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Amended By-Laws, Rules + Regulations
TYPE OF DOCUMENT

GRANTOR: Piney Mountain Villa Condominium
Association

GRANTEE: _____

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AMENDED BYLAWS OF PINE CLIFF VILLAS CONDOMINIUM ASSOCIATION, INC.
("ASSOCIATION")

ARTICLE I
General Provisions

Section 1.1. Name. These Bylaws provide for the governance of the Condominium by the Unit Owners Association pursuant to the requirements of Section 47C3106 of the North Carolina Condominium Act (the "Condominium Act"). The name of the Unit Owners Association (hereinafter "Association" or "Unit Owners Association") shall be PINE CLIFF VILLAS CONODMINIUM ASSOCIATION d/b/a PINEY MOUNTAIN VILLAS CONDOMINIUM ASSOCIATION.

Section 1.2. Office. The office of the Condominium, the Unit Owners Association, and the Board of Directors shall be located at the Property or at such other place as may be designated from time to time by the Board of Directors.

Section 1.3. Definitions. Terms used herein without definition shall have the meanings specified for such terms in the Declaration to which these Bylaws are attached as Exhibit A, or if not defined therein, the meanings specified for such terms in Section 47C1103 of the Condominium Act. The following terms have the following meanings in the condominium instruments:

(a) "Board of Directors" or "Board" means the executive organ established pursuant to Article 3 of these Bylaws and as defined in Section 47C1 103(13) of the Act.

(b) "Common Element Interest" means the number allocated to each Unit by Exhibit E to the Declaration which establishes each Unit's undivided interest in the Common Elements, common expenses and votes in the Unit Owners Association.

(c) "Condominium instruments" shall be a collective term referring to the Declaration, Bylaws, and Plats and Plans, and any other documents relating to the Condominium recorded pursuant to the Condominium Act. Any exhibit, schedule or certification accompanying a condominium instrument and recorded simultaneously therewith shall be deemed an integral part of that condominium instrument. Any amendment or certification or any condominium instrument shall, from the time of the recordation of such amendment or certification, be deemed an integral part of the affected condominium instrument.

(d) "Common Expenses" means expenses made by or financial liabilities of the Association, together with any allocations to reserves.

(e) "Majority Vote" means a simple majority (more than fifty percent) of the votes actually cast in person or by proxy at a duly held meeting at which a quorum is present. Any specified percentage vote means that percentage vote with respect to the votes actually cast in person or by proxy at a duly held meeting at which a quorum is present. Any specified percentage vote of the Mortgagees means a vote by the Mortgagees of condominium Units to which such percentage of the total number of votes appertain.

(f) "Mortgagee" or "First Mortgagee" means an institutional lender (one or more commercial or savings banks, savings and loan associations, trust companies, credit unions, industrial loan associations, insurance companies, pension funds, or business trusts including but not limited to real estate investment trusts, any other lender regularly engaged in financing the purchase, construction, or improvement of real estate, or any assignee of loans made by such lender, or any combination of any of the foregoing entities) holding a first mortgage or first deed of trust ("Mortgage") encumbering a condominium Unit in the Condominium which has notified the Unit Owners Association of its status and has requested all rights under the condominium instruments. For purposes of Article 8 only, when any right is to be given to a Mortgagee, the Board of Directors shall also give such right to any public or private secondary mortgage market entity participating in purchasing or guaranteeing Mortgages if the Board has notice of such participation.

(g) "Officer" means any person holding office pursuant to Article 4 of these Bylaws.

(h) "Unit Owners Association" or "Association" means the nonprofit corporation of all the Unit owners owning condominium Units in Piney Mountain Villas Condominiums.

ARTICLE 2

Unit Owners Association

Section 2.1. Composition. The Unit Owners Association shall consist of all Unit owners. For all purposes the Unit Owners Association shall act merely as an agent for the Unit owners as a group. The Unit Owners Association shall have the responsibility of administering the Condominium, establishing the means and methods of collecting assessments and charges, arranging for the management of the Condominium and performing all of the other acts that may be required or permitted to be performed by the Association by the Condominium Act and the Declaration. Except as to those matters which the Condominium Act specifically requires to be performed by the vote of the Association, the foregoing responsibilities shall be performed by the Board of Directors or managing agent, if any.

Section 2.2. Annual Meetings. The annual meetings of the Association shall be held on weekdays (other than legal holidays) before the beginning of each calendar year.

Section 2.3. Place of Meeting. Meetings of the Unit Owners Association shall be held at the principal office of the Association or at such other suitable place convenient to the Unit owners as may be designated by the Board of Directors.

Section 2.4. Special Meetings. (a) The President shall call a special meeting of the Unit Owners Association if so directed by resolution of the Board of Directors; or upon a petition signed and presented to the Secretary by Unit owners of not less than twenty-five percent of the aggregate Common Element Interests. Such resolution, petition or request must (1) specify the time and place at which the meeting is to be held, which will permit the Secretary to comply with Section 2.5 of these Bylaws, or else specify that the Secretary shall designate the date of the meeting, (2) specify the purposes for which the meeting is to be held, and (3) be delivered to the Secretary. The notice of any special meeting shall state the time, place and purpose thereof. No business shall be

transacted at a special meeting except as stated in the notice.

Section 2.5. Notice of Meetings. The Secretary shall notify each Unit owner of each annual or regularly scheduled meeting of the Unit owners at least ten (10) days, and of each special meeting of the Unit owners at least five (5) days, prior to such meeting, stating the time, place and purpose thereof. The giving of a notice of meeting in the manner provided in this section and Section 11.1 of the Bylaws shall be considered service of notice.

Section 2.6. Quorum and Adjournment of Meetings. Except as otherwise provided in these Bylaws, the presence in person or by proxy of Unit owners representing seventy five percent (75.0%) or more of the total Common Element Interest shall constitute a quorum at all meetings of the Unit Owners Association. If at any meeting of the Unit Owners Association a quorum is not present, Unit owners of a majority of the Common Element Interests who are present at such meeting in person or by proxy may: (i) recess the meeting to such date, time and place as such Unit owners may agree, whereupon the Secretary shall make reasonable efforts to notify Unit owners of such date time and place.

Section 2.7. Order of Business. The order of business at all meetings of the Unit Owners Association shall be as follows: (a) roll call (proof of quorum); (b) reading of minutes of preceding meeting; (c) reports of officers; (d) report of Board of Directors; (e) reports of committees; (f) election of directors (when so required); (g) unfinished business; and (h) new business; provided, however, that balloting for election of directors may commence at any time.

Section 2.8. Conduct of Meetings. The President shall preside over all meetings of the Unit Owners Association and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring at the meeting. The then current edition of Robert's Rules of Order shall govern the conduct of all meetings of the Unit Owners Association when not in conflict with the Condominium Act or the condominium instruments.

Section 2.9. Voting. (a) The total votes in the Association are allocated equally to Units by the Declaration. The votes allocated to a Unit may be cast by the Unit owner of that Unit. Where the ownership of a Unit is in more than one person or in the name of an entity, the person who shall be entitled to cast the vote for such Unit shall be the person named in the certificate executed by all of the owners of such a Unit and filed with the Secretary (if such a certificate is on file) or, in the absence of such named person from the meeting the person who shall be entitled to cast the vote of such Unit shall be the person owning such Unit who is present, or the highest officer present in the event of a Unit owned by an entity. If more than one person owning such Unit is present, the votes allocated to that Unit may be cast only in accordance with the vote of a majority in interest of the multiple owners.

(b) Except where a greater number is required by the Condominium Act or by the condominium instruments, a vote of 75% or more is required to adopt decisions at any meeting of the Unit Owners Association.

(c) No Unit owner may vote at any meeting of the Unit Owners Association or be elected

5

to or serve on the Board of Directors if payment by such Unit owner of any financial obligation to the Association is delinquent more than sixty (60) days and the amount necessary to bring the account current has not been paid at the time of such meeting or election.

Section 2.10. Proxies. A vote may be cast in person or by proxy duly executed by a Unit owner. If a Unit is owned by more than one person, each owner of the Unit may vote or register protest to the casting of votes by the other owners of the Unit through a duly executed proxy. A Unit owner may not revoke a proxy given pursuant to this section except by written notice of revocation delivered to the person presiding over the meeting of the Association. A proxy is void if it is not dated and terminates one year after its date, unless it specifies a shorter term. A proxy may be instructed (directing the proxy how to vote) or uninstructed (leaving how to vote to the proxy's discretion). Such proxies may be granted by any Unit owner in favor of only another Unit owner, an officer, or such Unit owners' mortgagee, attorney, or additionally in the case of a nonresident Unit owner, the Unit owners Lessee, attorney or rental agent. Only instructed proxies may be granted by any Unit owner to the managing agent.

Section 2.11. 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. In addition, notwithstanding the terms of the preceding sentence, any such action also may be taken by written ballot in accordance with the terms of the North Carolina Nonprofit Corporation Act.

ARTICLE 3 **Board of Directors**

Section 3.1. Board of Directors. The Unit Owners Association shall elect a Board of Directors consisting of at least three (3) members, all of whom shall be Unit Owners and shall take office immediately upon election.

Section 3.2. Powers and Duties. The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Unit Owners Association and may do all such acts and things as are not by the Condominium Act or the condominium instruments required to be exercised and done by the Association. The Board of Directors shall delegate to one of its members or to a person employed for such purpose the authority to act on behalf of the Board on such matters relating to the duties of the managing agent, if any, which may arise between meetings of the Board as the Board deems appropriate. In addition to the duties imposed by these Bylaws or by any resolution of the Association that may hereafter be adopted, the Board shall on behalf of the Association:

(a) Prepare and adopt an annual budget, in which there shall be expressed the assessments of each Unit owner for the common expenses.

