2. Number and Qualifications of Directors. The Board shall consist of at least three (3) but not more than five (5) natural persons, as determined in the sole discretion of Declarant during the Declarant Control Period, except as qualified below in subsection 4.3 and thereafter by a majority of the members. During the Declarant Control Period, a Director need not be a member of the Association or be a resident of North Carolina. A Board member may be a representative of Declarant. After the Declarant Control Period expires, a Director must be an Owner of a Lot or Unit or the individual nominee of an Owner of a Lot or Unit which is other than an individual.

4.3. Election of Directors.

(a) Except as provided in subsection (b) below, during the Declarant Control Period, the Declarant reserves the right to appoint all the members of the Board.

(b) At the next annual meeting of the membership after one hundred and fifty (150) Lots are conveyed to parties other than the Declarant and thereafter until the expiration of the Declarant Control Period, the members of the Association shall be entitled to elect one (1) member of the Board.

(c) After the end of the Declarant Control Period or in the case of electing one (1) member of the Board as provided in subsection (b) above, the election of Directors by the members shall occur at an annual meeting of the members and at each subsequent annual meeting after the term of the Directors have expired. The members shall elect the Directors by a majority of the votes cast in the election.

4.4. Term. The term of the Directors, including the initial Directors, shall be for two (2) years. There is no limitation on the number of terms a Director may serve as appointed by the Declarant or as elected by the membership. Once elected, a Director shall hold office until his successor has been duly elected and has qualified.

4.5. Removal. During the Declarant Control Period, the Declarant retains the sole authority to remove any Director, with or without cause, except for a Director elected by the membership as provided in subsection 4.3(b) above. After the Declarant Control Period has expired, any Director may be removed, with or without cause, by a vote of the members entitled to cast at least a majority of the total votes in the Association, at a special meeting called for such purpose. During the Declarant Control Period, the Declarant shall appoint a successor to serve for the balance of the removed Director's term. Thereafter, the members by majority vote shall appoint a successor to serve the balance of the removed Director's term.

4.6. Vacancies. Any vacancy in the Board arising by death or resignation of a Director shall be filled by act of the remaining Directors, whether or not constituting a quorum, and a Director so elected shall serve for the unexpired term of his predecessor in office.

4.7. Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined by a majority of the Directors. Notice of regular meetings shall be given to each Director, personally or by mail, telephone, facsimile or telegraph, at least thirty (30) days prior to the meeting.

4.8. Special Meetings. Special meetings of the Board may be called by the President and shall be called by the President or the Secretary and held within ten (10) days after written request signed by two (2) Directors is delivered to any other Director or the President or the Secretary. Not less than seventy-two (72) hours' notice of such special meeting shall be given personally or by mail, telephone, facsimile or telegraph to each Director; provided that in case the President or any Director determines that an emergency exists, a special meeting may be called by giving such notice as is possible under the circumstances. All notices of a special meeting shall state the time, place and purpose thereof. No business shall be transacted at a special meeting except that which is stated in the notice thereof.

4.9. Quorum; Adjournment if No Quorum. A majority of the Board shall constitute a quorum for the transaction of business at any meeting of the Board. If a quorum is not present, the meeting shall be adjourned from time to time until a quorum is present. The signing by a Director of the minutes of a meeting shall constitute the presence of such Director at that meeting for the purpose of determining a quorum.

4.10. Manner of Acting. Each Director shall be entitled to one (1) vote. The act of a majority of the Directors present at a meeting shall constitute the act of the Board unless the act of a greater number is required by the provisions of applicable law, the Declaration or these Bylaws.

4.11. Meeting Forums; Board Action Without Meeting. Although regular or special meetings may occur at such places as specified in the notice, regular or special meetings by means of a conference telephone or similar communication device are permissible as long as the required notice is given. Any action that may be taken at a meeting of the Board may be taken without a meeting if such action is authorized in writing, setting forth the action taken, signed by all Directors.

4.12. Compensation of Directors Restricted. Directors shall receive no compensation for their services but may be paid for out-of-pocket expenses incurred in the performance of their duties as Directors.

