

**BY LAWS
OF NORTH FORT HOMEOWNERS ASSOCIATION, INC.
A NORTH CAROLINA NONPROFIT CORPORATION EXISTING
UNDER THE LAWS OF THE STATE OF NORTH CAROLINA
AMENDED JULY 2013**

**ARTICLE I
IDENTITY**

These are the Bylaws of North Fort Homeowners Association, Inc., a North Carolina nonprofit corporation, (the "Association"), the Articles of Incorporation (the "Articles") of which have been filed in the office of the North Carolina Secretary of State.

For purposes of these Bylaws, terms specifically defined in the Declaration of Covenants, Conditions and Restrictions filed in the Offices of the Register of Deeds of Johnston County or in the Charter of the Corporation shall have the same meaning here.

**ARTICLE II
QUALIFICATIONS AND RESPONSIBILITY OF MEMBERS**

- 2.1 **Members.** Each Lot Owner shall be eligible to join the Association. Lot Owners whose title passed from the developer to them or their Grantor prior to the filing of the Amended Covenant and Articles of Incorporation (Declaration) are not obligated to join the Association, but may choose to do so upon payment of any current regular or special assessment. Any such eligible Lot Owner who chooses not to join shall have no right to vote at any Association meeting or to enjoy any other rights and privileges of such membership, including but not limited to use of the Association pond property or the invoking of Association covenant enforcement procedures. Only lot owners who have paid all current and past assessments attributable to their period of ownership shall be eligible to vote. In the event that a lot is occupied by other than one or more Lot Owners, the occupant(s) (including renters) shall be eligible to join the Association for the purpose of obtaining rights to use Association property and all other incidents of membership but only the actual title owner(s) shall be entitled to vote.
- 2.2 **More Than One Owner.** When there is more than one Owner of a Lot, all such persons shall be members of the Association.
- 2.3 **Registration.** It shall be the duty of each Lot Owner to register his name in writing and the number of his Lot, until which the Secretary of the Association shall be under no obligation to recognize his membership. Where premises are occupied by other than the Lot Owner, it shall be the responsibility of the Lot Owner to notify the Association of the name and address of the authorized occupant(s) as well as a valid notification address for the Lot Owner.
- 2.4 **Prohibition of Assignment.** The interest of a member in the Association assets can not be transferred or encumbered except as an appurtenance to his Lot.

**ARTICLE III.
MEMBER'S MEETING AND VOTING**

- 3.1 **Place.** Meetings of the members shall be held at the Registered Office of the Association, or such other place within North Carolina as may be designated from time to time by the Board.
- 3.2 **Annual Meeting.** The members shall meet at least once each year as specified in the notice of such meeting given pursuant to Section 3.4. At each annual meeting the members shall elect members of the Board (“Directors”) and may transact any other business properly coming before them. Unless otherwise provided by the Board, the regular annual meeting of the membership shall be held during January of each calendar year.
- 3.3 **Special Meetings.** Special meetings of the members may be called at any time by the President or the Board, or after written request therefore signed by members of the Association entitled to cast at least Ten percent (10%) of the total votes in the Association is delivered to any Officer or Director of the Association. Notice stating the time and place of the meeting and the general nature of the agenda shall be issued as soon as feasible and such meeting shall be held not less than ten (10) nor more than thirty (30) days from the giving of notice. No business shall be transacted at a special meeting except that which is stated in the notice thereof.
- 3.4 **Notices.** Notice of all meetings of the members, stating the time and place, and accompanied by a general agenda thereof, shall be given by the President or Secretary to all members eligible to participate. Such notice shall be in writing, and shall be hand delivered to each affected property, delivered electronically where a current email address is on file with the Association - read receipt requested, or sent by United States mail to the members at the addresses of their respective Lots and to other addresses as any member may have designated to the President or Secretary, at least thirty (30) days (but not more than sixty (60) days) in advance of any annual or regularly scheduled meeting and at least fifteen (15) days in advance of any other meeting.
- 3.5 **Quorum.** The necessity for and existence of a quorum shall be determined as provided in the North Carolina Planned Community Act, N.C.G.S. Chapter 47F. The existence of a quorum for purposes of general or special meetings of the membership shall be calculated by reference to those lots in good standing with the Association, not by the total lots in the subdivision. A quorum is sufficient to transact all business of the Association unless otherwise specified in these Bylaws.
- 3.6 **Votes.** Only those members who have paid all current and past assessments in full shall be eligible to vote. Ownership of multiple Lots does not convey additional voting rights. Without regard to the number of Lots owned, no member may cast more than one vote. Where there are multiple record owners of a Lot, only one vote may be cast, in the manner to be determined by said owners. It is the intent of the membership of the Association that where only one qualifying lot is owned, one vote is authorized, without

