

BYLAWS OF
KIRK WALL VILLAS HOMEOWNERS ASSOCIATION, INC.

ARTICLE I – NAME AND LOCATION

The name of the corporation is **KIRK WALL VILLAS HOMEOWNERS ASSOCIATION, INC.** hereinafter referred to as the “Association.” Meetings of members and directors may be held at such places within the State of North Carolina, County of Wake, as may be designated by the Board of Directors.

ARTICLE II – DEFINITIONS

Section 1. “Association” shall mean and refer to Kirkwall Villas Homeowners Association, Inc., its successors and assigns.

Section 2. “Properties” shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions, and Restrictions, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. “Common Area” shall mean all real property owned by the Association for the common use and enjoyment of the Owners.

Section 4. “Lot” shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 5. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 6. “Declarant” shall mean and refer to the governing Officers of the Kirkwall Villas Homeowners Association.

Section 7. “Declaration” shall mean and refer to the Declaration of Covenants, Conditions, and Restrictions applicable to the Properties recorded in the office of the Wake County Register of Deeds.

Section 8. “Member” shall mean and refer to those persons entitled to membership as provided in the Declaration.

Section 9. "Dwelling" shall mean and refer to the main structure constructed on each lot for inhabitation by the owner of said lot, his successors, heirs, tenants or guests.

ARTICLE III - MEETINGS

Section 1. Annual Meetings A public annual meeting of the members shall be held each year in the month of November. The date, time and place will be determined by the Officers of the HOA and will be announced to the members at least 30 days in advance of the meeting.

Section 2. Special Meetings Special meetings of the members may be called at anytime by the President, the Board of Directors, or upon written request of one-fourth (1/4) of the members who are entitled to vote.

Section 3. Notice of Meetings Written notice of each meeting of the members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least 30 days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum The presence at the meeting of members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes of the membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If, however, such quorum shall not be 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 announcement at the meeting, until a quorum as aforesaid shall be present or represented.

Section 5. Proxies At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance of the member of his Lot.

ARTICLE IV -- BOARD OF DIRECTORS

Section 1. Number The affairs of this Association shall be managed by a Board of not fewer than three (3) nor more than seven (7) Directors, who need not be members of the Association.

Section 2. Nomination Any member in good standing shall be able to nominate any other member in good standing or himself for election to the Board of Directors. Nominees must be submitted to the current Board of Directors prior to the annual meeting as directed in the written notice for said meeting.

Section 3. Election Election to the Board of Directors shall be held each year at the annual meeting of the members of the Association. At such election, the members present or their proxies may cast as many votes as they are entitled to exercise under the provision of the Declaration. Election to the Board of Directors shall be by secret written ballot. Ballots will consist of the names of the nominees with a yes/no option to record approval or rejection of each nominee by each voting member present at a meeting or by proxy. The nominees receiving two-thirds (2/3) membership approval shall be elected. In the event that more than seven (7) nominees receive 2/3 approval, the nominee with the largest number of approval votes will be elected. In the event of a tie, the sitting Board will cast the deciding vote.

Section 4. Term of Office Members of the Board of Directors will be newly elected each year at the annual meeting, and shall serve a term of one year unless he shall sooner resign or be removed. There is no limit to years a member may serve on the Board of Directors.

Section 5. Removal Any Director may be removed from the Board, with or without cause, by a majority vote of the Board of Directors or by two-thirds (2/3) vote of the members at a special meeting. In the event of death, resignation or removal of a Director, his successor shall be selected and appointed by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 6. Compensation No Director shall receive compensation for any service he may render to the Association. Any Director may, however, be reimbursed for his actual expenses incurred in the performance of his duties. Prior to purchase, any expenses should be approved by the Board of Directors.

ARTICLE V – MEETINGS OF DIRECTORS

Section 1. Regular Meetings Regular meetings of the Board of Directors shall be held quarterly without notice, at such place and hour as may be fixed from time to time by resolution of the Board.

Section 2. Special Meetings Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two Directors, after no less than three (3) days notice to each Director.

Section 3. Quorum A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors shall be regarded as the act of the Board.

Section 4. Action Taken Without a 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.

