

**ARTICLES  
OF  
INCORPORATION**

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STATE OF NORTH CAROLINA



Department of The Secretary of State

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RECORDED AND VERIFIED  
MARY SUE GOITS  
REGISTER OF DEEDS  
NEW HANOVER CO. NC

To all whom these presents shall come, Greetings:

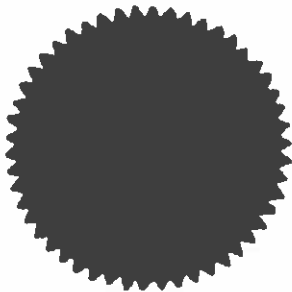
I, ELAINE F. MARSHALL, Secretary of State of the State of North Carolina, do hereby certify the following and hereto attached to be a true copy of

ARTICLES OF INCORPORATION

OF

RIVERWALK CONDOMINIUMS OF WILMINGTON UNIT OWNERS' ASSOCIATION, INC.

the original of which was filed in this office on the 18th day of September, 2000.



Recorded by  
Mary Sue Goits  
574-1880

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Raleigh, this 18th day of September, 2000.

*Elaine F. Marshall*

Secretary of State

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Date Filed: 01/12/2008 2:46 AM  
Chas F. Marshall  
North Carolina Secretary of State

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ARTICLES OF INCORPORATION  
OF  
RIVERWALK CONDOMINIUMS OF WILMINGTON  
UNIT OWNERS' ASSOCIATION, INC.

In compliance with the requirements of Chapter 55A of the North Carolina General Statutes, the undersigned, a natural person of full age, has this day executed these Articles of Incorporation for the purpose of forming a non-profit corporation and hereby certifies:

ARTICLE I

The name of the corporation is RIVERWALK CONDOMINIUMS OF WILMINGTON UNIT OWNERS' ASSOCIATION, INC., hereinafter called the "Association".

ARTICLE II

The principal and registered office of the Association is located at: #1 CADENWAY, OCEAN ISLE BEACH, N.C. 28469, HENDRICK COUNTY.

ARTICLE III

STUART F. COOK, whose address is: #1 CADENWAY, OCEAN ISLE BEACH, N.C. 28469, HENDRICK COUNTY, is hereby appointed the initial Registered Agent of the Association.

ARTICLE IV

This Association does not contemplate pecuniary gain or profit to the members thereof and the purpose and objects of the corporation shall be to administer the management of the development known and called RIVERWALK CONDOMINIUMS OF WILMINGTON and to advance the interests of the condominium homeowners, members herein.

ARTICLE V

The Corporation shall have the following powers:

- (1) to enforce the provisions of the By-laws and such rules and regulations as may be hereafter established.
- (2) to maintain and provide for such maintenance, upkeep and servicing to provide for utilities and other maintenance within the Development.

(3) to exercise, undertake and accomplish all of the rights, duties and obligations which may be granted to or imposed upon the Corporation pursuant to the Declaration of Condominium aforementioned.

#### ARTICLE VI

The qualification of the members, the manner of their admission to membership and termination of such membership, and voting by members shall be as follows:

(1) The owners of all units in the Development shall be members of the Corporation, and no other person or entities shall be entitled to membership.

#### ARTICLE VII

The Corporation shall have perpetual existence.

#### ARTICLE VIII

The number of members of the first Board of Directors of the Corporation shall be three (3). The number of the members of succeeding Board of Directors shall be as provided from time to time by the By-Laws of the Corporation.

#### ARTICLE IX

The Board of Directors shall elect a President, Vice President, Secretary and Treasurer and as many Assistant Secretaries and Assistant Treasurers as the Board of Directors shall determine. The President shall be elected from among the membership of the Board of Directors, but no other officer need be a Director. The same person may hold two offices, the duties of which are not incompatible; provided, however, that the office of the President and Vice President shall not be held by the same person, nor shall the office of President and Secretary or Assistant Secretary be held by the same person.

#### ARTICLE X

The names and post office addresses of the initial Board of Directors who, subject to the provisions of these Articles of Incorporation, the By-Laws and the laws of the State of North Carolina, shall hold office until the first Annual Meeting of the membership (or until their successors are elected and qualified) are as follows:

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JOHN V. SUTTON JR., 135 BRALLOTTE BLVD.  
OCEAN ISLE BEACH, N.C. 28469, BRUNSWICK CO.

STUART F. COOKE #1 CAUSEWAY  
OCEAN ISLE BEACH, N.C. 28469, BRUNSWICK CO.

EDWARD A. LILES 6486 BEACH DRIVE, SW  
OCEAN ISLE BEACH, N.C. 28469, BRUNSWICK CO.

