

RATIFIED AND RESTATED BYLAWS

OF

QUAIL HOLLOW WEST HOMEOWNERS' ASSOCIATION, LTD.

The Board of Directors of Quail Hollow West Homeowners' Association, Ltd., do hereby present for recording these Ratified and Restated By-Laws incorporating herein the original By-Laws recorded on _____ and the amendments thereof recorded on May 7, 1987 (Book 5496, Page 130), October 31, 2000 (Book 11687, Page 5), March 15, 1991 (Book 6478, Page 127) and April 17, 1991 (Book 6504, Page 545)

Section 1: Definitions

All words and phrases as used in these By-laws shall have the same meanings as set forth in the Declaration to which these Bylaws are attached as "Exhibit E" and as interpreted by the Unit Ownership Act of North Carolina. Except as qualified by the foregoing, the words and phrases hereinafter set forth shall have the following meanings:

Section 1.1. Association: An Association of and limited to the owners of the condominium Units of Quail Hollow West which are now or hereafter submitted to the Act and the Declaration. Said Association shall be in the form of a non-profit, non-stock membership corporation organized under the laws of the State of North Carolina as Quail Hollow West Homeowners' Association, Ltd.

Section 1.2. Buildings: All buildings now or hereafter submitted to the terms of the Act and the Declaration.

Section 1.3. Common Areas & Facilities — Limited Common Areas: All of the real property and improvements thereon and facilities thereof, excluding the Units, which is now or hereafter submitted to the Act and the Declaration. Limited Common Areas are portions of the Common Areas which are limited exclusively in use to particular Units as set forth in the Declaration. The Limited Common Areas are the garage space or spaces, if any, assigned to the exclusive use of a Unit and the patio appurtenant to such Unit.

Section 1.4. Common Expenses: (a) Expenses of administration, maintenance, repairs and replacements of the Common Area & Facilities, (b) expenses determined by the Association to be Common Expenses and which are lawfully assessed against the Unit Owners, and (c) expenses declared to be Common Expenses by the provisions of the Unit Ownership Act or the Condominium Documents.

Section 1.5. Condominium Documents: The "Declaration, Restrictions and Covenants of Quail Hollow West", "Articles of Incorporation of Quail Hollow West Homeowners' Association, Ltd.", these Bylaws and Regulations governing the use of all property submitted to the Act and the Declaration, all "Supplemental Declarations" referred to in the Declaration, together with all exhibits and attachments to all of the foregoing, including but not limited to "Plans", "Surveys", etc.

Section 1.6. Condominium Property: All of the property now or hereafter submitted to the Unit Ownership Act and the Declaration, the Buildings and all other improvements thereon and facilities in connection therewith, whether the same be Common Areas or Units or any part thereof, and all easements and rights appurtenant thereto.

Section 1.7. Declarant: Quail Hollow Estates Associates and its successors in interest as limited to the definition set forth in Section 12.1 of ARTICLE XII of the Declaration.

Section 1.8. Declaration-Supplemental Declarations: The "Declaration, Restrictions and Covenants of Quail Hollow West" by which the present Condominium Property is submitted to the provisions of the Unit Ownership Act, as the same is Amended from time to time by the inclusion of additional Condominium Property via "Supplemental Declarations" as set forth in ARTICLE XII of the Declaration and as otherwise amended from time to time in accordance with the provisions set forth in the Declaration.

Section 1.9. Percentage Interest: The fraction or percentage of undivided interest each Unit Owner owns as tenant-in-common in the Common Areas & Facilities as set forth in Section 4.7 of ARTICLE IV of the Declaration.

Section 1.10. Person: Individual, corporation, partnership, association, trustee, fiduciary or any other legal entity and shall mean the plural or combination of same where applicable.

Section 1.11. Plans: The architectural plans and specifications by Jack T. Gray, North Carolina Registered Architect, entitled "Quail Hollow West" dated October 24, 1979, as revised through the ____ day of _____, 1980, consisting of Sheets "A-1" through "A-__", attached to the Declaration as "Exhibit P" thereto and filed for record in the office of the Register of Deeds of Mecklenburg County, North Carolina, simultaneously with the filing for record of the Declaration and these Bylaws as amended from time to time coincidental with the filing of Supplemental Declarations.

Section 1.12. Survey: Survey of the present Condominium Property by Robert E. Stephenson, Registered Surveyor, entitled "Quail Hollow West — Phase I" dated the ____ day of _____, 19__ , as revised through the ____ day of _____,

1980 , which is filed for record simultaneously with the filing of the Declaration as 'Exhibit C" thereto and all other surveys as are subsequently filed for record with Supplemental Declarations adding additional Condominium Property to the terms of the Declaration.

Section 1.13. Unit: One of the twenty-two residential Units in the three Buildings now submitted to the Act and the Declaration as more particularly defined in ARTICLE III of the Declaration together with each Unit which is hereafter submitted to the terms of the Act and the Declaration.

Section 1.14. Unit Owner: The record owner or owners of a Unit, excluding any lender, trustee or creditor whose interest in the Unit is merely as security for the performance of an obligation.

Section 1.15. Unit Ownership Act: Chapter 47A of the North Carolina General Statutes, as the same may be amended from time to time.

Section 2: Administration of Quail Hollow West

Section 2.1. Association: The Association shall administer, manage and be in charge of the operation of the Condominium Property.

Section 2.2. Authority: The Association, its Board of Directors, its officers and its members, shall at all times act in conformity with the Unit Ownership Act of North Carolina, the Non-Profit Corporation Act of North Carolina, these Bylaws and the other Condominium Documents. The Association shall not engage in any activities other than those directly related to management of the Condominium Property.

Section 2.3. Power to Grant Easements, Leases, Licenses and Concessions Through or Over the Common Elements: The Association shall, pursuant to North Carolina General Statute 47C-3-102(9) have the power to grant easements, leases, licenses and concessions through or over the common elements and any and all such documents pertaining to such conveyances and licenses may be executed by the Board of Directors and the Association. *(Preceding amendment recorded on 3/15/91 in Book 6478 at Page 127 and 4/17/91 in Book 6504 at Page 545.)*

Section 3: Offices — Seal — Fiscal Year

Section 3.1. Principal Office - Registered Office: The principal office and registered office of the Association shall be located at 7301 Quail Meadow Lane, Charlotte, North Carolina, 28210, but may be changed from time-to-time by vote of the Di-

rectors of the Association. *(Preceding amendment recorded on 5/7/87 in Book 5496 at Page 130.)*

Section 3.2. Other Offices: The Association may have other offices at such other places within the State of North Carolina as the Board of Directors may from time to time determine or as the affairs of the Association may require.

Section 3.3. Seal: The seal of the Association shall contain the name of the Association, the word "Seal", year of incorporation and such other words and figures as desired by the Board of Directors. When obtained, said seal shall be impressed in the margin of this Section of the Bylaws.

Section 3.4. Fiscal Year: The fiscal year of the Association shall be the calendar year.

Section 4: Membership

Section 4.1. Qualification: Membership in the Association shall be confined to and consist of the Unit Owners. Membership shall be appurtenant to and inseparable from Unit ownership. No Unit Owner shall be required to pay any consideration whatsoever for his membership.

Membership in the Association shall inure automatically to Unit Owners upon acquisition of the fee simple title — whether encumbered or not — to any one or more Units. The date of recordation of the conveyance in the Mecklenburg Public Registry of the Unit in question shall govern the date of ownership of each particular Unit. However, in the case of death, the transfer of ownership shall occur on date of death in the case of intestacy or date of probate of Will in the case of testacy. Until a decedent's Will is probated, the Association may rely on the presumption that a deceased owner died intestate.

