

**BY-LAWS  
OF  
CUMMINGS COVE COMMUNITY ASSOCIATION, INC.**  
A Nonprofit North Carolina Corporation

**ARTICLE I**

**DEFINITIONS**

- 1.1 Meaning.** Terms used in these By-Laws, unless otherwise defined in these By-Laws, shall have the meanings described in Article I of the Restatement and Amendment to Covenants and Restrictions for Cummings Cove (the "Declaration").

**ARTICLE II**

**LOCATION**

- 2.1 Principal Office.** The principal office of the Association shall be located 20 Cummings Cove Parkway, Hendersonville, North Carolina.

**ARTICLE III**

**MEMBERSHIP AND VOTING RIGHTS  
IN THE ASSOCIATION**

- 3.1 Membership.** The method of determining what persons or entities are Members of the Association and the extent of their voting rights are as set forth in Article III of the Declaration.
- 3.2 Lien Rights of Association.** The rights of membership are subject to the payment by Owners of Periodic and Special Assessments levied by the Association. The obligation to pay such assessments is imposed against each Owner of a Lot or Dwelling Unit and becomes a lien upon the Lot or Dwelling Unit as provided by Article V of the Declaration.
- 3.3 Suspension of Membership Rights.** The rights of enjoyment of the Common Properties of any person whose interest in the Properties is subject to assessments under Paragraph 3.2 herein, whether or not he/she be personally obligated to pay such assessments, may be suspended by action of the Board during the period when the assessments remain unpaid; but upon payment of such assessments, such rights and privileges shall be automatically restored. If the Board of Directors ("Board") have adopted and published rules and regulations governing the use of the Common Properties and any Owner or his guest or invitee violates these rules and regulations, the Board shall have the power to suspend the rights of any Owner as a result of the violation and such rules and regulations, for a period as may be established by the Board.

## ARTICLE IV

### **PROPERTY RIGHTS AND RIGHTS OF ENJOYMENT OF COMMON PROPERTY**

- 4.1 Use of Common Properties.** Each Owner shall be entitled to the use and enjoyment of the Common Properties as provided by Article IV of the Declaration.
- 4.2 Delegation of Membership Rights.** Any Owner may delegate his rights of enjoyment in the Common Properties and facilities to the members of his family who reside upon the Lot or Dwelling Unit, or to any of his properly approved tenants who reside therein under a leasehold interest. Such Owner shall notify the Secretary of the Association in writing of the name of any such person and of the relationship of the Owner to such person. The rights and privileges of such person(s) are subject to suspension under Article IV of the Declaration to the same extent as those of the Owner.

## ARTICLE V

### **BOARD OF DIRECTORS**

- 5.1 Board of Directors.** The affairs of the Association shall be managed by a Board of not less than nine (9) Members and the Developer, as outlined in Article III of the Declaration. Eight (8) Directors of the Board ("Board Members") shall be elected by the Owners, and one (1) Board Member shall be the owner or representative of the Commercial Unit.
- 5.2 Term.** The initial term of the eight (8) Board Members elected by the Owners shall be as follows: Two (2) Board Members shall have one (1) year terms, three (3) Board Members shall have two (2) year terms, and the three (3) Board Members shall have three (3) year terms. Thereafter, the terms for all Board Members shall be three (3) years, expiring on September 30th of each calendar year. The term of the representative of the owner of the Commercial Unit shall be at the discretion of the said Owner.
- 5.3 Vacancies in the Board.** A vacancy in the Board shall be filled by selection in the same manner as the selection of the Board Member(s) being replaced, except that such replacement Board Member shall serve only for the unexpired term of his predecessor in office.

## ARTICLE VI

### **DUTIES OF THE BOARD OF DIRECTORS**

- 6.1 Record of Corporate Affairs.** The Board shall keep a complete record of all its acts and corporate affairs and prepare an accurate and complete summary of it, in chronological order, setting forth the date of the action or event. Such summary shall be made available for on-premises inspection by any Member of the Association during business hours. Copies of such summary shall be available to any Member upon request for the reasonable costs and expense of making such copy.

