

Prepared by Richard M. Lewis, Jr.

## BY-LAWS

OF

HIGHLAND PLACE

OWNERS' ASSOCIATION, INC.

Section 1: Definitions

The words, phrases and terms used in these By-Laws shall have the meanings as set forth in the Declaration of Condominium - Highland Place Condominium filed simultaneously herewith in the Office of the Register of Deeds for Cumberland County, North Carolina, to which a copy of these By-Laws is attached as an Exhibit.

Section 2: Administration of Highland Place Office Condominium

Section 2.1. Authority and Responsibility: Except as otherwise specifically provided in the Condominium Documents, the Association shall be responsible for administering, operating and managing the Common Elements.

Section 2.2. Official Action: Unless specifically required in the Condominium Documents, all actions taken or to be taken by the Association shall be valid when such are approved by the Executive Board as hereinafter set forth or when taken by the committee, person or entity to whom such authority has been duly delegated by the Executive Board as set forth in the Condominium Documents or these By-Laws. The Association, its Executive Board, officers and members shall at all times act in conformity with the Nonprofit Corporation Act of the State of North Carolina, the Condominium Documents, and the Unit Ownership Act.

Section 3: Offices - Seal - Fiscal Year

Section 3.1. Principal Office - Registered Office: The initial principal office and registered office of the Association shall be located at 330 Dick Street, Fayetteville, North Carolina, 28301.

Section 3.2. Other Offices: The Association may have other offices at such other places within the State of North Carolina as the Executive Board may from time to time determine or as the affairs of the Association may require.

Section 3.3. Seal: The seal of the Association shall contain the name of the Association, the word "Seal", year of incorporation and such other words and figures as desired by the Executive Board. When obtained, said seal shall be impressed in the margin of this Section of the By-Laws.

Section 3.4. Fiscal Year: The fiscal year of the Association shall be the calendar year.

Section 4: Membership

Section 4.1. Qualification: Membership in the Association shall be limited to the Owners, and every Owner of a Unit shall automatically be a member of the Association. Membership in the Association shall be appurtenant to and may not be separated from Unit ownership.

Membership in the Association shall inure automatically to Owners upon acquisition of the fee simple title (whether encumbered or not) to any one or more Units. The date of recordation in the Office of the Register of Deeds of Cumberland County, North Carolina, of the conveyance of the Unit in question shall govern the date of ownership of each particular Unit. However, in the case of death, the transfer of ownership shall occur on date of death in the case of intestacy or date of probate of the will in the case of testacy. Until a decedent's will is probated, the Association may rely on the presumption that a deceased Owner died intestate.

Section 4.2. Place of Meetings: All meetings of the membership shall be held at the Property.

Section 4.3. Annual Meetings: The first meeting of the Members of the Association shall be held within ninety (90) days after the earlier to occur of (i) the Developer's conveyance by deed to Unit Owners other than the Developer of Units to which two-thirds (2/3) of the percentage ownership in the Condominium Project is allocated pursuant to the Declaration or (ii) such time as a meeting is necessary for the election of a Director pursuant to Section 5.2 of the By-Laws. Thereafter, the Annual Meeting of the Members shall be held on the second Monday in March of each year at 8:00 p.m., Eastern Standard Time. If the second Monday in March shall be a legal holiday, the Annual Meeting shall be held at the same hour on the first day following which is not a legal holiday. At such meetings, the Executive Board shall be elected in accordance with Section 5.4 of these By-Laws, and the Members shall transact such other business as may properly come before them.

Section 4.4. Substitute Annual Meetings: If an Annual Meeting shall not be held on the day designated by these By-Laws, a Substitute Annual Meeting may be called in accordance with the provisions of Sections 4.5 and 4.6. A meeting so called shall be designated and treated for all purposes as the Annual Meeting.

Section 4.5. Special Meetings: After the first Annual Meeting of the Members, Special Meetings of the Members may be called at any time by the President; by Owners to whom are allocated no less than a twenty percent (20%) interest in the Common Elements; or by not less than forty percent (40%) of the Executive Board members. Business to be acted upon at all Special Meetings shall be confined to the subjects stated in the notice of such meeting.

Section 4.6. Notices of Meetings: Written or printed notice stating the time and place of a membership meeting, including Annual Meetings, shall be delivered not less than ten (10) nor more than fifty (50) days before the date of any such membership meeting, either personally or by mail, by or at the discretion of the President or the Secretary, to the address of each Unit. Notice shall be deemed given upon deposit in the mail depository of each Unit.

Notice given to any one tenant in common, tenant by entirety or other joint Owner of a Unit shall be deemed notice to all joint Owners of the subject Unit.

The notice of meeting shall specifically state the purpose or purposes for which the meeting is called.

Section 4.7. Quorum: Except as otherwise provided in these By-Laws, the presence in person or by proxy of more than fifty percent (50%) of the percentage values of those votes entitled to be cast for the election of the Executive Board shall constitute a quorum at all meetings of the Members. If a quorum is not present or represented at any meeting, the Members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than the announcement at the meeting, until a quorum is present or is represented.

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

Section 4.8. Voting Rights: Each member shall be entitled to a vote, the value of which shall equal the total of the percentages allocated to the Unit or Units owned by such Member as set forth in the Declaration. In the event fee simple title to a Unit is owned of record by more than one person or entity, all such persons or entities shall be Members of the Association, but the votes with respect to any such jointly owned Unit shall be cast as hereinafter provided.