(b) Make assessments against Unit owners to defray the costs and expenses of the Condominium, establish the means and methods of collecting such assessments from the Unit

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owners and establish the period of installment payment of the annual assessment for common expenses.

(c) Provide for the operation, care, upkeep and maintenance of all of the Property and services of the Condominium, including the Common Elements.

(d) Designate, hire and dismiss the personnel necessary for the maintenance, operation, repair and replacement of the Common Elements and provide services for the Property and, where appropriate, provide for the compensation of such personnel and for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties, which supplies and equipment shall be deemed part of the Property.

(e) Collect the assessments against the Unit owners, deposit the proceeds thereof in bank depositories designated by the Board of Directors and use the proceeds to carry out the administration of the Property.

(f) Adopt and amend any rules and regulations; provided, however, that such rules and regulations shall not be in conflict with the Condominium Act or the Condominium Instruments.

(g) Open bank accounts on behalf of the Unit Owners Association and designate the signatures thereon.

(h) Make, or contract for the making of, repairs, additions and improvements to or alterations of the Property, and repairs to and restoration of the Property, in accordance with these Bylaws, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings.

(i) Enforce by legal means the provisions of the Declaration, these Bylaws and the rules and regulations, act on behalf of the Unit owners with respect to all matters arising out of any eminent domain proceeding, and notify the Unit owners of and litigation against the Unit Owners Association involving a claim in excess of ten percent of the amount of the annual budget.

(j) Obtain and carry insurance against casualties and liabilities, as provided in Article 6 of these Bylaws, pay the premiums therefore, adjust and settle and claims thereunder.

(k) Keep books and records in accordance with Section 47C-3-118 of the Condominium Act.

(l) Pay the cost of all authorized services rendered to the Unit Owners association and not billed to Unit Owners of individual Units or otherwise provided for in Sections 5.1 and 5.2 of these Bylaws.

(m) Notify a Mortgagee of any default hereunder by the Unit Owner of the Unit subject to such Mortgage, in the event such default continues for a period exceeding sixty (60) days.

(n) Borrow money on behalf of the Condominium when required in connection with any one instance relating to the operation, care, upkeep and maintenance of the Common Elements. If any sum borrowed by the Board of Directors on behalf of the Condominium pursuant to the authority contained in this subsection (n) is not repaid by the Unit Owners Association, a Unit Owner who pays to the creditor a percentage of the total amount due equal to such Unit Owner's Common Element Interest in the Condominium shall be entitled to obtain from the creditor a release of any judgment or other lien which such creditor shall have filed or shall have the right to file against such Unit Owner's condominium Unit, and the Association shall not be entitled to assess the Unit for payment of the remaining amount due such creditor.

(o) Do such other things and acts not inconsistent with the Condominium Act or the condominium instruments which the Board of Directors may be authorized to do by a resolution of the Unit Owners Association, or as set forth in Section 47C-3-102 of the Act.

Section 3.3 Managing Agent. The Board of Directors may contract with or employ any person, firm or corporation to serve as management agent for the Condominium and the Association, at a compensation established by the Board of Directors. Any such contract shall provide that it is terminable by the Association, with or without cause, upon not more than ninety (90) days' prior written notice and without payment of any penalty.

Section 3.4 Number and Term of Office. Subject to the terms of the Declaration, the Board of Directors shall consist of three (3) persons, all of whom shall be Unit Owners. Each member on the Board of Directors shall serve a term of two (2) years. All actions taken by the Board must be voted on unanimously to be approved.

Section 3.5. Organization Meeting. The first meeting of the Board of Directors following the annual meeting of the Unit Owners Association shall be held within ninety (90) days thereafter at such time and place as shall be determined by a majority of the directors. No notice shall be necessary to the newly elected directors in order legally to constitute such meeting if a majority of the entire Board of Directors is present at the meeting.

Section 3.6. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the directors. Notice of regular meetings of the Board of Directors shall be given to each director, personally or by mail, electronic mail, text messaging, or telephone, at least three business days prior to the day named for such meeting.

Section 3.7. Special Meetings. Special meetings of the Board of Directors may be called by the President on three business days' notice to each director, given personally or by mail, electronic mail, text messaging, or telephone, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least two directors.

Section 3.8. Waiver of Notice. Any director may at any time, in writing, waive notice of any meeting of the Board of Directors, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director, in person or by telephone communication or by video conferencing, at any meeting of the Board of Directors shall constitute a waiver of notice by such director of the time, place and purpose of such a meeting. If all directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

Section 3.9. Quorum of Board of Directors. At all meetings of the Board of Directors all of the directors must be present for a quorum to exist. If at any meeting of the Board of Directors there shall be less than a quorum present, a majority of those present may adjourn or recess the meeting

from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice. A director who participates in a meeting by means of telephone communication or video conferencing shall be deemed present at the meeting for all purposes.

Section 3.10. Compensation. No director shall receive any compensation from the Condominium Association for acting as such.

Section 3.11. Conduct of Meetings. The President shall preside over all meetings of the Board of Directors and shall record all resolutions adopted at the meeting as well as a record of all transactions and proceedings occurring at such meetings. The then current edition of Robert's Rules of Order shall govern the conduct of the meetings of the Board of Directors when not in conflict with the Condominium Acts or the condominium instruments.

Section 3.12. Action Without Meeting. Any action by the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting if all of the directors shall individually or collectively consent in writing to such action. Any such written consent shall be filed with the minutes of the proceedings of the Board of Directors.

Section 3.13. Board of Directors as Agent. The Board of Directors shall have the power to act as agent for the unit owners of all the of the units and for each of them, to manage, control and deal with the interest of such unit owners in the common elements of the Condominium to permit the Board of Directors to fulfill all of its powers, rights, and functions and duties. The Board of Directors shall have the power to act as agent for each unit owner, each Mortgagee, other named insured and their beneficiaries and any other holder of a lien or other interest in the Condominium or the property to: (i) adjust and settle all claims arising under insurance policies purchased by the Board of Directors, (ii) execute and deliver releases upon the payment of claims and (iii) act on their behalf in any condemnation proceeding or action of eminent domain pursuant to Section 47C-1-107 of the Condominium Act.

Section 3.14. Liability of the Board of Directors, Officers, Unit Owners and Unit Owners Association.

(a) The officers and directors shall not be liable to the Unit Owners Association or any Unit owner for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. The Unit Owners Association shall indemnify and hold harmless each of the officers and directors from and against all contractual liability to others arising out of contracts made by the Officers or the Board of Directors on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the provisions of the Condominium Act or the condominium instruments, except to the extent that such liability is satisfied by directors and officers liability insurance. Officers and directors shall have no personal liability with respect to any contract made by them on behalf of the Unit Owners Association. The liability of any Unit owner arising out of any contract made by the Officers or Board of Directors, or out of the indemnification of the Officers or directors, or the damages as a result of injuries arising in connection with the Common Elements solely by virtue of ownership of a Common Element

Interest therein or for liabilities incurred by the Unit Owners Association, shall be limited to the total liability multiplied by such Unit owner's Common Element Interest. Every agreement made by the Officers, the Board of Directors or a managing agent on behalf of the Unit Owners Association shall, if obtainable, provide that the Officers, the directors or the managing agent, as the case may be, are acting only as agents for the Association and shall have no personal liability thereunder (except as Unit owners). The Unit Owners Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding by reason of the fact that such person is or was an Officer or director or the Association against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement incurred by such person in connection with, such action, suit or proceeding if such person acted in good faith and in a manner such person reasonably believed to be in, or not opposed to, the best interests of the Condominium.

(b) The Unit Owners Association shall not be liable for any failure of water supply or other services to be obtained by the Association or paid for as a common expense, or for injury or damage to person or property caused by the elements or by the Unit owner of any condominium Unit, or any other person, or resulting from electricity, water, snow or ice which may leak or flow from or over any portion of the Common Elements or from any pipe, drain, conduit, appliance or equipment. The Unit Owners Association shall not be liable to any Unit owner for loss or damage, by theft or otherwise, of articles which may be stored upon any of the Common Elements. No diminution or abatement of any assessments, as herein elsewhere provided, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Elements or from any action taken by the Unit Owners Association to comply with any law, ordinance or with the order or directive of any governmental authority.

Section 3.15. Common or Interested Directors. Each director shall exercise such director's powers and duties in good faith and with a view to the interests of the Condominium. No contract or other transaction between the Unit Owners Association and any of its directors, or between the Association and any corporation, firm or association in which any of the directors of the Association are directors or officers or are pecuniarily or otherwise interested, is either void or voidable because any such director is present at the meeting of the Board of Directors or any committee thereof which authorizes or approves the contract or transaction, or because such directors vote is counted for such purpose, if any of the conditions specified in any of the following subsections exists:

(a) The fact of the common directorate or interest is disclosed or known to the Board of Directors or a majority thereof or noted in the minutes, and the Board authorizes, approves or ratifies such contract or transaction in good faith by a vote sufficient for the purpose; or

(b) The fact of the common directorate or interest is disclosed or known to at least a majority of the Unit owners, and the Unit owners approve or ratify the contract or transaction in good faith by a vote sufficient for the purpose; or

(c) The contract or transaction is commercially reasonable to the Unit Owners Association at the time it is authorized, ratified, approved or executed.

Any common or interested directors may be counted in determining the presence of a quorum of any meeting of the Board of Directors or committee thereof which authorizes, approves or ratifies any contract or transaction, and may vote at the meeting to authorize any contract or

transaction with like force and effect as if such director of the Unit Owners Association were not an officer or director of such other corporation, firm or association or not so interested.

