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Karen S. Hardesty  
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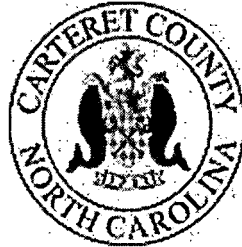
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Karen S. Hardesty

Register of Deeds



302 Courthouse Square,

Beaufort, NC 28516

15 # of Pages.

**BY-LAWS**  
**OF**  
**INDIAN TRACE VILLAGE HOMEOWNER'S ASSOCIATION, INC.**

**ARTICLE I**

Offices

1.1 *Principal office.* The principal office of the Corporation shall be located at 187 Russells Creek Road, Beaufort, North Carolina 28516, or at such other location designated by the Board of Directors and the Registered Agent is E. Linwood Parker, III.

1.2 *Registered office.* The registered office of the Corporation required by law to be maintained in the State of North Carolina may be, but need not be, identical with the principal office.

1.3 *Other offices.* The Corporation may have offices at such other places, either within or without the State of North Carolina, as the Board of Directors may designate or as the affairs of the Corporation may require from time to time.

**ARTICLE II**

Meetings of Members

2.1 *Place of meetings.* All meetings of members shall be held at such place, either within or without the State of North Carolina, as may be designated by the Board of Directors or agreed upon by a majority of the members entitled to vote at the meeting.

2.2 *Annual meetings.* The annual meeting of members, for the election of Directors and the transaction of any other business properly brought before the meeting, shall be held at 10:00 a.m., on December 30<sup>th</sup> of each year. If the day fixed for the annual meeting shall be a Saturday, Sunday, or legal holiday, the meeting shall be held on the next succeeding business day that is not a Saturday, Sunday, or legal holiday.

2.3 *Substitute annual meeting.* If the annual meeting is not held on the day designated in Section 2.2, a substitute annual meeting may be called as provided in Section 2.4. A substitute annual meeting shall be designated and treated for all purposes as the annual meeting.

2.4 *Special meetings.* Special meetings of the members for any purpose or purposes may be called at any time by the President, Secretary, or Board of Directors of the Corporation. The Corporation shall also hold a special meeting upon receipt by the Secretary of a dated, written demand, signed by the holders of not less than 10 percent of all the votes entitled to be cast on the issue to be considered at the meeting, which demand shall specify the purpose for which the meeting is to be held.

2.5 *Notice of meetings.*

(a) Written notice stating the place, date, and hour of every meeting of members shall be personally delivered, mailed, facsimile, emailed, not less than 10 days nor more than 60 days before the date of the meeting to each member of record, determined in accordance with Section 8.4 of Article VIII, entitled to vote at the meeting. Notice shall be given by or at the direction of the President, the Secretary, or the other person calling the meeting. If mailed, such notice shall be effective when deposited in the United States mail, addressed to the member at his address as it appears on the record of members of the Corporation, with postage prepaid.

(b) In the case of a special meeting, the notice of meeting shall specifically state the purpose or purposes for which the meeting is called, and no business shall be transacted or corporate action taken other than that stated in the notice unless a waiver of notice is obtained from all members entitled to vote on the matter. In the case of an annual or substitute annual meeting, the notice of meeting need not specifically state the business to be transacted unless required by the provisions of the North Carolina Business Corporation Act.

(c) When a meeting is adjourned for 120 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 120 days in any one adjournment, 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.