4.13. Powers and Duties of Board. All of the powers and duties of the Association shall be exercised by the Board, including those existing under the common law, applicable statutes, the Corporation Act, the Community Act, the Declaration, the Articles, and these Bylaws, as any thereof

may from time to time be amended. Such powers and duties shall be exercised in accordance with the provisions of applicable law, the Corporation Act, the Community Act, the Declaration, the Articles, and these Bylaws, and shall include, but not be limited to, the following:

(a) To prepare and provide to members annually, a budget summary report for the fiscal year commencing August 1 and concluding July 31st of the following calendar year (the "Fiscal Year"), said budget summary report containing at least the following:

- (i) A statement of the status and amount of any reserve or replacement fund and any portion of the fund designated for any specified project by the Board.
- (ii) A statement of the financial condition of the Association for the last Fiscal Year.
- (iii) A statement of the status of any pending suits or judgments in which the Association is a party.
- (iv) A statement of the insurance coverage provided by the Association.
- (v) A statement of any unpaid assessments payable to the Association, identifying the Lot or Unit and the amount of the unpaid assessment. All Lot and Unit owners do hereby acknowledge that this reporting of unpaid assessments shall not constitute a violation of any federal or state unfair debt collection laws.

The Board shall provide all members a summary of the budget as provided above and in subsection 8.3 below.

(b) To adopt and amend budgets (with the ratification of the membership as provided above) and to determine, and collect assessments to pay the Association's common expenses, including operating expenses and Common Element maintenance fees (the term "Common Expenses" being defined with more particularity in Section 8.12), and capital improvement costs.

(c) To regulate the use of, and to maintain, repair, replace, modify and improve the Common Elements.

(d) To adopt and amend rules and regulations and to establish reasonable penalties for infraction thereof.

(e) To enforce the provisions of the Declaration, the Articles, these Bylaws, the Act, and rules and regulations by all legal means, including injunction and recovery of monetary penalties.

(f) To hire and terminate agents and independent contractors.

(g) To institute, defend, intervene in, or settle any litigation or administrative proceeding in its own name on behalf of itself on matters affecting the Common Elements or enforcement of the Declaration, the Bylaws or the rules and regulations of the Association.

(h) To establish and dissolve and liquidate, from time to time, reserve accounts for any purpose.

(i) To borrow money for the maintenance, repair, replacement, modification or improvement of the Common Elements and to pledge and pay assessments, and any and all other revenue and income, for such purpose.

(j) To buy Lots or Units in foreclosure of an assessment lien, or at any other time or for any other reason, and to sell, lease, mortgage, and otherwise deal in Lots or Units from time to time owned by the Association.

(k) To grant leases, licenses, concessions and easements through and over the Common Elements, unless contrary to the Declaration.

(l) To impose and collect reasonable charges, including reasonable costs and attorneys' fees, for the enforcement of any use restrictions or rules and regulations set forth in the Declaration or these Bylaws.

(m) To provide for indemnification of the Association's officers and Directors and maintain Officers and Directors liability insurance.

(n) To impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of the Declaration, these Bylaws, or the rules and regulations.

Any assessments, charges or fines levied against members shall specifically relate to the need to preserve and fulfill the purposes set forth in the Association's Articles of Incorporation and are applied to owners of Lots or Units in their capacity as owners-members rather than in some other capacity such as customers for services.

ARTICLE V

Officers

5.1. Designation of Officers. The officers of this Association shall be a President, a Vice President, a Secretary, and a Treasurer. During the Declarant Control Period, officers do not have to be members or residents of North Carolina. Officers may include the Declarant or a representative of Declarant. After the Declarant Control Period, each officer shall be an Owner of a Lot or Unit or the individual nominee of an Owner of a Lot or Unit which is other than an individual. A person may hold one or more of such offices at one time, except that the President shall not at the same time hold another office in the Association. The Board may elect an assistant treasurer, an assistant secretary and such other officers as in its judgment may be necessary.

5.2. Election of Officers. Officers of the Association shall be elected by the Board. Elections shall be held every two (2) years at the first meeting of the Board held after the annual meeting of the members. The first Board shall elect officers as soon as practicable after filing of the Declaration.

