

BYLAWS  
OF  
RESIDENCES AT BASK  
OWNERS' ASSOCIATION, INC.

ARTICLE I  
NAME AND PURPOSE OF THE CORPORATION

Section 1. Name:

This corporation shall be known as:

RESIDENCES AT BASK OWNERS' ASSOCIATION, INC.

Section 2. Purposes:

The corporation has been organized for the following purposes:

- A. To promote, by serving as the owner's association therefor (the "Association"), the health, safety and welfare of the owners of the Lots at Residences at Bask, a planned development community in Morehead City, North Carolina;
- B. To provide for the preservation of the values and amenities of the community;
- C. To operate and maintain Common Elements and facilities on the Property for the benefit of the Owners of the Lots;
- D. To operate the development as a residential development;
- E. To provide a forum for the expression of ideas and plans with regard to the improvement of, protection of interests of all Members in, and general conditions in, the community, and to take steps toward the fulfillment of said ideas and plans;
- G. To carry out the obligations of, and exercise the rights and powers of, the Association under the Declaration and the Act;
- H. To exercise all powers and authority granted to the Association under the Act and the nonprofit corporation act in North Carolina.

## ARTICLE II DEFINITIONS

Section 1. "Act" shall mean Chapter 47F of the North Carolina General Statutes as amended from time to time.

Section 2. "Association" shall mean the Residences at Bask Owners' Association, Inc., a North Carolina nonprofit corporation.

Section 3. "Common Elements" shall mean all portions of the development except the Lots and the public streets. Limited Common Elements are Common Elements.

Section 4. "Declaration" shall mean the Declaration of Protective Covenants, Restrictions and Easements for Residences at Bask, recorded in File No. \_\_\_\_\_, Carteret County Registry.

Section 5. "Member" shall mean and refer to all those owners who are members of the Association as provided in Article IV, Section 1, hereof.

Section 6. All defined terms in the Declaration are incorporated herein.

## ARTICLE III LOCATION

The principal office of the Association shall be located at 125 Horton Drive, Morehead City, North Carolina, or at such other places as determined by the Board of Directors.

## ARTICLE IV MEMBERSHIP

Section 1. Every person or entity who is an Owner of a fee or undivided fee interest in any Lot which is subject to the Declaration shall be a Member of the Association, provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a Member.

Section 2. The rights of membership are subject to the payment of annual and special assessments levied by the Association, the obligation of said assessments is imposed against each Owner of and becomes a lien upon the property against which such assessments are made as provided by the Act and the Declaration or any Supplemental Declaration to which the Properties are subject.

Section 3. The rights and privileges of any person to use the Common Elements of the Association, which person's interest in the Lots and Common Elements is subject to assessments under the Declaration whether or not he be personally obligated to pay such assessments, may be suspended by action of the Directors during the period when the assessments remain unpaid; but,

upon payment of such assessments, his rights and privileges shall be automatically restored. If the Directors have adopted and published rules and regulations governing the use of the Common Elements and facilities and the personal conduct of any person thereon, as provided in the Declaration, these Bylaws or the Act, they may, in their discretion, suspend the rights and privileges of any such person to use the Common Elements for violation of such rules and regulations for a period not to exceed thirty (30) days.

## ARTICLE V VOTING RIGHTS

Section 1. The Association shall have one class of voting membership. Members shall have one vote for each Lot in which they hold the interests required for membership. When more than one person holds such interests or interests in any Lot all such persons shall be Members, and the vote for such Lot shall be exercised as they among themselves determine but in no event shall more than one vote be cast with respect to any such Lot.

Section 2. Designation of Voting Representatives.

If a Lot is owned by one person such person's right to vote shall be established by the record title to such person's property. If a Lot is owned by more than one person, the person entitled to cast the vote for said property shall be designated by a certificate signed by all of the record owners of said property and filed with the secretary of the Association. If a Lot is owned by a corporation or other entity, the person entitled to cast the vote for said property shall be designated by a certificate of appointment signed by an officer of a corporation, or Manager or other officer of a limited liability company, partner of a partnership, or Trustee of a trust, as the case may be, and filed with the Secretary of the Association. Such certificates shall be valid until revoked or until superseded by a subsequent certificate or until a change in the ownership of the subject Lot. The Association shall be entitled to rely on such certificates as provided to it without independent investigation of its authenticity.

Section 3. Declarant Control Period.