(d) The transactions of any meeting of members, however called and with whatever notice, if any, are as valid as though taken at a meeting duly held after regular call and notice, if:

(i) All the members entitled to vote are present in person or by proxy and no objection to holding the meeting is made by any member; or

(ii) A quorum is present either in person or by proxy and no objection to holding the meeting is made by anyone so present and if, either before or after the meeting, each person entitled to vote who is not present, in person or by proxy, signs a written waiver of notice, a consent to the holding of the meeting, or an approval of the action taken as shown by the minutes thereof. All such waivers, consents, or approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

**2.6 Voting lists.** After the record date for any meeting has been fixed, and the Secretary of the Corporation shall prepare a list of the members entitled to vote at the meeting or any adjournment thereof, arranged in alphabetical order, and by voting group (including by class and series within a class, Article III, Article 2, shall control), if applicable, with the address of and number of votes held by each. The list shall be kept on file and shall be made available for inspection and copying, following written demand by any member and at such member's expense, at the principal office of the Corporation at any time during the usual business hours or at a place identified in the notice of the meeting in the city where the meeting will be held for a period beginning two business days following the record date established with respect to such meeting. The list shall also be produced and kept open at the time and place of the meeting and shall be subject to inspection by any member during the whole time of the meeting or any adjournment.

### 2.7 *Quorum.*

(a) Members holding a majority of the votes in accordance with Article III, Article 2, that are entitled to vote, represented in person or by proxy, shall constitute a quorum at a meeting of members. In the event the Corporation has classes or series of votes entitled to vote as a separate voting group, action requiring the vote of such voting group may be taken only if a majority of those votes is represented in person or by proxy.

(b) The members present at a meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum.

(c) In the absence of a quorum at the opening of any meeting of members, or in the absence of a quorum of a voting group required to take action at such meeting, such meeting may be adjourned from time to time by a vote of the majority of the members voting on the motion to adjourn, without notice except as required by Section 2.5(c) of this Article II. At any adjourned meeting at which a quorum is present, any business may be transacted that might have been transacted at the original meeting.

2.8 *Proxies.* Members votes may be voted 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. A telegram, telex, facsimile, or other form of wire or wireless communication appearing to have been transmitted by a member or a photocopy or equivalent reproduction of a writing appointing one or more proxies shall be a valid form to appoint a proxy. A proxy is not valid after the expiration of 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. No proxy shall be valid after 10 years from the date of its execution.

### 2.9 *Voting.*

(a) Each member is entitled to vote on a matter in accordance with Article III, Article 2 of the Declaration.

(b) Except in the election of directors as governed by the provisions of Section 3.3, the vote of a majority of the members present at a meeting of members at which a quorum is present shall be the act of the members on that matter, unless the vote of a greater number is required by law or by the Articles of Incorporation or these Bylaws.

2.10 *Inspectors.* An appropriate number of inspectors for any meeting of members may be appointed by the Chairman of the meeting. Inspectors will open and close the polls, will receive and take charge of the ballots, and will decide all questions as to the qualifications of voters, validity of proxies and ballots, and the number of votes properly cast.

2.11 *Informal action by members.* Any action that may be taken at a meeting of the members may be taken without a meeting if a consent in writing, setting forth the action taken, is signed by all of

the members who would be entitled to vote upon such action at a meeting, and is filed with the Secretary of the Corporation to be kept as part of the corporate records, whether done before or after the action so taken.

### ARTICLE III

#### Board of Directors

3.1 *General powers.* The business and affairs of the Corporation shall be directed by its Board of Directors. Except as otherwise expressly provided by law, the Articles of Incorporation, The Declaration, or these Bylaws, all of the powers of the Corporation shall be vested in the Board of Directors.

3.2 *Number, term, and qualifications.* The number of directors constituting the Board of Directors may vary, but shall not be more than five nor less than two. The number of directors initially shall be two, and such number may be changed by the Board of Directors; provided that the minimum and maximum number of directors may only be changed by the members. Each director shall hold office until the next annual meeting of members or until his successor shall have been elected and qualified, or until his earlier death, resignation, retirement, removal, or disqualification. Directors need not be residents of the State of North Carolina or members of the Corporation.

3.3 *Election of directors.* Except as provided in Sections 3.4 and 3.5, the directors shall be elected at the annual meeting of members. Those nominees who receive the highest numbers of votes cast by the members entitled to vote in the election at a meeting at which a quorum is present shall be deemed to have been elected. If any member so demands, the election of directors shall be by ballot.