5.3. Term. Each officer shall serve until his successor has been duly elected and has qualified.

5.4. Removal. Any officer may be removed, with or without cause, and without notice, by the Board.

5.5. Vacancy. Any vacancy in any office shall be filled by the Board, and an officer elected to fill a vacancy shall serve for the unexpired term of his predecessor in office.

5.6. Powers and Duties of Officers.

(a) President. The President shall be the chief Executive officer of the Association and shall see that all actions and resolutions of the Board are carried into effect.

(b) Vice President. The Vice-President shall perform such duties of the President as shall be assigned to him by the President, and in the absence of the President shall perform the duties and functions of the President.

(c) Secretary. The Secretary shall keep the minutes of all meetings and actions of the Board and of the members; shall give all required notices to the Directors and members; shall keep the

records of the Association, except those kept by the Treasurer; shall perform all other duties incident to the office of a secretary of a corporation; and shall perform such other duties required by the Board or the President.

(d) Treasurer. The Treasurer shall have custody of all intangible property of the Association, including funds, securities, and evidences of indebtedness; shall keep the books of the Association in accordance with good accounting practices and principles, and upon request, shall submit them, together with all vouchers, receipts, records, and other papers to the Board for examination and approval; shall deposit all monies and other valuable effects in depositories designated by the Board; shall disburse funds of the Association as directed by the Board; and shall perform all other duties incident to the office of a treasurer of a corporation.

5.7. Execution of Agreements, Etc. All agreements, deeds, mortgages, or other instruments shall be executed by the President or Vice President with an attest by the Secretary (or Assistant Secretary if appointed), or by such other person or persons as may be designated by the Board.

5.8. Compensation of Officers Restricted. No officer shall be compensated for his services in such capacity, but may be reimbursed for out-of-pocket expenses incurred in performing his duties.

ARTICLE VI

Indemnification of Directors and Officers

The Association shall indemnify such persons, for such expenses and liabilities, in such manner, under such circumstances, and to such extent, as permitted by the North Carolina General Statutes, as now enacted or hereafter amended. In addition, the Association is authorized to maintain Officers and Directors Liability Insurance.

ARTICLE VII

Fiscal Management

7.1. Depository. The Board shall designate a depository for the funds of the Association, and may change such depository at any time. Withdrawal of funds from such depository shall be only by checks signed by any two (2) officers of the Association, or as authorized by the Board.

7.2. Fiscal Year. The Fiscal Year of the Association shall run from August 1 to July 31st of the following calendar year provided that the Board, from time to time, by resolution, may change the Fiscal Year to some other designated period.

ARTICLE VIII

Assessments

8.1. Obligation of Members to Pay Assessments; Amount of Levy. Each Owner of a Lot or Unit shall be personally and severally liable for an assessment equaling the total amount of the Association's Common Expenses as determined in the Board's discretion divided by the total number of Lots or Units owned by parties at the time of the annual assessment. The levy of an annual assessment noted above does not include any special assessment which may be levied against Lot or Unit in accordance with Section 8.7 below. The purposes behind the assessments levied by the Association are set forth with more particularity in the Declaration and the Articles of Incorporation..

8.2. Allocation of Common Surplus. Any common surplus, including funds in reserve accounts, may be allocated to each Lot or Unit in accordance with its percentage of the share of assessments, and, if allocated, may be paid to the Owner of a Lot or Unit or credited against that Lot or Unit's share of Common Expenses subsequently assessed. Notwithstanding the above, the Board shall retain the authority to apply said surpluses to any current Fiscal Year expenditures in order to satisfy the exempt function income qualification for nonprofit corporations under Section 528 of the Internal Revenue Code.

