

NORTH CAROLINA

PROTECTIVE COVENANTS OF CLAREMONT SUBDIVISION

HENDERSON COUNTY

THIS DECLARATION of limitations, restrictions and uses is made and entered into this the 30<sup>th</sup> day of April, 1987, by W. STEPHEN GILBOY and wife, JOAN GILBOY, by their Attorney in Fact, R. MICHAEL GILBOY.

The undersigned W. Stephen Gilboy and wife, Joan Gilboy, (hereinafter called "the Developers"), by virtue of deeds recorded in Book 682 at Page 355, and Book 682, Page 359, of the Records of Deeds for Henderson County, are the owners of that real estate being developed as "Claremont Subdivision" as shown on plats filed or to be filed for record in the office of the Register of Deeds for Henderson County, North Carolina.

The said Developers desire to subject so much of said property described in Deed Book 682, Page 355, and Deed Book 682, Page 359, as is shown on said plats of Claremont Subdivision (whether now or hereafter recorded) to the following limitations, restrictions and uses which shall run with the land and be binding not only upon the undersigned developers but upon all of their successors in title.

NOW, THEREFORE, the said Developers do hereby make the following declaration as to the limitations, restrictions and uses to which the above-described tract of land known as Claremont Subdivision shall be subject:

1. All lots shall be used for residential purposes only. Each dwelling must have a minimum of eighteen hundred (1800) square feet of heated living space exclusive of garages, patios and porches, and must be a single-family dwelling.

2. The number of dwellings and other buildings constructed, placed or permitted to remain on a lot shall be as follows:

- A. On a lot consisting of less than three (3) acres, there shall be only one (1) dwelling.
  - B. On a lot consisting of three (3) or more acres, there shall be only one (1) principal dwelling, but a guest house may also be erected if approved by Developers or their assignee, which approval shall not be unreasonably withheld.
  - C. On any lot of any size, an outbuilding such as a detached garage, shed, barn, gazebo, playhouse, or the like may be erected only with the approval of Developers or their assignee, which approval shall not be unreasonably withheld.
  - D. The owner of two (2) or more adjoining lots may combine them for purposes of Paragraph B above by electing so to do in a duly executed and acknowledged instrument recorded in the office of the Register of Deeds for Henderson County. Thereafter, the lots described in the notice of election shall not be conveyed separately without the consent of Developers or their assignee, which shall not be unreasonably withheld.
3. Animals shall be kept or maintained only as follows:
- A. Dogs, cats, and other small animals or birds which are bona fide domestic pets may be kept on any lot, but not raised or sold on a commercial basis.
  - B. The owner of one or more adjoining lots consisting of a total area of three (3) acres or more may keep horses or ponies thereon with the consent of Developers

or their assignee, which shall not be unreasonably withheld, but neither horses nor ponies shall be raised or sold on a commercial basis.

- C. No other animals, livestock or poultry shall be kept or maintained anywhere in the subdivision.

4. No commercial activity of any kind may be conducted in the subdivision; and no signs of any nature (except one sign suitable for advertising the sale of a house or lot, or identifying the general contractor building a house) shall be maintained on any lot in said subdivision.

5. Only standard radio and television antennas shall be permitted in the subdivision, unless approved by Developers or their assignee. Developers will grant such approval only if they are satisfied that a proposed antenna will not reasonably be an annoyance to any property owners.

6. No metal or wire fences of any type shall be allowed unless screened from view from the subdivision roads and adjacent property.

7. All dwellings and any other structures must be located within the building set-back lines shown on the recorded plat; PROVIDED, that if two or more lots shall be under a single ownership, the interior set-back lines may be disregarded.

8. All concrete block foundations must be veneered with brick, stone or stucco.

9. All plumbing, lavatories and sanitation devices must be indoors. All sewage systems shall be connected to a septic tank or cesspool designed, located and constructed in accordance with the requirements of the Henderson County Health Department.

10. House trailers, travel trailers, mobile homes, recreational vehicles, boats in excess of 16 feet long, trailers for such boats, trucks (other than pick-ups, panel trucks, and vans) and portable camping equipment shall not be left visible from subdivision roads or adjacent property.

11. All telephone and electrical lines must be underground.

12. All building plans, elevations and specifications shall be submitted to Developers or their assignee for their approval prior to construction. Approval shall not be unreasonably withheld.

