

BY-LAWS

MARTIN'S POINT HOMEOWNERS ASSOCIATION, INC.

ARTICLE I¹ DEFINITIONS

The following terms as used in these By-laws are defined as follows:

- (a) Martin's Point Homeowners Association, Inc., hereinafter referred to as the "Association," means and refers to the Association of Owners of properties of the community known as Martin's Point.
- (b) "Board" means the Board of Directors of the Association.
- (c) "By-laws" means the By-laws of the Association.
- (d) "Common Areas" shall mean and refer to those areas shown on any recorded subdivision plat of The Properties labeled as "Common Areas" or shown as streets or roads.
- (e) "Declaration" means the Declaration of Restrictive Covenants of Martin's Point, dated June 1, 1982, and duly recorded in Book 327 at Page 519 and any Amendments thereto, including the various sections of Martin's Point as shown on maps or plats by Professional Land Services, Inc., Quible and Associates, Inc. and Triangle Engineering Services, Inc., recorded in the Public Registry of Dare County, North Carolina. The Declaration as hereinabove set forth is incorporated in these By-laws by reference as if fully set forth herein.
- (f) "Development" shall mean and refer to that residential community known as "Martin's Point," located in Dare County, North Carolina.
- (g) "Lot" shall mean and refer to any plot of land within The Properties shown upon any recorded subdivision map of The Properties, or any portion thereof, with the exception of Common Areas as heretofore defined.
- (h) "Owner" shall mean and refer to each Owner of record of any Lot situated upon The Properties, whether such interest be fee simple, as land contract vendee, or otherwise, but notwithstanding any applicable theory of any lien or mortgage law, shall not mean or refer to any mortgagee or deed of trust beneficiary or trustee, unless and until such mortgagee, trust beneficiary or trustee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.
- (i) "The Properties" shall mean and refer to all property subject to the Declaration under the provisions of Article One of the Declaration.
- (j) "Regulations" means the rules and regulations adopted and published by the Board as from time to time amended and then in effect.

ARTICLE II PURPOSES

The purposes of the Association are:

- (a) ¹To provide for the administration, maintenance and management of the community and facilities known as "Martin's Point" according to the Declaration, as same may be amended from time to time covering and regarding that certain tract or parcel of land described as:

All that certain parcel or parcels of land shown on a plat or plats entitled "Martin's Point, Atlantic Township, Dare County, North Carolina," which have been recorded from time to time in the Office of the Register of Deeds of Dare County, North Carolina, reference to which is hereby made,

- and to promote the health, safety and welfare of the residents within the community.
- (b) ¹To exercise all the powers and privileges and to perform all the duties and obligations of the Association as set forth in said Declaration, applicable to the property mentioned above and recorded in the Office of the Register of Deeds of Dare County, North Carolina, and as same may be amended or supplemented from time to time as therein provided, the Declaration being incorporated herein as if set forth in its entirety.
 - (c) To fix, levy, collect and enforce payment by any lawful means, of all charges, assessments or common expenses pursuant to the terms of said Declaration; to pay all expenses in connection therewith and all office and other expenses incidental to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property maintained and managed by the Association.
 - (d) To have and to exercise any and all powers, rights and privileges which a corporation organized under the nonprofit corporation laws of the State of North Carolina may now or hereafter have or exercise.

ARTICLE III MEMBERSHIP

Section 1. Classes of Members.

There shall be two classes of members: (1) Members and (2) Associate Members.

Section 2. Member.

Each Owner shall be a Member of the Association.

Section 3. Associate Member.

If not otherwise a Member, each of the following shall be an Associate Member of the Association: the spouse and children, or legal wards, of a Member who have the same principal residence as the Member. Associate Members shall have no vote or right to notice of any regular or special meeting of Members and shall have no duty to pay assessments levied hereunder upon Members. Otherwise, the privileges and duties of Associate Members shall be as those of Members unless otherwise established from time to time by the Board by resolution.

Section 4. Privileges of Members.

Members shall have the license to use the Common Areas and facilities thereon, subject to the provisions of the Declaration and subject to such Regulations as may be established from time to time by the Board.

Section 5. Guests.

A Member may permit his guest to use Common Areas to the same extent he can, but not to the extent of permitting the guest to invite guests. Unless the guest is then staying overnight in the Member's house on The Properties, the Member must be present when the guest uses the Common Areas.

