

Exhibit "B"

AMENDED

DECLARATION OF

ROANOKE RETREAT CONDOMINIUM  
NOW TO BE KNOWN AS  
ROANOKE SHORES CONDOMINIUM

Filed for Record April 5, 2004  
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In the Office of the Register of Deeds for  
Dare County, North Carolina

Consisting of 6 Numbered Pages with  
Attached Exhibits: (B) (C) (F) & (G)

Prepared by and after recording mail to:

Christopher L. Seawell, Esquire  
Aldridge, Seawell, Spence & Felthousen  
Post Office Box 339  
Manteo, NC 27954

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AMENDED  
DECLARATION OF  
ROANOKE SHORES CONDOMINIUM  
FORMERLY KNOWN AS  
ROANOKE RETREAT CONDOMINIUM

THIS AMENDED DECLARATION, made this 5th day of April, 2004, by Granite Properties & Management, LLC, a North Carolina limited liability company ("Declarant"), pursuant to the North Carolina Condominium Act, Chapter 47C, North Carolina General Statutes ("Act") of P. O. Box 400, Rolesville, N.C. 27571. 27954.

W I T N E S S E T H

WHEREAS, Roanoke Retreat, a North Carolina partnership, was the original Declarant of the Roanoke Retreat Condominium, as same is referenced in Declaration recorded in Book 1063, Page 523, Dare County Registry, and all attachments thereto, which Declaration is incorporated herein by reference, and whereas, Roanoke Retreat has sold all twenty-one units of said condominium and same have now been acquired by the Declarant by deed recorded in Book 1541, Page 398, Dare County Registry; and

WHEREAS, Declarant has succeeded to all of the interest of the original Declarant reference above and desires as sole owner of all of the aforesaid units and common areas and properties subject to the original Declaration, to amend said Declaration.

NOW, THEREFORE, the Declarant hereby amends the aforesaid Declaration of Roanoke Retreat Conominium, now to be known as Roanoke Shores Condominium, as hereinafter set forth, the following sections and paragraphs of the aforesaid original Declaration to be amended as follows:

1. The following amendment shall apply to Article I of the aforesaid original Declaration:

ARTICLE I

Definitions

Definitions. As used herein, the following words and terms shall have the following meaning:

1.2. Articles of Incorporation. The articles of incorporation of the Association filed with the Office of the Secretary of State of North Carolina which are incorporated herein and made a part hereof by this reference, and attached as Exhibit G.

1.3. Association. Roanoke Shores Owners Association, Inc., a nonprofit corporation organized under Section 47C-3-101 of the Act. The original owners association, Roanoke Retreat Owners Association, Inc., was not been fully organized and has never performed the functions for which it was originally intended and, therefore, Roanoke Shores Owners Association, Inc. has been formed for the purposes of the Association referenced in the original Declaration and this Amendment thereto.

1.6. Bylaws. The Bylaws of the Association which are hereby incorporated herein and made a part hereof by this reference, and attached as Exhibit B.



1.7. Common Elements. All portions of the condominium except the Units. Limited Common Elements are Common Elements. The Common Elements include all portions of the Condominium that are not part of the Units, including, without limitation, the land, improvements that are not part of the Units including all foundations, columns, load bearing walls, girders, beams, supports, walls, roofs, corridors, lobbies, stairs, entrances and exits of the Building, the yards, gardens, all decking and walkways, handicap ramps and all installations of central services for the furnishing of utilities.

1.10. Declarant. Granite Properties & Management, LLC and (i) any other person who has executed this Amended Declaration, or who hereafter executes an amendment to this Amended Declaration except First Mortgagees and except persons whose interests in the Property will not be conveyed to Unit Owners, and (ii) any person who succeeds to any Special Declarant Rights as defined in Section 47C-1-103(23) of the Act.

1.11. Declarant Control Period. The period commencing the date of this Amended Declaration and continuing until the earlier of (i) the date two (2) years after the Declarant have ceased to offer Units for sale in the ordinary course of business, or (ii) the date upon which Declarant surrenders control of the Condominium, or (iii) the date one hundred twenty (120) days after the Declarant has conveyed seventy-five percent (75%) of the Units to Unit Owners other than the Declarant.

1.13. Limited Common Elements. Those portions of the Common Elements allocated by this Declaration, the Plans or by operation of Section 47C-2-102(2) or (4) of the Act for the exclusive use of one or more but fewer than all of the Units, to the exclusion of all other Units. The Limited Common Elements shall include, but shall not be limited to, the following:

(a) Those portions of any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any other fixture lying partially within and partially without the designated boundaries of a Unit serving exclusively that Unit shall be Limited Common Elements allocated exclusively to that Unit; and

(b) Any shutters, awnings, doorsteps, stoops, porches, balconies, decks, patios, exterior signage and all exterior doors, windows, and skylights designed to serve a single Unit, but located outside the Unit's boundaries, shall be Limited Common Elements allocated exclusively to that Unit; and

(c) Any portions of the heating, ventilating and air conditioning systems, including fans, compressors, return air grills and thermostats, whether located inside or located outside the designated boundaries of a Unit, including individual electricity, shall be Limited Common Elements allocated exclusively to the Unit or Units that they serve.

1.16. Plans. The plans of the Condominium as referenced in paragraph 1.16 of the original Declaration, except as same are amended as described on Exhibit C.

2. The following amendment shall apply to Article II of the aforesaid original Declaration:

## ARTICLE II

### Submission of Property to the Act

2.2 Name. The Property shall hereafter be known as Roanoke Shores Condominium.

2.7 Encumbrances. The liens, defects and encumbrances affecting the Property to which the rights of Unit Owners and Occupants are hereby made subject are set out on Exhibit F.

2.9. Additional Reservation of Special Declarant Rights; Declarant hereby reserves all Special Declarant Rights for a period not to exceed three (3) years from the date of this Amended Declaration. Except those improvements as shown on the Plans which have not been completed as of the date of filing of record of this Amended Declaration which have been designated they NEED NOT BE BUILT, the Declarant hereby reserves the right to refrain from the construction of such improvements. These improvements are a gazebo and a pier. In the event the Declarant chooses not to construct said improvements shown on the Plans, the area where such improvements were to be constructed shall be deemed to be part of the common elements of the Condominium, subject to the remaining provisions of this paragraph. The Declarant hereby reserves unto itself, its agents, employees, successors and assigns any and all easements and accesses necessary over and through the Property for the construction and completion of said improvements if the Declarant, in its sole discretion, decides to build same. The entrance sign as shown on the amended plat is the only improvement that MUST BE BUILT.

3. The following amendment shall apply to Article IV of the aforesaid original Declaration:

#### ARTICLE IV

##### Restrictions, Conditions and Covenants

4.7. Signs. No business activities, other than the development and sales activities of Declarant as permitted hereunder, shall be conducted on any portion of the Property; Except as may be required by legal proceedings and except as permitted in accordance with Section 4.8 hereof. No "For Sale" or "For Rent:" signs (or other signs) or advertising posters of any kind shall be maintained or permitted on any portion of the Property. Notwithstanding the foregoing, the provisions of this Section shall not apply to any signs maintained on the Property by Declarant, its agents, representatives or assigns, during the period that Declarant has any Condominium Unit for sale, or to the First Mortgagee of any unit pursuant to a Foreclosure Sale.

4.7(A) Pets. No animals or birds, other than two (2) generally recognized house pets (excluding pet fish in an aquarium) shall be kept or maintained on any portion of the Property and then only if they are kept or maintained solely as domestic pets and not for commercial purposes. No pet shall be allowed to make an unreasonable amount of noise or to become, a nuisance. No structure for the care, housing or confinement of any pet shall be constructed or maintained on any part of the Common Elements or Limited Common Elements. Pets shall be on leash when walked or exercised in any portion of the Common Elements. No pets shall be permitted to leave its droppings on any portion of the Common Elements and the owner of such pet shall immediately remove the droppings. Upon the written request of any Unit Owners, the Board may conclusively determine, in its sole and absolute discretion, whether, for the purposes of this Section, a particular pet is permitted or such pet is a nuisance and shall have the right to require the owner of a particular pet to remove such pet from the Condominium if such pet is found to be a nuisance or to be in violation of these restrictions. The Board may allow for a third pet in a particular instance at its sole discretion, but such shall not be deemed a waiver of the 2-pet limit herein established. No pets may be kept and

maintained outside of a Unit. No horses, goats, or other livestock are allowed.

