

BYLAWS OF LINVILLE LAND HARBOR PROPERTY OWNERS ASSOCIATION

ARTICLE I DEFINITIONS

Section 1: "Linville Land Harbor" shall mean and refer to that subdivision in Avery County, North Carolina, developed by Carolina Caribbean Corporation and recorded in the Avery County Register of Deeds Office.

Section 2: "Association" shall mean and refer to the Linville Land Harbor Property Owners Association, Inc., a non-profit corporation organized and existing under the laws of the State of North Carolina.

Section 3: "Common Properties" shall mean all properties owned or used by the Association including parks, recreational areas, playgrounds, bathhouses, swimming pools, golf courses, tennis courts, activity and recreational buildings, office and maintenance buildings, lake, boat docks and loading ramps, streets, roadways including rights of way, trails, green areas (kept, where practical, in their natural state) and all other properties for the benefit of the Property Owners.

Section 4: "Assets" include, but are not limited to, Common Properties as defined in Section 3, and include such items as the unsold land, the utility plant, the recreational facilities and amenities, equipment, cash, etc.

Section 5: "Member in Good Standing" shall mean a property owner who is current in all payments due the Association, has not been suspended for any reason [See Articles of Incorporation IV (e)], and has the privilege and the use of all the facilities and amenities of the Association including the right to vote. "Member Unit in Good Standing" shall mean joint ownership entitled to a single vote.

Section 6: A "Suspended" member is a member who is not in good standing and loses the rights as stated in Section 5.

Section 7: The "Fiscal Year" shall coincide with the calendar year.

Section 8: Should any section or provision of these Bylaws be decided by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Bylaws as a whole or any part thereof, other than the part so declared to be invalid. The Bylaws may contain any provision that is not inconsistent with the North Carolina General Statutes or the Articles of Incorporation.

Section 9: Quorum for the Board or Committee shall be a simple majority of Board or Committee members. Quorum

for the membership or an enterprise fund membership shall be ten percent (10%) of those eligible to vote except for votes on Bylaws.

Section 10: Affirmative Vote for the Board or a Committee shall be fifty percent plus one (50% +1) of the quorum. An affirmative vote for the membership or the enterprise fund membership shall be fifty percent plus one (50% + 1) of a quorum; except for a vote on the Bylaws.

ARTICLE II PROCEDURE

Section 1: The rules contained in the current edition of "Robert's Rules of Order" shall govern the Association in all cases where they are not inconsistent with these Bylaws.

ARTICLE III DUES AND ASSESSMENTS

Section 1: All dues and assessments for the calendar year will become due and payable on January 1st. Any property owner failing to make such payments by May 1st of that year shall lose the status of member in good standing, until all amounts due are paid in full.

Section 2: Status as a member in good standing may be reinstated upon payment of all arrearages, including any reinstatement fee set by the Board of Directors, together with interest that may exist on any dues, fees, or assessments.

ARTICLE IV VOTING RIGHTS

Section 1: At all Annual and Special Association Meetings, members may vote in person or by proxy. All proxies shall be in writing in a format permitted by N.C.G.S. Section 55A-7-24(a) and filed with the Secretary. No proxy shall extend beyond a period of eleven months.

Section 2: There will be no proxy voting or cumulative voting in the election for members of the Board of Directors.

ARTICLE V ORGANIZATION

Section 1: The operational structure of the Land Harbor Property Owners Association shall consist of an elected Board of Directors, a General Manager appointed by the Board of Directors, appropriate staff, and employees.

Section 2: The property, affairs, and business of the Association shall be controlled by the Board of Directors.

Directors need not be residents of the State of North Carolina. They must be members in good standing of the Association. No employee of the Association, or of any subsidiary corporation may serve on the Board of Directors.

Section 3: The General Manager shall be responsible for the fiscal and physical day-to-day operations of the Association, personnel actions, budget preparation, and long-range planning studies and recommendations in accordance with the policies and guidelines established by the Board of Directors. The General Manager shall be authorized to co-sign checks. All employees shall be responsible to the General Manager.

Section 4: The General Manager shall serve exclusively at the will of The Board of Directors. In the event of a vacancy in the General Manager position, the Board shall appoint an interim Manager as expeditiously as possible until a permanent replacement can be made.

ARTICLE VI BOARD OF DIRECTORS

Section 1: The number of Directors of the Association will be nine (9). A regular term of office will be three (3) years. These terms will be staggered so that three Directors will be elected each year to serve three-year (3) terms.