Section 6. Lessees.

Lessees of homes of Members on The Properties will have the same use of Common Areas as the Member, subject to the provisions of the Regulations.

Section 7. Suspension of Privileges of Membership. ⁵

The Board may, after notice and an opportunity to be heard, suspend the right to use the Common Areas of the Association of any Member or Associate Member for:

- (a) Any period during which any Association charge (including assessments, fines or penalties, if any, assessed under Article Seven of the Declaration) owed by the Member or Associate Member remains unpaid for a period of thirty (30) days or longer. Membership shall be automatically reinstated upon satisfactory payment of such charges.
- (b) For a period not to exceed thirty (30) days for any infraction of its Regulations.

**ARTICLE IV
TRANSFER OF MEMBERSHIP**

When a Member ceases to be an Owner, such person's membership, and that of those Associate Members existing through relationships to such person, shall automatically cease, but such person shall remain liable for all Association charges incurred prior to the giving of written notice to the Association that such person is no longer an Owner.

**ARTICLE V
MEETING OF MEMBERS**

Section 1. Place of Meeting.¹

Any meeting of the Members of the Association shall be held at such place within Dare County, North Carolina, as maybe stated in the notice of such meeting.

Section 2. Scheduled Meetings.⁴

Each year, the Association shall hold the Annual Meeting on the third (3rd) Saturday in November, commencing with the year 2003.

Section 3. Special Meetings of the Association.

Special meetings of the Association may be called by the President or by three (3) or more members of the Board at anytime in the manner provided herein. Also, the Secretary shall call a special meeting upon written request of one-fourth (1/4) of the Members entitled to vote. The written request shall set forth the purpose of the special meeting.

Section 4. Notice of Meetings of the Association.¹

Written notice of the place, date and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) days nor more than forty (40) days before the date of the meeting, either personally, by ordinary mail, or by e-mail, to each Member. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the person at his address as it appears on the records of the Association, with postage prepaid. If e-mailed, such notice shall be deemed to be delivered when sent to the person's e-mail address as it appears on the records of the Association. Alternatively, such notice may be published in any newspaper or publication printed under the auspices of the Association and distributed generally among Members of the Association. At a special meeting, no business shall be conducted except that stated in the notice of said meeting. All Members may attend meetings but only voting Members, as defined below, may vote.

Section 5. Quorum.⁴

A quorum at either a Special Meeting or the Annual Meeting shall be the voting Members entitled to cast at least ten percent (10%) of the votes at such meeting in person or by proxy. The vote of a majority of the voting Members present in person or by proxy and entitled to vote at any meeting at which a quorum is present shall be necessary for the adoption of any matter to be voted upon by the Members, unless a greater proportion is required by law.

Section 6. Continuation of Meeting.

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

Section 7. Proxies.^{1,7}

In all meetings of Members, each Member may vote in person or by proxy. Designation of a proxy shall be in writing and be filed with the Secretary at least 24 hours prior to the opening of the meeting at which it is to be exercised. Each proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot in Martin's Point. No proxy shall be valid after five (5) months from the date of its execution, unless otherwise provided in the proxy. If a Member holding proxies is unable to attend a meeting, they may delegate their proxy, as well as the proxies that they hold, to another Member, provided that the 24 hour filing deadline is met. The Board of Directors shall not use any Association mailings, e-mail or other correspondence to solicit proxies.

Section 8. Voting.¹

- (a) If there is only one Owner with respect to a Lot, he is the voting Member with respect to that Lot's one vote.

In the event that the Association has received notice that there is more than one Owner of a Lot, the Owners of such Lot shall execute and deliver to the Secretary of the Association a certificate duly executed by all of such Owners designating the person who shall be authorized to cast the vote allocated to the Owners of said Lot or to signify approval or disapproval of any matter on behalf of the Lot Owners. Said certificate shall be valid until revoked by a subsequent certificate. Unless and until said certificate is filed with the Secretary of the Association, the vote of such Owners shall not be considered for the purpose of determining a quorum or for any other purpose. The requirements of this Section shall not apply if there are no more than two Owners and said Owners are husband and wife, in which event the husband shall be the voting Member.

- (b) No cumulative voting shall be permitted.
(c) No Member shall be eligible to vote if such Member is more than thirty (30) days delinquent in payments due the Association.

