

**BY-LAWS
OF
HERON BAY HOMEOWNERS ASSOCIATION, INC**

ARTICLE I

NAME AND LOCATION

The name of the corporation is Heron Bay Homeowners Association, Inc. hereinafter referred to as the "Association." The principal office of the corporation shall be located at 275 Mallard Drive, Heron Bay, Badin Lake, Montgomery County, North Carolina, with a mailing address of P.O. Box 52, Richfield, North Carolina 28137, but meetings of members and directors may be held at such places within the State of North Carolina, as may be designated by the Board of Directors.

ARTICLE II

DEFINITIONS

Section 1. The definitions for "Association," "Declarant," "Owner," "Property," "Lot," "Common Property", and " Dwelling Unit," shall be defined pursuant to the terms and conditions of the definitions as set forth in Article I of the Declaration of Covenants, Conditions, and Restrictions and the Declarations of Restrictive Covenants of Heron Bay Subdivision (the "Declarations"), set forth in Book 296, Page 851, Book 296, Page 861, Book 311, Page 194, 196 and 198, and in Book 312, Page 497, Book 318, Page 708, Book 320, Page 375 and Book 320, Page 377 all in the Office of the Register of Deeds for Montgomery County, North Carolina, the terms and conditions of which are incorporated herein and by reference.

Section 2. "Member" shall mean and refer to those persons or entities entitled to membership with voting rights as provided in the Declaration and in Article III, Section 1, of these By-Laws.

ARTICLE III

MEMBERSHIP AND PROPERTY RIGHTS

Section 1. Membership. Every Owner of a Lot which is subject to the Declaration and assessments shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot subject to assessment, and may not be assigned.

Section 2. Voting Rights. The Association shall have one (1) class of voting membership.

The Members of the Association shall consist exclusively of the owners of all Lots and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person owns an interest in a Lot,

all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Section 3. Property Rights. Each member shall be entitled to the use and enjoyment of the Common Property as provided in the Declaration.

ARTICLE IV

MEETINGS OF MEMBERS

Section 1. Annual Meeting. A regular annual meeting of the Members shall be held each year, at a time and location to be determined by the Board of Directors.

Section 2. Special Meetings. Special meetings of the Members may be called at any time at the request of the President of the Association or by any two Directors.

Section 3. Notice of Meeting. Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least 30 days before such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting. Waiver by a Member in writing of the notice required herein, signed by the Member before or after such meeting, shall be equivalent to the giving of such notice. Members may consent to notice of meetings being given by email in lieu of the mailed notice specified above.

Section 4. Quorum. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, ten percent (10%) of the total votes allocated to all Members shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 5. Voting. At all meetings of Members, any action can be authorized by a majority vote of all Members attending the meeting, in person or by proxy.

Section 6. Proxies. At all meetings of members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot.

ARTICLE V

BOARD OF DIRECTORS, SELECTION, TERM OF OFFICE

Section 1. General Powers. The business and affairs of the Association shall be managed by its Board of Directors, except as otherwise expressly provided by law, the Articles of Incorporation, the Declaration, or these By-Laws. All power of the Association shall be vested in the Board of Directors.

Section 2. Number, Term and Qualifications. The number of Directors constituting the Board shall be five (5). Each Director shall hold office for a 3 year term. The initial Directors shall be elected for the following staggered terms to set up a rotation of Directors: two Directors for 1 year, two Directors for 2 years, and one Director for 3 years. Directors cannot succeed themselves and must remain off the Board for 1 year before serving another term as Director.

Section 3. Removal. Any Director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association. In the event of death, resignation or removal of a Director, his successor shall be selected by the remaining members of the Board, and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No Director shall receive compensation for any service he may render to the Association as a Director. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 5. Action Taken Without a Meeting. The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

ARTICLE VI

NOMINATION AND ELECTION OF DIRECTORS

Section 1. Election and Nomination. Election to the Board of Directors shall be by secret written ballot at the annual meeting. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration and Article III of these By-Laws. The person receiving the largest number of votes for each vacancy shall be elected. Cumulative voting is not permitted.

Section 2. Nominations. Nominations for elections to the Board of Directors shall be made by a Nominating Committee. Nominations for elections to the Board may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors at least sixty days prior to each annual

meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine but not less than the number of vacancies that are to be filled. Such nominations may be made among Members.

ARTICLE VII

MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held annually, or at such other periodic intervals as may be established by the Board of Directors from time to time, without notice, at such place and hour as may be fixed from time to time by resolution of the Board.

Section 2. Special Meetings. Special Meetings of the Board of Directors shall be held when called by the President of the Association, or by any two Directors, after not less than three (3) day's notice to each Director.