Section 2: Each vacancy occurring between annual elections shall be filled for the remainder of the year by appointment of the candidate having received the highest number of votes from among, in turn, the current list of available candidates not elected at the preceding annual election. In the event no candidate is available or willing to serve, the position will remain vacant until the next election.

Section 3: Terms of office shall begin at the adjournment of the Annual meeting and expiring terms shall end at that time.

Section 4: A Director's service may be comprised of any combination of partial-year, one-year, two-year, or three-year terms. However, a Director may be elected only twice and the total duration of service shall not exceed seven years regardless of whether or not it is continuous.

Section 5: The Board of Directors may reimburse Directors for reasonable and justifiable expenses incurred in attending to the duties of their office, including travel expenses for non-seasonal meetings.

ARTICLE VII ELECTION OF DIRECTORS

Section 1: At each annual election of Directors, three (3) three-year terms, and any existing one- or "two-year vacancies will be filled. The three candidates receiving the highest number of votes will be elected to three-year terms. If there are additional vacancies, the lengths of terms assigned to the elected candidates will be in the same order as the respective number of votes received. Should there be a tie in the number of votes for the last position to be filled a run-off election between only the tied candidates will be held within the next thirty days.

Section 2: Any member in good standing may become a candidate for the Annual Election of Directors either by being

nominated by the Nominating Committee, or by submitting his/her name to the Secretary prior to the July Regular Board Meeting. Any member in good standing wishing to run for the Board and submitting his/her name by the required date shall not be denied the opportunity to run.

Section 3: The Nominating Committee shall consist of the Advisory Committee or a portion thereof and be approved by the Board of Directors. The Committee shall check the eligibility and availability of each candidate before submitting nominations to the Secretary during the July Regular Board Meeting for publication.

Section 4: The Secretary shall prepare and mail ballots to all members, or member units, in good standing at least 30 days before Election Day.

The ballots will:

- a) describe the vacancies to be filed,
- b) set forth the list of nominees in alphabetical order, and
- c) contain a space for a write-in vote for each vacancy.

Voting for candidates for the Board of Directors shall occur from the date of the receipt of the mailed ballots until the Tuesday preceding the Election Day. The Election Day shall be the Wednesday following Labor Day.

Section 5: Each member, or member unit, in good standing is entitled to receive one ballot. All completed ballots shall be returned as follows: each ballot shall be placed in a sealed envelope marked "Ballot;" such "Ballot" envelope shall be placed in another sealed envelope which shall bear the name and signature of the member and such other information as the Board of Directors may determine will serve to establish the member's right to cast the vote presented in the ballot contained therein.

In order for a ballot to be counted, the ballot must be returned by mail no later than the final distribution of the Post Office mail on the Tuesday preceding the election, or delivered to the Association's office before 5:00 PM on that Tuesday.

Section 6: A Board-appointed designee shall record the receipt and verify the eligibility of each return and shall immediately place it in a safe or other locked place until the morning of the ballot counting on the Wednesday preceding the Annual Meeting. At that time, the external envelopes containing the ballot envelopes shall be turned over by the designee, unopened, to an Election Committee which shall consist of five members appointed by the Board of Directors. Only the Secretary of the Association, the Election Committee and, if requested, observers appointed by the candidates may be present at the opening and counting of the ballots. There shall be no recall of any ballot cast.

Section 7: The Election Committee shall then adopt a procedure that will establish that:

- (a) the member named on the external envelope is entitled to vote;

- (b) the signature of the member appears on the external envelope; and
 - (c) the external envelope contains only one ballot envelope.
- The procedure adopted shall be such that the vote of any member will not be disclosed to anyone, even members of the Election Committee.

Section 8: The external envelope shall thereupon be placed in a safe or other locked place and the Election Committee shall proceed to the opening of the ballot envelopes and the counting of the votes. If any ballot envelope is found to contain more than one ballot, all such ballots shall be disqualified and not counted.

Section 9: Seven days after the Annual Meeting, unless a review of the procedure is demanded, the Chair of the Election Committee, under the supervision of the Board appointed designee, shall destroy the ballots and the external envelopes.

ARTICLE VIII OFFICERS

Section 1: The Officers shall be a President, a Vice President, a Secretary, a Treasurer, and such other Officers as the Board may approve from time to time. All Officers shall be members of the Board of Directors. There will be a Recording Secretary who is neither an Officer nor a member of the Board.

Section 2: The Officers shall be chosen by a majority vote of the Directors and shall hold office at the pleasure of the Board. Should any office become vacant for any reason, the Board shall, as soon as practicable, elect a new officer to that position. If this creates a vacancy in another office, a vote shall then be taken to fill this position. This process will continue until all offices are filled.

