

**BY-LAWS**  
**OF**  
**BAREFOOT RESORT**  
**JOINT COMMITTEE, INC.**

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**BY-LAWS**  
**OF**  
**BAREFOOT RESORT**  
**JOINT COMMITTEE, INC.**

**ARTICLE I**

**Name, Principal Office, and Definitions**

1.1. **Name**. The name of the corporation shall be Barefoot Resort Joint Committee, Inc. (the "Joint Committee").

1.2. **Principal Office**. The principal office of the Joint Committee shall be located at 4898 Highway 17 S, North Myrtle Beach, SC 29582 or at such office in Horry County, South Carolina as the Board may designate. The Joint Committee may have such other offices, either within or outside the State of South Carolina, as the Board of Directors may determine or as the affairs of the Joint Committee may require.

1.3. **Definitions**. The words used in these By-Laws shall generally be given their normal, commonly understood meanings, unless otherwise specified. Capitalized terms shall be defined as follows:

(a) **"Area of Common Responsibility"**: those areas, if any, for which the Joint Committee has maintenance, insurance, operating, or other responsibility under the Declarations, other applicable covenants, or other agreements entered into by the Joint Committee.

(b) **"Articles of Incorporation"** or **"Articles"**: the Articles of Incorporation of Barefoot Resort Joint Committee, Inc., as filed with the Secretary of State of South Carolina, as they may be amended from time to time.

(c) **"Association"** or **"Associations"**: the Barefoot Resort Nonresidential Owners Association and the Barefoot Resort Residential Owners Association, collectively, or any of them.

(d) **"Board of Directors"** or **"Board"**: the body responsible for administration of the Joint Committee, selected as provided in Article III hereof and generally serving the same role as the board of directors under South Carolina corporate law.

(e) **"Builder"**: any Person which purchases one or more Units for the purpose of constructing improvements for later sale to consumers or parcels of land within the Properties for further subdivision, development, and/or resale in the ordinary course of such Person's business.

(f) "Class "B" Control Period": the period of time during which the Class "B" Member is entitled to appoint a majority of the members of the Board of Directors, as specified in Section 3.3.

(g) "Common Expenses": the actual and estimated expenses incurred or anticipated to be incurred by the Joint Committee to maintain, operate, and insure the Area of Common Responsibility and otherwise incurred for the general benefit of all Unit Owners, including any reasonable reserve, as the Board may find necessary and appropriate pursuant to these By-Laws and the Articles of Incorporation. The term "common expenses," if lower case, shall refer to common expenses of the Residential Association or the Nonresidential Association, as determined in accordance with their respective Declarations.

(h) "Community-Wide Standard": the standard of conduct, maintenance, or other activity generally prevailing throughout the Properties. Such standard may be more specifically defined by the Board of Directors and/or the boards of directors of the Residential Association and the Nonresidential Association; provided, in the event of a conflict or dispute as to the prevailing standard, the ruling of the Board of Directors shall be determinative.

(i) "Declarant" or "Silver Carolina": a term referring collectively (or singly, when the context so requires) for ease of reference to Silver Carolina Development Company, L.L.C., a Delaware limited liability company, and Intracoastal Development Company, LLC, a South Carolina limited liability company, or any of their successors, successors-in-title, or assigns who are or may be assigned any of the rights, duties, responsibilities, and obligations of Silver Carolina Development Company, L.L.C., and/or Intracoastal Development Company, LLC, (as the developers of Barefoot Resort and Declarants of the Declarations), pursuant to a recorded instrument executed by the immediately preceding successors, successors-in-title, or assigns to those rights, duties, responsibilities, and obligations assigned, but only to the extent of such assignment.

(j) "Declarations": the Nonresidential Declaration and the Residential Declaration, collectively, or either of them.

(k) "Member": a Person entitled to membership in the Joint Committee, as provided in Section 2.1.

(l) "Mortgage": a mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to a Unit.

(m) "Mortgagee": an institutional or governmental holder of a Mortgage which makes, holds, insures, or guarantees Mortgage Loans in the ordinary course of its business.

(n) "Mortgagor": any Person who gives a Mortgage.

(o) "Neighborhood": two or more Residential Units which share common interests not common to all Residential Units, as more particularly defined in Section 6.4 of the Residential Declaration.

(p) "Nonresidential Association": Barefoot Resort Nonresidential Owners Association, Inc., a South Carolina nonprofit corporation which serves as a mandatory membership owners association having jurisdiction over all of the Nonresidential Properties, and its successors and assigns.

(q) "Nonresidential Declaration": that certain Declaration of Covenants, Conditions, and Restrictions for Barefoot Resort Nonresidential Properties executed by Silver Carolina and filed in the Office of Register of Deeds of Horry County, South Carolina, as it may be amended from time to time.