ARTICLE VI – POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers The Board of Directors shall have the power to:

- (a) Adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon, and to establish fines or penalties for the infraction thereof;
- (b) Suspend the voting rights and right to use of the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice from and hearing by the Board of Directors, for a period not to exceed sixty (60) days for infraction of published rules and regulations;
- (c) Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation, or the Declaration;
- (d) Declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors;
- (e) Employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties;
- (f) Invest funds of the corporation; and
- (g) Maintain the lots as provided in Article V, Section 6 of the Declaration.

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

- (a) Cause to be kept a complete record of all its acts and corporate affairs and to make it available at any special meeting when such statement is requested in writing by one-fourth (1/4) of the members who are entitled to vote;
- (b) Supervise all Officers, agents and employees of this Association, and to see that their duties are properly performed;
- (c) As more fully provided in the Declaration, to:
 - (1) Fix the amount of the annual assessment against each lot at least thirty (30) days in advance in each annual assessment period;
 - (2) Send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and
 - (3) Foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to pay the same.
- (d) Issue, or to cause an appropriate Officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- (e) Procure and maintain adequate liability and hazard insurance on property owned by the Association;
- (f) Cause all Officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate.
- (g) Cause to be maintained the Common Area and all storm sewers and drainage easements, whether located on the Common Area or the lots.
- (h) Pay all ad valorem taxes and public assessments relating to the Common Area and storm sewer drainage easements.

ARTICLE VII- OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Offices. The Board of Directors shall be internally organized by an election of Officers within the Board. The Officers of the Board shall be a President, Vice-President, Secretary, Treasurer, and such other Officers as the Board may from time to time by resolution create.

Section 2. Election of Officers The election of Officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section 3. Term The Officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments The Board may elect such other Officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time determine.

Section 5. Resignation and Removal Any Officer may be removed from office with or without cause by a majority vote of the Board. Any Officer may resign at anytime by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies A vacancy in any office may be filled by appointment by the Board. The Officer appointed to such vacancy shall serve for the remainder of the term of the Officer he replaces.

Section 7. Multiple Offices The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties The duties of the Officers are as follows:

President

- (a) The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

Vice-President

- (b) The Vice-President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

Secretary

- (c) The Secretary shall record the votes and keep the Minutes of all meetings and proceedings of the Board and of the members; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses, send written notice of fines/violations to members, and shall perform such other duties as required by the Board.

Treasurer

- (d) The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall co-sign all check and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; keep record of fines/liens, contact attorney when legal action is needed; and shall prepare an annual budget and a statement of income and expenditures to be represented to the membership at its regular annual meeting, and deliver a copy of each to the members.

ARTICLE VIII - COMMITTEES

The Association shall appoint an Architectural Control Committee, as provided in the Declaration, and a Nominating Committee, as provided in these Bylaws. In addition, the Board of Directors may appoint other committees as deemed appropriate in carrying out its purpose.

ARTICLE IX - BOOKS AND RECORDS

The books, records and papers of the Association shall at all times during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation and the Bylaws of the Association shall be available for inspection by any member on the public website of the HOA or the management company.

ARTICLE X - ASSESSMENTS

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments, which are secured by a continuing lien upon the property against which the assessment is made. Any assessments, which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the maximum rate permitted by law and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. The Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his Lot.

ARTICLE XI - AMENDMENTS

Section 1. These Bylaws may be amended, at a regular or special meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy; except that the Federal Housing Administration or the Veterans Administration shall have the right to veto amendments while there is Class A membership.

Section 2. In the case of a conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

ARTICLE XII - MISCELLANEOUS

The fiscal year of the Association shall begin on the first (1st) day of January and end on the thirty-first (31st) day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

IN WITNESS WHEREOF, we, being all of the authorized Officers and Directors of the Kirkwall Villas Homeowners Association, Inc., have hereunto set our hands this 21 day of September, 2009.

**KIRKWALL VILLAS HOMEOWNERS
ASSOCIATION, INC.**

BY: Kelly Starnell

ATTEST:

Bonnie Kennedy
Jeled
Wayne Greenway
J. Campbell

CERTIFICATION

I, the undersigned, do hereby certify:

THAT I am the duly elected and acting Secretary of the Kirkwall Villas Homeowners Association, Inc., a North Carolina corporation, and

THAT the foregoing Bylaws constitute the original Bylaws of said Association, as duly adopted at a meeting of the Board of Directors thereof, held on the 21 day of September, 2009.

J. Campbell
Secretary

(Revised August 2009)