4.7(B) Antennas. The Association may adopt safety regulations regarding a Unit Owner's installation and use of a satellite dish or antenna. The Association may also adopt regulations mandating the location of satellite dishes and antennas provided that the dish or antenna is capable of receiving acceptable quality signals from such location. The Declarant and Association, their agents, employees, successors and assigns shall be entitled to erect and maintain such devices for providing satellite and/or cable television services to the Units or enter into contracts for the provisions of satellite and/or cable television, as they deem beneficial.

4. The following amendment shall apply to Article VIII of the aforesaid original Declaration:

#### ARTICLE VIII

##### Casualty Damage

If all or any part of the Property shall be damaged or destroyed, the same shall be repaired or replaced to original specifications unless: (1) the Condominium is terminated, (2) repair or replacement would be illegal under any State or local health or safety statute or ordinance, or (3) the Unit Owners elect not to rebuild or replace by a ninety percent (90%) vote, including eighty percent (80%) approval of owners of Units not to be rebuilt or owners assigned to Limited Common Elements not to be rebuilt. All proceeds of insurance shall be used and applied in accordance with the provisions of Section 47C-3-113(e) and (h) of the Act.

5. The following amendment shall apply to Article XIII of the aforesaid original Declaration:

#### ARTICLE XIII

##### General Provisions

13.1. Conflict with the Act; Severability. Should any of the terms, conditions, provisions, paragraphs, or clauses of this Declaration conflict with any provisions of the Act, the provisions of the Act shall control unless the Act permits the Declaration to override the Act, in which event the Declaration shall control. The invalidity of any covenant, restriction, condition, limitation, provision, paragraph or clause of this Declaration, or of any part of the same, or the application thereof to any person or circumstance, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration, or the application of any such covenant, restriction, condition, limitation, provision, paragraph or clause to any other person or circumstances.

13.2. Interpretation of Declaration. Whenever appropriate singular may be read as plural, plural may be read as singular, and the masculine gender may be read as the feminine or neuter gender. Compound words beginning with the prefix "here" shall refer to this entire Declaration and not merely to the part in which they appear.

13.3. Captions. The captions herein are only for convenience and reference and do not define, limit or describe the scope of this Declaration, or the intent of any provision.



13.4. Exhibits. Exhibits A, B, C, D, E, F & G attached to the original Declaration and Exhibit B, C, F and G as attached to the Amended Declaration are hereby made a part hereof.

13.5. Invalidity. The invalidity of any provision of this Declaration shall not be deemed to impair or affect in any manner the validity or enforceability or effect of the remainder of this Declaration, and in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.

13.6. Waiver. No provision of this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

13.7. Law Controlling. This Declaration shall be construed and controlled by and under the laws of the State of North Carolina.

6. Except as amended herein, including all attached Exhibits, the terms of the original Declaration and Exhibits filed in Book 1063, Page 523, shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned has executed this Declaration as of the day and year first above written.

GRANITE PROPERTIES & MANAGEMENT, LLC

By: Kenneth V. Goetze  
Manager

STATE OF NORTH CAROLINA  
COUNTY OF Wake

I, a Notary public of the County and State aforesaid, certify that Ken Goetze personally came before me this Day and acknowledged that he is Manager of Granite Properties & Management, LLC, a North Carolina limited liability company, and that he as Manager, being authorized to do so, executed the foregoing instrument on behalf of the corporation.

Witness my hand and notarial stamp or seal, this 5 day of April, 2004.

[seal]

Laura J. Gage  
Notary Public

My commission expires:

09-30-07

EXHIBIT B

To Amended Declaration

B Y L A W S

OF

ROANOKE SHORES OWNERS ASSOCIATION, INC.

ARTICLE I.

NAME, PURPOSE AND APPLICABILITY

1.1 Name. The name of this non-profit, non-stock membership corporation shall be ROANOKE SHORES OWNERS ASSOCIATION, INC., hereinafter referred to as "Association".

1.2 Purpose. The purpose of the Association shall be to administer, manage, and operate the condominium property, in accordance with the Unit Ownership Act, the Non-profit Corporation Act of North Carolina, this Declaration, and the Articles of Incorporation and these By-Laws, as may be amended from time to time. The Association shall not engage in any activities other than those directly related to administration of the condominium property and the Unit Owners' responsibility with respect to the same.

1.3 Applicability. These By-Laws are applicable to the property known as ROANOKE SHORES CONDOMINIUM, as such property is described on Exhibit A attached to that certain Declaration of Roanoke Retreat Condominium. These By-Laws are binding on all present and future Owners, tenants, guests, residents, or other persons occupying or using the facilities of such condominium property. The mere acquisition, rental, or act of occupancy of any part of the condominium property will signify that these By-Laws are accepted, ratified, and will be complied with. The provisions of the Declaration of Condominium for Roanoke Retreat Condominium as amended and now known as Roanoke Shores Condominium regarding the governing and administration of the Association are incorporated herein by reference.

The acceptance of a deed of conveyance or the entering into of a lease or the act of occupancy of a Unit shall constitute an agreement that these Bylaws (and any rules and regulations made pursuant hereto) and the provisions of the Declaration, as they may be amended from time to time, are accepted, ratified and will be complied with.

ARTICLE II

DEFINITIONS

The definition of words contained in the Declaration, Article I as amended shall apply to those words and terms as used in these By-Laws.

ARTICLE III

OFFICES, REGISTERED AGENT, SEAL, FISCAL YEAR

3.1 Principal Office, Registered Office. The principal office of the Association shall be located at 4037 Jaback Drive, Zebulon, NC 27597, or such other places as the Board of Directors may designate from time to time.

3.2 Registered Agent. The initial Registered Agent for the Unit Owners for matters incident to the condominium property and the initial Registered Agent for the Association is Ken Goetze,



whose address is 4037 Jaback Drive, Zebulon, NC 27597. The Registered Agent for the Association shall also be the Registered Agent for the Unit Owners. The individual serving as Registered Agent may be removed from office and replaced at any time by vote of the Board of Directors of the Association.

3.3 Seal. The seal of the Association shall contain the name of the Association, the word "Seal", and such other words and figures as desired by the Executive Board. When obtained, the seal shall be impressed in the margin of the minutes of the initial meeting of the Board of Directors.

3.4 Fiscal Year. The fiscal year of the Association shall be January 1 through December 31.

#### ARTICLE IV

##### MEMBERSHIP

4.1 Qualification. Membership in the association shall be confined to and consist of the Unit Owners. Membership shall be appurtenant to and inseparable from unit ownership. No Unit Owners shall be required to pay any consideration whatsoever for his membership. Membership in the Association shall inure automatically to Unit Owners upon acquisition of the fee simple title, whether encumbered or not, to any one or more units. The date of registration of the conveyance in the Dare County Registry of the unit in question shall govern the date of ownership of each particular unit. However, in the case of death, the transfer of ownership shall occur on the date of death in the case of intestacy, or date of probate of the will in the case of testacy. Until a decedent's will is probated, the Association may rely on the presumption that a deceased Owner died intestate.

4.2 Annual Meeting. There shall be a regular annual meeting of the Unit Owners held each year during the same month of each succeeding year, for the purpose of electing members of the Board and for the transaction of such other business as may be properly brought before the meeting. If the annual meeting shall not be held on the day designated by the Bylaws, a substitute annual meeting may be called in accordance with the provisions of Section 4.4 of this Article. A meeting so called shall be designated and treated for all purposes as the annual meeting.

4.3 Place of Meetings. Meetings of the Unit Owners Association shall be held at the principal office of the Unit Owners Association or at such other suitable place convenient to the Unit Owners as may be designated by the Board of Directors.

4.4 Special Meetings. Special meetings of the Unit Owners may be called at any time by the Board, the Chairman or upon the written request of the Unit Owners owning at least twenty percent (20%) in common interest in the Common Elements other than those Units held by the Declarant.

4.5 Notice of Meetings. Written or printed notice stating the place, day and hour of any meeting shall be delivered or mailed not less than ten (10) days nor more than fifty (50) days prior to the date thereof, either personally or by postage prepaid mail, at the direction of the Board, the Chairman or Unit Owners calling the meeting, to each person entitled to vote at such meeting, and, to all First Mortgagees so requesting under the provisions of Article XII of the Declaration, who may request a representative to attend the meeting of Unit Owners.

Notice given to any one tenant-in-common, tenant by the entirety or other joint owner of a Unit shall be deemed valid notice to all joint owners of such Unit.