(r) "Nonresidential Owner": one or more Persons who hold the record title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a contract of sale, then the purchaser (rather than the fee owner) will be considered the Owner, if the contract specifically so provides. In the event a contract of sale is not recorded to reflect a property purchase, the new Owner, or its designee, shall provide some form of notice of the sale to the Association; further, the Association may request documentation from the Owner or its designee to satisfactorily demonstrate the Owner's identity. Further, the owners of any timeshare units shall not be deemed Owners pursuant to the terms of these By-laws; instead, any timeshare unit owners within the Properties shall act and shall exercise their rights by and through their own timeshare regime, which itself shall be deemed an Owner for the purpose of these By-laws.

(s) "Nonresidential Properties": that real property which is now or hereafter made subject to the Nonresidential Declaration.

(t) "Nonresidential Unit": a portion of the Properties, whether improved or unimproved, which may be independently owned and conveyed (and may be defined by a subdivision plat, a legal property description, or other means intended to show or describe the property as a discrete and legally definable portion) and which is intended for development, use, occupancy and a purpose consistent with the Nonresidential Declaration, any other applicable covenants, and applicable zoning, including but not limited to the P.U.D. The term shall refer to the land, if any, which is part of the Unit as well as any improvements thereon. The term shall not include Common Areas, common property of any Parcel Association, spoil easements or property dedicated to the public. If any Unit is subdivided or re-subdivided, whether by plat or deed, each such subdivision shall be considered a Unit hereunder and votes and liability for assessments shall be re-computed for each subdivision in accordance with the formula set forth in Exhibit "C" to the Nonresidential Declaration.

(u) "Owner": Nonresidential Owner and Residential Owner, collectively, or any of them.

(v) "Person": a natural person, a corporation, a partnership, a trustee, or other legal entity.

(w) "Properties": the Nonresidential Properties and the Residential Properties, collectively.

(x) "Residential Association": Barefoot Resort Residential Owners Association, Inc., a South Carolina nonprofit corporation which serves as a mandatory membership owners association having jurisdiction over all of the Residential Properties, and its successors and assigns.

(y) "Residential Declaration": that certain Declaration of Covenants, Conditions, and Restrictions for Barefoot Resort Residential Properties executed by Silver Carolina and recorded in the Office of the Register of Deeds of Horry County, South Carolina, as it may be amended from time to time.

(z) "Residential Owner": one or more Persons who hold the record title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a recorded contract of sale, then upon recording of such contract, the purchaser (rather than the fee owner) will be considered the Owner, if the contract specifically so provides.

(aa) "Residential Properties": that real property which is now or hereafter made subject to the Residential Declaration.

(bb) "Residential Unit": a portion of the Residential Properties, whether improved or unimproved, which may be independently owned (and may be defined by a subdivision plat, a legal property description, or other means intended to show or describe the portion as a discrete and legally definable portion) and is intended for development, use, and occupancy as an attached or detached residence for a single family; provided, a garage apartment or similar accessory structure on a lot containing living quarters in addition to the primary dwelling on such lot (and under common ownership) shall not be deemed a separate Unit. The term shall refer to the land, if any, which is part of the Unit and any improvements thereon. In the case of a condominium within a building or other structure containing multiple dwellings, each dwelling shall be deemed to be a separate Unit. The term shall not include Common Areas of the Residential Association, common property of any Association (as defined in the Residential Declaration), or property dedicated to the public.

In the case of vacant land or land on which improvements are under construction, the land shall be deemed to contain the number of Residential Units specified (on a per acre basis) for such land in the applicable Supplemental Declaration, if any, until such time as a subdivision plat or condominium plat is filed of record for all or a portion of the land. Thereafter, such plat shall control as to the number of Units for that portion of the land. The number of Units on the remaining portion of the land, if any, shall continue to be determined in accordance with this paragraph. If no Supplemental Declaration has been filed

for the land, the land shall be deemed to contain one (1) Residential Unit, as the above is set forth in the Residential Declaration.

6.2. (cc) "Special Assessment": assessments levied in accordance with Section

6.3. (dd) "Specific Assessment": assessments levied in accordance with Section

(ee) "Unit": Nonresidential Units and Residential Units, collectively, or any of them.

## ARTICLE II

### Membership, Meetings, Voting

2.1. Membership. The Joint Committee initially shall have two classes of membership, Class "A" and Class "B." The two Class "A" Members shall be the Residential Association and the Nonresidential Association. The sole Class "B" Member shall be Silver Carolina. The Class "B" membership shall terminate upon the earlier of:

(a) Such time as Silver Carolina no longer owns at least 10% of the total acreage subject to the Declarations and no longer has the right to subject additional property to the terms of the Residential Declaration and no longer has the right to subject additional property to the terms of the Nonresidential Declaration; or

(b) 50 years after the date of recording of the Nonresidential Declaration or the Residential Declaration, whichever was last recorded.