If the fee simple title to any Unit is owned of record by two or more persons or entities (whether individually or in a fiduciary capacity), the votes with respect to any such jointly owned Unit may be cast by any one of the joint Owners in person or by proxy, except that the holder or holders of a life estate in a Unit shall have the sole right to cast the votes allocated to

the Unit. If more than one of the joint Owners vote or more than one life estate holder in a Unit vote, the unanimous action of all joint Owners or joint life estate holders voting shall be necessary to effectively cast the votes allocated to the particular Unit. Such unanimous action shall be conclusively presumed if any one of such multiple Owners casts the votes allocated to that Unit without protest being made promptly to the person presiding over the meeting by any of the other such joint Owners.

In no event may the votes which may be cast with respect to any Unit be divided among joint Owners of the Unit or cast in any manner other than as a whole, it being the intention of this Section 4.8 that there be no "splitting" of votes that may be cast by any Member or Members.

Section 4.9. Proxies: Members may vote either in person or by agents duly authorized by written proxy executed by the subject Member or by his duly authorized attorney-in-fact. A proxy is not valid after the expiration of eleven (11) months from the date of its execution. Unless a proxy otherwise provides, any proxyholder may appoint in writing a substitute to act in his place. In order to be effective, all proxies must be filed with the Secretary or duly acting Secretary either during or prior to the meeting in question. A member may not revoke a proxy given pursuant to this Section 4.9 except by actual notice of revocation to the person presiding over a meeting of the Association.

All of the above provisions concerning voting by joint Owners shall apply to the votes cast for any one Unit by two or more proxyholders.

Section 4.10. Majority Vote; Withdrawal of Quorum: When a quorum is present at any meeting, the vote of the holders of more than fifty percent (50%) of the percentage values of those votes entitled to be cast of Members qualified to vote and present in person or by proxy, shall decide any question brought before such meeting, unless the question is one upon which by express provision of the North Carolina Unit Ownership Act, the North Carolina Non-Profit Corporation Act, the Articles of Incorporation these By-Laws, or the Declaration, a different vote is required, in which case such express provision shall govern and control the decision of such question. The Members present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum.

Section 4.11. Actions Without Meeting: Any action which may be taken at a meeting of the membership may be taken without a meeting if consent or ratification, in writing, setting forth the action so taken or to be taken shall be signed by all of the persons who would be entitled to vote upon such action at a meeting and such consent is filed with the Secretary of the Association and inserted in the minute book of the Association.

#### Section 5: Executive Board

Section 5.1. General Powers: The business and affairs of the Association shall be managed by its Executive Board who may exercise all such powers of the Association and do all such lawful acts and things as are not by statute, the Articles of Incorporation, these By-Laws, or the Declarations directed or required to be exercised or done by the Members, including the promulgated rules, regulations and policies concerning the Association. Provided, however, the Executive Board may not act on behalf of the Association to amend the Declaration, to terminate the Condominium, to elect members of the Executive Board, or to determine the qualifications, powers and duties, or terms of office of Executive Board members.

Section 5.2. Number; Qualifications; Elections; Term: The initial Executive Board shall consist of three (3) individuals appointed by Declarant whose names are set forth in the Articles of Incorporation of the Association. They need not be Members of the Association or an employee of Declarant, or its subsidiaries or affiliates. The initial Board shall serve until their successors are elected or appointed at the first Annual Membership Meeting. Each Director elected by the Membership to replace an initial Director upon the expiration of his term of office shall serve for a term of office ending with the third Annual Meeting of members following his election or until his successor shall be elected and qualify. The Executive Board shall be appointed by the Declarant until the earlier to occur of (i) one hundred twenty (120) days after conveyance of Units, to which seventy-five percent (75%) of the total percentage of the ownership appertain; or (ii) two years after the Declarant

ceases to offer any Units for sale in the ordinary course of business; or (iii) two years after any development right to add new units was exercised, at which time, the Unit Owners shall elect at least five (5) Directors, three (3) of whom must be Unit Owners. Provided however, that no later than sixty (60) days after conveyance of Units to which twenty-five percent (25%) of the total percentage of ownership appertain to Unit Owners other than the Declarant, at least one (1) Member, and not less than twenty-five percent (25%) of the Directors shall be elected by Unit Owners other than the Declarant. Provided further that not later than sixty (60) days after conveyance of Units to which fifty percent (50%) of the total percentage of ownership appertain to Unit Owners other than the Declarant, not less than thirty-three percent (33%) of the Directors shall be elected by Unit Owners other than the Declarant. At such time as the Membership controls the election of a majority of the Executive board, the number of Directors shall become at least five (5). The two (2) additional directors shall be initially elected for terms not to exceed three (3) years which shall best give balance to the Board for staggered terms. Thereafter, each Director shall serve staggered terms of three (3) years each.

Section 5.3. Nominations: Nominations for election to the Executive Board shall be made by a Nominating Committee consisting of a Chairman, who shall be a Board member, and at least two (2) Members of the Association. The Nominating Committee shall be appointed by the Board prior to each Annual Meeting of the Members to serve from the close of such Annual meeting until the close of the next Annual Meeting and such appointment shall be announced at each Annual meeting. The Nominating Committee shall make as many nominations for election to the Executive Board as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Nominations may also be made from the floor at the Meeting during which the election is to be held.

