

**CONSENT OF INCORPORATOR OF
BARNES BLUFF HOA, INC.
TO ACTION WITHOUT MEETING**

I, the undersigned, being the sole and only incorporator of BARNES BLUFF HOA, INC., a North Carolina nonprofit corporation, do hereby adopt the following resolutions by signing my written consent thereto:

Adoption of Bylaws

RESOLVED, that the following bylaws be, and they hereby are, adopted as the bylaws of the corporation.

1. Declaration of Covenants, Conditions, and Restrictions.

The terms and provisions hereof are expressly subject to the terms, provisions, conditions and authorizations contained in the Declaration of Covenants, Conditions, and Restrictions for BARNES BLUFF SUBDIVISION, dated September 23, 1998, (the "Declaration") recorded in Book 1259, Page 1017 of the Brunswick County Registry. The terms and provisions of the Declaration shall control wherever they may be in conflict herewith.

2. Office. The office of the Association shall be at such place in Brunswick County, North Carolina, as the Board of Directors shall designate from time to time.

3. MEMBERSHIP, VOTING, QUORUM, PROXIES.

3.1. The qualification of members, the manner of their admission to membership and termination of such membership, and voting by members, shall be as set forth in the Articles of Incorporation of the Association, the provisions of which are incorporated herein by reference. "Lots" shall mean and refer to the lots shown on the map or maps of BARNES BLUFF SUBDIVISION recorded in Map Cabinet 20, Page 277, of the Brunswick County Registry, or shown on the map(s) of any additional property annexed to said subdivision in accordance with the Declaration of Covenants Conditions and Restrictions for said subdivision, recorded in Book 1259, Page 1017 of the Brunswick County Registry, shall be a member of the corporation, the same being the lots referred to in the Articles of Incorporation.

3.2. A quorum at members' meetings shall consist of persons entitled to cast the votes for a majority of the Lots.

3.3. The vote of a Lot owned by more than one person shall be cast by the one person named in a certificate signed by all of the owners of the Lot and filed with the Secretary of the Association, and such certificate shall be valid until revoked by subsequent certificate. If such a certificate is not on file, the vote of such owners shall not be considered for any purpose.

3.4. Votes may be cast in person or by proxy. Proxies shall be valid only for the particular meeting designated thereon and must be filed with the Secretary before the appointed time of the meeting.

3.5. Approval or disapproval on behalf of a Lot upon any matter, whether or not the subject of an Association meeting, shall be by the same person who would cast the vote for such Lot in an Association meeting.

3.6. Except where otherwise required under the provisions of the Articles of Incorporation of the Association, these Bylaws, the Declaration, or by law, at any duly called members' meeting at which a quorum is present, the affirmative vote of a majority of the Lots properly represented at such meeting shall be sufficient to approve any matter, or take any action, which may be properly brought before such meeting.

4. ANNUAL AND SPECIAL MEETING OF MEMBERSHIP

4.1. The annual members' meeting shall be held at a time and place designated by the Board of Directors, on the last Tuesday in October of each year that is not a legal holiday for the purpose of electing Directors and of transacting any other business authorized to be transacted by the members.

4.2. Special members' meetings shall be held whenever called by the President or Vice-President or by a majority of the Board of Directors and must be called by such officers upon receipt of written request from members of the Association owning a majority of the Lots.

4.3. Notice of all members' meetings, regular or special, shall be given by the President, Vice-President or Secretary of the Association, or other officer of the Association in absence of said officers, to each member, unless waived in writing, such notice to be written and to state the time and place and purpose for which the meeting is called. Such notice shall be given to each member not less than ten (10) days nor more than sixty (60) days prior to the date set for such meeting, which notice shall be mailed or delivered personally. If mailed, such notice shall be deemed to be properly given when deposited in the United States Mail, first class mail, postage prepaid, addressed to the member at his post office address as it appears on the register of owners of the Association as of the date of mailing such

notice. Proof of such mailing shall be given by the affidavit of the person giving the notice. Any member may, by signed written waiver of notice, waive such notice and, when filed in the records of the Association, whether before or after the holding of the meeting, such waiver shall be deemed equivalent to the giving of notice to the member. If any members' meeting cannot be held because a quorum has not attended, or because the greater percentage of the membership required to constitute a quorum for particular purposes has not attended (wherever the latter percentage of attendance may be required by law or these Bylaws) members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum, or the required percentage of attendance, if greater than a quorum, is present.

