

**BYLAWS
OF
ABBINGTON OF CABARRUS COUNTY HOMEOWNERS ASSOCIATION, INC.**

ARTICLE I

Definitions

In these Bylaws, unless otherwise specifically provided, all capitalized terms shall have the meanings set forth in that certain Declaration of Covenants, Conditions and Restrictions for Abbington dated July 11, 2003 entered into by the Declarant and recorded in Deed Book 4690 at Page 271 of the Cabarrus County Public Registry, as such Declaration may be amended, modified, supplemented or restated from time to time (the "Declaration").

ARTICLE II

Name and Location

Section 1. Name. The name of the corporation is Abbington of Cabarrus County Homeowners Association, Inc. (the "Association").

Section 2. Principal Office. The principal office of the Association shall be located at such place as the Board of Directors shall determine from time to time. The initial principal office of the Association is 201 North Tryon Street, Suite 3000, Charlotte, North Carolina 28202, Attention: Mr. Robert G. Brinkley.

Section 3. Registered Office. The registered office of the Association may be, but need not be, identical with the principal office. The initial registered office of the Association is 201 North Tryon Street, Suite 3000, Charlotte, North Carolina 28202, Attention: Mr. Robert G. Brinkley.

Section 4. Other Offices. The Association may have any number of additional offices, at such other places as the Board of Directors may determine from time to time, or as the affairs of the Corporation may require.

ARTICLE III

Purposes

The purposes for which the Association is organized are to enforce all covenants and restrictions as provided in the Declaration; to own, maintain and manage the Property as provided in the Declaration; to assess and enforce all charges and assessments created under the Declaration; and to exercise all powers and privileges and to perform all duties and obligations of the Association as provided in the Declaration; and to engage in any other lawful act or activity.

ARTICLE IV

Meetings of Members

Section 1. Annual Meetings. The annual meeting of the Members shall be held on the third Tuesday of March of each year. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held on the next business day.

Section 2. Special Meetings. Special meetings of the Members may be called at any time by (a) the President or (b) the holders of at least 10% of all the votes entitled to be cast on any issue proposed to be considered at a proposed special meeting upon the delivery to the Association's Secretary of one or more signed and dated written demands describing the purpose or purposes for which it is to be held. Any such special meeting called by the Members in the manner described in (b) above shall be held within 30 days after the delivery of such written demand by the holders of at least 10% of the votes entitled to be cast at such meeting.

Section 3. Place of Meetings. All meetings of the Members shall be held at such place as shall be determined by the Board of Directors of the Association.

Section 4. Notice of Meetings. Written notice of each meeting of the Association shall be given by, or at the direction of, the Association's Secretary or person authorized to call the meeting. Any written notice shall be provided by mailing a copy of such notice, postage prepaid, not less than 10 days nor more than 60 days before the date of such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 5. Waiver of Notice. A Member may waive any notice required by the Planned Community Act, the Articles of Incorporation or these Bylaws before or after the date and time stated in the notice. The waiver must be in writing, be signed by the Member entitled to the notice and be delivered to the Association for inclusion in the minutes or for filing with the corporate records. A Member's attendance at a meeting:

(a) waives objection to lack of notice or defective notice of the meeting, unless the Member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting; and

(b) waives objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the Member objects to considering the matter before it is voted upon.

Section 6. Fixing of Record Date. For the purposes of determining Members entitled to notice of or to vote at any meeting of members or any adjournment thereof, the Board of Directors may fix in advance a date for any such determination of Members, such date in any case not be not more than 60 days nor less than 10 days prior to the date on which the particular action, requiring such determination of Members is to be taken. If no record date is fixed for the determination of Members entitled to notice of or to vote at a meeting of Members, the close of

business on the day before the first notice is delivered to Members shall be the record date for such determination. When a determination of Members entitled to vote at any meeting of Members has been made as provided in this Section, such determination shall apply to any adjournment thereof unless the Board of Directors fixes a new record date.