Section 5.4. Election of Board Members: The Declarant shall, at the beginning of the election of the Executive Board, select that number of the members of the Executive Board which it shall be entitled to select in accordance with the terms of these By-Laws. The election of all other Board members shall be by ballot. Persons receiving the highest number of votes (see Section 4.8) shall be elected. Cumulative voting is not permitted.

Section 5.5. Removal: Any Board member selected by Declarant may be removed at any time by Declarant and his successor shall be immediately designated by Declarant. Any other Board member may be removed from the Board, with or without cause, by a vote (Section 4.10) of at least sixty-seven percent (67%) of the votes entitled to be cast by all Members present and entitled to vote at any Special meeting of the Membership at which a quorum is present. Provided, the notice of the meeting must state that the question of such removal will be acted upon at the subject meeting. If any Board members are so removed, their successors as Board members may be elected by the Membership at the same meeting to fill the unexpired terms of the Board members so removed.

Section 5.6. Vacancies: A vacancy occurring in the Executive Board may be filled for the unexpired portion of any term by a majority of the remaining Board members, though less than a quorum, or by the sole remaining Board members; but a vacancy created by an increase in the authorized number of Board members shall be filled only by election at an Annual or Substitute Annual Meeting or at a Special Meeting of Members called for the purpose or by unanimous consent of the Members without meeting. The Members may elect a Board member at any time to fill any vacancy not filled by the Board members. As indicated in Section 5.6, the Membership shall have the first right to fill any vacancy created by the Membership's removal of a Board member.

Section 5.7. Chairman: The President shall serve as Chairman of the Executive Board. The Chairman shall preside at all meetings of the Executive Board and perform such other duties as may be directed by the Board. In the absence of the President, the Vice President shall preside at all meetings of the Executive Board.

Section 5.8. Compensation: No Member of the Executive Board shall receive any compensation from the Association for acting as such. Provided, however, each Board member shall be reimbursed for reasonable out-of-pocket expenses incurred and paid by him on behalf of the Association, and nothing herein shall prohibit the Board compensating a Board member for unusual and extraordinary services rendered on the basis of quantum meruit. Further

provided, each Board member, by assuming office, waives his right to institute suit against or make claim upon the Association for compensation based upon quantum meruit.

Section 5.9. Loans to Board Members and Officers: No loans shall be made by the Association to its Board members or officers. The Board members who vote for or assent to the making of a loan to a Board member or officer of the Association, and any officer or officers participating in the making of such loan, shall be jointly and severally liable to the Association for the amount of such loan until the repayment thereof.

Section 5.10. Liability of Board Members: To the extent permitted by the provisions of the North Carolina Nonprofit Corporation Act in effect at the applicable time, each Board member is hereby indemnified by the Association with respect to any liability and expense of litigation arising out of his activities as a Board member. Such indemnity shall be subject to approval by the Members only when such approval is required by said Act.

Section 5.11. Meeting of Executive Board:

A. Regular Meetings: Regular Meetings shall be held, without notice, at such hour and address as may be fixed from time to time by resolution of the Board. Should any such meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

B. Special Meetings: Special Meetings shall be held when called by the President of the Association, or by any Board member, after not less than three (3) or more than thirty (30) days written notice to each Board member.

C. Notices of Special Meetings: The notice provided for herein may be waived by written instrument signed by those Board members who do not receive said notice. Except to the extent otherwise required by law, the purpose of the Board members' Special Meeting need not be stated in the notice. Notices shall be deemed received upon the happening of any one of the following events: (1) one day following deposit of same in the United States mail with proper postage paid and addressed to the Board member at his last known address on file with the Association; (2) deposit of same in his Unit mail box; (3) delivery to the Board member. Attendance by a Board member at a meeting shall constitute a waiver of notice of such meeting unless the subject Board member gives a written statement at the meeting to the person presiding objecting to the transaction of any business because the meeting is not lawfully called and gives such notice prior to the vote on any resolution.

D. Approved Meeting Place: All Board meetings shall be held in the City of Fayetteville or County of Cumberland, State of North Carolina.

E. Quorum: A majority of the Board members then holding office shall constitute a quorum for the transaction of business and every act or decision done or made by a majority of the Board members present at a duly held meeting at which a quorum is present shall be regarded as the act or decision of the Board.

Section 5.12. Action Without Meeting: The Board members shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Board members. Any action so approved shall have the same effect as though taken at a meeting of the Board. Said written approval shall be filed with the minutes of the proceedings of the Board, whether done before or after the action so taken.

Section 5.13. Presumption of Assent: A Board member who is present at a meeting of the Board at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his contrary vote is recorded or his dissent is otherwise entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as the Secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the Secretary of the Association immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Board member who voted in favor of such action.