Section 4.2. Place of Meetings: All meetings of the membership shall be held at the principal office of the Association. Provided, by action duly taken by the Board of Directors or Membership, any one or more meetings may be held at any other location, whether within or without the State of North Carolina.

Section 4.3. Annual Meetings: The Annual Meetings of the Members shall be held on the second Monday of January of each year, at 8:00 p.m. Eastern Standard Time. If the second Monday should be a legal holiday, the Annual Meeting shall be held at the same hour on the first day following which is not a legal holiday. At such meetings, the Board of Directors shall be elected in accordance with Section 5.4 of these Bylaws, and the Members shall transact such other business as may properly come before them. *(Preceding amendment recorded on 5/7/87 in Book 5496 at Page 130.)*

Section 4.4. Substitute Annual Meetings: If an Annual Meeting shall not be held on the day designated by these Bylaws, a Substitute Annual Meeting may be called

in accordance with the provisions of Sections 4.5 and 4.6. A meeting so called shall be designated and treated for all purposes as the Annual Meeting.

Section 4.5. Special Meetings: After the first Annual Meeting of the Members, Special Meetings of the Members may thereafter be called at any time by the President, Board of Directors, or by any Member pursuant to the written request of the owners of not less than Thirty (30%) percent of the votes of the Membership. Business to be acted upon at all Special Meetings shall be confined to the objects stated in the notice of such meeting.

Section 4.6. Notices of Meetings — Waiver: Written or printed notice stating the time and place of the meeting shall be delivered not less than ten nor more than fifty days before the date of any Membership meeting, either personally or by mail, by or at the direction of the President, the Secretary, or other person calling the meeting, to each Member entitled to vote at such meeting. Notice shall be deemed given upon deposit in the mail depository of each Unit located in the Buildings.

Notice given to any one tenant-in-common or tenant-by-entirety of a Unit shall be deemed notice to all co-owners of the subject Unit.

In the case of a Special Meeting, the notice of meeting shall specifically state the purpose or purposes for which the meeting is called; but, in the case of an Annual or Substitute Annual Meeting, the notice of meeting need not specifically state the business to be transacted thereat unless such a statement is required by the provisions of the North Carolina Non-Profit Corporation Act.

Any Member may waive the necessity of formal notice to him by signing a written waiver either before or after the meeting and upon execution of said waiver, said Member shall not be entitled thereafter to object to the meeting being held or matters being passed upon at said meeting because of lack of notice thereof.

Section 4.7. Quorum: Except as otherwise provided in these Bylaws, the presence in person or by proxy of Members holding Forty (40%) percent of the total vote of the Membership shall constitute a quorum at all meetings of the Members. If a quorum is not present or represented at any meeting, the Members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than the announcement at the meeting, until a quorum is present or is represented.

The Members at any meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of of enough Members to leave less than a quorum.

Section 4.8. Voting Rights: In no event may less than one full vote be cast on any matter. Where a Unit is owned by two or more persons (whether individually or in a fiduciary capacity), the vote allocated to that Unit may be cast by any one of the co-owners, in person or by proxy. If requested, the co-owners shall disclose to the voting inspector or other designated official of the Association im-

mediately prior to the subject vote being taken which of the co-owners is to cast the vote appurtenant to the subject Unit. Where two or more co-owners vote, only their unanimous vote will be counted.

The Owners of life estates in the Units shall be entitled to cast the votes appurtenant to such Units as are so owned. The above provisions concerning co-ownership shall also apply to those owning joint or multiple life estates in any particular Unit. *(Preceding amendment recorded on 5/7/87 in book 5496 at Page 130.)*

Section 4.9. Proxies: Members may vote either in person or by agents duly authorized by written; proxy executed by the subject Member or by his duly authorized attorney-in-fact. A proxy is not valid after the expiration of eleven (11) months from the date of its execution, unless the person executing it specifies therein the length of time for which it is to continue in force, or limits its use to a particular meeting, but no proxy shall be valid after ten (10) years from the date of its execution. Unless a proxy otherwise provides, any proxy holder may appoint in writing a substitute to act in his place. In order to be effective, all proxies must be filed with the Secretary or duly acting Secretary either during or prior to the meeting in question.

All of the above provisions concerning the voting by co-owners shall apply to the votes cast for any one Unit by two or more proxy holders.

Section 4.10. Majority Vote: The casting of a majority of the votes represented at a meeting at which a quorum is present, in person or by proxy, shall be binding for all purposes except where a higher percentage vote is required by these By-laws or by law.

Section 4.11. Actions Without Meeting: Any action which may be taken at a meeting of the Membership may be taken without a meeting if a consent or ratification, in writing, setting forth the action so taken or to be taken shall be signed by persons who would be entitled to vote a" of the votes upon such action at a meeting and such consent is filed with the Secretary of the Association and inserted in the Minute Book of the Association.

Section 5: Board of Directors

Section 5.1. General Powers: The business and affairs of the Association shall be managed by the Board of Directors or by such committees as the Board may establish pursuant to Section 6 of these Bylaws.

Section 5.2. Number, Term and Qualification: The initial Board of Directors shall consist of the three (3) individuals whose names are set forth in the Articles of Incorporation. From and after the date of the first Annual Membership Meeting, there shall be nine (9) Directors. The initial Board shall serve until their successors are elected at the first Annual Membership Meeting. Except for the initial

Directors, at least five (5) of the nine (9) Directors shall at all times while in office be members of the Association, each maintaining their permanent residences in one of the Units. Each Director shall be at least twenty- one (21) years of age. Any qualified Directors may be re-elected in office. Each Director shall hold office until his death, resignation, retirement, removal, disqualification, or his successor is elected and qualified.

Section 5.3. Nominations: Nominations for election to the Board of Directors shall be made by a Nominating Committee consisting of a Chairman, who shall be a Member of the Board, and at least two (2) Members of the Association. The Nominating Committee shall be appointed by the Board prior to each Annual Meeting of the Members to serve from the close of such Annual Meeting until the close of the next Annual Meeting and such appointment shall be announced at each Annual Meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Nominations may also be made from the floor at the Annual Meeting.

Section 5.4. Election of Directors: At the first Annual Membership Meeting , the Member shall elect nine (9) Directors. Three (3) Directors shall be elected for three-year terms, three (3) shall be elected for two-year terms and three (3) shall be elected for one-year terms. Thereafter, three (3) Directors shall be elected at each subsequent Annual Membership Meeting to fill the vacancies created by the expiration of the terms of office then expiring. The initial "one-year term" for the three Directors elected at the first Annual Membership Meeting shall expire at the time of the second Annual Membership Meeting notwithstanding that said meeting may occur within twelve (12) months following the date of the first Annual Membership Meeting. All balloting for election of Directors shall be by secret ballot. Persons receiving the highest number of votes (see Section 418) shall be elected. Cumulative voting is not permitted. *(Preceding amendment recorded 5/7/87 in Book 5496 at Page 130.)*

Section 5.5. Removal: Any Director may be removed from-the-Board, with or without cause, by a majority vote (Section 4.10) of the Members of the Association at any Special Meeting of the Membership. Provided, the notice of the meeting must state that the question of such removal will be acted upon at the subject meeting. If any Director is so removed, his successor as Director may be elected by the Membership at the same meeting to fill the un-expired terms of the Director so removed.