The notice of any meeting must state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration or these Bylaws, and budget changes, and any proposal to remove Board members or officers.

When a meeting is adjourned for less than thirty (30) days in any one adjournment, it is not necessary to give any notice of the adjourned meeting, other than by announcement at the meeting at which the adjournment is effective.

4.6. Quorum; Adjournment if No Quorum. The presence in person or by proxy at any meeting of the Voting Members (as defined in Section 4.7 of this Article) having at least forty percent (40%) of the total votes shall constitute a quorum. If there is no quorum at the opening of the meeting of Unit Owners, such meeting may be adjourned from time to time by the vote of a majority of the Voting Members present, either in person or by proxy; and at any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the original meeting.

The Voting Members at a meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Voting Members to leave less than a quorum.

#### 4.7 Voting.

(A) The total votes in the Association are twenty-one with one vote for each unit. The votes allocated to the unit may be cast by the Unit Owner of that unit. When there is more than one Unit Owner of a unit, the vote for that unit shall be cast as they shall determine. The vote allocated to a unit shall not be split but shall be voted as a single whole. If there is more than one Unit Owner of a unit and said Unit Owners cannot agree on how to vote for that unit, such vote shall be cast, and the dispute shall be resolved by arbitration. The Association shall not be entitled to cast the votes allocated to the unit owned by it.

(B) Except where a greater number is required by the Condominium Act, the Declaration or these By-Laws, a Majority of the Unit Owners is required to adopt decisions at any meeting of the Association.

(C) No Unit Owner may vote at any meeting of the Association or be elected to or serve on the Executive Board if payment of the assessment on his unit is delinquent more than thirty 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.

4.8 Proxies. A vote may be cast in person or by proxy. Such proxy may be granted by any Unit Owner in favor of only another Unit Owner, the Secretary of the Association, the Declarant or his Mortgagee, or in the case of a non-resident Unit Owner, the lessee of such Unit Owner's unit, his attorney or management agent. Proxies shall be duly executed in writing, shall be witnessed, shall be valid only for the particular meeting designated therein and must be filed with the Secretary before the appointed 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 eighty days after the execution thereof.

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

4.10 Waiver of Notice. Any Voting Member may, at any time, waive notice of any meeting of the Association in writing, and such waiver shall be deemed to be equivalent to the giving of such notice. Attendance by a Voting Member at any meeting of the Association shall constitute a waiver of notice by him of the time and place thereof, except where a Voting Member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all of the Voting Members are present at any meeting of the Unit Owners, no notice shall be required, and any business may be transacted at said meeting.

4.11 Informal Action by Unit Owners. Any Action which may be taken at a meeting of the Association may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Voting Members and filed with secretary of the Association to be kept in the Association's minute book.

## ARTICLE V

### EXECUTIVE BOARD

5.1 Number. The business and property of the Condominium shall be managed and directed by the Executive Board (the "Board"), composed of three (3) persons, or by such executive committees as the Board may establish pursuant to the By-Laws; provided, however, that the Board may not act on behalf of the Association to amend the Declaration, to elect members of the Executive Board, or to determine the qualifications, powers, duties or terms of office of Board members. The Board may, however, fill vacancies in its membership for the unexpired portion of any term.

5.2 Initial Members. The initial members of the Board (referred to as "directors" herein) shall be selected by the Declarant, and need not be Unit Owners. Such initial directors shall serve at the election of the Declarant from the date upon which the Declaration is recorded in the Dare County Public Registry, until such time as their successors are duly elected and qualified.

5.3 Election. Except as provided herein, the directors shall be elected at the annual meeting of the Association, and those persons who receive the highest number of votes shall be deemed to have been elected. Notwithstanding anything herein to the contrary, the Board shall consist of three (3) directors during the period that Declarant is entitled to appoint a majority of the directors. The Declarant shall have the right to appoint all of the directors until the earlier of the following three dates: (a) within 120 days after the date by which 75% of the Units have been conveyed to Unit purchasers, other than Declarant, or (b) the date upon which Declarant surrenders control of the Condominium to the Unit Owners, or (c) two (2) years after all Declarant have ceased to offer Units for sale in the ordinary course of business.

The Declarant can turn over control of the Association to such Unit Owners other than the Declarant prior to such dates in its sole discretion by causing all or part of its appointed directors to resign, whereupon it shall be the affirmative obligation of Unit Owners other than the Declarant to elect directors and assume control of the Association. Provided at least thirty (30) days' notice of Declarant's decision to cause its appointees to resign is given to Unit Owners, neither the Declarant, nor such appointees, shall be liable in any manner in connection with such resignations even if the Unit Owners other than the Declarant refuse or fail to assume control.



Within sixty (60) days after conveyance of twenty-five percent (25%) of the Units (including Units which may be created pursuant to special rights as provided in Section 1.20 of the Declaration) to Unit Owners other than the Declarant, at least one director and not less than twenty-five percent (25%) of the directors of the Board shall be elected by Unit Owners other than the Declarant. Within sixty (60) days after conveyance of fifty percent (50%) of the Units (including Units which may be created pursuant to special rights as provided in Section 1.20 of the Declaration) to Unit Owners other than the Declarant, not less than thirty-three percent (33%) of the directors of the Board shall be elected by Unit Owners other than the Declarant.

Within sixty (60) days after the Unit Owners other than the Declarant are entitled to elect such director or directors, or sooner if the Declarant has elected to accelerate such event as aforesaid, the Association shall call, and give not less than ten (10) days' nor more than fifty (50) days' notice of a meeting of the Unit Owners to elect such director or directors of the Board. The meeting may be called and the notice given by any Unit Owner if the Association fails to do so.

The size of the Board may be increased or decreased from time to time upon the affirmative vote of three-fourths (3/4) of all Unit Owners, provided that said Board shall not be less than three (3) in number.

5.4 Term and Qualification. Each director shall hold office for the term for which he was elected, or until his death, resignation, retirement, removal, disqualification or until his successor is elected and qualified. At the meeting of the Association in which the Unit Owners other than the Declarant are entitled to elect a majority of the directors, the directors of the Board shall remain at three (3) and divided into three (3) classes, the first class to consist of one (1) director, the second class to consist of one (1) director, and the third class to consist of one (1) director. The director of the first class shall initially hold office for a term of three years; the director of the second class shall initially hold office for a term of two years; and the director of the third class shall initially hold office for a term of one year. At all annual elections thereafter, a number of directors shall be elected by the Voting Members to succeed the director whose term then expires. Each such director shall serve for a three-year term. So long as Declarant shall own one or more Units, the director of the Board which Declarant has the right to designate shall be a member(s) of the third class. Nothing herein contained shall be construed to prevent the election of a director to succeed himself. Each director, except those selected by the Declarant pursuant to the Bylaws, shall be one of the Unit Owners or co-owners, or a spouse of a Unit Owner or co-owner, provided, however, that in the event a Unit Owner is a corporation, partnership, trust or other legal entity other than a natural person or persons, then an officer or director of such corporation, partner of such partnership, beneficiary of such trust or manager of such other legal entity, shall be eligible to serve as a director.

5.5 Removal. Directors may be removed from office with or without cause by the affirmative vote of at least sixty-seven percent (66 2/3%) of the votes entitled to be cast by all Voting Members present and entitled to vote at any meeting of the Voting Members at which a quorum is present. If any directors are so removed, new Board members may be elected at the same meeting; provided, however, that the person(s) selected by Declarant cannot be removed without the prior written consent of Declarant.

5.6 Vacancies. A vacancy occurring in the Board may be filled by a majority of the remaining directors, though less than



a quorum, or by the sole remaining director; but a vacancy created by an increase in the authorized number of directors shall be filled only by election at an annual meeting or a special meeting of Unit Owners called for that purpose. The Voting Members may elect a director at any time to fill any vacancy not filled by the Board.

In the event that Declarant, in accordance with the rights herein established, selects any person to serve on any Executive Board of the Association, Declarant shall have the absolute right at any time, in its sole discretion, to replace such person with another person to serve on any Board. Replacement of any person designated by Declarant to serve on the Board shall be made by written instrument delivered to any officer of the Association, which instrument shall specify the name of the person to be replaced and the name of the person designated as successor to the person so removed from the Board. The removal of any such Board member and the designation of his successor shall be effective immediately upon delivery of such written instrument by Declarant to any officer of the Association.