3.4 *Removal and resignation.* Any director may be removed at any time with or without cause by a vote of the members if the number of votes cast to remove him exceeds the number of votes cast not to remove him. [If cumulative voting is permitted, an individual director shall not be removed when the number of members voting against the proposal for removal would be sufficient to elect a director if such votes could be voted cumulatively at an annual election.] If any director is removed, a successor director may be elected at the same meeting. A director may not be removed at a meeting (other than an annual meeting at which election of directors normally occurs) unless the notice of the meeting states that one of the purposes of the meeting is removal of the director. A director may resign at any time by communicating his resignation to the Board of Directors, its Chairman, or the Corporation. Such resignation is effective when communicated unless it specifies in writing a later date or subsequent event upon which it will become effective.

3.5 *Vacancies.* Any vacancy occurring on the Board of Directors, including a vacancy caused by an increase in the authorized number of directors or a failure of the members to elect the full authorized numbers of directors, may be filled by the affirmative vote of a majority of the remaining directors even though less than a quorum, or by the sole remaining director. The term of a director elected to fill a vacancy shall expire at the next meeting of members at which directors are elected.

3.6 *Chairman of the Board.* There may be a Chairman and Vice-Chairman of the Board of Directors elected by the directors from their number at any meeting of the Board of Directors. The Chairman, or in his absence the Vice-Chairman, shall preside at all meetings of the Board of Directors, and

each shall perform such other duties as may be directed by the Board of Directors. The Chairman and Vice-Chairman shall be officers of the Corporation.

**3.7 Compensation.** The Board of Directors may compensate directors for their services as such and may provide for the payment of any or all expenses incurred by directors in attending regular and special meetings of the Board of Directors. This provision shall not preclude directors from serving the Corporation in other capacities and receiving compensation for such other services.

**3.8 Cumulative voting.** Every member entitled to vote at an election of directors shall have the right to vote the number of votes standing of record in his name for as many persons as there are directors to be elected and for whose election he has a right to vote, or to cumulate his votes by giving one candidate as many votes as the number of such directors multiplied by the number of his votes shall equal, or by distributing such votes on the same principle among any number of such candidates. This right of cumulative voting shall not be exercised unless the meeting notice or proxy statement accompanying such notice states conspicuously that cumulative voting is authorized, or some member or proxy holder who has the right to cumulate his votes announces in open meeting, before the voting for the directors starts, his intention to vote cumulatively. If such an announcement is made, the chair shall declare that all members entitled to vote have the right to vote cumulatively and shall grant a recess of not less than one nor more than four hours, as he shall determine, or of such other period of time as is unanimously then agreed upon.

#### ARTICLE IV

##### Meetings of Directors

**4.1 Regular meetings.** A regular meeting of the Board of Directors shall be held immediately after, and at the same place as, the annual meeting of members. In addition, the Board of Directors may provide, by resolution, the time and place, either within or without the State of North Carolina, for the holding of additional regular meetings.

**4.2 Special meetings.** Special meetings of the Board of Directors may be called by or at the request of the President or any two directors. Such a meeting may be held either within or without the State of North Carolina, as fixed by the person or persons calling the meeting.

**4.3 Notice of meetings.** Regular meetings of the Board of Directors may be held without notice. The person or persons calling a special meeting of the Board of Directors shall, at least 24 hours before the meeting, give notice thereof by any usual means of communication. Notice of a regular or special meeting need not specify the purpose for which the meeting is called. Notice of an adjourned meeting need not be given if the time and place are fixed at the meeting at which adjournment is taken and if the period of adjournment does not exceed 10 days in any one adjournment.

**4.4 Waiver of notice.** Any director may waive notice of any meeting, either before or after the meeting. Except as set forth in the next sentence, a waiver of notice shall be in writing and shall be filed by the Secretary with the corporate records or as part of the minutes of the meeting. The attendance by a director at a meeting shall constitute a waiver of notice of such meeting, except where a direc-

tor at the beginning of the meeting (or promptly upon his arrival) objects to the holding of the meeting or transacting business at the meeting and does not vote for or assent to any action taken at the meeting.