Section 9. The Agenda.⁵

The Board shall prepare an agenda for any meeting of the Members. Any Member desiring to place an item on the agenda must submit the item to the Board at least forty-five (45) days prior to the meeting so that the agenda can be included in the announcement of the meeting. The Board must include any item proposed by a Member, provided it meets the above requirement and does not conflict with any law, the Declaration or these By-laws. Once the proposed agenda is published, no items shall be added or deleted. Following consideration of new business listed in the agenda, the President shall request other items of new business to be presented for discussion only.

Section 10. Order of Business.¹

At all meetings of the Association, the order of business shall be as follows:

- (a) Call to order.
(b) Adoption of the Agenda.
(c) Reading of Minutes of immediate prior meeting for information and approval.
(d) Reports of Officers.
(e) Reports of Committees.
(f) Agenda items of unfinished business.
(g) Agenda items of new business.
(h) Other items of new business for discussion.
(i) Adjournment.

ARTICLE VI THE DIRECTORS

Section 1. Powers.^{1,6}

The Board shall:

- (a) Manage and control the affairs of the Association.
- (b) Adopt a corporate seal as the seal of the Association.
- (c) Designate a banking institution or institutions as depository of the Association's funds and the officer or officers and agents authorized to make withdrawals there from and to execute obligations on behalf of the Association.
- (d) Perform other acts, the authority for which has been granted by the Charter of the Association or Declaration, including the borrowing of money for Association purposes. A resolution by the Board that the interest of the Association requires the borrowing of money shall be sufficient evidence for any person that the borrowing is for a proper corporate purpose. The Board may, if it determines that the same shall be reasonably necessary, assign, pledge, mortgage or encumber any Association property as security for such borrowings, and they may pledge or assign future revenues of the Association as security therefor.
- (e) Employ a sufficient number of persons to adequately maintain Association property. Further, the Board may adopt rules of order for the conduct of the meetings of the Association, and unless otherwise designated, Robert's Rules of Order shall prevail in all parliamentary matters arising in the Members' meeting and the Directors' meeting.
- (f) Prior to the Annual Meeting of the Association in each year, adopt an operating budget to be presented for approval by the Members. Approval of the budget shall take place by written ballot. Affirmative votes of a majority of the members present in person or by proxy at the Annual Meeting shall qualify constitute the approval of the budget. Upon the adoption and approval of the budget, the Board shall be bound by the same and shall not authorize expenditures which may exceed the total amount budgeted as aforesaid by more than fifteen percent (15%) without having to call a special meeting of the Association to approve such variations.
- (g) Appoint, if needed, committees of the Association. Such committees may be temporary or permanent. They shall have such powers and responsibilities as the Board may by resolution direct.
- (h) In accordance with the Declaration (Article Eight, Section 3), appoint members of the Architectural Control Committee ("ACC") which committee shall prepare guidelines governing future construction, which guidelines shall be approved by the Board. The ACC shall review and approve all plans for future construction to determine their compliance with the Declaration and all approved guidelines. Failure on the part of any builder and Owner to observe guidelines and plan approval procedures shall be brought to the attention of the Board which, in turn, shall determine what legal action or other action is indicated.
- (i) Fix the amount of the annual assessment against each Lot for each assessment period. The Board shall not increase any annual assessment more than fifteen percent (15%) over that of the prior year unless two-thirds (2/3) of the quorum of voting Members present approve same at a meeting called for that purpose.
- (j)² Promulgate such Regulations as it deems appropriate with regard to the use and maintenance of the Common Areas, as well as other matters, to carry out the purposes of the Association as set forth in Article II herein. All such Regulations shall be adopted, administered and enforced in the following manner:
 - (1) All Regulations adopted shall have a reasonable basis and justification in fact which shall be set forth in a preamble thereto.