2.2. Meetings. The Joint Committee shall not be required to hold any meetings of the membership.

2.3. Voting. The Members shall not be entitled to vote except as may specifically be set forth herein. In the case of any action requiring the written consent of a Member, such consent, if given, shall be executed on behalf of the Member by its duly authorized officers. In the case of a Class "A" Member, such consent shall be given only if directed by majority vote of such Member's board of directors.

2.4. Action Without a Meeting. Any action required or permitted by law to be taken at a meeting of the Members may be taken without a meeting, without prior notice, and without a vote, if written consent specifically authorizing the proposed action is signed by Members holding at least the minimum number of votes necessary to authorize such action at a meeting if all Members entitled to vote thereon were present. Such consents shall be signed within 60 days after receipt of the earliest dated consent, dated, and delivered to the Joint



Committee at its principal place of business in the State of South Carolina. Such consents shall be filed with the minutes of the Joint Committee, and shall have the same force and effect as a vote of the Members at a meeting. Within 10 days after receiving authorization for any action by written consent, the Secretary shall give written notice to all Members entitled to vote who did not give their written consent, fairly summarizing the material features of the authorized action.

### ARTICLE III

#### Board of Directors: Number, Powers, Meetings

##### A. Composition and Selection.

3.1. Governing Body; Composition. The affairs of the Joint Committee shall be governed by a Board of Directors. Each director shall have one equal vote. Any officer or director of a Member, or any other individual specifically authorized by the Member to act on its behalf in a written instrument filed with the Secretary of the Joint Committee, shall be eligible to serve as a director, provided such officer, director, or individual is 18 years of age or older.

3.2. Number of Directors. The Board shall consist of five directors. The initial Board shall consist of those individuals identified in the Articles of Incorporation.

3.3. Appointment of Directors. The members of the Board shall be appointed by the Class "B" Member acting in its sole discretion and shall serve at the pleasure of the Class "B" Member, subject to the following:

(a) At such time as a majority of the members of the Residential Association's board are elected by its Class "A" Members pursuant to its by-laws, or whenever the Class "B" Member earlier determines, one director appointed by the Class "B" Member shall resign, and the Residential Association shall be entitled to appoint one member of the Joint Committee's Board, who shall serve at the discretion of the Residential Association.

(b) (1) At such time as 90% of the total number of Units proposed by the Master Plan for the properties described on Exhibits "A" and "B" of the Residential Declaration are owned by Owners other than Silver Carolina or Builders, and (B) 90% of the Units proposed for any additional properties covered by any Supplemental Declaration are owned by Owners other than Silver Carolina or Builders (provided that, if a Supplemental Declaration covers property also named on Exhibits "A" or "B", the number of Units proposed in the Supplemental Declaration shall control for purposes of this section), or (2) upon termination of the Joint Committee's Class "B" membership, whichever is earlier, one director appointed by the Class "B" Member shall resign, and the Residential Association shall be entitled to appoint a second member of the Joint Committee's Board, who shall serve at the discretion of the Residential Association.

(c) At such time as a majority of the members of the Nonresidential Association's board are elected by its Class "A" Members pursuant to its by-laws, or whenever the Class "B" Member earlier determines, one director appointed by the Class "B" Member shall resign, and the Nonresidential Association shall be entitled to appoint one member of the Joint Committee's Board, who shall serve at the discretion of the Nonresidential Association.

(d) (1) At such time as 90% of the total acreage within the properties described on Exhibits "A" and "B" of the Nonresidential Declaration are owned by Owners other than Silver Carolina or Builders, and (B) 90% of the total acreage within any additional properties covered by any Supplemental Declaration are owned by Owners other than Silver Carolina or Builders (provided that, if a Supplemental Declaration covers property also named on Exhibits A or B, the acreage shall be counted only once), or (2) upon termination of the Joint Committee's Class "B" membership, whichever is earlier, one director appointed by the Class "B" Member shall resign, and the Nonresidential Association shall be entitled to appoint a second member of the Joint Committee's Board, who shall serve at the discretion of the Nonresidential Association.

(e) Upon termination of the Class "B" membership, the remaining director appointed by the Class "B" Member shall resign, and thereafter one member of the Board shall be elected by the Owners of Nonresidential Units. Such election shall be conducted by written ballot with each such Owner being entitled to cast that number of votes assigned to its Unit(s) under the Nonresidential Declaration. Any Owner (or representative of an Owner, as provided in Section 3.2) of a Nonresidential Unit may register as a candidate for election to the Board in accordance with procedures adopted by the Board and may solicit votes on his or her own behalf. The candidate receiving the greatest number of votes shall be elected to serve a term of two years and until a successor is elected in like manner.

