



**SANDPIPER CAY UNIT OWNERS  
ASSOCIATION  
BYLAWS (REVISED 9/11/99)**

**ARTICLE I  
General Provision**

**Section 1.1. Applicability.** These Bylaws provide for the governance of the Condominium pursuant to the requirements of Article 3 of the Condominium Act. The property, located in Kitty Hawk, North Carolina, and more particularly described in the Declaration. Has been submitted to the provisions of the Condominium Act by recordation simultaneously herewith of the Declaration among the land records of Dare County, North Carolina.

**Section 1.2. Office.** The office of the Condominium, the Unit Owners Association, and the Board of Directors shall be located at the Property or at such other place as may be designated from time to time by the Board of Directors.

**Section 1.3. Definitions.** Capitalized or other terms used herein without definition shall have the meanings specified for such terms in the Declaration to which these Bylaws are attached as Exhibit B, or if not defined therein, the meanings specified for such terms in Section 47C-1-103 of the Condominium Act. The following terms have the following meaning in the Condominium Instruments:

**(a)** "Boards of Directors" of "Board" means the executive organ established pursuant to Article II, Section 2.b and Article III of these Bylaws.

**(b)** "Common Element Interest" means the undivided fractional interest in the common elements appurtenant to each unit, as described in Section 2.3 of the Declaration.

**(c)** "Covenants Committee" Shall mean that committee described in Section 3.18 of these Bylaws.

**(d)** "Limited Common Expenses" means expenses separately assessed against less than all of the Condominium Units in accordance with the use of the services, as permitted by Section 47C-3-115 (c) of the Condominium Act.

**(e)** "Majority Vote" means a vote in person or by proxy at a meeting at which a quorum is present by those Unit Owners who together own fifty-one percent (51%) or more of the Condominium Units. Each unit is entitled to one (1) vote.

**(f)** "Mortgagee" means as institutional lender holding a first mortgage or first deed of trust ("Mortgage") encumbering a Condominium Unit in the Condominium which has notified the Unit Owners Association of its status and has requested all rights under the Condominium Instruments. For purposes of Article VIII of these Bylaws only, when any right is to be given to a Mortgagee, the Board of Directors shall also give such right to the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Veterans Administration, and any other public or private secondary mortgage market entity participating in purchasing or guarantying Mortgages if the Board has notice of such participation.

**(g)** "Officer" means any person holding office pursuant to Article IV of these Bylaws, but shall not mean members of the Board of Directors unless directors are also Officers pursuant to Article IV.

**(h)** "Reserved Common Element" means a Common Element in which the Board of Directors has granted a revocable license for exclusive use by less than all of the Unit Owners.

**(i)** "Unit Owners Association" of "Association" means the Sandpiper Cay Unit Owners Association, a North Carolina non-stock, non-profitable corporation, the membership of which shall be comprised of all the Unit Owners owning Condominium Units in the Condominium.

**ARTICLE II  
Unit Owners Association**

**Section 2.1. Composition**

**(a)** The Unit Owners Association shall consist of all of the Unit Owners, and for all purposes, shall act

merely as agent for the Unit Owners as a group. The Unit Owners Association shall have the responsibility of administering the Condominium, establishing the means and methods of collecting assessments and charges, arranging for the management of the Condominium, and performing all of the other acts that may be required or permitted by; the Condominium Act and the Declaration. Except as to those matters which the Condominium Act specifically requires to be performed by vote of the Association, the foregoing responsibilities shall be performed by the Board of Directors of Managing Agent as more particularly set forth in Article III of these Bylaws.

**(b)** A Board of Directors shall be the governing body of the Unit Owners Association, elected by the members of the Unit Owners Association.

**Section 2.2. Annual Meeting.** The annual meeting of the Association shall be held at least ninety (90) days after the end of each fiscal year on a date chosen by the Board of Directors other than a legal holiday. At such annual meeting the Board of Directors shall be elected by ballot of the Unit Owners in accordance with Article III, Section 3.4 of these Bylaws.

**Section 2.3. Place of Meetings.** Meetings of the Unit Owners Association shall be held at such suitable place convenient to the Unit Owners as designated by the Board of Directors.

**Section 2.4. Special meetings.** The President, a majority of the Board of Directors, or unit owners having twenty percent (20%) of the votes in the Association may call a special meeting of the Unit Owners Association. The notice of any special meeting shall state the time, place and purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

**Section 2.5. Notice of Meetings.** The Secretary shall mail to each Unit Owner a notice of any scheduled meeting of the Association at least ten (10) but not more than seventy five (75) days prior to such meeting, stating the time, place and purpose thereof. The mailing of a notice of meeting in the manner provided in this section and article XI, Section 11.1 of the Bylaws shall be considered service of notice, provided that if a notice is delivered personally, the Secretary shall certify in writing that the notice was delivered to the person of the Unit Owner.

**Section 2.6. Quorum and Adjustment of Meetings.** The presence in person or by proxy of twenty-five percent (25%) of more of the Unit Owners shall constitute a quorum at all meetings of the Unit Owners Association. If at any meeting of the Unit Owners Association a quorum is not present, Unit Owners (in person or by proxy) owning Units to which a majority of votes appertain may adjourn such meeting to a time not less than forty-eight (48) hours after the time the original meeting was called.

**Section 2.7. Order of Business.** The order of business at all meetings of the Unit Owners Association shall be as follows:

- (a)** roll call (proof of quorum)
- (b)** proof of notice of meeting
- (c)** reading of minutes of preceding meeting
- (d)** report of officers
  - (a)** report of board of Directors
  - (b)** reports of committees
  - (c)** election or appointment of inspectors of election (when so required)
  - (d)** election of members of the Board of Directors (when so required)
  - (e)** unfinished business
  - (f)** new business

**Section 2.8. Conduct of Meetings.** The President shall preside over all meetings of the Unit Owners Association and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting as well as a record of all transaction occurring thereat. The President may appoint a person to serve as parliamentarian at any meeting of the Unit Owners Association. The them current edition of Robert's Rules of Order shall govern the conduct of all meetings of the Unit Owners Association when not in conflict with the Condominium Act or the Condominium Instruments. All votes shall be tallied by tellers appointed by the President of other Officer presiding over the meeting.

### **Section 2.9. Voting.**

(a) Each unit owner shall be entitled to one (1) vote per unit owned by said owner. Where the ownership of a Unit is in more than one (1) person (an entity can be a "person"), the person who shall be entitled to cast the vote of such Unit shall be the person named in a certificate executed by all of the owners of such Unit and filed with the Secretary or, in the absence of such named person from the meeting, the person who shall be entitled to cast the vote of such Unit shall be the person owning such Unit who is present. If more than one (1) person owning such Unit is present, then such vote shall be cast only in accordance with their unanimous agreement. Such certificate shall be valid until revoked by a subsequent certificate similarly executed. Wherever the approval or disapproval of a unit Owner is required by the Condominium Act or the Condominium Instruments, such approval or disapproval shall be made only by the person who would be entitled to cast the vote of such Unit at any meeting of the Unit Owners Association.

(b) Except where a greater number is required by the Condominium Act or the Condominium Instruments, a Majority Vote is required to adopt decisions at any meeting of the Unit Owners Association.

(c) No Unit Owner may vote at any meeting of the Unit Owners Association or be elected to or serve on the Board of Directors if payment of any installment of the assessment for Common Expenses on the Unit is delinquent more than thirty (30) days and the amount necessary to bring his account current has not been paid at the time of such meeting or election. There shall be no cumulative voting.

### **Section 2.10. Proxies.**

(a) A vote may be cast in person or by proxy. Such proxy may be instructed or non-instructed and may be granted by any Unit Owner only in favor of another Unit Owner, his Mortgagee, or an Officer of the Association, or in the case of a non-resident Unit Owner, the lessee of such Unit Owner's Unit. Proxies shall be duly executed in writing, shall be valid only for pointed time of the meeting. Such proxy shall be deemed revoked only upon actual receipt by the person presiding over the meeting of notice of revocation from any of the persons owning such Unit, except with respect to proxies in favor of a Mortgagee. No proxy shall in any event be valid for a period in excess of one hundred and eighty (180) days after the execution thereof. Any proxy shall be void if not dated. The proxy of any person shall be void if not signed by a person having authority, at the time of execution thereof, to execute deeds.

(b) An instructed proxy shall be a signed and dated proxy in which the unit owner directs his vote to be cast as he specifies for any known agenda item(s) as it appears on the proxy, and the proxy holder is obligated to vote on such agenda item(s) as instructed on the first ballot cast. Subsequent ballots cast for any known agenda item(s) or any other items of new business which require a vote may be cast by the proxy holder at his discretion. If a proxy is not instructed for any known agenda item(s), the proxy holder may vote his proxy at his discretion on the first and subsequent ballots cast.

## **ARTICLE III** **Board of Directors**

### **Section 3.1. Composition.**

(a) Number. The Board of Directors shall consist of no less than three (3) nor more than five (5) members, all of whom shall be Unit Owners of Mortgagees (or designees of Mortgagees), and shall assume office in the order of the highest number of votes received.

(b) Term of Office. Elected directors shall serve for a three (3) year term from the time of election and, except for resignation or removal, the directors shall hold office until their vacancy shall hold office until the expiration of the term which he has been appointed to fill.

