

NIGHT HERON PROPERTY OWNERS' ASSOCIATION, INC.

Bylaws

ARTICLE I

Definitions

Section 1. Declaration of Covenants and Restrictions. In the course of these Bylaws, reference is made to the Declaration of Covenants and Restrictions\* recorded by the Night Heron Development Associates in the Office of the Clerk of Court of Beaufort County, South Carolina, in Book 240 at Page 1671. A copy of these covenants is attached to these Bylaws and is incorporated herein by reference each and every time said covenants are referred to by these bylaws. Said Declaration of Covenants and Restrictions are sometimes referred to herein as "Covenants" or "the Covenants".

Section 2. Association. "Association" shall mean and refer to the NIGHT HERON PROPERTY OWNERS' ASSOCIATION, INC., a non-profit corporation organized and existing under the laws of the State of South Carolina.

Section 3. The Properties. "The Properties" shall mean and refer to property described in Exhibit A to the Covenants.

Section 4. Common Properties. "Common Properties" shall mean and refer to those areas of land, including any improvements thereon, which are deeded to the Association and designated in said deed as "Common Properties". The term "Common Properties" shall include any personal property acquired by the Association if said property is designated as "Common Property". All Common Properties are to be devoted to and intended for the common use and enjoyment of the owners of the Properties.

ARTICLE II

Location of Principal Office

Section 1. The principal office of the Association shall be located at Hilton Head Island, Beaufort County, South Carolina, in the regime management offices.

ARTICLE III

Purposes and Powers of the Association

Section 1. The purposes and powers of the Association are such as, but not limited to, the following:

\*A Supplementary Declaration of Covenants and Restrictions (presumably referring to Phase II, Treelofts) is to be prepared by Carl Hattler and James Warren, according to action at Annual Meeting of the Association held February 23, 1979.

- (a) to own, acquire, build, operate, and maintain permanent wildlife open spaces, including buildings, structures, and personal properties incident thereto, hereinafter referred to as Common Properties;
- (b) fix assessments to be levied against the private properties in the subdivision, to cover the following services performed by the regime management:
  1. Inspection of all properties common to the regime, contracting for necessary services to preserve and maintain these properties, follow up to see that the services are provided in accordance with contractual arrangements, the collecting of regime fees and making disbursements for the regime, maintaining financial records, scheduling annual regime meetings and responsibility for related administrative duties including: providing financial statement and budget, proposing assessments for the coming year, and arranging for multi-peril insurance in behalf of the regime.
  2. Water Usage: paid to Public Service District
  3. Landscape Maintenance: Paid to a contractor to clean roofs, and to maintain the grounds on Common Properties in the regime, including spraying of plants, replacement of pinestraw, trimming shrubs, mowing, raking, fertilizing, picking up litter, weeding, and blowing litter off roadways and all other paved areas.
  4. Pest Control: Monthly spraying of the interior and exterior of each unit for bugs and additional calls when necessary.
  5. Termite Inspection: The annual fee for termite inspection and retreatment when necessary.
  6. Outside Electricity: Paid to Palmetto Electric Co-operative Inc. for electricity used in outside lighting and other common electrical requirements.
  7. Outside Lights Maintenance: Maintenance of outside lighting including replacement of bulbs, washing globes, wiring repairs.
  8. Refuse Collection: Paid to refuse collection service for refuse pick-up.
  9. Pool Area Maintenance: Daily inspection, cleaning and chemical analysis of pool and cleaning pool deck.
  10. Reserve Fund: Funds to be kept in the escrow account or in a savings institution for future improvements and major repairs.
- (c) enforce any and all covenants, restrictions and agreements applicable to the Properties;
- (d) pay taxes, if any, on the Common Properties and facilities.

Section 2. Mergers and Consolidations. Subject to the provisions of the recorded covenants and restrictions applicable to the Properties, and to the extent permitted by laws, the Association may participate in mergers and consolidations with other non-profit corporations organized for the same purposes, provided that any such merger or consolidation shall have the assent of three-fourths (3/4) of the vote at a duly called meeting of the Association, written notice of which shall be mailed to all members at least sixty (60) days in advance and shall set forth the purpose of the meeting.