5.7 Compensation. The Board shall receive no compensation for their services unless expressly allowed by the Board at the direction of the Unit Owners other than the Declarant having two-thirds (2/3) of the total votes.

5.8 Executive Committees. The Board may, by resolution adopted by a majority of the number of directors fixed by these Bylaws, designate two or more of its members to constitute an executive committee, which committee, to the extent provided in such resolution, shall have and may exercise all of the authority of the Board in the management of the Condominium.

The Board may, in like manner, create such other committees as it deems necessary and appropriate in aiding the board to carry out its duties and responsibilities with respect to the management of the Condominium.

5.9 Powers and Duties. The Board shall have the powers and duties necessary for the administration of the affairs of the Condominium, and may do all such acts and things, except such acts as by law or the Declaration or by these By-Laws may not be delegated to the Board. Such powers and duties of the Board shall include, but shall not be limited to, the following:

- (a) Determining the Common Expenses required for the affairs of the Condominium, including, without limitation, the operation and maintenance of the Property.
- (b) Collecting the Common Expenses from the Unit Owners.
- (c) Supervising the operation, care, upkeep and maintenance of the Common Elements.
- (d) Employing and dismissing the personnel necessary for the maintenance and operation of the Common Elements.
- (e) Adopting and amending such reasonable rules and regulations as it may deem advisable for the maintenance, conservation and beautification of the Property, and for the health, comfort, safety and general welfare of the owners and occupants of the Property. Written notice of such rules and regulations shall be given to all Unit Owners and occupants, and the entire Property shall at all times be maintained subject to such rules and regulations.
- (f) Opening bank accounts on behalf of the Condominium and designating the signatories required therefor.



(g) Maintaining and repairing any Unit, if such maintenance or repair is necessary in the discretion of the Board or by operation of applicable restrictions to protect the Common Elements, or any other portion of the Property, and a Unit Owner has failed or refused to perform such maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair has been delivered or mailed by the Board to said Unit Owner; provided, that the Board shall levy a specific assessment against such Unit Owner for the costs of said maintenance or repair, including a reasonable amount of supervision.

(h) Entering any Unit when necessary in connection with any maintenance or construction for which the Board is responsible; provided that, except in the event of emergencies, such entry shall be made during reasonable hours with as little inconvenience to the Unit Owner as practical, and any damage caused thereby shall be repaired by the Board, with such expenses being treated as a Common Expense.

(i) Signing all agreements, contracts, deeds, easement agreements, and vouchers for the payment of expenditures and other instruments in such manner as from time to time shall be determined by written resolution of the Board. However, any contracts or leases executed on behalf of the Association prior to the passage of control of the Board to the Association must be terminable by the Association without penalty on not more than ninety (90) days written notice. In the absence of such determination by the Board, such document shall be signed by the treasurer and countersigned by the President.

(j) Obtaining insurance for the Property, including the Units, pursuant to the applicable provisions of the Declaration.

(k) Making or contracting for repairs, additions and improvements to or alterations or restorations of the Property in accordance with the other provisions of these Bylaws and the Declaration, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceeding, including repairs or replacement as needed of the buffer fencing located along the north line of the property as shown on the amended plat.

(l) Contracting for all goods, services and insurance, payment for which is to be made from the Common Expense fund.

(m) Instituting, defending, or intervening in litigation or administrative proceedings in the name of or on behalf of the Association or two or more Unit Owners on matters affecting the Condominium.

(o) Imposing charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of the Declaration, the Bylaws, or rules and regulations established by the Association, all in accordance with Sections 47C-3-107 and 47C-3-107A of the Act.

(p) At its discretion, authorizing Unit Owners or other persons to use portions of the Common Elements for private functions and gatherings and imposing reasonable charges for such private use.

(q) Exercising (i) all powers specifically set forth in the Declaration, the Articles of Incorporation, these Bylaws and in the Act, (ii) all powers incidental thereto, and (iii) all other powers of a non-profit North Carolina corporation.



(r) Suspending the right of any Unit Owner to vote or use the Common Elements of the Condominium as long as said Unit Owner is delinquent in the payment of Common Expenses or is otherwise in violation of the Declaration or any exhibits thereto or applicable rules and regulations.

5.10 Managing Agent. The Board may engage the services of any person, firm, or corporation to act as managing agent at a compensation established by the Board, to perform such duties and services as the Board shall authorize, other than the powers set forth in subdivisions (a), (e), (g), (h), (i), (p) and (q) of Section 9 of this Article V. Any management agreement for the Condominium shall be terminable by either party without cause and without payment of a termination fee or penalty upon 90 days or less written notice thereof and the terms of such agreement may not exceed one year, renewable by agreement of the parties for successive one year periods. Any management agreement shall be terminable by either party for cause upon the giving of not more than thirty (30) days written notice. When professional management has been previously required, any decision to establish self-management by the Association shall require the prior consent of sixty-seven percent (67%) of the Unit Owners.

5.11 Duties of Declarant. Within a reasonable time after Unit Owners other than the Declarant elect a majority of the members of the Board (but not more than sixty (60) days after such event), the Declarant shall deliver control of the Association and shall deliver to the Association all property [noted in Subsections (a) through (o) of the Unit Owners and of the Association held or controlled by the Declarant, including, if applicable:

(a) The original or a photocopy of the recorded Declaration of Condominium, and all amendments thereto. If a photocopy is provided, the Declarant must certify by affidavit that it is a complete copy of the actual recorded Declaration.

(b) A copy of the Articles of Incorporation of the Association.

(c) A copy of the Bylaws of the Association.

(d) The minute books, including all minutes, and other books and records of the Association.

(e) Any rules and regulations which have been adopted.

(f) Resignations of resigning officers and Board members.

(g) Association funds or the control thereof.

(h) A copy of the plans and specifications utilized in the construction or remodeling of improvements on the Property and the supplying of equipment; and for the construction and installation of all mechanical components servicing the improvements and the Condominium, with a certificate, in affidavit form, of the Declarant or an architect or engineer authorized to practice in North Carolina, that such plans and specifications represent, to the best of their knowledge and belief, the actual plans and specifications utilized in the construction and improvement of the Condominium and the construction and installation of the mechanical components serving the Improvements and the Condominium.

(i) Insurance policies.



(j) Any other permits issued by governmental bodies applicable to the Condominium in force or issued within one (1) year prior to the date the Unit Owners take control of the Association.

(k) All written warranties of contractors, subcontractors, suppliers and manufacturers, if any, that are still effective.

(l) A roster of Unit Owners and their addresses and telephone numbers, if known, as shown on the Declarant's records.

(m) Employment contracts or service contracts in which the Association is one of the contracting parties, or service contracts in which the Association or Unit Owners have an obligation or responsibility, directly or indirectly, to pay some or all of the fee or charge of the person or persons performing the service.

(n) All other contracts to which the Association is a party.

## ARTICLE VI

### MEETINGS OF DIRECTORS

6.1 Organizational Meeting. The first meeting of the initial Board shall be held at such time as the Declarant shall determine, but in no event later than one year from the date of incorporation of the Association. The first meeting of a newly elected Board shall be held within fifteen (15) days following the meeting of the Unit Owners at which the Board was elected. No notice shall be necessary to the newly elected members of the Board in order to legally constitute such meeting, providing that a quorum is present.

6.2 Regular Meeting. A regular meeting of the Board shall be held immediately after, and at the same place as, the annual meeting or substitute annual meeting of the Unit Owners. In addition, the Board may provide by resolution the time and place, either within or without the State of North Carolina, for the holding of a regular meeting of the Board.

6.3 Special Meetings. Special meetings of the Board may be called by or with the request of the chairman, or by any two (2) directors. Such meetings may be held either within or without the State of North Carolina.

6.4 Notice of Meetings. Regular meetings of the Executive Board may be held without notice. The person(s) who called a special meeting of directors shall, at least two (2) days prior to said meeting, give notice thereof by any usual means of communication. Such notice need not specify the purpose for which the meeting is called.

Attendance by a director at a meeting shall constitute a waiver of notice of such meeting except where a member attends the meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. Meetings of the Board shall be open to all Unit Owners and notices of meetings shall be posted conspicuously for the attention of Unit Owners in advance of the meeting, except for regular meetings of the Board, which may be held without notice.

6.5 Waiver of Notice. Any member of the Board may at any time waive notice of any meeting of the Board in writing, and such waiver shall be deemed equivalent to the giving of such notice.