Subject to the remainder of this paragraph, the Declarant may appoint and remove the officers and members of the Board of the Association during the period that shall terminate no later than the date of conveyance by Declarant of eighty percent (80%) of the Lots to parties other than the Declarant, which period shall be referred to as the period of "Declarant Control". The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board of Directors before termination of the Declarant Control Period, but in that event Declarant shall have the right for the duration of the Declarant Control Period to specify that any or all of the following actions of the Association or Board be approved by the Declarant before they become effective:

1. Amend the Declaration or Bylaws;
2. Prepare a budget for the Association.

During the Declarant Control Period, and at all times thereafter, the Board shall manage and operate the Association in a manner consistent with the terms and conditions of this Declaration, any and all supplements or amendments hereto, the Association's Bylaws and the North Carolina General Statutes. Upon the Declarant's written notification to each Owner prior to the termination of the Declarant Control Period, said notice manifesting the Declarant's intention to surrender its right to appoint and remove the officers and members of the Board, the Association shall call a meeting of the membership for the purpose of electing a new Board for the Association from the membership of the Association. From that point on, the new Board shall then become responsible for the operation and management of the Association and the Declarant's responsibility for same terminates.

## ARTICLE VI PROPERTY RIGHTS AND RIGHTS OF ENJOYMENT OF COMMON PROPERTY

Section 1. Each Member shall be entitled to the use and enjoyment of the Common Elements subject to the rules and regulations of the Association and the rights of the Association under the Act and the Declaration, and the development rights of Declarant under the Declaration.

Section 2. Any Member may delegate such Member's rights of enjoyment in the Common Elements to the tenants, guests, or invitees in the Member's Lot, as the case may be. The rights and privileges of such person(s) are subject to suspension under Article IV, Section 3, to the same extent as those of the Member.

Section 3. Each occupant of a Townhome on a Lot, as a tenant or owner, or other guest or invitee, shall be entitled to the nonexclusive use and enjoyment of the Common Elements and facilities, and to the exclusive use and enjoyment of the Limited Common Elements assigned to their respective Limited Common Property, if any, subject to the rules and regulations of the Association, and to the right of the Association to assess user fees or other charges as provided in the Declaration and the Act, and to the development rights of the Declarant under the Declaration.

## ARTICLE VII POWERS OF THE ASSOCIATION

Section 1. Mergers and Consolidations.

Subject to the provisions of the Declaration and to the extent permitted by law, the Association may participate in mergers and consolidations with other nonprofit corporations organized for the same purposes, provided that any such merger or consolidation shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be mailed to all Members at least thirty (30) days in advance, and shall set forth the purpose of the meeting.

Section 2. Mortgages; Other Indebtedness.

The Association shall have power to mortgage the Common Elements only to the extent authorized under the Declaration and with such voting requirements as shall be required by the Declaration, or if not established in the Declaration, by the Act.

Section 3. Dedication.

The Association shall have the power to dispose of Common Elements only as authorized under the Declaration and with such voting requirements as shall be required by the Act. Notwithstanding anything to the contrary in the foregoing, the Association shall have the authority to dedicate to the public such street and/or sidewalk areas as is provided in the Declaration and in any agreements between Declarant and the Town of Morehead City.

ARTICLE VIII  
BOARD OF DIRECTORS

Section 1. Generally.

The affairs of the Association shall be managed by a board of three (3) directors. The initial Board of Directors shall consist of three (3) directors who shall hold office until the first meeting of the Members of the Association or until their successors are elected and qualified. At the first membership meeting the Members shall elect two (2) directors for two year terms and one (1) director for a one year term. At the end of these terms, each director shall be elected for two (2) year terms. The election and removal of Directors shall be subject to the provisions of Article V, Section 3 hereof with regards to the Declarant Control Period.

Section 2. Vacancies.

Vacancies on the Board of Directors shall be filled by majority vote of the remaining directors, and any such appointed directors shall hold office during the unexpired term of their predecessors.

Section 3. Removal.

Any director may be removed from the Board, with or without cause, by a vote of the Members of the Association owning Lots to which at least 67% of the votes in the Association are allocated.

Section 4. Compensation.

No director shall receive compensation for any service he or she may render to the Association. However, any director may be reimbursed for his or her actual expenses incurred in the performance of his or her duties.

Section 5. Action Taken Without A Meeting.

The directors shall have the right to take any action in the absence of a meeting which they could

take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

ARTICLE IX  
ELECTION OF DIRECTORS; NOMINATING COMMITTEE;  
ELECTION COMMITTEE

The following provisions address election of Directors other than those appointed by Declarant during the Declarant Control Period:

Section 1. Election of the Board of Directors shall be by written ballot as hereinafter provided. At such election the Members or their proxies may cast, in respect of each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The candidates receiving the largest number of votes shall be elected. Votes may not be cast cumulatively.

Section 2. Nominations for election to the Board of Directors may be made by owners of Lots.

Section 3. Nominations may be submitted by Members to the Board of Directors at least thirty (30) days prior to each annual meeting of the Members.

Section 4. The Board of Directors may also submit nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among Members, as the committee in its discretion shall determine. Additional nominations by Members from the floor may be made at the time of the election.

Section 5. All elections to the Board of Directors at and after the first annual meeting shall be made on written ballot which shall clearly list the names of the persons for whom the vote is being cast and the terms of office if necessary. The Chairman of the meeting shall appoint one or more persons to count the ballots and report the results.