**Section 3.2. Powers and Duties.** The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Unit Owners Association and may do all such acts and things as are not, by the Condominium Act or the Condominium Instruments, required to be exercised and done by the Association. The Board of Directors shall have the power, from time to time, to adopt any Rules and Regulations deemed necessary for the benefit and enjoyments of the Condominium; provided, however, that such Rules and Regulations shall not conflict with the Condominium Act or the Condominium Instruments. The Board of Directors 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 Article III, Section 3.2 hereof), if any, which may arise between meetings of the Board as the Board deems appropriate. In addition to the duties imposed by the Bylaws or by any resolution of the Association that may hereafter be adopted, the

Board shall on behalf of the Association:

**(a)** Prepare and adopt an annual budget, in which there shall be expressed the assessments of each Unit Owner for the Common Expenses.

**(b)** Make assessments against Unit Owners to defray the costs and expenses of the Condominium, establish the methods of collecting such assessments from the Unit Owners and establish the period of the installment payment of the annual assessment for Common Expenses.

**(c)** Provide for the operation, care, upkeep and maintenance of all of the Property and services of the Condominium.

**(d)** Designate, hire and dismiss the personnel necessary for the maintenance, operation, repair and replacement of the Common Elements and provide services for the Property and, where appropriate, provide for the compensation of such personnel and for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties, which supplies and equipment shall be deemed part of the Property.

**(e)** Collect the assessments against the Unit Owners, deposit the proceeds thereof in back depositories designated by the Board of Directors and use the proceeds to carry out the administration of the Property.

**(f)** Make and amend the Rules and Regulations.

**(g)** Open bank accounts on behalf of the Unit Owners Association and designate the signatories thereon.

**(h)** Make, or contract for the making of, repairs, addition and improvements to or alteration of the Property, and repairs to and restoration of the Property, in accordance with these Bylaws, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings.

**(i)** Enforce by legal means the provisions of the Declaration, these Bylaws and the Rules and Regulations, act on behalf of the Unit Owners with respect to all matter arising out of any eminent domain proceeding, and notify the Unit Owner of any litigation against the Unit Owners Association involving a claim in excess of ten percent (10%) of the amount of the annual budget.

**(j)** Obtain and carry insurance against casualties and liabilities, as provided in Article VI of these Bylaws, pay the premiums therefore and adjust and settle any claims thereunder.

**(k)** Pay the cost of all authorized services rendered to the Unit Owners Association and not billed to Unit Owners of individual units or otherwise provided for in Article V, Sections 5.1 and 5.2 of these Bylaws.

**(l)** Keep books with detailed accounts in chronological order of the receipts and expenditures affecting the Property, and the administration of the Condominium, specifying the expenses of maintenance and repair of the Common Elements and any other expenses incurred. Such books and vouchers shall be available for examination by the Unit Owners, their attorneys, accountants, Mortgagees and authorized agents during general business hours on business days at the times and in the manner set and announced by the Board of Directors for the general knowledge of the Unit Owners. All books and records shall be kept in accordance with general accepted accounting principles, and the same shall be audited at least once a year by an independent auditor retained by the Board of Directors who shall not be a resident of the Condominium nor a Unit Owner. The cost of such audit shall be a Common Expense.

**(m)** The level of audit shall be determined by the Board of Directors annually, except that at least once in a five (5) year period such audit shall be a "full" audit as commonly defined; and should the Managing Agent change for whatever reason, a "full" audit will be required at that time, whether or not it is within the five (5) year period, and such five (5) year period will begin again.

**(n)** Notify a Mortgagee of any default hereunder by the Unit Owner of the Unit subject to such Mortgage, if such default continues for a period exceeding sixty (60) days.

**(o)** Borrow money of behalf of the Unit Owner's Association required in connection with any one instance relating to the operation, care, upkeep and maintenance of the Common Elements: provides, however, that the consent of at least two-thirds (2/3) in number and in Common Element Interest of all Unit Owners, obtained either in writing or at a meeting duly called and held for such purpose in accordance with the provisions of these Bylaws, shall be required to borrow any sum in excess of ten percent (10%) of that fiscal year's annual budget. If any sum borrowed by the Board of Directors of behalf of the Condominium pursuant to the authority contained in this subsection (o) is not repaid by the Unit Owners Association, a Unit Owner who pays to the creditor a percentage of the total amount due equal to his Common Element Increase, shall be entitled to obtain from the creditor a release of any judgment or other lien which such creditor shall have filled or shall have the right to file against such Unit Owner's Condominium Unit, and the Association shall not be entitled to assess his Unit for payment of the remaining amount due such creditor.

**(p)** Notwithstanding the borrowing limitations set forth in Article III, Section 3.2(n) of these Bylaws, acquire, hold and dispose of Condominium Units and mortgage the same without limitations as to amount if such expenditures and hypothecations are included in the budget adopted by the Board of Directors.

**(q)** In its sole discretion, from time to time, to designate certain Common Elements as Reserved Common Elements as impose such restrictions and conditions on the use thereof as the Board of Directors deems appropriate. However, the Board of Directors shall make no such designation of Reserved Common Elements as would interfere with the Unit Owners use of Common Elements for ingress and egress or any other function of a Common Element which is necessary to the proper functioning and maintenance of the Condominium and the Units.

(r) Furnish the resale certificate required by Section 47C-4-109 of the Condominium Act, within ten (10) days after the receipt of a written request therefore from any Unit Owner. Such certificate shall set forth the monthly common expense assessment and any other fees payable by unit owners.

(s) Do such other things and acts not inconsistent with the Condominium Act or the Condominium Instruments which the Board of Directors may be authorized to do by a resolution of the Unit Owners Association.

**Section 3.3. Managing Agent.** The Board of Directors shall employ for the Condominium a "Managing Agent" at a compensation to be established by the Board.

(a) **Requirements.** The Managing Agent shall be a bona fide business enterprise, which manages common interest residential communities. Such firm shall have experience in real estate 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 Board of Directors regarding the administrative operating of the Condominium and shall employ personnel knowledgeable in the areas of condominium insurance, accounting, contract negotiation, labor relation and condominium regulation.

(b) **Duties.** The Managing Agent shall perform such duties and services as the Board of Directors shall direct. The board of Directors may delegate to the Managing Agent all of the powers granted to the Board of Directors by these Bylaws, other than the powers set forth in Article III, Section 3.1(a) (as pertains to adoption of budget), (e), (f), (g), (n), (o) and (p) of these Bylaws. The Managing Agent shall perform the obligations, duties and services relation to the management of the Property, the rights of Mortgagees and the maintenance of reserve funds in compliance with the provisions of these Bylaws.

(c) **Standards.** The Board of Directors shall impose appropriate standards of performance upon the Managing Agent. Unless the Managing Agent is instructed otherwise by the Board of Directors:

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

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

(3) cash accounts of the Unit Owners Association shall not be co-mingled with any other accounts;

(4) no remuneration shall be accepted by the Managing Agent from vendors, independent contractors or other providing goods or services to the Unit Owners Association whether in the form of commissions, finders fees, services fees or otherwise; any discounts received shall benefit the Association;

(5) any financial or other interest which the Managing Agent may have in any firm providing goods or services to the Unit Owners Association shall be disclosed promptly to the Board of Directors; and

(6) a monthly financial report shall be prepared for the Unit Owners Association containing:

(A) an "income statement" reflecting all income and expense activity for the preceding month on an accrual basis;

(B) an "account statement" reflecting all receipt and disbursement activity for the preceding month on a cash basis;

(C) an "account status report" reflecting the status of all accounts in an "actual" versus "projected" (budget) format;

(D) a "balance sheet" reflecting the financial condition of the Unit Owners Association on an unaudited basis;

(E) a "budget report" reflecting any actual or pending obligations which are in excess of budgeted 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

(F) a "delinquent report" listing all Unit Owners who are delinquent in paying condominium assessments and describing the status of any actions to collect such assessments

(d) **Limitations.** The Unit Owners Association and the Board of Directors shall not undertake "self-management" of fail to employ a Managing Agent without the consent of at least sixty-seven percent (67%) of the Unit Owners and at least fifty-one percent (51%) of the Mortgagees. Any contract with the Managing Agent must cause on no more than ninety (90) days written notice, and with cause on no more than thirty (30) days written notice.

### **Section 3.4. Election of Directors.**

(a) **Elections Committee.** At least ninety (90) days prior to each annual meeting of the Unit Owners Association, the Board of Directors shall appoint an Elections Committee consisting of one (1) member of the Board whose terms is not then expiring and at least two (2) other Unit Owners. The Elections Committee shall develop election procedures and administer such procedures as are approved by the Board.

(b) **Nominations.** Persons qualified to be directors may be nominated for election only by a nominating petition, submitted to the chairman of the Election Committee at least sixty (60) days before the meeting at which the election is to be held, signed by Unit Owners document signed by the nominee indicating his willingness to serve as a director; provided, however, that additional nominations may be made from the floor

at the meeting at which the election is held for each vacancy on the Board of Directors for which no more than one (1) person has been nominated by petition. The nominee must either be present and consent to the nomination or have indicated in writing his willingness to serve.

**(c) Qualifications.** No person shall be eligible for election as a member of the Board of Directors unless such person is (alone or together with one or more other persons) a Unit Owner (including a person who is the official representative of a partnership or a corporate unit owner). No person shall be elected as a director or continue to serve as a director if such person is, at such time, more than thirty (30) days delinquent in meeting his financial obligations to the Unit Owners Association.

**Section 3.5. Removal or Resignation of Directors.** At any regular or special meeting of the Unit Owners Association duly called (a quorum being present), any one or more of the directors may be removed with or without cause by a vote of two-thirds (2/3) of those present at such meeting in person or by proxy, and a successor may then be elected to fill the vacancy thus created for the remainder of the current term. Any director whose removal has been proposed by the Unit Owners shall be given at least seven (7) days notice of the time, place and purpose of the meeting and shall be given an opportunity to be heard at the meeting. A director may resign at any time. A director shall be deemed to have resigned upon disposition of his Unit or if not in attendance at three (3) consecutive regular meetings of the Board, unless the minutes reflect consent to such absence.