regard to the number of record owners; and where a member owns multiple Lots, in whole or in part, one vote is authorized.

- 3.7 **Manner of Casting Votes.** Votes may be cast in person or by proxy. A proxy must be in writing, be signed by all Owners of the Lot the votes of which are subject to the proxy, be given only to another member or to a Security Holder in the Lot, and be filed with the Secretary before the meeting. A proxy shall be valid for eleven (11) months from the date of signing unless it specifies a shorter term. The actual presence at a meeting of one or more Owners of a Lot subject to proxy shall suspend the proxy for that meeting and such Owner(s) shall be entitled to vote at that meeting as if no proxy had been executed.
- 3.8 **Required votes.** All questions shall be decided by a majority of the votes cast on the question, unless the provisions of applicable law, the Declaration of Covenants, Conditions and Restrictions or these Bylaws require a greater vote.
- 3.9 **Waiver of notice.** The actual presence of any Lot Owner at any meeting shall constitute waiver of any defect in notice.

ARTICLE IV BOARD OF DIRECTORS

- 4.1 **Number and Qualifications:** The Board of Directors for the Association shall consist of five (5) members, all of whom must be qualified Lot Owners in good standing and eligible to vote as regular members of the Association.
- 4.2 **Election of Board and Term.** Board members shall be elected by the membership at the annual meeting.
- 4.3 **Term.** Each officer shall serve until his successor has been duly elected and has qualified.
- 4.4 **Suspension of Authority; Necessity for Quorum.** In the event that action of the Board is required before such time as a special meeting of the membership can be convened but no quorum of qualified Directors is available pursuant to Sections 4.1 or 4.5 herein or as the result of absence or disability, the Officers of the Association shall be empowered to act as interim and temporary Board members until a new election can be held. The first interim acting Board member shall be the President; if the President is unavailable or unqualified at the time action is required, the Vice-President shall so serve; then the Secretary and Treasurer, as needed.
- 4.5 **Removal.** Any Board member may be removed, with or without cause, upon majority vote of the membership eligible to vote at any regular or special meeting.
- 4.6 **Vacancies.** Any vacancy in the Board arising by removal, death or resignation of a Director shall be filled temporarily as provided in Section 4.4, until such time as a meeting of the membership can be held. If an annual or special meeting of the membership is to be held within six (6) months after the vacancy occurs, any two

remaining regular members of the Board may elect to defer permanent filling of the vacancy by membership election until such meeting.