- 6.2 Supervise Officers, Agents and Employees.** The Board shall supervise all officers, agents and employees of the Association, and see that their duties are properly performed.
- 6.3 Levy and Collect Assessments.** The Board shall levy and collect Periodic and Special Assessments as follows and as more fully provided in Article V of the Declaration:
- (a) **Annual Budget.** Each year, the Board shall propose the annual budget for the following year, at least thirty (30) days in advance of the annual Board Budget Meeting, and make such proposed budget available for on-premises inspection by any Member of the Association for at least thirty (30) days prior to said Board Budget Meeting.
  - (b) **Notice.** Each year, the Board shall send written notice to each Owner, at least thirty (30) days in advance of the annual Board Budget Meeting, informing such Owner (i) of the proposed Periodic Assessment amount relevant to him and his property and the amount which he would be required to pay; and (ii) that the proposed budget is available for inspection (including place and hours of inspection); and (iii) of the date of the Board Budget Meeting.
  - (c) **Periodic Assessment.** Each year, once a budget has been approved by the Board, the Board shall set and approve the Periodic Assessments and send written notice thereof to each Owner, as to the amounts relevant to such Owner.
  - (d) **Certificate of Payment.** The Board shall issue, or to cause an appropriate officer to issue, upon demand by any Owner, a certificate setting forth whether any assessment has been paid. Such certificate shall be conclusive evidence of any assessment therein stated to have been paid.
- 6.4 Fill Vacant Seats.** In the event that any member of the Board of this Association shall be absent from two (2) consecutive, special or regular meetings of the Board, the Board may, by action taken at the meeting during which the second absence occurs, declare the office of said absent Board Member to be vacant.

## ARTICLE VII

### **BOARD MEETINGS**

- 7.1 Monthly Meetings.** The Board may have regularly scheduled monthly meetings in order to conduct the business of the Association. No notice shall be required of such meetings except when the regularly scheduled meetings are changed, when each Board Member shall be given notice at least seven (7) days prior to such rescheduled meeting.
- 7.2 Annual Board Budget Meeting.** The Board shall have an Annual Board Budget Meeting in September of each year where the Board shall vote on the Association's proposed budget for the next fiscal year. The proposed budget, as submitted to the Board by the President of the Association, may be discussed and revised as determined by the Board at their discretion. The Annual Board Budget Meeting may be held at the regularly scheduled Monthly Board Meeting in September.

- 7.2.1 Approved Annual Budget.** After the Association's Annual Budget ("Annual Budget") has been approved, a copy of the Annual Budget shall be submitted by the Board at the Annual Meeting of the Board.
- 7.2.2 Date of Meeting.** The Annual Board Budget Meeting shall be held each September unless the Board agrees otherwise.
- 7.2.3 Agenda.** The agenda of the Annual Board Budget Meeting shall include discussion, amendment (if desired), and approval of the Association's Annual Budget.
- 7.2.4 Closed Meeting.** The Annual Board Budget Meeting shall be closed to all but the Board Members. The President shall preside and the Secretary shall keep minutes.
- 7.2.5 Voting.** Only Voting Members, as outlined in Article III of the Declaration, may vote on the budget. Except as provided in the Articles of Incorporation for the Association, each Voting Member shall be entitled to one vote on each matter to be voted on. A simple majority is required for approval of a budget. If the Board can not approve a budget at the Annual Board Budget Meeting, the budget as proposed by the Board shall be deemed approved by the Board.
- 7.2.6 Quorum.** For purposes of the annual Board Budget Meeting only, a quorum shall be a majority of the Voting Members. No Board Member shall be deemed present at such meeting unless he is physically present. There shall be no voting by proxy at the annual Board Budget Meeting.
- 7.3 Annual Meeting of the Board.** The Annual Meeting of the Board shall be held within thirty (30) days following the Annual Board Budget Meeting, provided that the Board may, by resolution, change the day and hour of holding such Annual Meeting.
- 7.4 Special Meetings.** Special meetings of the Board will be held when called by any officer of the Association or by any two Board Members after not less than three (3) days' notice to each Board Member.
- 7.5 Notice.** The Secretary shall provide a notice of each Annual Meeting or Special Meeting of the Board stating the purpose thereof as well as the time and place where it is to be held to each Board Member at least fourteen (14) days but not more than sixty (60) days prior to such meeting. Notice shall be personally delivered or mailed, postage prepaid, to the Board Member's addresses on record with the Association. A notice mailed shall be deemed delivered the earlier of actual delivery or the third day following mailing.
- 7.6 Waiver of Notice of Meetings.** The transaction of any business at any meeting of the Board, however called and noticed, or wherever held, shall be as valid as though made at a meeting duly held after regular call and notice if a quorum is present, and if either before or after the meeting each of the Board Members not present signs a written waiver of notice, a consent to the holding of such meeting or an approval of the minutes thereof. All such waivers, consents or approval shall be filed with the corporate records and made a part of the minutes of the meeting.
- 7.7 Quorum Requirement.** The majority of the Board shall constitute a quorum thereof.