#### ARTICLE XI

The original By-Laws of the Corporation shall be adopted by a majority vote of the members of the Corporation present at a meeting of members at which a majority of the membership is present, and thereafter, such By-Laws may be altered or rescinded only in such manner as said By-Laws may provide. Provided that the By-Laws may be altered, rescinded or modified at the initial meeting of the membership and such alteration and/or modification shall apply both prospective and retroactive to the Corporation's date of charter approval.

#### ARTICLE XII

Every Director and every officer of the Corporation shall be indemnified by the Corporation against all expenses and liabilities, including counsel fees, reasonable incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a Director or Officer of the Corporation, whether or not he is a Director or Officer at the time such expenses are incurred, except in such cases wherein the Director or Officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of any claim for reimbursement or indemnification hereunder based upon a settlement by the Director or Officer seeking such reimbursement or indemnification, the indemnification herein shall only apply if the Board of Directors approves of the Corporation. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Director or Officer may be entitled.

#### ARTICLE XIII

An amendment or amendments to these Articles of Incorporation shall require the assent of sixty-six and two-thirds percent (66 2/3%) of the membership.

ARTICLE XIV

Upon dissolution all remaining assets, after payment of liabilities, will be distributed in accordance with North Carolina General Statutes 55A-24-03.

ARTICLE XV

The name and address of the incorporator is as follows: EDWARD A. LILES, 6406 BEACH DRIVE, OCEAN ILE BEACH, N.C. 28469, BRUNSWICK COUNTY.

IN WITNESS WHEREOF, I, the undersigned incorporator, have hereunto set my hand and seal, this the 14 day of Sept, 2000.

[Signature of Edward A. Liles]
EDWARD A. LILES, Incorporator

STATE OF NORTH CAROLINA
COUNTY OF Montgomery

This is to certify that on the 14 day of Sept, 2000, before me, Heather D. Ellis, a Notary Public of said County and State, personally appeared EDWARD A. LILES, who I am satisfied is the person named in and who executed the foregoing Articles of Incorporation of RIVERSIDE CONDOMINIUMS OF WILMINGTON UNIT OWNERS' ASSOCIATION, INC., and I, having first made known to him the contents thereof, he did acknowledge that he signed and delivered the same as his voluntary act and deed for the uses and purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and seal, this 14 day of Sept, 2000.

[Signature of Heather D. Ellis]
NOTARY PUBLIC

My commission expires: 9/1/2003

STATE OF NORTH CAROLINA
New Hanover County
The foregoing Assured Certificates of
Heather D. Ellis
Notary Public for me entitled
to be exact.
This is the 29 day of Sept 2000
[Signature]



# **BY-LAWS**

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EXHIBIT B  
BYLAWS  
FOR  
RIVERWALK CONDOMINIUM ASSOCIATION

ARTICLE I

NAME AND DEFINITIONS

Section 1.1. Name. The name of the association shall be Riverwalk Condominium Association (hereinafter sometimes referred to as the "Association").

Section 1.2. Definitions. The words and phrases used in these Bylaws shall have the same meaning as set forth in the Declaration of Riverwalk, A Condominium, unless the context shall otherwise prohibit.

ARTICLE II

MEMBERSHIP AND VOTING

Section 2.1. Membership. A Person shall automatically become a member of the Association upon his acquisition of title to a Unit within the Condominium and may become a member in no other manner. Provided, that in order to entitle the acquirer of title to a Unit to become a member, such acquisition shall be in a manner consistent with the terms and restrictions regarding acquisitions contained in the Declaration and these Bylaws.

Section 2.2. Application for Membership. Application for membership shall consist of notice to the Association that the Applicant has acquired title to a Unit within the Condominium as set forth in the Declaration.

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

Section 2.4. Suspension or Termination of Membership. The membership rights of a member shall not be suspended so long as the Person continues to hold title to a Unit, is not in violation of any provision of the Declaration, these Bylaws and any rule or regulation adopted by the Association, and is not in arrears in the payment of any assessment.

Section 2.5. Vote/Voting Rights. The votes allocable to each Unit are more particularly set forth in the Declaration. Except as specifically stated in Section 2.6 of these Bylaws, the voting rights of members of the Association shall be as set forth in N.C. GEN. STAT. § 47C-3-110.

Section 2.6. Additional Provisions Governing Voting.

(a) Association Votes. If the Association is an owner of a Unit, the Association shall cast its votes with the majority of other votes with respect to any Unit it



owns, and in any event such votes shall be counted for the purpose of establishing a quorum. In the event of a tie vote, any votes with respect to any Unit owned by the Association shall not be cast.

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

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

(d) Delinquency. No member may vote at any meeting of the Association or be elected to serve on the Executive Board or be appointed to serve on any committee if payment by such member of any financial obligation to the Association is delinquent more than sixty (60) days and the amount necessary to bring the account current has not been paid at the time of such meeting, election or appointment.

