

AMENDED AND RESTATED
BYLAWS

WATERFORD PLACE PROPERTY OWNERS
ASSOCIATION, INC.

ARTICLE 1. IDENTITY

1.1 Principal Office.

The principal office of the Association shall be at 10 Lakeview Ct. in Brevard, North Carolina 28712, or at such other place as may be designated by the Board of Directors.

1.2 Registered Agent.

For the purpose of receiving all formal service of legal papers on behalf of the Association, the Board of Directors shall designate a registered Agent for the corporation. This designation may be changed at any time by the Board of Directors by filing written notice with the Corporations Division in the Office of the North Carolina Secretary of State.

1.3 Fiscal Year.

The Association fiscal year shall be the calendar year.

1.4 Seal.

The seal of the Association shall bear the name of the corporation, the word "North Carolina", the words "corporation not for profit" and the year of incorporation.

1.5 Definitions.

For convenience, these Bylaws shall be referred to as the "Bylaws"; the Articles of Incorporation of the Association as the "Articles"; and the Declaration of Restrictive Covenants for Waterford Place and the various amendments thereto which have been recorded in the office of the Register of Deeds for Transylvania County as the "Covenants". The other terms used in these Bylaws shall have the same definitions and meaning as those set forth in the Covenants and the Articles, unless provided to the contrary in these Bylaws, or unless the context otherwise requires. Whenever the context permits or requires, the singular shall include the plural, the plural shall include the singular and the use of any gender shall be deemed to include all genders.

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ARTICLE II. MEETINGS OF MEMBERS AND VOTING

2.1 Annual Meeting.

The annual meeting of members shall be held in the month of August of each year on the date and time determined by the Board of Directors. The meeting shall be held within Brevard Township. The purpose of the meeting shall be to elect directors and to transact any other business authorized to be transacted by the members.

2.2 Special Meetings.

Special meetings of the members shall be held within Brevard Township and may be called by the President or by a majority of the Board of Directors of the Association, and must be called by the President or Secretary on receipt of a written request from at least ten (10%) percent of the members of the Association entitled to vote at the meeting. Requests for a meeting by the members shall state the purpose for the meeting and the business conducted at any special meeting shall be limited to the matters stated in the notice for it.

2.3 Notice of annual meeting.

Written notice of the annual meeting shall be delivered to each member at least fourteen (14) days and not more than sixty (60) days before the annual meeting. The notice is to be hand delivered or sent prepaid by United States Mail to the mailing address of each member or sent by electronic means, including electronic mail over the Internet, to an electronic mailing address designated in writing by the member. An approved proxy form shall be included with the notification. A certificate of notification signed by the Association Secretary shall be submitted as proof of the notification. Members may waive notice of the annual meeting at the meeting.

2.4 Notice of special meetings, generally.

Notice of special meetings shall be in writing, shall state the place, day and hour of the meeting and the purpose or purposes for which the meeting is called. The notice shall be delivered to each member entitled to vote at the meeting not less than ten (10) days or more than thirty (30) days before the date of the meeting by or at the direction of the president, the secretary or the officer or persons calling the meeting. If mailed, the notice shall be deemed to be delivered when deposited in the United States mail addressed to the member at his/her address as it appears in the records of the Association, with postage prepaid. Payment for postage for notice of any special meeting, by whomever called, shall be an obligation of the Association. The notice may be sent by electronic means, including electronic mail over the Internet, to an electronic mailing address designated in writing by the member. An approved proxy form shall be included with

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the notification. A certificate of notification signed by the Association Secretary shall be submitted as proof of the notification.

2.5 Quorum.

Except as otherwise provided herein, the presence of a majority of the members entitled to vote shall constitute a quorum whether such member is present in person or by proxy.

2.6 Majority Vote.

In any meeting of members, each Lot or Dwelling Unit shall have one voting interest, provided the member is in good standing. The acts approved by a majority of the votes present in person or by proxy at a meeting at which a quorum is present shall be binding on all members for all purposes unless the Covenants, the Articles, or these Bylaws require a larger percentage of vote, in which case the larger percentage shall control. A member in good standing means that the Owner/Member has paid all assessments to the Association that are due and owing as of the time of the vote or other action by the member and that the Owner/Member is in substantial compliance with the Covenants. The Board of Directors or any membership committee appointed by the Board shall determine the member's status.

2.7 Membership-designation of voting member.

Persons or entities shall become members of the Association on the acquisition of fee title to a Lot or Dwelling Unit. Membership shall be terminated when a person or entity no longer owns a Lot or Dwelling Unit. There shall be only one vote per each Lot or Dwelling Unit. When the Lot or Dwelling Unit is owned by more than one individual, then there must be a written designation filed with the Secretary as to which owner shall cast the ballot. Ballots may be cast for Lots or Dwelling Units owned by corporations, by partnerships or limited liability companies by a president, vice president, a partner, a manager, member manager or any other person designated in a written certificate filed with the Secretary of the Association and signed by a president or vice president of a corporation or a partner of a partnership. Proper certificates hereunder shall be valid until revoked or until superseded by a subsequent certificate.