Section 7. Quorum. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, 20% of the votes appurtenant to the Lots shall constitute a quorum for any action except as otherwise provided in the Declaration, the Articles of Incorporation or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, subsequent meetings may be called, subject to the same notice requirement, until the required quorum is present. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 8. Proxies. At all meetings of Members, each Member may vote in person or by proxy dated and executed in writing, by the Member or by the Member's duly authorized attorney-in-fact. All proxies shall be in writing and filed with the Association's Secretary. Every proxy shall be revocable by actual notice of revocation to the person presiding over the meeting and shall automatically cease upon conveyance by the Member of his Lot.

Section 9. Membership in the Association. Each Owner of a Lot subject to the jurisdiction of the Association shall be a Member of the Association. In addition, for so long as Declarant owns any part of the Property, Declarant shall be an Member.

Section 10. Voting Rights.

(a) **Class A Members.** Class A Members shall be every Person who is a record owner of a fee or undivided fee interest in any Lot which is subject to the Declaration, except for Declarant, any affiliated entity of Declarant or any Approved Builder. Class A Members shall be entitled to one vote for each Lot owned. The vote for any one Lot owned by more than one person or entity shall be exercised as a majority among themselves shall determine, but in no event shall the vote or votes with respect to any jointly owned Lot be cast separately. Majority agreement shall be conclusively presumed if any one of the multiple Owners casts the vote allocated to the Lot without being made promptly to the person presiding over the meeting by any of the other Owners of such Lot.

(b) **Class B Members.** The Class B Member shall be the Declarant. Each Class B Member shall be entitled to 10 votes for each Lot owned.

Section 11. Cessation of Class B Membership. Notwithstanding anything contained herein to the contrary, the Class B Membership shall cease and be converted to a Class A Membership on the earlier to occur of: (a) the date on which Declarant no longer owns any part of the Property; (b) when the total votes outstanding in the Class A Membership equal or exceed the total votes outstanding in the Class B Membership; provided, however, the Class B Membership shall be reinstated if thereafter, and before the times in (c) below, the Master Plan is amended to add additional lots developed or to be developed as part of Abbington sufficient to give the Class B Membership a total number of votes (with the Class B Membership entitled to

10 votes for each lot shown on the Master Plan as developed or to be developed as part of Abbington which has not been conveyed by Declarant, an affiliate of Declarant or any Approved Builder to a Class A Member) greater than those of the Class A Membership; or (c) 20 years from the date the Declaration is recorded in the Office of the Register of Deeds, Cabarrus County, North Carolina.

Section 12. Voting Rights for Conveyance or Encumbrance of Association Property, Amendments, Directors and Architectural Control Committee Members. Any other provisions herein to the contrary notwithstanding, the following events shall require the following votes or consents:

(a) **Conveyance or Encumbrance of Association Property.** Subject to Declarant's right to convey or cause to be conveyed to the Association from time to time and without the consent or approval of the Association or its Members, the Association may acquire additional Common Elements with the approval of two-thirds of the votes of the Members of the Association who are entitled to vote; provided, however, during Declarant's Development Period no such action shall be effective without Declarant's consent and approval. Subject to the foregoing, the approval of any conveyance or encumbrance of any portion of the Common Elements shall require 80% of the votes of the Members of the Association that are entitled to vote.

(b) **Amendments.** The provisions of these Bylaws and the Declaration may not be amended, repealed, modified or limited without (i) the written consent of the Declarant, its successors and assigns for so long as any of them shall own any portion of the Property and (ii) the written approval of Members entitled to at least 51% of the votes entitled to be cast on such matter.

(c) **Election of Directors.** The Declarant shall have the right to appoint or remove by written notice to the Board of Directors any member or members of the Board of Directors or any officer or officers of the Association until such time as the first of the following events occurs:

- (1) Declarant no longer owns any of the Property; or
- (2) Declarant surrenders the authority to appoint and remove members of the Board of Directors and officers of the Association by an express amendment to the Declaration executed and recorded by the Declarant.

Section 13. Action by Members. Except as provided otherwise in the Declaration, the Articles of Incorporation or these Bylaws, the vote of a majority of the votes entitled to be cast by the Members present or represented by proxy at a duly held meeting at which a quorum is present shall be necessary for the adoption of any matter voted upon by the Members. Notwithstanding the above, the affirmative vote of no less than two-thirds of all votes entitled to be cast by the Association's Members shall be required in order for the Association to (a) file a complaint, on account of an act or omission of Declarant, with any governmental agency or judicial authority over the Property or any part thereof; or (b) assert a claim against or sue Declarant.