Section 2.7. Manner of Voting. Voting, except for the election of directors which shall be by written ballot, by members at a meeting shall be by voice vote or a show of hands unless any member present at the meeting requests, and by a Majority Vote the members consent to, a vote by written ballots. A majority of the votes of members entitled to be cast by the members present or represented by proxy on any matter at a meeting of members at which a quorum is present shall be the act of the members on that matter.

Section 2.8. Proxies. A member may vote either in person or by proxy. Proxies shall be in writing, shall be dated, shall be signed by the member or a Person authorized by the member, or in cases where the member is more than one Person, by or on behalf of all such Persons. A proxy shall be valid for eleven (11) months unless a longer period is provided in the proxy and all proxies shall be filed with the Secretary. Such proxies shall be deemed revoked only upon actual receipt of a written revocation by the Secretary or upon actual receipt by a Person presiding over the meeting of notice of revocation from the member.

## ARTICLE III

### MEETING OF MEMBERS

Section 3.1. Place of Meeting. All meetings of members shall be held at the principal office of the Association or at such other place in New Hanover County, North Carolina, as may be determined by the Executive Board to be convenient to the members.

Section 3.2. Annual Meetings. The first annual meeting of the Association shall be held not later than the first anniversary of the recording of the Declaration in the Office of the Register of Deeds at such time and place as may be fixed by a resolution of the Executive Board. Subsequent annual meetings of the Association shall be held at least fifty (50) days prior to the beginning of each fiscal year at such time as may be fixed from time to time by resolution of the Executive Board.

Section 3.3. Special Meetings. The Association shall hold a special meeting: (1) upon the call of the President; (2) if so directed by a resolution by the Executive Board; or (3) upon a petition presented to the Secretary and signed by members entitled to cast at least ten percent (10%) of the total number of votes. The signatures on a petition requesting a special meeting shall be valid for a period of ninety (90) days after the date of the first signature. Such resolution, petition or request must: (1) specify the time and place at which the meeting is to be held, which place must be in New Hanover County, North Carolina; (2) either specify a date on which the meeting is to be held which will permit the Secretary to comply with all notice provisions of this Article or else specify that the Secretary shall designate the date of the meeting; (3) specify the purposes for which the meeting is to be held; and (4) be delivered to the Secretary in writing.

#### Section 3.4. Notice of Meetings.

(a) Written notice stating the place, day and time of each annual meeting and, in the case of a special meeting, the purposes for which the meeting is called, shall be given by the Secretary to each member entitled to vote at such meeting not less than ten (10) nor more than fifty (50) days before the date of the meeting. No business shall be transacted at a special meeting except as stated in the notice. The giving of notice in the manner provided in this Section and Article 10 hereof shall be considered service of notice.

(b) In addition to the provisions of subsection (a) of this Section, notice of a meeting to act on an amendment to the Declaration or a plan of merger or consolidation or a plan of dissolution of the Association shall be accompanied by a copy of the proposed amendment, plan of merger or consolidation or plan of dissolution. Any such amendment, plan of merger or consolidation or plan of dissolution shall not be effective unless notice of such matter was provided in accordance with this subsection.

#### Section 3.5. Waiver of Notice of Meetings.

(a) Whenever any notice is required to be given of any meeting of the Association, a waiver thereof in writing signed by a member entitled to such notice, whether given before or after the meeting, shall be the equivalent to the giving of such notice to that member and such waiver shall be delivered to the Secretary.

(b) A member who attends a meeting shall be conclusively presumed to have received timely and proper notice of the meeting or to have duly waived notice thereof unless such member attends for the express purpose of objecting to the transaction of any business on the grounds that the meeting was not lawfully called or convened and so notifies the Person conducting the meeting at or prior to the commencement of the meeting or at or prior to the consideration of the matter subject to objection in the case of special meeting.

Section 3.6. Quorum. A quorum shall be deemed to be present throughout any meeting of the Association if members to cast at least forty percent (40%) of the total votes are present, in person or by proxy, at the beginning of such meeting. Once a member is present at a meeting such member is deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting unless a new Record Date is or shall be set for that adjourned meeting.

If at any meeting of the Association a quorum is not present, a majority of the members who are present at such meeting in person or by proxy may: (1) recess the meeting to such date, time and place as members may agree not more than 48 hours after the time the original meeting was called; or, (2) adjourn the meeting to a time not less than forty-eight (48) hours after the time the original meeting was called at such date and place as such members may agree, whereupon the Secretary shall announce the date, time and place at the meeting and make other reasonable efforts to notify all members of such date, time and place.

Section 3.7. Order of Business. Unless otherwise specified in the notice of the meeting, the order of business at all meetings of the Association shall be as follows: (1) roll call or proof of quorum; (2) proof of notice of meeting; (3) reading of the minutes of the preceding meeting; (4) reports of officers and management; (5) report of Executive Board; (6) reports of committees; (7) election of directors; (8) unfinished business; and (9) new business; provided, however, that the voting for election of directors may commence at any time at the direction of the presiding officer.