- (2) Regulations shall be enacted upon an affirmative vote of at least two-thirds (2/3) of the members of the Board of Directors following a hearing duly noticed. Notice of adoption shall be given after adoption. Regulations will become effective fifteen days after notice of adoption has been given.
- (3) Regulations shall contain such provisions for enforcement thereof, and penalties for adjudged violations thereof, as the Board of Directors may deem appropriate, including, without limitation, the imposition of monetary penalties and the removal or other disposition of offending property. Penalties or other provisions in the Regulations shall be in addition to any other remedies available to the Association as set forth in the Declaration. Any monetary penalties imposed and unpaid shall be added to the next annual assessment for the property owned or inhabited by the violator and collected and recovered in the same manner as is provided for the collection of annual assessments.
- (4) Enforcement Procedure.⁵
 - (aa) Regulations shall be enforced by the Board of Directors, or by any committee or person designated by it, all hereafter referred to the enforcing agency.
 - (bb) The enforcing agency must attempt to resolve alleged violations informally, without the imposition of penalties. If the matter is not resolved informally, the enforcing agency shall forward the matter to the Board of Directors.
 - (cc) In case of an emergency or threat to public health or safety, the enforcing agency may remove or dispose of the offending property at the expense and risk of the Owner of that property, without notification.
 - (dd) The Board of Directors shall hear and decide all matters referred to them by the enforcing agency. Except in an emergency, Section 1(4)(cc) above, the Board shall give the lot owner charged an opportunity to be heard.
- (k)⁵ Imposition of fines and suspension of planned community privileges or services.
 - (1) The Board may, after notice and an opportunity to be heard, impose reasonable fines or suspend privileges or services provided by the Association (except rights of access to lots, postal building, and dumpsters) for reasonable periods for violations of the declaration, bylaws, and rules and regulations of the Association.
 - (aa) Procedure

A hearing shall be held before the Executive Board to determine if any lot owner should be fined or if planned community privileges or services should be suspended pursuant to the powers granted to the association in G.S. 47F-3-102(11) and (12). The lot owner charged shall be given 10 days notice of the charge, opportunity to be heard and to present evidence, and notice of the decision. If it is decided that a fine should be imposed, a fine not to exceed one hundred dollars (\$100.00) may be imposed for the violation and without further hearing, for each day more than five days after the decision that the violation occurs. Such fines shall be assessments secured by liens under G.S. 47F-3-116. If it is decided that a suspension of planned community privileges or services should be imposed, the suspension may be continued without further hearing until the violation or delinquency is cured.
- (5) Notices of hearing and of enactment.
 - (aa)¹ Notices of hearing and of enactment of any Regulation shall be sent by ordinary mail or e-mail to all members, either as a separate notice or as part of any publication, communication or newsletter of the Board of Directors, and

shall be posted on the Association's bulletin board at the Martin's Point postal building.

- (bb) Notices of hearing and of enactment of any Regulation shall contain at least the text of the proposed or enacted Regulation; and the time, date and place of the hearing, or the date of the enactment, as the case may be.
- (cc)¹ Notices of hearing shall be mailed or e-mailed at least fifteen days before the hearing date. Notices of enactment shall be sent as soon as practicable after enactment.

Section 2. Number of Directors.¹

The Board of Directors shall be composed of nine (9) Directors, elected as provided for herein.

Section 3. Election and Removal of Directors.¹

(a) Election.

Three Directors shall be elected at each Annual Meeting in November for a term of three (3) years.

(b) Nominations.

The Members shall be provided with a slate of candidates for election to board directorship. At least sixty (60) days prior to the Annual Meeting, the Board shall appoint a Nominating Committee consisting of five (5) members, of whom no more than two (2) members may be incumbent Directors or officers of the Association. No later than forty (40) days prior to the Annual Meeting, this Committee shall develop a slate of candidates and present it to the Secretary of the Association. Notice of the slate shall be sent to the Membership with the announcement of the Annual Meeting. Additional nominations may be made from the floor at the Annual Meeting. All nominees shall be Members of the Association.

(c) Removal of Directors.

At any meeting of Members, duly called and at which a quorum is present, the Members may, by the affirmative vote of the holders of a majority of the votes entitled to be cast, remove any elected Director or Directors from office and may elect a successor or successors to fill any resulting vacancies for the unexpired portions of terms of removed Directors.

Section 4. Budget.