**Section 3.6. Vacancies.** Vacancies on the Board of Directors caused by any reason other than the removal of a director by a vote of the Unit Owners Association shall be filled by a vote of the majority of the remaining directors at a special meeting of the Board held for such purpose promptly after the occurrence of any such vacancy, even though the directors present at such meeting may constitute less than a quorum. Each person so elected shall be a director until the expiration of the term which he has been appointed to fill.

**Section 3.7. Organization Meeting.** The first meeting of the Board of Directors following the annual meeting of the Unit Owners Association shall be held within thirty (30) days thereafter at such time and place as shall be fixed by the Association at the meeting at which such Board of Directors shall have been elected, and no notice shall be necessary to the newly-elected directors in order legally to constitute such meeting: Provided, that, a majority of the entire Board of Directors is present at the meeting.

**Section 3.8. Regular Meetings.** Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the directors, but such meetings shall be held at least once every three (3) months during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each director, personally or by mail, telegraph, telephone or fax, at least three (3) business days prior to the day named for such meeting.

**Section 3.9. Special Meetings.** Special meetings of the Board of Directors may be called by the president on three (3) business days notice to each director, given personally or by mail, telegraph, telephone or fax, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least three (3) directors.

**Section 3.10. Waiver of Notice.** Any director may at any time, in writing, waive notice of any meeting of the Board of Directors, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director, in person or by telephone communication, at any meeting of the Board of Directors shall constitute a waiver or notice by him of the time, place and purpose of such meeting. If all directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

**Section 3.11. Quorum of Board of Directors.** At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. If at any meeting of the Board of Directors there shall be less than a quorum present, a majority of those present may adjourn 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 means of telephone communication shall be deemed present at the meeting for all purposes.

**Section 3.12. Compensation.** No director shall receive any compensation from the Condominium for acting as such.

**Section 3.13. Conduct of Meetings.** The President shall preside over all meetings of the Board of Directors and the Secretary shall keep a minute book of all resolutions adopted by the Board and of all transactions and proceedings occurring at such meetings. The then current edition of Robert's Rules of Order shall govern the conduct of the meetings of the Board of Directors when not in conflict with the Condominium Act or the Condominium Instruments.

**Section 3.14. Action Without Meeting.** Any action by the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting if all of the directors shall individually or collectively consent in writing to such action. Any such written consent shall be filed with the minutes of the proceedings of the Board of Directors.

**Section 3.15. Board of Directors as Attorney-in-Fact.** The Board of Directors is hereby irrevocably appointed as agent and attorney-in-fact for the Unit Owners of all of the Units and for each of them, to manage, control and deal with the interests of such Unit Owners in the Common Elements of the Condominium to permit the Board of Directors to fulfill all of its powers, rights, functions and duties. The Board of Directors is hereby irrevocably appointed as agent and attorney-in-fact for each Unit Owner, each Mortgagee, other named insured and their beneficiaries and any other holder of a lien or other interest in the Condominium or the Property to;

(a) adjust and settle all claims arising under insurance policies purchased by the Board of Directors;

(b) execute and deliver releases upon the payment of claims, and

(c) act on their behalf in any condemnation proceeding or action of eminent domain; provides, however, that the consent of a Mortgagee shall be required if such Mortgagee notifies the Board of Directors pursuant to Article XI, Section 11.1 of the Bylaws within thirty (30) days after receipt of notice of the damage pursuant to Article VI, Section 6.2 (C) of the Bylaws or notice of the taking in condemnation or by eminent domain pursuant to Article VII, Section 7.2 of the Bylaws. The powers stated herein are in addition to, and not in derogation of, the powers granted to the Association by Section 47C-3-102 of the Condominium Act. The Board of Directors may grant and accept easements and licenses pursuant to Section 47C-3-102(9) of the Condominium Act.

**Section 3.16. Liability of the Board of Directors, Officers, Unit Owners and Unit Owners Association.**

(a) The officers, directors and members of the Covenants Committee shall not be liable to the Unit Owners Association or to any Unit Owner for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. The Unit Owners Association shall indemnify and hold harmless each of the officers and directors from and against all contractual liability to others arising out of contracts made by the Officers or the Board of Directors on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the provisions of the Condominium Act or the Condominium Instruments, except to the extent that such liability is satisfied by directors and officers liability insurance. Officers and directors shall have no personal liability with respect to any contract out of any contract made by any officer or the Board of Directors, or out of the indemnification of the officers or directors, or for damages as a result of injuries arising in connection with the Common Elements solely by virtue of his ownership of a Common Element Interest therein or for liabilities incurred by the Unit Owners Association shall be limited to the total liability multiplied by his Common Element Interest. Every agreement made by the officers, the Board of Directors, or the managing agent on behalf of the Unit Owners Association shall be limited to the total liability thereunder multiplied by his Common Element Interest. Every agreement made by the officers, the Board of Directors, or the managing agent on behalf of the Unit Owners Association shall, if obtainable, provide that the officers, the directors or the managing agent, as the case may be, are acting only as agents for the Association and shall have no personal liability thereunder (except as Unit Owners), and that each Unit Owner's liability thereunder shall be limited to the total liability thereunder multiplied by his Common Element Interest. The Unit Owners Association shall indemnify and hold harmless each of the members of the Covenants Committee from and against all liability to others arising out of the due exercise of their responsibilities unless their action shall have been taken in bad faith or contrary to the provisions of the Condominium Act or the Condominium Instruments. The Unit Owners Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding by reason of the act that he is or was an officer or director of the Association or a member of the Covenants Committee against expenses (including attorney's fees), judgments, fines and amount paid in settlement incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Condominium.

(b) Except to the extent prohibited by law, the Unit Owners Association shall not be liable for any failure of water supply or other services to be obtained by the Association or paid for as a Common Expense, or for injury or damage to person or property caused by the elements or by the Unit Owner of any Condominium Unit, or any other person. The Unit Owners Association shall not be liable to any Unit Owner for loss or damage, by theft or otherwise, of articles which may be stored upon any of the Common Elements. No diminution or abatement of any assessments, as herein elsewhere provided, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Elements or



from any action taken by the Unit Owners Association to comply with any law, ordinance or with the order or directive of any governmental authority.

**Section 3.17. Common or Interested Directors.** Each director shall exercise his powers and duties in good faith and with a view to the interests of the Condominium. Contracts and other transactions between the Unit Owners Association and any of its directors, or between the Association and any corporation, firm, or association in which any of the directors of the Association are directors or officers or are otherwise interested, are not void or voidable because any such director is present at the meeting of the Board of Directors or any committee thereof which authorizes or approves the contract of transaction, or because his vote is counted for such purpose if any of the conditions specified in any of the following subsections exist:

(a) The fact of the common directorate or interest is disclosed or known to the Board of Directors or a majority thereof or noted in the minutes, and the Board authorizes, approves or ratifies such contract or transaction in good faith by a vote sufficient for the purpose; or

(b) The fact of the common directorate or interest is disclosed or known to at least a majority of the Unit Owners, and the Unit Owners approve or ratify the contract or transaction in good faith by a vote sufficient for the purpose; or

(c) The contract of transaction is commercially reasonable to the Unit Owners Association at the time it is authorized, ratified, approved or executed.

Any Common or interested directors may be counted in determining the presence of a quorum of any meeting of the Board of Directors or committee thereof which authorizes, approves or ratifies any contract or transaction, and may vote at the meeting to authorize any contract or transaction with like force and effect as if such director of the Unit Owners Association were not an officer or director of such other corporation, firm or association or not so interested.

**Section 3.18. Covenants Committee.**

(a) Purpose. The Board of Directors shall establish a Covenants Committee, consisting of three (3) members of the Association appointed by the Board, each to serve for a term of one (1) year, to assure that the Condominium shall always be maintained in a manner:

- (1) providing for visual harmony and soundness of repair;
- (2) avoiding activities deleterious to the esthetic or property values of the Condominium;
- (3) furthering the comfort of the Unit Owners, their guests and tenants; and
- (4) promoting the general welfare and safety of the Condominium community.

(b) Powers. The Covenants Committee shall regulate, consistent with the above stated purpose, the external design, appearance, use and maintenance of the Common Elements. The Covenants Committee may recommend to the Board of Directors the imposition of reasonable application fees as well as the costs of reports, analyses, or consultations required in connection with improvements or changes proposed by a Unit Owner. Upon petition of any Unit Owner or upon its own motion, the Covenants Committee may recommend to the Board of Directors the imposition of reasonable fines (pursuant to Section 47C-3-107A of the Condominium Act and Article IX, Section 9.1 (g) of these Bylaws upon, and issue a cease and desist request to, a Unit Owner, his guests, invitees, or lessees whose actions are inconsistent with the provisions of the Condominium Act, the Condominium Instruments, the Rules and Regulations or resolutions of the Board of Directors. The Covenants Committee shall from time to time, as required, provide interpretations of the Condominium Instruments, Rules and Regulations and resolutions pursuant to the intentions, provisions and qualifications thereof when requested to do so by a Unit Owner or the Board of Directors. Any action, ruling or decision of the Covenants Committee may be appealed to the Board of Directors by any party deemed by the Board to have Standing as an aggrieved party. The Board may affirm, modify or reverse any such action, ruling or decision.

(c) Authority. The Covenants Committee shall have such additional duties, power and authority as the Board of Directors may from time to time provide of its duties, powers and authority either generally or on a case-by-case basis. The Covenants Committee shall carry out its duties and exercise its powers and authority in the manner provided for in the Rules and Regulation or by resolution of the Board of Directors.