Section 3.8. Conduct of Meetings. The President shall preside over all meetings of the Association and the Secretary shall keep the minutes of the meetings and record all resolutions adopted at the meetings and proceedings occurring at such meetings. The President may appoint a parliamentarian at any meeting of the Association. The most current edition of Robert's Rules of Order shall govern the conduct of all meetings of the Association when not in conflict with the Association documents.

Section 3.9. Record Date to Determine Members and List of Members. The date for determining which Persons are members and therefore entitled to vote ("Record Date") shall be the close of business on the seventieth (70th) day prior to the date of the meeting, unless the Executive Board shall determine otherwise. The Executive Board shall not set a Record Date retroactively. At least ten (10) days before each meeting, the Secretary shall make a complete list of members, with the address of each, available for review by the members before and during the meeting. The list shall be current as of the Record Date.

ARTICLE IV

EXECUTIVE BOARD

Section 4.1. Initial Directors. The following three (3) Persons shall be the initial directors of the Association who shall serve until their successors are elected in accordance with Section 4.2 hereof.

STUART F. COOKE  
JOHN V. SUTTON, JR.  
KAREN TURNER

The Declarant shall be entitled to remove and replace the initial directors at any time with or without cause.

Section 4.2. Number, Election and Term of Office of Directors. The number of directors shall be three (3). At the first annual meeting of the membership, three (3) directors shall be elected by the members. The terms of the initial Executive Board elected by the membership at the first annual meeting shall be staggered as follows: The one (1) nominee receiving the most votes shall be elected for a term of three (3) years, the nominee receiving the next highest number of votes shall be elected for a term of two (2) years and the remaining nominee shall be elected for a term of one (1) year. Thereafter, each director shall be elected for a term of three (3) years.

In the event of a tie vote between or among any one or more of the three (3) nominees who received the highest number of votes, the then serving President of the Association shall determine the procedure for establishing the term of each initial director elected by the membership, which determination shall be made immediately during the annual meeting at which the election is held.

Section 4.3. Election Procedures and Qualifications.

(a) Nominations Committee. Nominations for election to the Executive Board shall be made by a Nominations Committee. The Nominations Committee shall be appointed by the existing Executive Board and shall consist of a chairman, who shall be a member of the Executive Board, and at least two (2) other Persons who are Members of the Association but not currently serving on the Executive Board. The Nominations Committee shall develop election procedures and administer such procedures as are approved by the Executive Board providing for election of directors by members at the annual meetings, and, where appropriate, at special meetings. The Nominations Committee shall serve from the date of their appointment through the close of the annual meeting or, where appropriate, the special meeting, at which the election for members of the Executive Board is to be held.

(b) Nominations: Persons qualified to be directors may be nominated for election by the Nominating Committee and the names submitted in writing to the President of the Association and the Executive Board sixty (60) days before the meeting at which the election is to be held. The Nominating Committee shall make as many nominations for election to the Executive Board as it shall in its discretion determine but in no event less than the number of vacancies or terms to be filled. The written nominations

presented by the Nominating Committee shall be accompanied by a statement signed by the nominees indicating the willingness of such nominees to serve as directors. Additional nominations may be made from the floor at the meeting at which the election is held for each vacancy on the Executive Board for which no more than one Person has been nominated by the Nominations Committee. The nominee must either be present at said meeting and consent to the nomination or have indicated in writing his willingness to serve as a director.

(c) Qualifications. No Person shall be eligible for election as a member of the Executive Board unless such Person is an owner, an officer, trustee, general partner, member or agent of an owner, or the Declarant. No owner or representative of such owner shall be elected as a director or continue to serve as a director if such owner is more than sixty (60) days delinquent in meeting any financial obligation owed to the Association.

Section 4.4. Action by Executive Board. At all meetings of the Executive Board, a majority of the total number of directors shall constitute a quorum for the transaction of business, and a Majority Vote of the directors while a quorum is present shall constitute a decision of the Executive Board unless otherwise provided by the Association Documents.

Section 4.5. Removal or Resignation of Directors.

(a) Except with respect to initial directors, at any regular or special meeting of the Association any one or more of the directors may be removed with or without cause by members entitled to cast a majority of the total number of votes represented at such meeting. Any director whose removal has been proposed by the members shall be given at least ten (10) days' notice of the time, place and purpose of the meeting and shall be given an opportunity to be heard at the meeting. The notice given to members of such meeting shall state that one of the purposes of the meeting is to remove such director. The Declarant may remove and replace any initial director, or replacement thereof, at will with or without cause.

(b) A vacancy caused by a removal of a director by the members shall be filled by a vote of the members and the replacement director shall serve the remainder of the term of the director being replaced. The term of the replacement directors shall expire so that the staggered terms shall remain unaffected.