13. The exterior of all dwellings and other buildings must be completed within one (1) year from start of construction. Major landscaping and other site improvements relating to a dwelling must be completed within the time limits set out below:

- A. If a certificate of occupancy is issued on or before June 30 of any year, such improvements must be completed by December 31 of that year.
- B. If a certificate of occupancy is issued after June 30 of any year, such improvements must be completed by June 30 of the following year.

14. Developers reserve the right, in their discretion, to assign to an association of property owners in Claremont Subdivision all rights of approval or disapproval reserved to Developers in Paragraphs 2, 3, 5 and 12 above. As used in said Paragraphs, "assignee" means such an association.

15. The covenants set out in Paragraphs 1 through 13 above may be amended or modified by written instrument executed by the owners of two-thirds (2/3) of the lots in the subdivision, and duly recorded.

16. Claremont Drive, and any other roads now or hereafter shown on recorded plats of Claremont Subdivision, are private roads but are dedicated for the exclusive use of the property owners in Claremont Subdivision, for ingress and egress and for public utilities. A right of way is reserved over each lot in Claremont Subdivision for all roads abutting said lot. The following provisions apply to all roads in Claremont Subdivision:

- A. The cost of maintaining Claremont Drive, and any extensions of this road and roads branching off of it, whether now in existence or constructed hereafter shall be equally divided among all lots served by all of said roads. The maintenance cost paid by the owner of each lot, for that lot, shall be the total cost of maintenance of said roads divided by the total number of lots served by said roads. So long as Developers own lots in the subdivision, they shall pay for road maintenance on the same basis as any other lot owner; PROVIDED that as long as developers own at least thirty (30) lots in Claremont, Developers shall pay the entire cost of road maintenance.
- B. The owner of each lot, by the acceptance of a deed or other conveyance, agrees to pay to Developers, or their successors in interest as hereinafter defined, that lot's pro rata share of road maintenance as defined in Paragraph A above. Each lot is hereby made subject to a specific and continuing lien to secure the payment of such charges, including interest thereon, and this lien shall run with the land and be enforceable notwithstanding any change of ownership of the lot. The successive owners of each lot, by the acceptance of deeds therefor, shall be deemed to personally assume and agree to pay all such charges which are a lien upon the lot. Developers or their successors

in interest as hereinafter defined, shall have the right to collect the charges, including interest, which are a lien on any lot by means of a civil action against the owner of such lot, and, upon obtaining judgment against the owner, to have the lot sold and the net proceeds of sale applied to the discharge of the judgment.

- C. All charges for road maintenance which are not paid within thirty (30) days after being billed to the lot owners shall bear interest at the rate of eight per cent (8%) per annum, compounded semi-annually, until paid. Upon demand, developers or their successors in interest shall furnish to any lot owner or mortgagee a certificate showing all amounts which are a lien against any lot as of a given date.
- D. Developers reserve the right, in their discretion, to assign to an association of the property owners in Claremont Subdivision the right to maintain the subdivision roads and to collect the cost thereof from the owners of the lots. Until such an assignment is made, all road maintenance shall be performed by Developers, who shall be reimbursed by the other lot owners as provided above. If Developers assign their rights to a property owners association, the association may, in its discretion, establish and collect an annual assessment against each lot for road maintenance. The amount of the assessment shall be the same for all lots, and shall be such amount as the association shall determine to be necessary in order to provide for road maintenance for the ensuing year. The association shall not be obligated to expend in any twelve-month period all of the assessments collected during that period, and may carry forward any balance remaining. The provisions of Paragraphs B and C above shall apply to such assessments.

E. Paragraphs A, B, C and D above shall apply only to maintenance of Claremont Drive, and any extensions of this road, or new roads connected to it. If, in the course of future development, any new and separate road (not connected to Claremont Drive) is constructed in Claremont Subdivision, Developers will file an amendment to these restrictive covenants, which amendment will provide for maintenance of any such new road by the owners of only those lots which it serves.

F. Developers assume no responsibility for maintenance of King Bridle Path, a 60-foot wide right of way located partly within Claremont Subdivision.

17. The covenants set out in Paragraphs 1 through 11 above shall run with the land and be binding on all parties and all persons claiming under the Developers for a period of thirty (30) years from the date these covenants are recorded, after which time these covenants shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by the owners of at least two-thirds (2/3) of the lots in the subdivision is recorded agreeing to change said covenants in full or in part, or to terminate them.