Directors appointed to the Joint Committee's Board by the Residential Association and the Nonresidential Association shall be appointed in such manner and for such terms as may be determined by the respective boards of directors of the Residential Association and the Nonresidential Association in accordance with their respective Declarations and by-laws. Directors may be appointed or elected to serve any number of consecutive terms.

3.4. Removal of Directors and Vacancies. Any director may be removed, with or without cause, and replaced for the remainder of such director's term by the Member (or other entity) entitled to appoint such director, or in the case of a director elected by the vote of Owners of Nonresidential Units, by written ballot issued upon a petition being filed with the Secretary of the Joint Committee signed by Owners holding a majority of the votes entitled to be cast for the election of such director. Any director whose removal is sought shall be given written notice prior to any action being taken to remove him.

B. Meetings.

3.5. Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of the directors, but at least four such meetings shall be held during each fiscal year, with at least one per quarter.

3.6. Special Meetings. Special meetings of the Board shall be held when called by written notice signed by the President of the Joint Committee or by any two directors.

3.7. Notices; Waiver of Notice.

(a) Notices of meetings of the Board shall specify the time and place of the meeting and, in the case of a special meeting, the nature of any special business to be considered. The notice shall be given to each director by: (i) personal delivery; (ii) first class mail, postage prepaid; (iii) telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (iv) telephone facsimile, computer, fiber optics, or other electronic communication device, with confirmation of transmission.

All such notices shall be given at the director's telephone number, fax number, electronic mail number, or sent to the director's address as shown on the records of the Joint Committee. Notices of special meetings of the Board shall also be posted in a prominent place within the Properties. Notices sent by first class mail shall be deposited into a United States mailbox at least four business days before the time set for the meeting or such other time as required by statute. Notices given by personal delivery, telephone, or other permitted device shall be delivered or transmitted at least 72 hours before the time set for the meeting.

Except in an emergency, notice of Board meetings shall also be posted at least 48 hours in advance of the meeting at a conspicuous place within the Properties, which the Board shall establish for the posting of notices relating to the Joint Committee. Notice of any meeting at which assessments are to be established shall state that fact and the nature of the assessment.

(b) The transactions at any meeting of the Board, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (i) a quorum is present, and (ii) either before or after the meeting, each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting shall also be deemed given to any director who attends the meeting without protesting the lack of adequate notice before or at its commencement.

3.8. Telephonic Participation in Meetings. Members of the Board or of any committee designated by the Board may participate in any meeting of the Board or committee by conference telephone or similar communications equipment, by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this section shall constitute presence in person at such meeting.

3.9. Quorum of Board of Directors. At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business. The votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board; provided, so long as the Board consists of only three directors, any decision of the Board shall require the vote of two directors. A meeting at which a quorum is

initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting. If any meeting of the Board cannot be held or continued because a quorum is not present, a majority of the directors who are present at such meeting may adjourn the meeting to a time not less than 5 nor more than 30 days from the date the original meeting was called. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

3.10. Compensation. No director shall receive any compensation from the Joint Committee for serving as a director unless consented to in writing by all Members. A director may be reimbursed for expenses incurred on behalf of the Joint Committee upon approval of a majority of the other directors.

3.11. Conduct of Meetings. The President shall preside over all meetings of the Board, and the Secretary shall keep a minute book of Board meetings, recording all Board resolutions and all transactions and proceedings occurring at such meetings.

3.12. Notice to Owners, Open Meetings. Subject to the provisions of Section 3.13, all meetings of the Board shall be open to all officers, directors, and authorized representatives of the Members, and, if required by law, all Owners. Attendees other than directors may not participate in any discussion or deliberation unless permission to speak is requested on his or her behalf by a director. In such case, the President may limit the time any such individual may speak. Notwithstanding the above, the President may adjourn any meeting of the Board and reconvene in executive session, excluding persons other than directors as permitted by South Carolina law, to discuss matters of a sensitive nature, such as pending or threatened litigation or personnel matters.

3.13. Action Without a Formal Meeting. Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote.

C. Powers and Duties.

3.14 Powers. The Board of Directors shall have all the powers necessary for the administration of the Joint Committee's affairs and for performing all responsibilities and exercising all rights of the Joint Committee as set forth in the Declarations, the Articles, these By-Laws, and as provided by law. The Board may do or cause to be done on behalf of the Joint Committee all acts and things not directed to be done and exercised exclusively by the Joint Committee's membership in the Declarations, the Articles, or these By-Laws .