Section 5.14. Powers and Duties: The Executive Board shall have the authority to exercise all powers and duties of the Association necessary for the administration of the affairs of the Condominium. The powers and duties to be exercised by the Board shall include, but shall not be limited to, the following:

- A. Operation, care, upkeep and maintenance of the Common Elements;
- B. Determination of the funds required for operation, administration, maintenance and other affairs of the Condominium and collection of the Common Expenses from the Owners, as provided in the Condominium Documents;
- C. Employment and dismissal of personnel (including without limitation the Independent Manager) necessary for the efficient operation, maintenance, repair, and replacement of the Common Elements;
- D. Adoption of rules and regulations covering the details of the operation and use of the Common Elements;
- E. Opening of bank accounts on behalf of the Association and designating the signatories required therefor;
- F. Obtaining insurance as required under the terms of the applicable provisions of the Declaration;
- G. Keeping detailed, accurate records of the receipts and expenditures of the Association; obtaining annual audits of the financial records of the Association from the Association's public accountant; furnishing the annual reports; and furnishing current budgets. All books and records shall be kept in accordance with good and accepted accounting practices and the same shall be available for examination by all Owners or their duly authorized agents or attorneys, at convenient hours on working days;
- H. Keeping a complete record of the minutes of all meetings of the Board and Membership in which minute book shall be inserted actions taken by the Board and/or Members by consent without meeting.
- I. Supervising all officers, agents and employees of the Association and insuring that their duties are properly performed;
- J. Enforcing, on behalf of the Association, the assessments as provided in the Declaration including, but not limited to, the institution of civil actions to enforce payment of the assessments as provided in the Declaration, and the institution of actions to foreclose liens for such assessments in accordance with the terms of N.C.G.S. 47C-3-116 and 117;
- K. Making of repairs, additions, and improvements to or alterations or restoration of the Property in accordance with the other provisions of these By-Laws and the Declaration, after damage or destruction by fire or other casualty, or as a result of a condemnation or eminent domain proceeding;
- L. Enforcing by any legal means or proceeding the provisions of the Articles of Incorporation of the Association, these By-Laws, the Declaration or the rules and regulations hereinafter promulgated governing use of the Common Elements;
- M. Paying all taxes and assessments which are or may become liens against any part of the Condominium, other than the Units, and to assess the same against the Owners in the manner herein provided;
- N. Hiring attorneys and other professionals;
- O. Maintaining and repairing any Unit, if such maintenance or repair is required by the Declaration or is necessary in the discretion of the Board to protect the Common Elements or any other Unit or if the Owner of such Unit has failed or refused to perform such maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair has been delivered or mailed by the Board to said Owner, provided that the Board shall levy a special assessment against such Owner for the costs of said maintenance or repair pursuant to N.C.G.S. 47C-3-107;

P. Entering any Unit when necessary in connection with any maintenance or construction for which the Board is responsible; provided, such entry shall be made during reasonable hours with as little inconvenience to the Owner as practicable, and any damage caused thereby shall be repaired by the Board and such expenses shall be treated as a Common Expense; and entering any Unit for the purpose of correcting or abating any condition or situation deemed by the Executive Board to be an emergency;

Q. Signing all agreements, contracts, deeds and vouchers for payment of expenditures and other instruments in such manner as from time to time shall be determined by written resolution of the Board. In the absence of such determination by the Board, such documents shall be signed by either the Treasurer or the Assistant Treasurer of the Association, and countersigned by any Board member;

R. Furnishing certificates setting forth the amounts of unpaid assessments that have been levied upon a Unit to the Owner or Mortgagee of such Unit, or a proposed purchaser or Mortgagee of such Unit, and imposing and collecting reasonable charges therefor; and

S. Exercising any other powers and duties reserved to the Association exercisable by the Executive Board in the Declaration, the Articles of Incorporation, these By-Laws, or the North Carolina Condominium Act.

Section 5.15. Independent Manager: The Executive Board may employ or enter into a management contract with any individual, firm or entity it deems appropriate and in the best interest of the Association concerning the routine management of the Condominium. The Executive Board may delegate to such person, firm or entity (referred to in these By-Laws as "Independent Manager") such duties and responsibilities in the management of the Property as the Executive Board deems appropriate. Provided, the Executive Board may not delegate to the Independent Manager the complete and total responsibilities and duties of the Association in violation of the Nonprofit Corporation Act of North Carolina or the North Carolina Condominium Act. The Independent Manager's contract shall be for a term not to exceed one (1) year, renewable by agreement between the Executive Board and such Independent Manager for successive one-year terms; and shall be terminable by the Executive Board, with or without cause, upon thirty (30) days written notice. The Executive Board shall have authority to fix the reasonable compensation for the Independent Manager. The Independent Manager shall at all times be answerable to the Executive Board and subject to its direction.

Section 5.16. Contracts and Leases of Declarant: Pursuant to N.C.G.S. 47C-3-105, neither the Executive Board nor the Association shall be bound, either directly or indirectly, under any contract or lease (including any contract with any independent Manager) entered into by the Executive Board or by the Association during such time Declarant had the right to select a majority of the members of the Executive Board, unless such contract contains a right of termination, without cause, in favor of the Executive Board and/or Association, exercisable without penalty at any time upon not more than ninety (90) days written notice of the other party.

Section 5.17. Adjudicatory Panel: The Executive Board may appoint three (3) Members of the Association, including any Director, to serve as an Adjudicatory Panel for the resolution of disputes concerning individual Unit Owners. Matters that may be brought before the Adjudicatory Panel include the attribution of cost of repairs for damage to Units or the Common Elements caused by a Unit Owner in accordance with Section 5.14 of these By-Laws and subject to the provisions of Section 47C-3-107 of the Act, and penalties and fines for violation of the rules and regulations that may be adopted from time to time by the Association, and for violation of provisions of these By-Laws or the Declaration, subject to the provisions of Section 47C-3-107A of the Act.

## Section 6: Committees

Section 6.1 Creation: The Executive Board, by resolutions adopted by a majority of the number of Board members then holding office, may create such committees as they deem necessary and appropriate in aiding the Executive Board to carry out its duties and responsibilities with respect to the management of the Condominium. Each committee so created shall have such authorities and responsibilities as the Board members deem appropriate and as set forth

in the resolutions creating such committee. The Executive Board shall elect the members of each such committee. Provided, each committee shall have in its membership at least one (1) member of the Executive Board.