18. It shall be lawful not only for the undersigned Developers and their successors and assigns but also for any present or future owners of any lot or lots in the subdivision, who have derived or who shall hereafter derive title from or through the undersigned, and also for an association of such owners, if one shall hereafter be formed, to institute and prosecute any proceedings at law or in equity against any person or persons violating or threatening to violate the foregoing covenants.

19. Invalidation of any one of these covenants by judgment or Court order shall not affect any of the remaining provisions above set out, which

The undersigned Developers do hereby declare that the advantages accruing to their property from the covenants and restrictions hereinabove set out constitute good and valuable consideration for the execution of this instrument.

R. MICHAEL GILBOY executes this instrument as Attorney in Fact for W. Stephen Gilboy and wife, Joan Gilboy, pursuant to authority contained in Power of Attorney recorded in Book 662, Page 41, Henderson County Registry.

IN WITNESS WHEREOF, the undersigned Developers have hereunto set their hands and seals the day and year first above written.

W. Stephen Gilboy  
*W. Stephen Gilboy* by  
*R. Michael Gilboy* Attorney in fact  
 BY: \_\_\_\_\_ (SEAL)  
 Attorney in fact

Joan Gilboy  
*Joan Gilboy* by  
*R. Michael Gilboy* Attorney in fact  
 BY: \_\_\_\_\_ (SEAL)  
 Attorney in fact

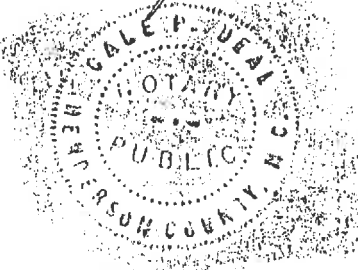
STATE OF NORTH CAROLINA  
 COUNTY OF HENDERSON

I, Gale P. Beal, a Notary Public in and for the above County and State, do hereby certify that W. STEPHEN GILBOY by and through his attorney in fact, R. Michael Gilboy and Joan Gilboy, by and through her attorney in fact, R. Michael Gilboy appeared before me this day and acknowledged the due execution by them of the foregoing instrument.

WITNESS my hand and notarial seal, this the 30 day of April, 1987.

My Commission expires:  
June 21, 1991

Gale P. Beal  
 Notary Public



North Carolina, Henderson County The foregoing certificate(s) of Gale P. Beal

Notary Public (~~Notary Public~~) is/are certified to be correct. This instrument presented for registration and recorded in this office this 30 day of April 1987 at 1:35 M. in Book 697 Page 443  
Rufus H. Maxwell By: Lin Shiffin Maxwell  
 (Deputy)



C  
STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON.

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AMENDMENT TO PROTECTIVE COVENANTS OF CLAREMONT SUBDIVISION

THIS AMENDMENT to the Restrictive Covenants of Claremont Subdivision is made and entered into this the 21<sup>st</sup> day of May, 1994.

WHEREAS, the undersigned are the owners of certain lots in a subdivision located in Henderson County, North Carolina known as Claremont Subdivision; and

WHEREAS, Claremont Subdivision was previously made subject to certain Protective Covenants and Conditions as will appear by reference to that certain instrument recorded in Deed Book 697, Page 463 of the Records of Deeds for Henderson County, North Carolina; and

WHEREAS, according to provision 15 of said Protective Covenants, paragraphs 1 - 13 may be amended or modified by written instrument executed by the owners of 2/3 of the lots in the subdivision and duly recorded; and

WHEREAS, the undersigned being the present owners of lots in Claremont Subdivision desire to alter, amend, change and modify the Protective Covenants and Conditions and to exercise the authority and power as set forth in Protective Covenant number 15.

NOW, THEREFORE, paragraph 1 of said Protective Covenants for Claremont Subdivision as recorded in that document located in Deed Book 697, Page 463 of the Records of Deeds for Henderson County is hereby modified as follows:

AMENDMENT TO PROTECTIVE COVENANTS

1. All lots shall be used for residential purposes only. Each dwelling must have a minimum of 1800 square feet of heated living space exclusive of garages, patios and porches and must be a single family dwelling.

1a. The owner or owners of each lot in Claremont Subdivision shall automatically become members of the Claremont Property Owners Association, Inc., a non-profit corporation which is registered in the State of North Carolina. This shall apply to the owner of any and all lots whether the owner should be an individual, partnership, corporation or otherwise.