Section 3: The President shall preside at all meetings of the Board of Directors and shall be responsible for the execution of all orders and resolutions of the Board. The President shall sign all notes payable, leases, mortgages, deeds of Association properties, and other legal documents. The President shall be authorized to co-sign checks.

Section 4: The Vice President shall perform all of the duties of the President in the President's absence, including authorization to cosign checks, as well as other duties which may be assigned by the President or the Board.

Section 5: The Secretary shall be responsible for the safe-keeping of the minutes of all meetings of the Board, the books containing the Articles of Incorporation and the Bylaws, and all legal documents and other pertinent information of the Association. The Secretary shall attest to and sign all legal documents signed by the President or Vice President and shall affix the Corporate Seal as necessary.

The Recording Secretary shall be an employee who shall be responsible for recording the minutes of all Board meetings and shall assist the Secretary in any required duties.

Section 6: The Treasurer retains the oversight of the financial

condition of the Association, although the General Manager is responsible for the day-to-day fiscal operations. The Treasurer will participate in all major financial decisions and sign, with the President, any notes payable and mortgages, and will be authorized to cosign checks.

Section 7: Checks may be signed by any two of the co-signers. The Board may designate a bonded employee to sign checks with any one of the other authorized cosigners for disbursements made in the ordinary course of business conducted within the limits of the budget. Bank account reconciliation's shall be made within a reasonable time of receiving the statements by person(s) not authorized to sign checks. Any discrepancies shall be reported immediately to the General Manager. A list of outstanding checks that have not been presented to the bank for payment within 60 days of issuance shall be given to the Manager for his review.

ARTICLE IX POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1: The Board of Directors shall exercise for the Association all corporate powers, duties, and authority vested in, or by virtue of, the Articles of Incorporation these Bylaws, or other law. The affairs of the corporation shall be managed under direction of the Board.

Section 2: The Board shall appoint the General Manager and fix compensation and other benefits. Responsibilities shall be as prescribed in Article 5, Section 3, and other duties as determined by the Board.

Section 3: The Board shall adopt and publish rules, regulations, policies, and procedures governing the use of Land Harbor properties and the conduct of members and guests thereon.

Section 4: It shall be the duty of the Board:

- (a) in the event that any Director ceases to be a member in good standing of the Association, to declare forthwith the office of said Director to be vacant;
- (b) in the event that any Director has been absent from three consecutive Regular meetings of the Board, to declare, at the adjournment of the meeting at which the third absence occurs, the office of the said Director to be vacant.
- (c) to act within fourteen days to schedule a Recall Election in response to a petition calling for the removal of a Director, signed by either all other Directors or by affirmative vote of the membership with a minimum of fifteen per cent (15%) of the Association membership entitled to vote casting an affirmative vote. Ballots shall be prepared, circulated, and counted in the same manner as for an Annual Election.

Section 5: Any Director may resign at any time by communicating a resignation to the Board, the President, or the Secretary of the Association. Such resignation shall take effect at the time specified therein or, if no time is specified,

at the time such resignation is received by the Secretary.

Section 6: The Board of Directors shall fix the amount of new property owners' payment to the Capital Asset account, and the annual dues and assessments for all members.

Section 7: No loans shall be contracted on behalf of the Association, and no evidence of its indebtedness shall be issued in its name, unless and except as authorized by a resolution passed by an affirmative vote of a quorum of the Association membership;

Section 8: Without the affirmative vote of the Association membership participating in the independent or enterprise fund from which expenditures are to be made, and with the four independent or enterprise funds designated as the General Fund, the Golf Fund, the Fishing Fund and the Tennis Fund, the Board of Directors shall not:

- a) Commit capital asset expenditures in excess of seventy-five thousand dollars, directly or indirectly, except in the case of an emergency affecting vital infrastructure or vital equipment; or
- b) Dispose of any capital assets, other than lots sold to Members, having a value over twenty five thousand dollars.
- c) Without the affirmative vote of a quorum of the entire Association membership eligible to vote, the Board of Directors shall not authorize expenditures from the Golf or Tennis Funds, which requires the sale or revenues from the sale of common real estate.

Section 9: The Board of Directors shall operate the Association in a fiscally prudent manner based on a balanced budget. Compliance with the budget shall be discussed with property owners at each Information Meeting and at the Annual Meeting, indicating deviation, if any, from the adopted budget.