4.5 *Quorum*. A majority of the number of directors fixed by these Bylaws [*or, if the size of the board varies*, A majority of the number of directors in office immediately before the meeting begins] shall constitute a quorum for the transaction of business at any meeting of the Board of Directors.

4.6 *Manner of acting*. Except as otherwise provided in these Bylaws or as required by law, the act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

4.7 *Presumption of assent*. A director of the Corporation 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 (a) he objects to holding the meeting or transacting business at the meeting at the outset, (b) his dissent or abstention from the action is entered in the minutes of the meeting, or (c) he files his written dissent to or abstention from such action with the person acting as the secretary of the meeting before the adjournment thereof or forwards his written dissent by registered mail to the Secretary of the Corporation immediately after the adjournment of the meeting. The right to dissent shall not apply to a director who voted in favor of such action.

4.8 *Informal action by directors*. Action taken by a majority of the directors without a meeting is nevertheless action of the Board of Directors if written consent to the action in question is signed by all of the directors and filed with the minutes of the proceedings of the Board of Directors, whether done before or after the action so taken.

4.9 *Participation by telephone*. Any one or more directors or members of a committee may participate in a meeting of the Board of Directors or committee by means of a conference telephone or similar communications device that allows all persons participating in the meeting to hear each other. Participation by this means shall be deemed presence in person at the meeting.

## ARTICLE V

### Committees

#### 5.1 *Executive Committee*.

(a) The Board of Directors, by resolution adopted by a majority of the number of directors fixed by these Bylaws, may designate from among its members an Executive Committee, which shall consist of not fewer than two directors, including the President. When the Board of Directors is not in session, the Executive Committee shall have all power vested in the Board of Directors by law, by the Articles of Incorporation, the Declaration, or by these Bylaws, provided that the Executive Committee shall not have power:

(i) To declare dividends or authorize distributions;

- (ii) To approve or propose to members any action that is required to be approved by members under the North Carolina Business Corporation Act;
  - (iii) To approve an amendment to the Articles of Incorporation of the Corporation;
  - (iv) To approve a plan of dissolution, merger, or consolidation;
  - (v) To approve the sale, lease, or exchange of all or substantially all of the property of the Corporation;
  - (vi) To designate any other committee, or to fill vacancies in the Board of Directors or other committees;
  - (vii) To fix the compensation of directors for serving on the Board of Directors or any committee;
  - (viii) To amend or repeal the Bylaws, or to adopt new Bylaws;
  - (ix) To authorize or approve reacquisition of votes, except according to a formula or method approved by the Board of Directors;
  - (x) To amend or repeal any resolution of the Board of Directors that by its terms is not so amendable or repealable; or
  - (xi) To take any action expressly prohibited in a resolution of the Board of Directors.
- (b) The Executive Committee shall report at a regular or special meeting of the Board of Directors all action that the Executive Committee may have taken on behalf of the Board of Directors since the last regular or special meeting of the Board of Directors.

**5.2 Finance Committee.** The Board of Directors, by resolution adopted by a majority of the number of directors fixed by these Bylaws, may elect a Finance Committee, which shall consist of not fewer than two directors. The Finance Committee shall consider and report to the Board of Directors with respect to plans for corporate expansion, capital structure, and long-range financial requirements. The Finance Committee shall also consider and report to the Board of Directors with respect to such other matters relating to the financial affairs of the Corporation as may be requested by the Board of Directors or the appropriate officers of the Corporation. The Finance Committee shall report periodically to the Board of Directors on all action that it might have taken. The Finance Committee shall create a budget for the operation of the subdivision and the maintenance thereof and shall advise the Board of Directors as to what they determine what revenues the Association needs to perform its duties and operation for the fiscal year following their period of service and make a recommendation to include the amount of assessments required to meet the budget. The written recommendation of budget adoption assessment shall be included in the notice of annual meeting sent to the general membership. The budget may be ratified by the membership without a quorum requirement and ratified and approved by the membership unless a majority of all votes entitled to cast in the Association at that meeting rejects the budget. In the event the proposed budget and assessments of the Association is rejected, the budget and assessments last ratified shall continue to be the budget and not