- 4.7 **Regular Meetings.** Regular meetings of the Board may be held at such time and place as shall be determined by a majority of the Directors. Notice of regular meetings shall be given to each Director personally or by mail, telephone, telegraph, or electronically - read receipt requested, at least seven (7) days prior to the meeting.
- 4.8 **Special Meetings.** Special meetings of the Board may be called by the President and shall be called by the President or the Secretary and held within ten (10) days after written request therefor signed by two (2) Directors is delivered to any other Director or the President or the Secretary. Not less than seventy-two (72) hours notice of such special meeting shall be given personally or by mail, telephone, telegraph, or electronically - read receipt requested, to each Director; provided that in case the President or any Director determines that an emergency exists, a special meeting may be called by giving such notice as is possible under the circumstances. All notices of a special meeting shall state the time, place and purpose thereof. No business shall be transacted at a special meeting except that which is stated in the notice thereof.
- 4.9 **Quorum; Adjournment if No Quorum.** A majority of the Board shall constitute a quorum for the transaction of business at any meeting of the Board. If a quorum is not present, the meeting may be adjourned from time to time until a quorum is present. In the alternative, if at least two regular Board members are present and both agree, one or more of the officers present may be designated an acting Board member for that meeting. Such designation shall expire at the adjournment of the meeting. The signing by a Director of the minutes shall constitute the presence of such Director at that meeting for the purpose of determining a quorum.
- 4.10 **Manner of Acting.** Each Director shall be entitled to one (1) vote. The act of a majority of the Directors present at a meeting shall constitute the act of the Board unless the act of a greater number is required by the provisions of applicable law, the Declarations of Restrictions and Covenants or these Bylaws. All votes must be cast personally and in person. Under no circumstances shall any Director be empowered to assign, delegate, issue a proxy for or otherwise enable any third party to vote in his stead or take any other action available to a Board member.
- 4.11 **Board Action Without Meeting.** Any action that may be taken at a meeting of the Board may be taken without a meeting if such action is authorized in writing, setting forth the action taken, and signed by all Directors.
- 4.12 **Compensation of Directors Restricted.** Directors shall receive no compensation for their services, but may be paid for necessary incidental out-of-pocket expenses incurred in the performance of their duties as Directors. Unilateral action of any Board member on behalf of the Association resulting in other than incidental cost shall not be reimbursed except for limited emergency action necessary to protect safety, prevent damage to Association or Lot Owner property interests or to insure continued access to the

subdivision. Reimbursement for other non-incident expenses incurred by any Board member shall be put to a vote of the membership at the next regular or special meeting.

4.13 Powers and Duties of Board.

- (a) All of the powers and duties of the Association shall be exercised by the Board, including those existing under the common law, applicable statutes, the Declaration of Restrictions and Covenants, the Articles, and these Bylaws, as any thereof may from time to time be amended, provided however that no amendment shall alter any obligation to pay assessments levied against Lots for the maintenance of roads and appropriate open space maintenance, until these responsibilities are expressly assumed by some other entity. Such powers and duties shall be exercised in accordance with the provisions of applicable law, including but not limited to Chapter 47F of the General Statutes, the Declaration of Restrictions and Covenants, the Articles, and these Bylaws:
- (b) The Board shall prepare and make available to members annually, a report containing at least the following:
 - (i) A statement of any capital expenditures in excess of two (2) percent of the current budget or Five Hundred (\$500.00) Dollars, whichever is greater, anticipated by the Association during the current year.
 - (ii) A statement of the status and amount of any reserve or replacement fund and any portion of the fund designated for any specified project by the Board.
 - (iii) A statement of the financial condition of the Association for the last fiscal year.
 - (iv) A statement of the status of any pending suits or judgments in which the Association is a party.
 - (v) A statement of the insurance coverage provided by the Association.
 - (vi) A statement of any unpaid assessments payable to the Association; in the discretion of the Board, identifying the Lot Number, the Lot Owner and the amount of the unpaid assessment.

**ARTICLE V
OFFICERS**

- 5.1 Designation of Officers.** The officers of this Association shall be President, a Vice President, a Secretary, and a Treasurer. Each officer shall be a qualified Lot Owner eligible to vote or the individual nominee of a qualified Lot Owner eligible to vote which is other than an individual; provided further that no Board member shall also be eligible to serve as an Officer if any qualified individual is willing to serve in that position. It shall be permissible for a Board member to undertake required ministerial officer duties

in the absence of any qualified volunteer. A person may hold one or more of such offices at one time as needed. The Board may elect an assistant treasurer, and assistant secretary and such other officers as in its judgment may be necessary.