Section 10: Except as otherwise provided in these bylaws, the Board of Directors may authorize any Officer or Officers, or agent or agents, to enter into any contract or execute and deliver any instrument in the name of the Association, and on behalf of the Association, and such authority may be general or confined to specific instances.

ARTICLE X DIRECTOR'S MEETINGS

Section 1: The Board of Directors shall hold an Organizational Meeting during the first seven days following the election in order to elect association officers.

Section 2: The Board of Directors shall hold Regular Meetings at least once a month during the months of May, June, July, August, September, and October. The actual schedule will be determined and published at the beginning of each season.

Section 3: Special Meetings of the Board may be called by any two Directors of the Association, or by a petition signed by at least ten percent (10%) of the voting members of the Association. Each such request must state the purpose of the Meeting and no other items other than the stated purpose may be acted upon.

Section 4: A quorum shall consist of five Directors, except as otherwise expressly provided by NC Law or by these Bylaws. The transaction of any business at any meeting of the Board shall require the presence of a quorum of the Board.

Section 5: Any Agenda shall be prepared and posted at least seven days prior to each Regular Meeting. Special Meetings require only the purpose of the meeting included with the notice of the meeting, which shall be posted as far in advance as possible.

Section 6. Any member may attend any meeting of the Board (except Executive Session). At regular meetings the Board shall provide property owners the opportunity to speak to the Board about their issues or concerns. The Board may place reasonable limits on the number of people to speak on any given issue, and the time they may be permitted to speak.

Section 7: The transaction of business at a Special Board Meeting, when legally called, shall be valid as though convened after regular call and notice if a quorum is present.

Section 8: Waiver of Notice of any meeting may be given by a Director. Any Director may waive notice of any meeting before or after the date and time stated in the notice provided that such waiver shall be in writing, signed by the Director entitled to notice and filed with the minutes or corporate records. The attendance by a Director at a meeting shall constitute a waiver of notice of such meeting, except where a Director attends for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened, and states said objection at the beginning of said meeting (or promptly upon his arrival) and does not thereafter vote for or assent to action taken at the meeting.

Section 9: Action may be taken by the Directors without a meeting if all Directors are sent written notice requesting approval of the action and written consent to the action in question is signed by a simple majority of the Directors and filed with the minutes of the proceedings.

Section 10: The Minutes of each Meeting shall be published or posted in a timely manner. The Minutes shall include all motions made and indicate the votes cast by each Director.

ARTICLE XI COMMITTEES

Section 1: The Standing Committees of the Association shall be:

Advisory Committee
Community Development Committee
Bylaws Committee
Finance Committee
Fishing Committee
Golf Committee
Marketing Committee
Tennis Committee

Section 2: Annually, the Board shall appoint Committee members from among the Association membership. The Board shall define the duties of Standing Committees and incorporate them in Policies and Procedures. The Golf, Tennis, and Fishing groups will present to the Board for consideration a slate of Committee members elected by the members participating in those activities. The Committee will elect their own officers. Committee members are agents of the corporation.

Section 3: The Board may create *ad hoc* committees as necessary and appoint members to each committee as appropriate. Each committee shall have a secretary to record its activities for reports to the Board. The Board will indicate the specific objectives of each committee.

Section 4: Although Committee members will frequently be required to work with and advise the Association's management and other personnel, Committee members have no authority to direct the personnel to take any action or to obligate Association funds.

ARTICLE XII MEETINGS OF ASSOCIATION MEMBERS

Section 1: The Annual Meeting of the Association shall be held the Saturday after Labor Day each year, at a location designated by the Board of Directors.

Section 2: At the Annual Meeting, the General Manager will present the status of the Association's affairs including financial data for the previous year, the status of the current year's operating budget, and information available on the proposed budget for the following year.

Section 3: Regular Information Meetings of the Association Membership will be held each month of June, July, August, and October. No business may be transacted at an Information Meeting.

Section 4: The Board of Directors shall call a Special meeting whenever it deems it to be desirable or in response to a petition, signed by ten percent of the voting membership, which states the purpose of the meeting.

Section 5: The Secretary shall notify Members about Association Membership Meetings as follows:

- a) notice and agenda stating the matter or matters to be approved by the membership for the Annual and Special Meetings will be published in *Harbor Lights* at least thirty days in advance of the meeting, and
- b) notices of regularly scheduled Information Meetings with agenda, and agenda for Annual and Special Meetings

will be posted on designated bulletin boards with agenda at least seven days in advance of the meeting.

- c) When giving notice of an annual or special meeting, the association shall also include notice of a matter a member intends to raise at the meeting provided a request is given by the member to the Secretary of the Board, in writing at least 30 days prior to the time the association gives notice of the meeting.