In all other respects, the Protective Covenants and Conditions and Amendments thereto pertinent to Claremont Subdivision as set out in that instrument recorded in Deed Book 697, Page 463, Records of Deeds of Henderson County, North Carolina shall remain the same.

WITNESS our hands and seals this the 21<sup>st</sup> day of

May, 1994.

(c)  
STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON.

AMENDMENT TO PROTECTIVE COVENANTS OF CLAREMONT SUBDIVISION

THIS AMENDMENT to the Restrictive Covenants of Claremont Subdivision is made and entered into this the 31 day of May, 1994.

WHEREAS, the undersigned is the owner of certain lots in a subdivision located in Henderson County, North Carolina known as Claremont Subdivision; and

WHEREAS, Claremont Subdivision was previously made subject to certain Protective Covenants and Conditions as will appear by reference to that certain instrument recorded in Deed Book 697, Page 463 of the Records of Deeds for Henderson County, North Carolina; and

WHEREAS, according to provision 15 of said Protective Covenants, paragraphs 1 - 13 may be amended or modified by written instrument executed by the owners of 2/3 of the lots in the subdivision and duly recorded; and

WHEREAS, the undersigned being the present owner of lots in Claremont Subdivision desire to alter, amend, change and modify the Protective Covenants and Conditions and to exercise the authority and power as set forth in Protective Covenant number 15.

NOW, THEREFORE, paragraph 1 of said Protective Covenants for Claremont Subdivision as recorded in that document located in Deed Book 697, Page 463 of the Records of Deeds for Henderson County is hereby modified as follows:

AMENDMENT TO PROTECTIVE COVENANTS

1. All lots shall be used for residential purposes only. Each dwelling must have a minimum of 1800 square feet of heated living space exclusive of garages, patios and porches and must be a single family dwelling.

1a. The owner or owners of each lot in Claremont Subdivision shall automatically become members of the Claremont Property Owners Association, Inc., a non-profit corporation which is registered in the State of North Carolina. This shall apply to the owner of any and all lots whether the owner should be an individual, partnership, corporation or otherwise.

In all other respects, the Protective Covenants and Conditions and Amendments thereto pertinent to Claremont Subdivision as set out in that instrument recorded in Deed Book 697, Page 463, Records of Deeds of Henderson County, North Carolina shall remain the same.

WITNESS our hands and seals this the 31<sup>ST</sup> day of

May, 1994.

*R. Michael Gilboy Atty in fact for W. Steven  
and Joan M. Gilboy*

R. Michael Gilboy, Attorney in Fact  
for W. Steven Gilboy and wife, Joan Gilboy

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AMENDMENT TO PROTECTIVE COVENANTS

Owners of the following lots in Claremont Subdivision,  
 Lot 31, Lot 56, Lot 57, Lot 82, Lot 83, Lot 96, Lot 104, Lot 107  
 Lot 108, Lot 109, Lot 110, Lot 111, Lot 112, Lot 114, Lot 115, Lot  
 116, Lot 117, Lot D and Lot E.

STATE OF NORTH CAROLINA.  
 COUNTY OF HENDERSON.

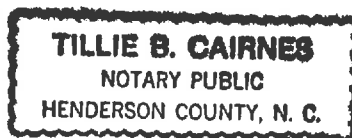
I, Tillie B. Cairnes, a notary public of said  
 County and State do hereby certify that R. MICHAEL GILBOY, Attorney  
 in Fact for W. STEPHEN GILBOY and wife, JOAN GILBOY, personally  
 appeared before me this day and acknowledged the due execution of the  
 foregoing instrument.

Witness my hand and seal this the 31<sup>st</sup> day of May,  
 1994.

Tillie B. Cairnes  
 Notary Public

My Commission Expires:

August 14, 1995.



North Carolina, Henderson County      The foregoing certificate(s) of  
Tillie B. Cairnes

Notary Public (Notaries Public) is/are certified to be correct. This  
 Instrument presented for registration and recorded in this office  
 this 12 day of July, 1994 at 4:30 P M. in Book 848 Page 517  
Patricia A. McLean Gracie Forecatt  
 Register of Deeds      (Assistant) (Deputy)

THIS AMENDMENT is executed this 9<sup>th</sup> day of December, 1993, by W. STEPHEN GILBOY and wife, JOAN GILBOY, as Developers of Claremont Subdivision, by their Attorney in Fact, R. MICHAEL GILBOY.