**ARTICLE IV**  
**Officers**

**Section 4.1. Designation.** The principal officers of the Unit Owners Association shall be the president, the Vice President, the Secretary and the Treasurer, all of whom shall be a member of the Board of Directors and elected by the Board of Directors. The Board of Directors may appoint an assistant treasurer, an assistant secretary and such other officers as may be necessary. At least one (1) officer of the Board of directors shall be



a resident of Dare county or Currituck County, North Carolina. Any other appointed officer may, but need not, be a Unit Owner or member of the Board of Directors.

**Section 4.2. Election Of Officers.** The officers of the Unit Owners Association shall be elected annually by the Board of Directors at the organizational meeting of each new board and shall hold office at the pleasure of the Board.

**Section 4.3. Removal of Officers.** Upon the affirmative vote of a majority of all members of the Board of Directors 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 4.4. President.** The President shall be the chief executive officer of the Unit Owners Association, preside at all meetings of the Association and of the Board of Directors, have general and active management of the business of the Association subject to the control of the Board, see that all orders and resolution of the Board are carried into effect, and appoint committees from among the Unit Owners from time to time as the President may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association.

**Section 4.5. 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 Board of Directors 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 Board of Directors or by the President.

**Section 4.6. Secretary.** The Secretary shall keep the minutes of all meetings of the Unit Owners Association and of the Board of Directors, have charge of such books and papers as the Board may direct, give or cause to be given all notices required to be given by the Association, maintain a register setting forth the place to which all notices to Unit Owners and Mortgagees hereunder shall be delivered, and, in general, perform all the duties incident to the office of secretary.

**Section 4.7. Treasurer.** The Treasurer shall (together with the managing agent) be responsible for Unit Owners 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 Board of Directors, or 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.

**Section 4.8. Execution of Documents.** All agreements, contract, deeds, leases, checks and other instruments of the Unit Owners Association for expenditures or obligation in excess of two thousand dollar (2,000.000) or less, except from reserve accounts, may be executed by any one (1) person designated by the Board of Directors.

**Section 4.9. Compensation of Officers.** No officer who is also a director shall receive compensation from the Unit Owners Association for acting as such officer.

## **ARTICLE V** **Operation of the Property**

### **Section 5.1. Determination of Common Expenses and Assessments Against Unit Owners.**

(a) **Fiscal Year.** The fiscal year of the Unit Owners Association shall be January 1 though December 31, unless otherwise determined by the Board of Directors.

(b) **Preparation and Approval of Budget.**

(1) At least sixty (60) days before the beginning of each fiscal year, the Board of Directors shall adopt a budget for the Unit Owners Association containing an estimate of the total amount considered necessary to pay the cost of maintenance, management, operation, repair and replacement of the Common Elements and those parts of the units which the Association has the responsibility to maintain, repair and replace, and the cost of those wages, materials, insurance premiums, services and supplies and other expenses that may be declare to be Common Expenses by the Condominium act, the Condominium Instruments or a resolution of the Association and which will be required during the ensuing fiscal year for the administration, operation, maintenance and repair of the Property and the rendering to the Unit Owners of all related services. The budget shall reflect the separate assessment of Limited Common Expenses.

(2) Such budget shall also include such reasonable amounts as the Board of Directors considers necessary to provide working capital, a general operation reserve and reserves for contingencies and

replacements. At least forty five (45) days before the beginning of each fiscal year, the Board of Directors shall send to each Unit Owner a copy of the budget in a reasonably itemized form which sets forth the amount of the Common Expenses and any special assessment payable by each Unit Owner. Such budget shall constitute the basis for determining each Unit Owner's assessment for the Common Expenses of the Condominium.

**(c) Assessment and Payment of Common Expenses.** Subject to the provisions of Article IX, Section 9.1(a) of these Bylaws, the total amount of estimated funds required from assessments for the operation of the Property set forth in the budget adopted by the Board of Directors shall be assessed against each Unit Owner in proportion to his respective Common Element Interest, except for Limited Common Expenses which shall be assessed against each Unit Owner benefited in proportion to the relative Common Element Interest of such Units inter se, and shall be a lien against each Unit Owner's Unit as provided in Article IX, Section 9.2 of these Bylaws. On or before the first day of each fiscal year, and the first day of each of the succeeding eleven months in such fiscal year, each Unit Owner shall be obligated to pay to the board of Directors or the Managing Agent (as determined by the Board), one-twelfth (1/12) of such assessment. Within ninety (90) days after the end of each fiscal year, the Board of Directors shall supply to all Unit Owners, and to each Mortgagee 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 Board of Directors for such fiscal year, and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall, at the discretion for the Board of Directors, be placed in reserve accounts, be placed in a special account to be expended solely for the general welfare of the Unit Owners, or be credited according to each Unit Owner's Common Element Interest to the next monthly installments due from Unit Owners under the current fiscal year's budget, until exhausted. Any net shortage shall be assessed promptly against the Unit Owners in accordance with their Common Element Interest and shall be payable either:

- (1) in full with payment of the next monthly installment due; or
- (2) in not more than six (6) equal monthly installments, as the Board of Directors may determine.

**(d) Reserves.** The Board of Directors shall build up and maintain reasonable reserves for working capital, operation, contingencies and replacements. Extraordinary expenditures not originally included in the annual budget, which may become necessary during the year shall be charged first against such reserves. If the reserves are inadequate for any reason, including non-payment of any Unit Owner's assessment, the Board of Directors may at any time levy a further assessment, which shall be assessed against the Unit Owners according to their respective Common Element Interests, and which may be payable in a lump sum or in installments as the Board may determine. The Board of Directors shall serve notice of any such further assessment on the Unit Owners by a statement in writing giving the amount and reasons therefore, and such further assessment shall, unless otherwise specified in the notice, become effective with the next monthly payment which is due more than ten (10) days after the delivery of such notice. All Unit Owners shall be obligated to pay the adjusted monthly amount or, if such further assessment is not payable in installments, the amount of such assessment. Such assessment shall be a lien as of the effective date as set forth in subsection ©.

**(e) Effect of Failure to Prepare or Adopt Budget.** The failure or delay of the Board of Directors to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of a Unit Owner's obligation to pay his allocable share of the Common Expenses as herein provides whenever same shall be determined and, in the absence of any annual budget or adjusted budget, each Unit Owner shall only be obligated to continue to pay each monthly installment at the monthly rate established for the previous fiscal year until notified of the monthly payment which is due more than ten (10) days after such new annual or adjusted budget is adopted such new annual or adjusted budget is adopted.

**(f) Accounts.** All sums collected by the Board of Directors with respect to assessments against the Unit Owners or from any other source may be commingled into a single fund or held for each Unit Owner in accordance with his Common Element Interest.

**Section 5.2. Payment of Common Expenses.** Each Unit Owner shall pay the Common Expenses, including Limited Common Expenses, assessed by the Board of Directors pursuant to the provisions of Article V, Section 5.1 of these Bylaws. No Unit Owner may be exempt from liability for the assessment for Common Expenses by reason waiver of the use or enjoyment of any of the Common Elements or by abandonment of the Unit. No Unit Owner shall be liable for the payment of any part of the Common Expenses assessed against the Unit subsequent to the date of recordation for a conveyance by such Unit Owner in fee of such Unit. Prior to or at the time of any such conveyance, all liens, unpaid charges and assessments shall be paid in full and discharged. The purchaser of a Unit shall be jointly and severally liable with the selling Unit Owner for all unpaid assessments against the latter for the proportionate share of the common expenses up to the time of such recordation, without prejudice to the purchaser's right to recover from the selling Unit Owner amounts paid by the purchaser therefore; provided, however, that any such purchaser shall be entitled to a statement setting forth the amount of the unpaid assessments against the selling Unit Owner within five (5) business days following a written request therefore to

the Board of Directors or Managing Agent and such purchaser shall excess of the amount therein set forth; and provided, further, that each Mortgagee who comes into possession of a Condominium Unit by virtue of foreclosure of by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale ,shall take the Condominium Unit free of any claims for unpaid assessments or charges against such Unit which accrue prior to the time such Mortgagee comes into possession thereof, except for claims for a pro rata reallocation of such assessments or charges to all Condominium Units including the mortgaged Condominium Unit.

**Section 5.3. Collection of Assessments.** The Board of Directors, or the Managing Agent at the request of the Board, shall take prompt action to collect any assessment for Common Expenses due from any Unit Owner which remains unpaid for more than thirty (30) days from the due date for payment thereof. Any assessment, or installment thereof, not paid within ten (10) days after due shall accrue a late charge in the amount of ten dollars (\$10.00) per occurrence, or such other amount as may be established from time to time by the Board of Directors.

**Section 5.4. Statement of Common Expenses.** The Board of Directors shall promptly provide any Unit Owner, contract-purchaser or Mortgagee so requesting the same in writing with a written statement of all unpaid assessments for Common Expenses due from such Unit Owner. The Board of directors may impose a reasonable charge forth the preparation of such statement to cover the cost of preparation.