- 5.2 **Election of Officers.** Officers of the Association shall be elected by the Board. Election shall be held annually at the first meeting of the Board held after the annual meeting of the members. It shall be permissible for the Board to put designation of Officers to a vote of the membership at the annual meeting and to ratify the results of said vote as their own election.
- 5.3 **Term.** Each officer shall serve until his successor has been duly elected and has qualified.
- 5.4 **Removal.** Any Officer may be removed, with or without cause, and without notice, by the Board.
- 5.5 **Vacancy.** Any vacancy in any office shall be filled by the Board, and an Officer elected to fill a vacancy shall serve for the unexpired term of his predecessor in office.
- 5.6 **Powers and Duties of Officers.**
- (a) **President.** The President shall be the chief executive Officer of the Association; shall have all of the powers and duties incident to the office of a president of a corporation, including, but not limited to, the duty to preside at all meetings of the Board and of the members, and the general supervision of Officers in the management of the business and affairs of the Association; and shall see that all actions and resolutions of the Board are carried into effect.
 - (b) **Vice-President.** The Vice-President shall perform such duties as shall be assigned by the President, and in the absence of the President shall perform the duties and functions of the President.
 - (c) **Secretary.** The Secretary shall keep the minutes of all meetings and actions of the Board and of the members; shall give all required notices to the Directors and members; shall keep the records of the Association, except those kept by the Treasurer; shall perform all other duties incident to the office of a secretary of a corporation; and shall perform such other duties required by the Board or the President.
 - (d) **Treasurer.** The Treasurer shall have custody of all intangible property of the Association, including funds, securities, and evidences of indebtedness; shall keep the books of the Association in accordance with good accounting practices and principles, and upon request, shall submit them, together with all vouchers, receipts, and records, and other papers to the Board for examination and approval; shall deposit all moneys and other valuable effects in depositories designated by the Board; shall disburse funds of the Association as directed by the Board; and shall perform all other duties incident to the office of a treasurer of a corporation.

- 5.7 **Execution of Agreement, etc.** All agreements, deeds, mortgages, or other instruments shall be executed by any two (2) Officers, or by such other person or persons as may be designated by the Board.
- 5.8 **Compensation of Officers Restricted.** No Officer shall be compensated for his services in such capacity, but may be reimbursed for out-of-pocket expenses incurred in performing his duties. Unilateral action of any Officer on behalf of the Association resulting in other than incidental cost shall not be reimbursed under this provision except for limited emergency action necessary to protect safety, prevent damage to Association or Lot Owner property interests or to insure continued access to the subdivision. Reimbursement for other non-incidental expenses incurred by any Officer shall be put to a vote of the membership at the next regular or special meeting.

**ARTICLE VI
INDEMNIFICATION AND DIRECTORS AND OFFICERS**

The Association shall indemnify such persons, for such expenses and liabilities, in such manner, under such circumstances, and to such extent, as permitted by the North Carolina General Statutes as now enacted or hereafter amended and as authorized by these Bylaws.

**ARTICLE VII
FISCAL MANAGEMENT**

- 7.1 **Depository.** The Board shall designate a depository for the funds of the Association, and may change such depository. Withdrawal and transfer of funds from such depository shall be only by checks signed by any two (2) Officers of the Association, or any other persons authorized by the Board.
- 7.2 **Fidelity Bonds.** Fidelity bonds shall be maintained by the Association, in an amount to be determined by the Board, covering each Director and Officer of the Association, and employee or agent of the Association and any other person, handling or responsible for handling funds of the Association.
- 7.3 **Payment Authorization.** Authorization for payment of a bill or obligation of the Association shall be made by a Board member for any payment to be made by the Treasurer, provided that the Board may delegate such authority to any Officer or managing agent of the Association.
- 7.4 **Annual Financial Review.** A review of the accounts of the Association shall be made annually and a copy of the report shall be made available to each member not later than the annual meeting of the year following the year for which the report is made. The Board of Directors shall be empowered to direct that such review be done as a formal audit if, in their judgment, such audit is needed.

- 7.5 **Fiscal Year.** The fiscal year of the Association shall be the calendar year provided that the Board, from time to time, by resolution, may change the fiscal year to some other designated period.
- 7.6 **Insurance.** Property and liability insurance on the common elements insuring against all risks of direct physical loss commonly insured against including fire and extended coverage perils shall be maintained in such amounts and under such terms as required by N.C.G.S. 47F-3-113.