Attendance by a director at any meeting of the Board shall constitute a waiver of notice by him of the time and place thereof. If all of the directors are present at any meeting of the Board, no notice shall be required, and any business may be transacted at such meeting.

6.6 Quorum. A majority of the number of directors fixed by these By-Laws shall be required for and constitute a quorum for the transaction of business at any meeting of the Board.

6.7 Manner of Acting. Except as otherwise provided in this section, the act of majority of the directors present at a meeting at which a quorum is present shall be the act of the Board. A vote of a majority of the number of directors fixed by these By-Laws shall be required to adopt a resolution constituting an executive committee. Vacancies in the Board may be filled as provided in Section 5.6 of these By-Laws.

6.8 Organization. Each meeting of the Board shall be presided over by the chairman, and in the absence of the chairman, by any person selected to preside by vote of the majority of the Board members present. The secretary, or in his absence, and assistant secretary, or in the absence of both the secretary and the assistant secretary, any person designated by the chairman of the meeting shall act as secretary of the meeting.

6.9 Informal Action of Board. Action taken by a majority of the directors without a meeting is nevertheless Board action if written consent to the action in question is signed by all of the directors and filed with the minutes of the proceedings of the Board, whether done before or after the action so taken.

6.10 Minutes. The Board shall keep minutes of its proceedings, which shall be available for inspection by the Unit Owners during reasonable business hours.

6.11 Liability of the Board and Officers. The directors and the officers provided for in Article VII hereof shall not be liable to the Unit Owners for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. The Unit Owners shall indemnify and hold harmless each of the directors and the officers against all contractual liability to others arising out of contracts made by the Board or the officers on behalf of the Condominium, unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or these Bylaws. It is intended that the directors or any officer shall have no personal liability with respect to any contract made by them on behalf of the Condominium, except to the extent that they are Unit Owners and have liability as such. It is also intended that the liability of any Unit Owner arising out of any contract made by the Board or the officers, or out of the aforesaid indemnity in favor of the directors or the officers, shall be limited to such proportion of the total liability thereunder as his interest in the Common Elements bears to the interests of all the Unit Owners in the Common Elements. Every agreement made by the Board, by the managing agent or by the officers on behalf of the Condominium shall provide that the members of the Board, the managing agent or the officers, as the case may be, are acting only as agents for the Unit Owners, and shall have no personal liability thereunder.

## ARTICLE VII

### OFFICERS

7.1 Number. Principal officers of the Condominium shall consist of a chairman of the Board, a secretary, a treasurer and such vice chairmen, assistant secretaries, assistant treasurers and any other officers as the Board may from time to time elect.





Any two or more offices may be held by the same person, except the offices of chairman and secretary.

7.2 Election of Officers. The officers of the Condominium shall be elected by the Board. The Chairman, vice chairman, secretary and treasurer shall be elected from among the Board, and all other officers, if any, need only be a Unit Owner. The officers elected by the initial Board are not required to be Unit Owners. The election of officers may be held at the regular annual meeting of the Board.

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

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

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

7.6 Powers and Duties of Officers.

(a) Chairman of the Board. The Chairman of the Board shall be the chief executive officer of the Association; shall have all of the powers and duties incident to the office of a chairman of a corporation, including, but not limited to, the duty to preside at all meetings of the Board and of the members, and the general supervision of officers in the management of the business and affairs of the Association; and shall see that all actions and resolutions of the Board are carried into effect.

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

(c) Secretary. The Secretary shall keep the minutes of all meetings and actions of the Board and of the members; shall give all required notices to the Directors and members; shall keep the records of the Association, except those kept by the Treasurer; shall perform all other duties incident to the office of a secretary of a corporation; and shall perform such other duties required by the Board or the Chairman.

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

7.7 Execution of Agreements, etc. All agreements, deeds, mortgages, or other instruments shall be executed by any two (2) officers, or by such other person or persons as may be designated by the Board.

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



7.9 Assistant Secretaries and Treasurers. The assistant secretaries and assist treasurers, if any, shall, in the absence of the secretary and treasurer, respectively, have all the powers and perform all of the duties of those officers, and they shall in general perform such other duties as shall be assigned to them by the secretary or the treasurer, respectively, or by the chairman of the Board or the Board.

#### ARTICLE VIII

##### INDEMNIFICATION OF EXECUTIVE BOARD AND OFFICERS

The Association shall indemnify such persons, for such expenses and liabilities, in such manner, under such circumstances, and to such extent, as permitted by the appropriate sections of the North Carolina General Statutes, as now enacted or hereafter amended.

#### ARTICLE IX

##### OPERATION OF THE PROPERTY

9.1 Assessment and Determination of Common Expenses. The Board shall from time to time, and at least annually, prepare a budget for the Condominium, for the purpose of determining the amount of the Assessments to be collected from the Unit Owners in order to provide for the Common Expenses of the Condominium, and allocate and assess such Common Expenses among the Unit Owners, according to their percentage of interest in the Common Elements as set forth in the Declaration, taking into consideration any expected income and any surplus from the prior year's operation. The Common Expenses shall include, without limitation, the expenses, costs and charges incurred in connection with the administration, operation and management of the Condominium Property; the cost of maintenance, repair, replacement and restoration of the Common Elements, or any part thereof; the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Board pursuant to the provisions of the Declaration; such amounts as the Board may deem proper for the convenience, comfort and well-being of the Unit Owners, and for the operation, management and maintenance of the Property, including, without limitation, an amount for working capital of the Condominium, for a general operating reserve, for a reserve fund for replacements, and to make up any deficit in the Common Expenses for any prior year; in proper cases, the cost of administration and of maintenance and repair of the Limited Common Elements; and any other expenses lawfully agreed upon.

In establishing a reserve fund for replacements, the Board shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall then set the required capital contribution in an amount sufficient to permit meeting the projected capital needs of the Association with respect to both amount and timing by equal annual installments over the applicable period.

Within thirty (30) days after adoption by the Board of any proposed budget for the Condominium, the Board shall provide a summary of the budget to all Unit Owners and shall give notice of a date for a meeting of the Unit Owners to consider ratification of the budget not less than fourteen (14) nor more than thirty (30) days after mailing of the summary and notice. A quorum need not be present at the meeting. The budget is ratified unless at the meeting a majority of all the Unit Owners present and entitled to cast a vote reject the budget. In the event the proposed budget is rejected, the periodic budget last ratified shall be continued until such time as the Unit Owners ratify a subsequent budget proposed by the Board.



9.2 Payment of Assessments. All Unit Owners shall be obligated to pay (1) General Assessments for Common Expenses assessed by the Board from time to time, and at least quarterly in accordance with the percentage interest allocations set forth in the Declaration; (2) special assessments to be established and collected as provided herein, and (3) specific assessments against any Unit which are established pursuant to the terms of these Bylaws. A late payment charge in an amount to be determined by the Board shall be assessed for any assessment installment not paid within fifteen (15) days of its due date. Any installment not paid within fifteen (15) days of its due date shall be subject to the late payment charge and shall accrue interest as provided in Section 9.5, and shall constitute a lien on the Unit as provided in Section 9.6 of this Article IX.

No Unit Owner shall be liable for the payment of any part of the Common Expenses assessed against his Unit subsequent to a sale, transfer or other conveyance by him (made in accordance with the provisions of the Declaration and applicable restrictions of record) of such Unit, together with his interest in the Common Elements (and Limited Common Elements, if any). A purchaser of a Unit shall be jointly and severally liable with the seller for the payment of Assessments assessed against such Unit prior to the acquisition by the purchaser of such Unit only if the purchaser expressly assumes such obligation in writing; provided, however the lien assessed against such Unit shall remain in full force and effect. Any such purchaser shall be entitled to a statement from the Board setting forth the amount of the unpaid Assessments against the seller, and the Unit conveyed shall not be subject to a lien for any unpaid assessments in excess of the amount shown on the statement. Provided, however, that a First Mortgagee who takes a deed in lieu of foreclosure shall not be liable for, and such Unit shall not be subject to, a lien for the payment of Common Expense assessed prior to the foreclosure sale or deed in lieu of foreclosure. such unpaid Common Expenses shall be deemed to be Common Expenses collectible from all of the Unit Owners, including such purchaser, his successors and assigns.