8.3. Preparation of Budget and Levying of Assessment. For each Fiscal Year, beginning with the Fiscal Year commencing August 1, 2000, the Board shall prepare and adopt a budget, including therein estimates of the amount necessary to pay the Common Expenses, together with amounts considered necessary by the Board for reserves. Within 30 days after adoption of any proposed budget, the Board shall provide the members of the Association with a summary of the budget and a notice of the meeting to consider ratification by the membership of the budget, including a statement that the budget may be ratified without a quorum. There shall be no requirement that a quorum be present at the meeting, annual or special, when the budget is

considered for ratification. The budget shall be ratified unless at that meeting a majority of all the members of the Association entitled to vote rejects the budget. In the event the proposed budget is rejected, the periodic budget last ratified by the members shall be continued until such time as the members ratify a subsequent budget proposed by the Board. After the ratification of the budget by the membership as provided above, the Board shall give each member notice of the assessment made against that member's Lot or Unit based upon such budget and may also state the interest to be charged on delinquent payments thereof. The assessment shall be deemed levied upon the giving of such notice. Provided, however, that the first budget after filing of the Declaration and the conveyance of the first Lot or Unit within Highlands Cove shall be prepared and adopted by the Board only for the balance of the then Fiscal Year of the Association.

8.4. Assessment A Lien. Every assessment shall constitute a lien upon each Lot and Unit assessed from the date the assessment is levied, prior to all other liens except only (i) real estate taxes and other governmental assessments or charges against that Lot or Unit and (ii) liens and encumbrances recorded before the recordation of the Declaration.

8.5. Payment of Assessments. Assessments shall be payable when notice thereof is given, but shall not be delinquent if paid at the times and in the amounts specified by the Board in the notice of assessment. Payments shall be made to the Association, or as the Board may from time to time otherwise direct.

8.6. Notice to First Mortgagees. Although the lien of assessments may be superior to the lien of a First Mortgagee, any enforcement of said assessment lien by the Association's filing of a collection or foreclosure action with the courts shall require the giving of notice to the applicable First Mortgagee, if any. All Owners of Lots or Units acknowledge that such notice shall not constitute a violation of any state or federal unfair debt collection laws. Failure to give the notice provided for herein shall not be a defense for the defaulting member in the enforcement action filed by the Association.

8.7. Special Assessments. In addition to the assessments levied pursuant to Section 8.3., the Board may levy special assessments at such other and additional times as in its judgment are required for:

- (a) Alterations, restoration and reconstruction of Common Elements and its facilities.
- (b) Improvements, acquisitions and additions to the Common Elements.
- (c) Payment of costs and expenses incurred in curing defaults pursuant to Sections 9.1.

and 9.3. hereof.

The Board shall give provide to its members a summary of the proposed special assessment and notice of a meeting to ratify the special assessment at least 30 days after mailing of the summary and notice. There shall be no requirement that a quorum be present at a meeting where the special assessment is to be considered by the members. The special assessment shall be deemed ratified unless at the meeting a majority of all the members entitled to vote rejects the special assessment. Special assessments made pursuant to this Section shall be a Common Expense, shall be deemed levied upon notice thereof being given to the members subject to such special assessment, and shall be payable as determined by the Board and as set out in such notice.

8.8. Failure to Prepare Budget and Levy Annual Assessment; Deficiencies in Procedure.

The failure of the Board or delay of the Board in preparing any budget, and to levy or in levying assessments, shall not constitute a waiver or release of the members' obligation to pay assessments whenever the same shall be determined and levied by the Board. Until a new assessment is levied by the Board pursuant to Section 8.3, each member shall continue to pay the assessment then previously levied pursuant to Section 8.3 in the same amount and at the same periodic times as levied, or as the Board may otherwise advise in writing. Also, any deficiencies or inadequacies in the procedure followed by the Board in levying an assessment shall not in any way affect its validity or the obligation of members to pay such assessment.

8.9. Assessment Roll; Certificate. All assessments shall be set forth upon a roll of the Lots and Units which shall be available in the office of the Association for inspection at all reasonable times by members and Security Holders, and their duly authorized representatives. Such roll shall include, for each Lot or Unit, the name and address of the member or members, all assessments levied, and the amount of all assessments unpaid. The Association, upon written request, shall furnish to a Lot or Unit Owner, or an authorized agent, a recordable certificate setting forth the amount of unpaid assessments currently levied against the Lot or Unit. The certificate shall be

furnished within fourteen (14) business days after receipt of the request and shall be binding upon the Association and all Lot or Unit Owners. For such certificate a reasonable fee may be charged by the Board. All Owners of Lots or Unit acknowledge that such notice provided in an assessment roll or certificate shall not constitute a violation of any state or federal unfair debt collection laws.