Section 3. Mortgages, Other Indebtedness: The Association shall have the power to mortgage its properties upon the approval of three-fourths (3/4) of the vote at a meeting duly called for this purpose, written notice of which shall be mailed to all members at least sixty (60) days in advance and shall set forth the purpose of the meeting.

Section 4. Quorum: For any action governed by Sections 2 and 3 of this Article, a quorum shall be required. If the required quorum is not forthcoming at any such meeting, another meeting may be called, subject to the same notice requirements set forth hereinabove.

Section 5. Dedication of Properties or Granting of Easements to Public Agency or Utility: The Association shall have the power to dispose of its real properties and/or grant easements only as authorized under the Covenants (Article IV, Section 3 e ).

#### ARTICLE IV

##### Membership

Section 1. Membership in the Association shall be as set forth in Article III, Section 1, of the Covenants: "The Company and every person or entity who is a record owner of a fee simple or undivided fee simple interest in any Lot or Dwelling Unit which is subject by the Covenants to assessment by the Association shall be a member of the Association, provided that any such person or entity who holds such title or interest merely as a security for the performance of an obligation shall not be a member of the Association."

Section 2. The rights of membership are subject to the payment of annual and special assessments levied by the Association, the obligation of which assessments is imposed against each owner in the Association and shall become a lien upon the property against which such assessments are made as provided by Article V of the Covenants.

Section 3. Property Rights and Rights of Enjoyment of Common Property.

- (a) Each member shall be entitled to the use and enjoyment of the Common Properties as provided by Article IV of the Covenants applicable to The Properties.
- (b) Any member may delegate his rights of enjoyment in the Common Properties and Facilities to the members of his family who reside upon the Properties or to any tenants who lease or rent a Dwelling Unit within the Properties from him. The rights and privileges of such person or persons are subject to suspension under Article IV of these Bylaws, to the same extent as those of the member.

Section 4. Membership Rights: The membership rights of any person whose interest in the Properties is subject to assessments under Section 2 of this Article, may be suspended by action of the Board of Directors during the period when the assessments remain unpaid; but, upon payment of such assessments, his rights and privileges shall be automatically restored. If the Board of Directors have adopted and published rules and regulations governing the use of the Common Properties and Facilities, and the personal conduct of any person thereon, as provided in Article VI Section 1 (c), they may, in their discretion, suspend the rights of any such person for violation of such rules and regulations for a period not to exceed thirty (30) days.

Section 5. Voting Rights:

(a) Voting rights in the Association shall be as set forth in Article III Section 2 of the Covenants:  
"The Association shall have two (2) classes of voting membership: CLASS A - Class "A" Members shall be all those owners as defined in Section One (1) with the exception of the Company. Class "A" Members shall be entitled to one vote for each Lot or Dwelling Unit in which they hold the interest required for membership by Section One (1). When more than one person holds such interest or interests in any Lot or Dwelling Unit all such persons shall be members, and the vote for such Lot or Dwelling Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot or Dwelling Unit. A Member casting a vote representing a Dwelling Unit owned by such Member shall not be entitled to cast an additional vote for the Lot upon which said Dwelling Unit is situated. In the event a single Dwelling Unit is sold in fee with a Lot, the vote with respect thereto shall thereafter be cast on the basis of the Dwelling Unit only. When one or more co-owners sign a proxy or purports to vote for his or her co-owners such vote shall be counted unless one or more of the other co-owners is present and objects to such vote, or if not present, submits a proxy or objects in writing delivered to the Secretary of the Association before the vote is counted. If co-owners disagree as to the vote, the vote shall be split equally among the co-owners.

(b) Proxies

- (1) At all corporate meetings of members, each member may vote in person or by proxy.
- (2) Proxy forms shall be sent out with all notices of meetings, regular or special, thirty (30) days in advance of the meeting date.
- (3) All proxies shall be in writing and filed with the Secretary prior to the meeting date. Proxy assignments shall be valid only for the specific meeting for which received, and every proxy shall automatically cease upon sale by the member of his interest in the Properties.