Section 14. Informal Action by Members. Any action which may be taken at a meeting of the Members may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Members who would be entitled to vote upon such action at a meeting and filed with the Secretary of the Association to be kept in the Association's minute book, whether done before or after the action so taken.

ARTICLE VI

Board of Directors

Section 1. Number. The business and affairs of the Association shall be managed by a Board of Directors appointed by Declarant so long as Declarant owns any Lot or other portion of the Property. The number of directors of the Association shall be at least three, but not more than seven. The actual number to serve in each year shall be fixed by the Board of Directors prior to the annual meeting. The directors need not be Members. Notwithstanding the foregoing, the Declarant may choose, in its sole discretion, to relinquish its right to appoint members of the Board of Directors prior to the time that it owns no portion of the Property, whereupon the Members shall thereafter elect the members of the Board of Directors in accordance with these Bylaws.

The directors shall be divided into three classes, as nearly equal in number as may be, to serve in the first instance for terms of one, two and three years, respectively, and thereafter the successors in each class of directors shall be elected to serve for terms of three years. In the event of any increase or decrease in the number of directors, the additional or eliminated directorships shall be so classified or chosen that all classes of directors shall remain or become as nearly equal in number as may be.

Section 2. Initial Directors. The initial directors shall be appointed by the Declarant. Such initial directors shall serve at the election of the Declarant from the date of their election until such time as their successors are duly elected and qualified.

Section 3. Election. Except as otherwise provided in this Article, the directors shall be elected at the annual meetings of the Members and the election shall be by written ballot. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be deemed to have been elected. Cumulative voting is not permitted.

Section 4. Term of Office. Each director shall hold office for the term for which he was appointed or elected, or until his death, resignation, retirement, removal, disqualification or until his successor is appointed or elected and qualified. The terms of the initial directors of the Association shall expire at the first Members' meeting at which directors are elected. The terms of all other directors shall be for the number of years set forth in Section 1 of this Article. A decrease in the number of directors does not shorten an incumbent director's term. The term of a director elected to fill a vacancy shall expire at the next Members' meeting at which directors are elected. Despite the expiration of a director's term, however, such director shall continue to serve until the director's successor is elected and qualified or until there is a decrease in the

number of directors. Nothing herein shall be construed to prevent the election of a director to succeed himself. Votes shall be tallied at the meeting where they are so cast and, in the event of a tie vote, a run-off election shall be conducted at the same meeting.

Section 5. Vacancies. Unless the Articles of Incorporation provide otherwise, if a vacancy occurs on the Board of Directors, including, without limitation, a vacancy resulting from an increase in the number of directors or from the failure by the Members to elect the full authorized number of directors, then the vacancy shall be filled as provided herein. So long as Declarant owns any portion of the Property and has not relinquished its power to appoint directors as provided in Section 1 of this Article, then Declarant shall appoint a person to fill the vacancy. If the Declarant does not own any portion of the Property or has relinquished its power to appoint directors as provided in Section 1 of this Article, then the directors remaining in office may fill the vacancy by the affirmative vote of a majority of all the directors, or by the sole director, remaining in office. A vacancy that will occur at a specific later date (by reason of a resignation effective at a later date or otherwise) may be filled before the vacancy occurs, but the new director may not take office until the vacancy occurs.

Section 6. Removal. Subject to Section 1 of this Article, a newly elected director may be removed from the Board of Directors, with or without cause, by a majority vote of the Association's Members. In the event of the death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board of Directors and shall serve for the unexpired term of his predecessor. The Association's Members may elect a director at any time to fill any vacancy not filled by the directors or, if applicable, not appointed by Declarant.