ARTICLE 4 **Officers**

Section 4.1. Designation and Duties. The principal Officers of the Unit Owners Association shall be the President, the Vice President, the Secretary and the Treasurer, all of whom shall be elected by the Piney Mountain Village Unit Owners Association. The President and Vice President shall be residents of the Condominium and members of the Board of Directors. The Board of Directors may appoint an assistant treasurer, an assistant secretary and such other Officers as in its judgment may be necessary.

Section 4.2. Election of Officers. The officers of the Association shall be elected every two years by the Board of Directors at the organization meeting of each new board and shall hold office at the pleasure of the Board of Directors. Any Officer may hold more than one position; provided, however, that the offices of President, Vice President, and Secretary shall be held by three different individuals.

Section 4.3. Removal of Officers. Upon a vote of the Board of Directors, any officer may be removed, with or without cause, and his successor elected at any regular meeting of the Board of Directors or at any special meeting of the Board of Directors called for such purpose.

Section 4.4. President. The President shall: be the chief executive officer of the Unit Owners Association; preside at all meetings of the Association and of the Board of Directors; have general and active direction of the business of the Association subject to the control of the Board; see that all orders and resolutions of the Board are carried into effect; and appoint committees from time to time as the President may decide is appropriate to assist in the conduct of the affairs of the Association.

Section 4.5. Vice President. The Vice President shall take the place of the President and perform the duties of the President whenever the President shall be absent or unable to act. If the President is unable to act, the Board of Directors shall appoint some other director to act in the place of the Vice President, on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed by the Board of Directors or by the President

Section 4.6. Secretary. The Secretary shall: keep the minutes of all meetings of the Unit Owners Association and of the Board of Directors; have charge of such books and papers as the Board may direct; give or cause to be given all notices required to be given by the Association; maintain a register setting forth the places to which all notices to Unit owners and Mortgagees hereunder shall be delivered; and, in general, perform all the duties incident to the office of secretary.

Section 4.7. Treasurer. The Treasurer shall (together with the managing agent, if any): be responsible for Unit Owners Association funds and securities; keep full and accurate financial

records and books of account showing all receipts and disbursements; prepare all required financial data; deposit all monies and other valuable effects in the name of the Board of Directors, the Association or the managing agent, in such depositories as may from time to time be designated by the Board; and in general, perform all the duties incident to the office of treasurer.

Section 4.8. Execution of Documents. All agreements, contracts, deeds, leases, checks and other instruments of the Unit Owners Association for expenditures or obligations in excess of \$1,000 and all checks drawn upon reserve accounts, shall be approved by any two officers designated by the Board of Directors and all such instruments for expenditures or obligations not in excess of \$1,000 may be executed by any one person designated by the Board of Directors.

Section 4.9. Compensation of Officers. No Officer shall receive any compensation from the Unit Owners Association for acting as such Officer.

ARTICLE 5

Operation of the Property

Section 5.1. Determination of Common Expenses and Assessments Against Unit Owners.(a) **Fiscal Year.** The fiscal year of the Unit Owners Association shall be the calendar year beginning January 1 and ending December 31 unless otherwise determined by the Board of Directors.

(b) Preparation and Approval of Budget

(1) The Board of Directors shall adopt a budget (which shall consist of two Sub-Budgets, namely the Operating Budget and the Capital Budget) for the Unit Owners Association containing an estimate of the total amount considered necessary to pay the cost of maintenance, management, operation, repair and replacement of the Common Elements and those parts of the Units as to which it is the responsibility of the Association to maintain, repair and replace, and the cost of wages, materials, insurance premiums, services, supplies and other expenses that may be declared to be common expenses by the Condominium Act, the condominium instruments or a resolution of the Association and which will be required during the ensuing fiscal year for the administration, operation, maintenance and repair of the Property and the rendering to the Unit owners of all related services. Such budget shall also include such reasonable amounts as the Board of Directors considers necessary to provide working capital, a general operating reserve and reserves for contingencies and replacements.

(2) The proposed budget shall be presented at the annual meeting. At said meeting (which shall not require that a quorum be present) the budget shall be considered as ratified upon a majority of all the Unit owners voting in favor of its adoption, it being understood that each Sub-Budget shall be considered and approved separately. In the event the proposed budget is rejected, the budget last ratified shall be continued until such time as the Unit owners ratify a subsequent budget proposed by the Board of Directors. The Sub-Budgets as ratified shall constitute the basis for determining each Unit Owner's assessment for the Common Expenses of the Condominium.

(c) Assessment and Payment of Common Expenses.

(1) Subject to the provisions of subsection 9.1(a) hereof, the total amount of the estimated funds required from assessments for the operation of the Property set forth in the budget adopted by the Board of Directors shall be assessed against each Unit Owner in proportion to such Unit Owner's respective Common Element interest, except for Limited Common Expenses which shall be assessed against each Unit Owner benefited in proportion to the relative Common Element Interest of such Units inter se, or Common Expenses which shall be assessed against the Units benefited in proportion to the relative Unit share of such Units, inter se, and which assessments shall be a lien against each Unit Owner's Unit as provided in Section 9.2 of these Bylaws. On or before the first day of each fiscal year, and the first day of each of the succeeding eleven months in such fiscal year, each Unit Owner shall be obligated to pay to the Unit Owners Association (or its managing agent, if any), one-twelfth of such assessment. Within ninety (90) days after the end of each fiscal year, the Unit Owners Association shall supply to all Unit Owners and to each mortgagee requesting the same, an itemized accounting of the common expenses for such fiscal year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the budget adopted by the Board of Directors for that fiscal year and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall, at the discretion of the Board of Directors, be placed in reserve accounts, be placed in a special account to be expended solely for the general welfare of the Unit Owners, be credited according to each Unit Owners Common Element Interest to the next monthly installments due from Unit Owners under the current fiscal year's budget, until exhausted, or distributed to the Unit Owners. Any net shortage shall be assessed promptly against the Unit Owners in accordance with their Common Element Interests and shall be payable either: in full, with payment of the next monthly assessment due; or in not more than six equal monthly installments, as the Board of Directors may determine.

(2) Any Common Expenses paid or incurred in making available the same offsite amenities to some or all of the Unit owners shall be assessed equally against the condominium Units involved, and any Common Expenses paid or incurred in providing metered utility services to some or all of the Units shall be assessed against each condominium Unit involved based on its actual consumption of such services, if determinable, and otherwise based on allocated Common Expense percentages.

(d) **Reserves.** The Board of Directors shall build up and maintain reasonable reserves for working capital, operations (including losses due to insurance deductibles), contingencies and replacements. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year shall be charged first against such reserves. Except for the normal maintenance expenses shown in the annual operating budget, all expenses for repair and replacement of physical assets maintained by the Association shall be charged first against such reserves. Unless otherwise determined by a vote of the Board of Directors, the amount held as reserves shall not substantially exceed the amount reasonably required to assure the Association's ability to replace components as they reach the end of their useful lives. If regular annual maintenance extends the useful life of components so that reserves are excessive, the reserves shall be adjusted by reallocation to other budget items or by distribution to the Unit owners. If the reserves are inadequate for any reason, including nonpayment of any Unit owner's assessment, the

Board of Directors may at any time levy a further assessment, which shall be assessed against the Unit Owners according to their respective Common Element Interests, and which may be payable in a lump sum or in installments as the Board may determine. The Board of Directors shall serve notice of any further assessment on Unit Owners by a statement in writing giving the amount and reasons therefore, and such further assessment shall, unless otherwise specified in the notice, become effective with the next monthly payment which is due more than seven (7) days after the delivery of such notice of further assessment. All Unit Owners so notified shall be obligated to pay the adjusted monthly amount or, if such further assessment is not payable in installments, the amount of such assessment. Such assessment shall be a lien as of the effective date as set forth in subsection (c).

(e) **Effect of Failure to Prepare or Adopt Budget.** The failure or delay of the Board of Directors to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of a Unit owners obligation to pay the allocable share of the common expenses as herein provided whenever the same shall be determined and, in the absence of any annual budget or adjusted budget, each Unit owner shall continue to pay each monthly installment at the monthly rate established for the previous fiscal year until notified of the monthly payment which is due more than ten days after such new annual or adjusted budget is adopted.

(f) **Accounts.** All sums collected by the Unit Owners Association with respect to assessments against the Unit Owners or from any other source may be commingled into a single fund or held for each Unit Owner in accordance with such Unit Owners Common Element Interest.

Section 5.2. Payment of Common Expenses. Each Unit Owner shall pay the Common Expenses, including Limited Common Expenses, assessed by the Board of Directors pursuant to the provisions of Section 5.1 hereof. No Unit Owner may be exempted from liability for the assessment for Common Expenses by reason of waiver of the use or enjoyment of any of the Common Elements or by abandonment of the Unit. No Unit Owner shall be liable for the payment of any part of the Common Expenses assessed against its Unit subsequent to a sale, transfer, or other conveyance by it (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 such amounts from the seller.

Section 5.3. Collection of Assessments. The Board of Directors, or the managing agent at the request of the Board, shall take prompt action to collect any assessments for Common Expenses due from any Unit Owner which remain unpaid for more than thirty (30) days from the due date for payment thereof. If a Unit Owner is delinquent for more than sixty (60) days, the Board of Directors shall file a lien of record in the office of the Clerk of Superior Court for Buncombe County, North Carolina, in manner provided in Section 9.2 of these Bylaws. Furthermore, a lien for assessments may be enforced and foreclosed on pursuant to Section 9.2 of these Bylaws.