Section 5.6. Vacancies: A vacancy occurring in the Board of Directors may be filled by a majority of the remaining Directors, though less than a quorum, or by the sole remaining Director; but a vacancy created by an increase in the authorized number of Directors shall be filled only by election at an Annual or substitute Annual Meeting or at a Special Meeting of Members called for that purpose or by unanimous consent of the Members without meeting. The Members may

elect a Director at any time to fill any vacancy not filled by the Directors. As indicated in Section 5.5, the Membership shall have the first right to fill any vacancy created by the Membership's removal of a Director.

Section 5.7. Compensation: No Member of the Board of Directors shall receive any compensation from the Association for acting as such. Provided, however, each Director shall be reimbursed for reasonable out-of-pocket expenses incurred and paid by him on behalf of the Association [except as limited by Section 5.11(d)] and nothing herein shall prohibit the Board compensating a Director for unusual and extraordinary services rendered on the basis of quantum meruit. Further provided, each Director, by assuming office, waives his right to institute suit against or make claim upon the Association for compensation based upon quantum meruit.

Section 5.8. Loans to Directors and Officers: No loans shall be made by the Association to its Directors or officers. The Directors of the Association who vote for or assent to the making of a loan to a Director or officer of the Association, and any officer or officers participating in the making of such loan, shall be jointly and severally liable to the Association for the amount of such loan until the repayment thereof.

Section 5.9. Liability of Directors: To the extent permitted by the provisions of the North Carolina Non-Profit Corporation Act in effect at the applicable time, each Director is hereby indemnified by the Association with respect to any liability and expense of litigation arising out of his activities as a Director. Such indemnity shall be subject to approval by the Members only when such approval is required by said Act. The Directors are authorized, but not required, to obtain a reasonable amount of liability insurance insuring them against liabilities arising out of or in any way connected with their serving as Directors of the Association and the premium cost for same shall be considered as a Common Expense.

Section 5.10. Meetings of Directors:

- A. **Regular Meetings:** Regular Meetings shall be held, without notice, at such hour and address as may be fixed from time to time by resolution of the Board. Should any such meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.
- B. **Special Meetings:** Special Meetings shall be held when called by the President of the Association, or by any three (3) Directors, after not less than three (3) nor more than thirty (30) days written notice to each Director.
- C. **Notices of Special Meetings:** The notice provided for herein may be waived by written instrument signed by those Directors who do not receive said notice. Except to the extent otherwise required by law, the purpose of the Directors' Special Meeting need not be stated in the notice. Notices shall be deemed received upon the happening of any one of the following events:
(1) one day following deposit of same in the United States mails with proper postage paid and addressed to the Director at his last known address on file

- with the Association, (2) deposit of same in his Unit mail box, or (3) delivery to the Director. Attendance by a Director at a meeting shall constitute a waiver of notice of such meeting unless the subject Director gives written statement at the meeting to the person presiding objecting to the transaction of any business because the meeting is not lawfully called.
- D. Approved Meeting Place: All Directors' meetings shall be held in the City of Charlotte or County of Mecklenburg, State of North Carolina, unless a majority of the Directors then in office agree in writing to hold such meeting's) at another location. Provided, the Association shall not reimburse any Director for expenses incurred in attending a meeting outside of Mecklenburg County.
 - E. Quorum: A majority of the Directors then holding office shall constitute a quorum for the transaction of business and every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act or decision of the Board.

Section 5.11. Action Without 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. Said written approval shall be filed with the minutes of the proceedings of the Board, whether done before or after the action so taken.

Section 5.12. Presumption of Assent: A Director of the Association who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his contrary vote is recorded or his dissent is otherwise entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as the Secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the Secretary of the Association immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favor of such action.

Section 5.13. Powers and Duties: The Board of Directors shall have all powers and duties necessary for the administration of the affairs of Quail Hollow West Condominium except such powers and duties as by law or by the Condominium Documents may not be delegated by the Unit Owners to the Board. The powers and duties to be exercised by the Board shall include, but shall not be limited to, the following:

- A. Operation, care, upkeep and maintenance of the Common Area;
- B. Determination of the funds required for operation, administration, maintenance and other affairs of Quail Hollow West and collection of the Common Expenses from the Unit Owners, as provided in Section 10 of these Bylaws;
- C. Employment and dismissal of personnel necessary for the efficient operation and maintenance of Quail Hollow West;

- D. Adoption of rules and regulations covering the details of the operation and use of the Condominium Property;
- E. Opening of bank accounts-on behalf of the Association and designating the signatories required therefore;
- F. Granting licenses for vending machines;
- G. Obtaining insurance for Quail Hollow West pursuant to Section 9 hereof;
- H. Making repairs, additions and improvements to, or alterations of, the Common Area and repairs and restoration of said property;
- I. Keeping detailed, accurate records in chronological order of the receipts and expenditures affecting the Common Area, specifying and identifying the maintenance and repair expenses of the Common Area and any other expense incurred. Both said records and the vouchers accrediting the entries thereupon shall be available for examination by all the Unit Owners and mortgagees and their duly authorized agents or attorneys, at convenient hours on working days that shall be set and announced for general knowledge. All books and records shall be kept in accordance with good and accepted accounting practices and an outside audit shall be made at least once every three (3) years;
- J. Keeping a complete record of the minutes of all meetings of the Directors and Membership in which Minute Book shall be inserted actions taken by the Directors and/or Members by consent without meeting; and
- K. Supervising all officers, agents and employees of the Association and insuring that their duties are properly performed.
- L. To grant easements, leases, licenses and concessions through or over the common elements of the Association pursuant to North Carolina General Statute 47C-3-102(9). *(Preceding amendment recorded on 3/15/91 in Book 6478 at Page 127 and 4/17/91 in Book 6504 at Page 545.)*
- M. Enforcing by legal means the provisions of the Declarations, these Bylaws and the Rules and Regulations for the use of the Property adopted by it, and bring any proceedings which may be instituted on behalf of the Owners. As provided by the 1985 Condominium Act NCGS Chapter 47C3-107A, the Board of Directors, on behalf of all unit owners, has the right to establish and enforce fines for non-compliance of Rules and Regulations and all other documents pertaining to Quail Hollow West. *(Preceding amendment recorded on 10/31/00 in Book 11687 at Page 5.)*

Section 5.14. Adjudicatory Panel. The Board of Directors shall have the right and the authority to form an Adjudicatory Panel if two (2) or more members of the Board of Directors shall request a hearing to determine the imposition of a fine for apparent violation of the Declarations, the Bylaws and/or Rules and Regulations, as they may be amended from time to time. The Board of Directors shall cause an Adjudicatory Panel to be created to hear the alleged violation and to make a recommendation of action or non-action to the Board of Directors.

- A. The composition of the Panel shall be five (5) unit owners residing in Quail Hollow West, three (3) of whom shall be members of the Board of Directors and two (2) of whom shall not be members of the Board of Directors.