4.4. The order of business as far as practical at any members' meetings, shall be:

1. Calling of the roll and certifying of proxies;
2. Proof of notice of meeting or waiver of notice;
3. Reading and disposal of any unapproved minutes;
4. Reports of officers;
5. Reports of committees;
6. Appointment of inspectors of election by chairman;
7. Election of Directors;
8. Unfinished business;
9. New business; and
10. Adjournment.

5. BOARD OF DIRECTORS.

5.1. The initial Board of Directors of the Association and each succeeding Board of Directors shall consist of one person. The number of directors may be increased or decreased by a properly adopted amendment to these Bylaws. At least a majority of the Board of Directors elected by the members shall be members, employees of a corporate member of the Association, or employees or partners in a partnership member of the Association.

Notwithstanding the foregoing, until such time as ninety percent (90%) of the Lots in the Subdivision, and ninety percent (90%) of the lots in each tract of Additional Property added to the Subdivision, have been sold and conveyed by Bayshore Estates, Inc., its successors and assigns, (the "Developer"), but in any event no longer than December 31, 2010, the Developer shall have the right to appoint all of the persons who shall serve as members of each Board of Directors of the Association. Any Director appointed by Developer need not be a member, employee of a corporate member of the Association, or partner in a partnership member of the Association.

5.2. Election of Directors shall be conducted in the following manner:

5.2.1. Developer shall, at the beginning of the election of the Board of Directors, select the number of the members of the Board of Directors which it shall be entitled to select in accordance with the provisions of these By-Laws, and upon such selection of Developer by written instrument presented to the meeting at which such election is held, said individuals so selected by Developer shall be considered Directors of the Association, and shall thenceforth perform the offices and duties of such Directors until their successors shall have been elected in accordance with the provisions of these By-Laws.

5.2.2. All members of the Board of Directors whom Developer shall not be entitled to select under the terms and provisions of these By-Laws, shall be elected by a plurality of the votes cast at the annual meeting of the members of the Association immediately following the selection of the members of the Board of Directors whom Developer shall be entitled to select.

5.2.3. Vacancies in the Board of Directors may be filled until the date of the next annual meeting by the remaining Directors, except that should any vacancy in the Board of Directors be created in any Directorship previously filled by any person selected by Developer, such vacancy shall be filled by Developer selecting by written instrument delivered to any Officer of the Association, the successor Director to fill the vacated Directorship for the unexpired term thereof.

5.2.4. The initial Board of Directors will consist of the one member. The initial Board shall serve until his successor(s) at the first annual meeting of members are elected and qualify. Each Director shall hold office for a term of one (1) year or until his death, resignation, retirement, removal, disqualification, or until his successor is elected and qualifies.

5.2.5. In the election of Directors, there shall be one vote for each Lot for each vacancy to be filled, and there shall be no cumulative voting.

5.2.6. In the event that Developer, in accordance with the rights herein established, selects any person to serve on any Board of Directors of the Association, Developer shall have the absolute right at any time, in its sole discretion, to replace such person with another person to serve on any Board of Directors. Replacement of any person designated by

Developer to serve on any Board of Directors of the Association shall be made by written instrument delivered to any officer of the Association, which instrument shall specify the name of the person to be replaced and the name of the person designated as successor to the person so removed from the Board of Directors. The removal of any Director and designation of his successor shall be effective immediately upon delivery of such written instrument by Developer to any officer of the Association.

5.3. The organizational meeting of each newly elected Board of Directors shall be held within ten (10) days of their election, at such time and at such place as shall be fixed by the Directors at the meeting at which they were elected, and no further notice of the organizational meeting shall be necessary, provided a quorum shall be present.

5.4. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or telegram, at least three (3) days prior to the day named for such meeting, unless notice is waived.

5.5. Special meetings of the Directors may be called by the President, and must be called by the Secretary at the written request of one-third of the votes of the Board. Not less than three (3) days notice of a meeting shall be given to each Director, personally or by mail, telephone or telegram, which notice shall state the time, place and purpose of the meeting.