9.3 Special Assessments. The Association may levy Special Assessments for Common Expenses not covered by the General Assessment, applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Elements, including fixtures and personal property related thereto, provided that any such Assessment must be approved by the vote of Owners of Units to which at least two-thirds (2/3) of the votes in the Association are allocated cast in person or proxy at a meeting duly called for this purpose. Such Special Assessments shall be charged to the Units according to their percentage interests in the Common Elements. In addition, the Board may levy Special Assessments against one or more, but less than all, of the Units to cover repairs or maintenance for which such Unit Owner or Owners are responsible and which they have failed to make, or for repairs or maintenance required of a Unit Owner or Unit Owners which impair the value of the Common Elements or the Unit or Units, or expenses which are incurred in the abatement of or as a result of a violation by a Unit Owner or Owners of the provisions of the Declaration, the Bylaws or the rules, regulations, or for fines levied for said violations, or where the Board has purchased a Unit on behalf of one or more Unit Owners. The period of assessment and manner of payment of such assessment shall be determined by the Board.

9.4 Collection of Assessments. The Board shall determine Common Expenses against the Unit Owners from time to time, at least quarterly, and may, as the Board shall determine, take prompt action to collect any Assessments due from any Unit Owner which remain unpaid for more than fifteen (15) days from their due



date.

The Board shall notify First Mortgagees pursuant to the provisions of the Declaration for which any amount assessed pursuant to these Bylaws remains unpaid for more than sixty (60) days from their due date, and in any other case where the Unit Owner of such Unit is in default with respect to the performance of any obligation hereunder for a period in excess of sixty (60) days.

9.5 Default in Payment of Assessment. In the event of default by any Unit Owner in paying to the Board any amounts assessed by the Board, such Unit Owner shall be obligated to pay a late payment charge as established by the Board from time to time, and interest at the rate of eight percent (8%) on such amounts from their due date; together with all expenses, including attorneys' fees (if permitted by law), incurred by the Board in collecting such unpaid sums. If a Unit Owner shall be in default in payment of an installment of an Assessment, the Board may accelerate the remaining installments upon ten (10) days' written notice to such Unit Owner, whereupon the entire unpaid balance of such Assessment shall become due upon the date stated in such notice.

9.6 Lien and Personal Obligation. Each Assessment provided for in this Article, together with late payment charges, interest and expenses, including attorneys' fees (as permitted by law), shall be a charge on and a continuing lien upon the Unit against which the Assessment is made when a notice of such lien has been filed of record in the office of the Clerk of Superior Court of Dare County, North Carolina, in the manner provided by Article 8, Chapter 44, of the North Carolina General statutes, provided such notice of lien shall not be recorded until such sums assessed remain unpaid for a period of fifteen (15) days after the same shall become due. Said notice of lien shall also secure all Assessments against the Unit becoming due thereafter until the lien has been satisfied. Said lien may be foreclosed in the manner as a deed of trust on real property. In addition, each Unit Owner shall be personally liable for any Assessment against his Unit becoming due and payable while he is the Owner of such Unit.

9.7 Priority of Assessment Lien. The lien of the Assessments provided for in this Article shall be prior and superior to all other liens except (a) ad valorem taxes, and (b) all sums unpaid on deeds of trust, mortgages or other encumbrances against the Unit prior to the docketing of the Assessment lien. The sale or transfer of any Unit shall not affect the Assessment lien against such Unit. Provided, however, the sale of a Unit pursuant to the foreclosure sale or execution sale instituted by a superior lien holder or conveyance to a First Mortgagee by deed in lieu of foreclosure shall extinguish the inferior Assessment lien against the subject Unit but no such sale or transfer shall relieve each Unit from liability for any Assessments thereafter becoming due or for any future lien in connection therewith. The Association shall share in the excess, if any, realized by the sale of any Unit pursuant to a foreclosure or action instituted by a superior lien holder, to the extent of its lien.

9.8 Owner's Non-Use. No Unit Owner may exempt himself from liability for Assessments and his other obligations to the Association by waiver of the use or enjoyment of any portion of the Common Elements or by the abandonment or sale of his Unit.

9.9 Foreclosure of Liens for Unpaid Assessments. Following the institution of any action by the Board to foreclose on a Unit because of unpaid Assessments, the Unit Owner shall pay a reasonable rental for the use of his Unit, and the plaintiff in such foreclosure action shall be entitled to the appointment of a



receiver to collect the rental. A suit to recover a money judgment for unpaid Assessments shall be maintainable without foreclosing or waiver of the Assessment lien. Where a First Mortgagee or the purchaser of a Unit obtains title to the Unit as a result of foreclosure of the First Mortgage, such purchaser, its successors and assigns, shall not be liable for the share of the Common Expenses or Assessments by the Board chargeable to such Unit which became due prior to the acquisition of title to such Unit by such purchaser. Such unpaid share of Common Expenses or Assessments shall be deemed to be a Common Expense collectible from all Unit Owners, including such purchaser, its successors and assigns.

9.10 Statement of Common Expenses. The Board shall promptly provide any Unit Owner so requesting the same in writing with a written statement of all unpaid charges due from such Unit Owner, for which it may institute a reasonable charge at its discretion.

9.11 Abatement and Enjoinment of Violations by Unit Owners. The violation of any rule or regulation adopted by the Board or the breach of any bylaw contained herein, or the breach of any provision of the Declaration, shall give the Board the right, in addition to any other rights set forth in these Bylaws: (a) to enter the Unit in which, or as to which, such violation or breach exists, and to make any repairs, and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition which may exist therein contrary to the intent and meaning of the provisions hereof, and the Board shall not thereby be deemed guilty in any manner of trespass, or, (b) to enjoin, abate, or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach at the expense of the defaulting Unit Owner; (c) in any case of flagrant or repeated violation by a Unit Owner, to require such Unit Owner to give sufficient sureties for his future compliance with such Condominium documents; or (d) after notice and an opportunity to be heard, to levy reasonable assessments and fines in accordance with Sections 47C-3-107 and 47C-3-107A of the Act for such violations. The failure of the Board to so act with respect to any such violation or breach shall not be deemed a waiver of the Board's right to act with respect to the same or any other breach or violation.

9.12 Maintenance and Repair.

(a) Each Unit Owner shall maintain, repair and replace, at his sole cost and expense, all portions of his Unit which may become in need thereof, including the components of the heating and air conditioning system within and appurtenant to each Unit, if any, all bathroom and kitchen fixtures and appliances, light fixtures, interior, non-loadbearing walls, doors, floors, ceilings, carpeting, drapes and other items within the Unit, whether structural or non-structural, ordinary or extraordinary (other than maintenance of and repairs to any Common Elements not specifically set forth herein contained therein and not necessitated by the negligence, misuse or neglect of the Unit Owner, his invitees, guests, agents, servants, lessees, employees or contractors). Each Unit Owner shall clean the Limited Common Elements appurtenant to his Unit and replace all light bulbs in fixtures (if any) located in such Limited Common Elements. Each Unit Owner shall be responsible for replacing all heating and air conditioning filters, if any, required in his Unit. Each Unit Owner shall further be responsible for all damages to any and all other Units and/or to the Common Elements which his failure to undertake his maintenance responsibility may engender. All damages to the Common Elements or other Units intentionally or negligently caused by the Unit Owner, his invitees, guests, agents, servants, lessees, employees or contractors shall be promptly



repaired by the Unit Owner at his sole cost and expense; provided that there is excluded from the provisions contained in this section such repairs necessitated by casualties insured against by the Association to the extent the Association receives insurance proceeds for such repairs, the Unit Owner shall be in said instance, required to pay such portion of the costs of such maintenance, repair and replacement as shall exceed the amount of the applicable insurance proceeds. If the Unit Owner does not make those repairs to be made by him within thirty (30) days from written demand by the Board, the same may be repaired by the Board, and the cost thereof shall be assessed against the Unit owned by the subject Unit Owner.

(b) The Association, through its Board, shall maintain, repair and replace all portions of the Common Elements and Limited Common Elements (except as provided in Section 9.12(a) above) which shall require same, whether located inside or outside of the Units (unless necessitated by the negligence, misuse or neglect of a Unit Owner, his invitees, guests, agents, servants, lessees, employees or contractors, in which case such expense shall be charged to such Unit Owner, or unless herein provided to the contrary), and the cost thereof shall be charged to all the Unit Owners as a Common Expense.