withstanding anything to the contrary in this Section, the Board shall have the right to increase the regular periodic annual dues for the coming fiscal year by not more than 10% over the prior fiscal year and without approval or vote of the membership.

5.3 *Other committees.* The Board of Directors, shall appoint an architectural control committee pursuant to the terms as set forth in Article VI of the Declaration.

5.4 *Vacancies.* Any vacancy occurring in a committee resulting from any cause whatsoever may be filled by the Board of Directors.

## ARTICLE VI

### Officers

6.1 *Officers of the Corporation.* The officers of the Corporation shall consist of a President, Secretary, and Treasurer. Other officers, including a Chairman and Vice-Chairman of the Board of Directors (as provided in Article III), one or more Vice-Presidents (whose seniority and titles, including Executive Vice-Presidents and Senior Vice-Presidents, may be specified by the Board of Directors), Assistant Secretaries, and Assistant Treasurers, may from time to time be elected by the Board of Directors. Any two or more offices, except President and Secretary, may be held by the same person. No officer may act in more than one capacity where the action of two or more officers is required.

6.2 *Election and term.* The officers of the Corporation shall be elected by the Board of Directors, and each officer shall hold office until his death, resignation, retirement, removal, or disqualification or until his successor shall have been elected and qualified.

6.3 *Compensation.* The compensation of all officers of the Corporation shall be fixed by the Board of Directors, and no officer shall serve the Corporation in any other capacity and receive compensation therefor unless such additional compensation is authorized by the Board of Directors prior to the rendition of such services.

6.4 *Removal and resignation.* Any officer or agent elected or appointed by the Board of Directors may be removed by the Board of Directors with or without cause, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. An officer may resign at any time, by communicating his resignation to the Corporation, but such resignation shall be without prejudice to the contract rights, if any, of the Corporation with such officer.

6.5 *Bonds.* The Board of Directors may by resolution require any officer, agent, or employee of the Corporation to give bond to the Corporation, with sufficient sureties, conditioned on the faithful performance of the duties of his respective office or position, and to comply with such other conditions as may from time to time be required by the Board of Directors.

6.6 *President.* The President shall be the chief executive officer of the Corporation and shall be primarily responsible for the implementation of policies of the Board of Directors. He shall have authority over the general management and direction of the business and operations of the Corporation and its divisions, if any, subject only to the ultimate authority of the Board of Directors. He shall be

a director and, except as otherwise provided in these Bylaws or in the resolutions establishing such committees, he shall be *ex officio* a member of all committees of the Board of Directors. In the absence of the Chairman and the Vice-Chairman of the Board, or if there are no such officers, the President shall preside at all corporate meetings. He may sign and execute in the name of the Corporation deeds, mortgages, bonds, contracts, or other instruments except in cases where the signing and the execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Corporation or shall be required by law otherwise to be signed or executed. In addition, he shall perform all duties incident to the office of the President and such other duties as from time to time may be assigned to him by the Board of Directors.

**6.7 Vice-Presidents.** Each Vice-President, if any, shall have such powers and duties as may from time to time be assigned to him by the President or the Board of Directors or delegated to him by the President. Any Vice-President may sign and execute in the name of the Corporation deeds, mortgages, bonds, contracts, share certificates, or other instruments authorized by the Board of Directors, except where the signing and execution of such documents shall be expressly delegated by the Board of Directors or the President to some other officer or agent of the Corporation or shall be required by law or otherwise to be signed or executed. In the absence of the President or in the event of his death or inability or refusal to act, the Vice-Presidents in the order of their length of service as Vice-Presidents, unless otherwise determined by the Board of Directors, shall perform the duties of the President, and when so acting shall have all the powers of and be subject to all the restrictions upon the President.