- B. The Adjudicatory Panel shall meet and shall cause notice to be prepared to alleged violator and shall (i) specify the alleged violation with reasonable particularity in understandable language, (ii) shall state the date time and place of such hearing, which shall be no less than fifteen(15) days or more than thirty (30) days from and after the date of service of notice, (iii) shall state that the alleged violator may be present and may present evidence during the hearing, but that failure to attend said hearing shall in no way prevent nor delay the hearing and that action may be taken at the hearing notwithstanding the absence of the alleged violator.
- C. Service of Notice shall be considered given when said notice is written and placed in an envelope addressed to alleged violator at their last known address, and placed, first class, postage prepaid, in a United States mail depository.
- D. The members of the Adjudicatory Panel shall select one of their members as Chairperson to preside over the hearing. The alleged violator shall be given a reasonable time to present evidence in opposition to alleged violation and/or entry of any fine. The party alleging violation shall also be afforded reasonable time to present evidence substantiating cause for alleged violation.
- E. The Adjudicatory Panel shall meet in Executive Session following the hearing, and by majority vote, shall report a summary of the proceedings and shall make a recommendation to the Board of Directors of action to be taken or not taken. Notice of recommendation of Adjudicatory Panel (but not the summary of proceedings) shall be given to the alleged violator.
- F. The Board of Directors shall take the recommendations of the Adjudicatory Panel under advisement, and shall not be bound by its recommendations. The Board shall determine whether to impose a fine and its amount, up to \$150.00 per violation, by (i) consideration of the seriousness of the alleged violation, (ii) its impact upon the administration of the condominium, (iii) its effect upon any other unit owner or owners, (iv) the intent or inadvertence with which the violation occurred, (v) and/or other matters that are important and significant to the Board of Directors in the discharge of their duties.
- G. Any fine imposed by the Board of Directors for a violation of the Declarations, the Bylaws, or Rules and Regulations shall be considered an "assessment" and shall be due, payable and collectible in the same manner as any other assessment, as provided in *Section 10.6. Effect of Non-payment of Assessments and Section 13, Compliance and Default. (Preceding amendment recorded on 10/31/00 in Book 11687 at Page 5.)*

Section 5.15. Independent Manager: The Board of Directors may employ or enter into a management contract with any individual or firm it deems appropriate and in the best interest of the Association concerning the routine management of the Condominium Property. The Board of Directors may delegate to such person or firm (herein referred to in these Bylaws as "Independent Manager") such duties and responsibilities in the management of the Condominium Property as the Board of Directors deems appropriate. Provided, the Board of Direc-

tors may not delegate to the Independent Manager the complete and total responsibilities and duties of the Association in violation of the Non-Profit Corporation Act of North Carolina. The Independent Manager's contract shall always be subject to termination for cause upon reasonable notice (not to exceed 30 days) given by the then Board of Directors of the Association and the term of the contract shall not exceed one (1) year. The Board of Directors shall have authority to fix the reasonable compensation for the Independent Manager. The Independent Manager shall at all times be answerable to the Board of Directors and subject to their direction.

Section 6: Committees

Section 6.1. Creation: The Board of Directors, by resolutions adopted by a majority of the number of Directors then holding office, may create such committees as they deem necessary and appropriate in aiding the Board of Directors to carry out its duties and responsibilities with respect to the management of Quail Hollow West. Each committee so created shall have such authorities and responsibilities as the Directors deem appropriate and as set forth in the resolutions creating said committee. The Directors shall elect the members of such committee; provided, each committee shall have in its membership at least one (1) member of the Board of Directors.

Section 6.2. Vacancy: Any vacancy occurring on a committee shall be filled by a majority of the number of Directors then holding office at a regular or special meeting of the Board of Directors.

Section 6.3. Removal: Any member of a committee may be removed at any time with or without cause by a majority of the number of Directors then holding office.

Section 6.4. Minutes: Each committee shall keep regular minutes of its proceedings and report the same to the Board when required.

Section 6.5. Responsibility of Directors: The designation of committees and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any member thereof, of any responsibility or liability imposed upon it or him by law.

If action taken by a committee is not thereafter formally considered by the Board, a Director may dissent from such action by filing his written objection with the Secretary with reasonable promptness after learning of such action.

Section 7: Officers

Section 7.1. Enumeration of Officers: The officers of the Association shall consist of a President, a Secretary, a Treasurer and such Vice Presidents, Assistant Secretaries, Assistant Treasurers and other officers as the Board of Directors may from time to time elect. All officers must be members of the Board of Directors. *(Preceding amendment recorded 5/7/87 in Book 5496 at Page 130.)*

Section 7.2. Election and Term: The officers of the Association shall be elected annually by the Board of Directors. Such elections shall be held at the first meeting of the Board next following the Annual or Substitute Annual Meeting of the Members. Each officer shall hold office until his death, resignation, removal or until his successor is elected and qualified.

Section 7.3. Removal: Any officer elected or appointed by the Board of Directors may be removed by the Board whenever in its judgment the best interest of the Association will be served thereby.

Section 7.4. Vacancy: A vacancy in any office may be filled by the election by the Board of Directors of a successor to such office. Such election may be held at any meeting of the Board. The officer elected to such vacancy shall serve for the remaining term of the officer he replaces.

Section 7.5. Multiple Offices: The person holding the office of President shall not also hold the office of Secretary or Treasurer at the same time. Any other offices may be simultaneously held by one person.

Section 7.6. President: The President shall be the chief executive officer of the Association and shall preside at all meetings of the Members. He shall see that the orders and resolutions of the Board of Directors are carried out; shall sign all written instruments regarding the Common Area and co-sign all promissory notes of the Association, if any. He shall have all of the general powers and duties which are incident to the office of President of a corporation organized under Chapter 55A of the North Carolina General Statutes in the supervision and control of the management of the Association in accordance with these Bylaws. *(Preceding amendment recorded 5/7/87 in Book 5496 at Page 130.)*

Section 7.7. Vice Presidents: The Vice Presidents in the order of their election, unless otherwise determined by the Board of Directors, shall, in the absence or disability of the President, perform the duties and exercise the powers of that office. In addition, they shall perform such other duties and have such other powers as the Board of Directors shall prescribe.

Section 7.8. Secretary: The Secretary shall keep the minutes of all meetings of Members and of the Board of Directors; he shall have charge of such books and papers as the Board of Directors may direct; he shall, in general, perform all du-

ties incident to the office of Secretary of a corporation organized under Chapter 55A of the North Carolina General Statutes.

Section 7.9. Treasurer: The Treasurer shall have the responsibility for the Association's funds and securities and shall be responsible for keeping full and accurate, financial records in books of account showing all receipts and disbursements, and for the preparation of all required financial statements. He shall co-sign promissory notes of the Association; shall cause an audit of the Association's books to be made by an Accountant at the completion of at least every third fiscal year; shall prepare an annual budget and a statement of income and expenditures to be presented to the Membership at its Annual Meeting; and shall deliver a copy of each to the Members. He shall perform all duties incident to the office of Treasurer of a corporation organized under Chapter 55A of the North Carolina General Statutes.

Section 7.10. Assistant Secretaries and Treasurers: The Assistant Secretaries and Treasurers shall, in the absence or disability of the Secretary or the Treasurer, respectively, perform the duties and exercise the powers of those offices, and they shall, in general, perform such other duties as shall be assigned to them by the Secretary or the Treasurer, respectively, or by the President or the Board of Directors.

Section 7.11. Loans to Officers: The Association shall not make any loans, either directly or indirectly, to any officer of the Association. Any officer or officers participating in the making of such loan shall be jointly and severally liable to the Association for the amount of such loan until the repayment thereof. Nothing herein is intended to otherwise limit the liability of Directors in connection with such loans. See Section 5.8.

Section 7.12. Compensation: Officers shall not be compensated on a regular basis for the usual and ordinary services rendered to the Association incident to the offices held by such officers. The Board of Directors may, however, compensate any officer or officers who render unusual and extraordinary services to the Association beyond that called for to be rendered by such person or persons on a regular basis. Each officer — by assuming office — waives his right to institute suit against or make claim upon the Association for compensation based upon quantum meruit.