- (a) The Board shall adopt a budget for each fiscal year, which shall contain estimates of the costs of performing the functions of the Association. The budget shall establish the annual assessment for the coming year and any proposed special assessment then known. The annual assessment shall be that amount necessary to provide for the Common Expenses, which shall be defined as:

- (1)¹ Expense of administration, maintenance, repair or replacement of Common Areas, which areas include, but are not limited to, 5.02 miles of roads within the Development, as shown on a plat prepared by Professional Land Services, Inc., dated December 22, 1981, all areas designated as Common Areas, drainage facilities, entrances, ponds, garbage disposal areas, planted areas or marinas on said plat. Common expenses shall also include administration, construction, maintenance, repair or replacement of any improvements on said areas, including, but not limited to, docks, bulkheads, marinas, or recreational facilities or buildings.
- (2) Association expenses in the nature of staff payroll, supplies, office expenses, insurance, taxes, common utilities, fees and permits.
- (3) Expenses agreed upon as a Common Expense by the Members and lawfully assessed against Owners of Lots in accordance with the By-laws.
- (4) Any valid charge against the Association or against the Common Areas as a whole.

- (5) Capital Improvements Reserve. It is recognized that certain Common Expenses, such as road maintenance, construction and/or repair of facilities, as well as other expenditures, will not be incurred annually but, when necessary, will be substantial. For this reason, the reserve fund shall be established by the Board, which shall estimate the amount and time of such expenditures and include funds therefor in each budget to ensure the availability of such funds when said expenditures are required.
- (6) A reasonable contingency fund.
- (b) Copies of the budget shall be transmitted to each Member on or before the 1st day of the fiscal year for which the budget is made. If the budget is subsequently amended, then a copy of the amended budget shall be furnished immediately to each Member.
- (c) Accounting shall be on a cash basis and conform to generally acceptable accounting standards.

Section 5. Meetings of the Board of Directors.

The Board shall meet at least twice annually, once following the Annual Meeting of the Association as set forth in Article V herein, and once to prepare the annual budget. Special meetings of the Board may be called by the President or by a majority of the Board and shall be held at such place in the State of North Carolina as the call or notice of the meeting shall designate. Notice of a special meeting must be given to all Directors in writing or orally at least twenty-four (24) hours prior to the date of said special meeting, or notice thereof must be waived by the Directors in writing. After adoption of a resolution setting forth the times of regular meetings, no notice of such meetings shall be required, or waived, but notice of special meetings of the Board shall be given.

Section 6. Action Without Meeting.

Unless prohibited by law, any action which may be taken at a meeting of the Board may be taken without a meeting if authorized in a writing signed by all of the Directors who would be entitled to vote upon said action at a meeting, and filed with the Secretary of the Association.

Section 7. Quorum.

A majority of the number of Directors fixed by the Charter or By-laws shall constitute a quorum to transact business of the Board, and the act of the majority of the Directors present at any meeting shall be deemed to be the act of the Board.

Section 8. Vacancies.

If any vacancy exists on the Board, such vacancy shall be filled by the remaining Directors even though those remaining Directors might be less than a quorum. Any person so named a Director shall serve until the next annual election, at which time a Director will be elected to serve the unexpired portion of the term.

Section 9. Compensation.

No compensation shall be paid to Directors for their services as Directors. Directors and officers may be compensated for reasonable expenses incurred while so acting. Directors shall have the right to set and pay all salaries or compensation to be paid to officers, employees, agents or attorneys for services rendered to the Association. Overall departmental salaries or wages to be paid to employees shall be approved by the Directors in the annual budget. These salaries or wages shall be paid to individual employees at the discretion of the current President.

Section 10. Resignations.

Any Director may resign at any time by giving written notice to the President or the Secretary of the Association. Such resignations shall take effect at the time specified therein, or if no time is specified therein, at such time such resignation is received by the President or Secretary of the Association.

ARTICLE VII ¹ **THE OFFICERS**

Section 1. Officers.

The officers of the Association shall be the President, one (1) or more Vice President, the Secretary, the Treasurer and such other officers and assistant officers as the Board may from time to time elect. The President, Vice President(s), Secretary and Treasurer shall be selected from among the elected members of the Board as hereinafter provided in Section 2. The positions of Assistant Secretary or Assistant Treasurer, if established by the Board, may be filled without requirements of Association or Board membership. Officers shall serve at the will of the Board for a one (1) year term. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary. If more than one (1) Vice President shall be elected, there shall be a designation as to First Vice President and Second Vice President insofar as authority to act in the absence of the President.

Section 2. Selection of Officers.

At the first meeting of the Board after the election of new members, as set forth in Article VI, Section 3, the Board shall elect one (1) of its members by majority vote, a quorum being present, as President, Vice President(s), Secretary and Treasurer.

Section 3. President.