3.15. Duties. The duties of the Board shall include, without limitation:

(a) preparing and adopting annual budgets for the Common Expenses, and establishing each Unit's share of such Common Expenses;

- (b) levying assessments on each Unit for its share of the Common Expenses and for its share of the expenses of the Residential Association or the Nonresidential Association, as appropriate;
- (c) establishing the means and methods of collecting all assessments, and establishing the period of any installment payments of annual assessments;
- (d) opening bank accounts on behalf of the Joint Committee and designating the authorized signatories;
- (e) collecting the assessments, depositing the proceeds in depositories approved by it, and using the funds collected as assessments for Common Expenses to operate the Joint Committee;
- (f) disbursing monies collected on behalf of the Residential Association and the Nonresidential Association to those entities;
- (g) providing for the operation, care, upkeep, and maintenance of the Area of Common Responsibility, if any;
- (h) designating, hiring, and dismissing the personnel necessary to carry out the rights and responsibilities of the Joint Committee and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;
- (i) making and amending rules governing use and operation of the Area of Common Responsibility, if any;
- (j) making or contracting for the making of repairs, additions, and improvements to or alterations of the Area of Common Responsibility in accordance with these By-Laws;
- (k) enforcing by legal means the provisions of the Declarations, these By-Laws, and the rules which the Joint Committee may adopt, and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Joint Committee;
- (l) mediating and arbitrating disputes between the Members and disputes between two or more Owners who are not members of the same Association, if the dispute arises out of interpretation, violation, or enforcement of, or conflicts in, the standards established under the Declarations, compliance with the Community-Wide Standard, or other matters as to which the Board determines it to be in the general interest of the Members to become involved;
- (m) obtaining and carrying property insurance on the Area of Common Responsibility, to the extent the Joint Committee is responsible for providing such insurance under the Declarations or any agreement relating to such property; obtaining commercial general liability insurance with limits, if available at reasonable cost, of at least five million dollars per occurrence with respect to personal injury and property damage; obtaining fidelity

bonds on all persons responsible for handling funds on behalf of the Joint Committee; paying the cost of such insurance and bonds; and filing and adjusting claims, as appropriate;

(n) paying the cost of all services rendered to or on behalf of the Joint Committee, as the Board may authorize;

(o) keeping detailed books of account and operating records;

(p) making available to any prospective purchaser, Owner, and Mortgagee of a Unit current copies of the Articles of Incorporation, the By-Laws, and the Joint Committee rules governing the Area of Common Responsibility, if any, and charging such fees, if any, as the Board may establish to cover its printing and mailing costs; and

(q) permitting utility suppliers to use portions of the Joint Committee's property as may be determined necessary, in the sole discretion of the Board, to the ongoing development or operation of the Properties.

3.16. Liability and Indemnification. The Joint Committee shall indemnify every officer, director, and committee member against all damages and expenses, including attorneys' fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions as to which the liability of officers and directors is limited under the Articles of Incorporation and South Carolina law. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Joint Committee shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is generally available at reasonable cost.

3.17. Power of Class "B" Member to Disapprove Actions. So long as the Class "B" membership exists, the Class "B" Member shall have the right to disapprove of any action, policy, or program of the Joint Committee, the Board, and any committee appointed by the Board which, in the sole judgment of the Class "B" Member, would tend to impair rights of Silver Carolina or Builders under the Declarations or these By-Laws, or to interfere with development, construction, marketing, or sale of any portion of the Properties.

(a) The Class "B" Member shall be given written notice of all meetings and proposed actions approved at meetings (or by written consent in lieu of a meeting) of the Joint Committee, the Board, or any committee. Such notice shall be given by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Joint Committee, which notice shall comply as to the Board meetings with Section 3.7 of these By-Laws and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth in reasonable particularity the agenda to be followed at said meeting.

(b) The Class "B" Member shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein.

No action, policy, or program subject to the right of disapproval set forth herein shall become effective or be implemented until and unless the requirements of subsections (a) and (b) above have been met.

The Class "B" Member, its representatives, or agents shall make the Class "B" Member's concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee. The Class "B" Member, acting through any officer, director, agent, or authorized representative, may exercise its right to disapprove at any time within 10 days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, within 10 days following receipt of written notice of the proposed action. This right to disapprove may be used to block proposed actions but shall not include a right to require any action or counteraction on behalf of the Joint Committee, the Board, or any committee, except to the extent necessary to reverse the disapproved action.

3.18. Management. The Board may employ for the Joint Committee a professional management agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. Provided, however, that such management agent may not be terminated by the Board in regard to the services performed for either the Residential or Nonresidential Association unless the Association seeking the termination of its services approves the termination by at least a majority of that Association's vote. The Board may delegate to the managing agent or manager, subject to the Board's supervision, such powers as are necessary to perform the manager's assigned duties but shall not delegate policymaking authority or those duties set forth in subsections (a), (b), (d), (i), (k), (l), (m) and (q) of Section 3.15. Silver Carolina, or an affiliate of Silver Carolina, may be employed as managing agent or manager. The Board may delegate to one of its members the authority to act on behalf of the Board on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Board.