Section 7.13. Indemnification: To the extent permitted by the provisions of the North Carolina Non-Profit Corporation Act in effect at the applicable times, each officer is hereby indemnified by the Association with respect to any liability and expense of litigation arising out of his activities as an officer. Such indemnity shall be subject to approval by the Members only when such approval is required by said Act.

Section 8:

Maintenance — Ordinary Repair — Alterations to Common Area

Section 8.1. By the Association: Except to the extent such services are performed by Quail Hollow Homeowners' Association, Inc. and except as specifically provided elsewhere in these Bylaws, this Association shall maintain, repair and replace at its expense all parts of the Common Area whether located inside or outside of a Unit, the cost of which shall be charged to the Unit Owners as a Common Expense. The Association shall have the irrevocable right, to be exercised by the Board of Directors or its agent, to have access to each Unit from time to time during reasonable hours as may be necessary for the inspection, maintenance, repair or replacement of any of the Common Area therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the Common Area or to other Unit or Units.

Section 8.2. By the Unit Owners: Each Unit Owner shall, maintain, repair and replace at his expense all portions of his Unit which become in need thereof, including all bathroom and kitchen fixtures, light fixtures, interior non load bearing walls, interiors and exteriors of all windows and doors, carpeting, drapes and other items within the Unit. Further, each Unit owner shall, at his expense, maintain, repair and replace, when necessary, the heating and air conditioning system servicing his Unit, wherever located, and each Unit owner shall, at his own expense keep the patio portion of the Limited Common Area appurtenant to his Unit in good repair (including repairs to the cement slab of such patio) and shall keep said patio portion appurtenant to his Unit clean and neat. All damages to the Common Area intentionally or negligently caused by the Unit owner, his family, guests, agents, servants, lessees, employees or contractors shall be promptly repaired by the subject Unit Owner. Provided, there is excluded from the provisions contained in this Section such repairs necessitated by casualties insured against by the Association to the extent the Association receives insurance proceeds for such repairs. If the Unit Owner defaults in his obligations herein and such are not cured by him within thirty (30) days from written demand by the Association, the same may be cured by the Association and the cost thereof shall be assessed against the Unit owned by the subject Unit owner.

Section 8.3. Restrictions on Unit Owners: No Owner shall perform or cause to be performed any maintenance, repair or replacement work which disturbs the rights of the other Unit Owners, jeopardizes the soundness or the safety of the Condominium Property or reduces the value thereof. The Unit Owner shall cause any work so performed or being performed, on the Unit, which in the sole opinion

Section 8.4. Duty of Report: Each Unit Owner shall promptly report to the Board of Directors or its agent any defect or need for repairs or replacement the responsibility for which is that of the Association.

Section 8.5. Alterations to Common Area: The Association is authorized as a Common Expense to make minor improvements to and alterations of the Common Area. Provided, however, no major or structural improvements to or alterations of the Common Area shall be made by the Association beyond that required in Sections 8.1 and 9.8 without first obtaining the approval of the Membership by at least a 75% vote of the total votes of the Association.

Section 8.6. Approval of Payment Vouchers: All vouchers for payment of expenses incurred by the Association in the maintenance, repair, alteration and replacement of the Common Area shall be approved in writing jointly by the President and Treasurer. In the absence or disability of the President, the Vice President may perform the duties herein of the President as set forth in Section 7.7 and in like manner, the Assistant Treasurer may perform the duties of the Treasurer herein in the absence or disability of the Treasurer.

Notwithstanding the foregoing, the Board of Directors may authorize any officer or member or committee or Independent Manager to approve or disapprove all vouchers for payment of routine expenses incident to the maintenance, repair, alteration and/or replacement of the Common Area so long as the resolution granting such authority specifically limits the maximum amount which may be authorized by such officer, Member, etc., on each occasion and so long as the subject resolution describes the items of expense payments of which may be so authorized. Further, the Members shall be notified of the adoption of such resolution by the Board of Directors as and when the same is adopted.

Section 9: Insurance — Repair of Casualty Damages

Section 9.1. Authority to Purchase: The Board of Directors shall have the authority to and shall obtain a master insurance policy upon the Common Areas and Facilities for the benefit of the Association, the Unit Owners and their mortgagees as their interests may appear, and provisions shall be made for the issue of certificates of mortgagee endorsements to the mortgagees of the Unit Owners. The original of such policy and endorsements thereto shall be deposited with the Association, as Insurance Trustee, and Unit Owners may inspect said policy at any time during reasonable working hours and after reasonable notice to the Secretary. Unit Owners may obtain insurance coverage at their own expense upon their own personal property and for their personal liability and living expense.

Further, the Board of Directors is required to carry such fire and extended coverage insurance as is needed to fully protect all Units, so long as the same type

coverage is obtained for all of the Unit owners. Such insurance, to the extent obtained, shall be held for the benefit of the Association, the Unit owners and their mortgagees as their interest may appear. *(Preceding amendment recorded 5/7/87 in Book 5496 at Page 130.)*

Section 9.2. Coverage:

- A. Casualty: The Buildings and all other improvements upon the land constituting the Common Areas and Facilities and all personal property included in the Common area owned by the Association shall be insured in an amount equal to at least Ninety (90%) per cent of the maximum insurable replacement value (excluding foundation and evacuation costs) as determined annually by the Board of Directors. Such coverage shall afford protection against (1) loss or damage by fire and other hazards covered by a standard extended coverage endorsement; and (2) such other risks as from time to time shall customarily be covered with respect to Buildings similar in construction, location and use as the Buildings, including but not limited to, vandalism and malicious mischief.
- B. Public Liability: The liabilities of the Association shall be insured in such amounts as shall be required by the Board of Directors, and each Unit Owner shall be named as an additional insured but only with respect to his liability arising out of the ownership, maintenance or repair of the Common Area.
- C. Other: The Association shall obtain such other insurance coverage's as the Board of Directors determines from time to time to be desirable, including but not limited to omissions and errors insurance for the protection of the Directors' heirs explained in Section 5.10.
- D. Unit Owners and Tenants: Each Unit Owner and each tenant shall provide at their own expense an insurance policy in the amount of Three Hundred Thousand Dollars (\$300,000.00) to indemnify all other Unit Owners and tenants, including themselves, for damages to any unit caused by acts, non-actions, in-actions or events arising from their Unit. Proof of such insurance will be provided by the Unit Owner and tenant, to be the Board of Directors. The Board of Directors shall be empowered to enforce this provision of the Bylaws by appropriate action. *(Preceding amendment recorded 5/7/87 in Book 5496 at Page 130.)*

Section 9.3. Cancellation — "Other Insurance" Clause: To the extent that such provisions are reasonably available, the fire and extended coverage policy shall contain provisions that the said policies cannot be cancelled, invalidated, or suspended on the account of the conduct of any one or more individual Unit owners and that such policies cannot be cancelled, invalidated or suspended on the account of the conduct of any officer or employee of the Board or Manager, without prior demand in writing that the Board of Directors or Manager cure the defect. Further, all "no other insurance" clauses in the master fire and extended coverage policies shall exclude policies owned by individual Unit owners from consideration.

Section 9.4. Premiums: Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense.