ARTICLE VIII ASSESSMENTS

- 8.1 **Obligation of Members to Pay Assessments; Amounts of Levy.** Each Lot Owner shall be personally and severally liable for the Common Expenses that are levied against his Lot while a Lot Owner. Each Lot shall be assessed on a per Lot pro rata basis in accordance with the Common Expenses as allocated by the Declaration, as amended. Liability for payment of regular assessments shall accrue to the titled Owner and be determined as of January 1 of the year in which the assessment is made or at the time of any special assessment. Undeveloped lots shall be subject to assessment if they have been recorded by plat in the Office of the Register of Deeds. Responsibility for the regular assessment for that year accrues on January 1. Reapportionment or contribution during the year among subsequent owners shall remain between the buyer and seller; the Association shall not be required to prorate or otherwise refund assessments paid based on changes in ownership or occupancy and the lot will remain eligible for all benefits of membership for the year paid.
- 8.2 **Allocation of Common Surplus.** Any common surplus, including funds in reserve accounts, may be allocated to each Lot in accordance with its pro rata percentage of Common Expenses, and, if allocated, shall be owned by the Lot Owner of that Lot, and, if allocated may be paid to the Lot Owner or credited against that Lot's share of Common Expenses subsequently assessed.
- 8.3 **Preparation of Budget and Levying of Assessment.** For each fiscal year the Board shall prepare and adopt a budget, including therein estimates of the amount necessary to pay the Common Expenses, together with amounts considered necessary to pay the Common Expenses, together with amounts considered necessary by the Board for reserves. This budget and the adoption thereof shall take place at the annual meeting of the members; provided further, that the Board is authorized to adopt a regular assessment of not more than Two Hundred Dollars (\$200) per assessed lot per year without additional affirmative action of the membership. As specified in Article 3.8, a vote by a simple majority of eligible members present shall constitute such affirmative action. The budget is ratified unless at the annual meeting unless a majority of all the Lot Owners in the association rejects the budget. In the event the proposed budget is rejected, the periodic budget last ratified by the Lot Owners shall be continued until such time as the Lot Owners ratify a subsequent budget proposed by the Board. After preparation and adoption of each such budget, the Board shall give each member notice of the assessment

made against that member's Lot. Such assessment shall be deemed levied upon notice thereof given by the Board.

- 8.4 **Assessment a Lien.** Every assessment shall constitute a lien upon each Lot assessed from the date of the assessment is levied, prior to all other liens except only (i) real estate taxes and other governmental assessments or charges against the Lot and (ii) liens and encumbrances recorded before recordation of the Declaration of Restrictions and Covenants.
- 8.5 **Payment of Assessments.** Assessments shall be payable when notice thereof is given, but shall not be delinquent if paid at the times and in the amounts specified by the board in the notice of assessment. Payments shall be made to the Association at such times and in such manner as the Board may from time to time direct. Upon request of a Lot Owner, the Board is authorized to negotiate an appropriate type and amount of in kind or bartered service by such Lot Owner of a value comparable to the funds assessed. Such in kind barter or service may include but is not limited to landscape maintenance of Common Areas. Failure of the Lot Owner to conform to such negotiated service in any regard shall constitute a failure to pay the assessment.
- 8.6 **Funds and Reserves.** All sums collected by the Association from assessments shall be accounted for as directed by the Board. Reserve funds shall be maintained in the type(s) and amounts determined by the Board.
- 8.8 **Special Assessments.** In addition to the assessments levied pursuant to Section 8.3, the Board, with the approval of two-thirds (2/3) of the eligible membership of the Association present at the regular or special meeting addressing same, may levy special assessments at such other and additional times as in its judgment are authorized by law, including but not limited to:
- (a) Maintenance repair, restoration and reconstruction of the streets not yet accepted by the State.
 - (b) Alterations, improvements, and additions to the such streets.
 - (c) Payment of costs and expenses incurred in curing defaults pursuant to Sections 9.1 and 9.3 hereof.
 - (d) Repair, replacement, betterment or other modification or appurtenance to any Common Area.

Special assessments made pursuant to this Section shall be a Common Expense, shall be deemed levied upon notice thereof being given to the members subject to such special assessment, and shall be payable as determined by the Board and as set out in such notice.