Section 7. Compensation. No director shall receive compensation for any service he may render to the Association; however, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

ARTICLE VII

Meetings of Directors

Section 1. Regular Meetings. Meetings of the Board of Directors shall be held on a regular basis as often as the Board of Directors sees fit, but no less often than annually, on such days and at such place and hour as may be fixed from time to time by of the Board of Directors. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next business day which is not a legal holiday. Regular meetings of the Board of Directors may be held without notice.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Association or by any two directors. The person or persons calling a special meeting of the Board of Directors shall, at least two days before the meeting, give notice thereof by any usual means of communication (including oral notice).

Section 3. Quorum. A majority of the number of directors fixed by or pursuant to these Bylaws shall constitute a quorum for the transaction of business at any meeting of the Board of

Directors. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by the Declaration, the Articles of Incorporation, these Bylaws or by law. In the event business cannot be conducted at any meeting because a quorum is not present, that meeting may be adjourned to a later date by an affirmative vote of a majority of those present in person or by proxy. At any such subsequent meeting held as a result of such adjournment, the quorum shall be reduced by 50% from that required at the previous meeting, as previously reduced, until such time as a quorum is present and business can be conducted.

Section 4. Informal Action by Directors. Action taken by a majority of the directors without a meeting is nevertheless the action of the Board of Directors 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 of Directors, whether done before or after the action so taken.

Section 5. Chairman. A Chairman of the Board of Directors shall be elected by the directors and shall preside over all meetings of the Board of Directors. The Chairman shall perform such other duties as may be prescribed from time to time by the Board of Directors or by the Bylaws.

Section 6. Committees. The Board of Directors may, by resolution adopted by a majority of the number of directors then in office, designate one or more committees each of which shall consist of two or more directors, which committees, to the extent provided in such resolution, shall have and exercise the authority of the Board of Directors in the management of the Association.

Section 7. Participation by Telephone Conference. Any one or more directors may participate in a meeting of the Board of Directors by means of a telephone conference or similar communications device that allows all directors participating in the meeting to simultaneously hear each other during the meeting and such participation in a meeting shall be deemed presence in person at such meeting.

ARTICLE VIII

Powers and Duties of the Board of Directors

Section 1. Powers. The Board of Directors, for the mutual benefit of the Members and the Owners, shall have the following specific powers and rights (without limitation of other powers and rights the Board of Directors may have):

(a) To adopt and publish rules and regulations governing the use of the Property, including, without limitation, the Common Area, and facilities and amenities thereon, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;

(b) To exercise for the Association all powers, duties, and authority vested in or delegated to this Association and not reserved to the membership by other provisions of the Declaration, the Articles of Incorporation or these Bylaws;

(c) To enter into agreements or contracts with insurance companies with respect to insurance coverage relating to the Common Area and/or the Association;

(d) To enter into agreements or contracts with utility companies with respect to utility installation, consumption and service matters relating to the Common Area and/or Association;

(e) Subject to the affirmative vote of no less than a majority of all votes present, in person or by proxy, at a duly held meeting of the Members at which a quorum is present, all in accordance with these Bylaws, to borrow funds to pay costs of operation of the Association, which borrowings may be secured by assignment or pledge of rights against delinquent Owners or by liens on other Association assets, if the Members see fit; provided, however, until such time as Declarant no longer owns any portion of the Property, the Board of Directors may not mortgage any portion of the Common Area without the prior written approval of Declarant;

(f) To enter into contracts, maintain one or more bank accounts, and, generally, to have all the powers necessary or incidental to the operation and management of the Association;

(g) To sue or defend in any court of law on behalf of the Association;

(h) To levy assessments in accordance with the Declaration;

(i) To adjust the amount, collect and use any insurance proceeds to repair damages or replace lost property of the Association and if proceeds are insufficient to repair damage or replace lost property, to assess Owners in proportionate amounts to cover the deficiency;

(j) To exercise for the Association all powers, duties and authority vested or delegated by the Declaration, the Articles of Incorporation or these Bylaws and no reserved to the Members or Declarant by other provisions of the Declaration, the Articles of Incorporation or these Bylaws;

(k) To declare the office of a member of the Board of Directors to be vacant in the event such members shall be absent, without the consent of the Board of Directors, from three consecutive regular meetings of the Board of Directors;

(l) To employ a Person to manage the affairs and property of the Association, to employ independent contractors or such other employees as the Board of Directors may deem necessary, and to prescribe their duties and to set their compensation;