Section 5.4. Statement of Common Expenses. The Board of Directors shall promptly provide any Unit Owner, contract purchaser or Mortgagee so requesting the same in writing with a written statement of all unpaid assessments for common expenses due from such Unit owner. The Board

of Directors may impose a reasonable charge for the preparation of such statement to cover the cost of preparation.

Section 5.5. Maintenance, Repair, Replacement and Other Common Expenses.

(a) **By the Unit Owners Association.** The Unit Owners Association shall be responsible for the maintenance, repair and replacement of all the Common Elements (including the Limited Common Elements) as defined herein or in the Declaration, whether located inside or outside of the Units, the cost of which shall be charged to all Unit Owners as a Common Expense; provided however, that the Board of Directors may elect not to do so if it determines that such maintenance, repair or replacement was necessitated by the negligence, misuse or neglect of a Unit Owner and provided, further, that each Unit Owner shall perform normal maintenance on the limited Common Elements appurtenant to such Unit Owners' Unit and any portion of the remaining Common Elements which the Board of Directors pursuant to the Rules and Regulations has given such Unit Owner permission to utilize, including without limitation the items enumerated in subsection (b).

(b) **By the Unit Owner.**

(1) Each Unit Owner shall keep the Unit and its equipment, appliances and appurtenances in good order, condition and repair and in a clean and sanitary condition. Each Unit Owner shall perform this responsibility in such a manner as shall not unreasonably disturb or interfere with the other Unit Owners. Each Unit owner shall promptly report to the Board of Directors or the managing agent any defect or need for repairs for which the Association is responsible.

(2) The Unit Owner of any Unit to which a Limited Common Element is appurtenant shall perform the normal maintenance for such Limited Common Element, including keeping it in a clean and sanitary condition and shall also make all repairs caused by the Unit Owner's misuse or neglect. All structural repair or replacement shall be made by the Association as a common expense, as provided in subsection (a).

(c) **Manner of Repair and Replacement.** All repairs and replacements shall be substantially similar to the original construction and installation and shall be of first-class quality but may be done with contemporary building materials and equipment. The method of approving payment vouchers for all repairs and replacements shall be determined by the Board of Directors.

Section 5.6. Additions, Alterations, or Improvements by the Board of Directors. Whenever in the judgment of the Board of Directors the Common Elements shall require additions, alterations, or improvements collectively on an annual basis costing in excess of twenty-five percent (25%) of the Capital Budget, the Board of Directors may assess all Unit Owners for the cost thereof as a Common Expense.

Section 5.7. Additions, Alterations or Improvements by the Unit Owners. No Unit Owner shall make any structural addition, alteration or improvement in or to the Unit without the prior written consent of the Board of Directors. No Unit Owner shall paint or alter any Common Element or the exterior of a Unit, including the doors and windows, without the prior written consent of the Board of Directors.

Section 5.8. Restrictions on Use of Units and Common Elements; Rules and Regulations.

(a) **Restrictions.** Each Unit and the Common Elements shall be occupied and used as follows:

(1) No Unit shall be used for any reason other than for housing or residential purposes.

(2) Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance for the Property without the prior written consent of the Board of Directors. No Unit Owner shall permit anything to be done or kept in any Unit which would cause the cancellation of insurance on the Property or any part thereof or which would be in violation of any law, regulation or administrative ruling. No waste will be permitted on the Common Elements.

(3) No unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental agencies having jurisdiction thereof shall be observed. All laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereof relating to any portion of the Property shall be complied with, by and at the sole expense of the Unit Owner or the Board of Directors, whichever shall have the obligation to maintain or repair such portion of the Property, and, if the latter, then cost of such compliance shall be a common expense.

(4) No Unit Owner shall obstruct any of the Common Elements nor shall any Unit Owner place or cause or permit anything to be placed on or in any of the Common Elements (except those areas designated for such storage, if any, by the condominium instruments or the Board of Directors) without the approval of the Board. Nothing shall be altered or constructed in or removed from the Common Elements except with the prior written consent of the Board of Directors.

(5) No Unit Owner shall lease a Unit for less than thirty (30) days. No Unit Owner shall lease a Unit for other than on a written form of lease: (i) requiring the lessee to comply with the Condominium Instruments and the Rules and Regulations of the Association; (ii) providing that failure to comply constitutes a default under the lease, and (iii) providing that the Board of Directors has the power to terminate the lease or to bring summary proceedings to evict the tenant in the name of the lessor thereunder after thirty (30) days prior written notice to the Unit Owner, in the event of a default by the tenant in the performance of the lease.

(6) The maintenance, keeping, boarding and/or raising of livestock, poultry or reptiles of any kind, regardless of number, is prohibited within any Unit or upon the Common Elements unless the Board of Directors promulgates rules and regulations allowing same, which is within its absolute and sole discretion.

(7) No Unit shall be subjected to or used for any timesharing, cooperative, licensing or other arrangement that would entail weekly, monthly, or any other type of revolving or periodic occupancy by multiple Unit Owners, cooperators, licensees, or timesharing participants.

(b) **Changes to Rules and Regulations.** Each Unit and the Common Elements shall be occupied and used in compliance with reasonable Rules and Regulations which may be promulgated and changed by the Board of Directors. Copies of the Rules and Regulations shall be furnished by the Board of Directors to each Unit owner.

Section 5.9. Right of Access. By acceptance of the deed of conveyance, each Unit Owner thereby grants a right of access to the Unit, as provided by the Condominium Act and the Declaration, to the Board of Directors or the managing agent, or any group of the foregoing, for the purpose of enabling the exercise and discharge of their respective powers and responsibilities, including without limitation making inspections, correcting any condition originating in the Unit or in a Common Element to which access is obtained through the Unit threatening another Unit or the Common Elements, performing installations, alterations or repairs to the mechanical or electrical systems or the Common Elements in the Unit or elsewhere on the Property or to correct any condition which violated any Mortgage; provided however, that request for entry is made in advance and that any such entry is at a time reasonably convenient to the Unit Owner. In case of an emergency, such right of entry shall be immediate, whether or not the owner is present. Each Unit owner may provide a working copy of all his or her Unit key to the Secretary for the Association or person appointed by the Board of Directors to maintain such.

Section 5.10. Utility Charges; User Fees. The cost of utilities serving the Condominium not individually metered to a Unit may be common expenses allocated pursuant to Section 5.1 hereof.

ARTICLE 6

Insurance

Section 6.1. Authority to Purchase; Notice.

(a) Except as otherwise provided in Section 6.5 hereof, all insurance policies relating to the Property shall be purchased by the Board of Directors. The Board of Directors shall not be liable for failure to obtain any type of coverage required by this Article 6 or for any loss or damage resulting from such failure if such failure is due to the unavailability of such type of coverage from reputable insurance companies, or if such type of coverage are available only at demonstrably unreasonable cost. The Board of Directors shall promptly furnish to each Unit Owner written notice of the procurement of, subsequent changes in, or termination of, types of insurance coverage obtained on behalf of the Unit Owners Association, in compliance with Section 47C31 13 of the Condominium Act.

(b) Each such policy shall provide that:

(1) The Insurer waives any right to claim by way of subrogation against the Unit Owners Association, the Board of Directors, the managing agent or the Unit Owners, and their respective guests, invitees, tenants, agents and employees; and, in the case of the Unit Owners, the respective members of their households;

(2) Such policy shall not be canceled, invalidated or suspended due to the conduct of any Unit Owner (including such Unit owners, guests, invitees, tenants, agents and employees) or of any member, officer or employee of the Board of Directors or the managing agent without a prior demand in writing that the Board or the managing agent cure the defect, and neither shall have so cured within sixty days after such demand;

(3) Such policy may not be canceled or substantially modified (including cancellation for non-payment) without at least sixty (60) days prior written notice to the Board of Directors, the managing agent and all Mortgagees.

(c) All policies of insurance shall be written by reputable companies licensed or qualified

to do business in the State of North Carolina.

(d) The deductible, if any, on any insurance policy purchased by the Board of Directors shall be a common expense; provided, however, that the Association may, pursuant to subsection 5.5 (a) of these Bylaws, assess any deductible amount necessitated by the negligence, misuse or neglect of a Unit Owner against such Unit Owner.

Section 6.2. Property Insurance.

(a) The Board of Directors shall obtain and maintain a special "all risk" form policy of property insurance with extended coverage, vandalism, malicious mischief, sprinkler leakage, debris removal and water damage endorsement, insuring the entire Property and covering the interest of the Unit Owners Association, the Board of Directors and all Unit Owners and their Mortgagees, as their interests may appear, in an amount equal to one hundred percent of the then current replacement cost of the Property (exclusive of the land, excavations, foundations and other items normally excluded from such coverage), without deduction for depreciation (such amount to be re-determined annually by the Board with the assistance of the insurance company affording such coverage). The Board of Directors shall also obtain and maintain such coverage on all real and personal property, owned by the Unit Owners Association.

(b) Such policy shall also provide:

(1) A waiver of any right of the insurer to repair, rebuild or replace any damage or destruction, if a decision is made pursuant to these Bylaws not to do so;

(2) The following endorsements (or equivalent): (i) "no control" (to the effect that coverage shall not be prejudiced by any act or neglect of any occupant or Unit owner of their agents when such act or neglect is not within the control of the insured, or the Unit Owners collectively, nor by any failure of the insured, or the Unit Owners collectively; nor by any failure of the insured, or the Unit owners collectively, to comply with any warranty or condition with regard to any portion of the Condominium over which the insured, or the Unit Owners collectively, have no control); (ii) "cost of demolition"; (iii) "contingent liability from operation of building laws or codes"; (iv) "increased cost of construction"; and (vi) "agreed amount" or elimination of coinsurance clause; and

(3) That any "no other insurance" clause expressly exclude individual Unit Owners' policies from its operation so that the physical damage policy purchased by the Board of Directors shall be deemed primary coverage and any individual Unit Owners policies shall be deemed excess coverage, and in no event shall the insurance coverage obtained and maintained by the Board of Directors hereunder provide for or be brought into contribution with insurance purchased by individual Unit Owners or their Mortgagees, unless otherwise required by law.