ARTICLE X  
POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. The Board of Directors shall have power:

A. To call special meetings of the Members whenever it deems necessary, and it shall call a meeting at any time upon written request of the members owning at least four of the Lots (whether the four Lots have different owners or the same owners);

B. To generally govern the Association in accord with the Declaration and the Articles of Incorporation and Bylaws of this Association, and with the Act and the laws related to nonprofit corporations in North Carolina, including, without limitation, to appoint and remove at its pleasure all officers, agents and employees of the corporation, prescribe their duties, fix their compensation, and require of them such security or fidelity bond as it may deem expedient. Nothing contained in

these Bylaws shall be construed to prohibit the employment of any Member, officer or director of the Association in any capacity whatsoever;

C. To ensure that the Association operations and Common Elements are in compliance with the Town of Morehead City zoning ordinance. To accomplish zoning compliance, the Board shall have, without limitation, the following power and authority:

a. To establish the terms, conditions, rules and regulations of the Common Element operations which are binding on the Owners;

b. To employ or contract with staff to carry out the purposes of the Association and any reasonable and necessary requirements of an Association in a planned community.

D. To establish, levy and assess, and collect the assessments, charges, fees, fines, late fees, administrative fees, transfer fees or charges referred to in the Declaration and permitted by the Act;

E. To adopt and publish rules and regulations governing the use of the Common Elements and the conduct of the Members, their employees, owners, tenants, guests, and invitees of Owners while in the community;

F. To exercise for the Association all powers, duties and authority vested in or delegated to this corporation, except those reserved to the Members in the Declaration;

G. In the event that any member of the Board of Directors of this Association shall be absent from three (3) consecutive regular meetings of the Board of Directors, the Board may by action taken at the meeting during which said third absence occurs, declare the office of said absent director to be vacant.

H. To prepare and enforce, directly or indirectly, the rules and regulations governing activities within the boundaries of the Property.

Section 2. It shall be the duty of the Board of Directors:

A. To cause to be kept a complete record of all its acts and corporate affairs and to make such records available as required by the Act.

B. To supervise all officers, agents and employees of this organization, and to see that their duties are properly performed.

C. To employ and discharge such management as the Directors may deem necessary.

D. To adopt a budget and authorize expenditures.

E. As more fully provided in the Declaration applicable to the Property and herein:

1. To fix the amount of the assessment against each Lot for each assessment period at least thirty (30) days in advance of such date or period and, at the same time;

2. To prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Member and, at the same time;

3. To send written notice of each assessment to every Owner subject thereto.

F. To issue, or to cause an appropriate officer to issue, upon demand by any Owner with respect to such Owners' Lot, or any Security Holder with respect to the Lot on which they hold a lien, or to a purchaser of a Lot under a written contract of purchase, or the attorney or agent for any of such persons or entities, a certificate setting forth whether any assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid. The Association may charge an appropriate fee for the issuance of such certificate.

## ARTICLE XI DIRECTOR'S MEETINGS

Section 1. A regular meeting of the Board of Directors shall be held as scheduled by the Board.

Section 2. Notice of such regular meeting shall be given to each director, personally or by mail, telephone, telefax or email (with confirmation of receipt), at least seventy-two (72) hours prior to the meeting.

Section 3. Special meetings of the Board of Directors shall be held when called by any officer of the corporation or by any two directors after not less than three (3) days' notice to each director.

Section 4. The transaction of any business at any meeting of the Board of Directors, however called and noticed, or wherever held, shall be as valid as though made at a meeting duly held after regular call and notice if a quorum is present and, if either before or after the meeting each of the directors not present signs a written waiver of notice, or a consent to the holding of such meeting, or an approval of the minutes thereof. All such waivers, consents or approvals shall be filed with the corporate records and made a part of the minutes of the meeting. Meetings may be conducted in person, or by telephone or video conference provided that all participating Directors may all hear one another simultaneously.

Section 5. The majority of the Board of Directors shall constitute a quorum thereof. Board meetings may be conducted by conference call or video conference or any manner in which all Directors may be heard at the same time.

## ARTICLE XII OFFICERS

Section 1. Generally.



The officers of this Association shall be a President, Vice President, Secretary and a Treasurer, and if the Board so elects, an assistant Secretary and/or assistant Treasurer.

Section 2. Election of Officers.

The Officers of the Association shall be elected by the Board (subject to the provisions herein and in the Declaration regarding Declarant Control). The election shall be held annually at the first meeting of the Board held after the annual meeting of members, except that the first Board shall elect officers as soon as practicable after the filing of the Declaration.

Section 3. Term.

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

Section 4. Removal.

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

Section 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.

Section 6. President.