Section 6: Each property owner is requested to register a winter and summer address with the Secretary. The Association shall use these addresses for official written correspondence with the property owner.

Section 7: Unless otherwise provided for in the Bylaws or required by Chapter 55A of the N.C. General Statutes, a quorum for Association Meetings shall be ten percent of the members of the Association entitled to vote, represented in person or by proxy. In the absence of a quorum at the opening of the meeting, no business can be conducted. Any meeting with a quorum may be recessed at any time with an affirmative vote of the quorum. A quorum must be present to reconvene the meeting.

Section 8: Except as otherwise expressly provided by NC law or these Bylaws, the transaction of any business at a meeting of the Association having a quorum present, shall require an affirmative majority vote of those members present, in person or by proxy. New issues may be introduced by the quorum but action may not be taken on those issues until a subsequent meeting that has given notice to the membership that the new issue or issues will be voted on.

Section 9: The Association shall maintain a current list of eligible voters together with any valid proxies they may hold. This list shall be used at the outset of any meeting to establish a roll of those present which will be utilized to determine whether a quorum is present and to record the votes in case of a roll call vote. A roll call vote shall be held on any vote, if requested by an eligible voter.

ARTICLE XIII BOOKS AND PAPERS

Section 1: The books, records, and papers of the Association (other than personnel records, property owner files, any documents that are prepared in anticipation of litigation and for the use thereof, memoranda, documents, paper writings and other internal communications created for preparation for Board meetings or to provide information to the Board or Committee members of or between Association personnel) shall be available for inspection and copying by any member in good standing. Up to five days' written notice may be required for access to some material, according to N.C. statutes 55A-16-01, *Corporate records*, and 55A-16-02 *Inspection of records by members*.

All materials referred to above, with the exception of personnel records, property owners' files, and any documents that are prepared in anticipation of litigation and for the use thereof, may be released to members in good

standing by the Board at its discretion.

ARTICLE XIV ASSOCIATION SEAL

Section 1: The Association shall have a seal in circular form having within its circumference the words: "Linville Land Harbor Property Owners Association, Inc., Seal: North Carolina 1972".

Section 2: The seal may be fixed to official documents by the Secretary, or the Secretary's designee by either rubber stamp imprint or embossing.

ARTICLE: XV AMENDMENTS

Section 1: These bylaws may be amended through a mailed ballot by a majority of Members entitled to vote, or by two-thirds of the ballots actually cast. The material soliciting the approval (ballot) shall contain or be accompanied by a copy or summary of the amendment.

Section 2: The Board of Directors may initiate any proposal for amendments to the Bylaws and submit them to the Bylaws Committee for review and comments. Any member may propose changes in the Bylaws by submitting the proposed changes to the Bylaws Committee for presentation to the Board of Directors. At the discretion of the Board, a proposed amendment may be reviewed by an attorney for legality and proper wording. Any proposed amendment initiated under this section must be approved by a majority of the Board of Directors.

Section 3: Any proposed amendment submitted with the written approval of at least 10% of the voting members does not require Board approval to be voted on by the full membership.

Section 4: At least 60 days before a voting deadline established by the Board, a notice will be published advising members that Bylaws revisions are in progress. The notice shall specify which Article(s) are being revised and the nature of the proposed changes.

Section 5: When a mail ballot is used, the Secretary shall mail out ballots to all members at least 30 days prior to the voting deadline. All ballots must be returned to the POA office on or before the deadline. A counting committee, appointed by the Board will collect the ballots, tally the vote, and announce the results.

ARTICLE XVI MANAGEMENT LIABILITY PROTECTION

Section 1: Any individual, serving as a Director, Officer, or as a Member of a Standing Committee, shall be protected by the Association from civil liability for monetary damages for any act, or failure to act, arising out of this service, provided that the individual;

- a) does not receive compensation for his services beyond reimbursement for expenses;
- b) was acting within the scope of his official duties;
- c) was acting in good faith and his/her actions at the time taken, were not known or believed by the person to be clearly in conflict with the best interests of the corporation;
- d) did not commit gross negligence or willful or wanton misconduct that resulted in damage or injury;
- e) did not derive an improper financial benefit from the transaction; or
- f) did not incur the liability from the operation of a motor vehicle.

In the event all or part of such protection is provided through insurance carried by the Association, the individual, as a condition for such indemnification, must agree to cooperate with the Insurance Company responsible for the defense of claims which may arise as indicated above.

Approved by Membership September 9, 2009