2.8 Proxies: powers of Attorney.

Votes may be exercised in person or by proxy. Each proxy shall set forth specifically the name of the person voting by proxy and the name of the person authorized to vote the proxy for him or her. Each proxy shall contain the date, time and place of the meeting for which the proxy is given. If the proxy is a limited proxy, it shall set forth those items that the holder of the proxy may vote and the manner in which the vote is to be cast. The proxy shall be effective only for the specific meeting for which originally given and any lawfully adjourned meetings. No proxy shall be valid for a

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period longer than ninety (90) days after the date of the first meeting for which it was given, and it may be revoked at any time at the pleasure of the member executing it. The proxy shall be signed by the Owner or Owners (if more than one) or by the appropriate officer of a corporation, manager or member-manager of a limited liability company or other designated person mentioned in 2.7, or the duly authorized attorney in fact of that person or persons (provided the power of attorney is filed with the Secretary of the Association). The proxy shall be filed with the Secretary before or at the meeting for which the proxy is given. One holding a power of attorney from a member, properly executed and granting such authority, may exercise the voting interest of that Lot or Dwelling Unit. If the proxy expressly provides, any proxy holder may appoint in writing a substitute to act in his or her place. If no such provision is made, substitution is not authorized.

2.9 Adjourned meetings.

If any meeting of members cannot be organized because a quorum is not present, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present. The time and place to which the meeting is adjourned shall be announced at the meeting at which the adjournment is taken and a notice shall be posted in a conspicuous place in the Waterford Place Clubhouse as soon thereafter as may be practicable stating the time and place in which the meeting is adjourned.

2.10 Waiver of notice.

Members may waive their right to receive notice of any meeting, whether annual or special, by a writing signed by them to that effect. The waiver shall be filed with the Secretary of the Association either before, or at the meeting for which the waiver is given.

2.11 Action by members without a meeting.

Members may take action by written agreement without a meeting, as long as written notice is given to the members entitled to vote in the manner prescribed elsewhere in these Bylaws appropriate to the subject matter to be agreed on, unless that notice is waived as provided in these Bylaws. The decision of a majority of the members, or a larger percentage vote as otherwise may be required by the Covenants, the Articles or these Bylaws (the decision to be evidenced by written response to be solicited in the notice), shall be binding on the membership, provided a quorum submits a response. The notice shall set forth a time period within which responses must be made by the membership.

2.12 Minutes of meetings.

The minutes of all meetings of members shall be kept in a book available for inspection during normal business hours, by members or their authorized representatives, including mortgagees of Owners and board

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members at any reasonable time. The minutes shall be retained by the Association permanently. Members and their authorized representatives shall have the right to make or obtain copies at the reasonable expense, if any, of the Association member.

2.13 Order of business.

The order of business at annual meetings of members and as far as practicable at other members' meetings, shall be:

- a. Call to order.
- b. The President shall conduct the meeting. If the president is absent, meeting shall be conducted by the Vice-President.
- c. Calling of the roll, certifying of proxies, determination of a quorum.
- d. Proof of a notice of the meeting or waiver of notice.
- e. Reading and disposition of the minutes.
- f. Reports of officers.
- g. Reports of Committees.
- h. Appointment of Inspectors of election.
- i. Determination of number of directors.
- j. Election of directors.
- k. Unfinished business.
- l. New business.
- m. Adjournment.

ARTICLE III. DIRECTORS

3.1 Number and Qualifications.

The affairs of the Association shall be managed by a Board of Directors. No director shall continue on the Board after he or she ceases to be an Owner of a Lot or Dwelling Unit in Waterford Place. Board members must be members of the Association. The number of Directors shall be not less than five and shall always be an odd number. The number of Directors may be changed, consistent with this section, by vote of a majority of the members present and entitled to vote at any annual meeting.

3.2 Election of directors.

Directors shall be elected at the annual meeting of members by a majority of the votes cast in accordance with the procedures in Robert's Rules of Order (latest edition). Each member entitled to vote shall be entitled to cast votes for each of as many nominees as there are vacancies to

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be filled. There shall be no cumulative voting. Not less than sixty (60) days before the annual meeting of the members, a nominating committee of not less than three and not more than five members shall be appointed by the Board of Directors and the committee shall nominate at least one person for each directorship to be filled. Other nominations may also be made from the floor.

3.3 Term.

The term of each director's service shall be for a term of two (2) years and directors shall be elected at the annual members' meeting. To create staggered terms of directors, two directors shall be elected in 1991 for a term of two years and three directors shall be elected in 1992 for a term of two years; and thereafter, two directors will be elected in each odd numbered year and three directors will be elected in each even numbered year. Should the number of directors be increased as provided in Section 3.1, the terms of the new directors shall be staggered in accordance with the provisions of this Section.