The President shall be the chief executive officer of the Association, shall be deemed to be the Chairman of the Board, shall have all of the powers and duties incident to the office of a President of a corporation, and shall 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 resolution of the Board are carried into effect.

Section 7. Vice-President

In the absence of the President or in the event of his death, inability or refusal to act, the Vice-President shall perform the duties of the President, and when so acting shall have all the powers of and be subject to all the restrictions upon the President.

Section 8. Secretary.

The Secretary shall be the ex-officio secretary of the Board of Directors and shall record the votes and keep the minutes of all proceedings in a book to be kept for that purpose. He shall keep the records of the corporation. He shall record in a book kept for that purpose the names of all Members of the Association together with their addresses as registered by such Members.

Section 9. Treasurer.

The Treasurer shall receive and deposit in appropriate bank accounts all monies of the corporation and shall disburse such funds as directed by resolution of the Board of Directors, provided however, that a resolution of the Board of Directors shall not be necessary for disbursement made in the ordinary course of business conducted within the limits of a budget adopted by the Board.

The Treasurer shall keep proper books of account and cause an annual review of the corporation books to be made by a certified public accountant, or by audit committee appointed by the Board of Directors, at the completion of each fiscal year. He shall prepare an annual budget and an annual balance sheet statement, and the budget and balance sheet statement shall be presented to the membership at its regular annual meeting. He shall be responsible for the preparation of such tax returns as may be required.

The duties set forth herein may be delegated by the Board of Directors to any manager hired by the Association to manage the day to day activities of the Association. The Treasurer shall supervise the manager when performing the delegated activities.

Section 10. Special Appointments.

The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 11. Multiple Offices.

The offices of the secretary and/or treasurer may be held by the same person or by a person holding another office.

ARTICLE XIII  
COMMITTEES

Section 1. The Board of Directors may appoint such committees as it deems desirable, which Committees may provide advice to the Board but which may not exercise the powers of the Board.

ARTICLE XIV  
MEETINGS OF MEMBERS

Section 1. Meetings of the Members shall be held at the Property, or such other place as may be designated from time to time by the Board. The Members shall meet at least once each year as specified in the notice of such meeting. The Members shall elect the members of the Board of Directors and may transact any other business properly coming before them.

Section 2. Special meetings of the Members for any purpose may be called at any time by the

President, the Vice President, the Secretary or Treasurer, or by any two or more members of the Board of Directors or upon written request of the members owning at least four of the Lots (whether the four Lots have different owners or the same owners).

Section 3. Notice of any meetings shall be given to the Members by the Secretary, or upon the failure or refusal of the Secretary to provide Notice then by the President. Notice may be given to the Member either personally, by delivery to the Member's Lot, or by sending a copy of the notice through the mail postage thereon fully prepaid, or electronically by e-mail, to the Member's physical or e-mail address, as the case may be, appearing on the books of the corporation. Each Member shall register his address, and e-mail address if any, with the Secretary and notices of meeting regular or special shall be sent no more than thirty days (30) or less than fourteen (14) days in advance of the meeting and, except for the annual meeting, shall set forth in general the nature of the business to be transacted.

Section 4. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, a majority of the votes of each class of membership shall constitute a quorum for any action governed by these Bylaws. Any action governed by the Articles of Incorporation or by the Declaration shall require a quorum as therein provided.

Section 5. The President, or in his absence the Vice-President, shall preside at the meeting and the Secretary shall be responsible for recording minutes of the proceedings.

#### ARTICLE XV PROXIES

Section 1. At all corporate meetings of Members, each Member may vote in person or by proxy.

Section 2. All proxies shall be in writing and filed with the secretary. No proxy shall extend beyond a period of eleven (11) months, and every proxy shall automatically cease upon sale by the Member of such Member's Lot.

#### ARTICLE XVI BOOKS AND RECORDS

The books, records and papers of the corporation shall be subject to the inspection of Members pursuant to the provisions of the Act and the nonprofit corporation act in North Carolina.

#### ARTICLE XVII CORPORATE SEAL

The corporate seal of the Association shall consist of two concentric circles between which are the words RESIDENCES AT BASK OWNERS' ASSOCIATION, INC., and in the center of which is inscribed "SEAL".

## ARTICLE XVIII AMENDMENTS

Section 1. These Bylaws may be amended at a regular or special meeting of the Members with notice as required by law, by a vote of two-thirds (2/3) of the votes cast, or a majority of the votes entitled to be cast on the amendment, whichever is less (with respect to all Members as class voting is not required), provided that those provisions of these Bylaws which are governed by the Articles of Incorporation of this Association, or as to which amendment is restricted by applicable law, may not be amended except as provided in the Articles of Incorporation or applicable law; and provided further that any matter stated herein to be or which is in fact governed by the Declaration may not be amended except as provided in such Declaration.

