

BYLAWS
OF
BENTWINDS BLUFFS HOMEOWNERS ASSOCIATION, INC.

ARTICLE I
NAME AND LOCATION

The name of the corporation is BENTWINDS BLUFFS HOMEOWNERS ASSOCIATION, INC. (hereinafter referred to as "Bentwinds Bluffs"). The principal office shall be located at 6600 Brookshire Drive, Fuquay Varina, Wake County, North Carolina, 27526. The location of the principal office of the Association may be changed by the Board of Directors. Meetings of Members and directors shall be held at such places within Wake County, North Carolina as shall be designated by the Board of Directors.

ARTICLE II
DEFINITIONS

Section 1. "Act" shall mean and refer to Chapter 47F of the North Carolina General Statutes, known as the North Carolina Planned Community Act, as the same may be amended from time to time.

Section 2. "Association" shall mean and refer to the **Bentwinds Bluffs Homeowners Association, Inc.** a North Carolina nonprofit corporation, its successors and assigns.

Section 3. "Board of Directors" and "Board" (the terms being used interchangeably) shall mean and refer to the Board of Directors of the Association elected or appointed to manage the affairs of the Association as provided in Article V of the Bylaws, and is the "Executive Board" as defined in the Act.

Section 4. "Bylaws" shall mean and refer to the Bylaws of the Association, as amended from time to time.

Section 5 "Code" shall mean and refer to the Raleigh, North Carolina, Code of Ordinances, as amended from time to time.

Section 6 "Declarant" shall mean and refer to **BB - Massengill, LLC**, a North Carolina limited liability company. It shall also mean and refer to any person, firm or corporation to whom or which Declarant may assign or delegate the rights and obligations of Declarant by an assignment of Declarant's rights recorded in the Wake County Registry.

Section 7 “Declarant Control Period” shall mean and refer to the period of time during which the Declarant may appoint or remove the members of the Board of Directors of the Association. The Declarant Control Period shall terminate upon the earlier of the following to occur:

- (a) December 31, 2024;
- (b) Not later than four months after the point at which the total number of votes held by the Class A Members equals the total number of votes held by the Class B Member; *provided, however*, that Declarant may acquire additional votes and thereby reinstate the Declarant Control Period if additional Lots within the Properties are formed by the creation and subjection to the Declaration of new Lots as set forth in Article II hereof, thus giving Declarant, by virtue of its ownership of the newly-annexed Lots and of other Lots owned by it, a sufficient number of votes (at the 9-to-1 ratio provided in Section 2(b) of Article III hereof) to cast a majority of the votes of the membership (it being hereby stipulated that the termination and rejuvenation of the Declarant Control Period shall occur automatically as often as the foregoing shall occur); or
- (c) Relinquishment or transfer of all Special Declarant Rights as provided in §47F-3-104 of the Act.

Section 8 “Declaration” shall mean and refer to the “Declaration of Covenants, Conditions, Restrictions, Easements, Charges and Liens for Bentwinds Bluffs”, and all amendments thereto and supplements thereof.

Section 9. “Dwelling” shall mean and refer to any building within the Properties which is used or occupied, or intended for use or occupancy, as a residence by an individual or by one family unit, whether by the Owner thereof or by tenants or lessees of the Owner. A Dwelling shall be deemed to constitute a Dwelling upon issuance of a certificate of occupancy therefor.

Section 10. “Lot” shall mean and refer to any plot of land, with delineated boundary lines, shown on any recorded subdivision map of any portion of the Subdivision, with the exception of any Association Common Area owned in fee by the Association and any street rights-of-way shown on such recorded map. In the event that any Lot is increased or decreased in size by recombination or re-subdivision through recordation of a new subdivision plat, any newly-platted lot shall thereafter constitute a Lot.

Section 11. “Member” shall mean and refer to every person or entity who or which holds membership in the Association.

Section 12. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Properties, including contract sellers and owners of an equity of redemption, but excluding those having an interest in a Lot solely as security for the performance of an obligation.

Section 13. “Properties” shall mean and refer to the “Existing Property” described in Article II of the Declaration and any additional property annexed pursuant to said Article II of the

Declaration.

Section 14. "Open Space" or "Common Area" shall mean and refer to the real property, together with any improvements thereon, owned by the Association, whether in fee or by easement, for the common benefit of the Owners of Lots within the Subdivision, and specifically including, without limitation, all private streets, curbs and sidewalks within the Subdivision, the area within any storm water easements and the facilities constructed therein which serve more than one Lot and are not maintained by any governmental authority and water and sewer lines (and the easements associated therewith) which serve more than one Lot and are not located within a public utility easement or a public street right-of-way, and are not owned or maintained by another Association. The Open Space or Common Area shall be maintained by the Association or its successors in interest unless dedicated to public use and accepted by a public agency, authority or utility or another Association as set forth herein.