3.4 Vacancies.

Except as to vacancies resulting from removal of directors by members, vacancies in the Board of Directors occurring between annual meetings of members shall be filled by a majority vote of the remaining directors. Any director elected to fill a vacancy shall hold office only until the next election of directors by the members, irrespective of the length of the remaining term of the vacating director.

3.5 Removal.

Any director may be recalled and removed from office with or without cause by the vote or agreement in writing of a majority of all members entitled to vote. A special meeting of the members to recall a member or members of the Board of Directors may be called by ten (10%) percent of the members entitled to vote giving notice of the meeting as required by these Bylaws. The notice shall state the purpose of the meeting. Any vacancy on the Board of Directors thus created shall be filled by the members of the Association at the same meeting. If more than one director is subject to recall, there shall be a separate vote on the question to remove each director.

3.6 Disqualification and resignation.

Any director may resign at any time by sending or personally delivering a personally signed written notice of resignation to the Association, addressed to the Secretary. The resignation shall take effect on receipt by the Secretary, unless it states differently. Any board member elected by the members who is absent from more than three regular meetings of the Board, unless excused by resolution of the Board, shall be

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deemed to have resigned from the Board of Directors automatically, effective when accepted by the Board. Any board member more than thirty (30) days delinquent in the payment of an assessment shall be deemed to have resigned from the Board, effective when the resignation is accepted by the Board of Directors.

3.7 Organizational meeting.

The organizational meeting of a newly elected Board of Directors shall be held within ten days after their election at a place and time that shall be fixed by the directors at the meeting at which they were elected and without further notice. The senior most Director shall convene and preside at the organizational meeting until the new President of the Board is elected.

3.8 Regular meetings.

The Board of Directors may establish a schedule of regular meetings to be held at a time and place as a majority of them shall determine from time to time. Notice of regular meetings, however, shall be given to each director personally or by mail, by e-mail, or by telephone, at least three days before the day named for the meeting with the notice of each meeting posted conspicuously in the Waterford Place community at least 48 hours before the meeting except in an emergency.

3.9 Special meetings.

Special meetings of the Board of Directors may be called by the President and, in the absence of the President, by the Vice-President, and must be called by the Secretary at the written request of one-third of the directors. Notice of the meeting shall be given personally or by mail, by email or by telephone. The notice shall state the time, place and purpose of the meeting and shall be transmitted not less than three days before the meeting. A copy of the notice of each meeting shall be posted conspicuously in the Waterford Place community at least 48 hours before the meeting except in an emergency.

3.9.1 Electronic meetings.

In extraordinary circumstances the President may convene a regular or special meeting of the Board of Directors by electronic means without requiring that Directors be physically present in the same place, provided that prior to the calling or convening of such a meeting the Board of Directors shall have adopted and published rules and procedures governing the calling and conduct of such meetings. Said rules and procedures shall provide for Directors to enjoy all rights of participation as provided for in these Bylaws and in *Robert's Rules of Order* (latest edition). Said rules and procedures shall also provide for all members of the Association to observe or listen to the proceedings of the meeting as required in Section 3.14 of these Bylaws.

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3.10 Waiver of notice.

Any director may waive notice of a meeting before, at or after the meeting and that waiver shall be deemed equivalent to the giving of notice. Attendance by any director at a meeting shall constitute a waiver of notice of the meeting, except when the director's attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

3.11 Quorum.

A quorum at the meetings of the Directors shall consist of a majority of the entire Board of Directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except when approval by a greater number of directors is required by the Covenants, the Articles, or these Bylaws.

3.12 Adjourned meetings.

If there is less than a quorum present at any meeting of the Board of Directors, the majority of those present may adjourn the meeting until a quorum is present. At any adjourned meeting, any business that might have been transacted at the meeting as originally called may be transacted without further notice.

3.13 No proxy.

There shall be no voting by proxy at any meeting of the Board of Directors.

3.14 Meetings open to members.

Meetings of the Board of Directors, except those special meetings and hearings as determined by the Board to require private consultations of the Board because of sensitive and/or confidential information, shall be open to all members of the Association to attend and observe. No member, however, shall be entitled to participate in the meeting unless specifically invited to do so by the Board. Any actions taken by the Board in closed session must be reported at the next open meeting.

Notice of any meeting of the Board whereat the budget or assessments are to be considered for any reason shall contain a statement to that effect.

3.15 Presiding officer.

The presiding officer at Board meetings shall be the President or, in the absence of the President, the Vice-President, and in the Vice-President's absence, the directors present shall designate any one of their number to preside.

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3.16 Minutes of meetings.

The minutes of all meetings of the Board of Directors shall be kept in a book available for inspection by members or their authorized representative including mortgagees of members and board members at any reasonable time. The Association shall retain these minutes for a period of not less than seven years. Members and their authorized representatives shall have the right to make or obtain copies at the reasonable expense, if any, of the Association member.