- 8.9 **Common Expenses Benefiting or Accruing to Fewer Than All Lots.** The Association may assess any item of Common Expenses benefiting less than all of the Lots against the Lots benefited in proportion to their Common Expense liability. If any common expense is caused by the negligence or misconduct of any Lot Owner or occupant or agent or employee thereof, the Association may assess that expense exclusively against that Owner's lot.
- 8.10 **Failure to Prepare Budget and Levy Annual Assessment; Deficiencies in Procedure.** The failure of the Board or delay of the Board in preparing any budget, and to levy or in levying assessments, shall not constitute a waiver or release of the members' obligation to pay assessments whenever the same shall be determined and levied by the Board. Until a new assessment is levied by the Board pursuant to Section 8.3 each member shall continue to pay the assessment then previously levied pursuant to Section 8.3 in the same amount and at the same periodic times as levied or as the Board may otherwise advise in writing. Also, any deficiencies or inadequacies in the procedure followed by the Board in levying an assessment shall not in any way affect its validity or the obligation of members to pay such assessment.
- 8.11 **Assessment Roll; Certificate.** All assessments shall be set forth upon a roll of the Lots, which shall be available in the office of the Association for inspection at all reasonable times by members, security holders or their duly authorized representatives. Such roll shall include, for each Lot, the name and address of the member or members, all assessments levied, and the amount of all assessments unpaid. The Association, upon written request, shall furnish to a Lot Owner, or his authorized agent, a recordable certificate setting forth the amount of unpaid assessments currently levied against his Lot. The certificate shall be furnished within 7 business days after receipt of the request and shall be binding upon and Association and all Lot Owners. For such certificate, a reasonable fee may be charged by the Board. All requests for certification of dues pending or due on a particular lot shall be addressed to the Association Treasurer at least five (5) business days before the closing or other deadline.
- 8.12 **Default and Enforcement.** Any assessment or special assessment shall be deemed delinquent if not paid thirty (30) days of the giving of notice under Sections 8.3 or 8.8. Thereafter, the Association may pursue collection in any manner and to the extent permitted by law, including but not limited to the filing of claim of lien, action at law or foreclosure.
- 8.13 **Interest on Delinquent Assessments.** The Association may elect to pursue interest on unpaid assessments to the extent provided by law.
- 8.14 **Common Expenses.** Common Expenses shall mean and include all sums declared Common Expenses by any specific provision of these Bylaws or the Declaration of Restrictions and Covenants, and shall include, without limitation, the following:
- (a) real estate taxes, and other governmental assessments or charges against the streets;

- (b) premiums for any and all insurance maintained by the Association, including any deductible or co-insurance amount not covered by insurance;
- (c) utility charges not charged directly to Lot Owners;
- (d) legal and accounting fees;
- (e) costs and expenses incurred in connection with any litigation or administrative proceeding pursuant to Section 4.13(h) hereof;
- (f) deficits remaining from any prior assessment period;
- (g) the cost, including fees and interest, incurred in connection with any borrowing done by the Association;
- (h) the cost of all fidelity bonds;
- (i) costs imposed upon the Association or any part of the Common Elements or the Property by, or incurred by the Association as a result of the performance, enforcement or amendment of, any agreement or easement to which the Association is a party or to which the streets, or any part thereof, is or may be subject;
- (j) amounts determined necessary for reserve funds;
- (k) and indemnity payments made by the Association pursuant to Article VI hereof.

ARTICLE IX

COMPLIANCE, ENFORCEMENT, FINES AND PENALTIES

- 9.1 **Default and Remedies.** A default in or failure to comply with any of the terms, conditions, obligations, and provisions of the Declaration of Restrictions and Covenants, as amended, these Bylaws, the Articles, or the rules and regulations, as the same may be amended from time to time, by any Lot Owner or Occupant, shall be grounds for relief that may include, without intending to limit the same or to constitute an election of remedies, an action to recover fines and penalties as determined by the Board, sums due for damages, an injunction, or any combination thereof, and which relief may be sought by the Association, an aggrieved Lot Owner, or by any person or class of persons adversely affected. Also, if any member fails to perform any obligation under the Declaration of Restrictions and Covenants, as amended, these Bylaws, the Articles or such rules and regulations, then the Association may, but is not obligated to, perform the same for the members account, and for such purpose may enter upon his Lot, may make necessary repairs, advance expenses or other sums necessary to cure the default, and for such expenses and costs may levy a special assessment against the Lot owned by such defaulting member. The Association also shall suspend the right of a defaulting Lot Owner to vote as a member of the Association until the Default is cured.