Protective Covenants of Claremont Subdivision are recorded in Book 697 at Page 463 of the Records of Deeds for Henderson County. In Paragraph 16, Subparagraph E, of these Covenants, Developers reserved the right to file an Amendment providing for maintenance of any road in Claremont which is not connected to Claremont Drive.

Developers are now developing Phase IV of Claremont as shown on plat filed or to be filed for record in the office of the Register of Deeds for Henderson County. The two most southerly lots in Phase IV do not have access to Claremont Drive, but instead have access to the public Mine Gap Road SR 1827 by means of an easement shown on the plat.

Developers hereby amend Paragraph 16 of the Protective Covenants of Claremont Subdivision by adding the following new subparagraph:

G. Paragraphs A, B, C and D of this Paragraph 16 of the Claremont Protective Covenants do not apply to the two most southerly lots in Phase IV (Lots Nos. D and E). The road serving these two lots only, as shown on the recorded plat, shall be maintained solely by the owners of these two lots. The owners of these two lots shall each pay one-half of the cost of maintenance of this road and shall not be required to pay road maintenance assessments to Claremont Property Owners Association. The owners of these two lots shall make their own arrangements for road maintenance, and the Claremont Property Owners Association shall have no responsibility or authority for such maintenance. By accepting and recording a deed for one of these two lots, the owner agrees to these provisions.

R. MICHAEL GILBOY executes this instrument as Attorney in Fact for W. Stephen Gilboy and wife, Joan Gilboy, pursuant to authority contained in Power of Attorney recorded in Book 662, Page 41, Henderson County Registry.

IN WITNESS WHEREOF, the undersigned Developers have executed this Amendment.

W. STEPHEN GILBOY *W. Stephen Gilboy*  
BY: *R. Michael Gilboy atty in fact* (SEAL)  
R. Michael Gilboy, Atty. in Fact  
JOAN GILBOY *Joan Gilboy*  
BY: *R. Michael Gilboy atty in fact* (SEAL)  
R. Michael Gilboy, Atty. in Fact

STATE OF NORTH CAROLINA, COUNTY OF HENDERSON

I, Tillie B. Cairnes, a Notary Public of said County and State do hereby certify that R. MICHAEL GILBOY, Attorney in Fact for W. STEPHEN GILBOY and wife, JOAN GILBOY, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and seal this the 9<sup>th</sup> day of December, 1993.

Tillie B. Cairnes  
Notary Public

My Commission Expires August 14, 1995.

TILLIE B. CAIRNES  
NOTARY PUBLIC

Prepared by Lawrence A. Hogan

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BY-LAWS

of

CLAREMONT PROPERTY OWNERS ASSOCIATION, INC.

ARTICLE I

NAME AND LOCATION

The name of the corporation is CLAREMONT PROPERTY OWNERS ASSOCIATION, INC. hereinafter referred to as the "Association". The principle office of the corporation shall be located in the Claremont Subdivision, Flat Rock, but meetings of members and directors may be held at such places within the State of North Carolina, County of Henderson, as may be designated by the Board of Directors.

ARTICLE II

DEFINITIONS

Section 1. "Association" shall mean and refer to Claremont Property Owners Association, Inc., its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property described in the Articles of Incorporation of Claremont Property Owners Association, Inc., and The By-Laws of Claremont Property Owners Association, Inc., and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners, including that real property owned by members; such as roads and streets, ponds, entrance and other areas maintained by the association.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 6. "Association" shall mean and refer to Claremont Property Owners Association, Inc., its successors and assigns.

Section 7. "Member" shall mean and refer to those persons entitled to membership as provided in the By-Laws.

## ARTICLE III

Purpose

The purpose of the Association is to carry out projects and other activities designed to enhance the safety, beauty and the pleasures of living in Claremont. This includes, but is not limited to: maintaining the roads, entrance way, the pond area, and island parks; encouragement of all owners in the care and maintenance of their respective property. And the creation of common areas which will be owned by the Association and maintained by the members of the Association.

## ARTICLE IV

Membership

4.1 Membership Defined. The owner or joint owners of a lot in Claremont Subdivision, whether an individual, partnership, corporation, or otherwise, shall automatically be members of the association. But no matter how any lot is owned there shall be only one vote per lot in the Association.