Section 2. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

## ARTICLE XIX ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligations for Assessments.

(a) Each Owner of a Lot, by the acceptance of title thereto, shall be deemed to covenant and agree to pay to the Association assessments as outlined in these Bylaws, the Declaration, and the Act. The assessments may be classified as (A) Regular for operation, maintenance, repair, replacement and improvement of Common Elements, and other purposes of the Association, and (B) Special for capital improvements to Common Elements, emergencies, for damages and expenses created by less than all Owners and to pay expenses and liabilities not covered by Regular assessments. Further, each Owner of a Limited Common Property, by the acceptance of title thereto, shall be also be deemed to covenant and agree to pay to the Association Limited Common Assessments related to maintenance and repair and other expenses related to Limited Common Elements allocated to such Owner's Lot as more particularly set forth in the Declaration. Assessments are to be fixed, established and collected from time to time as hereinafter provided and as provided in the Declaration.

(b) The Regular and Special and Limited Common Assessments, together with such interest thereon and cost of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the subject Lot, after filing of a claim of lien with the Clerk of Court of Carteret County pursuant to the Act, against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such Lot at the time the assessment was made.

(c) Each Lot will be assessed the same amount for Regular Assessments in accordance with the Declaration, except for assessments in connection with the maintenance, repair or replacement of Limited Common Elements, as provided below. Special Assessments will be allocated as

approved in the assessment. Notwithstanding anything to the contrary in the foregoing, Assessments for insurance and for utilities shall be allocated as provided in the Declaration and the Act and applicable law.

## Section 2. Preparation of Budget

(a) For each fiscal year, beginning in the year in which assessments will commence, the Board shall prepare and adopt a budget, including therein estimates of the amount necessary to pay the Common Expenses, together with amounts considered necessary by the Board for reserves. The budget may be amended by the Board from time to time during the fiscal year as the Board determines necessary. The budget shall take into account any projected or anticipated income. The Board of Directors shall keep separate for budget purposes, in accordance with the Declaration, items relating to the daily operation, management and maintenance of the Association and Common Elements from items relating to capital improvements, and shall also budget separately for Limited Common Area Expenses. It shall not be necessary that the actual funds collected therefor be held segregated in separate accounts when the assessments for such items are collected.

(b) Upon adoption of such Annual Budget by the Board of Directors, copies of said Annual Budget shall be delivered to each Owner by any means provided for notice to Members of the Association pursuant to applicable law and the Bylaws. From and after the sale or transfer of a Lot to a third party other than Declarant, there shall also be sent to each Owner a notice of meeting to be held for ratification of the budget which meeting may be the annual meeting of members or separate meeting or the Board may provide written ballots to all Owners for vote by written ballot. The notice may provide that a quorum is not required for any meeting or vote to approve a budget. The budget shall be approved unless 80% of the votes in the Association are voted to reject the budget.

(c) The failure of the Board or delay of the Board in preparing any budget, and to levy or in levying assessments, shall not constitute a waiver or release of the Owner's obligation to pay assessments whenever the same shall be determined and levied by the Board. Until a new Regular assessment or Limited Common Assessment is levied by the Board, each Owner shall continue to pay on the schedule last determined by the Board Regular and Limited Common Assessments in the amount previously levied as such assessments. Any deficiencies or inadequacies in the procedure followed by the Board in levying an assessment shall not in any way affect its validity or the obligation of Owners to pay such assessments.

## Section 3. Assessment.

(a) The Board shall assess the Lots all sums necessary to meet the budget, and to meet all necessary and appropriate expenses and liabilities considered Limited Common Expenses and Special Assessments, and shall allocate the assessments as provided in the Declaration. The Board shall fix the date of commencement and the amount of the assessment against each Lot for each assessment period at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner. Assessments for insurance premiums may be billed separately from other Regular Assessments when such premiums come

due, and will be billed in an amount sufficient to pay the premiums even if that amount is greater than was anticipated in the budget, provided that Owners shall have at least thirty days' notice of such assessments.

(b) The Board may assess Special Assessments for purposes of the Association as permitted by the Declaration, these Bylaws and the Act, at such times as the Board deems necessary and appropriate.

(c) Written notice of the assessment(s) shall be sent to every Owner subject thereto; however failure to provide written notice shall not invalidate the assessment.

(d) The Association shall upon request furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association or its designated manager, setting forth whether assessments against such Lot have been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

#### Section 4. Payment of Assessment.

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

#### Section 5. Common Expenses Associated With Limited Common Elements or Benefiting Less Than All Lots.

(a) Any Common Expense associated with the maintenance, repair, or replacement of a Limited Common Element (including without limitation boat slips assigned as Limited Common Elements to specific Lots) shall be assessed against the subject Lot, or in equal shares to the Lots to which such Limited Common Element was allocated at the time the expenses were incurred; however, the Board of Directors shall have the authority when fundamental fairness requires to declare such Common Expense a general Common Expense and not assess the same specifically against the Lot to which the Limited Common Element is appurtenant.