**6.8 Secretary.** The Secretary shall keep the minutes of the meetings of members and, unless another person is designated by the Board of Directors, meetings of the Board of Directors. When requested, he shall also act as secretary of the meetings of any committee of the Board of Directors. He shall keep all minutes of all such meetings in books designated for those purposes. The Secretary shall see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law. He shall have custody of the deeds, leases, contracts, and other important corporate documents and shall have charge of the books, records, and papers of the Corporation relating to its organization and management as a Corporation. He shall have custody of the seal of the Corporation and see that the seal of the Corporation is affixed to all documents the execution of which on behalf of the Corporation under its seal is duly authorized. He shall keep a register of the post office address of each member that is furnished to the Secretary by such member. He shall keep or cause to be kept, in the State of North Carolina at the Corporation's registered office or principal place of business, a record of the Corporation's members, giving the names and addresses of all members and the number of voting rights held by each, and shall prepare or cause to be prepared voting lists prior to each meeting of members as required by law. He shall in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the President, by the Board of Directors, or by these Bylaws.

**6.9 Assistant Secretaries.** In the absence of the Secretary or in the event of his death or inability or refusal to act, any Assistant Secretary designated by the President, unless otherwise determined by the Board of Directors, shall perform the duties of the Secretary and when so acting shall have all the powers of and be subject to all the restrictions upon the Secretary. The Assistant Secretaries shall perform such other duties as may be assigned to them by the Secretary, by the President, or by

the Board of Directors. Any Assistant Secretary may sign, with the President or a Vice-President, documents authorized to be signed by the Secretary and certificates for members of the Corporation.

6.10 *Treasurer*. The Treasurer shall have charge of and be responsible for all funds and securities, receipts, and disbursements of the Corporation, and shall deposit all money and securities of the Corporation in such banks and depositories as shall be designated by the Board of Directors pursuant to Section 7.4. He shall be responsible for (a) maintaining adequate financial accounts and records in accordance with generally accepted accounting practices; (b) preparing appropriate operating budgets and financial statements; (c) preparing and filing all tax returns required by law; (d) preparing a true statement of the Corporation's assets and liabilities as of the close of each fiscal year, all in reasonable detail, which statement shall be filed at the Corporation's registered office or principal place of business in the State of North Carolina within four months after the end of such fiscal year and kept available there for a period of at least ten years; and (e) performing all of the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him by the President, by the Board of Directors, by the Finance Committee, or by these Bylaws.

6.11 *Assistant Treasurers*. In the absence of the Treasurer, or in the event of his death or inability or refusal to act, the Assistant Treasurers in the order of their length of service as Assistant Treasurer, unless otherwise determined by the Board of Directors, shall perform the duties of the Treasurer, and when so acting shall have all the powers of and be subject to all the restrictions upon the Treasurer. They shall perform such other duties as may be assigned to them by the Treasurer, by the President, by the Board of Directors, or by the Finance Committee.

6.12 *Voting*. Unless otherwise provided by vote of the Board of Directors, the President, any Vice-President, or the Secretary may from time to time appoint an attorney or attorneys or agent or agents of the Corporation to cast the votes that the Corporation may be entitled to cast as a member or otherwise in any other corporation, any of whose stock or securities may be held by the Corporation, at meetings of the holders of the stock or other securities of such other corporation, to waive notice of meetings, or to consent in writing to any action by any other such corporation, and may instruct the person or persons so appointed as to the manner of casting votes, waiving notice, or giving consent, and may execute or cause to be executed on behalf of the Corporation written proxies, consents, waivers, or other instruments he may deem necessary or proper. The President, any Vice-President, or the Secretary may himself attend any meeting of the holders of stock or other securities of such other corporation and vote or exercise any powers of the Corporation as the holder of such stock or other securities.