- 9.2 **Notice of Default and Failure to Cure.** In the event of any such default or failure, the Board shall serve upon or mail to the defaulting member a written notice specifying the nature of the default, the cure thereof, and the time within which the cure shall be effected. Within the time limit specified in the notice, the defaulting member may cure the default specified, or serve upon or mail a written notice to the Board requesting a hearing before the Board. If a hearing is so requested, the Board shall thereafter serve upon or mail to the defaulting member a notice specifying the time and place for such hearing. At the hearing, the Board shall take such evidence and hear such testimony as it deems necessary or desirable. The Board shall not exercise any remedies to obtain relief from the default until the hearing is over and the Board has made its determination and served upon or mailed the same to the defaulting member. The hearing may be continued from time to time as determined by the Board. Upon taking such evidence and hearing such testimony, the Board, at the hearing or at such later time, shall determine, in writing, and at its sole option, to waive the default in whole or in part, to extend the time within which the default may be cured, or to proceed immediately to levy a fine or penalty. If the defaulting member (i) does not cure the default or request a hearing within the time limit specified in the original notice of default given pursuant to this Section, or (ii) so requests a hearing but fails to cure the default (to the extent not waived by the Board) within the extended time, if any, granted by the Board after hearing, then the Board shall serve upon or mail to the defaulting member a written notice of such member's failure to effect a cure, and the Board may then proceed to take such action as it deems necessary to obtain relief.
- 9.3 **Remedy of Abatement in Addition to Other Remedies.** In the event a member fails to effect the cure specified by the Board within the time period set out in (i) or (ii) of Section 9.2 hereof, whichever is applicable, where the default is a structure, thing, or condition existing in or on the premises of the member's Lot, the Board or its duly authorized representative, shall have the right to enter upon the premises of the member's Lot in which, on which, or as to which, such default exists, and summarily to abate and remove, at the defaulting member's expense (and levy an assessment therefor as provided in Section 9.1 hereof), the structure, thing, or condition constituting the default, and the Board, the Association, and their agents, employees, and representatives shall not thereby be deemed guilty of any manner of trespass.
- 9.4 **Injunction.** Any person or class of persons entitled to seek relief for any such default or failure may obtain a temporary restraining order, injunction or similar relief, without first using the procedure established by Section 9.2 hereof, if such default or failure creates an emergency or a situation dangerous to persons or property.
- 9.5 **Recovery of Attorneys' Fees and Costs.** In any proceeding arising because of an alleged default by a member, the Association shall be entitled to recover the costs of such proceeding and such reasonable attorneys' fees as may be allowed by the Court, with interest from the dates such costs are incurred until paid.

- 9.6 **Non-Waiver of Covenants.** The failure of the Association or of any member thereof to enforce any term, provision, right, covenant, or condition that may be granted by the Declaration of Restrictions and Covenants, as amended, these Bylaws, the Articles or the rules and regulations as the same may from time to time be amended, shall not constitute a waiver or abrogation of the right of the Association or a member to enforce such term, provision, right, covenant, or condition in the future, irrespective of the number of violations or breaches thereof that may have occurred.
- 9.7 **Assessment Liens.** Assessment liens shall be enforced pursuant to Article VIII hereof and not pursuant to this Article IX.

ARTICLE X AMENDMENT OF BYLAWS

An amendment to these Bylaws shall be made by affirmative vote of at least Two-Thirds (66%) of eligible members present at the meeting regarding same or written agreement signed by Lot Owners of lots comprising at least Fifty-one percent (51%) of the eligible votes in the association.