5.6. Any Director may waive notice of a meeting before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice.

5.7. A quorum at a Directors' meeting shall consist of the Directors entitled to cast a majority of the votes of the entire Board. The acts of the Board approved by a majority of the votes cast at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except as specifically otherwise provided in the Articles of Incorporation, or these By-Laws or the Declaration. If any Directors' meeting cannot be organized because a quorum has not attended, or because the greater percentage of the Directors required to constitute a quorum for particular purposes has not attended, wherever the latter percentage of attendance may be required as set forth in the Articles of Incorporation, these By-Laws or Declaration, the Directors who are present may adjourn the meeting from time to time until a quorum, or the required percentage of attendance if greater than a quorum, is present. At any adjourned meeting, any business that might have been transacted at the meeting as

originally called may be transacted without further notice. The joinder of a Director in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such Director for the purpose of determining a quorum.

5.8. The Presiding Officer of Directors' meetings shall be the Chairman of the Board, if such an Officer has been elected; and if none, then the President of the Association shall preside. In the absence of the Presiding Officer, the Directors present shall designate one of their number to preside.

5.9. Directors' fees, if any, shall be determined by the members.

5.10. All of the powers and duties of the Association shall be exercised by the Board of Directors, including those existing under the common law and statutes, the Articles of Incorporation of the Association, these By-Laws and the Declaration. Such powers and duties shall be exercised in accordance with said Articles of Incorporation, these By-Laws and the Declaration, and shall include, without limiting the generality of the foregoing, the following:

5.10.1. To make, levy and collect assessments as provided for in the Declaration and to use the proceeds of said assessments in the exercise of the powers and duties granted unto the Association;

5.10.2. To maintain, repair, replace, operate and manage the Common Property and drainage and utility easements as provided in the Declaration; and further to approve any expenditure made or to be made for said purposes;

5.10.3. To make, amend and enforce regulations governing the use of the Common Property and drainage and utility easements in the subdivision so long as such regulations or amendments thereto do no conflict with the Articles of Incorporation or Declaration.

5.10.4. To acquire, operate, lease, manage, and otherwise trade and deal with property, real and personal, including Lots, as may be necessary or convenient in the operation and management of the Common Property and drainage and utility easements in the subdivision and in accomplishing the purposes set forth in the Declaration;

5.10.5. To contract for the management of the Common Property and drainage and utility easements in the subdivision and to designate to such contractor all of the powers and duties of the Association, except

those which may be required by the Declaration or these by-laws to have approval of the Board of Directors or membership of the Association;

5.10.6. To enforce by legal means or proceedings the provisions of the Articles of Incorporation and By-Laws of the Association, the Declaration and the regulations hereinafter promulgated governing the Common Property and drainage and utility easements in the subdivision.

5.10.7. To pay all taxes and assessments which are or may become liens against any part of the Common Property;

5.10.8. To purchase insurance for the protection of the members and the Association against casualty and liability;

5.10.9. To pay all costs of power, water, sewer, and other utility services rendered to the Association; and

5.10.10. To designate and remove personnel necessary for the maintenance, repair, replacement and operation of the Common Property and drainage and utility easements in the subdivision.

5.11. The undertakings and contracts authorized by the initial Board of Directors shall be binding upon the Association in the same manner as though such undertakings and contracts had been authorized by any Board of Directors duly elected by the membership after the Declaration has been recorded, so long as such undertakings and contracts are within the scope of the powers and duties which may be exercised by the Board of Directors of the Association in accordance with all applicable documents.

5.12. Any one or more of the members of the Board of Directors may be removed, either with or without cause, at any time by a vote of the members owning a majority of the Lots, at any Special Meeting called for such purpose, or at the annual meeting. Provided, however, that only the Developer shall have the right to remove a Director appointed by it.

6. OFFICERS.

6.1. The executive officers of the Association shall be a President, who shall be a Director, a Treasurer, a Secretary and an Assistant Secretary, all of whom shall be elected annually by the Board of Directors and who may be peremptorily removed by a vote of the Directors at any meeting. Any persons may hold two

or more offices, except that the President shall not also be Secretary or an Assistant Secretary. The Board of Directors shall from time to time, elect such other officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association.

6.2. The President shall be the chief executive officer of the Association. He shall have all the powers and duties which are usually vested in the office of the president of any association, including the power to appoint committees from among the members as he may determine appropriate to assist in the conduct of the affairs of the Association.

6.3. The Secretary shall keep the minutes of all proceedings of Directors and the members. He shall attend to the giving and serving of all notices to the members and Directors, and such other notices required by law. He shall have custody of the seal of the Association, and affix the same to instruments requiring a seal when duly signed. He shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of secretary of an association and as may be required by the Directors or the President. The Assistant Secretary shall perform the duties of Secretary when the Secretary is absent.