3.17 Compensation.

Directors shall serve without pay but shall be entitled to reimbursement for expenses reasonably incurred in the discharge of their duties upon approval by the Board of Directors.

3.18 Order of business.

The order of business at meetings of directors shall be:

- (a) Calling of roll.
- (b) Reading and disposition of the minutes.
- (c) Reports of officers and committees.
- (d) Election of officers (as appropriate).
- (e) Unfinished business.
- (f) New business.
- (g) Adjournment.

3.19 Presumed assent.

A director present at any Board meeting at which action of any corporate matter is taken shall be presumed to have assented to the action taken, unless he or she votes against such actions or abstains from voting because of an asserted conflict of interest.

ARTICLE IV. POWERS AND DUTIES OF THE BOARD OF DIRECTORS

All of the powers and duties of the Association existing under the Covenants, the Articles and these Bylaws shall be exercised exclusively by the Board of Directors, or its duly authorized agents or employees. Directors who are not themselves subject to the Covenants shall recuse themselves from participating in discussion of or voting on any matter before the Board concerning the Covenants or exercising authority under the Covenants. The powers and duties of the Board shall include, but shall not be limited to, the following:

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4.1 Maintenance, management and operation of the Association property.

The Board of Directors shall be responsible for the maintenance, management and operation of the Association property and Common Areas and may enter into contracts for discharging this responsibility.

4.2 Contract sue and be sued.

The Association may institute, maintain, settle or appeal actions or hearings in its name on behalf of all members concerning matters of common interest, including but not limited to the Common Area and commonly used facilities.

4.3 Right of access.

The Association has the irrevocable right of access to each Lot during reasonable hours as necessary for the maintenance, repair, replacement, as provided in the Covenants, or for making emergency repairs necessary to prevent damage to the Common Areas or to another Lot or Dwelling Unit or Units.

4.4 Make and collect assessments.

4.5 Lease, maintain, repair and replace the Common Areas.

4.6 Lien and foreclosure for unpaid assessments.

The Association has the right to place a claim of lien on each Lot or Dwelling Unit for any unpaid assessments with interest or unpaid fines and for reasonable attorneys' fees incurred in the collection of the assessment or enforcement of the lien. It shall also have the power to foreclose the claim of lien in like manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the North Carolina General Statutes and to purchase the Lot or Dwelling Unit at the foreclosure sale and to hold, lease, mortgage or convey it.

4.7 Purchase Dwelling Unit.

In addition to its right to purchase Lots or Dwelling Units at a lien foreclosure sale, the Association generally has the power to purchase Lots or Dwelling Units and to acquire, hold, lease, mortgage and convey them. The Association has the power to acquire title to property or interests therein or otherwise hold property for the use and benefit of its members.

4.8 Grant or modify easements.

The Association, without the joinder of any Owner, may grant, modify or move any easement for ingress and egress or for utilities purposes if the easement constitutes part of or crosses the Common Areas.

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4.9 Maintain official records.

The Association shall maintain all of the records of the Association, where applicable, pursuant to and as set forth in Article 17 hereof.

4.10 Obtain insurance.

The Association shall obtain and maintain adequate insurance to protect the Association, its Board of Directors and Officers, its Committee members, its property, and the Common Areas.

4.11 Furnish Financial reports to members.

Within sixty (60) days of the end of the fiscal year, the Board shall deliver to the membership, a report showing the financial status of the Association. Similar reports may be delivered more often if deemed necessary by the Board.

4.12 Provide certificate of unpaid assessments.

Any Owner, mortgagee or other record lienholder has the right to require from the Association a certificate showing the amount of unpaid assessments respecting the Owner's Lot or Dwelling Unit.

4.13 Pay taxes or assessments against the Common Areas or Association property.

4.14 Pay costs of utility services rendered to the Association property and not billed directly to individual Owners.

4.15 Employ personnel.

The Association may employ and dismiss personnel as necessary for the maintenance and operation of the Association and may retain those professional services that are required for those purposes.

4.16 Provide copies of covenants, bylaws, rules, etc. to new members.

4.17 Repair or reconstruct improvements after casualties to Common Areas.

4.18 Impose fines.

After complying with the provisions of Section 9.1 of Article IX of these bylaws, the Board of Directors may impose fines on Owners in such reasonable sums as they may deem appropriate, for violation of the Covenants, these Bylaws or lawfully adopted rules and regulations by members or their guests or tenants.

4.19 Authorize private use of Common Areas.

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The Board of Directors may authorize members or others to use portions of the Common Areas for private parties and gatherings. Reasonable charges may be imposed provided an agreement for such use is entered into between the Association and the member or others.

4.20 Appoint an Architectural Review Committee.

This committee shall exercise the power granted to it and carry out the duties assigned to it by the Covenants. Members of this committee must be owners of lots subject to the authority of the Covenants.