(c) A vacancy among the directors of the Executive Board caused by any reason other than the removal of a director by the members shall be filled by a Majority Vote of the remaining directors at a meeting of the Board held for such purpose promptly after the occurrence of such vacancy or, if the directors remaining in office constitute fewer than a quorum, an affirmative vote of the majority of the directors remaining in office. Each Person so elected shall serve until a successor shall be elected at the next annual meeting of the Association.

(d) A director may resign at any time by giving notice to the Executive Board, the President or the Secretary. Unless otherwise specified, such resignation shall take effect upon the receipt thereof and the acceptance of such resignation shall not be necessary to make it effective. Except for an initial director, a director shall be deemed conclusively to have resigned (i) upon disposition by the owner of the Unit which made such

Person eligible to be a director or (ii) if not in attendance at three (3) consecutive regular meetings of the Board unless the minutes reflect the Board's consent to such absence.

Section 4.6. Powers and Duties of the Board. The business and affairs of the Association shall be managed by the Executive Board. The Executive Board shall have all of the powers and duties necessary for the administration of the affairs of the Association, including, but not by way of limitation, all powers as set forth in Article 4 of Chapter 55A of the North Carolina General Statutes (Nonprofit Corporation Act), as the same may be amended from time to time, and may do all such acts and things as are not required by the Declaration or Bylaws to be exercised and done by the members. The Executive Board shall delegate to one of its members or to a Person employed for such purpose the authority to act on behalf of the Board on such matters relating to the duties of the managing agent (as defined in Section 5.3 hereof), if any, which may arise between meetings of the Board as the Board deems appropriate. In addition to the duties imposed by any other provision of the Declaration or by any resolution of the Association that may hereafter be adopted, the Board shall perform the following duties and take the following actions on behalf of the Association:

(a) Provide goods and services to the members in accordance with the Declaration, and provide for maintenance, repair and restoration of the Common Elements and, to the extent provided in the Declaration, of the Units.

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

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

(d) Adopt, amend and repeal any reasonable Rules and Regulations not inconsistent with the Declaration.

(e) Open bank accounts on behalf of the Association and designate the signatories thereon.

(f) Enforce by legal means the provisions of the Declaration, these Bylaws and the Rules and Regulations.

(g) Act with respect to all matters arising out of any eminent domain proceeding affecting the Common Elements.

(h) Notify the members of any litigation against the Association involving a claim in excess of ten percent (10%) of the amount of the annual budget.

(i) Obtain and carry insurance against casualties and liabilities pay the premiums therefor and adjust and settle any claims thereunder.

(j) Pay the cost of all authorized goods and services rendered to the Association and not billed to owners of individual Units or otherwise provided for in the Declaration.

(k) Notify a Mortgagee of any default in paying assessments for Common Expenses by an owner (which remains uncured for ninety (90) days) or for any other default, simultaneously with the notice sent to the defaulting owner.

(l) Acquire, hold and dispose of Units and mortgage the same without the prior approval of the Association if such expenditures and hypothecations are included in the budget.

(m) Charge reasonable fees for the use of the Common Elements and for services.

(n) Suspend the right of any owner or other occupant of a Unit, and the right of such Person's household, guests, employees, customers, tenants, agents and invitees to use any recreational facilities, areas or amenities located in the Common Elements.

(o) Prepare an annual budget in accordance with the Declaration.

(p) Adopt an annual budget and make assessments (general or special) against the owners to defray the Common Expenses of the Association, establish the means and methods of collecting such assessments from the owners and establish the period of the installment payment, if any, of the assessments for Common Expenses.

(q) Borrow money on behalf of the Association when required for any valid purpose; provided, however, that either a Majority Vote of members obtained at a meeting held for such purpose or written approval by members entitled to cast more than sixty-seven percent (67%) of the total number of votes shall be required to borrow any sum in excess of fifteen percent (15%) of the total annual assessment for Common Expenses for that fiscal year.

(r) Grant easements, rights-of-ways or licenses over and through the Common Elements pursuant to N.C. GEN. STAT. § 47C-3-102(9)

#### Section 4.7. Meeting of Directors.

(a) Types of Meetings. The first (organizational) meeting of the Executive Board following an annual meeting of the Association shall be held within fifteen (15) days thereafter at such time and place as shall be determined by a majority of the directors to elect Officers and establish the manner of operation of the Board for the ensuing year. Regular meetings of the Executive Board may be held at such time and place as shall be determined from time to time by a majority of the directors; provided, however, such meetings shall be held at least quarterly during each fiscal year. Special meetings of the

Executive Board may be called by the President, and shall be called by the President or Secretary upon the written request of at least two (2) directors. All meetings of the Executive Board shall be open to owners as observers, except that the President or presiding officer may call the Board into executive session on sensitive matters such as personnel, litigation strategy or hearings with respect to violations of the Declaration or Rules and Regulation. Any final action taken by the Board in executive session shall be recorded in the minutes.