8.10. Default and Enforcement. If any assessment, or installment thereof, remains delinquent for thirty (30) days, then that assessment, and all other assessments then a lien against that Lot or Unit, may be declared by the Board to be immediately due and payable in full, with interest, without further notice, and may be foreclosed by the Association in the manner provided in the Community Act. All fees, late charges, attorneys' fees, fines or interest levied or collected by the Association in connection with any unpaid assessments shall have the same priority as the assessment to which they relate.

In addition to the foregoing, and without waiving its lien, the Association may sue to obtain a money judgment for the amount of any delinquent assessment, or installment thereof, together with interest, and the members so sued and liable for such assessment shall pay all costs of collection, including reasonable attorneys' fees.

The Association also shall be entitled to suspend the right of a defaulting Lot or Unit Owner to use the Common Elements (except access to the Lot or Unit) and its facilities until the delinquency is cured.

The remedies noted herein for default on assessments shall include, without limitation, any and all remedies set forth in the Declaration or in the Community Act. The failure of the Association to enforce any assessment delinquency shall not constitute a waiver or abrogation of the right of the Association or its agents to enforce such delinquency in the future, irrespective of the number of breaches thereof that may have occurred by the member regarding assessments.

8.11. Interest on Delinquent Assessments. Assessments, or installments thereof, paid before they become delinquent, shall not bear interest, but all sums delinquent more than thirty (30) days shall bear interest at the rate of eighteen percent (18%) per annum or as set forth in the notice levying the assessment (but not exceeding the rate of interest allowed by law) from the date of the delinquency until paid. All payments upon account shall be applied first to interest and then to the

assessment, or installment thereof, longest delinquent. All such interest shall have the same priority as the assessment on which such interest accrues.

8.12. Common Expenses. Common Expenses shall mean and include all sums declared Common Expenses by any specific provision of these Bylaws or the Declaration, and shall include, without limitation, the following: general administrative expenses; real estate taxes, and other governmental assessments or charges against the Common Elements; costs associated with the maintenance, repair and improvement of the Common Elements; premiums for any and all insurance maintained by the Association, including any deductible or coinsurance amount not covered by insurance; utility charges not charged directly to Lot or Unit Owners; legal and accounting fees; costs and expenses incurred in connection with any litigation or administrative proceeding pursuant to Section 4.13(g) hereof; deficits remaining from any prior assessment period; the cost, including fees and interests, incurred in connection with any borrowing done by the Association; the cost of all fidelity bonds; costs imposed upon the Association or any part of the Common Elements by, or incurred by the Association as a result of the performance, enforcement or amendment of, any agreement or easement to which the Association is a party or to which the Common Elements, or any part of either thereof, is or may be subject including, but not limited to amounts determined necessary for reserve funds; and indemnity payments made by the Association pursuant to Article VI hereof.

ARTICLE IX

Compliance, Enforcement, Fines and Penalties, Other Than Assessment Liens

9.1. Default and Remedies. A default in or failure to comply with any of the terms, conditions, obligations, and provisions of the Declaration, these Bylaws, the Articles, or the rules and regulations, as the same may be amended from time to time, by any Lot or Unit Owner or Occupant, shall be grounds for relief that may include, without intending to limit the same or to constitute an election of remedies, an action to recover fines and penalties as determined by the Board, sums due for damages, an injunction, or any combination thereof, and which relief may be

sought by the Association or an aggrieved Lot or Unit Owner. Also, if any member fails to perform any obligation under the Community Act, the Declaration, these Bylaws, the Articles or such rules and regulations as hereinafter promulgated, then the Association may, but is not obligated to, perform the same for the member's account, and for such purpose may enter upon his Lot, may make necessary repairs, advance expenses or other sums necessary to cure the default, and for such expenses and costs may levy a special assessment against the Lot owned by such defaulting member. The Association also shall be entitled, in accordance with the Community Act, to suspend the right of a defaulting Lot Owner to use the Common Elements and its facilities until the default is cured.