Section 6.2. Vacancy: Any vacancy occurring on a committee shall be filled by a majority of the number of Board members then holding office at a regular or special meeting of the Executive Board.

Section 6.3. Removal: Any member of a committee may be removed at any time with or without cause by a majority of the number of Board members then holding office.

Section 6.4. Minutes: Each committee shall keep regular minutes of its proceedings and report the same to the Board when required.

Section 6.5. Responsibility of Board Members: The designation of committees and the delegation thereto of authority shall not operate to relieve the Executive Board or any member thereof of any responsibility or liability imposed upon it or him by law.

If action taken by a committee is not thereafter formally considered by the Board, a Board member may dissent from such action by filing his written objection with the Secretary with reasonable promptness after learning of such action.

### Section 7: Officers

Section 7.1. Enumeration of Officers: The officers of the Association shall consist of a President, a Secretary, a Treasurer and such Vice Presidents, Assistant Secretaries, Assistant Treasurers and other officers as the Executive Board may from time to time elect. Except for the President and Secretary, no officer need be a member of the Executive Board.

Section 7.2. Election and Term: The officers of the Association shall be elected annually by the Executive Board. Such elections shall be held at the first meeting of the Board next following the Annual or Substitute Annual Meeting of the Members. Each officer shall hold office until his death, resignation, removal or until his successor is elected and qualified.

Section 7.3. Removal: Any officer elected or appointed by the Executive Board may be removed by the Board whenever in its judgment the best interest of the Association will be served thereby.

Section 7.4. Vacancy: A vacancy in any office may be filled by the election by the Executive Board of a successor to such office. Such election may be held at any meeting of the Board. The officer elected to such vacancy shall serve for the remaining term of the officer he replaces.

Section 7.5. Multiple Offices: The person holding the office of President shall not also hold the office of Secretary or Treasurer at the same time. Any other offices may be simultaneously held by one person. The offices of President and Secretary shall be members of the Executive Board.

Section 7.6. President: The President shall be the chief executive officer of the Association and shall preside at all meetings of the Members and at all meetings of the Executive Board. He shall see that the orders and resolutions of the Executive Board are carried out; he shall sign all written instruments regarding the Common Elements and cosign all promissory notes of the Association, if any; and he shall have all of the general powers and duties which are incident to the office of President of a corporation organized under Chapter 55A of the North Carolina General Statutes in the supervision and control of the management of the Association in accordance with these By-Laws.

Section 7.7. Vice Presidents: The Vice Presidents in the order of their election, unless otherwise determined by the Executive Board shall, in the absence or disability of the President, perform the duties and exercise the powers of that office. In addition, they shall perform such other duties and have such other powers as the Executive Board shall prescribe.

Section 7.8. Secretary: The Secretary shall keep the minutes of all meetings of Members and of the Executive Board; he shall have charge of such books and papers as the Executive Board may direct; and he shall, in



general, perform all duties incident to the office of Secretary of a corporation organized under Chapter 55A of the General Statutes of North Carolina.

Section 7.9 Treasurer: The Treasurer shall have the responsibility for the Association's funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of all required financial statements. He shall co-sign promissory notes of the Association; he shall cause an annual audit of the Association's books to be made by the Association's public accountant at the completion of each fiscal year; he shall prepare a proposed annual budget (to be approved by the Board) and the other reports to be furnished to the Members as required in the Declaration. He shall perform all duties incident to the office of Treasurer of a corporation organized under Chapter 55A of the General Statutes of North Carolina.

Section 7.10. Assistant Secretaries and Treasurers: The Assistant Secretaries and Treasurers shall, in the absence or disability of the Secretary or the Treasurer, respectively, perform the duties and exercise the powers of those offices, and they shall, in general, perform such other duties as shall be assigned to them by the Secretary or the Treasurer, respectively, or by the President or the Executive Board.

Section 7.11. Compensation: Officers shall not be compensated on a regular basis for the usual and ordinary services rendered to the Association incident to the offices held by such officers. The Executive Board may, however, compensate any officer or officers who render unusual and extraordinary services to the Association beyond that called for to be rendered by such person or persons on a regular basis. Each officer, by assuming office, waives his right to institute suit against or make claim upon the Association for compensation based upon quantum meruit.

Section 7.12. Indemnification: To the extent permitted by the provisions of the North Carolina Nonprofit Corporation Act in effect at the applicable times, each officer is hereby indemnified by the Association with respect to any liability and expense of litigation arising out of his activities as an officer. Such indemnity shall be subject to approval by the Members only when such approval is required by said Act.