(b) Notice. Notice of meetings of the Executive Board shall be given to each director, personally or by mail, telegraph or telephone, orally or in writing, at least three (3) business days prior to the day named for such meeting. Such notice shall state the place, day and time and, in the case of special meetings, the purpose thereof. No notice of the organizational meeting shall be necessary if such meeting is held immediately following the annual meeting.

(c) Waiver of Notice. Any director may at any time, in writing, waive notice of any meeting of the Executive Board, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Executive Board shall constitute a waiver of notice by such director of the time, place and purpose of such meeting, unless such director attends for the express purpose of objecting to the transaction of any business on the grounds that the meeting was not lawfully called or convened and so notifies the person conducting the meeting at or prior to the commencement of the meeting or at or prior to consideration of the matter subject to objection, in the case of a special meeting. If all directors are present at any meeting of the Executive Board, no notice shall be required and any business may be transacted at such meeting.

(d) Quorum of Executive Board. At all meetings of the Executive Board, a majority of the total number of directors shall constitute a quorum for the transaction of business, and a Majority Vote of the directors while a quorum is present shall constitute the decision of the Executive Board, unless provided otherwise in the Declaration. If at any meeting of the Executive Board there shall be less than a quorum present, a majority of those present may adjourn or recess the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice. A director who participates in a meeting by any means of communication by which all directors may simultaneously hear each other during the meeting shall be deemed present at the meeting for all purposes.

(e) Conduct of Meetings. The President shall preside over meetings of the Executive Board and the Secretary shall keep the minutes of the meeting and record all resolutions adopted at the meetings and proceedings occurring at the meetings. The then current edition of Robert's Rules of Order shall govern the conduct of the meetings of the Executive Board.

Section 4.8. Action by Directors Without Meeting. Any action by the Executive Board required or permitted to be taken at any meeting may be taken without a meeting if a consent in writing setting forth the action taken shall be signed either before or after such action is taken by all the directors. Any such written consent shall have the same force and effect as a unanimous vote and shall be filed with the minutes of the Executive Board.



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

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

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

(c) Hearing. The hearing shall be held in executive session of the Covenants Committee pursuant to the notice affording the member a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

(d) Appeal. Following a hearing before the Covenants Committee, the violator shall have the right to appeal the decision to the Executive Board. To perfect this right, a written notice of appeal must be received by the Manager, President or Secretary of the Association within thirty (30) days following the hearing date, said written notice to contain information by which the Executive Board may notify the alleged violator of the date of the appeal hearing.

## ARTICLE 5

### MANAGING AGENT

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

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

Section 5.3. Duties. The managing agent shall perform such duties and services as the Executive Board shall direct. Such duties and services may include, without limitation, the duties listed in Paragraphs 4.6(a), (b), (c), (f), (j), (k) and (o). The Executive Board may delegate to the managing agent all of the powers granted to the Executive Board by these Bylaws other than the powers set forth in Paragraphs 4.7(d), (e), (g), (h), (i), (l), (m), (n), (p), (q), and (r). The managing agent shall perform the obligations, duties and services relating to the management of the Condominium, the rights of Mortgagees and the maintenance of reserve funds in compliance with the provisions of the Declaration.

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

- (a) the cash method of accounting shall be employed and expenses required by these Bylaws to be charged to one or more but less than all owners shall be accounted for and reported separately;
- (b) two (2) or more Persons shall be responsible for handling cash to maintain adequate financial control procedures;
- (c) cash account of the Association shall not be commingled with any other entity's accounts;
- (d) no remuneration shall be accepted by the managing agent from vendors, independent contractors or others providing goods or services to the Association whether in the form of commissions, finders fees, service fees or otherwise; any discounts received shall benefit the Association;

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

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

Section 5.5. Limitations. The Executive Board may employ a managing agent for an initial term not to exceed two (2) years. Any contract with the managing agent must provide that it may be terminated, without payment of a termination fee, without cause on no more than ninety (90) days' written notice and with cause on no more than thirty (30) days' written notice.

## ARTICLE 6

### OFFICERS

Section 6.1. Designation and Duties of Officers. The principal officers of the Association shall be the President (who shall also serve as Chairman of the Executive Board), the Vice President, the Secretary and the Treasurer, all of whom shall be elected by the Executive Board. The Executive Board may also elect an assistant treasurer, an assistant secretary and such other Officers as in its judgment may be necessary. The President and Vice President shall be owners, officers of corporate owners or partners of partnership owners or members of limited liability company owners (except for those directors initially appointed by the Declarant) and members of the Executive Board. Any other Officers may be, but need not be, owners or directors. Each Officer shall perform such duties as are normally associated with such office in parliamentary organizations, except to the extent, if any, inconsistent with the Declaration and these Bylaws, and shall perform such other duties as may be assigned to such office by resolution of the Executive Board. If any Officer is unable for any reason to perform the duties of the office, the President (or the Executive Board if the President fails to do so) may appoint another qualified Person to act in such Officer's stead on an interim basis.