The Joint Committee shall not be bound, either directly or indirectly, by any management contract executed during the Class "B" Control Period unless such contract contains a right of termination exercisable by the Joint Committee, with or without cause and without penalty, at any time after termination of the Class "B" Control Period and upon not more than 90 days' written notice.

3.19. Accounts and Reports. The following management standards of performance shall be followed unless the Board by resolution specifically determines otherwise:

(a) accrual accounting, as defined by general accepted accounting principles, shall be employed;

(b) accounting and controls shall conform to generally accepted accounting principles;

(c) cash accounts of the Joint Committee shall not be commingled with any other accounts;

(d) no remuneration shall be accepted by the managing agent from vendors, independent contractors, or other providing goods or services to the Joint Committee, whether in form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; any thing of value received shall benefit only the Joint Committee or the Associations;

(e) any financial or other interest which the managing agent may have in any firm providing goods or services to the Joint Committee shall be disclosed promptly to the Board of Directors;

(f) commencing at the end of the quarter in which the first Unit is sold and closed, financial reports shall be prepared for the Joint Committee at least quarterly containing:

(i) an income statement reflecting all income and expense activity for the preceding period on an accrual basis;

(ii) a statement reflecting all cash receipts and disbursements for the preceding period;

(iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;

(iv) a balance sheet as of the last day of the preceding period; and

(v) a delinquency report listing all Owners who are delinquent in paying any assessments at the time of the report and describing the status of any action to collect such assessments remaining delinquent (any assessment or installment thereof shall be considered to be delinquent on the 15th day following the due date unless otherwise specified by Board resolution); and

(g) a current annual report consisting of at least the following shall be distributed to all Members within 120 days after the close of the fiscal year: (1) a balance sheet; (2) an operating (income) statement; and (3) a statement of changes in financial position for the fiscal year. Such report shall be prepared and reviewed by an independent public accountant; provided, upon written request of any holder, guarantor, or insurer of any first Mortgage on a Unit, the Joint Committee shall provide an audited financial statement. During the Class "B" Control Period, the annual report shall include certified financial statements.

3.20. Borrowing. The Joint Committee shall have the power to borrow money for any legal purpose; provided, the Board shall obtain the written consent of the Members in the event that the proposed borrowing is for the purpose of making discretionary capital



improvements and the total amount of such borrowing exceeds or would exceed 25% of the budgeted Common Expenses of the Joint Committee for that fiscal year. No Mortgage shall be placed on any portion of the Joint Committee Property without the written consent of the Members.

3.21. Right to Contract. The Joint Committee shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with any Member, trust, condominium, cooperative, or other owners or residents association, within or outside the Properties; provided, any common management agreement shall require the consent of a majority of the total number of directors of the Joint Committee.

3.22. Enforcement. On its own initiative or upon the filing with the Board of a written complaint by any Member or Owner concerning any matter arising out of the interpretation, violation, or enforcement of, or conflicts in, the standards established under the Declarations or the Community-Wide Standard, or relating to other matters as to which the Board determines it to be in the general interest of the Members to become involved, the Board may investigate the facts and circumstances surrounding such matter or complaint. If the Board determines that a Member or an Owner or occupant of any Unit has violated or is in violation of the applicable Declaration or these By-Laws, and that such violation affects the rights, safety, or use and enjoyment of property outside the jurisdiction of the violating Member or the Association to which the violating Owner or occupant is subject, or that such violation negatively impacts the Community-Wide Standard, then the Board may, but shall not be obligated to, take action to enforce the provision of the Declaration, By-Laws, or rules being violated.

The Board shall have the power to impose monetary fines for violation of any duty imposed under the Declarations or these By-Laws, which shall be added to and become a part of the assessments against the Unit of the violating Owner or, in the case of a violating Member, may be deducted from the proceeds of assessments collected on behalf of such Member by the Joint Committee. In the event that any occupant, guest, or invitee of a Unit violates the Declarations or these By-Laws and a fine is imposed, the fine shall first be assessed against the actual violator (the occupant, guest, or invitee); provided, however, if the fine is not paid by the actual violator (the occupant, guest, or invitee) within the time period set by the Board, the Owner shall pay the fine upon notice from the Joint Committee. The failure of the Board to enforce any provision of the Declarations or these By-Laws shall not be deemed a waiver of the right of the Board to do so thereafter.

(a) Notice. Prior to imposition of any sanction hereunder, the Board or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation; (ii) the proposed sanction to be imposed; (iii) a period of not less than 10 days within which the alleged violator may present a written request for a hearing; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within 10 days of the notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed.