(m) To enter into agreements or contracts with builders regarding the construction of improvements on Lots located in the Property, and to require that all Owners building improvements on Lots use only an Approved Builder;

(n) To employ attorneys to represent the Association when deemed necessary;

(o) To grant all necessary easements and rights-of-way over and across the Common Area when in its sole discretion it deems such an action to be necessary and appropriate, including, but not limited to, easements for the installation and maintenance of electrical, telephone, cablevision, sewer, water and other utilities and drainage facilities; provided, however, until such time as Declarant no longer owns any portion of the Property, the Board of Directors may not grant such an easement or right-of-way without the prior written approval of Declarant;

(p) To convey fee simple title to all or any part of the Common Area when in its sole discretion it deems such an action to be necessary and appropriate; provided, however, until such time as Declarant no longer owns any portion of the Property, the Board of Directors may not convey any portion of the Common Area without the prior written approval of Declarant;

(q) To appoint and remove at pleasure all officers, agents and employees of the Association, prescribe their duties, fix their compensation and require of them such security or fidelity bond as it may deem expedient; and

(r) To do anything necessary or desirable to carry out the purposes of the Association as set forth herein, in the Articles of Incorporation, the Declaration or as permitted by law.

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

(a) To maintain or cause to be maintained the Common Area, including, but not limited to, planting, mowing, pruning, fertilizing, preservation and replacement of landscaping and the upkeep and maintenance of associated improvements;

(b) Until accepted for maintenance by a governmental authority, to own and maintain or cause to be maintained the roadways to the standard of maintenance (if one is ascertainable) which would be required by the governmental authority before it would accept such roadways for maintenance;

(c) To the extent not maintained by any governmental authority, to maintain or cause to be maintained any sidewalks on the Property;

(d) To make available to each Member within 60 days after the end of each year an annual report of the Association and, upon resolution adopted by the Board of Directors or upon written request of the Members holding at least three-fourths of the eligible votes of the Association at such time, to have such report audited (at the expense of the Association) by an independent certified public accountant, which audited report shall be made available to each Member within 30 days after its completion;

(e) To pay for the cost of electricity for the street lights to be located on the Property and the electricity serving any of the Common Area;

(f) To cause to be kept a complete record of all its acts and corporate affairs;

- (g) To supervise all officers, agents and employees of the Association and to see that their duties are properly performed;
- (h) As more fully provided in the Declaration:
 - (1) To fix the amount of the annual assessments, special assessments and individual special assessments;
 - (2) To send written notice of the assessments to Owners;
- (i) To issue, or cause an appropriate officer to issue, upon demand by any Person, a certificate setting forth whether or not any assessment has been paid. (A reasonable charge may be made by the Board of Directors for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment);
- (j) To procure and maintain adequate liability insurance covering the Association and the directors and officers thereof and adequate hazard insurance on the Property owned by the Association;
- (k) Subject to Declarant's right to appoint the Architectural Control Committee, to appoint the Architectural Control Committee as provided in the Declaration;
- (l) To enter into agreements or contracts with for rubbish removal services to be provided to all the Lots in the Property, and to pay for such agreements or contracts; and
- (m) Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate.

ARTICLE IX

Officers and Their Duties

Section 1. Officers. The officers of the Association shall be a President, a Vice-President, a Secretary and a Treasurer, and such other officers as the Board of Directors may from time to time by resolution create.

Section 2. Election of Officers. The officers of the Association shall be elected by the Board of Directors. Such elections may be held at any regular or special meeting of the Board of Directors.

Section 3. Term. Each officer of the Association shall be elected annually by the Board of Directors and each shall hold office for one year or until his death, resignation, retirement, removal, disqualification or his successor is elected and qualified.

Section 4. Special Appointments. The Board of Directors may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period and shall have such authority, and perform such duties as the Board of Directors may determine from time to time.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board of Directors. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. Any two or more offices may be held by the same person, but no individual may act in more than one capacity where action of two or more officers is required.