Section 6.3. Other Insurance. The Board of Directors shall obtain and maintain:

(a) Adequate fidelity coverage to protect against dishonest acts on the part of Officers, directors, trustees and employees of the Unit Owners Association and all others who handle, or are responsible for handling, funds of the Association, including the managing agent. Such fidelity bonds shall: (i) name the Unit Owners Association as an obligee; (ii) be written in an amount not less than one-half the total annual condominium assessments for the year or the amount required by the Mortgagees; and

- (iii) contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression;
- (b) If required by any governmental or quasi-governmental agency, flood insurance in accordance with the then applicable regulations of such agency;
- (c) Workers' compensation insurance if and to the extent necessary to meet the requirements of law (including a voluntary employees endorsement and an "all states" endorsement);
- (d) Directors officers liability insurance in an amount not less than one million dollars; and
- (e) All other forms and types of insurance as the Board of Directors may determine or request from time to time by a Majority Vote.

Section 6.4. Separate Insurance. Each unit owners shall have the right to obtain insurance for such Unit Owner's benefit, at such Unit Owner's expense, covering the unit and such unit owner's personal property and personal liability, as well as any improvements made to the unit by such Unit Owner (under coverage normally called "improvements and betterments coverage"); provided, however, that no unit shall be entitled to exercise this right to acquire or maintain such insurance coverage so as to decrease the amount which the Board of Directors, on behalf all Unit Owners, may realize under any insurance policy maintained by the Board or to cause any insurance coverage maintained by the Board to be brought into contribution with the insurance coverage obtained by a Unit Owner. No Unit Owner shall obtain separate insurance policies on the Condominium except as provided for in this section.

Section 6.5. Insurance Trustee. (a) All physical damage insurance policies purchased by the Board of Directors shall be for the benefit of the Unit Owners, the Unit Owners, their mortgagees as their interest may appear, and shall provide that all proceeds of such policies shall be paid in trust to the Board as "insurance trustee" to be applied pursuant to the terms of Article 7.

(b) The sole duty of the insurance trustee shall be to receive such proceeds as are paid to it and to hold the same in trust for the purposes elsewhere stated in these Bylaws, for the benefit of the insured and the beneficiaries thereunder.

ARTICLE 7

Repair and Reconstruction After Fire or Other Casualty

Section 7.1. When Repair and Reconstruction are Required. Except as otherwise provided in Section 7.4, in the event of damage to or destruction of all or any part of the Building as a result of fire or other casualty, the Board of Directors shall arrange for and supervise the prompt repair and restoration thereof.

Section 7.2. Procedure for Reconstruction and Repair.

(a) **Cost Estimates.** Immediately after a fire or other casualty causing damage to any portion of the Building, the Board of Directors shall obtain reliable and detailed estimates of the cost of repairing and restoring such portion, not including any other furniture, furnishings, improvements, betterments, fixtures or equipment installed by the Unit Owner in the Unit unless covered by insurance obtained by the Unit Owners, to a condition as good as that existing before

such casualty. Such costs may also include professional fees and premiums for such bonds as the insurance trustee determines to be necessary.

(b) **Assessments.** If the proceeds of insurance are not sufficient to defray such estimated costs of reconstruction and repair, or if upon completion of reconstruction and repair the funds for the payment of the costs thereof are insufficient, the amount necessary to complete such reconstruction and repair may be obtained from the appropriate reserve for replacement funds and/or shall be deemed a common expense and a special assessment therefore shall be levied.

(c) **Plans and Specifications.** Any such reconstruction or repair shall be substantially in accordance with the original construction of Property, subject to any modification required by changes in applicable governmental regulations and using contemporary building materials and technology to the extent feasible; provided, however, that other action may be taken if approved by at least fifty one percent of the Unit Owners and/or Mortgagees.

Section 7.3. Disbursements of Construction Funds. The proceeds of insurance collected on account of casualty, and the sums received by the insurance trustee from collections of assessments against Unit owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair as determined by the Board of Directors.

Section 7.4. When Reconstruction Is Not Required. If the Board of Directors elects not to repair insubstantial damage to the Common Elements, the Board of Directors shall remove all remains of the damaged improvements and restore the site thereof to an acceptable condition compatible with the remainder of the Condominium and the balance of any insurance proceeds received on account of such damage shall be distributed or credited, as the Board of Directors may decide, to all Unit owners in proportion to their respective Common Element Interests. If the Condominium shall be terminated pursuant to Section 47C2 118 of the Condominium Act, the net assets of the Condominium together with the net proceeds of insurance policies, if any, shall be divided by the insurance trustee among all Unit Owners in proportion to their respective Common Element Interests, after first paying out of the share of each Unit Owner, to the extent sufficient therefore, the amount of any unpaid liens on the Unit in the order of priority of such liens.

ARTICLE 8

Mortgages

Section 8.1. Notice of Default, Casualty or Condemnation. The Board of Directors when giving notice to any Unit Owner of a default in paying an assessment for common expenses (which remains uncured for sixty days) or any other default, when required, shall simultaneously send a copy of such notice to the Mortgagee of such Unit. Each Mortgagee shall also be promptly notified, when required, of any casualty and of any taking in condemnation or by eminent domain pursuant to Section 47C1 107 of the Condominium Act and actions of the Unit Owners Association with respect thereto, in addition to other notices required under Article XIV of the Declaration.

ARTICLE 9

Compliance and Default

70

Section 9.1. Relief. Each Unit Owner shall be governed by, and shall comply with, all of the terms of the Condominium Act, condominium instruments and Rules and Regulations, as any of the same may be amended from time to time. In addition to the remedies provided in Section 47C3116 of the Condominium Act, a default by a Unit owner shall entitle the Association, acting through its Board of Directors or through the managing agent, to the following relief.

(a) **Additional Liability.** Each Unit Owner shall be liable to the Association or to any affected Unit Owner for the expense of all maintenance, repair or replacement rendered necessary by such Unit Owners act, neglect or carelessness or the act, neglect or carelessness of any Unit Owners guests, invitees, tenants, agents or employees, but only to the extent that such expense is not covered by an insurance policy carried by the Board of Directors. Such liability shall include any increased casualty insurance rates occasioned by use, misuse, occupancy or abandonment of any Unit or its appurtenances. Nothing contained herein, however, shall be construed as modifying any waiver by any insurance company of its rights of subrogation. Any costs, including without limitation legal fees, incurred as a result of a failure to comply with the Condominium Act, the condominium instruments and the Rules and Regulations by any Unit Owner (or any of Unit Owners guests, invitees, or tenant(s)) may be assessed against such Unit Owner's Unit.

(b) **No waiver of rights.** The failure of the Unit Owners Association, the Board of Directors or of a Unit Owner to enforce any right, provision, covenant or condition which may be granted by the condominium instruments or the Condominium Act shall not constitute a waiver of the right of the Association, the Board or the Unit Owner to enforce such right, provision, covenant or condition in the future. All rights, remedies and privileges granted to the Unit Owners Association, the Board of Directors or any Unit owner pursuant to any term, provision, covenant or condition of the condominium instruments or the Condominium Act shall be deemed to be cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other privileges as may be granted to such party by the condominium instruments or the Condominium Act or at law or in equity.

(c) **Interest.** In the event of a default by any Unit Owner in paying any sum assessed against the condominium Unit other than for common expenses which continues for a period in excess of fifteen days, interest at a rate of eighteen (18%) percent per annum or such greater rate not to exceed the maximum permissible interest rate allowed by law may be imposed in the discretion of the Board of Directors on the principal amount unpaid from the date due until paid. The Board of Directors shall also have the right to impose uniform late payment charges for delinquent Common Expense payments, which charges shall be recoverable by the proceedings specified below.

(d) **Abating and Enjoining Violations by Unit Owners.** The violation of any of the Rules and Regulations adopted by the Board of Directors, the breach of any provision of the condominium instruments or the Condominium Act shall give the Board of Directors the right, in addition to any other rights set forth in these Bylaws: (i) to enter the Unit in which, or as to which, such violation or breach exists and summarily to abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board of Directors shall not thereby be deemed guilty in any manner of trespass; (ii) to use self-help to remove or cure any violation of the Common Elements or in any Unit, including without limitation the towing of vehicles; or (iii) to enjoin,

abate or remedy by appropriate legal proceedings, either at law or in equity, continuance of any breach.

(e) **Legal Proceedings.** Failure to comply with any of the terms of the condominium instruments and the Rules and Regulations shall be grounds for relief, including without limitation, an action to recover any sums due for money damages, injunctive relief, foreclosure of the lien for payment of all assessments, any other relief provided for in these Bylaws or any combination thereof and any other relief afforded by a court of competent jurisdiction, all of which relief may be sought by the Unit Owners Association, the Board of Directors, the managing agent or, if appropriate, by any aggrieved Unit owner and shall not constitute an election of remedies.

(f) **Charges.** In accordance with Section 47C3102(11) of the Condominium Act, the Board of Directors may levy reasonable charges against Unit Owners for violations of the Condominium Act, the condominium instruments or the Rules and Regulations by the Unit Owner, or any of Unit Owners guests, invitees, or tenants. Each day a violation continues, after notice is given to the Unit Owner, is a separate violation. If a Unit Owner requests in writing a hearing before the charge is imposed, the imposition of the charge shall be suspended until the hearing is held. Charges are special assessments and shall be collectible as such.