Section 6.2. Election of Officers. The Officers of the Association shall be elected annually by the Executive Board at the organizational meeting of each new Board and shall hold office at the pleasure of the Board. Any Officer may hold more than one position; provided, however, that the offices of President, Vice President and Secretary shall be held by three different individuals. Except for death, resignation or removal, the Officers shall hold office until their respective successors shall have been elected by the Board.

Section 6.3. Resignation or Removal of Officers. Any Officer may resign by delivering written notice to the Executive Board. Unless otherwise specified, such resignation shall take effect upon the receipt thereof, and acceptance of such resignation shall not be necessary to make it effective. Upon the affirmative vote of a majority of all members of the Executive Board any Officer may be removed, either with or without cause, and a successor may be elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

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

Section 6.5. President. The President shall be the chief executive officer of the Association; preside at all meetings of the Association and of the Executive Board; have general and active direction of the business of the Association subject to the control of the Board; see to the execution of the resolutions of the Association and the Executive Board; see that all orders and resolutions of the Board are carried into effect; and, in general, perform all the duties incident to the office of President.

Section 6.6. Vice President. The Vice President shall take the place of the President and perform the duties of the President whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Executive Board shall appoint some other director 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 imposed by the Executive Board or by the President.

Section 6.7. Secretary. The Secretary shall: keep the minutes of all meetings of the Association and of the Executive Board; have charge of such books and papers as the Board may direct and as may be required by Article 4 of Chapter 55A of the General Statutes of North Carolina; give or cause to be given all notices required to be given by the Association; give each owner notice of each assessment against such Owner's Unit as soon as practicable after assessment is made; provide for each member and owner, upon request, notice and a copy of the Rules and Regulations or amendment thereof; maintain a register setting forth the place to which all notices to members, owners and Mortgagees hereunder shall be delivered; make it possible for any member or owner to inspect and copy at reasonable times and by appointment the records of the Association; and, in general, perform all the duties incident to the office of Secretary.

Section 6.8. Treasurer. The Treasurer shall be responsible for Association funds and securities; keep full and accurate financial records and books of account showing all receipts and disbursements; prepare all required financial data; deposit all monies and other valuable effects in the name of the Association, in such depositories as may from time to time be designated by the Board; and, in general, perform all the duties incident to the office of Treasurer.

## ARTICLE 7

### COMMITTEES

Section 7.1. Covenants Committee. The Executive Board shall establish a Covenants Committee.

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

Section 7.3. Other Committees. The Executive Board may create and abolish from time to time such other committees consisting of two (2) or more Persons as the Board may deem appropriate to aid in the administration of the affairs of the Association. Such committees shall have the powers and duties fixed by resolution of the Board from time to time. The Board shall appoint the chair of each committee, and may either appoint the other members thereof or leave such appointment to the committee chair.

Section 7.4. Action by Committee Without Meeting. Any action required or permitted to be taken without a meeting if consented to in writing, setting forth the action taken, shall be signed either before or after such action by all of the members of the committee. Any such written consent shall have the same force and effect as a unanimous vote and shall be filed with the minutes of the committee.

## ARTICLE 8

### FIDUCIARY DUTIES

Section 8.1. Execution of Documents. Unless otherwise provided in the resolution of the Executive Board all agreements, contracts, deeds, leases, checks and other instruments of the Association for expenditures or obligations for Common Expenses and all checks drawn upon reserve accounts, shall be executed by any two (2) Persons designated by the Executive Board. Any officer of the Association may be designated by Board resolution to sign a Statement of Common Expenses on behalf of the Association.

Section 8.2. Conflicts of Interest.

(a) Rule and Exceptions. Each director or Officer shall exercise such director's or Officer's powers and duties in good faith in the best interests of the Association. No contract or other transaction between the Association and any of its directors or Officers, or between the Association and any corporation, firm or association (including the Declarant) in which any of the directors or Officers of the Association are directors or Officers or are pecuniary or otherwise interested, is either void or voidable because of such relationship or because any such director or Officer is present at the meeting of the Executive Board or any committee thereof which authorizes or approves the contract or transaction or because such director's or Officer's vote is counted for such purpose if any of the following conditions exist: (1) the material facts of the transaction and the common directorate or interest is disclosed or known to the Executive Board or a majority thereof, and the Board authorizes, approves or ratifies such contract or transaction in good faith by a majority of directors entitled to vote on the transaction, but in no event may such a

transaction be authorized, approved or ratified by a single director; (2) the material facts of the transaction and the common directorate or interest is disclosed or known to all of the members entitled to vote on the matter, and the members who are entitled to be counted in a vote on the transaction approve or ratify the contract or transaction by a majority of the total number of votes entitled to be cast; or (3) the contract or transaction is commercially reasonable to the Association in view of all the facts known to any director or Officer at the time such contract or transaction is authorized, ratified, approved or executed.