9.2. Notice of Default and Failure to Cure. In the event of any such default or failure, the Board shall serve upon or mail to the defaulting member, and to each First Mortgagee of that member's Lot when required under Section 8.6 of these Bylaws, a written notice specifying the nature of the default or failure, the cure thereof, and the time within which the cure shall be effected. Within the time limit specified in the notice, the defaulting member may cure the default or failure specified, or serve upon or mail a written notice to the Board requesting a hearing before the Board. If a hearing is so requested, the Board shall thereafter serve upon or mail to the defaulting member, and to each First Mortgagee which was entitled to notice of the default as above provided, a notice specifying the time and place for such hearing. At the hearing, the Board shall take such evidence and hear such testimony as it deems necessary or desirable. The Board shall not exercise any remedies to obtain relief from the default until the hearing is over and Board has made its determination and served upon or mailed the same to the defaulting member and each such First Mortgagee. The hearing may be continued from time to time as determined by the Board. Upon taking such evidence and hearing such testimony, the Board, at the hearing or at such later time, shall determine, in writing, and at its sole option, to waive the default in whole or in part, to extend the time within which the default may be cured, or to proceed immediately to levy a fine or penalty, or to exercise any one or more of the remedies available to the Board due to such default. The Board shall serve upon or mail to the defaulting member, and to each such First Mortgagee which was entitled to notice of the default as above provided, a copy of its determination. A violating party shall have thirty (30) days to appeal a decision of the Board to a court of law and failure to file said

appeal within thirty (30) days after receipt of the determination shall bar any challenges or any causes of action brought afterwards by said party. The Board's finding of default shall be conclusive in a case of a party's failure to appeal within the above prescribed time. If the defaulting member (i) does not cure the default or request a hearing within the time limit specified in the original notice of default given pursuant to this Section, or (ii) so requests a hearing, but fails to cure the default (to the extent not waived by the Board) within the extended time, if any, granted by the Board after hearing, then the Board shall serve upon or mail to the defaulting member, and to each such First Mortgagee which was entitled to notice of the default as above provided, a written notice of such member's failure to effect a cure, and the Board may then proceed to take such action as it deems necessary to obtain relief. In accordance with N.C.G.S. §47F-3-107.1 of the Community Act, the Board may appoint an adjudicatory panel to hear and decide the matters referenced to in this subsection and in doing so, the Board may reserve unto itself the role of an appellate body.

9.3. Remedy of Abatement in Addition to Other Remedies. In the event a member fails to effect the cure specified by the Board within the time period set out in Section 9.2. hereof, where the default is a structure, thing, or condition existing in or on the premises of the member's Lot, the Board, or its duly authorized representative, shall have the right to enter upon the premises of the member's Lot in which, on which, or as to which, such default exists, and summarily to abate and remove, at the defaulting member's expense (and levy an assessment therefor as provided in Section 9.1. hereof), the structure, thing, or condition constituting the default, and the Board, the Association, and their agents, employees, and representatives shall not thereby be deemed guilty of any manner of trespass.

9.4. Injunction. The Association or any Lot or Unit Owner entitled to seek relief for any such default or failure may obtain a temporary restraining order, injunction or similar relief, without first using the procedure established by Section 9.2 hereof, if such default or failure creates an emergency or a situation dangerous to persons or property.

9.5. Recovery of Attorneys' Fees and Costs. In any proceeding arising because of an alleged default by a member, the prevailing party shall be entitled to recover the costs of such proceeding and such reasonable attorneys' fees as may be allowed by the court with interest thereon at the

highest rate allowed by law at the time the costs are incurred, from the dates such costs are incurred until paid.

9.6. Nonwaiver of Covenants. The failure of the Association or of any member thereof to enforce any term, provision, right, covenant, or condition that may be granted by the Declaration, these Bylaws, the Articles, the rules and regulations or the Act, as the same may from time to time be amended, shall not constitute a waiver or abrogation of the right of the Association or a member to enforce such term, provision, right, covenant, or condition in the future, irrespective of the number of violations or breaches thereof that may have occurred.