ARTICLE V. OFFICERS

5.1 Executive officers.

The executive officers of the Association shall be a president and a vice president, who shall be directors, a treasurer, an assistant treasurer and a secretary and such other officers as the Board may from time to time create by resolution.

5.2 President.

The president shall be the chief executive officer of the Association. The president shall have all of the powers and duties that usually are vested in the office of president of an association, including but not limited to the power to appoint committees from among the members to assist in the conduct of the affairs of the Association as he or she may deem appropriate. When in attendance, the president shall preside at all meetings of the Board.

5.3 Vice President.

The vice president shall exercise the powers and perform the duties of the president in the absence or disability of the president. He or She also shall assist the president and exercise those other powers and perform those other duties as shall be prescribed by the directors.

5.4 Secretary.

The secretary shall keep the minutes of all proceedings of the directors and the members. He or she shall attend to the serving of all notices to the members and directors and other notices required hereunder. The secretary shall have custody of the seal of the Association and shall affix it to instruments requiring the seal when duly signed. He or she shall keep the records of the Association, except those of the treasurer, and shall perform all other duties incident to the office of the secretary of an association and as may be required by the directors.

5.5 Treasurer.

The treasurer shall have custody of all property of the Association, including funds, securities and evidences of indebtedness. He or She shall keep books of account for the Association in accordance with generally accepted accounting principles (GAAP), which together with substantiating

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papers, shall be made available to the Board of Directors for examination at reasonable times. An audit or review of the books shall be performed at a three to five year interval to insure accuracy and upon the appointment of a new treasurer. The treasurer shall submit a treasurer's report to the Board at reasonable intervals and shall perform all other duties incident to the office of treasurer including payment of approved bills for the Association. All money and other valuable effects shall be kept for the benefit of the Association in such depositories as may be designated by a majority of the Board. The assistant treasurer may perform such duties as may be designated by the treasurer and may perform the duties of the treasurer in the absence of the treasurer.

5.6 Compensation.

The compensation, if any, of all employees of the Association shall be fixed by the Board of Directors. Under no circumstances shall the Board employ, as an employee or contract manager, a director or an officer without the prior knowledge and majority approval of the membership at large.

ARTICLE VI. FISCAL MANAGEMENT

6.1 Board adoption of budget.

The Board of Directors shall adopt a budget for the Association in advance of each fiscal year at a meeting of the Board called for that purpose at least fifteen (15) days before the end of each fiscal year in accordance with 6.3. A copy of the adopted budget shall be furnished to the members within thirty (30) days of the adoption of said budget.

6.2 Budget requirements.

The proposed annual budget shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, when applicable, but not limited to:

- (a) Administration of the Association.
- (b) Management fees.
- (c) Maintenance.
- (d) Taxes on Association property.
- (e) Insurance.
- (f) Security provisions.
- (g) Other expenses.
- (h) Operating capital.

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- (i) Reserve accounts for capital expenditures and deferred maintenance.

The amount to be reserved shall be computed by means of a formula which is based upon estimated life and estimated replacement cost for such reserve item. Reserves must be included in the proposed annual budget, but may be removed from the final budget if by vote of the majority of the members present at a duly called meeting of the Association they shall determine for a fiscal year to provide no reserves or reserves less than required. If a meeting of members has been called to determine to provide no reserves or reserves less than required and such result is not attained or a quorum is not attained, the reserves as included in the budget shall go into effect. Expenditures from reserves shall be approved by vote of the Board of Directors of the Association.

6.3 Notice of budget meeting.

The Board of Directors shall mail a meeting notice and copies of the proposed annual budget to the members not less than fourteen (14) days before the meeting at which the budget will be considered. If a budget adopted by the Board of Directors requires an assessment against members in any fiscal year exceeding 115% of the previous year's assessments, the Board shall call a special meeting of members within thirty (30) days and shall be called on not less than ten (10) days written notice to each member. If the proposed budget is not approved as presented at the special meeting, the members shall consider and enact a substitute budget by not less than a majority vote of the members. If at the special meeting, a quorum is not attained or a substitute budget is not adopted by the members, the budget adopted by the Board shall go into effect as scheduled.

6.4 Accounting records and reports.

The Association shall maintain accounting records in Transylvania County. The Association shall maintain records according to accepted accounting practices. The records shall be open to inspection by members or their authorized representatives including mortgagees of Owners at reasonable times. The records shall include, but are not limited to: (a) accurate, itemized and detailed record of all receipts and expenditures, (b) a current account and a monthly, bi-monthly or quarterly statement of the account of each Owner, designating the name and current mailing address of the Owner, the amount of each assessment, the dates and amounts in which the assessments come due, the amount paid on the account and the balance due, (c) all audits, reviews, accounting statements and financial reports of the Association, and (d) all contracts for work to be performed.