Section 9.2. Lien of Assessments.

(a) **Lien.** The total annual assessment of each Unit owner for common expenses or any special assessment, or any other sum duly levied (including without limitation charges, interest, and late charges), made pursuant to these Bylaws and remaining unpaid for a period of sixty (60) days or longer shall constitute a lien on that Unit when filed of record in the Office of the Clerk of Superior Court of Buncombe County, North Carolina, pursuant to Section 47C-3-116 of the Act. 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 and (ii) all sums unpaid on any First Mortgage duly recorded against the Unit prior to the docketing of such lien. The lien for unpaid assessments shall be paid at the sale or transfer of any Unit

(b) **Acceleration.** In any case where an assessment against a Unit owner is payable in installments, upon a default by such Unit owner in the timely payment of any two consecutive installments, the maturity of the remaining total of the unpaid installments of such assessments may be accelerated, at the option of the Board of Directors, and the entire remaining balance declared immediately due and payable, upon written notice being given to the defaulting Unit Owner.

(c) **Enforcement.** The lien for assessments may be enforced and foreclosed pursuant to the provisions of Section 47C-3-116 of the Act and the other provisions of the North Carolina General Statutes referenced therein.

(d) **Remedies Cumulative.** A suit to recover a money judgment for unpaid assessments may be maintained without foreclosing or waiving the lien securing the same, and a foreclosure may be maintained notwithstanding the pendency of any suit to recover a money judgment.

ARTICLE 10 **Amendments to Bylaws**

10.1 Amendments. Amendments to these Bylaws shall be proposed and adopted in the following

32

manner.

(a) Amendments to these Bylaws may be proposed by the Board of Directors acting upon a vote in accordance with the terms of the Declaration, whether meeting as members or by instrument in writing signed by them.

(b) Upon any amendment to these Bylaws being proposed by said Board of Directors or members, such proposed amendment shall be transmitted to the President or other officer of the Association in absence of the President, who shall thereupon call a Special Joint Meeting of the Board of Directors and Association membership not earlier than twenty (20) days or later than thirty (30) days from receipt by such officer of the proposed amendment, and it shall be the duty of the Secretary to give each director and member written or printed notice of such meeting in the same form and the same manner as required for notice of any members' meeting.

(c) In order for such Amendment to become effective, the same must be approved by the Board of Directors and by an affirmative vote of the members owning a 75% of the voting rights in the Association. No amendment to these Bylaws shall be adopted or passed which shall impair or prejudice the rights and priorities of any First Mortgagee without the consent of such First Mortgagee.

(d) Notwithstanding that the original Bylaws of the Association are recorded in the Buncombe County Registry; amendments hereto are not required to be recorded in the public registry in order to be effective.

ARTICLE 11

Miscellaneous

Selection 11.1. Notices. All notices, demands, bills, and statements or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or sent by electronic mail or United States mail, postage prepaid, or if notification is of a default or lien, sent by registered or certified United States mail, return-receipt requested, postage prepaid, (i) if to a Unit owner, at the email address or mailing address which the Unit owner shall designate in writing and file with the Secretary or, if no such address is designated, at the address of the Unit of such Unit owner, or (ii) if to the Unit Owners Association, the Board of Directors or to the managing agent, at the principal office of the Unit Owners Association or at such other address as shall be designated by notice in writing to the Unit owners pursuant to this Section. If a Unit is owned by more than one person, each such person who so designated an address in writing to the Secretary shall be entitled to receive all notices hereunder.

Section 11.2. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit, or describe the scope of these Bylaws or the intent of any provision thereof.

Section 11.3. Gender. The use of masculine gender in these Bylaws shall be deemed to include the feminine and neuter genders and the use of the singular shall be deemed to include the plural, and vice versa, whenever the context so requires.

Section 11.4. Construction. These Condominium Instruments are intended to comply with all of

the applicable provisions of the Condominium Act and shall be so interpreted and applied. The failure to comply strictly with the time periods required by the Condominium Instruments, unless also required by the Condominium Act, shall not invalidate any action of the Board of Directors or the Unit Owners Association in the absence of a written objection by a Unit owner within ten (10) days after the failure to comply. Should any of the terms of these Bylaws conflict with any of the provisions of the Act, the provisions of the Act shall control unless the Act permits these Bylaws to override the Act, in which event these Bylaws shall control. In case of any conflict between the provisions of these Bylaws and the Declaration, the Declaration shall control. If any term, provision, limitation, paragraph or clause of these Bylaws or application thereof to any person or circumstance is judicially held to be invalid, such determination shall not affect the enforceability, validity or affect the remainder of these Bylaws, or the application thereof to any other person or circumstance.

EXHIBIT E

Unit No.	Percentage Interest
K1	20%
K2	20%
L1	20%
L2	20%
L3	20%

(ATTACHMENT)

**AMENDED RULES & REGULATIONS OF PINECLIFF VILLAS CONDOMINIUM ASSOCIATION
D/B/A
"PINEY MOUNTAIN VILLAS CONDOMINIUM ASSOCIATION"**

**Amendment to Existing Rules & Regulations
The Changes in the Rules & Regulations will take effect as of January 1, 2024**

To ensure that all unit residents of Piney Mountain Villas enjoy uniform standards in order to provide a congenial community, the owners of all units, their families, tenants and guests shall abide by the following rules and regulations:

1. No obnoxious or offensive activity shall be carried on in any Unit or in the Common Elements, nor shall anything be done therein, either willfully or negligently, which may become an annoyance of nuisance to the other Unit Owners or occupants. No Unit Owner shall make or permit any disturbing noises in his individual unit by himself, his family, servants, employees, agents, or visitors, nor do or permit anything by such persons that will interfere with the rights, comforts or convenience of other Unit Owners.
2. Household Pets are limited to two domesticated pets (dog/ cat/bird), including any animal used as a Service Animal (SA) or Emotional Support Animal (ESA). No household pet shall exceeding 35 lbs. in weight without the prior written approval by the Board of Directors and subject to the rules and regulations adopted by the Board of Directors. All household pets must be kept on a leash, identified by ownership tag, and each owner must supervise and clean up all litter deposited while outside the Unit.
 - a. Any pet causing or creating a nuisance, unreasonable disturbance or noise, or damage to the property shall be permanently removed from the Condominium Property upon three (3) days written notice from the Board of Directors.
 - b. The Association reserves the right to revoke its approval of any household pet if these standards and other commonly recognized standards for animal behavior in multifamily housing are not met.
3. No owner or tenant shall make or permit any disturbing noises in the building by himself, his family, tenant, employees, agents, visitors, or domestic animal, nor do or permit anything by such persons or animal that will interfere with the rights, comfort, or convenience of other owners. No owner shall play upon nor suffer to be played upon, any musical instrument or operate or suffer to be operated a phonograph, television set, radio, computer or musical instrument, or other electrical device designed for the transmission and reproduction of sound, in each unit between the hours of 11:00pm and the following 8:00am, if the same shall disturb occupants of other units. No owner or occupant shall give nor permit to be given, vocal or instrumental instructions at any time in his or her unit if complaint shall be made by an adjoining unit owner because of sound emissions.
4. No improvements or alterations shall be made to the exterior of any unit, including, but not limited to the painting or other decoration, or the installations of electrical wiring, television or radio antenna, or receivers, satellite transmission receivers, or any other objects, equipment, machinery, or air conditioning unit which may protrude through the walls, roof or windows of the unit, that would in any

manner alter the appearance of any portion of the exterior surface of any building without the prior written permissions of the Board of Directors. No Unit Owner shall display, hang, store or use any clothing, sheets, blankets, laundry or other articles outside his Unit, or which may be visible from the outside of his Unit (other than draperies, curtains, or shades of a customary nature and appearance, subject to the rules and regulations of the Board), or paint or decorate or adorn the outside of his Unit, or install outside his Unit any canopy or awning, or outside radio or television antenna, or other equipment, fixtures, or items of any kind, without prior written permission the Board of Directors. No objects or things shall be fixed to, placed upon or grown upon the Common and Limited Common Elements, including, but not limited to fences, flowers, trees, shrubs or other vegetation, and no improvements or alterations shall be made that would in any manner change the appearance of the Common and Limited Common Elements without the prior written permission of the Board of Directors. Pursuant to the provisions and requirements of the U.S. Telecommunications Act of 1996 and 47 C.F.R, section 1.400, as to size of the antenna or satellite dish and subject to state and local laws, owners may request in writing to the Board of Directors any such satellite device to be installed, erected and maintained. The Board of Directors reserves the right to determine position. If at such time the satellite and/or associated wiring is removed the owner of the unit shall restore the building back to its original state at their own expense.

4A. The foregoing restrictions as to use and occupancy shall not be construed to prohibit a unit owner from placing and maintaining outdoor furniture and decorative foliage of a customary nature and appearance on a balcony, patio or terrace constituting Limited Common Elements for such Owner's Unit.

5. Each unit owner shall permit the Board of Directors of the Association or the Managing Agent, or their representatives or agents, to enter any unit for the maintenance, repair or replacement of any item within the unit or in the Common Element, including the Limited Common Elements, when provided a written advance 24 hour notice by the Board of Directors. In furtherance of this provision, the designated Secretary for the Association, or its representative, may maintain a key to each premise, at the owner's discretion, so as to permit maintenance personnel to enter the unit in case of any emergency or the prolonged absence of the owner.