9.13 Restrictions on Unit Owners. No Unit Owner shall perform or cause to be performed any maintenance, repair or replacement work which disturbs the rights of the other Unit Owners, jeopardizes the soundness or the safety of the Condominium property, or reduces the value thereof. Each Unit Owner shall cause any work so performed or being performed on the Unit, which, in the sole opinion of the Board, violates the terms of this section, to be immediately corrected, and he shall refrain from recommencing or continuing any such work without written consent of the Board.

9.14 Duty to Report. Each Unit Owner shall promptly report to the Board or its agent any defect or need for repairs or replacement the responsibility for which is that of the Association.

9.15 Additions, Alterations or Improvements by the Association. Whenever in the judgment of the Board the Common Elements shall require additions, alterations or improvements, the Board shall proceed with such additions, alterations or improvements, and shall assess all Unit Owners for the costs thereof, as a Common Expense, subject, however, to the provisions of Sections 9.1 and 9.3 of this Article IX.

9.16 Additions, Alterations or Improvements by Unit Owners. No Unit Owner shall make any addition, alteration or improvement in or to his Unit, which impairs the structural integrity or mechanical systems or lessens the support of any part of the Condominium. No Unit Owner shall make any addition, alteration or improvement which affects the exterior portion or outward appearance of such Unit, without the prior written consent thereto of the Board. The Board shall have the obligation to answer any written request by a Unit Owner for approval of a proposed addition, alteration or improvement in or to such Unit Owner's Unit within thirty (30) days after such request, and failure to do so within the stipulated time shall constitute a consent by the Board to the proposed addition, alteration or improvement.

9.17 Use of Common Elements. A Unit Owner shall not interfere with the use of the Common Elements by the remaining Unit Owners and their guests and invitees.

9.18 Right of Access. A Unit Owner shall grant a right of

access to his Unit to the managing agent and/or any other person authorized by the Board or the managing agent, for the purpose of making inspections or for the purpose of correcting any condition originating in his Unit and threatening another Unit or a Common Element, or for the purpose of performing installations, alterations or repairs to the mechanical or electrical services or other Common Elements in his Unit or elsewhere in the Building, or to correct any condition which violates the provisions of any First Mortgage covering another Unit, provided that requests for entry are made in advance, and that any such entry is at a time reasonably convenient to the Unit Owner. In the case of an emergency, such right of entry shall be immediate, whether or not the Unit Owner is present at the time such request for entry is made, or such entry is at a time reasonably convenient to the Unit Owner.

9.19 Common Expenses for Utilities. Any utilities which may be provided to the Units through a single or common meter or facility, and utilities furnished to any portion of the Common Elements, shall be paid by each Unit Owner as and when billed according to the extent of such Unit Owner's use or, at the option of the Board, such may be paid by the Association and assessed against the Units as a Common Expense.

9.20 Rules of Conduct. Rules and regulations concerning the use of the Units and the Common Elements may be promulgated and amended by the Board. Such rules and regulations shall be equally applicable to all Unit Owners similarly situated and shall be uniform in their application and effect. Copies of such rules and regulations shall be furnished by the Board to each Unit Owner prior to their effective date.

9.21 Remedies Cumulative. All rights, remedies and privileges granted to the Association or the Owner or Owners of a Unit pursuant to any terms, provision, covenants or condition of the Declaration or other above-mentioned documents, shall be cumulative, and the exercise of any one or more shall not constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other additional rights, remedies or privileges as may be available to such party at law or in equity.

9.22 Nonwaiver of Remedies.

(a) The failure of the Association or any Unit Owner to enforce any right, provision, covenant or condition which may be granted by the Declaration or the other above-mentioned documents shall not constitute a waiver of the right of the Association or the Unit Owner to enforce such right, provision, covenant or condition in the future.

(b) The failure of Declarant to enforce any right, privilege, covenant or condition which may be granted to it by the Declaration or other above-mentioned documents shall not constitute a waiver of the right of Declarant to thereafter enforce such right, provision, covenant or condition in the future.

(c) The failure of a First Mortgagee to enforce any right, provision, privilege, covenant or condition which may be granted to it or them by the Declaration or other above-mentioned documents, shall not constitute a waiver of the right of said party or parties to thereafter enforce such right, privilege, covenant or condition in the future.

## ARTICLE X

### FINANCIAL RECORDS AND STATEMENTS

10.1 Reports. The Board shall keep detailed records of the actions of the Board and the managing agent, minutes of the meetings of the Board, minutes of the meetings of the Association, and financing records and books of account of the Condominium, including a chronological listing of receipts and expenditures, as well as a separate account for each Unit, which, among other things, shall contain the amount of each Assessment against each Unit, the date when due, the amounts paid and the balance remaining unpaid. The financial records and books of account shall be available for examination by all Unit Owners, their duly authorized agents or attorneys, and all lien holders, their attorneys and authorized agents, at convenient hours that shall be set and announced for general knowledge. A written annual summary of all receipts and expenditures of the Condominium shall be rendered by the Board to all Unit Owners on or before the 15th day of the second month following the close of each fiscal year. In addition, an annual report of the receipts and expenditures of the Condominium shall be rendered by the Board to all Unit Owners and to all First Mortgagees who have requested the same, promptly after the end of each fiscal year.

10.2 Common Expense Funds. All sums collected by the Association, either as Assessments for the Common Expenses or Special Assessments may be commingled in a single fund, but they shall be held for the Owners for the purposes for which they are paid, and shall, subject to the right of withdrawal or refund provided herein, be credited to accounts from which shall be paid the charges for which the Assessments are made. Such accounts shall include the following, or such other and further accounts as the Board from time to time shall determine:

(a) General Common Expense Account--to which shall be credited collection of that portion of the Common Expense Assessments received for defraying the costs of operating the Condominium on a day-to-day basis, including normal maintenance and repairs, insurance and related charges;

(b) Capital Reserve Account--to which shall be credited, all sums collected which are to be allocated for capital expenditures for the reconstruction, repair and replacement of Common Elements at a future date.

All sums collected by the Association, either as Assessments of the Common Expenses or Special Assessments, during any fiscal year and allocated to the General Common Expense Account or to any other account from which non-capital expenditures may be made, in excess of expenditures during such fiscal year made from or chargeable to said account or accounts shall be deemed contributions to capital at the end of said fiscal year, and shall be transferred to the Capital Reserve Account. All amounts credited to said Capital Reserve Account shall be contributions to capital, and shall be held in trust by the Association for future expenditures of a capital nature, and shall serve to reduce the Assessments required for said capital expenditures.

10.3 Records. All books of account and financial records shall be kept in accordance with good and acceptable accounting practices. The Board shall have a certified public accountant prepared annual financial statement made available for inspection by all Unit Owners and all First Mortgagees on or before the 15th day of the second month following the close of each fiscal year.





## ARTICLE XI

### AMENDMENTS TO BYLAWS

11.1 Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of a meeting at which a proposed amendment is to be considered.

11.2 Adoption. A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board or by not less than one-third (1/3) of the Voting Members of the Association. Directors and members of the Association not present in person or by proxy at the meeting considering the amendment may express their approval in writing, provided that such approval is delivered to the Secretary at or prior to the meeting. The approval must be by not less than a majority of the votes of all Voting Members of the Association represented at a meeting at which a quorum has been attained.

11.3 Limitation. No amendment may be adopted which would eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted or reserved to the Declarant or First Mortgagees without the consent of said Declarant and First Mortgagees in each instance. No amendment shall be made that is in conflict with the Articles of Incorporation of the Association or Declaration without satisfaction of the requirements therein contained. No amendment to this Section shall be valid.

11.4 Execution and Recording. A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted as an amendment to the Declaration and Bylaws, which certificate shall be executed by the Chairman or Vice Chairman and attested by the Secretary or Assistant Secretary of the Association with the formalities of a deed, or by the Declarant alone if the amendment has been adopted consistent with the provisions of the Declaration allowing such action by the Declarant. The amendment shall be effective when the certificate and a copy of the amendment is recorded in the Register of Deeds for Dare County, North Carolina.

## ARTICLE XII

### CONDEMNATION

12.1 General. Whenever all or any part of the Condominium Property shall be taken over by an authority having the power of condemnation or eminent domain, each Unit Owner and all First Mortgagees shall be entitled to notice thereof and to participate in the proceeding incident thereto unless otherwise prohibited by law. The award made for such taking shall be payable to the Association. Unless otherwise provided by law at the time of such taking, any award made therefor shall be disbursed by the Association as provided in this Article XII.