## ARTICLE VII

### Contracts, Loans, Checks, and Deposits

7.1 *Contracts*. The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

7.2 *Loans*. No loans shall be contracted on behalf of the Corporation and no evidence of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

*7.3 Checks and drafts.* All checks, drafts, or other orders for the payment of money, issued in the name of the Corporation, shall be signed by such officer or officers, agent, or employees of the Corporation and in such manner, including facsimile signatures, as shall from time to time be determined by resolution of the Board of Directors.

*7.4 Deposits.* All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such depositories as the Board of Directors may select.

## ARTICLE VIII

### Declaration to Control Any Ambiguity and By Laws

That the Board of Directors shall have the authority for the collection of dues and assessments in accordance with Article V as set forth in the Declaration. The Board of Directors are hereby granted the authority to enforce all terms and conditions as set forth in the Declaration. Should any terms or obligations as set forth in these By Laws that are adverse with the Declaration, then those terms and conditions, the Declaration will control.

## ARTICLE IX

### General Provisions

*9.1 Seal.* The corporate seal of the Corporation [shall consist of two concentric circles between which is the name of the Corporation (with abbreviations, if necessary) and in the center of which is inscribed "SEAL"] [shall be in the form approved from time to time by the Board of Directors].

*9.2 Waiver of notice.* In addition to provisions elsewhere in these Bylaws regarding waiver of notice, whenever any notice is required to be given to any member or director by law, by the Articles of Incorporation, or by these Bylaws, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

*9.3 Indemnification.*

(a) In addition to any indemnification required or permitted by law, and except as otherwise provided in these Bylaws, any person who at any time serves or has served as a director or officer of the Corporation, or in such capacity at the request of the Corporation for any other corporation, partnership, joint venture, trust, or other enterprise, shall have a right to be indemnified by the Corporation to the fullest extent permitted by law against (i) reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, seeking to hold him liable by reason of the fact that he is or was acting in such capacity, and (ii) payments made by him in satisfaction of any judgment, money decree, fine, penalty, or reasonable settlement for which he may have become liable in any such action, suit, or proceeding.

(b) The Corporation shall not indemnify any person hereunder against liability or litigation expense he may incur on account of his activities that were at the time taken known or believed by him to be clearly in conflict with the best interests of the Corporation. Furthermore, the Corporation shall not

indemnify any director with respect to any liability of that director arising out of *N.C.G.S. § 55-8-33* (relating to unlawful declaration of dividends) or any transaction from which the director derived an improper personal benefit as provided in *N.C.G.S. § 55-2-02(b)(3)*.

(c) If any action is necessary or appropriate to authorize the Corporation to pay the indemnification required by this Bylaw, the Board of Directors shall take such action, including (i) making a good faith evaluation of the manner in which the claimant for indemnity acted and of the reasonable amount of indemnity due him, (ii) giving notice to, and obtaining approval by, the members of the Corporation, and (iii) taking any other action.

(d) Any person who at any time after the adoption of this Bylaw serves or has served in any of the capacities indicated in subsection (a) of this Bylaw shall be deemed to be doing or to have done so in reliance upon, and as consideration for, the right of indemnification provided herein. Such right shall inure to the benefit of the legal representatives of any such person and shall not be exclusive of any other rights to which such person may be entitled apart from the provision of this Bylaw.

(e) The provisions of subsection (a) of this Bylaw shall not be deemed to preclude the Corporation from indemnifying persons serving as agents or employees of the Corporation, or in such capacity at the request of the Corporation for any other corporation, partnership, joint venture, trust, or other enterprise, to the extent permitted by law.

(f) The Corporation shall be entitled to pay the expenses incurred by a director or officer in defending a civil or criminal action, suit, or proceeding in advance of final disposition upon receipt of an undertaking by or on behalf of the director or officer to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Corporation against such expenses.