6.5 Depository.

The depository of the Association shall be those Federally-insured banks or insured savings and loan associations, state or federal, as shall be designated from time to time by the Board of Directors and in which money

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for the Association shall be deposited. Withdrawal of money from those accounts shall be only checks or other withdrawal instruments signed by those persons as are authorized by the directors.

6.6 Fidelity bonding.

If so decided by the Board, each officer and director of the Association who controls or disburses its funds shall be bonded by a fidelity bond in such principal sum as determined by the Board. The cost of bonding shall be at the expense of the Association.

ARTICLE V". ASSESSMENTS AND COLLECTION

7.1 Assessments, generally.

Assessments shall be made against the Owners on a monthly basis. Lots or Dwelling Units, existing or proposed, owned by a developer, its successor or assigns, shall not be subject to assessments, either regular or special.

7.2 Special or emergency assessments.

A. In addition to the assessments authorized above, the Association may levy in any assessment year a special assessment applicable to that year only for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital improvement to, or on the common elements, including fixtures and personal property related thereto, provided that any such assessment first be approved by the members by an affirmative vote of two-thirds (2/3) of the members duly called for this purpose. Written notice of any meeting of the members of the Association called to consider a special assessment shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of such meeting and shall contain, in detail, the specific purpose for the special assessment and the amount of the proposed assessment. Special assessments shall be paid at the times and in the manner prescribed by the action approved at the properly called meeting.

B. In addition to levying special assessments for general modification of the current budget as provided in 7.2A. above, the Board may levy a special assessment for emergency purposes without a vote of the Association members. An emergency, for purposes of this provision would include but not be limited to improvement of services, the repair and replacement or maintenance of a facility to maintain the basic services for the health or welfare of the community. The specific purpose or purposes of any emergency assessment that cannot be paid from the annual assessment, as determined by the Board of Directors, shall be set forth in a written notice of such assessment mailed to each Owner. The notice shall be mailed within such time before the payment or initial payment thereunder shall be due, as may be reasonable or practical in the circumstances. Emergency assessments shall be paid at the times in the manner that the Board may

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require in the notice of the assessment. The funds collected pursuant to a special assessment or an emergency assessment shall be used only for the specific purpose or purposes set forth in such notice, and any unused portion of the assessment shall be returned to the Owners.

7.3 Charges for other than common expenses.

Charges by the Association against individual members for other than assessments shall be payable in advance and the billing and collection thereof shall be administered by the Association. Charges for other than assessments may be made only after approval of the concerned member or when expressly provided for in the Covenants. These charges may include, without limitation, charges for the use of the Common Areas or recreation facility, maintenance services furnished at the expense of a member and other services furnished for the benefit of a member.

7.4 Liability for assessments or fines.

Each member, regardless of how title is acquired, shall be liable for all assessments and fines coming due while he or she is the Owner. The Owner shall be liable for all unpaid assessments due and payable up to the time of the transfer of title. A first mortgagee or other purchaser of a Lot or Dwelling Unit who obtains title by a purchase at the public sale resulting from the first mortgagee's foreclosure suit, or who obtains title as a result of a deed given in lieu of foreclosure, together with his or her successors and assigns, shall not be liable for the share of assessments attributable to the Lot or Dwelling Unit or chargeable to the former Owner which became due prior to acquisition of title as a result of the foreclosure, unless the share is secured by a claim of lien for assessments that is recorded before the recording of the foreclosed mortgage. The unpaid share of assessments are common expenses collectible from all the members, including such acquirer and his or her successors and assigns. The liability for assessments may not be avoided by waiver of the use or enjoyment of any Common Areas or by abandonment of the Lot or Dwelling Unit for which the assessments are made.

7.5 Assessments, amended budget.

If the annual assessment proves to be insufficient to meet the current obligations of the Association, the budget and assessments may be amended at any time by the Board of Directors. Unpaid assessments for the remaining portion of the year for which an amended assessment is made shall be payable in as many equal installments as there are installment payment dates remaining in the budget year as of the date of the amended assessment. The budget shall not be amended for emergency or special nonrecurring expenses.

7.6 Collection: Interest. application of payment.

Assessments and installments on them, if not paid when they become due (1st day of each month, 10 day grace period) shall bear interest at 18%

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per annum until paid. All assessment payments shall be applied first to interest and then to the assessment payment due.

7.7 Lien for assessment.

The Association has the right to place a lien on each Lot or Dwelling Unit for any unpaid assessments with 18% per annum interest and for reasonable attorneys' fees incurred by the Association incident to the collection of the assessment or enforcement of the lien. The lien is effective from and after recording a claim of lien in the public records of Transylvania County. No such claim of lien (after the claim of lien has been recorded) shall continue to be effective for a period longer than the maximum time allowed by law, unless within that time, an action to enforce the lien is commenced in a court of competent jurisdiction. The claim of lien shall secure all unpaid assessments, interest, costs and attorney fees which are due and which may accrue after recording of the claim of lien and before entry of a final judgement of foreclosure. The lien is subordinate to any mortgage on a Lot or Dwelling Unit recorded before it.