ARTICLE X

Amendment

During the Declarant Control Period, the power to alter, amend, or repeal the Bylaws or adopt new Bylaws shall be vested in the Board with Declarant approval being necessary for any particular change. After the Declarant Control Period has expired, the amendment of Bylaws or adoption of new Bylaws can only occur at a regular meeting of the members and shall require an affirmative vote of sixty-six and two-thirds percent (66 2/3%) of the members to such changes. Any amendments to these initial Bylaws are not required to be recorded in the Jackson County, North Carolina Register's Office.

ARTICLE XI

General Provisions

11.1. Rules and Regulations.

(a) By the Board. The Board, including the first Board, may promulgate from time to time such rules and regulations as it deems reasonable and necessary governing the administration, management, operation and use of the Common Elements so as to promote the common use and enjoyment thereof by Lot or Unit Owners and Occupants and for the protection and preservation thereof. In addition, the Board may adopt such rules and regulations as it deems reasonable and necessary with respect to Lots or Units to provide for the common good and enjoyment of all Lot or Unit Owners and Occupants, including, without limitation, the right to adopt such rules and

regulations with reference to tenants and leases. In no event shall any rules or regulations be inconsistent or materially more restrictive than the provisions contained in the Declaration and these Bylaws with respect to leases or tenants. There shall be no Amendment to these Bylaws or Declaration which prohibits leasing of occupied Lots or Units.

(b) By the Association. After the Declarant Control Period has expired, any such rule or regulation adopted by the Board may be amended, modified, or revoked, and new and additional rules and regulations may be adopted, by a majority of the members represented in person or by proxy at an annual or special meeting of the members. Any such act of the members shall control over any contrary rule or regulation then or thereafter adopted by the Board.

(c) Uniform Application. All rules and regulations shall be equally and uniformly applicable to all Lot or Unit Owners and their Occupants, but need not be equally and uniformly applicable if it is determined that such unequal or non-uniform application is in the best interest of the Association or if equal and uniform application is not practicable.

(d) Copies Furnished. Copies of all such rules and regulations and any amendments thereto shall be furnished to all members, and a copy shall be posted or otherwise made available to members at the office of the Association. However, failure to furnish, or post, or make available, such rules or regulations shall not affect in any way their validity or enforceability.

11.2. Parliamentary Authority. Robert's Rules of Order, Newly Revised, shall govern the conduct of Association proceeding when not in conflict with the Declaration, these Bylaws, the Articles, the Corporation Act, the Community Act or any statutes of the State of North Carolina applicable thereto. The President of the Association shall have the authority to appoint a parliamentarian.

11.3 Conflict: Severability. In the case of any conflict between the provisions of these Bylaws and the Declaration, the Declaration shall control. If any term, provision, limitation, paragraph, or clause of these Bylaws, or the application thereof to any person or circumstance, is judicially held to be invalid, such determination shall not affect the enforceability, validity, or effect of the remainder of these Bylaws, or the application thereof to any other person or circumstance.

11.4 Notices. Whenever in the Declaration, the Act or these Bylaws it shall be required or permitted that notice or demand be given or served on the Association or a Lot or Unit Owner or a First Mortgagee or other party entitled to notice, such notice or demand shall be given in writing by and mailed, postage prepaid, to the respective addresses as hereinafter set forth. All notices or demands provided under the terms of the Declaration, the Corporation Act, the Community Act or these Bylaws shall be effective when actually received by a party entitled to notice or when attempted to be delivered as authorized above.

LOT or UNIT OWNER OR

FIRST MORTGAGEE AT:

ASSOCIATION:

THE ADDRESS GIVEN AND ON FILE WITH
THE ASSOCIATION.

Post Office Box 550

Highlands, North Carolina 28741

ARTICLE XII

Dissolution

Any dissolution of the Association shall be governed by the Act. Furthermore, in the event the Declarant, in its sole discretion, transfers to the Association the responsibility of the operation and maintenance of the water and/or sewer system within Highlands Cove, the Association shall not enter into any voluntary dissolution without first having transferred said system(s) to some person, corporation or other entity acceptable to and approved in writing by the North Department of Environment and Natural Resources.

THESE BYLAWS adopted and approved at a duly called meeting of the Board of Directors,
this the ___ day of _____, _____.