12.2 Common Elements. If the taking is confined to the Common Elements (general or limited) on which improvements shall have been constructed, and at least ninety percent (90%) of the total vote of the members of the Association entitled to vote shall vote within sixty (60) days after such taking to replace the improvements, or any part thereof, on the remaining land included in the Common Elements (general or limited) and according to the plans therefor first approved by the Association, then the Board shall arrange for such replacement and the Association shall disburse the proceeds of such award in the same manner as they are required to disburse insurance proceeds where damage or destruction to the Common Elements (general or limited) is to be repaired or reconstructed as provided for in the Declaration or herein; subject, however, to the right hereby reserved to the



Association by a majority vote of the Voting Members, to provide for the disbursement by the Association of the remaining proceeds held by it (after the payment of all costs incident to such replacement) to the Unit Owners or any one or more of them or to their First Mortgagees as their interests may appear in amounts disproportionate to their percentages of undivided interest in the Common Elements (general or limited) established herein, which disproportionate amounts shall correspond with the disproportionate damage sustained by the Unit Owners or any one or more of them as the Association may determine. If at least ninety percent (90%) of the Voting Members shall not decide within sixty (60) days after such taking to replace said improvements or if the taking is confined to the Common Elements (general or limited) on which no improvements shall have been constructed, then the Association shall disburse the proceeds of the award in the manner hereinabove provided for the disbursement of the remaining proceeds of an award after payment of all costs incident to replacement of improvements taken has been made, including the right reserved to the Association to provide for the disbursement of the remaining proceeds held by it to the Unit Owners in disproportionate amounts. All disbursements made under this Section 9.2 shall be in strict compliance with Section 47C-1-107 of the Act.

12.3 Units. If the taking includes one or more Units, or any part or parts thereof, whether or not there is included in the taking any part of the Common Elements (limited or general), then the award shall be disbursed and all related matters shall be handled pursuant to and in accordance with the consent of all Unit Owners and First Mortgagees affected and the Executive Board of the Association thereafter, expressed in a duly recorded amendment to the Declaration of Condominium, all in accordance with Section 47C-1-107 of the Act.

12.4 Termination. The Executive Board shall call a meeting of all Unit Owners at least forty-five (45) days prior to any final taking by the condemning authority to determine the action to be taken pursuant to Sections 9.2 and 9.3 above. Except in the event of a taking of all the Units by eminent domain, in the event the condemnation involves more than ten percent (10%) of the value of the Common Elements (limited or general) and/or more than fifteen percent (15%) of the total value of all Units, the Condominium may be terminated at such meeting by written approval of not less than ninety percent (90%) of the Voting Members. Any termination agreement shall be in strict compliance with 47C-2-118 of the Act.

### ARTICLE XIII

#### MISCELLANEOUS

13.1 Ad Valorem Taxes. Each Unit shall be deemed to be a separate parcel and shall be separately assessed and taxed. Each unit Owner shall be liable solely for the amount of tax assessed against his Unit and shall not be affected by the consequences resulting from the tax delinquency of other Unit Owners. All tangible personal property owned by the Association in connection with the maintenance, upkeep and repair of the Common Elements shall be listed for said taxes in the name of and paid by the Association. Each Unit Owner is also responsible for his pro rata share of taxes assessed on his portion of the Common Elements, if any.

13.2 Notification to Mortgagees. Any Owner who mortgages his Unit shall notify the association of the name and address of the Mortgagee, and the Association shall maintain such information in a book entitled "Mortgagees of Condominiums." In addition to any other notification provided for in the Declaration or these Bylaws, the Association may, at the written request of a Mortgagee



of any such Unit, report any unpaid assessments due from the Owner of such Unit. The Association shall notify each Mortgagee appearing in said book the name of each company insuring the Condominium Property under the master policy and the amounts of the coverages thereunder.

13.3 Severability. Invalidation of any covenant, condition, restriction or other provision of the Declaration or these Bylaws shall not affect the validity of the remaining portions thereof which shall remain in full force and effect.

13.4 Successors Bound. The rights, privileges, duties and responsibilities set forth in the Declaration or these Bylaws, as amended from time to time, shall run with the ownership of the Condominium Property and shall be binding upon all persons who own or hereafter acquire any interest in the Condominium Property.

13.5 Gender, Singular, Plural. Whenever the context so permits, the use of the singular or plural shall be interchangeable in meaning and the use of any gender shall be deemed to include all genders.



EXHIBIT "C"

The plats and plans for Roanoke Shores Condominium (formerly Roanoke Retreat Condominium) recorded in Unit Ownership File Number 5, Slides 107 and 108, and Unit Ownership File Number 6, Slides 18 and 19, Dare County Registry, North Carolina.



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EXHIBIT "F"  
ENCUMBRANCES

1. Service easements for utilities.
2. Easement to VEPCO recorded in Book 432, Page 621, Dare County Registry.
3. Easement to Dare County Shrine Club Holding recorded in Book 141, Page 429, Dare County Registry.
4. Declaration of Roanoke Retreat Condominium recorded in Book 1063, Page 523, Dare County Registry.
5. Building setback lines, easements, and other facts as shown on map or plat recorded in Unit Ownership File 5, Pages 107 - 108, Dare County Registry.
6. Any portion of the property below the highwater mark of the Roanoke Sound.





# NORTH CAROLINA

## Department of The Secretary of State

To all whom these presents shall come, Greetings:

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

### ARTICLES OF INCORPORATION

OF

### ROANOKE SHORES OWNERS ASSOCIATION, INC.

the original of which was filed in this office on the 22nd day of March, 2004.

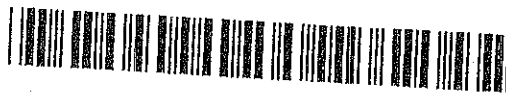


IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Raleigh, this 22nd day of March, 2004

*Elaine F. Marshall*

Secretary of State

Document Id: C20040690040  
2



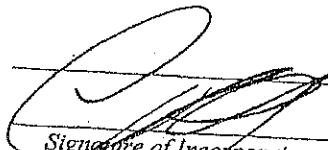
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State of North Carolina  
Department of the Secretary of State  
ARTICLES OF INCORPORATION  
NONPROFIT CORPORATION

SOSID: 717229  
Date Filed: 3/22/2004 12:12:00 PM  
Elaine F. Marshall  
North Carolina Secretary of State  
C200406900402

Pursuant to §55A-2-02 of the General Statutes of North Carolina, the undersigned corporation does hereby submit these Articles of Incorporation for the purpose of forming a nonprofit corporation.

1. The name of the corporation is: Roanoke Shores Owners Association, Inc.
2.  (Check only if applicable.) The corporation is a charitable or religious corporation as defined in NCGS §55A-1-40(4).
3. The street address and county of the initial registered office of the corporation is:  
4037 Jaback Drive  
City, State, Zip Code Zebulon, NC 27597 County: Wake
4. The mailing address *if different from the street address* of the initial registered office is:  
P. O. Box 400  
Rolesville, NC 27571
5. The name of the initial registered agent is: Ken Goetze
6. The name and address of each incorporator is as follows:  
  
Christopher L. Seawell  
P. O. Box 339  
Manteo, NC 27954
7. (Check either a or b below.)  
a.  The corporation will have members.  
b.  The corporation will not have members.
8. Attached are provisions regarding the distribution of the corporation's assets upon its dissolution.
9. Any other provisions which the corporation elects to include are attached.
10. The street address and county of the principal office of the corporation is:  
4037 Jaback Drive  
City, State, Zip Code Zebulon, NC 27597 County: Wake
11. The mailing address *if different from the street address* of the principal office is:  
P. O. Box 400  
Rolesville, NC 27571
12. These articles will be effective upon filing, unless a later time and/or date is specified: \_\_\_\_\_  
This is the 4th day of March, 2004.

  
\_\_\_\_\_  
Signature of Incorporator  
Christopher L. Seawell, Incorporator  
Type or print Incorporator's name and title, if any

NOTES:

1. Filing fee is \$60. This document and one exact or conformed copy of these articles must be filed with the Secretary of State.

Revised November 1998

CORPORATIONS DIVISION

P. O. BOX 29622

Form N-01

RALEIGH, NC 27626-0525



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In the event of dissolution of this corporation, all of its then assets shall be distributed as follows:

The dissolution shall be conducted in compliance with North Carolina General Statutes Section 55A-14-01. et. seq., as then amended or supplemented and the assets of the corporation shall be distributed to members of the corporation pro rata in accordance with their respective interest in the common elements of the condominium property.



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