**Section 5.5. Maintenance, Repair, Replacement and Other Common Expenses.**

**(a) By the Unit Owners Association.** The Unit Owners Association shall be responsible for the maintenance, repair and replacement (unless in the opinion of not less than eighty percent (80%) of the board of Directors such expense was necessitated by the negligence, misuse or neglect of a Unit Owner) of all of the Common Elements (including the Limited Common Elements) as defined herein or in the Declaration, whether located inside or outside of the Units, the cost of which shall be charged to all Unit Owners as a Common expense; provided, however, that each Unit Owner shall perform normal maintenance of the Limited Common Elements appurtenant to his Unit and any portion of the remaining Common Elements which the Board of Directors pursuant to the Rules and Regulation has given him permission to utilize, including without limitation the items enumerated in subsection

**(b) By the Unit Owner.**

**(1)** Each Unit Owner shall keep the Unit and its equipment, appliances and appurtenances in good order, condition and repair and in a clean and sanitary condition, and shall do all redecorating, painting and varnishing which may at any time b necessary to maintain the good appearance and condition of the Unit. In addition, each Unit Owner shall be responsible for all damage to any other Units or to the Common Elements resulting from such Unit Owner's failure or negligence to make any of the repairs required by this Section.

**(2)** The Unit Owner of any Unit to which a limited Common element balcony, deck or patio is appurtenant shall perform the normal maintenance for such Limited Common element, including keeping it in a clean and sanitary condition, free and clear of snow, ice and any accumulation of water and shall also make all repairs thereto caused or permitted by such Unit Owner's negligence, misuse or neglect. All structural repair or replacement shall be made y the Unit Owners Association as a Common Expense, as provided in subsection (a).

**(3)** Any Unit owner permitted by the Board of Directors to use a specific portion of the Common Elements for storage is responsible for the maintenance and care for such portion and shall use such portion in a safe and sanitary manner.

**(c) Manner of Repair and Replacement.** All repairs and replacements shall be substantially similar to the original construction and installation and shall be of first-class quality, but may be done with cotemporary building materials and equipment. The method of approving payment vouchers for all repairs and replacements shall be determined by the Board of Directors.

**Section 5.6. Additions, Alteration or Improvements by the Board of Directors.** Whenever, in the judgment of the Board of Directors, the Common Elements shall require addition, alterations or improvements during any fiscal year costing in excess of ten percent (10%) of that fiscal year's annual budget, the making of such addition, alterations or improvements requires a Majority Vote of the Unit Owners as contained in Article I, Section 1.3(d) of these Bylaws, and the Board of Directors shall assess all Unit Owners benefited for the cost thereof as a Common Expense (or Limited Common Expense). Any additions, alterations or improvements during any fiscal year costing then percent (10%) or less of that fiscal year's annual budget may be made by the Board of Directors without approval of the Unit Owners and the cost thereof shall constitute a Common Expense or Limited Common Expense, depending on the mature of the additions, alteration or improvements. Notwithstanding the foregoing, if, in the opinion of not less than eighty percent (80%) of the members of the Board of Directors, such additions, alteration or improvements are exclusively or substantially exclusively for the benefit of the Unit Owners requesting the same, such requesting Unit owners shall be assessed therefore in such proportion as they jointly approve or, if they are unable to agree thereon, in such proportion as may be determined by the board of Directors.

**Section 5.7. Additions, Alterations or Improvements by the Unit Owners.** No Unit Owners shall make any structural addition, alteration or improvement in or to the Unit without the prior written consent of the Board of Directors or the Covenants Committee as appropriate. No Unit Owner shall paint or alter the exterior of the Unit, including the doors and windows, nor shall any Unit Owner paint or alter the exterior of any building, without the prior written consent of the Board of Directors or the Covenants Committee as appropriate. The Board of Directors shall be obligated to answer any written request by a Unit owner for approval of a proposed structural addition, alteration or improvement in such Unit Owner's Unit within forty-five (45) days after such request, and failure to do so within such time shall constitute consent by the Board of Directors or the Covenants Committee to the proposed structural addition, alteration or improvement. Provided consent has been given by the Board of Directors, if any application to any governmental authority for a permit to make such structural addition, alteration or improvement in or to any Unit requires execution by the Unit Owners Association, then the application shall be executed on behalf of the Association by an authorized Officer only; without, however, incurring any liability on the part of the Board of Directors, the Association alteration or improvement, or to any person having claim for injury to person or damage to property arising therefrom. Subject to the approval of any Mortgagee of such affected Units, the board of Directors and any Unit Owner affected thereby, any Unit may be subdivided or may be altered so as to relocate the Boundaries between such Unit and any adjoining Units. The Secretary shall record any necessary amendment to the Declaration to effectuate such action pursuant to Sections 47C-2-112 or 47C-2-113 of the Condominium Act.

**Section 5.8. Restrictions on Use of Units and Common Elements; Rules and Regulations.**

**(a) Restrictions.** Each Unit and the Common Elements shall be occupied and used as follows:

**(1)** Except for the areas of the Condominium designated for recreational use and except as provided in the Declaration, no Unit shall be used for other than housing and the related common purposes for which the Property was designed. The Board of Directors may permit reasonable, temporary non-residential uses from time to time.

**(2)** Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance for the Property or any part thereof applicable for residential use without the prior written consent of the Board of Directors. No unit Owner shall permit anything to be done or kept in the Unit or in the Common Elements which will result in the cancellation of insurance on the Property or any part thereof or which would be in violation of any law, regulation or administrative ruling. No waste shall be committed on the Common Elements.

**(3)** No immoral, improper, offensive or unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulation of all governmental agencies having jurisdiction thereof shall be complied with, by and at the sole expense of the Unit Owner or the Board of Directors, whichever shall have the obligation to maintain or repair such portion of the Property, and, if the latter, then the cost of such compliance shall be a Common Expense.

**(4)** No Unit Owner shall obstruct any of the Common Elements nor shall any Unit Owner place, or cause or permit anything to be placed on or in any of the Common Elements without the approval of the Board. Nothing shall be altered or constructed in or removed from the Common Elements without the prior written consent of the board of Directors or the Covenants Committee, as appropriate.

**(5)** The Common Elements shall be used only for the Furnishing of serviced and facilities for which the same are reasonably suited and which are incident to the use and occupancy of the Units. The public halls and stairways shall be used for no purpose other than for normal transit.

**(6)** No portion of any Unit (other than the entire Unit) shall be leased for any period. Any lease or other agreement, whether oral or written, between a Unit Owner and a lessee or other occupant shall be deemed to include, and shall be subject to provisions which

(i) require the lessee or other occupancy to comply with the Condominium Instruments and rules and Regulations, and

(ii) provide that failure to comply constitutes a default under the lease or other agreement.

The Board of Directors may suggest a standard form lease for use by Unit Owners. The foregoing provisions of this paragraph shall apply to a Mortgagee in possession of a Unit as a result of foreclosure, judicial sale or a proceeding in lieu of foreclosure. (See Declaration Section 5.2 for additional restriction.)

**(7)** Trailers, campers, recreational vehicles, boats and other large vehicles may be parked on the Property only if expressly permitted by the rules and Regulation and only in such parking areas, if any, as may be designated for such purpose by the Board of Directors. No junk or derelict vehicle or other vehicle on which current registration plates are not displayed shall be kept upon any of the Common Elements. Vehicle or boat repairs other than ordinary light maintenance are not permitted on the Property. The Board of Directors shall have the power to tow or "boot" any vehicle in violation of this paragraph upon which ten (10) days prior written notice was affixed to such vehicle.

**(8)** The maintenance, keeping, boarding and /or raising of animals, livestock, poultry are

reptiles of any kind, regardless of number, shall be and is prohibited within any Unit or upon the Common Elements, except that the keeping of small, orderly domestic pets (e.g. dogs, cats or caged Birds) not to exceed one (1) per Unit without the approval for the Board of Directors, is permitted, subject to the rules and Regulations adopted by the Board of Directors, provided, however, that such pets are not kept or maintained for commercial purposes or for Breeding; and provided, further that tenants who occupy the property under leases or agreements of less than six (6) months duration shall not be permitted to keep or maintain pets of any kind on the premises; and provided, further, that any such pet causing or creating a nuisance or unreasonable disturbance or noise may be permanently removed from the Property. However, no such pets shall be removed from the property action of the Board of Directors pursuant to this section unless the owner of such pet shall be given fourteen (14) days notice of a hearing before the Board of Directors, at which time such pet owner shall be allowed to speak to the issue. Such pets shall not be permitted upon the common elements unless accompanied by an adult and unless carried or leashed. Any Unit Owner or lessee who keeps, maintains or allows to be kept any pet upon any portion of the Property shall be deemed to have indemnified and agreed to hold the Unit Owners Association and each Unit Owner free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such pet within the Condominium. All pets shall be registered with the Board of Directors and shall otherwise be registered and inoculated as required by law. The Board of Directors may establish reasonable fees for registration of pets not to exceed the additional cost incurred by the Unit Owners Association resulting from the presence of such pets.

**(9)** No signs of any character shall be erected, posted or displayed upon, in, from or about any Unit or Common Element without the prior written approval for the Board of Directors. The foregoing provisions of this paragraph shall apply to a mortgagee in possession of a Unit as a result of foreclosure, judicial sale or a proceeding in lieu of foreclosure.

**(b) Changes to Rules and Regulations.** Each Unit and the Common Elements shall be occupied and used in compliance with the Rules and Regulations which may be adopted and amended by the Board of Directors. Copies of the Rules and Regulations shall be furnished to each Unit Owner. Changes to the Rules and Regulations shall be conspicuously posted prior to the time when the same shall become effective and copies thereof shall be furnished to each Unit Owner upon request.