7.8 Collection: suit notice.

The Association may bring an action to foreclose any lien for assessments in the manner that a mortgage of real property is foreclosed. The Association shall give notice to the Owner of its intention to foreclose its lien before the foreclosure action is filed. The notice shall be given by delivery of a copy of it to the Owner or by certified mail, return receipt requested, addressed to the Owner at the last known address or by electronic means, including electronic mail over the Internet, to an electronic mailing address designated in writing by the member.

ARTICLE VIII. ASSOCIATION CONTRACTS, GENERALLY.

Any contracts made by the Association must be fair and reasonable. All contracts for the operation, maintenance or management of the Association or property serving the members, made by the Association, must not be in conflict with the powers and duties of the Association or the rights of the members. Written contracts for operation, maintenance and management entered into by the Association must contain certain elements in order to be valid and enforceable. These include, but are not limited to:

- A. Specification of the services, obligations, and responsibilities of the service provider.
- B. Specification of costs for services performed.
- C. An indication of frequency of performance of services.

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ARTICLE X. COMPLIANCE AND DEFAULT

9.1 Violations notice actions

In the case of a violation (other than the nonpayment of an assessment) by a member of any of the provisions of the Covenants, the Articles, these Bylaws or any lawfully adopted rules and regulations, the Association by direction of its Board of Directors may transmit to the member by certified mail, return receipt requested, a notice of the violation. If the violation should continue for a period of thirty (30) days from the date of the notice, the Association shall have the right to treat the violation as an intentional and material breach of the provision cited in the notice. The Association then, at its option, may take the following actions:

- (a) Impose fines in such reasonable sums as the Board of Directors may deem appropriate (subject to the limitations imposed by North Carolina General Statutes (N. C. G. S.) 47F3-107.1) after having given such owner notice of the charge, opportunity to be heard and to present evidence, and notice of the decision as provided for in N. C. G. S. 47F-3-107.1 with any such fines to be assessments secured by liens under N. C. G. S. 47F-3-116.
- (b) File an action to recover for its damages on behalf of the Association or on behalf of other members.
- (c) File an action for injunctive relief requiring the offending member to take or desist from taking certain actions.
- (d) File an action for both damages and injunctive relief.

An owner may bring an action against the Association for damages, injunctive relief, or both, if the Association falls to comply with the provisions of the Covenants, the Articles, these Bylaws or the rules and regulations. The foregoing action may be taken in addition to the Association's right to impose fines under 4.18 of these Bylaws.

9.2 Attorney's fees.

In any action brought pursuant to the provisions of 9.1, the prevailing party is entitled to recover reasonable attorneys' fees and costs.

ARTICLE X. ARBITRATION OF INTERNAL
DISPUTES

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Internal disputes arising from the operation of the Association among members, the Association, their agents and assigns may be resolved by voluntary binding arbitration. Each party to the dispute first must agree to the arbitration process and, in such case, the arbitrator's final decision will be final. If judicial proceedings are taken after arbitration, the arbitrator's final decision will be admissible in evidence. Any party may seek enforcement of the arbitrator's final decision in a court of competent jurisdiction. Nothing in this article shall preclude any party from proceeding alternatively in the manner prescribed in Article 9 above.

ARTICLE XI. LIABILITY SURVIVES MEMBERSHIP TERMINATION

Termination of membership in the Association shall not relieve or release a former member from any liability or obligation incurred during the period of membership, nor impair any rights or remedies that the Association may have against the former member arising out of his or her membership and his or her covenants and obligations incident to that membership.

ARTICLE PARLIAMENTARY RULES

ROBERTS' RULES OF ORDER (latest edition) shall govern the conduct of the Association's meetings when not in conflict with the Covenants, the Articles or these Bylaws.

ARTICLE XIII. RULES AND REGULATIONS

13.1 Board may adopt.

The Board of Directors may adopt and amend, from time to time reasonable rules and regulations.

13.2 Posting and furnishing copies.

A copy of any rules and regulations adopted by the Board of Directors, and any amendments to existing rules and regulations, shall be furnished to each member by direct delivery, by mail or by electronic means, including email over the Internet. No rule, regulation or amendment shall become effective until thirty (30) days after adaption, except in case of an emergency, in which case the rule, regulation or amendment shall become effective immediately on adoption.

13.3 Reasonableness test.

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Any rule or regulation created and imposed by the Board of Directors must be reasonably related to the promotion of the health, safety, welfare, happiness and peace of mind of the members and uniformly applied and enforced.

ARTICLE BYLAWS DEEMED AMENDED

These Bylaws shall be deemed amended in those particulars as may be required to make them consistent with the provisions of any applicable law as the same may exist from time to time.

ARTICLE XV. PRIORITIES IN CASE OF CONFLICT

In the event of conflict between and among the provisions of any of the following, the order of priorities shall be, from highest priority to lowest: (a) the Covenants; (b) the Articles of Incorporation; (c) these Bylaws; and (d) the rules and regulations.