Section 9.5. Receipt of Proceeds — Insurance Trustee: All insurance policies purchased by the Board of Directors shall be for the benefit of the Association, The Unit Owners and their mortgagees as their interest may appear, and shall provide that all proceeds covering property losses shall be paid to the Association, as Insurance Trustee. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and hold the same in trust for the purposes hereinafter stated and for the benefit of the Unit Owners and their mortgagees in the following shares:

- A. Common Area: An undivided share of the proceeds received by the Association on account of damage to the Common Area shall be held for each Unit Owner and said share shall be determined by the subject Unit owner's Percentage Interest in the Common Area.
- B. Units: Proceeds received by the Association on account of damage to Units shall be held in the following shares:
 - 1. When the Buildings are to be restored, the proceeds shall be held for the Unit Owners of the damaged Units in proportion to the cost of repairing the damage suffered by each Unit Owner, which cost shall be determined by the Association.
 - 2. When the Buildings are not to be restored, an undivided share ,in the proceeds shall be held for each Unit Owner, such share being the same as his Percentage Interest in the Common Area.
- C. Mortgagees: In the event a mortgagee endorsement has been issued as to a Unit, the share of the Unit Owner shall be held in trust for the mortgagee and the Unit Owner as their interests may appear. Except to the extent otherwise stated in a subject mortgage or deed of trust, no mortgagee shall have the right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired. As and when requested by the owners and holders of first mortgages or first deeds-of-trusts on the Units and as and when requested by entities guaranteeing payment of same, the Association will promptly notify those making the request when any insured damage occurs to the Common Areas where the cost of same exceeds Ten Thousand Dollars (\$10,000.00).

Section 9.6. Distribution of Proceeds: Proceeds of insurance policies received by the Insurance Trustee shall be distributed to or for the benefit of the beneficial owners in the following manner:

- A. Reconstruction or Repair: If the damage for which the proceeds are paid is to be repaired or reconstructed, the proceeds shall be paid to defray the cost thereof as provided in Section 9.9. All proceeds remaining after defraying such costs shall be distributed to the beneficial owners, remittances to Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee.

B. Failure to Reconstruct or Repair: If it is determined as provided in Section 9.10 that the damage for which the proceeds are paid shall not be reconstructed or repaired, the proceeds shall be distributed to the beneficial owners as set forth in Section 9.10. Any remittances to Unit Owners and their mortgagees shall be paid jointly to them. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee.

Section 9.7. Association as Agent: The Association is hereby irrevocably appointed Agent for each Unit Owner and for each owner of a mortgage or other lien upon a Unit and for each owner of any other interest in the Condominium Property to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

Section 9.8. Waivers: All policies of physical damage insurance obtained by the Board of Directors pursuant to this Section shall contain waivers of subrogation against Unit Owners, the Association and others having an interest in the Condominium Property. Such policies shall provide that the same may not be cancelled or substantially modified without at least ten (10) days prior written notice to the Association.

Section 9.9. Duty to Repair: In the event of damage to or destruction of the Buildings as a result of fire or other casualty and the Condominium Property is not partitioned as provided in Section 9.10, the Board of Directors shall arrange for the prompt repair and restoration of the Buildings (including any damaged Unit, but not including any wall, ceiling or floor decoration or coverings or other furniture, furnishings, fixtures or equipment in the Unit, unless the subject insurance policy covers a portion or all of such loss to the Unit, in which event the Association shall repair or replace such damage), and the Board of Directors shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments. Any cost of such repair and restoration in excess of the insurance proceeds shall constitute a Common Expense.

Section 9.10. Partition: If two or more buildings then subject to the terms of this Declaration are damaged by fire or other disaster to the extent that the cost of repairing the same would exceed two-thirds ($\frac{2}{3}$) of the value of all of the remaining buildings then subject to the Declaration immediately preceding the casualty (excluding in such determination the value of all underlying and adjacent land) AND the unit owners who own not less than Seventy-Five (75%) per cent of the total percentage interests in the Common Areas duly resolve not to proceed with repair or restoration, then and in that event:

- A. The entire Condominium Property shall be deemed to be owned as tenants-in common by the Unit Owners; and
- B. The undivided interest in the Condominium Property owned by each Unit Owner shall be his Percentage Interest in the Common Area previously apportioned to his Unit or Units; and

- C. Any liens or encumbrances affecting any Unit shall be deemed transferred in accordance with the existing priority to the percentage of undivided interest of the subject Unit Owner in the Condominium Property as hereinabove provided; and
- D. The Condominium Property shall be subject to an action for sale in lieu of partition at the suit of any Unit Owner, in which event the net proceeds of insurance policies, if any, shall be considered as one fund and shall be divided among the Unit Owners in the proportion to their Percentage Interests in the Common Area previously appurtenant to their Units, after paying off, out of the respective shares of the Unit Owners, to the extent sufficient for that purpose, all liens on the Unit of each Unit Owner.

The determination of whether the Buildings are "more than two-thirds ($\frac{2}{3}$) destroyed" for the purposes herein stated shall be determined as follows: An appraisal of the values of all Buildings (excluding land) as of the day immediately preceding the damage shall be obtained from the Charlotte Board of Realtors or any M.A.I. appraiser by the Board of Directors. The costs of repairs and restoration shall then be determined by the Board of Directors. If the said costs exceed two-thirds ($\frac{2}{3}$) of said appraised value, the Buildings shall be deemed more than two-thirds ($\frac{2}{3}$) destroyed. Each Building need not be destroyed to the same relative degree. For the purposes herein, all Buildings shall be treated and considered as one Building.

Section 10: Assessments for Common Expenses — Surplus

Section 10.1. Initial Assessment — Annual Assessments: The initial Directors of the Association as named in the Articles of Incorporation of the Association and their replacements in office shall determine and adjust the regular monthly assessments to be paid by the Unit owners in accordance with the provisions contained in Section 8.6 and 8.7 of the Declaration. Assessments shall be reasonable in amounts commensurate with the financial obligations of the Association as set forth in the Condominium Documents. Following the first Annual Membership Meeting, the Board of Directors elected by the membership and their replacements in office shall thereafter fix the monthly assessments which shall remain in effect until altered or changed by the Board of Directors. No later than December 15 of each year following the first Annual Membership Meeting, the Board of Directors shall give written notice to the Unit Owners of the annual assessment fixed against each Unit for the immediately succeeding calendar year. In fixing the annual assessment for each calendar year, the Board shall first estimate the Common Expenses for such year and shall then estimate the cash required to meet such Common Expenses. In determining the cash requirement, the Board shall include a reasonable reserve for contingencies and replacements and shall deduct any expected income and any surplus from the prior year's fund. The portion of such estimated cash requirement assessed against each Unit shall be determined by the Percentage Interest of such Unit.

The failure of the Board to comply with the written notice requirement hereinabove provided shall not alter or invalidate any obligation of a Unit Owner, any right of the Association against such Unit Owner or any lien against a Unit for unpaid assessments made by the Board of Directors otherwise in accordance with these Bylaws.

Section 10.2. Monthly Installments: The annual assessments shall be paid to the Association in equal monthly installments on or before the first day of each month during any assessment period.

Section 10.3. Special Assessments: If for any reason the annual assessments prove inadequate to pay the Common Expenses, the Board may levy special assessments at any time. The special assessments shall be fixed against the Units according to the Percentage Interests and the period of the assessment and manner of payment shall be determined by the Board.

Section 10.4. Purposes of Assessments — Common Expenses: The annual and special assessments fixed and collected pursuant to this Section shall be used to pay the Common Expenses including but not limited to all expenses, costs and charges incurred by the Association in connection with the administration, operation and management of the Condominium Property; the costs of maintenance, repair, replacement and restoration of the Common Area, or any part thereof; the cost of all insurance obtained by the Board of Directors pursuant to Section 9 of these Bylaws; the charges for utility services rendered to the Association; and any "and all other expenses, costs or charges agreed upon as Common Expenses by the Association or declared Common Expenses by the provisions of the Unit Ownership Act, the Declaration or these Bylaws. All assessments, replacement funds, accumulated income, insurance and other escrows and all other assets of the Association in excess of that needed for the purposes herein stated shall — determined yearly — either be applied to reduce the succeeding year's assessments or shall be returned to the Unit Owners, as determined by the Board of Directors.