- 7.8 **Voting Requirement.** Unless otherwise provided in these By-Laws or by the Declaration or Articles of the Association, a majority of those Voting Members present at a duly constituted Meeting of the Board shall be required for consent to an action of the Board.

## ARTICLE VIII

### **OFFICERS**

- 8.1 **Generally.** The officers shall be a President, Vice President, Secretary, Treasurer and such additional officers as the Board considers necessary. The President shall be a member of the Board and shall act as Chairman thereof. The Secretary shall also be a member of the Board.
- 8.2 **Election.** The officers shall be elected annually by a majority of the Voting Members at the Annual Meeting of the Board, and they shall hold office at the pleasure of the Board.
- 8.3 **Board Control.** The officers shall hold office at the pleasure of the Board.
- 8.4 **President.** The President shall preside at all meetings of the Board and shall see that orders and resolutions of the Board are carried out.
- 8.5 **Vice President.** The Vice President shall perform all the duties of the President in his absence.
- 8.6 **Secretary.** The Secretary shall be the ex-officio secretary of the Board, shall record the votes and keep the minutes of all proceedings in a book to be kept for that purpose. The Secretary shall keep the records of the Association. He/she shall record in a book kept for the purpose the names of all Members of the Association together with their addresses as registered by such Members. The Secretary shall prepare the summary of the Association's actions and affairs.
- 8.7 **Treasurer.** After Turnover, the Treasurer shall receive and deposit in appropriate bank accounts all moneys of the Association and shall disburse such funds as directed by resolution of the Board, provided, however, that a resolution of the Board shall not be necessary for disbursements made in the ordinary course of business conducted within the limits of a budget by the Board. The Treasurer shall sign all checks and notes of the Association, provided that such checks and notes shall also be signed by the President or the Vice President. The treasurer shall keep proper books of account and cause an annual audited report of the Association's finances to be made by a certified public accountant at the completion of each fiscal year. He shall prepare an annual balance sheet statement, and the budget and balance sheet statement shall be presented to the Board at the annual Board Budget Meeting.

## ARTICLE IX

### **COMMITTEES**

- 9.1 **Standing Committees.** The Board may appoint such Standing Committees of the Association as it shall determine at its discretion. Any two or more committees could be combined into one committee.

- 9.2 Roads Committee.** The Roads Committee shall have responsibility for coordinating repairs and maintenance for all common area roads, driveways, parking areas and other paved areas designed for vehicular traffic, provided such areas and roads are designated as common areas.
- 9.3 Design Review Board.** The Design Review Board shall have the duties and functions described in Article VI of the Declaration. It shall ascertain any proposals, programs or activities that in its opinion may adversely affect the residential value of the Properties and shall advise the Board regarding Association action on such matters.
- 9.4 General Duties of Committees.** It shall be the duty of each committee to receive complaints from Members on any matter involving Association functions, duties and activities within its field of responsibility. It shall dispose of such complaints as it deems appropriate or refer them to such other committee, Board Member or officer of the Association as is further concerned with the matter presented.