Section 3. Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

ARTICLE VIII

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have power to:

- (a) adopt and publish rules and regulations governing the use of the Common Property, and the personal conduct of the Members, and their guests thereon;
- (b) suspend the voting rights and any other rights of a Member during any period in which such Member shall be in default in the payment of any assessment, dues or charge levied by the Association. Such rights may also be suspended, after notice and hearing, for a period not to exceed sixty(60) days for infraction of published rules and regulations;
- (c) exercise for the Association all powers, duties and authority vested in or delegated to this Association, and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;
- (d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors;
- (e) employ a manager, an independent contractor, or such other employees as they deem necessary, to prescribe their duties;
- (f) employ attorneys to represent the Association when deemed necessary; and

- (g) appoint Members to committees to carry out functions of the Association, as necessary.
- (h) take actions authorized by the Declarations to charge back the actual costs of such actions against the Owner.
- (i) after notice to the Owner and a reasonable opportunity to be heard and in accordance with Section 47F-3-107.1 of the Planned Community Act, assess reasonable fines against a Member for violations of the Declaration, these By-Laws, the Articles of Incorporation, or the Association's published rules and regulations by such Member, or such Member's family, guests, invitees and lessees in an amount not to exceed \$150.00 for each violation, and without further hearing, for each day after the decision that the violation occurs. Such fines shall be deemed to be assessments by liens pursuant to Article II of the Declaration and Section 47F-3-107.1 of the Planned Community Act.

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

- (a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or any special meeting when such statement is requested in writing by one-fourth (1/4) of the Members.
- (b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;
- (c) as more fully provided in the Declaration, to:
 - (1) fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period.
 - (2) send written notice of each assessment to every Owner subject thereto at least (30) days in advance of each annual assessment period; and
 - (3) foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to pay the same
- (d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

- (e) procure and maintain adequate liability insurance covering the Association, its directors, officers, agents, and employees and to procure and maintain adequate hazard insurance on any real and personal property owned by the Association;
- (f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;
- (g) cause the Common Property to be maintained.

Section 3. Personal Liability. Personal liability for all directors for monetary damages arising out of an action or actions, whether by or in the right of the corporation or otherwise for breach for any duty as a director is eliminated except respect to acts, omissions, liabilities and/or transactions described and defined in North Carolina General Statutes Section 55A-2-02(b) (4) (i), (ii), (iii), and (iv). Every person who is or shall be or shall have been a member of the Board of Directors or officer of the Association and his or her personal representative shall be indemnified by the Association against all costs and expenses reasonably incurred by or imposed on him or her in connection with or resulting from any action, suit or proceeding to which he or she may be made a party by reason of his or her being or having been a member of the Board of Directors or officer of the Association or any subsidiary or affiliate thereof, except in relation to such matters as to which he or she shall finally be adjudicated in such action, suit or proceeding to have acted in bad faith or to have been liable by reason of willful misconduct in the performance of his or duty as such member of the Board of Directors or officer. For purposes of this provision, "costs and expenses", shall include, without limiting the generality thereof, attorney's fees, damages and reasonable amounts paid in settlement. Nothing contained in these By-Laws shall be deemed to eliminate or reduce the protection from personal liability granted to members of the Board of Directors by the North Carolina Nonprofit Corporation Act or by the Articles of Incorporation of the Association.

ARTICLE IX

OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The officers of this Association shall be a President and Vice-President, who shall at all times be a member of the Board of Directors, a Secretary and a Treasurer who need not be Members of the Board of Directors, and such other officers as the Board may from time to time appoint.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members. The appointment or removal of any officer or officers of the Association shall be made by the Board of Directors.

Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

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

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

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

Section 7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

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

President

- (a) the President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all promissory notes.

Vice-President

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

Secretary

- (c) the Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it on all pages requiring said seal; serve notice of meetings of the Board and of the Association together with their addresses and shall perform such other duties as required by the Board.

Treasurer

- (d) the Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall authorize payment of all checks and co-sign promissory notes of the Association; keep proper books of account; and shall prepare an annual budget and statement of income and expenditures to be presented to the membership at its annual meeting and deliver a copy of each to the Members.

Section 9. Checks. Checks of the Association must be co-signed by any two Members of the Board of Directors or one Member of the Board of Directors and the Treasurer.

ARTICLE X

BOOKS AND RECORDS

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

ARTICLE XI

CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: Heron Bay Homeowners Association, Inc., Montgomery County, North Carolina

Certification

I, the undersigned, do hereby certify:

That I am the duly elected and acting secretary of the Heron Bay Homeowners Association, Inc., a North Carolina corporation, and

That the foregoing By-Laws constitute By-Laws of the Association and were duly adopted at a meeting of the Members held on the _____ day of _____, 20__.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of the Association this _____ day of _____, 20__.

Secretary

(Corporate Seal)