**Section 5.9. Right of access.** By acceptance of the deed or conveyance, each Unit Owner thereby grants a right of access to the Unit, pursuant to Section 47C-3-107 of the Condominium Act and Article IV, Section 4.2(a) of the Declaration, to the Board of Directors or the Managing Agent, or any other person authorized by the Board of Directors or the managing Agent, or any group of the foregoing, for the purpose of enabling the exercise and discharge of their respective powers and responsibilities including, without limitation, making inspections, correcting any condition originating in the unit or in a Common Element to which access is obtained through the Unit and threatening another Unit or the Common Elements, performing installations, alterations or repairs to the mechanical or utility systems or the Common Elements in the Unit or elsewhere in the Property, or to correct any condition which violates any Mortgage; provided, however, that requests for entry are made in advanced and that any such entry is at a time reasonably convenient to the Unit Owner. In case of an emergency, such right to entry shall be immediate, whether or not the Unit Owner is present.

**Section 5.10. Utility Charge.** The cost of utilities serving the Condominium and not individually metered to a Unit shall be a Common Expense or a Limited Common Expense, as the case may be.

**Section 5.11. Parking Spaces.** Each of the parking spaces shall be subject to designation as Limited Common Elements appurtenant to certain Units pursuant to the reservation in Article III, Section 3.5 of the Declaration. The cost of maintenance and repair of all parking areas shall be a Common Expense; provides, however, that the Board of Directors may impose a Limited Common Expense charge upon Unit Owners to whose Units such Limited Common Element parking spaces are appurtenant.

## **ARTICLE VI** **Insurance**

### **Section 6.1. Authority to Purchase; Notice.**

**(a)** Except as otherwise provided in Article VI, Section 6.5 of these bylaws, all insurance policies relating to the Property shall be purchased by the Board of Directors. The Board of Directors and the Managing Agent shall not be liable for failure if such failure is due to the unavailability of such coverages from reputable insurance companies, or if such coverages are available but only at demonstrably unreasonable cost. The Board of Directors shall promptly furnish to each Unit Owner written notice of the procurement of, subsequent changes in, or termination for insurance coverages obtained on behalf of the Unit Owners Association in compliance with Section 47C-3-113 of the Condominium Act.

**(b)** Each policy shall provide that:

**(1)** The insurer waives any right to claim by way of subrogation against the Unit Owners

Association, the Board of Directors, the Managing Agent or the Unit Owner, and their respective agents, employees, guests and, in the case of the Unit Owners, the members of their households;

(2) Such policy shall not be cancelled, invalidated or suspended due to the conduct of any Unit Owner (including his invitee, agents, employees and members of his household) or of any member, officer or employee of the Board of Directors or the Managing Agent without a prior demand in writing that the Board or the Managing Agent cure the defect and neither shall have so cured such defect within sixty (60) days after such demand;

(3) Such policy may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least sixty (60) days prior written notice to the Board of Directors, the Managing Agent and all Mortgagees.

(c) All policies of insurance shall be written by reputable companies licensed to do business in the State of North Carolina. Physical damage policies shall be in form and substance and with carriers acceptable to Mortgagees holding a majority of the Mortgages (based upon one (1) vote for each Mortgage owned).

(g) The deductible, if any, on any insurance policy purchased by the Board of Directors shall be a Common Expense; provided, however, that the Association may, pursuant to Article V, Section 5.5(a) of these Bylaws, assess any deductible amount necessitated by the negligence, misuse or neglect of a Unit Owner.

### **Section 6.2. Physical Damage Insurance.**

(a) The Board of Directors shall obtain and maintain a blanket, "all-risk" form policy of fire insurance with extended coverage, vandalism, malicious mischief, sprinkler leakage (if applicable), debris removal and water damage endorsements, insuring the entire Property (including all of the Units and the bathroom and kitchen fixtures initially installed therein by the Declarant and the replacements thereto installed by the Declarant but not including furniture, wallcoverings, furnishings or their personal property supplied or installed by Unit Owners), together with all air-conditioning and heating equipment and other service machinery contained therein and covering the interests of the Unit Owners Association, the Board of Directors and all Unit Owners and their Mortgagees, as their interests may appear, (subject, however, to the loss payment and adjustment provisions in favor of the insurance trustee contained in Article VI, Section 6.6 and Article VII of these Bylaws), in an amount equal to one hundred percent (100%) of the then current replacement cost of the Property (exclusive of the land, excavations, foundations and other items normally excluded from such coverage), without deduction for depreciation (such amount to be re-determined annually by the Board with the assistance of the insurance company affording such coverage). The Board of Directors shall also obtain and maintain such coverage on all real and personal property owned by the Unit Owners Association.

(b) Such policy shall also provide:

a. A waiver of any right of the insurer to repair, rebuild or replace any damage or destruction, if a decision is made pursuant to these Bylaws not to do so;

b. The following endorsements (or equivalent):

(i) "no control" (to the effect that coverage shall not be prejudiced by any act or neglect of any occupant or Unit Owner or their agents when such act or neglect is not within the control of the insured, or the Unit Owners collectively; nor by any failure of the insured, or the Unit Owners collectively, to comply with any warranty or condition with regard to any portion of the Condominium over which the insured, or the Unit Owners collectively, have no control);

(ii) "cost of demolition";

(iii) "contingent liability from operation of building laws or codes";

(iv) "increased cost of construction";

(v) "condominium replacement costs"; and

(vi) "agreed amount" or elimination of co-insurance clause;

(3) That any "no other insurance" clause expressly exclude individual Unit Owners' policies from its operation so that the physical damage policy purchased by the Board of Directors shall be deemed primary coverage and any individual Unit Owners' policies shall be deemed excess coverage, and in no event shall the insurance coverage obtained and maintained by the Board of Directors hereunder provide for or be brought into contribution with insurance purchased by individual Unit Owners or their Mortgagees, unless otherwise required by law.

(c) A duplicate original of the policy of physical damage insurance, all renewals thereof, and any subpolicies or certificates and endorsements issued thereunder, together with proof of premium payments shall be delivered by the insurer to any Mortgagee requesting the same, at least thirty (30) days prior to expiration of the then current policy. Prior to obtaining any policy of physical damage insurance or any renewal thereof, the Board of Directors shall obtain an appraisal from an insurance company, or such other source as the Board may determine, of the then current replacement cost of the Property (exclusive of the land, excavation, foundations and other items normally excluded from such coverage), without deduction for depreciation, for the purpose of determining the amount of physical damage insurance to be secured pursuant to this Section. All Mortgagees shall be notified promptly of any event giving rise to a claim under such policy arising from damage of the Common elements in excess of one percent (1%) of the then current replacement cost of the Property. The

Mortgagee of a Unit shall be notified promptly of any event giving rise to a claim under such policy arising from damage to such Unit.

**Section 6.3. Liability Insurance.** The Board of Directors shall obtain and maintain comprehensive general liability (including without limitation libel, slander, false arrest and invasion of privacy coverage) and property damage liability insurance in such limits as the Board may from time to time determine, insuring each director, each officer, the Managing Agent and each unit Owner against any liability to the public or to the Unit Owners (and their invitees, agents and employees) arising out of, or incident to the ownership or use of the Common Elements. Such insurance shall be issued on a "comprehensive liability basis and shall contain;

(a) a cross liability endorsement under which the rights of a named insured under the policy shall not be prejudiced with respect to his action against another named insured"

(b) hired and non-owned vehicle coverage;

(c) host liquor liability coverage with respect to events sponsored by the Unit Owners Association;

(d) deletion of the normal products exclusion with respect to events sponsored by the unit Owners Association; and

(h) a "severability of interest" endorsement which shall preclude the insurer from denying liability coverage to a Unit Owner because of negligent acts of the Unit Owners Association or of another Unit Owner.

The Board of Directors shall review such limits once each year, but in no event shall such insurance be less than one million dollars (\$1,000,000.00) covering all claims for bodily injury or property damage and personal injury arising out of one occurrence. Reasonable amounts of "umbrella" liability insurance in excess of the primary limits shall also be obtained in an amount not less than three million dollars (\$3,000,000.00).

**Section 6.4. Other Insurance.** The Board of Directors shall obtain and maintain:

(a) adequate fidelity coverage to protect against dishonest acts on the part of the officers, directors, trustees and employees of the Unit Owners Association and all others who handle, or are responsible for handling, funds of the Association, including the Managing Agent. Such fidelity bonds shall:

(1) name the Unit Owners Association as an obligee;

(2) be written in an amount not less than one-half (1/2) the total annual condominium assessments for the year or the amount required by the Mortgagees, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, whichever is greatest; and

(3) contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition for "employee" or similar expression;

(b) if required by any governmental or quasi-governmental agency, including without limitation the Federal National Mortgage Association, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Veterans Administration, or Federal Housing Administration, flood insurance in accordance with the them applicable regulations of such agency;

(c) workmen's compensation insurance if and to the extent necessary to meet the requirements of law (including a voluntary employees endorsement and an "all states" endorsement);

(d) broad form machinery and pressure vessel explosion insurance (if applicable) in an amount not less than five hundred thousand dollars (\$500,000.00) per accident per location;

(e) directors and officers liability insurance in a namount not less than one million dollars (\$1,000,000.00); and

(f) such other insurance as the Board of Directors may determine or as may7 be requested from time to time by a Majority Vote.

**Section 6.5. Separate Insurance.** Each Unit Owner shall have the right6 to obtain insurance for such Unit Owner's benefit, as such Unit Owner's expense, covering the Unit and such Unit Owner's personal property and personal liability, as well as any improvements made to the Unit by such Unit Owner (under coverage normally called "improvements and betterments coverage"); provides, however, that no Unit Owner shall be entitled to exercise this right to acquire or maintain such insurance coverage as to decrease the amount which the Board of Directors, on behalf of all Unit Owners, may realize under any insurance policy maintained by the Board or to cause any insurance coverage maintained by the Board to be brought into contribution with insurance coverage obtained by a Unit Owner. No Unit Owner shall obtain separate insurance policies on the Condominium except as provided in this Section.