Section 10.5. Lien and Personal Obligation: The provisions set forth in Section 8.2 of Article VIII of the Declaration relating to the captioned matters are incorporated herein by reference.

Section 10.6. Effect of Nonpayment of Assessments — Remedies of Association: The provisions set forth in Section 8.3 of Article VIII of the Declaration relating to the captioned matters are incorporated herein by reference.

Section 10.7. Priority of Assessment Lien: The provisions set forth in Section 8.4 of Article VIII of the Declaration relating to the captioned matters are incorporated herein by reference.

Section 10.8. Owner's Non-Use: No Unit Owner may exempt himself from liability for his contributions toward Common Expenses and his other obligations to the Association by waiver of the use or enjoyment of any portion of the Common Area, or by the abandonment or sale of his Unit.

Section 10.9. Limitation of Assessments Increases: The Board of Directors of the Association may, without a vote of the Members of the Association, increase the monthly assessments in accordance with Section 10.1, but no greater than Five (5%) percent of the assessment then in force. The Association may increase the Maximum of the Assessment above the amount permitted pursuant to the preceding sentence, provided that any such change shall have the asset of two thirds ($\frac{2}{3}$) of the votes of each Unit Owner who is voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members (Owners) not less than thirty (30) days prior to such meeting nor more than sixty (60) days in advance of the meeting, setting forth the purpose of the meeting. (*Preceding amendment recorded 5/7/87 in Book 5496 at Page 130.*)

Section 11: Property Rights

Section 11.1. Units: Each Unit, together with its Percentage Interest in the Common Area, shall for all purposes constitute a separate parcel of real property. A Unit Owner shall be vested with exclusive fee simple ownership and possession of his Unit which may be conveyed, transferred, leased, encumbered or devised in the same manner as any other real property subject only to the provisions of the Condominium Documents and the Unit Ownership Act.

Section 11.2. Deeding a Unit: A Unit shall be described in a deed or other instrument of conveyance by its Unit designation. Such instrument shall recite the book and page numbers and date of recording of the Declaration and these By-laws; shall contain (by reference or otherwise) the description of the land then submitted and which may later be submitted to the Declaration; shall state the use for which the Unit is intended and the restrictions on its use; and shall recite the Percentage Interest in the Common Area appurtenant to said Unit. It shall further recite that the conveyance is made together with the benefits, rights and privileges stated in the Condominium Documents and subject to all the duties and obligations set forth therein. PROVIDED, in the failure to strictly comply with the provisions of this Section shall not invalidate any deed to a Unit which is otherwise effective at by law provided.

Section 11.3. Common Area — Percentage Interests: The Unit Owners shall own the Common Areas as tenants-in-common, subject to the terms of all of the Condominium Documents. The undivided Percentage Interests in the Common Area now appurtenant to each Unit submitted to this Declaration and appurtenant to each Unit which may hereafter be submitted to the Declaration is as set forth in Section 4.7 of Article IV of the Declaration. Except to the extent adjusted via

Supplemental Declarations as set forth in said Section 4.7 of Article IV of the Declaration, the stated Percentage Interest appurtenant to each unit shall be permanent in character and cannot be altered without the consent of all then Unit Owners expressed in an amendment to the Declaration duly recorded.

Section 11.4. Inseparability of Percentage Interests: The Percentage Interest in the Common Area cannot be separated from the Unit to which it appertains and shall be automatically conveyed or encumbered with the Unit even though such interest is not expressly mentioned or described in the deed or other instrument.

Section 11.5. No Partition: The Common Area shall remain undivided and no right to partition the same or any part thereof shall exist except as provided in the Unit Ownership Act and the Condominium Documents.

Section 11.6. Use of Common Area: The Unit Owners may use the Common Area in accordance with the provisions set forth under Section 4.2 of Article IV of the Declaration.

Section 11.7. Encroachments: If any portion of the Common Area or Facilities encroaches upon any Unit or any Unit encroaches upon any other Unit or upon any portion of the Common Area as a result of settling or shifting of a building, an easement for the encroachment and for the maintenance of the same so long as the building stands, shall exist. If any Building, the Unit, any adjoining Unit, or any adjoining part of the Common Area, shall be partially or totally destroyed as a result of fire or other casualty or as a result of eminent domain proceedings, and then rebuilt, encroachments of parts of the Common Area upon any Unit or of any Unit upon any other Unit or upon any portion of the Common Area, due to such rebuilding, shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist so long as the subject Building shall stand.

Section 12: Restrictive Covenants — Regulations

Section 12.1. Residential: Each of the Units shall be occupied only by a single family, its servants and guests, as a residence and for no other purpose. However, persons not of the same immediate family may reside in the same Unit with the written consent of the Board of Directors which consent shall not be unreasonably withheld. *(Preceding amendment recorded 5/7/87 in Book 5496 at Page 130.)*

Section 12.2. Alterations and Attachments by Unit Owner: No Owner shall make structural alterations or modifications to his Unit or to any of the Common Area, including the erection of antennas, aerials, awnings, the placement of any reflective or other material covering over the windows of the Unit (other than draperies) or other exterior attachments without the written approval of the As-

sociation. The Association shall not approve of any alterations, decorations or modifications which would jeopardize or impair the soundness, safety or appearance of the Condominium Property.

Section 12.3. Animals: No animal shall be kept except small household pets. Such pets may not be kept or bred for any commercial purpose and shall have such care and restraint so as not to be obnoxious or offensive on account of noise, odor or unsanitary conditions. No savage or dangerous animal shall be kept. No more than one household pet may be kept without written permission of the Board of Directors of the Association. No pets may be permitted to run loose upon the Common Area, and any Owner who causes any animal to be brought or kept upon the premises of the Condominium Property shall indemnify and hold harmless the Association for any loss, damage or liability which the Association may sustain as a result of the presence of such animal on the premises, whether or not the Association has given its permission therefore.

Section 12.4. Signs: As set forth in Quail Hollow Estates Homeowners Association Bylaws, which are duly recorded and such provision is incorporated by reference herein, as if fully set forth. *(Preceding amendment recorded 5/7/87 in Book 5496 at Page 130.)*

Section 12.5. Prohibitions in Use of Common Area: The Common Area shall not be used for storage of supplies, personal property or trash or refuse of any kind except common trash receptacles placed at the discretion of the Board of Directors of the Association, nor shall they be used in any way for the drying, shaking or airing of clothing or other fabrics. Entrances, sidewalks, yards, driveways and parking areas shall not be obstructed in any way nor shall unauthorized persons or pets play therein or thereon or use them for other than their intended purposes. In general, no activities shall be carried on nor condition maintained by any Owner either in his Unit or upon the Common Area which despoils the appearance of the Condominium Property.