4.2 Duration of Membership. A member shall continue to be a member as long as he/she remains the owner of a lot(s) in Claremont Subdivision. (The execution of a deed of trust or mortgage on such lot(s) shall not divest the owner of membership). Execution of a deed conveying a lot in this subdivision, or divesting the owner's title, whether by foreclosure of the deed of trust, foreclosure for taxes, execution sale, or otherwise, shall constitute the consent and conveyance of membership in the Association by the owner, without further compensation by this corporation for any interest in the assets of the association.

4.3 Voting Privileges. Each member of the Association in good standing shall be entitled to one (1) vote for each lot owned in the Claremont Subdivision.

4.4 Responsibilities. The members of the Association, in meeting assembled, shall elect the members of the Board of Directors; shall give general lines of direction to the Board by receiving and acting on reports received from the Board; and shall have the sole power to amend the Articles of Incorporation and Bylaws.



## ARTICLE V

### Meetings

5.1 Annual Meeting. The annual meeting of members shall be held within the month of January for the purpose of electing directors, reviewing the annual report, approving the annual budget, and for the transaction of other business as may come before the meeting.

5.2 Special Meetings. Special meetings of the members for any purpose or purposes may be called by the President or the Board of Directors or by the written request of one-half of the members entitled to vote at the meeting; such meeting shall be held in the place designated in the notice of such meeting. Only business mentioned in the call of a special meeting may be transacted.

5.3 Notice of Meetings. Written notice stating the date, place and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than twenty-one (21) days before the date of the meeting either personally or by mail by or at the direction of the President, Secretary or other officer or person calling the meeting, to each member entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the members at their addresses last listed with the Association as official address of the owners with postage thereon prepaid. Attendance at meetings is strongly encouraged.

5.4 Quorum. A Quorum shall consist of at least twenty-five (25) percent of the membership in good standing at the time of the meeting. The presence of approved written proxies shall be considered present in determining if a quorum exists.

5.5 Proxies. When members presence at meetings may be precluded due to unavoidable circumstances, e.g. illness or travel distance, written proxies may be submitted to the Secretary of the Association. The Secretary's discretion shall prevail for acceptance of such proxies. The board of directors shall approve a proxy form which shall be used exclusively.

5.6 Procedure of Meeting. Robert's Rules of Order, latest edition, shall be the governing parliamentary law of the Association except as otherwise provided in the Bylaws.

ARTICLE VI

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POWERS AND DUTIES OF THE BOARD OF DIRECTORS

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

(a) adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;

(b) suspend the voting rights and right to use of the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days for infraction of published rules and regulations;

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

(d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and

(e) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

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

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the members who are entitled to vote;

(b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

(c) as more fully provided in the By-Laws of the Association, to:

(1) fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual due date;

(2) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual due date; and

(3) foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to pay the same.

(d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(e) procure and maintain adequate liability and hazard insurance on property owned by the Association;

(f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) cause the Common Area to be maintained.

## ARTICLE VII

### Directors

7.1 Description of the Board. There shall be a Board of Directors consisting of nine (9) members of the Association. The terms of the Directors shall be for three (3) years, except that they shall be elected in such a way that the terms of no more than three (3) Directors expire in any one year. Directors will be elected at the annual meeting each year for candidates nominated by a nominating committee appointed by the President and/or by nominations from the floor. All Directors must be, and remain, members in good standing of the Association.

7.2 Directors Liability. No Director of the Corporation shall have any personal liability arising out of an action whether by or in the right of the corporation or otherwise for monetary damages for breach of his or her duty as a director; provided, however, that the foregoing shall not limit or eliminate the personal liability of a Director with respect to (i) acts or omissions not made in good faith that such Director at the time of such breach knew or believed were in conflict with the best interests of the Corporation, (ii) any liability under section 55-A-19 through 55-A-24.3 of the North Carolina General Statutes or any successor provision, (iii) any personal benefit, or (iv) acts or omissions occurring prior to the effectiveness of this Article. As used in this Article, the term "improper personal benefit" does not include a Director's compensation or other incidental benefit for or on account of his or her service as a director, officer, employee, independent contractor, attorney or consultant of the Corporation.

Furthermore, notwithstanding the foregoing provision, in the event that Section 55-A-19 through 55-A-24.3 or any other provision of the North Carolina General Statutes is amended or enacted to permit further limitation of elimination of the personal liability of a Director, the personal liability of the Corporation's Directors shall be limited or eliminated to the fullest extent permitted by the applicable law.

This Article shall not affect a charter or Bylaw provision or contract or resolution of the Corporation indemnifying or agreeing to indemnify a Director against personal liability.