Section 15. "Common Area Easement" or "Open Space Easement" shall mean and refer to Open Space or Common Area as to which the Association has only an easement interest, and not a fee simple interest.

ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Declarant and every Owner of a Lot which is subject to assessment by the Association shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation.

Section 2. Voting Rights. The voting rights of the membership shall be appurtenant to the ownership of the Lots.

There shall be two (2) classes of membership with respect to voting rights:

(a) Class A Members. Class A Members shall be the Owners of all Lots except those owned by the Class B Member (as hereinafter defined). When more than one person owns an interest (other than a leasehold or security interest) in any Lot, all such persons shall be Members and the voting rights appurtenant to their Lot shall be exercised as they, among themselves, determine; but fractional voting shall not be allowed, and in no event shall more than one vote be cast with respect to any Lot. Class A Members shall be entitled to one (1) vote for each Lot owned. Lots owned by Class A Members shall be "Class A Lots".

(b) Class B Member. The Class B Member shall be the Declarant. Subject to the provisions of this subsection, Declarant shall be entitled to nine (9) votes for each Lot that it owns (each such Lot being a "Class B Lot"). Assessment of Lots owned by the Declarant is governed by the provisions of Article V of the Declaration. Upon expiration of the Declarant Control Period, Declarant shall have one vote for each Lot that it owns; however, such Declarant-owned Lots shall continue to be treated as Class B Lots for assessment purposes.

Section 3. Declarant's Right to Appoint Directors and Officers of the Association. Notwithstanding any other provision of the Declaration or the Bylaws, until the expiration of the Declarant Control Period, Declarant may, in its discretion, appoint and remove all of the directors and officers of the Association. Declarant's intent to exercise or continue to exercise that right shall be set forth in the notice of each annual meeting of the Members. See §47F-3-103(d) of the Act.

Section 4. Vacant/Leased Dwellings. If the Owner of a Lot ceases to occupy the Dwelling constructed thereon as his own personal living quarters or if any Dwelling within the Properties is leased for rental purposes to tenants, the vote as expressed by the Owners of such vacant and rental units shall not be entitled to any weight greater than forty-nine percent (49%) on any matter pending before the Association. This Section applies only to Lots and Dwellings owned by a Class A Member and specifically excludes Lots and Dwellings owned by the Declarant.

ARTICLE IV MEETINGS OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the Members shall be held within one year from the date of incorporation of the Association. Each subsequent regular meeting of the Members shall be held in the same month of each year thereafter unless a different date is fixed by the Board of Directors.

Section 2. Special Meetings: Special meetings of the Members may be called at any time by the President or Board of Directors of the Association, or by any Member pursuant to the written request of the holders of not less than one-tenth of all votes of Class A and Class B Membership. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in said notice.

Section 3. Place of Meetings. Meetings of the Members shall be held at such place, within Wake County, as may be determined by the Board of Directors.

Section 4. Notice of Meeting: Except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws, 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 of record entitled to vote at such meeting; provided that such notice must be given not less than twenty days before the date of any meeting at which a merger or consolidation is to be considered. If mailed, such notice shall be deemed to be delivered to the Member at his address as it appears on the record of Members of the association, with postage thereon prepaid.

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.

When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. When a meeting is adjourned for less than thirty days, it is not necessary to give any notice of the adjourned meeting other than by announcement at the meeting at which the adjournment is taken.

Section 5. Quorum: Except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws, the presence at the meeting of Members or of proxies entitled to cast, twenty percent (20%) of the votes appurtenant to each Class of Lots in combination (Class A and B) shall constitute a quorum for any action. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have 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 6. Proxies: Voting may be either in person or by one or more agents authorized by a written proxy executed by the Member or by his duly authorized attorney in fact. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot or may cease upon written notice of cancellation of proxy by Member.

Section 7. Informal Action by Members. Any action which may be taken at a meeting of the Members may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the persons who would be entitled to vote upon such action at a meeting and filed with the Secretary of the Association to be kept in the minute book of the Association.