The President shall preside over all meetings of the Board and of the Association. He shall be ex-officio a member of all committees except the Rules Committee, if any. He shall conduct the affairs of the Association in accordance with these Bylaws and those policies promulgated by the Board of Directors. He shall be responsible for the preparation of a full and true report as to the Association activities during the interim between meetings, to be submitted to the Members at the meeting of the Association next following. He shall file said report with the Secretary where it shall be available for inspection by the membership.

Section 4. Vice President.

In the absence of the President, or in the event of his inability or refusal to act, the First Vice President is empowered to act and in lieu thereof the Second Vice President is empowered to act and shall thereupon be vested with the powers and duties of the President.

Section 5. Secretary.

The Secretary of the Association shall keep or cause to be kept the minutes of the meetings of the members of the Board. He shall cause to be mailed all notices required under the Bylaws. He shall have the responsibility for the safe-keeping of the corporate seal and records and see that a list of the Members and their addresses shall be maintained and perform duties incident to the office of Secretary. In order to carry out the above and other duties described in these By-laws, the Secretary may appoint assistants as deemed necessary.

Section 6. Treasurer.

The Treasurer shall have custody of the funds of the Association, collect monies due, pay the obligations of the Association out of its funds and perform such other duties as are incident to the office of Treasurer. Each check, payable from the Association funds, shall be signed by at least two persons, each of whom shall have been authorized by the Board of Directors to perform this function. The Board may so authorize up to six (6) persons, providing the list shall include President, Vice President, Treasurer and Secretary. Each such person, before signing any such check shall have been bonded by such surety as set forth below. The Treasurer, and such other officers as may be designated by the Board of Directors, shall be bonded by such surety company and in such amount as may be determined by the Board. Indemnity bond premiums shall be paid by the Association.

Section 7. Removal of Officers.

Any officers may be removed when, in the judgment of the Board, the best interest of the Association will be served by such removal.

**ARTICLE VIII
DISTRIBUTION OF ASSETS AFTER TERMINATION**

Section 1.

No Member of this Association shall have, as an individual, any interest or title to the assets of Martin's Point Homeowners Association and such assets shall be devoted exclusively to the purposes of the Association.

Section 2.

In the event of dissolution or other termination of this Association, all of its assets shall be distributed in accordance with Article VII of its corporate Charter pursuant to a plan of distribution which shall be adopted by the Members of the Association and which shall be in accord with the appropriate revenue provisions of the Internal Revenue Service and the Department of Revenue of the State of North Carolina, such plan being selected and approved by the Board of Directors.

**ARTICLE IX²
INDEMNIFICATION OF DIRECTORS,
OFFICERS AND EMPLOYEES**

Any Director or officer or employee or agent or former Director or officer or employee or agent of the Association or any person who may have served at the Association's request as a Director or officer or employee or agent of another corporation, partnership, joint venture or other enterprise shall be indemnified by the Association against liabilities and reasonable litigation expenses, including attorney's fees, incurred by him or her in connection with any action, suit or proceeding in which he or she is made or threatened to be made a party by reason of being or having been such Director or officer or employee or agent except in relation to matters as to which he or she shall be adjudged in such action, suit or proceeding to have acted in bad faith or to have been liable or guilty by reason of willful misconduct in the performance of duty. Such expenses shall also include amounts paid by him or her with the consent of the Association acting through its Board of Directors in reasonable settlement of such actions. The indemnification authorized by this provision shall be in addition to that permitted by North Carolina General Statutes Sections 55A-17.2 and 55A-17.3 and shall also include any additional indemnification which is or hereafter may be permitted by statute. Expenses incurred by a Director, officer, employee or agent in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding as may be authorized by the Board of Directors in the specific case.

**ARTICLE X³
ASSESSMENTS**

Section 1. Payment of Assessments.

The assessments levied by the Association as provided by the Declaration shall be paid to it as provided therein and herein.

- (a) Written notice of the assessment and the due date of payment shall be sent to each Owner at the address last given by such Owner to the Association. For the Annual Assessment, such notice shall be given as soon as practicable after the last Annual Meeting; the due date shall be fifteen (15) days from notice by the Board of Directors as to the amount of the assessment. For Special Assessments, the due date

shall be as established by the Board of Directors. After the due date, unpaid accounts shall become delinquent.

- (b) Annual Assessments shall apply on a calendar year basis, in advance, effective on January 1 of each year. Special Assessments shall apply and be effective as specified by the Board of Directors.