#### Section 8: Operation of the Property

Section 8.1. Determination of Common Expenses and Fixing of the Common Charges: The Executive Board shall from time to time, and at least annually, prepare and adopt a proposed time, and at least annually, prepare and adopt a proposed budget for the Condominium, determine the amount of the Common Expenses payable by the Owners to meet the proposed budget of the Condominium, and allocate and assess such proposed Common Expenses among the Owners according to their respective allocated interests in the Common Elements, all in accordance with the procedure set forth in this Section 8. The Common Expenses shall include, among other things, the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Executive Board pursuant to the provisions of the Declaration. The Common Expenses shall also include such amounts as the Executive Board deems necessary for the operation and maintenance of the Property, including without limitation, an amount for working capital of the Condominium; an amount for a general operating reserve; an amount for a reserve fund for repair and replacement of the Common Elements; and such Common Expenses for any prior year. Within thirty (30) days after adoption of any proposed budget for the Condominium, copies of such budget shall be mailed by regular mail to each Unit Owner, at such address as may be provided by such Unit Owner to the Association within thirty (30) days after adoption by the Executive Board. The Executive Board shall also establish a date and time for a meeting of the Unit Owners to consider ratification of the budget not less than fourteen (14) nor more than thirty (30) days after mailing of a budget. No quorum shall be required for such meeting and a simple majority of the percentage of ownership present at such meeting shall be sufficient for ratification. Failure of any Unit Owner to receive notice of such meeting shall not affect the liability of such Unit Owner for any existing or future assessments. Should the Executive Board at any time determine, in their sole discretion, that the assessments levied are insufficient to pay such expenses in any fiscal year, the Executive Board may at any time and from time to time levy such additional assessments as they shall deem necessary for such purpose.

As a part of the Common expenses, the Association shall be empowered to levy assessments against the Owners of Units within the Condominium for payment of taxes and payment of assessments for public and private capital improvements made to or for the benefit of the Common Areas located within the Condominium. Any such assessments that remain unpaid by the Owner of any Unit shall constitute a lien on the Unit of the Owner. It shall be further provided that upon default by the Owner's Association in the payment to the governmental authority entitled thereto of any ad valorem taxes levied against the Common Areas or assessments for public improvements to the Common Areas, which default shall continue for a period of six (6) months, each Owner of a Unit in the development shall become personally obligated to pay to the tax assessing governmental authority a portion of such taxes or assessments in an amount determined by dividing the total taxes and/or assessments due by the percentage of ownership of each Unit Owner in the Condominium. If such sum is not paid by the Owner within thirty (30) days following receipt of notice of the amount due, then such sum shall become a continuing lien on the Unit of the then Owner, his heirs, devisees, personal representatives and assigns, and the taxing or assessing governmental authority may either bring an action at law against the Owner personally obligated to pay the same or may elect to foreclose the lien against the property of the Owner.

The Association, acting through the Executive Board, may levy a special assessment during any calendar year for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement comprising or to comprise a portion of the Common Elements, including fixtures and personal property; provided, however that any such special assessment must be approved by the vote of Owners of Units to which at least sixty-seven (67%) of the votes in the Association are allocated cast in person or by proxy at a meeting duly held in accordance with the provisions of these By-Laws.

The initial assessment shall be that amount established by the Declarant and shall not exceed \$ 52.00 per month for a 1,000 square foot Unit; \$ 78.00 per month for a 1,500 square foot Unit.

Section 8.2 Payment of Common Expenses: All Owners shall be obligated to pay the Common Expenses assessed by the Executive Board pursuant to the provisions of Section 8.1 hereof at such time or times as the Board shall determine. No Owner shall be liable for the payment of any part of the Common Expenses assessed against his Unit subsequent to a sale, transfer or other conveyance by him (made in accordance with the provisions of the Declaration and applicable restrictions of record) of such Unit. A purchaser of a Unit shall be jointly and severally liable with the seller for the payment of Common Expenses assessed against such Unit prior to the acquisition by the purchaser of such Unit without prejudice to the purchaser's rights to recover from the seller the amounts paid by the purchaser therefor.

Section 8.3. Collection of Assessments: The Executive Board shall assess Common Expenses against the Units from time to time and at least quarterly in accordance with the allocations set forth in the Declaration. The Executive Board shall take prompt action to collect any Common Expenses which remain unpaid for more than thirty (30) days from the due date for payment thereof.

The Executive Board shall notify the holder of the Mortgage on any Unit (of which it has notice) for which any Common Expenses assessed pursuant to these By-Laws remain unpaid for more than thirty (30) days from the due date for payment thereof and in any other case where the Owner of such Unit is in default with respect to the performance of any other obligation hereunder for a period in excess of thirty (30) days.

Section 8.4. Default in Payment of Common Expenses; Remedies: In the event of default by any Owner in paying to the Executive Board the Common Expenses as determined by the Board, such Owner shall be obligated to pay interest on such Common Expenses from the due date thereof at the rate of eighteen percent (18%) per annum, or the maximum rate allowed by law, whichever is less, together with all expenses, including reasonable attorneys' fees (if permitted by law), incurred by the Executive Board in any proceeding brought to collect such unpaid Common Expenses.

The Executive Board shall have the right and duty to attempt to recover such Common Expenses, together with interest thereon, and the expenses of

the proceedings, including reasonable attorneys' fees, incurred by the Executive Board in any proceeding brought to collect such unpaid Common Expenses.

Section 8.5 Lien and Personal Obligations: All Common Expenses provided for in this Article, together with the interest and expenses, including reasonable attorneys' fees (if permitted by law), as provided for herein, shall be a charge on and continuing lien upon the Unit against which the assessment is made, which such lien shall be prior to all other liens excepting only (i) assessments, liens and charges for real estate taxes due and unpaid on the Unit; (ii) all sums unpaid on first lien Mortgages and other encumbrances duly recorded against the Unit prior to the docketing of such lien; and (iii) materialmen's and mechanic's liens. Any assessment levied against a Unit remaining unpaid for a period of thirty (30) days or longer shall constitute a lien on that Unit when filed of record in the office of the clerk of superior court in the manner provided therefor by Article 8 of Chapter 44 of the General Statutes. The Association's lien may be foreclosed in like manner as a mortgage on real estate under power of sale under Article 24 of Chapter 45 of the General Statutes. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his Unit. Such notice of lien shall also secure all assessments against the Unit becoming due thereafter until the lien has been satisfied. In addition, each owner shall be personally liable for any assessment against his Unit.