Section 8. Loss of Right to Vote. The vote of any Member who is shown on the books or records of the Association to be more than sixty (60) days delinquent in any payment due the Association shall not be an eligible vote and shall not be counted for purposes of deciding any question so long as such delinquency is not cured, nor shall such Member be eligible to be elected to not remain on the Board of Directors.

ARTICLE V

BOARD OF DIRECTORS

Section 1. General Powers: The business and affairs of the Association shall be managed by its Board of Directors.

Section 2. Number, Term and Qualifications: The number of directors constituting the Board of Directors shall be three. At the first annual meeting of the Association after which transition to homeowner control has taken place, the number of Directors may be increased to five (5). At this first annual meeting after transition, the Members may elect one director to serve for a term of one year, two directors to serve for a term of two years, and two directors to serve for a term of three years, should they elect to increase the number of directors to five (5). If the Members elect to continue to maintain a board of three (3) Members, they shall elect a one, two and three year director. At subsequent annual meetings thereafter, the Members shall elect the number of

directors needed to fill the vacancy or vacancies created by the director or directors whose term (s) is (are) expiring to serve for a term of three (3) years. Directors need not be Members of the Association.

Section 3. Election of Directors: Except as provided in Section 6 of this Article V, the directors shall be elected at the annual meeting of Members; and those persons who receive the highest number of votes shall be deemed to have been elected. If any Member so demands, the election of directors shall be by ballot. Cumulative and fractional voting are prohibited.

Section 4. Election. The directors may be elected by secret written ballot, if a Member so demands, at the annual meeting of the Members. In such election, the Members or their proxies may cast, with respect to each vacancy, as many votes as they are entitled under the provisions of Article III of these By-Laws. The persons receiving the highest number of votes shall be elected. Cumulative voting is not permitted.

Section 5. Removal: Any director may be removed at any time with or without cause, by a majority vote of the Members.

Section 6. Vacancies: Any vacancy occurring in the Board of Directors may be filled by the selection of a successor by the remaining Directors, who shall serve for the unexpired term of his predecessor. The Members may elect a director at any time to fill any vacancy not filled by the Directors.

Section 7. Compensation. No Director shall receive compensation for any service he may render to the Association in the capacity of Director. However, any Director may be reimbursed for actual expenses incurred in the performance of his duties.

ARTICLE VI MEETINGS OF DIRECTORS

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

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.

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 present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Section 4. Informal Action by Directors. Any action which may be taken at a meeting of the Board of Directors may be taken without a meeting if written consent to the action so taken is signed by all the Directors and filed with the minutes of the proceedings of the Board, whether done

before or after the action is so taken.

Section 5. Chairman. A Chairman of the Board of Directors shall be elected by the Directors and shall preside over all Board meetings until the President of the Association is elected. Thereafter, the President shall serve as Chairman. In the event there is a vacancy in the office of President, a Chairman shall be elected by the Board of Directors to serve until a new President is elected.

Section 6. Participation in Meetings by Means of Conference Telephone. Members of the Board of Directors, or any committee of the Board, may participate in a meeting of the Board or of such committee by means of a conference telephone or similar communications device by means of which all persons participating in the meeting can hear each other, and participation by such means shall constitute presence in person at such meeting.

ARTICLE VII POWERS AND DUTIES OF THE BOARD OF DIRECTORS

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

(a) adopt and publish rules and regulations governing the use of the Sub-Association Common Properties and the personal conduct of the Members and their guests thereon, and to establish fines and penalties for the infraction thereof;

(b) suspend a Member's voting rights during any period in which he shall be in default in the payment of any assessment levied by the Association pursuant to the provisions of the Declaration. Such rights may also be suspended after such notice and hearing as the Board, in its discretion, may determine, for a period not to exceed 60 days for infraction of the published rules and regulations of the Association;

(c) exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the Membership by other provisions of these By-Laws, 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 director shall be absent from three (3) consecutive regular meetings of the Board of Directors;

(e) employ a manager, independent contractors, or such other employees or agents as it may deem necessary and prescribe their duties. In the event a contract is entered into with a management company to manage the affairs of the Association, such contract must be terminable by the Board of Directors without cause or penalty on not more than ninety (90) days notice;

(f) employ attorneys to represent the Association when necessary;

(g) To execute deeds or other legal documents to effectuate the transfer of Association Common Areas as allowed under the Declaration; and

(h) appoint and remove at pleasure all officers, agents and employees of the Association, prescribe their duties, fix their compensation, and require of them such security or fidelity bond as it may deem expedient.