(b) Hearing. If a hearing is requested within the allotted 10-day period, the hearing shall be held before the Covenants Committee, if any, and if none has been appointed, then before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to any sanction becoming effective, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement also shall be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed. The Board may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the 10 day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

(c) Appeal. If a hearing is conducted before any body other than the Board, the violator shall have the right to appeal the decision to the Board of Directors. To perfect this right, a written notice of appeal must be received by the Board within 30 days after the hearing date.

(d) Additional Enforcement Rights. The Board may elect to enforce any provision of the Declarations or the By-Laws by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or by suit to enjoin any violation or to recover monetary damages or both, without the necessity of compliance with the notice and hearing procedure set forth above. In any such action, to the maximum extent permissible, the Owner or actual violator (the occupant, guest, or invitee) responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorneys' fees actually incurred.

## ARTICLE IV

### Officers

4.1. Officers. The officers of the Joint Committee shall be a President, Vice President, Secretary, and Treasurer. The officers need not be elected from among the members of the Board. The Board may appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties the Board prescribes. Any two or more offices may be held by the same person, except the offices of President and Secretary.

4.2. Election and Term of Office. The Board shall elect the officers of the Joint Committee not less than 30 nor more than 90 days prior to the beginning of each fiscal year.

4.3. Removal and Vacancies. Whenever in its judgment the best interests of the Joint Committee will be served, the Board may remove any officer, and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise for the unexpired portion of the term.

4.4. Powers and Duties. The officers of the Joint Committee shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may from time to time specifically be conferred or imposed by the Board of Directors. The President shall be the chief executive officer of the Joint Committee. The Treasurer shall have primary responsibility for the preparation of the budgets as provided for in the Declarations and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

4.5. Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of the 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.

4.6. Agreements, Contracts, Deeds, Leases Checks, Etc. All agreements, contracts, deeds, leases, checks, and other instruments of the Joint Committee shall be executed by at least two officers or by such other person or persons as may be designated by Board resolution.

4.7. Compensation. Compensation of officers shall be subject to the same limitations as compensation of directors under Section 3.10.

## ARTICLE V

### Committees

5.1. General. The Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution.

5.2. Covenants Committee. In addition to any other committees which the Board may establish pursuant to Section 5.1, the Board may appoint a Covenants Committee consisting of at least three and no more than seven Owners. Acting in accordance with the provisions of the Declarations, these By-Laws, and any resolutions the Board may adopt, the Covenants Committee, if any, shall be the hearing tribunal of the Joint Committee and shall conduct all enforcement hearings held pursuant to Section 3.22.

## ARTICLE VI

### Assessments

6.1. General Authority. The Joint Committee shall be authorized to levy annual assessments on all Units subject to assessment under the Declarations in order to fund Common Expenses. These Common Expenses shall be allocated between the Residential Association and the Nonresidential Association in the same proportion as the number of billing

accounts maintained for each Association by the Joint Committee bears to the total number of billing accounts maintained by the Joint Committee. Such expenses shall then be assessed against the Units subject to assessment by each Association in accordance with their respective Declarations. In addition, the Joint Committee shall be responsible for levying and collecting all assessments authorized by the Residential Association and the Nonresidential Association to be levied on the Units subject to their respective jurisdictions, which assessments shall be levied and collected in accordance with the terms of the applicable Declarations. The Joint Committee or their assigns or designees shall have all collection and lien rights set forth in the Declarations for collection of its assessments for Common Expenses, as well as assessments authorized by the Residential Association and the Nonresidential Association. In addition to the foregoing, the Joint Committee may levy Special Assessments and Specific Assessments against the Owners, as set forth below.

Assessments shall be paid in such manner and on such dates as the Joint Committee may establish. If the Joint Committee so elects, assessments may be paid in two or more installments. If any Owner is delinquent in paying any assessments or other charges levied on his Unit, the Joint Committee may require any unpaid installments of all outstanding assessments to be paid in full immediately.

The Joint Committee shall, upon request, furnish to any Owner liable for any type of assessment a certificate in writing signed by an officer of the Joint Committee setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment. The Joint Committee may require the advance payment of a processing fee for the issuance of such certificate.

No Owner may exempt himself from liability for assessments by non-use of Common Area of his respective Association, by abandonment of his Unit, or by any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed by or allowed for the Owner for any alleged failure of any Person to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action taken or not taken.

The Joint Committee is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services, materials, or a combination of services and materials with Silver Carolina or other Persons. Any assessments due from such Persons may be reduced by the agreed value of any in kind contributions made by such Persons.

6.2. Special Assessments. In addition to other authorized assessments, the Joint Committee may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. Such assessments may be levied against the Owners of Units subject to both Declarations or either of them, as authorized by their respective Associations, or against all Units subject to assessment in the case of Common Expenses, upon approval of the Board.