Section 2. Late Payments.

If any assessment made against any Lot remains unpaid after the due date, and is thereby delinquent, then such assessment, together with interest at the rate as provided for in Section 3 of this Article, and the cost of collection thereof as hereinafter provided, shall continue to be a lien on the Lot which shall bind such Lot in the hands of the then Owner(s), his/her heirs, devisees, personal representatives and assigns.

- (a) The personal obligation of the then-Owner to pay such assessment shall remain his/her personal obligation for the statutory period and shall not pass to his/her successors in title unless expressly assumed by them.
- (b) All payments on account shall be first applied to cost of collection, next to accrued interest and lastly to assessments.

Section 3. Grace Period and Interest.

Notwithstanding the provisions of Section 2 of this Article, a 30-day grace period shall be allowed after the due date; if payment is received during that grace period, no penalty shall be assigned for the lateness of the payment. If the assessment is not received within that grace period, then the assessment shall bear interest from the due date at a rate of interest set by the Board of Directors, not to exceed the maximum rate permitted by law.

Section 4. Liens.

After the expiration of the 30-day grace period, the Board of Directors may file a claim or notice of lien against any Lot(s) for which full payment has not been made.

- (a) Claims or notices of liens will be filed for record in the Office of the Clerk of Superior Court for Dare County, North Carolina, at the expense of the Owner.
- (b) Upon such claims or notices being duly filed, the lien shall be prior to all other liens except the following:
 - (1) Assessments, liens and charges for real estate taxes due and unpaid on the Lot;
 - (2) All sums unpaid on deeds of trust, mortgages and other encumbrances duly of record against the Lot prior to filing of the aforesaid lien.
- (c) The Association may bring appropriate civil action against the Owner personally obligated to pay the same or to foreclose the lien against such Lot(s), and there shall be added to the amount of such assessment to be collected upon foreclosure, the costs of such action and reasonable attorney's fees or other cost incurred by the Association. In the event a judgment is obtained against any Owner for such assessments, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the Court, together with the costs of the action.

Section 5.

All assessments shall be made in accord with the terms and conditions of the Declaration.

**ARTICLE XI¹
AMENDMENTS**

Section 1.

These By-laws may be amended from time to time under the following procedures:

- (a) The Board of Directors may, on its own motion, present recommendations to the Members for approval of changes to the By-laws; or any Member(s) may, by written petition to the Board of Directors signed by at least ten percent (10%) of the

Members, direct the Board of Directors to present recommendations to the Members for approval of changes to the By-laws;

- (b)⁴ The Board of Directors shall notify the Members, at least ten (10) days in advance of the next Annual Meeting, or of a Special Meeting called for that purpose, of the proposed text of such changes and the reasons therefor;
- (c) The Members present at the Meeting must approve the amendment or amendments proposed, including any modifications thereto made at the Meeting, as provided for in Article V of these By-laws.

Section 2.

The authority to amend these By-laws as provided for herein is subject to the provisions contained in the Charter of the Association which provides that no such amendment, decision or alteration shall be made which is contrary to the Declaration.

**ARTICLE XII
MISCELLANEOUS**

Section 1. Conflict.

These By-laws are subordinate and subject to all provisions of the Declaration, the Articles of Incorporation of the Association and the General Statutes of North Carolina. All of the terms hereof, except where clearly repugnant to the context shall have the same meaning as in the Declaration, said Articles of Incorporation, or said Statutes. Every provision of these By-laws shall be construed, if possible, so as not to conflict with said Declaration or the Articles of Incorporation.

Section 2. Severability.

In the event that any provision or provisions of these Bylaws shall be determined to be invalid, void or unenforceable, such determination shall not render invalid, void or unenforceable any other provisions hereof which can be given effect.

Section 3. Waiver.

No restriction, condition, obligation or provision of these By-laws shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

Section 4. Waiver of Notice.

Whenever any notice is required to be given to any Association Member or Director by law, by the Charter or by these By-laws, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated herein, shall be equivalent to the giving of such notice.

NOTES:

¹ As amended November 16, 2002

² As amended December 3, 1988

³ As amended November 12, 1986

⁴ As amended November 18, 2006

⁵ As amended November 21, 2009

⁶ As amended November 15, 2014

⁷ As amended November 17, 2018