(b) That in the event damage to a Limited Common Element or Townhome is covered by the Association's casualty insurance, and to the extent of such coverage, the costs of repairs or replacements will not be assessed to the appurtenant Lot Owner(s) unless damage is the intentional act of the Lot Owner(s).

(c) In addition, the Association may assess any item of Common Expense benefiting less than all of the Lots against the Lots benefited in proportion to their Common Expense liability.

#### Section 6. Assessment Roll; Certificate.

All assessments shall be set forth upon a roll of the Lots, which shall be available in the office of the Association for inspection, as to information on the Lots owned or mortgaged to the inspecting

party, at all reasonable times by members and Security Holders, and their duly authorized representatives. Such rolls shall include, for each Lot, the names and addresses of the member or members, all assessments levied, and the amount of all assessments unpaid. The Association, upon written request, shall furnish to an Owner, or his authorized agent, a recordable certificate setting forth the amount of unpaid assessments currently levied against such Owner's Lot. The certificate shall be furnished within seven (7) business days after receipt of the request and shall be binding upon the Association and all subject Owners. For such certificate a reasonable fee may be charged by the Board.

#### Section 7. Default and Enforcement.

If any assessment, or installment thereof, levied against a Lot remains unpaid for a period of thirty (30) days or longer, it shall constitute a lien against that Lot when filed of record in the office of the Clerk of Superior Court of Carteret County as provided by the Act. The Association's lien may be foreclosed and the Lot sold with the Association having the power of sale with respect thereto, or a money judgment obtained against the persons liable therefore, all as provided in the Act as amended from time to time. Fees, charges, late charges, fines and interest charged pursuant to the Act may be charged and are enforceable as assessments. The Association shall further be entitled to recover its reasonable attorneys' fees incurred in collection of assessments, subject to any limitations in amount and notice requirements in the Act.

If any action is taken by the Association to foreclose a lien on a Lot because of unpaid assessments, the Owner shall be required to pay a reasonable rent for the use of the Lot during the period of redemption from such foreclosure, and the Association shall be entitled to the appointment of a receiver to collect the same.

In addition to the foregoing, and without waiving its lien, the Association may sue to obtain a money judgment for the amount of any delinquent assessment or installment thereof, together with interest, and the Member so sued and liable for such assessment shall pay all costs of collection, at the same rate as charged on the assessments being collected from the dates incurred until paid.

#### Section 8. Interest on Delinquent Assessments.

Assessments, or installments thereof, paid before they become delinquent shall not bear interest, but all delinquent sums shall bear interest at the rate set forth in the notice levying the assessment, not exceeding the rate of interest allowed by the Act, from the date delinquent until paid. If no interest rate is set forth in such notice, such interest rate shall be the maximum allowed by the Act. All payments upon account shall be applied first to interest and then to the assessment, or installment thereof, longest delinquent. All such interest shall have the same priority as the assessment on which such interest accrues.

#### Section 9. Common Expenses.

Common expenses shall mean and include all sums declared common expenses by the Act, or by any specific provisions of these Bylaws or the Declaration, and shall include, without limitation, the

following: cost of maintenance and repair; cost of replacement of improvements; cost of new improvements on the Property; the general operating expenses of the Association including, but not limited to utility charges; real estate taxes; and other governmental assessments or charges against the Property until the Lots are separately assessed; premiums for any and all insurance maintained by the Association, including any and all deductible or co-insurance amount not covered by insurance; utility charges not charged directly to Owners; legal and accounting fees; costs and expenses incurred in connection with any litigation or administrative proceeding pursuant to any provision of the Declaration, these Bylaws, or the Act; deficits remaining from any prior assessment period; the cost, including fees and interest incurred in connection with any borrowing done by the Association; costs of all fidelity bonds; costs imposed upon the Association or any part of the Common Elements or the Property by, or incurred by the Association as a result of the performance, enforcement or amendment of, any agreement or easement to which the Association is a party, or to which the Common Elements or Property or any part of either thereof is or may be subject; amounts determined necessary for reserve funds; and indemnity payments made by the Association pursuant to Article XXIV hereof.

#### Section 10. Allocation of Common Surplus.

Any common surplus, including funds in reserve accounts, may be allocated to each Lot in accordance with its percentage of Common Expenses and, if allocated, may be paid to the Lot Owner or credited against such Lot's share of Common Expenses subsequently assessed in the discretion of the Board.

#### Section 11. Capital Improvement Reserve.

Upon the initial transfer of title from the Declarant to the purchaser of each Lot, the Association may collect from such purchaser an amount equal to a minimum of two month's Regular owner association dues as part of a capital improvement reserve for the use and benefit of the Association. The purpose of this fund is to provide the Association with available cash to meet expenditures for capital improvements deemed necessary or desirable by the Board of Directors. Amounts paid by purchasers into the capital improvement fund are not refundable and are not to be considered as advance payments of the assessments described in Article XIX hereof.