6.4. The Treasurer shall have custody of all of the property of the Association, including funds, securities and evidence of indebtedness. He shall keep, or supervise the keeping of, detailed, accurate records in chronological order of the receipts and expenditures affecting the common areas and facilities, specifying and identifying the maintenance and repair expenses of the common areas and facilities and any other expense incurred.

6.5. The compensation of all officers and employees of the Association shall be fixed by the Directors. This provision shall not preclude the Board of Directors from employing a Director as an employee of the Association, nor preclude the contracting with a Director for the management of the Common Property.

6.6. All Officers shall serve at the pleasure of the Board of Directors and any Officer may be removed from office at any time, with or without cause, by a majority vote of the Board of Directors.

7. FISCAL MANAGEMENT. The provisions for fiscal management of the Association set forth in the Declaration and Articles of Incorporation shall be supplemented by the following provisions:

7.1. The assessment roll shall be maintained in a set of accounting books in which there shall be an account for each Lot.

Such account shall designate the name and address of the Lot owner or owners, the amount of each assessment against the owners, the dates and amounts in which assessments come due, the amounts paid upon the account and the balance due upon assessments.

7.2. The Board of Directors shall adopt a budget for each calendar year which shall contain estimates of the cost of performing the functions of the Association, including, but not limited to the following:

7.2.1. Common Expense budget, which may include, without limiting the generality of the foregoing, the estimated amounts necessary for maintenance and operation of and capital improvements to the Common Property; and

7.2.2. Proposed assessments against each Lot.

Copies of the proposed budget and proposed assessments shall be transmitted to each member prior to January 1 or the year for which the budget is made. If the budget is subsequently amended before the assessments are made, a copy of the amended budget shall be furnished each member concerned. Non-delivery of a copy of any budget or amended budget to each member shall not affect the liability of any member for any such assessment, nor shall delivery of a copy of such budget or amended budget be considered as a condition precedent to the effectiveness of said budget and assessments levied pursuant thereto and nothing herein contained shall be construed as restricting the right of the Board of Directors, at any time in their sole discretion, to levy any additional assessments in the event that the budget originally adopted shall appear to be insufficient to pay costs and expenses of operation and management, or in the event of emergencies.

7.3. The depository of the Association shall be such bank or banks as shall be designated from time to time by the Directors and in which the funds of the Association shall be deposited. Withdrawal of funds from such accounts shall be only by checks signed by such persons as are authorized by the Directors.

7.4. The books and all supporting documentation shall be available for examination by all Lot owners and their Lenders or their agents during normal business hours.

7.5. Fidelity bonds may be required by the Board of Directors from all officers and employees of the Association and from any contractor handling or responsible for Association funds. The amount of such bonds shall be determined by the Directors. The premiums on such bonds shall be paid by the Association.

8. PARLIAMENTARY RULES. Roberts Rules of Order (latest edition) shall govern the conduct of corporate proceedings when not in conflict with the Articles of Incorporation and these By-Laws or with the Statutes of the State of North Carolina.

9. AMENDMENTS TO BY-LAWS. Amendments to these By-Laws shall be proposed and adopted in the following manner:

9.1. Amendments to these By-Laws may be proposed by the Board of Directors of the Association acting upon a vote of the majority of the Directors, or by members of the Association owning a majority of the Lots, whether meeting as members or by instrument in writing signed by them.

9.2. Upon any amendment to these By-Laws being proposed by said Board of Directors or members, such proposed amendment shall be transmitted to the President of the Association, or other officer of the Association in the absence of the President, who shall thereupon call a Special Joint Meeting of the members of the Board of Directors of the Association and the membership for a date not sooner than twenty (20) days or later than sixty (60) days from receipt by such Officer of the proposed amendment and it shall be the duty of the Secretary to give to each member written notice of the call of a Special Meeting of the members is required as herein set forth.

9.3. In order for such amendment to become effective, it must be approved by an affirmative vote of a majority of the entire membership of the Board of Directors and by an affirmative vote of not less than three-fourths of the Lots.

9.4. Upon the approval and proper recording of any amendment, it shall become binding upon all Lot owners.

9.5. At any meeting held to consider any amendment to the By-Laws, the written vote of Lot shall be recognized if such Lot is not represented at such meeting in person or by proxy, provided such written vote is delivered to the Secretary of the Association at or prior to such meeting.