## ARTICLE X

### MEETINGS OF MEMBERS

- 10.1 Annual Meeting of the Members.** There shall be an Annual Meeting of the Members at which the Members shall elect Board Members as outlined in Article V herein. Members shall be entitled to one vote per deeded Lot, unless two or more Lots have been recombined in a recorded deed, never to be subdivided, in which case the Member(s) would be entitled to one vote per recombined Lot.
- 10.2 Special Meetings.** Special Meetings of the Members for any purpose may be called at any time by the President, Vice President, Secretary or Treasurer, by a majority of the Board or upon written request of one-third (1/4) of the Members.
- 10.3 Notice of Meetings.** Notice of any meetings shall be given to the Members by the Secretary of the Association. Notice, when by mail, shall be sent to the address or the Member appearing on the books of the Association at the time of the mailing of the Notice. Each Member shall register his address with the Secretary of the Association for purposes of mailing of notices of meetings. Notice of any meeting, regular or special, shall be given at least fourteen (14) days in advance of the meeting and shall set forth in general the nature of the business to be transacted; provided, however, that if the business of any meeting shall involve any action governed by the Articles of Incorporation or by the Declaration, notice of such meeting shall be given or sent as provided therein, or if not provided therein, then at least thirty (30) days notice.
- 10.4 Quorum for Membership Actions.** For all meetings, a quorum shall be one-half of the Members. Any action governed by the Articles of Incorporation or by the Declaration applicable to the Properties shall require a quorum as therein provided.
- 10.5 Chairperson.** The President or Vice President of the Association shall preside at all meetings of the Board.

- 10.6 Vote Required for Consent.** Unless otherwise provided in these By-laws, the Declaration or Articles of Incorporation of the Association, an Affirmative vote of a majority of the Members present at a duly constituted meeting shall be required to confirm any action.

## ARTICLE XI

### PROXIES

- 11.1 Validity.** Except on budget matters, any Board Member may vote in person or by proxy. The presence at a duly constituted meeting of the Board of a person holding a valid proxy on behalf of a Board Member shall constitute the presence of such Board Member at the meeting.
- 11.2 Filing/Duration.** All proxies shall be in writing and filed with the Secretary of the Association.

## ARTICLE XII

### BOOKS AND RECORDS

- 12.1 Inspection.** The books, records and papers of the Association shall at all times be subject to the inspection of any Members, during reasonable Business hours with at least 24 hours notice.

## ARTICLE XIII

### CORPORATE SEAL

- 13.1 Type of Seal.** The Association shall have a seal in circular form having within its circumference the words: CUMMINGS COVE COMMUNITY ASSOCIATION, INC.

## ARTICLE XIV

### FISCAL YEAR

- 14.1 Beginning and Ending Dates.** The "Fiscal Year" of the Association shall begin on October 1st of each year and end on September 30 of each year.

## ARTICLE XV

### LOSS OR DAMAGE OF PROPERTY

- 15.1 Association Not Liable.** The Association shall not be liable or responsible for the destruction, loss of, or damage to, the property of any Member, visitor, or any person.

## ARTICLE XVI

### PROCEDURE FOR MEETINGS

- 16.1 Robert's Rules of Order.** Robert's Rules of Order, revised as of the date of the meeting, shall govern the conduct of all corporate meetings, unless in conflict with these By-Laws, the



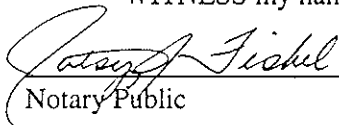


STATE OF NORTH CAROLINA

COUNTY OF HENDERSON

On the 12 day of September, 2000, before me personally appeared ROGER A. HILL, to me known, who being by me duly sworn, deposes and says that he is the President of HILL REALTY GROUP, INC., which entity is the managing member of CUMMINGS COVE PROPERTIES, L.L.C., a North Carolina Limited Liability Company, and that the seals affixed to the foregoing instrument in writing are the seals of HILL REALTY GROUP, INC., and CUMMINGS COVE PROPERTIES, L.L.C., and that the writings have been signed by him on behalf of CUMMINGS COVE PROPERTIES, L.L.C., and by HILL REALTY GROUP, INC., by their authority duly given by appropriate resolution and the said President of HILLREALTY GROUP, INC., the managing member of CUMMINGS COVE PROPERTIES, L.L.C., had his signature duly acknowledged by the Secretary of HILL REALTY GROUP, INC., Judith D. Hill who acknowledges the writing to be the act and deed of said company.

WITNESS my hand and notarial seal, this the 12 day of September, 2000.

  
Notary Public

My Commission Expires: November 24, 2001