### ARTICLE XX CORPORATE EARNINGS

No director, officer, employee, committee member or other person or entity associated with the Corporation shall receive at any time any of the earnings or pecuniary profit from the operations of the corporation, except as provided in Article 13, Chapter 55A of the North Carolina General Statutes, as amended from time to time.

### ARTICLE XXI ALTERATION OF LOTS AND TOWNHOMES.

#### Section 1. Procedure.



If any Owner desires to make any alterations requiring consent of the Declarant or Association pursuant to the Declaration, the procedures set out in the Declaration shall be followed.

## Section 2. Guidelines.

The Association may adopt architectural guidelines from time to time, as provided in the Section of the Declaration regarding rules and as permitted by the Act, for guidance to the Owners and to the Association in applying the architectural restrictions.

# ARTICLE XXII COMPLIANCE, ENFORCEMENT, FINES AND PENALTIES.

## Section 1. Default and Remedies.

Default or failure to comply with any of the terms, conditions, obligations, and provisions of the Act, the Declaration, these Bylaws, the Articles, or the rules and regulations, as the same may be amended from time to time, by any Owner or occupant, shall be grounds for relief that may include, without intending to limit the same, or to constitute an election of remedies, an action to recover fines and penalties as determined by the Board, sums due for damages, and injunction, or any combination thereof, and which relief may be sought by the Association, an aggrieved Owner, or by any person or class of persons adversely affected. Also if any Member fails to perform any obligation under the Act, the Declaration, these Bylaws, the Articles or such rules and regulations, then the Association may, but is not obligated to, perform the same for the Members' account, and for such purpose may enter upon such Member's Lot and the Townhome thereon, and upon any Limited Common Element assigned to such Lot, may make necessary repairs, advance expenses or other sums necessary to cure the default, and for such other expenses and costs, may levy a special assessment against the Lot owned by such defaulting Member. The Association also shall be entitled to suspend the right of a defaulting Owner to vote as a Member of the Association until the default is cured.

## Section 2. Notice of Default and Failure to Cure.

In the event of any such default or failure, the Board shall serve upon or mail to the defaulting Member, and to each Institutional Lender of that Member's Lot when required under Article X of the Declaration, a written notice specifying the nature of the default, the cure thereof, and the time within which the cure shall be effected. Within the time limit specified in the notice, the defaulting Member may cure the default specified, or serve upon or mail a written notice to the Board requesting a hearing before the Board. If a hearing is so requested, the Board shall thereafter serve upon or mail to the defaulting Member, and to each such first mortgagee which was entitled to notice of the default as above provided, a notice specifying the time and place for such hearing. At the hearing, the Board shall take such evidence and hear such testimony as it deems necessary or desirable. The Board shall not exercise any remedies to obtain relief from the default until the hearing is over and the Board has made its determination and served upon or mailed the same to the

defaulting Member and each such first mortgagee. The hearing may be continued from time to time as determined by the Board. Upon taking such evidence and hearing such testimony, the Board, at the hearing or at such later time, shall determine in writing, and at its sole option, to waive the default in whole or in part, to extend the time within which the default may be cured, or to proceed immediately to levy a fine or penalty, or to exercise any one or more of the remedies available to the Board due to such default. The Board shall serve upon or mail to the defaulting Member, and to each first mortgagee which was entitled to notice of the default as above provided, a copy of its determination. If the defaulting member: (i) does not cure the default or request a hearing within the time limit specified in the original notice of default given pursuant to this Section, or (ii) so request a hearing, but fails to cure the default (to the extent not waived by the Board) hearing, then the Board shall serve upon or mail to the defaulting Member, and to each such first mortgagee which was entitled to notice of the default as above provided, a written notice of such Member's failure to effect a cure, and the Board may then proceed to take such action as it deems necessary to obtain relief. The hearings, fines or other actions taken shall be subject to any monetary limits, and due process requirements, in the Act.

### Section 3.      Remedy of Abatement in Addition to Other Remedies.

In the event a Member fails to effect the cure specified by the Board within the time period set out in (i) or (ii) of Article XXII, Section 2 hereof, whichever is applicable, where the default is a structure, thing, or condition existing in or on the premises of the Member's Lot or Townhome the Board, or its duly authorized representative, shall have the right to enter upon the premises of the Member's Lot and/or Townhome in which, on which, or as to which, such default exists, and summarily to abate and remove, at the defaulting Member's expense (and levy an assessment therefor as provided in Article XXII, Section 1 hereof), the structure, thing, or condition constituting the default, and the Board, the Association, and their agents, employees, and representatives, shall not thereby be deemed guilty of any manner of trespass.