Section 8. Duties. The duties of the officers are as follows:

(a) **President.** The President shall be the principal executive officer of the Association, and subject to the control of the Board of Directors, shall supervise and control the management of the Association. The President shall preside at meetings of the Board of Directors. The President shall see that orders and resolutions of the Board of Directors are carried out, may sign all leases, mortgages, deeds, amendments to the Declaration on behalf of the Association and other written instruments may sign all checks and promissory notes and shall perform such other duties as may be required of him by the Board of Directors.

(b) **Vice-President.** The Vice-President shall act in the place and stead of the President in the event of his absence or his inability or refusal to act, and he shall exercise and discharge such other duties as may be required of him by the Board of Directors.

(c) **Secretary.** The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the Members, shall keep the corporate seal of the Association and affix it to all papers requiring said seal, shall serve notice of meetings of the Board of Directors and of the Members, shall keep appropriate current records showing the Members of the Association together with their addresses, shall record any amendments to the Declaration and shall perform such other duties as required by the Board of Directors.

(d) **Treasurer.** The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors. The Treasurer may sign all checks and promissory notes of the Association, shall keep proper books of account, shall cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year, and shall prepare an annual budget and a statement of income and

expenditures to be presented to the membership at its regular annual meeting and deliver a copy of each to the Members.

ARTICLE X

Books and Records

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation and the Bylaws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE XI

Assessments

Section 1. Payment of Assessments. As more fully provided in the Declaration, each Member is obligated to pay to the Association annual assessments, special assessments and individual special assessments. Any assessments shall be due and payable in full within 30 days after billed to an Owner by the Association. If any assessment is not paid by its due date, as set forth in the Declaration, such assessment shall be delinquent and shall accrue interest thereon at the lower of the rate of 18% per annum or the highest rate permitted by law.

Section 2. Liens for Assessments. If any assessment is not paid within 30 days after the date due and payable, then the entire amount of such assessment, including the portion thereof which would otherwise be payable in installments, may be declared due and payable in full by the Board of Directors and shall constitute a lien upon the offending Owner's Lot. The Association may bring an action at law or in equity against the Owner personally and/or avail itself of any remedy provided under the Planned Community Act. There shall be added to the amount of any such assessment all reasonable attorneys' fees and costs incurred by the Association in such action. In the event a judgment is obtained, such judgment shall include interest on the assessments as indicated above. No Owner may exempt himself from liability for assessments or waive or otherwise escape liability from the assessments by the non-use or abandonment of his property.

ARTICLE XII

Corporate Seal

The Association shall have a seal in circular form having within its circumference the name of the Corporation, the state of its incorporation, the year of its incorporation and the word "Seal."

ARTICLE XIII

Construction; The Declaration

These Bylaws shall be construed, to the extent possible, so as to be consistent with the Declaration and in the event that these Bylaws conflict with the Declaration, the provisions of the Declaration shall control.

ARTICLE XIV

Amendments

Subject to the limitations hereinafter contained, the Articles of Incorporation and these Bylaws may be amended or modified at any time by a vote of no less than 51% of all votes entitled to be cast by the Members, which vote is taken at a duly held meeting of the Members at which a quorum is present, all in accordance with these Bylaws. Provided, however, if 51% of all votes entitled to be cast by the Members cannot be obtained at such a meeting, then the Articles of Incorporation and these Bylaws may be amended by obtaining the vote of 51% of all votes present at a duly held meeting of the Members at which a quorum is present and by obtaining, within 90 days of such vote, written consent to such amendment by the Members holding a sufficient number of votes to comprise, along with such voting Members a total of 51% of all votes entitled to be cast by the Members. Further provided, that any amendment or modification to the Articles of Incorporation or these Bylaws must be consented to by Declarant so long as Declarant is the Owner of any Lot or other portion of the Property, which consent Declarant may grant or withhold in its sole discretion.