Any repeal or modification of this Article shall not adversely affect any limitation hereunder on the personal liability of a Director with respect to acts or omissions occurring prior to such repeal or modification.

7.3 Committees. The Board of Directors may from time to time establish committees to assist in the carrying out of the purposes of the Association.

7.4 Meetings. The Board of Directors shall meet no less than four (4) times during the year. Special meetings may be called

by or at the request of the President or any two Directors.

7.5 Notice of Meetings. Notice of any meeting shall be given by oral or written notice delivered personally, by telephone or mailed to each Director at his/her business or home address at least seventy-two (72) hours prior to the meeting. The required notice for a meeting of the Board of Directors may be waived by the unanimous consent of the Directors given verbally or in writing.

7.6 Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business at any meeting of the board of Directors.

7.7 Conduct of Meeting. The President or in his/her absence the Vice-President, or in their absence any Director chosen by the Directors present shall call a meeting of the board of Directors to order and shall act as chair of the meeting. The secretary of the Association shall act as secretary of all meeting of the Board of Directors. In the absence of the Secretary, the presiding officer may appoint any other person present to act as secretary of the meeting.

7.8 Vacancies. Any vacancy occurring in the Board of Directors may be filled until the next annual meeting by the Directors then in office. All vacancies shall be filled in a manner consistent with North Carolina General Statute 55-A-21.

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

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

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

7.12 Election. Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the By-Laws of the Association. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

## ARTICLE VIII

Officers

8.1 Selection. Officers of the Association will be selected by and from the Board of Directors within ten (10) days after the election of directors has been held. Officers shall serve during the ensuing year. The officers shall consist of President, Vice-President, Secretary and Treasurer.

8.2 Duties.

- a) The President shall be the chief executive officer and preside at all meetings, appoint committees and represent the Association in matters with the community.
- b) The Vice-President shall assist the President in his/her duties and preside in the President's absence.
- c) The Secretary shall keep minutes of all meetings of the Association and of the Board of Directors, and shall keep in a safe and orderly manner all documents and correspondence of the Association and make distribution of minutes by mail within thirty (30) days to all members in good standing.
- d) The Treasurer shall collect all dues and other income of the Association, make disbursements as authorized by the Board of Directors and be accountable for the funds of the Association. The Treasurer shall keep up-to-date records of the Association's finances as well as a record of the membership in good standing and the votes each may exercise. All disbursement of Association funds shall be by bank check signed by the Treasurer and co-signed by the President or Vice President of the Association.

8.3 Requirements. All officers must be members of the Association in good standing.

8.4 Officers Liability. No officer of the Corporation shall have personal liability arising out of an action whether by or in the right of the corporation or otherwise for monetary damages for breach of his or her duty as an officer; provided, however, that the foregoing shall not limit or eliminate the personal liability of an officer with respect to (i) acts or omissions not made in good faith that such officer at the time of such breach knew or believed were in conflict with the best interests of the Corporation, (ii) any liability under section 55-32 of the North Carolina General Statutes or any successor provision, (iii) any transaction from which such Director derived an improper personal benefit, or (iv) acts or omissions occurring prior to the effectiveness of this Article. As used in this Article, the term "improper personal benefit" does not include an officer's compensation or other incidental benefit for or on account of his or her service as a director, officer, employee, independent

contractor, attorney or consultant of the Corporation.

Furthermore, notwithstanding the foregoing provision, in the event that Section 55-7 or any other provision of the North Carolina General Statutes is amended or enacted to permit further limitation or elimination of the personal liability of an officer, the personal liability of the Corporation's officers shall be limited or eliminated to the fullest extent permitted by the applicable law.

This Article shall not affect a charter or Bylaw provision or contract or resolution of the Corporation indemnifying or agreeing to indemnify an officer against personal liability.

Any repeal or modification of this Article shall not adversely affect any limitation hereunder on the personal liability of an officer with respect to acts or omissions occurring prior to such repeal or modification.

8.5 Removal. Any officer may be removed by a majority vote of the Board of Directors whenever in its judgement the best interest of the Association shall be served.

8.6 Vacancies. A vacancy in any office shall be filled by the Board of Directors for the unexpired portion of the term.

## ARTICLE IX

### Financial Matters

9.1 Fiscal Year. The fiscal year and budget year of the Association shall be January 1st through December 31st of each year.