ARTICLE XVI. AMENDMENTS

Amendments to these Bylaws shall be proposed and adopted in the following manner:

16.1 Notice.

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

16.2 Adoption.

An amendment may be proposed either by a majority of the Board of Directors or by not less than one-third (1/3) of the Association members entitled to vote. The amendment shall be adopted if it is approved by the affirmative vote of two-thirds (2/3) of the Association members casting votes, provided that the number of affirmative votes also constitutes a majority of the Association members entitled to vote.

16.3 Limitation.

No amendment shall be made that is in conflict with the Covenants, nor shall any amendment abridge, alter or amend the rights of the original Developer or his successors, or mortgagees of Lots and Dwelling Units without their consent.

16.4 Format.

Proposals to amend existing Bylaws shall contain the full text of the Bylaws to be amended.

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ARTICLE XVII. ASSOCIATION OFFICIAL RECORDS

The Association, from its inception, shall maintain each of the following items when applicable, which shall constitute the official records of the Association:

- A. A photocopy of the recorded Covenants and all amendments thereto.
- B. A photocopy of the Bylaws of the Association and all amendments thereto.
- C. A certified copy of the Articles of Incorporation of the Association and all amendments thereto.
- D. A copy of the current rules of the Association.
- E. A book or books containing the minutes of all meetings of the Association, of the Board of Directors and of members, which minutes shall be retained in the book for a period of not less than seven years. After seven years a set of minutes for that Association official business year shall be transferred to and stored in the Association archives permanently.
- F. A current roster of all members, their mailing addresses, email addresses, and if known, telephone numbers. Additionally, the Association may require a copy of the deed or other instrument showing each Lot or Dwelling Unit's ownership, together with a copy of any mortgage thereon and any satisfaction of that mortgage.
- G. All current insurance policies of the Association.
- H. A current copy of any management agreement, or other contract to which the Association is a party or under which the Association or the members have an obligation or responsibility.
- I. The accounting record required in Paragraph 6.4.
- J. Voting proxies, which shall be maintained for a period of one year from the date of the meeting for which the proxy was given.

The official records of the Association shall be maintained in Transylvania County and shall be open to inspection by any member or the authorized representative including mortgagees of any Owner at all reasonable times. The right to inspect the records includes the right to make

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or obtain copies, at the reasonable expense, if any, of the member. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor and the unit number or address, any mortgage holder, insurer or guarantor will be entitled to timely written notice of: (a) any condemnation or casualty loss that affects the Lot or Dwelling Unit securing its mortgage; (b) any 60-day delinquency in the payment of assessments or charges owed by the Owner of any Lot or Dwelling Unit on which it holds the mortgage; (c) a lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and (d) any proposed action that requires the consent of a specified percentage of mortgage holders.

ARTICLE XVIII. RESTRICTION ON THE REQUIREMENTS
FOR USE, MAINTENANCE, AND APPEARANCE OF THE
UNITS

18.1 Where contained.

Restrictions on the use, maintenance and appearance of the Lot or Dwelling Units shall be stated in the Covenants. No amendments to such restrictions shall be contained elsewhere than in the Covenants or may be adopted other than in the manner prescribed in and required by the Covenants.

18.2 Tests for validity of restrictions.

Restrictions contained in the Covenants and any amendments duly made as required therein shall be valid and in the nature of covenants running with the land, unless it is shown that they: (1) are wholly arbitrary in their application; (2) are in violation of public policy; or (3) abrogate some fundamental constitutional right.

ARTICLE XIX. TOTAL NUMBER OF LOTS

The total number of Lots for the purpose of calculating the percentages of voting memberships shall be seventy-six (76) Lots. If this number should change by reason of the survey of additional Lots and the subjection of such Lots to the terms of the Covenants, or the consolidation of existing Lots, the calculation of voting memberships shall be adjusted accordingly by action of the Board of Directors.

ARTICLE XX. INDEMNIFICATION

Every member of the Board of Directors, and every officer of the Corporation shall be indemnified by the Corporation against all expenses

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and liabilities, including counsel fees, reasonable incurred by or imposed upon his or her in connection with any proceeding to which he or she may be party, or in which he or she may become involved by reason of his or her being or having been a member of the Board of Directors or officer except in such cases wherein the member of the Board of Directors or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his or her duties. Provided that in the event of any claim for reimbursement of indemnification hereunder based upon a settlement by a member of the Board of Directors, and if the Board of Directors approves such settlement or reimbursement as being in the best interests of the Corporation. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such member of the Board of Directors or officer may be entitled.

The foregoing were adopted as the Bylaws of Waterford Place Property Owners Association, on the 19th day of August, 2021.

WATERFORD PLACE PROPERTY OWNERS
ASSOCIATION

BY:

Ann Bruffy, President

Caylie Kunz, Secretary