**Section 6.6. Insurance Trustee.**

(a) All physical damage insurance policies purchased by the Board of Directors shall be for the benefit of the Unit Owners Association, the Unit Owners and their Mortgagees as their interest may appear, and shall provide that all proceeds of such policies shall be paid in trust to the Board as "insurance trustee" to be applied pursuant toe the terms of Article VII of these Bylaws.

(b) The sole duty of the insurance trustee shall be to receive such proceeds as are paid to it and to



hold the same in trust for the purposes elsewhere stated in these Bylaws, for the benefit of the insured and their beneficiaries thereunder.

## **ARTICLE VII**

### **Repair and Reconstruction After Fire or Other Casualty**

**Section 7.1. When Repair and Reconstruction are Required.** Except as otherwise provided in Article VII, Section 4 of these Bylaws, in the event of damage to or destruction of all or any part of any building as a result of fire or other casualty, the Board of Directors shall arrange for and supervise the prompt repair and restoration thereof (including any damaged Units, and the floor coverings, kitchen or bathroom fixtures and appliances initially installed by the Declarant, but not including any furniture, furnishings, fixtures, equipment or other personal property supplied or installed by the Unit Owners in the Units). Notwithstanding the foregoing, each Unit Owner shall have the right to supervise the redecoration of the unit.

#### **Section 7.2. Procedure for Reconstruction and Repair.**

**(a) Cost Estimates.** Immediately after a fire or other casualty causing damage to any portion of any building, the board of Directors shall obtain reliable and detailed estimates of the cost of repairing and restoring such portion (including any damaged Units and any floor coverings and kitchen and bathroom fixtures and appliances initially installed by the Declarant, and the replacements thereof installed by the Declarant, but not including any other furniture, furnishings, fixtures or equipment installed by the Unit Owner in the Unit) to a condition as good as that existing before such casualty. Such costs may also include professional fees and premiums for such bonds as the insurance trustee determines to be necessary.

**(b) Assessments.** If the proceeds of insurance are insufficient to defray such estimated costs of reconstruction and repair, or if upon completion of reconstruction and repair, the funds for the payment of the costs thereon are insufficient, the amount necessary to complete such reconstruction and repair may be obtained from the appropriate reserve or replacement fund and/ or shall be deemed a Common Expense and a special assessment shall be levied therefore.

**(c) Plans and Specifications.** Any such reconstruction or repair shall be substantially in accordance with the original construction of the Property, subject to any modifications required by changes in applicable governmental regulations and using contemporary building materials and technology to the extent feasible; provided, however, that other action may be taken if approved by at least fifty-one percent (51%) of the Mortgagees.

#### **Section 7.3. Disbursements of Construction Funds.**

**(a) Construction Fund and Disbursement.** The proceeds of insurance collected on account of casualty, and the sums received by the insurance trustee from collections of assessments against Unit Owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner:

**(1)** If the estimated cost of reconstruction and repair is less than ten percent (10%) of the then current replacement cost of the Property, then construction fund monies shall be disbursed in payment of such costs upon order of the Board of Directors; provided, however, that upon request of twenty percent (20%) of the Mortgagees (based upon one (1) vote for each Mortgage owned), such fund shall be disbursed pursuant to Paragraph (2).

**(2)** If the estimated cost of reconstruction and repair is ten percent (10%) of the then current replacement cost of the Property or more, then the construction fund shall, unless waived by sixty-seven percent (67%) of the Mortgagees, be disbursed in payment of such costs upon approval of an architect shall be required to furnish a certificate giving a brief description of the services and materials furnished by various contractors, subcontractors, material men, the architect and other persons who have rendered services or furnished materials in connection with the work stating that;

**(i)** the sums requested by them in payment are justly due and owing and that such sums do not exceed the value of their services and materials furnished;

**(ii)** there is no other outstanding indebtedness known to such architect for the services and materials described; and

**(iii)** the cost as estimated by such architect for the work remaining to be done subsequent to the date of such certificate does not exceed the amount of the construction fund remaining after payment of the sum so requested.

**(b) Surplus.** The first monies disbursed in payment of the cost of reconstruction and repair shall be from insurance proceeds and, if there is a balance in the construction fund established, such balance shall be divided among all Unit Owners in proportion to their Common Element Interests and shall be distributed among all Unit Owners in proportion to their Common Element Interests and shall be distributed in accordance with the priority of interests at law or in equity in each Unit.

(c) Common Elements. When the damage is to both Common Elements and Units, the insurance proceeds shall be applied first to the cost of repairing those portions of the Common Elements which enclose and service the Units, then to the cost of repairing the other Common Elements and thereafter to the cost of repairing the Units.

(d) Certificate. The insurance trustee shall be entitled to rely upon a certificate executed by the President or Vice President, and the Secretary, certifying:

(1) whether the damaged Property is required to be reconstructed and repaired;

(2) the name of the payee and the amount to be paid with respect to disbursement for many construction fund whether surplus funds to be distributed are less than the assessments paid by the Unit Owners; and

(3) all other matters concerning the holding and disbursing of any construction fund. Any such certificate shall be delivered to the insurance trustee promptly after request.

**Section 7.4. When Reconstruction Is Not Required**. If the Board of Directors elects not to repair insubstantial damage to the Common Elements, the Board of Directors shall remove all remains of the damaged improvements and restore the site thereof to an acceptable condition compatible with the remainder of the Condominium, and the balance of any insurance proceeds received on account of such damage shall be distributed among all Unit Owners in proportion to their respective Common Element Interests. If the Condominium shall be terminated pursuant to Section 47C-2-118 of the Condominium Act, the net assets of the Condominium together with the net proceeds of insurance policies, if any, shall be divided by the insurance trustee among all Unit Owners in proportion to their respective Common Element Interest after first paying out of the share of each Unit Owner, to the extent sufficient therefore, the amount of any unpaid liens on his Unit in the order of priority of such liens.

## **ARTICLE VIII** **Mortgages**

**Section 8.1. Notice to Board of Directors**. A unit Owner who mortgages his Unit shall notify the Board of Director of the name and address of the Mortgagee and shall file a conformed copy of the note and Deed of Trust with the Board.

**Section 8.2. Notice of Default, Casualty or Condemnation**. The Board of Directors when giving notice to any Unit Owner of any default in the performance by the Unit Owner of any obligation under the Condominium Instruments, including any default in paying assessments for Common Expenses which default remains uncured for sixty (60) days, shall simultaneously send a copy of such notice to the Mortgagee of such Unit. Each Mortgagee shall also be notified promptly of any casualty when required by Article VI, Section 6.2 (c) of these Bylaws, all actions taken under Article VII of these Bylaws, and any taking in condemnation or by eminent domain pursuant to Section 47C-1-107 of the Condominium Act and actions of the unit Owners Association with respect thereto.

**Section 8.3. Notice of Change in Managing Agent**. The Board of Directors shall give notice to all Mortgagees seven (7) days prior to the date on which the Unit Owners Association proposes to take any action requiring Mortgagee approval pursuant to these Bylaws, including materially amending the Condominium Instruments.

**Section 8.4. Notice of Change in Managing Agent**. The Board of Directors shall give notice to all Mortgagees requesting such notice thirty (30) days prior to changing the Managing Agent.

**Section 8.5. Mortgagees' Approvals**.

(a) **Two-Thirds (2/3) Vote**. Unless at least sixty-seven percent (67%) of the Mortgagees and at least sixty-seven percent (67%) of the Unit Owners have given their prior written approval, the Unit Owners Association shall not:

(1) (except following destruction or condemnation) change any Unit's Common Element Interest except as provided in Section 47C-1-107 of the Condominium Act (and except as may result from the creation of common elements on convertible land);

(2) (except following destruction or condemnation) partition, subdivide, abandon, encumber, sell or transfer the Common Elements of the Condominium (except for the granting of utility easements, etc., pursuant to Section 47C-3-102(9) of the Condominium Act);

(3) (except following destruction or condemnation) by act or omission withdraw the submission of the Property to the Condominium Act, except as provided in Section 47C-2-118 of the Condominium Act;

(4) modify the method of determining and collecting assessments or allocating distributions of casualty insurance proceeds or condemnation awards;

(5) use hazard insurance proceeds for losses to the Condominium for any purpose other than repair, replacement or restoration excepts as provided in Article VII, Section 7.4 of these Bylaws.

(b) Majority Vote. Unless at least fifty-one percent (51%) of the Mortgagees and at least sixty-seven percent (67%) of the Unit Owners have given their prior written approval, the Unit Owners Association shall not:

(1) following destruction or condemnation, change any Unit's Common

(2) following destruction or condemnation, by act or omission, withdraw the submission of the Property to the Condominium Act, except as provided by Section 47C-2-118 of the Condominium Act;

(3) add or amend any material provisions of the Condominium Instruments which establish, provide for, govern or regulate any of the following:

(i) voting;

(ii) assessments, assessment liens or subordination of such liens;

(iii) reserve for maintenance, repair and replacement of the Common Elements

(or Units, if applicable);

(iv) insurance or fidelity bonds;

(v) rights to use of the Common Elements;

(vi) maintenance responsibility;

(vii) expansion or contraction of the Condominium or conversion of Convertible

Land;

(viii) boundaries of any Unit;

(ix) the interest in the Common Element or Limited Common Elements;

(x) convertibility of Units into Common Elements or of Common Elements into

Units;

(xi) leasing of Units;

(xii) imposition of any right of first refusal or similar restriction on the right of a

Unit Owner to sell, transfer, or otherwise convey the Unit; or

(xiii) any provisions which are for the express benefit of Mortgagees.