Section 6. Meetings of Members

- (a) The regular annual meeting of the members shall be held in February each year, specific date to be determined by the President with the approval of a majority of the Board of Directors.
- (b) Special meetings of the members for any purpose may be called at any time by any two officers of the Association, by any three (3) or more members of the Board of Directors, or by written request of one-fourth (1/4) of the total vote of the Association.
- (c) Notice of all meetings and the agenda therefor shall be sent to the members by the Secretary. Notice may be given to the member either personally or by sending a copy of the notice through the mail, postage thereon fully prepaid to his address appearing on the books of the Association. It shall be the obligation of every Member to immediately notify the Secretary of the Association in writing of any change of address. Notices of meetings, regular or special, shall be mailed at least thirty (30) days in advance of the meeting and shall set forth in general the nature of the business to be transacted, provided however, that if the business of any meeting shall involve and be governed by the Articles of Incorporation or by the Covenants applicable to the Properties, or any action for which other provision is made in these Bylaws, notice of such meeting shall be given or sent as therein or herein provided.
- (d) Quorum: The presence at the meeting of the members or proxies entitled to cast sixty (60) percent of the total votes of the Association shall constitute a quorum for any action governed by these Bylaws. Any action governed by the Articles of Incorporation or by the Covenants applicable to the Properties, shall require a quorum as therein provided.

ARTICLE V

Board of Directors

Section 1. Board of Directors - Term of Office. The affairs of the Association shall be managed by a Board of Directors. The Board of Directors shall consist of five (5) Directors who shall hold office until the election of their successors. The members at each Annual Meeting shall elect Directors, each for a term of two years. (Note: at the Annual Meeting in 1980, in order to begin the "overlapping" pattern of terms, three Directors shall be elected for 2-year terms, and two for one-year terms; so that in 1981, those two vacancies can be filled by two elected for 2-year terms. Then in 1982, there will be three vacancies to be filled; in 1983, two vacancies to be filled, and so on, etc.).

Section 2. Election of Directors

- (a) Nominating Committee. At each Annual Meeting, the President shall appoint a Nominating Committee of three (3) members, who shall present to the membership a slate of candidates for vacancies in the Board of Directors, sixty (60) days prior to the next Annual Meeting, accompanied by appropriate biographical material and the consent of each candidate to serve if elected.
- (b) Election. Election to the Board of Directors shall be by 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 Article IV of these Bylaws and the provisions of the recorded Covenants applicable to the Properties. The candidates receiving the largest number of votes shall be declared elected to fill the existing vacancies.

Section 3. Meetings of the Board of Directors

- (a) The annual meeting of the Board of Directors shall be held on the same day as the Annual Meeting of the Association in each year, provided that the Board of Directors may, by resolution, change the day of holding such regular meeting and shall meet immediately following the Annual Meeting of the Association to elect officers.
- (b) Written Notice - Thirty (30) days' written notice of such annual meeting shall be given each Director.
- (c) Special meetings of the Board of Directors shall be held when called by any officer of the Association or by any two (2) Directors after not less than ten (10) days' notice to each Director.
- (d) Emergency meetings: The transaction of any business at any meeting of the Board of Directors, however called and noticed, or whenever held, shall be as valid as though made at a meeting duly held after regular call and notice if a quorum is present, and if either before or after the meeting each of the Directors not present signs a written waiver of notice, or a consent to the holding of such a meeting,

or an approval of the minutes thereof. All such waivers, consents or approvals shall be filed with the corporate records and made part of the minutes of the meeting.

- (e) Quorum. The majority of the Board of Directors shall constitute a quorum thereof.
- (f) Minutes of all meetings of the Board of Directors, regular or other, shall be sent to all members of the Association within thirty (30) days of the date of the meeting.

Section 4. Vacancies

- (a) In the event that any member of the Board of Directors of this Association shall be absent from three (3) consecutive regular meetings of the Board of Directors without excuse, the Board may, by action taken at the meeting during which said third absence occurs, declare the office of said absent Director to be vacant.
- (b) Vacancies in the Board of Directors shall be filled by the majority of the remaining Directors, any such appointed Director to hold office until his successor is elected by the Members at the next Annual Meeting of the Members or at any special meeting duly called for that purpose.