(b) Vote Not Counted. Interested directors or officers may be counted in determining the presence of a quorum of any meeting of the Executive Board, a committee thereof, or the members which authorizes, approves or ratifies any contract or transaction, but such director's vote shall not be counted with respect to any matter as to which such director would have a conflict of interest; such director may vote, however, at the meeting to authorize any other contract or transaction.

### Section 8.3. Liability and Indemnification.

(a) No Personal Liability. The directors, officers and members of committees shall not be liable to the Association or any member or owner for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. Directors and officers shall have no personal liability with respect to any contract made by them on behalf of the Association. No member or owner shall be liable for the contract or tort liability of the Association by reason of ownership or membership therein. Every agreement made by the Executive Board, the Officers or the managing agent on behalf of the Association shall, if obtainable, provide that the directors, the Officers or the managing agent, as the case may be, are acting only as agents for the Association and shall have no personal liability thereunder.

(b) Indemnification. The Association shall indemnify the directors, officers and members of committees to the extent that it is contemplated a nonprofit corporation may indemnify its directors, officers and employees pursuant to Article 4 of Chapter 55A of the General Statutes of North Carolina.

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

Section 8.4. Compensation of Directors and Officers. No salary or other compensation shall be paid by the Association to any director or Officer of the Association for serving or acting as such, but this shall not preclude the payment of salary or other compensation for the performance by such director or Officer of other services to the Association nor shall it preclude the reimbursement of reasonable, ordinary and necessary expenses incurred in serving or acting as a director or Officer.

## ARTICLE 9

### BOOKS AND RECORDS

Section 9.1. Maintenance. The Association shall keep books and records as required by Article 4 of Chapter 55A of the General Statutes of North Carolina. All books and records shall be kept in accordance with generally accepted accounting principles. Additionally, the Association shall cause to be adopted procedures for an annual review of the financial status of the Association by an auditor retained by the Executive Board who shall not be an owner or an occupant of a Unit. The cost of such review shall be a Common Expense.

Section 9.2. Availability. The books and records of the Association shall be available for examination by the members, the owners, their attorneys, accountants, Mortgagees and authorized agents during general business hours on business days at the times and in the manner established by the Executive Board for the general knowledge of the owners. The list of members required by Section 3.9 hereof shall be available for inspection for a period of ten (10) days prior to the meeting and at the meeting. All Mortgagees or their representatives shall have the right to examine the books and records of the Association on the same terms and conditions as the members and owners. The Executive Board may fix from time to time a reasonable charge to cover the direct and indirect costs of providing any documents to a member, owner or Mortgagee.

Section 9.3. Accounting Report. Within one hundred twenty (120) days after the end of each fiscal year, the Executive Board shall make available to members and owners and Mortgagees requesting the same, an itemized accounting of the Common Expenses for such fiscal year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the budget adopted by the Executive Board for such fiscal year, and showing the net amount over or short of the actual expenditures plus reserves.

Section 9.4. Fiscal Year. The first fiscal year of the Association shall begin on the date of incorporation and end on the last day of December, unless otherwise determined by the Executive Board.

## ARTICLE 10

### NOTICES

Except as specifically provided otherwise in the Declaration or these Bylaws, all notices, demands, bills, statements or other communications shall be in writing and shall be deemed to have been duly given if delivered personally or sent by United States mail, postage prepaid, or if notification is of a default or lien, sent by registered or certified United States mail, return receipt requested, postage prepaid: (1) if to an owner, at the address which the owner shall designate in writing and file with the Secretary or, if no such address is designated, at the address of the Unit of such owner; (2) if to the Association, the Executive Board or to the managing agent, at the principal office of the managing agent or at such other address as shall be designated by notice in writing to the owners pursuant to this section; or (3) if to a Mortgagee, at the address indicated by the Mortgagee in a written notice to the Association. If a Unit is owned by more than one Person, each such Person who so

designates an address in writing to the Secretary shall be entitled to receive all notices hereunder, otherwise the Person receiving the notice shall have the responsibility for notifying the other Persons comprising the owner.

## ARTICLE 11

### AMENDMENTS

These Bylaws may be amended as more particularly set forth in Part 2 of Article 10 of Chapter 55A of the General Statutes of North Carolina.

## ARTICLE 12

### CONFLICT

In the event that of the provisions of these Bylaws conflict with the provisions of Chapter 55A of the General Statutes of North Carolina, the provisions of Chapter 55A shall control.

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