Section 8.6. Foreclosure of Liens for Unpaid Common Expenses: In any action brought by the Executive Board to foreclose on a Unit because of unpaid Common Expenses, the Owner shall be required to pay a reasonable rental for the use of his Unit and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same.

Section 8.7. Abatement and Enjoyment of Violations by Owners: The violation of any rule or regulation adopted by the Executive Board or the breach of any By-Law contained herein, or the breach of any provision of the Declaration, shall give the Board the right, in addition to any other rights set forth in these By-Laws or at law or in equity: (a) to enter the Unit in which or as to which such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board shall not thereby be deemed guilty in any manner of trespass; and/or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach at the expense of the defaulting Owner.

Section 8.8. Maintenance and Repair: (a) All maintenance and any repairs to any Unit, whether ordinary or extraordinary (other than maintenance and/or repairs to any Common Elements contained therein and not necessitated by the negligence, misuse or neglect of the Owner of such Unit) shall be made by the Owner of such Unit. Each Owner shall be responsible for all damages to any and all other Units and/or to the Common Elements that his failure to do so may engender; and (b) all maintenance, repairs and replacements to the Common Elements (unless necessitated by the negligence, misuse or neglect of an Owner, in which case such expense shall be charged to and paid by such Owner), shall be made by the Board; provided, however, there is excluded from the provisions contained in this Section any repairs necessitated by casualty insured against by the Executive Board to the extent the Executive Board receives insurance proceeds for such repairs.

Section 8.9. Additions, Alterations or Improvements by Owners: No Owner shall make any structural addition, alteration, or improvement in or to his Unit or to any Limited Common Element, or any change in the exterior appearance thereof, without the prior written consent thereto of the Executive Board. The Board shall have the obligation to answer any such written request by an Owner within thirty (30) days after such request, but failure to do so within the stipulated time shall not constitute a consent by the Executive Board to the proposed addition, alteration, improvement or change.

Section 8.10. Use of Common Elements: An Owner shall not interfere with the use of the common Elements by the remaining Owners and their employees and invitees.

Section 8.11. Right of Access: An Owner shall grant a right of access to his Unit to the Independent Manager and/or any other person authorized by the Executive Board or the Independent Manager for the purpose of making inspection of or for the purpose of correcting any condition originating in his Unit and threatening another Unit or the common Elements, or for the purpose of performing installations, alterations or repairs to the mechanical or electrical equipment or other Common Elements in or adjoining his Unit; provided, however, such request for entry (except in the case of emergencies where no request shall be required) are made in advance and any such entry is at a time reasonably convenient to the Owner. In the case of an emergency, such right of entry shall be immediate whether the Owner is present at the time or not.

Section 8.12. Rules of Conduct: Rules and Regulations concerning the use of the Condominium Project shall be promulgated by the Executive Board of the Association, and such Rules and Regulations shall be binding on all Members of the Association unless duly amended by the Executive Board or by a majority in percentage of ownership of all of the Unit Owners.

Section 8.13. Utilities: Any utilities (including water, sewer, heating, and air conditioning) which may be provided to the Units through a single or common meter or facility and utilities furnished to any portion of the Common Elements shall be paid pro rata by each Owner as and when billed or, at the option of the Board, such may be paid by the Board as a Common Expense.

#### Section 9: Amendments

Section 9.1. These By-Laws may be amended only by the vote of the Owners of Units to which at least fifty percent (50%) of the ownership of the Association is allocated. Provided, however, where a larger vote in the Association is required for the Association to take or refrain from taking a specific action, as set forth in the Condominium Documents, no amendment of these By-Laws shall be made unless and until the Owners holding such larger percentage of the vote in the Association approve said amending instrument. All persons or entities who own or hereafter acquire any interest in the Property shall be bound to abide by any amendment to these By-Laws which is duly passed, signed, acknowledged and recorded as provided herein. No amendment to these By-Laws shall be adopted or passed which shall impair or prejudice the rights and priorities of any Mortgagee without the consent of such Mortgagee. No amendment to these By-Laws shall be adopted or passed which shall impair or prejudice the rights of Declarant provided for in the Condominium Documents, without the consent of Declarant.

Section 9.2. No amendment to these By-Laws, the Declaration and Articles of Incorporation shall be effective until prepared, executed and certified on behalf of the Association by any officer designated for that purpose or, in the absence of designation, by the President of the Association, and recorded in the Office of the Register of Deeds of Cumberland County, North Carolina.

#### Section 10: Enforcement Actions

The Association or any Unit Owner shall have the right to prosecute any proceedings at law or in equity against any person or persons violating any of the provisions of these By-Laws and to obtain relief by way of injunction, money damages, or both. In the event that any provision of these By-Laws shall be held invalid by judgment or court order, it shall not be deemed to affect any of the other provisions herein, which shall continue and remain in full force and effect. In the event that any provision hereof shall be declared void by a court of competent jurisdiction by reason of the period of time for which the same shall be effective, then the term of such provisions shall be reduced by the maximum period of time allowed by the laws of the State of North Carolina.