*9.4 Insurance.* As provided in *N.C.G.S. § 55-8-57*, the Corporation shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the Corporation, or who is or was serving at the request of the Corporation as a director, officer, or employee or agent of another corporation, partnership, joint venture, trust, or other enterprise or as a trustee or administrator under an employee benefit plan against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Corporation has the power to indemnify him against such liability.

*9.5 Fiscal year.* The fiscal year of the Corporation shall be as fixed by the Board of Directors.

*9.6 Amendment of Bylaws.*

(a) Except as otherwise provided by law, by the Articles of Incorporation or herein, these Bylaws may be amended or repealed and new Bylaws may be adopted by the affirmative vote of members holding a majority of votes of the Corporation entitled to vote or by the affirmative vote of a majority of the directors then holding office at any regular or special meeting of the Board of Directors.

(b) The Board of Directors shall have no power to adopt a Bylaw: (i) prescribing quorum or voting requirements for action by members or directors different from those prescribed by law; (ii) increas-

ing or decreasing the number of directors; or (iii) classifying and staggering the election of directors. A Bylaw that fixes a greater quorum or voting requirement may be adopted by a majority of the Board of Directors then in office, but only if originally adopted by the Board of Directors; otherwise, such amendment must be approved by the members.

(c) No Bylaw adopted or amended by the members shall be amended or repealed by the Board of Directors, except to the extent that such Bylaw expressly authorizes its amendment or repeal by the Board of Directors.

#### 9.7 *Emergency Bylaws.*

(a) In accordance with *N.C.G.S. § 55-2-07(d)*, the Bylaws set forth in this Section 9.8 shall be effective only in the event that a quorum of the Board of Directors cannot be assembled because of some catastrophic event.

(b) In the event of an emergency described in subsection (a) above and in *N.C.G.S. § 55-2-07(d)*, a meeting of the Board of Directors may be called by giving notice only to those directors whom it is practicable to reach and may be given by any practicable manner, including by publication and radio. One or more of the officers present at the meeting of the Board of Directors may be deemed to be a director for the meeting, in order of rank and within the same rank in order of seniority, as necessary to achieve a quorum.

(c) During the emergency, the Board of Directors may modify lines of succession to accommodate the incapacity of any director, officer, employee, or agent, and relocate the principal office, designate alternate principal offices or regional offices, or authorize the officers of the Corporation to do any of the foregoing.

(d) [*Bylaws may authorize any other provisions necessary for managing corporate affairs.*] All other provisions of these Bylaws consistent with this Section 9.8 shall remain effective during the emergency described in subsection (a) above.

(e) Corporate action taken in good faith in an emergency pursuant to these Bylaws to further the ordinary business affairs of the Corporation shall be binding upon the Corporation.

(f) These emergency Bylaws can be repealed only by action of the members.

## ARTICLE X

### Certificate of Adoption

The undersigned corporate officer of the Association hereby certifies that:

1. The initial organizational meeting of the Association as required by the corporate charter was held on \_\_\_\_\_. Among other business taken up, these Bylaws were proposed for ratification by the members at the meeting.

- 2. The membership, by majority vote at the organizational meeting did adopt and ratify these Bylaws.

IN WITNESS WHEREOF, I have set my hand and seal this day and year first above written.

*E. Linwood Parker* (SEAL)  
 E. Linwood Parker, President of Indian Trace  
 Village Homeowner's Association, Inc.

STATE OF NORTH CAROLINA  
COUNTY OF CARTERET

I, a notary public of the county and state aforesaid, certify that E. Linwood Parker personally appeared before me this day and acknowledged that he is the President of Indian Trace Village Homeowner's Association, Inc., A North Carolina Corporation, and further acknowledged the due execution of the foregoing document on behalf of said corporation.

WITNESS my hand and notarial seal this the 19<sup>th</sup> day of April, 2023.

*Stacie L Cape*  
 \_\_\_\_\_  
 Notary Public

My commission expires: June 6, 2027