6. No sign, advertisement, notice or other lettering shall be visibly displayed on or about any unit or common area except as may be determined acceptable by the Board of Directors and then only as a temporary permit. Any sign, advertisement, notice or lettering so displayed in violation of this regulation will be subject to removal without notice.

7. Unless otherwise approved by the Board of Directors, no awnings or other projections shall be attached to the outside walls of the building and no other modifications shall be permitted to the exterior except insect screens may be installed on rear decks of units. Screening must be approved by the Board of Directors for uniformity before installation. Screening must be maintained in good condition by the unit owners at the Unit Owners expense.

8. Unit owners shall maintain in good conditions and repair all interior surfaces and fixtures of their condominium unit. All plumbing, heat/air conditioning and ventilation, electrical equipment and fixtures shall be maintained and repaired and paid for by the unit owner. No structural alterations shall be made without the prior approval of the Board of Directors. Maintenance and repair of the exterior of the

buildings, grounds and Common Elements, including the Limited Common Elements, will be the responsibility of the Association and will be directed by the Board of Directors or managing agent.

9. Unit owners will be responsible for any damage to, or litter of community property located within the Common Element, including the Limited Common Elements, caused by the occupants or guests of their respective units.

10. The Association assumes no liability and shall not be liable for any loss or damage to articles stored in any Common Element or Limited Common Element or other storage areas.

11. A minimum of 55 degrees of heat must be maintained in the unit at all times so as to prevent damage that could be caused to a particular unit or other units by frozen pipes, fire protection water pipes or other matters.

12. Members shall always maintain their unit in a clean and sanitary manner. The Board of Directors, in its discretion, will make the determination of what is the appropriate standard. No clothes lines shall be permitted outside the unit.

13. No garbage containers, supplies, milk bottles or other articles shall be placed in any Common Element areas. All garbage, recycling and refuse must be placed in proper City of Asheville assigned and designated plastic containers with closed lids in the refuse area so designated at street. Unit owners are responsible to follow the City of Asheville garbage and recycling pick up schedule, and ensure all containers are closed and locked to prevent wildlife (bear) activity.

14. Members shall not park and shall not permit their guests and/or other invitees to park any vehicle other than conventional passenger vehicles on any part of the Common Elements. Conventional passenger vehicles are defined as those which are used for personal use only, less than one ton in load capacity and excludes commercial and large recreational vehicles, trailers and boats. Major vehicle maintenance is not permitted within the Common Elements, unless authorized for Association maintenance and/or repair and approved by the Board of Directors. All units are allotted two (2) parking spaces. Units with garages are allotted one (1) parking space adjacent to the respective unit. Limited overflow parking may be available between designated PMV buildings only and the parking area located east of the PCC Clubhouse.

15. Sidewalk entrances must not be obstructed and shall not be used for any purpose other than egress to and from the premises.

16. No Unit Owner shall plant additional shrubs or trees to the existing planting or landscaping on Common Element areas without written prior approval of the Board of Directors of the Association. Seasonal flowers and bulbs are encouraged within HOA Community standards.

17. No Unit Owner or resident shall direct, supervise, or in any manner attempt to assert any control over any employee of or employed by the Association or the Managing Agent.

18. In the event of a management agreement between this Association and a Managing Agent, routine enforcement of these rules and regulations shall be the responsibility of the Board of Directors and the Managing Agent and they shall have full authority to implement, interpret and apply the rules and regulations in accordance with established procedures.

19. Piney Mountain Villas (PMV) Condominiums is a separate entity apart from Pine Cliff Condominiums (PCC). PCV unit owners, guests and invitees enjoy access to the condominiums and Common Element areas across private roads jointly maintained by PCC. The clubhouse, swimming pool and its Common Elements are for the sole use of PCC Homeowners and cannot be used by PMV Homeowners except by specific invitation.

20. All Unit Owners, tenants, guests of owners and anyone else using or visiting any unit of the Common Elements shall conform to and abide by all terms, conditions and obligations imposed by the Declaration of unit ownership and By-Laws of the Association, these rules and regulations, and any management agreement which may be entered into and any other documents or amendments thereto executed pursuant to the Declaration of unit ownership, By-Laws of this Association or these rules and regulations.

21. Unit Owners shall pay all assessments delivered by the Association by the 1st of each month and no later than the 10th of each month.

22. No part of the Property may be used for purposes other than housing and the related common purposes for which the Property was designed. Each unit shall be used as a residence, and for no other purpose, except that professional and quasi-professional people may use their residence as an ancillary or secondary facility to an office established elsewhere. The foregoing restrictions to a residence shall not be construed in such a manner as to prohibit an owner from: (a) maintaining his personal professional library; (b) keeping his personal business or professional records or accounts; or (c) handling his personal business or professional telephone calls or correspondence. Such uses are incidental to the principal residential use and not in violation of said restrictions.

23. Barbeque grills including woodfired, charcoal and propane are permitted for use at the ground level provided it is not beneath a wooden structure. According to the North Carolina Fire Prevention Code 308.1.3 use of these items on wooden decks is not permitted unless the propane tank does not exceed two (2) pounds or unless an outdoor fire suppression system is in place.

24. Nothing shall be done or kept in any Unit or in the Common Elements that would increase the rate of insurance on that portion of the Condominium Property insured by the Association, without the prior written consent of the Board of Directors of the Association. No Unit Owner shall permit anything to be done, or kept in his unit, or in the Common Elements which will result in the cancellation of any such insurance, or which would be in violation of any law.

25. No discharge of firearms or fireworks shall be permitted on any part of the Piney Mountain Villas grounds (Common & Limited Common Elements).

26. Open fires are not permitted anywhere on the Piney Mountain Villas grounds (Common & Limited Common Elements).

27. Owners must have working smoke alarms and a fire extinguisher for their unit. Carbon Monoxide detectors are required in units that have gas appliances and gas fireplaces.

28. The speed limit on all Piney Mountain Villas (PMV) and Pine Cliff Condominiums (PCC) roads is 15 mph.

29. Any consent or approval given under these Rules and Regulations may be added to, amended or replaced at any time by resolution of the Board of Directors. The Board may delegate any of its discretionary powers hereunder to a managing agent for the Condominium Property.

(ATTACHMENT)

THIS SECOND AMENDMENT TO DECLARATION OF CONDOMINIUM ("Amendment") is made as of this 25th day of October, 2024, by and between William G. Kelley and spouse, Corinne N. Kelley; Joan S. Bracken and spouse, Robert J. Bracken; Michelle Shillinglaw and spouse, William Shillinglaw; Pamela Taylor, Ronald Fisher and Martin Fisher (each a "Unit Owner" and being all of the owners of condominium units in the Condominium) all pursuant to and under the North Carolina Condominium Act, Chapter 47C of the North Carolina General Statutes.

WITNESSETH:

- A. WHEREAS, By Declaration of Pine Cliff Villas, a Condominium (the "Original Declaration") dated February 19, 1999, and recorded in the Buncombe County, North Carolina Registry in Book 2078, Page 372, Piney Mountain Associates, Inc. ("Original Declarant") submitted that certain parcel of real estate located within the City of Asheville, North Carolina ("Land") and identified as Units L1, L2, and L3 on that certain plat recorded in Plat Book 72, Page 143 of the Buncombe County, North Carolina Registry, together with all improvements thereto and all easements, right and appurtenances thereunto appertaining.
- B. WHEREAS, On or about November 24, 2014 a First Amendment to Declaration of Pine Cliff Villas Condominium was recorded in the Buncombe County, North Carolina Registry in Book 5364, Page 35, whereby building units identified as Units K1 and K2 on that certain plat recorded in Plat Book 88, Page 131 of the Buncombe County, North Carolina Registry, together with all improvements thereto and all easements, right and appurtenances thereunto appertaining were added to the Property and subjected to the Declaration, as amended.
- C. WHEREAS, the undersigned constitute 100% of the owners of Pine Cliff Villas Condominium, as set forth in the Declaration; and
- D. WHEREAS, the undersigned have the right to amend the Declaration by virtue of North Carolina General Statute §47C-2-117 *et seq.*; and
- E. WHEREAS, the undersigned wish to amend and restate the Declaration as owners of units identified in the Declaration and from and after the date hereof, this Declaration shall govern and control the Condominium in all respects.

NOW THEREFORE, in consideration of the mutual obligations set forth herein, the parties hereto agree as follows:

1. Each and every term and provision of the Declaration, including each and every Exhibit thereto, is incorporated herein by reference, and is effective except as modified and amended by the terms and provisions of this Amendment.

2. A non-profit corporation known and designated as the Pine Cliff Villas Condominium Association (the "Association") has been organized and shall administer the operation and management of the Condominiums to undertake and perform all acts and duties thereto in accordance with the terms of its Bylaws. The By-Laws promulgated by the Association have been revised and updated and are attached hereto and incorporated herein by reference **Exhibit A**. The Association shall have and is hereby granted the authority and power to enforce provisions of the Declaration of Condominium, to levy and to collect assessments in the manner hereinafter provided, and to adopt, promulgate, and enforce such rules and regulations governing the use of the condominium unit, Common Elements and Limited Common Elements as the Board of Directors of said Association may deem to be in the best interest of the Association.

3. The Rules and Regulations promulgated by the Association have been revised and updated and are attached hereto and incorporated herein by reference as **Exhibit B**.

4. Paragraph 9.4 of the Declaration entitled "Waiver of Claims" is hereby deleted in its entirety.

5. Paragraph 10.5 of the Declaration entitled "Individual Policy for Unit Owners" is hereby amended to read as follows:


"Each Unit Owner must obtain adequate insurance, at his own expense, affording personal property, additional living expense, personal liability, and any other coverage obtainable, to the extent and in the amount sufficient to fully compensate the Unit Owners interest. Such insurance shall contain waivers that it is without contribution as against the insurance purchased by the Association."