6.3. Specific Assessments. The Board shall have the power to levy Specific Assessments against a particular Unit or Units upon request of the Residential Association or Nonresidential Association, as appropriate, or pursuant to the provisions of these By-Laws; provided, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing before levying a Specific Assessment pursuant to these By-Laws.

## ARTICLE VII

### Miscellaneous

7.1. Fiscal Year. The fiscal year of the Joint Committee shall be set by Board resolution. In the absence of a resolution, the fiscal year shall be the calendar year.

7.2. Parliamentary Rules. Except as may be modified by Board resolution, Robert's Rules of Order (current edition) shall govern the conduct of Joint Committee proceedings when not in conflict with South Carolina law, the Articles of Incorporation, or these By-Laws.

7.3. Conflicts. If there are conflicts between the provisions of South Carolina law, the Articles of Incorporation, and these By-Laws, the provisions of South Carolina law, the Articles of Incorporation, and the By-Laws (in that order) shall prevail. In the event of a conflict between the Declarations and these By-Laws or the Articles, these By-Laws or Articles shall control.

7.4. Books and Records.

(a) Inspection by Members and Mortgagees. The Board shall make the following available for inspection and copying by any holder, insurer, or guarantor of a first Mortgage on a Unit, any Member, or the duly authorized representative of any of the foregoing at any reasonable time and for a purpose reasonably related to his or her interest in the Unit: the Articles of Incorporation and the By-Laws; any rules of the Joint Committee; any amendments to the foregoing documents; the Owner's register; books of account; and the minutes of meetings of the Members, the Board, and committees. The Joint Committee shall provide for such inspection to take place at the office of the Joint Committee or at such other place within the Properties as the Board may designate.

(b) Rules for Inspection. The Board shall establish reasonable rules with respect to:

- (i) notice to be given to the custodian of the records;
- (ii) hours and days of the week when such an inspection may be made; and
- (iii) payment of the cost of reproducing copies of documents requested.

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Joint Committee and to inspect the physical properties owned or controlled by the Joint Committee. The right of inspection by a director includes the right to make a copy of relevant documents at the expense of the Joint Committee.

7.5. Notices. Unless otherwise provided in these By-Laws or required by statute, all notices, demands, bills, statements, or other communications under these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States Mail, first class postage prepaid:

(a) if to a Member, at the address which the Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the registered office of such Member,

(b) if to the Joint Committee, the Board, or the managing agent, at the principal office of the Joint Committee or the managing agent, if any, or at such other address as shall be designated by notice in writing to the Members pursuant to this Section;

(c) if to an Owner, at the mailing address of such Owner as designated by such Owner in writing to the Joint Committee or, if no address has been designated, at the address of such Owner's Unit; and

(d) if to any other party as required by the terms of the Declarations, at the mailing address of such party as designated by such party in writing to the Joint Committee.

7.6. Amendment.

(a) By Class "B" Member. Until termination of the Class "B" Control Period, the Class "B" Member may unilaterally amend these By-Laws. However, to the extent any such amendment would change the control structure of the Joint Committee, the prior approval of Centex Homes, a Nevada corporation, would be required. After such termination, the Class "B" Member may unilaterally amend these By-Laws at any time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule or regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Units; (iii) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure, or guarantee mortgage loans on the Units; or (iv) to satisfy the requirements of any governmental agency or enable any governmental agency or reputable private insurance company to guarantee or insure mortgage loans on the Units; provided, however, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent thereto in writing. So long as the Class "B" membership exists, the Class "B" Member may unilaterally amend these By-Laws for any other purpose, provided the amendment has no material adverse effect upon any right of any Member.

(b) By Members Generally. Except as otherwise specifically provided herein, these By-Laws may be amended only upon resolution of the Board and the written consent of all Members.

(c) Validity and Effective Date of Amendments. Amendments to these By-Laws shall become effective upon recordation in the Office of Register of Deeds of Horry County, South Carolina, unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these By-Laws.

If an Owner consents to any amendment to the Declaration or these By-Laws, it will be conclusively presumed that such Owner has the authority to so consent and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke, or modify any right or privilege of Silver Carolina as Declarant, the Class "B" Member as such, the Joint Committee, or the assignee of such right or privilege without the respective written consent of Declarant, the Class "B" Member, the Joint Committee, or the assignee of such right or privilege.


**CERTIFICATION**

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of Barefoot Resort Joint Committee, Inc., a South Carolina nonprofit corporation;

That the foregoing By-Laws constitute the original By-Laws of said Joint Committee, as duly adopted at a meeting of the Board of Directors thereof held on the 12<sup>th</sup> day of April, 2000.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Joint Committee this 12<sup>th</sup> day of April, 2000.

  
Secretary [SEAL]