9.2 Budget. The Board of Directors shall prepare a budget for presentation at the annual meeting of the Association. This Budget shall reflect the entire range of costs incurred by the Association to maintain the land held in common for the recreation, health, safety, welfare and enjoyment of its members, to the best of its ability. These costs shall include, but not be limited to, payment of taxes, insurance, repair, replacement and additions to the improvements made upon the land held in common and the cost of labor, equipment, materials, management and supervision thereof. Copies of the proposed subsequent year's budget shall be mailed to members with notice of the annual meeting.

9.3 Annual Assessment. Upon adoption of the budget each member shall be assessed a prorata share, or one share per lot, of the entire budget. A statement indicating the amount of the assessment shall be mailed to each member within thirty (30) days after the annual meeting. The assessment will be due and payable in full within 30 days of the due date which is March 1.

9.4 Special Assessment. A special assessment may be levied by the Association for the purpose of defraying in whole or in part

the cost of any construction or reconstruction, unexpected repair or replacement of a capital improvement upon the common space if consented to by a majority of the members of the Association. Special assessments shall be due and payable 90 days after the required affirmative vote of the members of the Association.

9.5 Unpaid Assessments. If assessments are not paid within thirty (30) days of the due date, such assessment shall become delinquent and shall, together with interest thereon and cost of collection thereof as hereinafter provided, become a continuing lien on the property which shall bind such property in the hands of the then owner, his/her heirs, devisees, personal representatives and assignees. Such assessment shall also be the personal obligation of the owner of the lot at the time said assessment becomes delinquent, and shall remain his/her personal obligation for the statutory period.

If the assessment is not paid within the 30 days after the due date, the assessment shall bear interest from the date of delinquency at a rate equal to the prime rate on the date of delinquency plus 1% per annum compounded quarterly until paid. The Association may bring an action at law against the owner personally obligated to pay the same or to foreclose the lien against the property, and there shall be added to the amount of such assessment the cost of preparing and filing the complaint in such action, and in the event a judgement is obtained, such judgement shall include interest on the assessment, the cost of preparing and filing the complaint in such action and a reasonable Attorney's fee to be fixed by the court together with the costs of the action.

9.6 Loss of Voting Privileges. Failure to pay assessments within thirty (30) days after due date shall automatically suspend the voting privilege until such assessments are paid.

9.7 Audit of Records. The books and Records of the Treasurer shall be audited by a committee appointed by the President prior to the annual meeting and audit results shall be presented at the meeting.

9.8 Bonding of General Contractors. In the interest of maintaining the roadways within the development at the minimum cost to lot owners, each General Contractor shall be required to post a cash bond in the amount of \$1,000 with the Treasurer of the Association for each lot upon which the General Contractor will engage in land preparation and building construction. Such cash bond shall be posted prior to the commencement of land clearance and/or construction. Such bond bears no interest accruing to the General Contractor.

If within 90 days following completion of construction and occupancy by the lot owner, any and all damage to the roadway, as hereinafter defined, has, in the sole discretion of the Association, been repaired, \$750 will be refunded to the General Contractor. If such repairs are, in the sole discretion of the Association, unsatisfactory, the Association reserves the right to cause such repairs to be made and to deduct the cost thereof

from the refundable portion of the Cash Bond.

For purposes of this section, "Roadway(s)" is defined as that portion of road, roadbed and roadside drainage area on either side of the road affronting the lot(s) upon which a land clearance and/or construction project is proposed.

In the event a General Contractor fails, for any reason, to post the required cash bond, the Association reserves the right to refuse access to any and all roadways within the development to that General Contractor, his employees, sub-contractors and material delivery vehicles.

## ARTICLE X

### BOOKS AND RECORDS

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

## ARTICLE XI

### Protective Covenants

Protective Covenants of Claremont Subdivision dated April 30, 1987 and recorded in the office of Register of Deeds, Henderson County are herewith incorporated as additional Bylaws of the Association.

## ARTICLE XII

### Rules and Regulations

The Association shall adopt such rules and regulations as may be necessary to accomplish its purposes. Rules and Regulations may be initiated, amended or rescinded at any meeting by a majority vote.

## ARTICLE XIII

### Amendment of Bylaws

These Bylaws may be amended or repealed and new Bylaws adopted by affirmative vote of two-thirds of all membership entitled to vote under the terms and conditions of the Bylaws then existing.

Proposals for any changes of the Bylaws may be initiated by either the Board of Directors or by written request submitted to the Board of Directors and signed by at least 50% of the membership in good standing.