9.6. Notwithstanding the foregoing provisions of this Article, no amendment to these Bylaws which shall abridge, amend or alter the right of the Developer to designate and select members of each Board of Directors of the Association, as provided hereinabove, may be adopted or become effective without the prior written consent of the Developer.

10. COMPLIANCE. These Bylaws are set forth to comply with the requirements of the North Carolina Nonprofit Corporation Act, Chapter 55A of the General Statutes of the State of North Carolina. In the event that any of these By-Laws conflict with

the provisions of said statute, it is hereby agreed and accepted that the provisions of the statute will apply.

11. INDEMNIFICATION. To the fullest extent permitted by the North Carolina Nonprofit Corporation Act as it exists or may hereafter be amended, no person who is serving or who has served as a director and/or officer of the corporation shall be personally liable to the corporation or any of its members for monetary damages for breach of duty as a director and/or officer.

No amendment or repeal of this section, nor the adoption of any provision of these Bylaws inconsistent with this section, shall eliminate or reduce the protection granted herein with respect to any matter that occurred prior to such amendment, repeal, or adoption.

12. PROHIBITED ACTIVITIES. Other provisions of these ByLaws notwithstanding, the Corporation shall not engage in any act of self-dealing as defined in Section 4941, Subdivision (d) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent federal excise law; nor retain any excessive business holdings as defined in Section 4943 Subdivision (c) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent federal tax laws; nor make any investment in such manner as to subject it to tax under Section 4944 of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent federal tax laws; nor make any taxable expenditures as defined in Section 4945, Subdivision (d) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent federal tax laws. The Corporation shall distribute its income for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by Section 4942 of the Internal Revenue Code of 1954, or the corresponding provisions of any subsequent federal tax laws.

13. OTHER MATTERS PERTAINING TO NON-PROFIT STATUS

Section 1. EARNINGS: No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to its members, Directors, officers, or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered, and to make payments and distributions in furtherance of the purposes set forth in the Articles hereof. No substantial part of the activities of the Corporation shall be the carrying on of propaganda or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of a candidate for public office.

Section 2. EXEMPT FUNDS: Notwithstanding any other provisions of these Articles, this Corporation shall not carry on any other activities not permitted to be carried on by (a) Corporation exempt from federal income tax under any section of the

Internal Revenue Code of 1954, or the corresponding provisions of any future United States Internal Revenue Law, or, (b) Corporation, contributions to which are deductible under Section 170(a)(2) of the Internal Revenue Code of 1954, or any other corresponding provisions of any future United States Internal Revenue law.

Section 3. DISSOLUTION: Upon the dissolution of the Corporation, the Board of Directors shall, after paying and making provision for payment of all of the liabilities of the Corporation, dispose of all of the assets of the Corporation exclusively for the purposes of the Corporation in such manner, or to such organization or organizations organized and operated exclusively for charitable, educational, religious, or scientific purposes, or a successor Association, or any other organization as shall at the time qualify as an exempt organization or organizations under Section 501 or any other section of the Internal Revenue Code of 1954 (or corresponding provision of any future United States Internal Revenue Law), as the Board of Directors shall determine. Any such asset not so disposed of shall be disposed of by the Superior Court of the County in which the principal office of the Corporation is then located exclusively for such purposes or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

Appointment of Officers

RESOLVED, that the following persons be, and they hereby are, appointed as officers of the corporation to serve as such until their successors shall have duly elected and qualified:

John W. Nester	President
E. L. Burnett, III	Vice President
A. Y. Lennon	Vice President
Tara Rogers	Secretary
A. Y. Lennon	Assistant Secretary
John W. Nester	Treasurer

Banking Resolutions

RESOLVED, that _____ is designated as a depository of the corporation; and

RESOLVED FURTHER, that the resolutions in the form requested by said bank, a copy of which is attached hereto and made a part hereof, are hereby adopted; and

RESOLVED FURTHER, that the Secretary of the corporation be, and he hereby is, authorized and directed to certify to said depository bank, the adoption of such resolutions.

Fiscal Year

RESOLVED, that the fiscal year of the corporation is fixed as the calendar year.

This action is effective as of the _____ day of _____, 2000.

ALTON Y. LENNON
Incorporator

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