(c) Non-Material Amendments; Preemptive Approval. Any addition or amendment to the Condominium instruments shall not be considered material if it is for the purpose of correcting technical errors, or for clarification only. A Mortgagee who is notified of additions or amendments and who does not deliver or post to the requesting party a negative response within thirty (30) days of such notice shall be deemed to have approved such request.

**Section 8.6. Other rights of Mortgagees.** All Mortgagees or their representatives shall have the right to attend and to speak at meetings of the Unit Owners Association, but shall not have the right to vote at such meetings unless so provided by the Condominium Instruments or the Condominium Act. All such Mortgagees shall have the right to examine the Condominium Instruments, the Rules and Regulations and books and records of the Condominium, to receive the annual report pursuant to Section 55-79.93 of the Condominium Act, and to require the submission of annual financial reports and other budgetary information.

## **ARTICLE IX**

### **Compliance and Default**

**Section 9.1. Relief.** Each Unit Owner shall be governed by, and shall comply with, the Condominium Instruments and the Condominium Act as the same may be amended, In addition to the remedies provided in Section 47C-3-107A of the Condominium Act, a default by a Unit Owner shall entitle the Unit Owners Association, acting through its Board of Directors or through the Managing Agent, to the following relief:

(a) Additional Liability. Each Unit Owner shall be liable for the expense of all maintenance, repair or replacement rendered necessary by such Unit Owner's act, or the neglect or carelessness of any member of such Unit Owner's family or such Unit Owner's employees, agents or licensees, but only to the extent that such expense is not covered by the proceeds of insurance carried by the Board of Directors. Such liability shall include any increase in casualty insurance rates occasioned by use, misuse, occupancy or abandonment of any unit or its appurtenances, Nothing contained herein, however, shall be construed as modifying any waiver by any insurance company of its rights of subrogation.

(b) Costs and Attorney's Fees. In any proceedings arising out of any alleged default by a Unit Owner, the prevailing party shall be entitled to recover the costs of such proceeding and reasonable attorney's fees.

(c) No waiver of Rights. The failure of the Unit Owners Association, the Board of Directors or of a Unit Owner to enforce any right, provision, covenant or condition which may be granted by the Condominium

Instruments or the Condominium Act shall not constitute a waiver of the right of the Association, the board or the Unit Owner to enforce such right, provision, covenant or condition in the future. All rights, remedies and privileges granted to the Unit Owners Association, the Board of Directors or any Unit Owner pursuant to any term, provision, covenant or condition of the Condominium Instruments or the Condominium Act shall be deemed to be cumulative and the exercise of any one or more thereof shall not be deemed to constitute and election of remedies, nor shall it preclude the party exercising the same from exercising such other privileges as may be granted to such party by the Condominium Instruments or the Condominium Act, or at law or in equity.

**(d) Interest.** In any Unit Owner shall default in paying any sum assessed against the Condominium Unit which continues for a period in excess of fifteen (15) days, interest at a rate not to exceed the lower of the maximum permissible interest rate which may be charged by or posed in the discretion of the Board of Directors on the principal amount unpaid from the date due until paid.

**(e) Abating and Enjoining Violations by Unit Owners.** The violation of any of the Rules and Regulations adopted by the Board of Directors or any provision of the Condominium Instruments or the Condominium Act shall give the Board of Directors the right, in addition to any other rights set forth in these Bylaws:

**(4)** to enter the Unit in which, or as to which, such violation or breach exists and summarily to abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board of Directors shall not thereby be deemed guilty in any manner of trespass; or

**(2)** to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such violation.

**(f) Legal Proceedings.** Failure to comply with any of the Condominium Instruments and the Rules and Regulation shall be grounds for relief, including without limitation, an action to recover any sums due for money damages, injunctive relief, foreclosure of the lien for payment of all assessments, any other relief provided for in these Bylaws or any combination thereof and any other relief afforded by a court of competent jurisdiction, all of which relief may be sought by the Unit Owners Association, the Board of Directors, the Managing Agent, or, of appropriate, by any aggrieved Unit Owner and shall not constitute an election of remedies.

**(g) Fines.** Pursuant to Section 47C-3-107A of the Condominium Act, the Board of Directors and the Covenants Committee may levy reasonable fines not to exceed one hundred fifty dollars (\$150.00) against Unit Owners for violations of the Rules and Regulations, the Condominium Instruments or the Condominium Act, provided that the unit owner or his assignee has been notified of the violation and consequences thereof. No fine may be levied for more than one (1) violation; but each day a violation continues, after notice is given to the Unit Owner, is a separate violation. If a Unit Owner requests in writing a hearing before the fine is imposed, the imposition of the fine shall be suspended until the hearing is held. Fines are special assessments and shall be collectible as such.

## **Section 9.2. Lien for Assessments.**

**(a) Lien.** The total annual assessment of each Unit Owner for Common Expenses or any special assessment, or any other sum duly levied (including without limitation fines, interest, late charges, etc.), made pursuant to these Bylaws, is hereby declared to be a lien levied against the Condominium Unit of such Unit Owner pursuant to Section 47C-3-116 of the Condominium Act, which lien shall with respect to annual assessments, be effective on the first day of each fiscal year of the Condominium and, as to special assessments and other sums duly levied, on the first day of the next month which begins more than ten (10) days after notice to the Unit Owner of such special assessment or levy. The Board of Directors or the Managing Agent may file or record such other for further notice of any such lien, or such other or further document, as may be required to confirm the establishment and priority of such lien.

**(b) Acceleration.** If an assessment against a Unit Owner is payable in installments, upon a default by such Unit owner in the timely payment of any two (2) consecutive installments, the maturity of the remaining total of the unpaid installments of such assessments may be accelerated, at the option of the Board of Directors, and the entire balance of such assessment may be declared due and payable in full by notice to the default Unit Owner and his Mortgagee by the Board of Directors or the Managing Agent.

**(c) Enforcement.** The lien for assessments may be enforced and foreclosed in any manner permitted by the laws of the State of North Carolina by power of sale pursuant to Article IX, Section 9.3 of these Bylaws or by an action in the name of the Board of Directors, or the Managing Agent, acting on behalf of the Unit Owners Association. During the pendency of such suit, the Unit Owner shall be required to pay a reasonable rental for the Unit for any period prior to the sale pursuant to any judgment or order of any court having jurisdiction over such sale. The plaintiff in such proceeding shall have the right to the appointment of a receiver, if available under the laws of the State of North Carolina.

## **Section 9.3. Supplemental Enforcement of the Lien.** In addition to the proceedings at law or in equity for

the enforcement of the lien established by the Condominium Instruments or the Condominium Act, all if the Unit Owners may be required by the Board of Directors to execute bonds conditioned upon the faithful performance and payment of the installments of the lien established thereby and may likewise be required to secure the payment of such obligations by recording a declaration of trust in the land records where the Condominium Instruments are recorded granting unto one **(1)** or more trustees appropriate powers such that upon default in the performance of such bond, such declaration of trust may be foreclosed by such trustees acting at the direction of the Board of Directors. If any such bonds have been executed and such declaration of trust is recorded, then any subsequent purchaser of a Unit shall take title subject thereto and shall assume the obligations provided for therein.

**Section 9.4. Subordination and Mortgage Protection.** Notwithstanding anything to the contrary herein, the lien of any assessment levied pursuant to these Bylaws upon any Unit (and any penalties, interest on assessments, late charges or the like) shall be subordinate to, and shall in no way affect the rights of the holder of a Mortgage made in good faith for value received; provided, however, that such subordination shall apply only to assessments which have become due and payable prior to a sale or transfer shall not relieve the purchaser of the Unit at such subsequent assessment, which lien shall have the same effect and be enforced in the same manner as provided herein.

## **ARTICLE X** **Amendments to Bylaws**

**Section 10.1. Amendments.** These Bylaws may not be modified or amended except by a vote of two-thirds (2/3) of the unit Owners present (in person or by proxy) at a meeting of the Unit Owners at which a quorum is present. All amendments to the Bylaws shall be prepared and recorded by the Secretary, and transmitted to the Unit Owners in a timely manner.

**Section 10.2. Approval of Mortgagees.** These Bylaws contain provisions concerning various rights, priorities, remedies, and interest of Mortgagees. Such provisions in these Bylaws are to be construed as covenants for the protection of such Mortgagees on which they may rely in making loans secured by Mortgages. Accordingly, no amendment or modification of these bylaws impairing or affecting such rights, priorities, remedies or interest of a Mortgagee shall be adopted without the prior written consent of such Mortgagees.

## **ARTICLE XI** **Miscellaneous**

**Section 11.1. Notice.** All notices, demands, bills, statements or other communications under these Bylaws 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 certified United States mail, return receipt requested, postage prepaid;

**(a)** if to a Unit Owner, at the address which the Unit Owner shall designate in writing and file with the Secretary, if any, and at the address of the Unit of such Unit Owner; or

**(b)** if to the Unit Owners Association, the Board of Directors or to the Managing Agent, at the principal office of the Managing Agent or at the principal address as shall be designated by notice in writing to the Unit Owners pursuant to this Section. If a Unit is owned by more than one (1) person, each such person who so designates an address in writing to the secretary shall be entitled to receive all notices hereunder.

**Section 11.2. Captions.** The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these Bylaws or the intent of any provision hereof.

**Section 11.3. Gender.** The use of the masculine gender in these Bylaws shall be deemed to include the feminine and neuter genders and the use of the singular shall be deemed to include the plural, and vice versa, whenever the context so requires.

**Section 11.4. Construction.** The Condominium Instruments are intended to comply with all of the applicable provisions of the condominium Act and shall be so interpreted and applied.