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 present a statement thereof to the Members at the annual meeting of the Members or at any special meeting when such statement is requested in writing by Members entitled to at least one-fourth (1/4) of the votes appurtenant to Class A Lots;

(b) supervise all officers, agents and employees of the Association and 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 before January 1 of each year;

(2) send written notice of each assessment to every Owner subject thereto at least fifteen (15) days before January 1 of each year; and

(3) as to any Lot for which an assessment is not paid within sixty (60) days after it becomes due, bring an action at law against the Owner personally obligated to pay the assessment or foreclose the lien against such Lot.

(d) issue, or cause an appropriate office to the Association 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 of Directors for the issuance of such certificates. If a certificate states that an assessment has been paid, such certificate shall be conclusive evidence of such payment as of the date of its issuance;

(e) procure and maintain adequate liability insurance covering the Association in an amount not less than \$1,000,000.00, and adequate hazard insurance if available at reasonable cost, and adequate hazard insurance on the real and personal property owned by the Association;

(f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) cause the Association Common Properties and all facilities erected thereon including private streets, if any, to be maintained;

(h) if necessary, establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements constructed on the Association Common Properties; and

(i) provide such notices to and obtain such consents from the Owners and holders of first deeds of trust on Lots within the Properties as is required by the Declaration or these By-Laws; and

(j) pay all ad valorem and public assessments levied against the real and personal property owned by the Association.

ARTICLE VIII OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The officers of the Association shall be a President and Vice President, who shall at all times be Members of the Board of Directors, a Secretary, and a 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. Officers shall include a President, Vice President, a Secretary, and a Treasurer, and such other officers as the Board may from time to time by resolution create.

Section 3. Term. The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, be removed, or be 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 the Board. Any officer may resign at any time 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:

(a) President. 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, promissory notes, mortgages, deeds and other written instruments, and, in the absence of the Treasurer, shall sign all checks.

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

(c) Secretary: The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members, keep the corporate seal of the Association and affix it on all papers requiring a seal, serve notice of meetings of the Board and of the Members, keep appropriate current records showing the Members of the Association and their addresses, and perform such other duties as required by the Board.

(d) Treasurer: The Treasurer shall receive and deposit in appropriate bank accounts all funds of the Association and shall disburse such funds as directed by resolution of the Board of Directors, shall sign all checks of the Association, shall keep proper books of account, shall cause an annual audit of the Association books to be made by an independent public accountant at the completion of each fiscal year, and shall prepare an annual budget and a statement of income and expenditures to be presented to the Membership at its regular annual meeting, and deliver a copy of each to the Members. Any or all of the duties may be delegated to a Management Company at the order of the Board of Directors.

ARTICLE IX COMMITTEES

The Board of Directors of the Association may appoint a Nominating Committee, as provided in these By Laws, and shall appoint an Architectural Control Committee, as provided in the Declaration. The Board of Directors may appoint such other committees as it deems appropriate in carrying out its purpose.

ARTICLE X BOOKS AND RECORDS

The books, records and papers of the Association shall at all time, during reasonable business hours, be subject to inspection by any Member or his authorized agent by appointment. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection at the principal office of the Association, where authorized copies, as outlined in a resolution by the Board of Directors, may be purchased at a reasonable cost.

ARTICLE XI ASSESSMENTS

As more fully provided in Article IV of 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 rate of eighteen percent (18%) per annum or the maximum interest rate charge as may be established by the Board of Directors, but said rate shall not exceed the maximum rate allowed under the laws of North Carolina. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot for which such assessment is due. Interest, costs, and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non use of the Sub-Association Common Area or abandonment of his unit.

ARTICLE XIII AMENDMENTS AND CONFLICTS

Section 1. Amendments. These By-Laws may be amended, at a regular or special meeting of the Members, by a vote of a majority of a quorum of Members present at a meeting duly called for such purpose, 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 a Class B Membership.

Section 2. Conflicts. In case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

ARTICLE XIV FISCAL YEAR

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

CERTIFICATION

I, the undersigned, do hereby certify: THAT I am duly elected and acting Secretary of the Bentwinds Bluffs Homeowners Association, Inc., a North Carolina non-profit corporation, and that the foregoing By-Laws constitute the original By-Laws of said Bentwinds Bluffs Homeowners Association, Inc. as a duly adopted at a meeting of the Board of Directors thereof, held on the _____ day of _____, 2017.

IN WITNESS WHEREOF, I hereunto subscribed my name and affixed the seal of said BENTWINDS BLUFFS HOMEOWNERS ASSOCIATION, INC. this _____ day of _____, 2017.

Secretary