#### Section 11: Remedies

Section 11.1. Default: Failure of any Unit Owner to comply with any of the terms of the Declaration, these By-Laws, the Articles of Incorporation or duly adopted Rules and Regulations of the Association shall constitute an event of default and shall be grounds for relief.

Section 11.2. Costs: In any proceeding by the Association or an aggrieved Unit Owner arising because of any alleged default by a Unit Owner, the Association or such aggrieved Unit Owner, if successful, shall be entitled to recover the costs of the proceeding and reasonable attorneys' fees from such defaulting Unit Owner.

Section 11.3. No Waiver: The failure of the Association or of any Unit Owner to enforce any right, provision, covenant or condition which may be granted by the Declaration, these By-Laws, the Articles of Incorporation or duly adopted Rules and Regulations of the Association shall not constitute a waiver of the right of the Association or of any such Unit Owner to enforce such right, provision, covenant or condition in the future.

Section 11.4. Rights Cumulative: All rights, remedies and privileges granted to the Association or any Unit Owner pursuant to any provisions of the Declaration, these By-Laws, the Articles of Incorporation or duly adopted Rules and Regulations of the Association, shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other additional rights, remedies or privileges as may be available to such party at law or in equity.

Section 12: Severability

In the event that any of the terms, provisions or covenants of these By-Laws are held to be partially or wholly invalid or unenforceable for any reason whatsoever, such holding shall not affect, alter, modify or impair in any manner whatsoever any of the other terms, provisions or covenants hereof or the remaining portions of any terms, provisions or covenants held to be partially invalid or unenforceable.

Section 13: Miscellaneous Provisions

Section 13.1. Reserves: There may be created by resolution of the Executive Board such reserve or reserves as the Executive Board from time to time, in their discretion, think proper to provide for contingencies, or to repair or maintain any portion of the Condominium Project, or for such other purposes as the Executive Board shall think beneficial to the Association, and the Executive Board may modify or abolish any such reserve in the manner in which it was created.

Section 13.2. Acceptance of Governing Rules: The Association, all present or future Unit Owners, tenants or future tenants, or any other persons using the facilities of the Condominium Project are subject to and shall comply with the Act, the Declaration, the By-Laws and the Articles of Incorporation, Rules and Regulations of the Association, and the acquisition, occupancy or rental of a Unit shall signify that all such documents are accepted and ratified. In the event of a conflict in any of the provisions of any of such documents, the documents shall govern or control in the following order of preference: (1) the Act, (2) orders of the City of Fayetteville, (3) the Declaration, (4) the By-Laws, (5) the Articles of Incorporation, and (6) the Rules and Regulations of the Association.

Section 13.3. Indemnification: The Association shall indemnify any member of the Executive Board, officer, or employee, or former Board member, officer, or employee of the Association, against expenses actually and necessarily incurred by him, and any amount paid in satisfaction of judgments in connection with any action, suit or proceeding, whether civil or criminal in nature, in which he is made a party by reason of being or having been such an Executive Board member, officer or employee (whether or not an Executive Board member, officer or employee at the time such costs or expenses are incurred by or imposed upon him) except in relation to matters as to which he shall be adjudged in such action, suit, or proceeding to be liable for gross negligence or willful misconduct in the performance of duty. The Association may also reimburse to any Executive Board member, officer or employee the reasonable costs of settlement of any such action, suit or proceedings, if it shall be found by a majority of a committee of the Executive Board not involved in the matter of controversy, whether or not a quorum, that it was to the interest of the Association that such settlement be made and that such Executive Board member, officer or employee was not guilty of gross negligence or willful misconduct. Such rights of indemnification and reimbursement shall not be deemed excessive of any other rights to which such Executive Board member, officer or employee may be entitled by law or under bylaw, agreement, vote of members or otherwise.

Section 13.4. Inconsistencies: In the event these By-Laws shall be inconsistent with the Declaration, then the Declaration shall be controlling.

Section 13.5. Table of Contents; Headings: The table of contents and headings used in these By-Laws have been inserted for administrative convenience only and do not constitute matter to be construed in interpretation.

Section 13.6. Successors Bond: The rights, privileges, duties and responsibilities set forth in the Condominium Documents, as amended from time to time, shall run with the ownership of the Property and shall be binding upon all persons who own or hereafter acquire any interest in the Property.

Section 13.7. Gender, Singular, Plural: Whenever the context so permits, the use of the singular or plural shall be interchangeable in meaning and the use of any gender shall be deemed to include all genders.

Section 13.8. Nonprofit Corporation: No part of the Association's assets or net income shall inure to the benefit of any of the Members, the officers of the Association, or the members of the Executive Board, or any other private individual either during its existence or upon dissolution except as reasonable compensation paid or distributions made in carrying out its declared nonprofit purposes as set forth in the Articles of Incorporation of the Association and these By-Laws.

Section 14: Savings Clause

If any right hereunder shall be subject to the so called Rule Against Perpetuities, such right, if not sooner terminated, shall terminate 21 years after the death of the last survivor of the descendants of Ronald W. Reagan living as of the date of recordation of these By-Laws.

Certification

I certify that the foregoing By-Laws were adopted by Highland Place Owners' Association, Inc. on the 31<sup>st</sup> day of DECEMBER, 1987.

W. G. Maxwell  
President W. A. MAXWELL