In addition, Declarant, without obtaining the approval of any other Member or any other Owner other than Declarant, may make amendments or modification to the Articles of Incorporation and these Bylaws which either (a) are correctional in nature only and does not involve a change which materially adversely affects the rights, duties or obligations specified herein or therein or (b) apply only to the portions of the Property then owned by Declarant. Any amendment or modification effected pursuant to this Article shall become effective with respect to these Bylaws when an instrument is filed of record in the Office of the Register of Deeds for Cabarrus County, North Carolina; provided, however, such an amendment or modification, in lieu of being executed by the Members voting for such amendment or modification, may contain a certification of the Secretary of the Association stating that the amendment or modification has been voted on and approved by the requisite number of votes of the Members as provided in this Article and when, with respect to the Articles of Incorporation, any amendment or modification is filed of record in the office of the North Carolina Secretary of State. In addition to the foregoing rights, Declarant may, at Declarant's option, amend and modify the Articles of Incorporation and these Bylaws without obtaining the consent or approval of any other Person if such amendment or modification is necessary to cause the Articles of Incorporation and these Bylaws to comply with the requirements of any governmental agency.

ARTICLE XV

Miscellaneous

Section 1. Fiscal Year. The fiscal year of the Association shall end on the 31st day of December of each year.

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

ARTICLE XVI

Indemnification of Directors and Officers

Section 1. Indemnification.

Neither Declarant, nor any Member, nor the Board of Directors, nor the Association, nor any officers, directors, agents or employees of any of them shall be personally liable for debts contracted for or otherwise incurred by the Association or for a tort of another Member, whether or not such other Member was acting on behalf of the Association or otherwise. Neither Declarant, nor the Association, nor their officers, directors, agents or employees shall be liable for any incidental or consequential damages for failure to inspect any premises, improvements or portions thereof or for failure to repair or maintain the same. Declarant, the Association or any other Person making such repairs or maintenance shall not be liable for any personal injury or other incidental or consequential damages occasioned by any act or omission in the repair or maintenance of any premises, improvements or portions thereof.

The Association shall, to the extent permitted by applicable law, indemnify and defend all members of the Board of Directors from and against any and all loss, cost, expense, damage, liability, claim, action or cause of action arising from or relating to the performance by the Board of Directors of its duties and obligations, except for any such loss, cost, expense, damage, liability, claim, action or cause of action resulting from the gross negligence or willful misconduct of the person(s) so indemnified.

The Association shall indemnify any director or officer, or former director or officer, of the Association or any person who may have served at the request of the Association as a director or officer of another corporation, partnership, joint venture, trust or other enterprise, whether for profit or not for profit, against liabilities and reasonable litigation expenses (including attorneys' fees) incurred by him in connection with any action, suit or proceeding (whether civil or criminal) in which he is made or threatened to be made a party by reason of being or having been such director or officer, except in relation to matters as to which he 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.

The indemnification provided herein shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any statute, bylaw, agreement, vote of Members or disinterested directors, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased

to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

The Association's indemnity of any person who is or was a director or officer of the Association, or is or was serving at the request of the Association as a director or officer of the Association, or is or was serving at the request of the Association as a director or officer of another corporation, partnership, joint venture, trust or other enterprise, shall be reduced by any amounts such person may collect as indemnification (i) under any policy of insurance purchased and maintained on his behalf by the Association or (ii) from such other corporation, partnership, joint venture, trust or other enterprise.

Expenses incurred by a director or officer 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 authorized by the Board of Directors in the specific case upon receipt of an undertaking by or on behalf of the director or officer to repay such amount unless it shall be ultimately determined that he is entitled to be indemnified by the Association as authorized by any bylaw, agreement, vote of the Board of Directors or Members, or by law.

Nothing contained in this Article, or elsewhere in these Bylaws, shall operate to indemnify any director or officer if such indemnification is for any reason contrary to any applicable state or federal law.

Section 2. Insurance. The Association may purchase and maintain insurance on behalf of its directors, officers, employees and agents and those persons who were serving at the request of the Association in any capacity in another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise against any liability asserted against or incurred by such person in any such capacity, or arising out of his or her status as such, whether or not the Association would have the power to indemnify such person against such liability under the provisions of this Article or otherwise. Any full or partial payment made by an insurance company under any insurance policy covering any director, officer, employee or agent made to or on behalf of a person entitled to indemnification provided for in this Article or otherwise to the extent of such payment, and no insurer shall have a right of subrogation against the Association with respect to such payment.