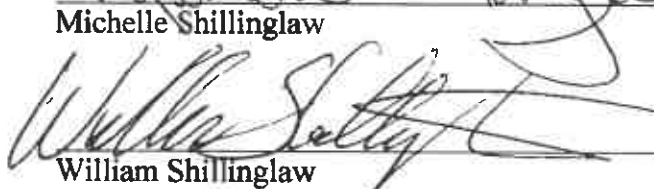
6. Paragraph 15.4 of the Declaration is hereby deleted in its entirety and replaced with the following:

"The Association and any aggrieved unit owner shall have a right of action against unit owners for failure to comply with the provisions of this Declaration, the Bylaws, and the rules, regulations, and decisions of the Association made pursuant to authority granted to the Association in the Declaration and the Bylaws."

IN WITNESS WHEREOF, the Undersigned Unit Owners have caused due execution of this Amendment, this the day and year first above written.

[Signatures and Acknowledgments Follow]


Michelle Shillinglaw (SEAL)


William Shillinglaw (SEAL)

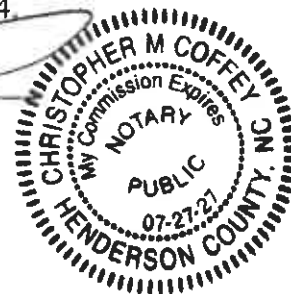
STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, a Notary Public of said County and State, do hereby certify that Michelle Shillinglaw and William Shillinglaw personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this 15th day of July, 2024.


Notary Public

My Commission Expires: 07-27-2027



Ronald Lee Fisher (SEAL)
Ronald Lee Fisher

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

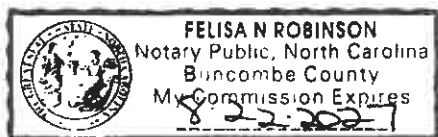
I, a Notary Public of said County and State, do hereby certify that Ronald Lee Fisher and _____ personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this 22 day of Feb, 2024.

Felisa N Robinson

Notary Public

My Commission Expires: 8-22-2027



Martin Fisher

(SEAL)

Martin Fisher

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, a Notary Public of said County and State, do hereby certify that Martin Fisher and _____ personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this 22 day of Feb, 2024.

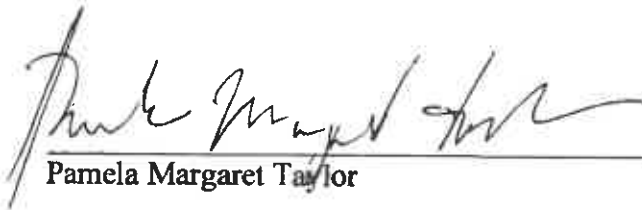
Felisa N Robinson

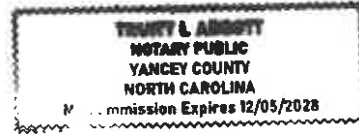
Notary Public

My Commission Expires: 8-22-2027



35

 (SEAL)
Pamela Margaret Taylor



STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, a Notary Public of said County and State, do hereby certify that Pamela Margaret Taylor and N/A personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this 24 day of ^{January, 2024} ~~December, 2021~~:


Notary Public

My Commission Expires: 12/05/2028

HIGHLAND ASSOCIATES
28.1377 PG. 15

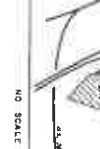


I, JONATHAN T. HILGARD, being duly sworn, depose and say that the foregoing is a true and correct copy of the original plat as recorded in the public records of the County of Guilford, North Carolina, and that the same is a true and correct copy of the original plat as recorded in the public records of the County of Guilford, North Carolina, and that the same is a true and correct copy of the original plat as recorded in the public records of the County of Guilford, North Carolina.

Witness my hand and seal this 24th day of June, 2011.

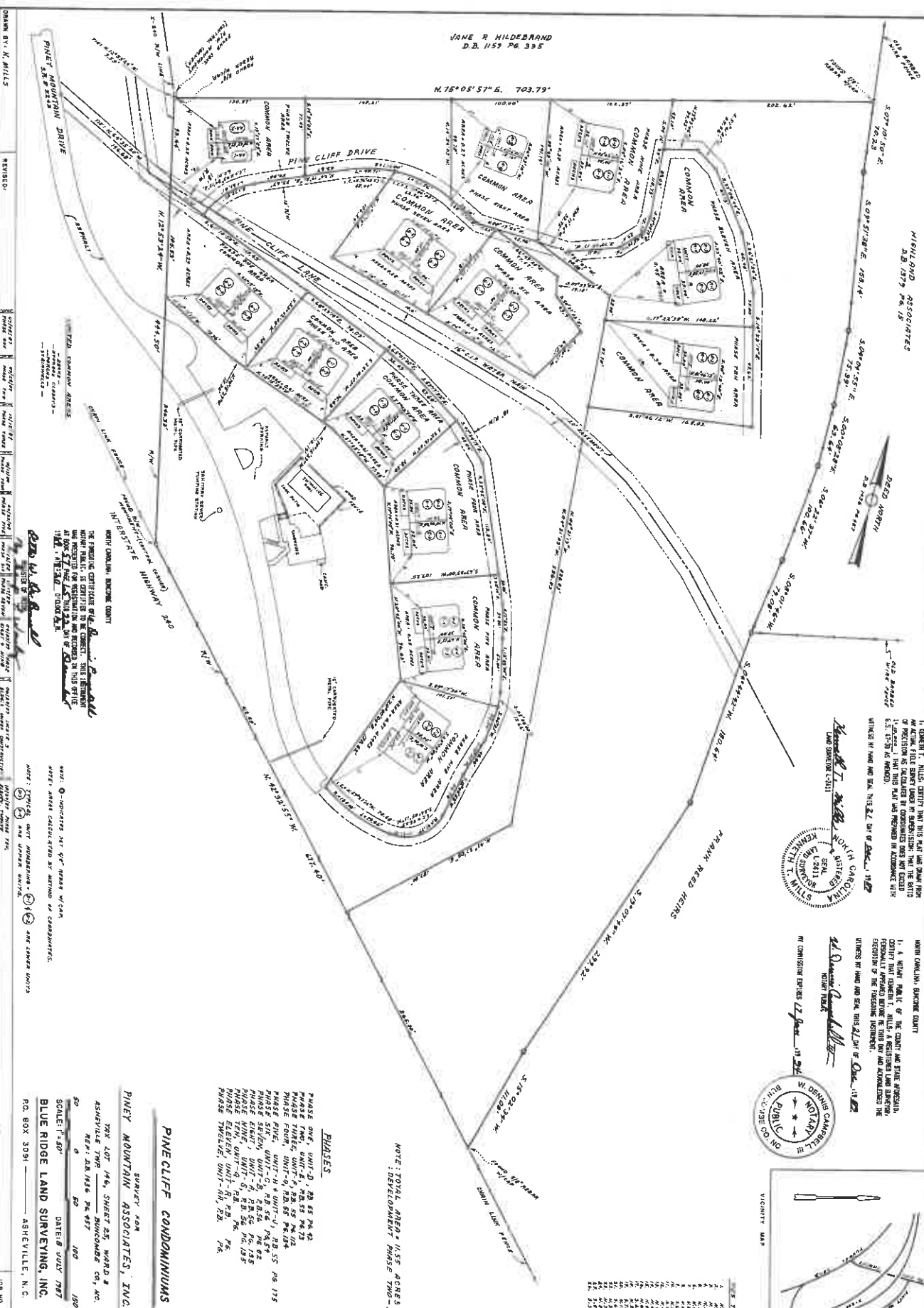


W. DENNIS CAMPBELL, III
NOTARY PUBLIC
COMMISSION EXPIRES 12/31/11



JANE R. HILDEBRAND
D.B. 1151 PG. 395

N. 75° 05' 57" E. 703.79'



PHASES

- PHASE ONE, UNIT-D, 28.45 PG. 42
- PHASE TWO, UNIT-E, 28.51 PG. 43
- PHASE THREE, UNIT-F, 28.57 PG. 44
- PHASE FOUR, UNIT-G, 28.63 PG. 45
- PHASE FIVE, UNIT-H, 28.69 PG. 46
- PHASE SIX, UNIT-I, 28.75 PG. 47
- PHASE SEVEN, UNIT-J, 28.81 PG. 48
- PHASE EIGHT, UNIT-K, 28.87 PG. 49
- PHASE NINE, UNIT-L, 28.93 PG. 50
- PHASE TEN, UNIT-M, 28.99 PG. 51
- PHASE ELEVEN, UNIT-N, 29.05 PG. 52
- PHASE TWELVE, UNIT-O, 29.11 PG. 53

NOTE: TOTAL AREA 11.57 ACRES
DEVELOPMENT PHASE TWO - 0.82 ACRES

PINECLIFF CONDOMINIUMS

SUBJECT FOR
PINEY MOUNTAIN ASSOCIATES, INC.
TAX LOT 146, SHEET 25, WARD 8
ASHEVILLE TWP., WILSON CO., NC.
REPT. 28.146 PG. 417
SCALE: 1"=40'
DATE: 8 JULY 1997
BLUE RIDGE LAND SURVEYING, INC.
P.O. BOX 3091 - ASHEVILLE, N.C.



CREATED BY K. HILLS
REVISED:
NOTES:
1. INDICATES 1/4" OF AREA WITHIN
2. AREA CALCULATED BY METHOD OF COORDINATES
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