### Section 4.      Injunction.

Any person or class of persons entitled to seek relief for any such default or failure may obtain a temporary restraining order, injunction, or similar relief, without first using the procedure established by Article XXII, Section 2 hereof, if such default or failure creates an emergency or a situation dangerous to persons or property.

### Section 5.      Recovery of Attorneys' Fees and Costs.

In any proceeding arising because of an alleged default by a Member, the prevailing party shall be entitled to recover the costs of such proceeding and such reasonable attorneys' fees as may be allowed by the court.

### Section 6.      Non-Waiver of Covenants.

The failure of the Association, or of any Member thereof, to enforce any term, provision, right, covenant, or condition that may be granted by the Declaration, these Bylaws, the Articles, the rules

and regulations, or the Act, as the same may from time to time be amended, shall not constitute a waiver or abrogation of the right of the Association or a Member to enforce such term, provision, right, covenant, or condition in the future irrespective of the number of violations or breaches thereof that may have occurred.

Section 7.      Assessment Lien.

Assessment liens shall be enforced pursuant to Article XIX hereof and not pursuant to this Article XXII.

ARTICLE XXIII  
GENERAL PROVISIONS.

Section 1.      Rules and Regulations.

The Board, including the first Board, may promulgate from time to time such rules and regulations as it deems reasonable and necessary governing the administration, management, operation, and use of Common Elements, so as to promote the common use and enjoyment thereof by Owners and occupants, and for the protection and preservation thereof. In addition, the Board may adopt such rules and regulations as it deems reasonable and necessary with respect to Lots to provide for the common good and enjoyment of all Owners and occupants.

Section 2.      Parliamentary Authority.

Robert's Rules of Order, newly revised, shall govern the conduct of Association proceedings only if adopted by the Board of Directors to be used for such proceedings, and when not in conflict with the Declaration, these Bylaws, the Act, and/or any statutes of the State of North Carolina applicable thereto. The Chairman of the meeting shall have the authority to appoint a parliamentarian.

Section 3.      Compliance With The Act; Conflict; Severability.

These Bylaws are established in compliance with the Act, as amended. Should any of the terms, conditions, provisions, paragraphs, or clauses of these Bylaws conflict with any of the provisions of said Act, the provisions of said Act shall control unless the Act permits these Bylaws to override the Act, in which event these Bylaws shall control. In the case of any conflict between the provisions of these Bylaws and the Declaration, the Declaration shall control. If any term, provision, limitation, paragraph, or clause of these Bylaws, or the application thereof to any person or circumstance is judicially held to be invalid, such determination shall not affect the enforceability, validity, or effect of the remainder of these Bylaws, or the application thereof to any other person or circumstance.

ARTICLE XXIV  
INDEMNIFICATION.

Any person who at any time serves or has served as a director or officer of the Association, or in such capacity at the request of the Association for any other corporation, partnership, joint venture,

trust or other enterprise, shall have a right to be indemnified by the Association to the fullest extent permitted by law against (a) reasonable expenses, including attorney fees, actually and necessarily incurred by him in connection with any threatened or pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, and whether or not brought by or on behalf of the Association, seeking to hold him liable by reason of the fact that he is or was acting in such capacity, and (b) reasonable payments made by him in satisfaction of any judgment, money decree, fine, penalty, or settlement for which he may become liable in any such action, suit or proceeding.

The indemnification provided by this section shall not automatically apply if a director or officer is charged with fraud or embezzlement. If either of these offenses is alleged, the Board of Directors excluding any director charged with fraud or embezzlement shall determine whether to provide a defense. If fraud or embezzlement are not proven (excluding a plea of no contest), the Association shall reimburse all costs of the defense.

The Board of Directors of the Association shall take all such action as may be necessary and appropriate to authorize the Association to pay the indemnification required by these Bylaws, including without limitation, to the extent needed, making a good faith evaluation of the manner in which the claimant for indemnity acted and of the reasonable amount of indemnity due him and giving notice to, and obtaining approval of, the members of the Association.

Any person who at any time after the adoption of these Bylaws serves or has served in any of the aforesaid capacities for or on behalf of the Association shall be deemed to be doing or to have done so in reliance upon, and as consideration for, the right of indemnification provided herein. Such right shall inure to the benefit of the legal representatives of any such person and shall not be exclusive of any other rights to which such person may be entitled apart from the provisions of these Bylaws.

The Association shall have authority to assess the members of the Association, in the manner of a special assessment, to collect monies necessary to carry out its obligations in accordance with the indemnity provisions of this Article. Such assessment may be made, however, without vote of the members as is required for other special assessments, as the payment of such obligation is an obligatory and not optional payment of the Association.

IN WITNESS WHEREOF, the undersigned Secretary of the Association certifies that these are the Bylaws adopted by the Board of Directors of the Association on \_\_\_\_\_, 2024.

\_\_\_\_\_(SEAL)  
\_\_\_\_\_, Secretary