Section 12.6. Access to Units: The Association or its Agent shall have access to each Unit from time to time during reasonable working hours, upon oral or written notice to its owner or tenant, as may be necessary for the maintenance, repair or replacement of any of the Common Area and facilities. The Association or its Agent shall also have access to each Unit at all times without notice as may be necessary to make emergency repairs to prevent damage to the Common Area and facilities or to another Unit. *(Preceding amendment recorded 5/7/87 in Book 5496 at Page 130.)*

Section 12.7. Subdividing: No lot may be divided or subdivided into small Units nor any portion thereof sold or otherwise transferred. *(Preceding amendment recorded 5/7/87 in Book 5496 at Page 130.)*

Section 12.8. Nuisances: No nuisances shall be allowed upon the Condominium Property and no person shall engage in any use, practice or activity upon such property which is noxious, offensive or a source of annoyance to any Unit Owner or which interferes with the peaceful possession and proper use of the property by any Unit Owner. All parts of the property shall be kept in a clean and sanitary condition; and no rubbish, refuse or garbage shall be allowed to accumulate and no fire hazard shall be allowed to exist. No Unit Owner shall permit any use of his Unit or make any use of the Common Area which will increase the rate of insurance upon the Condominium Property.

Section 12.9. Lawful Use: No immoral, improper or unlawful use shall be made of the Condominium Property nor any part thereof; and all valid laws, zoning ordinances and regulations of governmental bodies having jurisdiction thereof shall be observed.

Section 12.10. Leasing: Entire Units may be rented provided the occupancy is in conformity with Section 12.1, the lessee or lessees agree to and do abide by all of the terms and conditions set forth in the Condominium Documents and such leases provide for a minimum of one (1) years' duration (such leases must provide adequate and binding assurances that would prevent and discourage lessees from breaching such lease, particularly as to the term). Each lease shall expressly provide that the lessee or lessees must abide by all of the terms and conditions of the Condominium Documents, including but not limited to the Restrictive Covenants-Regulations set forth in this Section 12 of the Bylaws and that any default in connection therewith would automatically cause a termination of such lease and that the Association, as a third party beneficiary, has the option to effect legal proceedings of eviction on behalf of itself and the Unit Owner. No rooms may be rented except as part of the entire Unit and no transient tenants may be accommodated. Further Owner/Lessee will file with the Board of Directors prior to finalization of Lease, Quail Hollow-West Homeowners Lease information and census form #H.W.-W L-1. Such forms are available from the Board of Directors and are to be completed and returned to them as set forth above. *(Preceding amendment recorded 5/7/87 in Book 5496 at Page 130.)*

Section 12.11. Regulations: Reasonable regulations governing the use of the Condominium Property may be made and amended from time to time by the Board of Directors; provided, however, that all such regulations and amendments thereto shall be furnished by the Association to all Members. *(Preceding amendment recorded 5/7/87 in Book 5496 at Page 130.)*

Section 12.12. Sale of Unit: Prior to completion of sale of any Unit, Owner/Seller will file with the Board of Directors Q.H.-W Form S-1 Sale Information and census. Such forms are available from the Board of Directors and will be filed with them prior to actual sale. *(Preceding amendment recorded 5/7/87 in Book 5496 at Page 130.)*

Section 13: Compliance and Defaults

Section 13.1. General: Each Unit Owner shall be governed by and shall comply with the terms of the Condominium Documents, and the regulations, resolutions and decisions adopted pursuant thereto as they may be amended from time to time. Any default by a Unit Owner shall entitle the Association or the other Unit Owners to the relief hereinafter provided in this Section.

Section 13.2. Remedies: The failure to comply with any of the terms of the Condominium Documents and the regulations, resolutions and decisions adopted pursuant thereto, shall be grounds for an action to recover sums due for damages or injunctive relief (the cost of such action or injunctive relief shall be assessed against the violator and recovered as part of the damages, including a reasonable attorney's fee), or both, maintainable by the Association on behalf of the Unit Owners, or in a proper case, by an aggrieved Unit Owner. In any case of flagrant or repeated violation by a Unit Owner, he may be required by the Board of Directors to give sufficient sureties for his future compliance with such Condominium Documents, regulations, resolutions and decisions. *(Preceding amendment recorded 5/7/87 in Book 5496 at Page 130.)*

Section 13.3. Non-Waiver: The failure of the Board of Directors or of a Unit Owner to enforce any right, provisions, covenant or condition which may be granted by the Condominium Documents shall not constitute a waiver of the right of the Board or a Unit Owner to enforce such right, provision, covenant or condition in the future. All rights, remedies and privileges granted to the Board of Directors its designated agent, or a Unit Owner, pursuant to any terms, provisions, covenants or conditions of the Condominium Documents shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be granted to such party by the Condominium Documents or at law or in equity.

Section 14: Amendments

Section 14.1. Amendments: The Bylaws may be amended at any time by an instrument in writing signed and acknowledged by Unit Owners holding at least Sixty (60%) percent of the vote in the Association, which instrument shall be effective only upon recordation in the Mecklenburg Public Registry. Provided, however, where a larger vote of the Unit Owners is elsewhere required in these Bylaws or the Declaration, relating to changes of particular terms or where the consent of some or all of the mortgagees or those guaranteeing mortgages are elsewhere required for changes, such provisions must be complied with for any amendment relating to same to be effectively made. All persons or entities who

own or hereafter acquire any interest in the Condominium Property shall be bound to abide by any amendment to these Bylaws upon the same being passed as provided herein and duly set forth in an amended Declaration, duly recorded as provided herein. FURTHER PROVIDED, NO AMENDMENTS MAY BE MADE TO THESE BYLAWS AT ANY TIME WITHIN SEVEN (7) YEARS FROM DATE THE DECLARATION IS FILED WITHOUT CONSENT OF DECLARANT SO LONG AS DECLARANT EITHER OWNS ANY UNIT THEN SUBJECT TO THE DECLARATION OR OWNS ANY PORTION OF THE MASTER SITE NOT YET THEN ANNEXED TO THE DECLARATION.

Section 15: Miscellaneous

Section 15.1. Ad Valorem Taxes: Each Unit shall be deemed to be a separate parcel and shall be separately assessed and taxed. Each Unit Owner shall be liable solely for the amount of tax assessed against his Unit and shall not be affected by the consequences resulting from the tax delinquency of other Unit Owners. All tangible personal property owned by the Association in connection with the maintenance, upkeep and repair of the Common Area shall be listed for said taxes in the name of and paid by the Association.

Section 15.2. Notification to Mortgagees: Any Owner who mortgages his Unit shall notify the Association of the name and address of the mortgagee, and the Association shall maintain such information in a book entitled "Mortgages of Apartments". The Association shall, at the written request of a mortgagee of any Unit, report any unpaid assessments due from the Owner of such Unit. The Association shall notify each mortgagee appearing in said book the name of each company insuring the Condominium Property under the Master Policy and the amounts of the coverage thereunder.

Section 15.3. Severability: Invalidation of any covenant, condition, restriction or other provision of the Declaration or these By-Laws shall not effect the validity of the remaining portions thereof which shall remain in full force and effect.

Section 15.4. Successors Bound: The rights, privileges, duties and responsibilities set forth in the Condominium Documents, as amended from time to time, shall run with the ownership of the Condominium Property shall be binding upon all persons who own or hereafter acquire any interest in the Condominium Property.

Section 15.5. Gender, Singular, Plural: Whenever the context so permits, the use of the singular or plural shall be interchangeable in meaning and the use of any gender shall be deemed to include all genders.

Section 15.6. Non-Profit Corporation: No part of the Association's assets or net income shall inure to the benefit of any of its Officers Directors or Members or

any other private individual either during its existence or upon dissolution except as reasonable compensation paid or distributions made in carrying out its declared non-profit purposes as set forth in the Articles of Incorporation of the Association and these By-Laws

Effective this the 28th day of March, 2005.

QUAIL HOLLOW WEST HOMEOWNERS'
ASSOCIATION, LTD.

By: _____
Peter W.S. Rieke, President

ATTEST:

Leona E. Moore, Secretary

(CORPORATE SEAL)