ARTICLE VI

Powers and Duties of the Board of Directors

Section 1. The Board of Directors shall have power:

- (a) to appoint and remove at pleasure all officers, agents and employees of the Association, prescribe their duties, fix their compensation, and require of them such security or fidelity bond as it may deem expedient. Nothing contained in these Bylaws shall be construed to prohibit the employment of any Member, Officer, or Director of the Association in any capacity whatsoever.
- (b) to establish, levy and assess, and cause to be collected, the assessments or charges referred to in Article IV Section 2.
- (c) to impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of the declaration, bylaws, and rules and regulations of the association.
- (d) to adopt and publish rules and regulations governing the use of the Common Properties and Facilities and the personal conduct of the Members and their guests thereon.
- (e) to call special meetings of the members whenever it deems necessary; and it shall call a meeting at any time upon request as provided in Article IV Section 6 (b).

- (f) to exercise for the Association all powers, duties and authority vested in or delegated to this Association, except those reserved to the Members in the Certificate of Incorporation, these Bylaws, or the recorded Covenants.

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

- (a) to cause to be kept a complete record of all its acts and corporate affairs.
- (b) to supervise all officers, agents and employees of this Association, and to see that their duties are properly performed.
- (c) as more fully provided in Article V of the Covenants applicable to the Properties:
  - (1) to propose the amount of the assessment against each Lot or Dwelling Unit for each budget year at least thirty (30) days in advance of such date or period, subject to action by the Association at its Annual Meeting.
  - (2) to prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any member.
  - (3) to send written notice of each assessment to every owner subject thereto.
- (d) to issue upon demand by any person a certificate setting forth whether any assessment has been paid. Such certificate shall be conclusive evidence of any assessment therein stated to have been paid.

## ARTICLE VII

### Officers of the Association

Section 1. The officers shall be president, a vice-president, a secretary, and a treasurer. Any or all officers may be, but shall not be required to be, members of the Board of Directors.

Section 2. The officers shall be chosen by a majority of the Directors.

Section 3. All officers shall hold office for a term of one year, subject to removal by the Board for non performance of duties.

Section 4. The president shall preside at all meetings of the Board of Directors, shall see that orders and resolutions of the Board of Directors are carried out and sign all notes, checks, leases, mortgages, deeds and all other written instruments.

Section 5. The vice-president shall perform the duties of the president in the absence of that officer.

Section 6. The secretary shall be ex officio the secretary of the Board of Directors, shall record the votes, keep the minutes of all proceedings, and keep all records of the Association. The names of all members of the Association together with their Night Heron addresses and permanent mailing addresses and phone numbers



as registered by such members, shall be kept in a permanent record book in the regime office.

Section 7. The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association not handled through the regime management, and shall disburse such funds as directed by resolution of the Board of Directors, provided, however that a resolution of the Board of Directors shall not be necessary for disbursements routinely handled by the regime management. All checks and notes of the Association shall be signed by the treasurer and countersigned by the president or the vice-president.

Section 8. The treasurer shall keep proper books of account and cause an annual audit of the Association's financial transactions to be made at the completion of each fiscal year. The fiscal year shall be from February 1 to January 31.

ARTICLE VIII

Corporate Seal

Section 1. The Association shall have a seal in circular form having within its circumference the words: NIGHT HERON PROPERTY OWNERS' ASSOCIATION, INC.

ARTICLE IX

Amendments

Section 1. These Bylaws may be amended, at a regular or special meeting of the Members, by three-fourths (3/4) of the vote at a duly called meeting and provided that any matter stated herein to be or which is in fact governed by the Covenants may not be amended except as provided in the Covenants.

Section 2. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Covenants applicable to the Properties referred to in Section 1, and these Bylaws, the Covenants shall control.

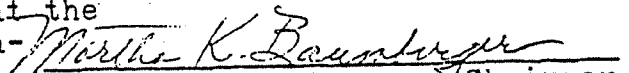
ARTICLE X

Parliamentary Authority

All proceedings of the Association and of its Board of Directors shall be conducted according to "Robert's Rules of Order Newly Revised".

#####

NOTE: This draft revision of the Bylaws is based on that of March 20, 1979, including further revisions agreed to by the Board of Directors meeting on April 13, 1979, and adopted at the Annual Meeting of the Association on Feb. 15, 1980.

  
Martha K. Baumberger, Chairman  
Bylaws Committee (Alex Zall,  
William Jung)