ARTICLE XI GENERAL PROVISIONS

11.1 Rules and Regulations

- (a) **By the Board.** The Board may promulgate from time to time such rules and regulations as it deems reasonable and necessary governing the administration, management, operation, and use of the streets and Association-owned property including the pond so as to promote the common use and enjoyment thereof by Lot Owners and Occupants and for the protection and preservation thereof. In addition, the Board may adopt such rules and regulations as it deems reasonable and necessary with respect to Lots to provide for the common good and enjoyment of all Lot Owners and Occupants, including, without limitation, the right to adopt such rules and regulations with reference to tenants and leases. In no event shall any rules or regulations be inconsistent with or materially more restrictive than the provisions contained in the Declaration of Restrictions and Covenants, and amended, and these Bylaws, with respect to lessees or tenants.
- (b) **By the Association.** Any such rule or regulation adopted by the Board may be amended, modified, or revoked, and new and additional rules and regulations may be adopted, by members at an annual or special meeting of the members. Any such act of the members shall control over any contrary rule or regulation then or thereafter adopted by the Board.
- (c) **Uniform Application.** All rules and regulations shall be equally and uniformly applicable to all Lot Owners, Occupants and Lots, but need not be equally and uniformly applicable if it is determined that such unequal or non-uniform applications is in the best interest of the Association or if equal and uniform application is not practicable.

- (d) **Copies Furnished.** Copies of all such rules and regulations and any amendments thereto shall be posted or otherwise made available to members at the office of the Association. However, failure to furnish, or post, or make available, such rules and regulations shall not affect in any way their validity or enforceability.
- 11.2 **Parliamentary Authority.** Robert's Rules of Order, Newly Revised, govern the conduct of the Association proceedings when not in conflict with the Declaration of Restrictions and Covenants, as amended, these Bylaws, the Articles, or any statutes of the State of North Carolina applicable thereto. The presiding officer shall have the authority to appoint a parliamentarian.
- 11.3 **Compliance with Law Conflict; Severability.** These Bylaws are established in compliance with the laws of the State of North Carolina. Should any of the terms, conditions, provisions, paragraphs, or clauses of these Bylaws conflict with any of the provisions of said law, said law shall control. If any term, provision, limitation, paragraph or clause of these Bylaws, or the application thereof to any person or circumstance is judicially held to be invalid, such determination shall not affect the enforceability, validity, or effect of the remainder of these Bylaws, or the application thereof to any other person or circumstance.

ARTICLE XII

USE AND PROTECTION OF COMMON AREAS

- 12.1 **Common Areas for Use and Benefit of All.** All Common Areas owned by or under the control of the Association, including but not limited to the subdivision entrance, the pond or the bank area of the pond owned by the Association, shall be held and maintained for the use and benefit of all eligible members. No obstruction, betterment, encumbrance, structure or appurtenance to any such property or area, including but not limited to docks or piers, shall be permitted without prior written approval by the Board. Such approval shall not issue except as to approved designs for which the party wishing to place or construct same expressly undertakes in writing that all title and interest in any such betterment, appurtenance or structure shall remain with the Association and that the use and enjoyment thereof shall inure to the benefit of all eligible members without restriction. The Association shall undertake any and all lawful measures, including actions at law where authorized, which reasonably appear necessary to protect such Common Area, including but not limited to protection of the recorded riparian buffer for the pond. All Owners and Occupants must comply with applicable state and federal regulations concerning activities and uses on riparian lands without regard to whether the Association has specifically requested or notified of same.
- 12.2 **Suspension of Common Area Privileges.** The Board shall have the right to suspend for a term certain the right of any Lot Owner (including tenants and guests) to enter upon any recreational Common Area if such Lot Owner (i) fails to pay a valid assessment; (ii) fails or refuses to abide by any rule or regulation of the Board pertaining to such recreational area after notice of same; or (iii) creates any noxious, hazardous or offensive condition in or to such Common Area or unreasonably impedes or interferes with the use or

enjoyment of said Common Area by any other Lot Owner. After notice of such suspension, the affected Lot Owner may request an opportunity to be heard and the Board may but is not required to alter or void such suspension upon such conditions as it may deem reasonable. Any Lot Owner who enters onto the subject Common Area during any such suspension shall be guilty of trespass.

ARTICLE XIII

The Association shall have a seal in circular form having within its circumference the words: NORTH FORT HOMEOWNERS ASSOCIATION, INC., Corporate Seal, Johnston County, North Carolina.

Adopted as amended by the Board of Directors at its regular meeting July 10, 2013, based on receipt in hand of written consents to all amendments executed by at least 51% or more of all eligible voting parties as of that date.