

NON-STANDARD
FILING

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 Buncombe County, NC
 Otto W. DeBruhl Register of Deeds
 BK **4652** PG **984-991**

Please return to **Box 80**, Robert E. Dungan, The Dungan Law Firm, P.A., One Rankin Avenue, Third Floor, Asheville, NC 28801

STATE OF NORTH CAROLINA
 COUNTY OF BUNCOMBE

Deed References: Deed Book 982, Page 613
 Deed Book 1122, Page 632
 Deed Book 1144, Page 681
 Deed Book 1171, Page 437
 Deed Book 1187, Page 224
 Deed Book 1225, Page 703
 Deed Book 1288, Page 355

Amended and Restated Common Restrictive Agreement for Ballantree

WHEREAS, Ballantree Project, a general partnership, was the declarant and developer for Lots 1 through 9; 24 through 38, and 46 through 53 as shown on that Plat recorded in Plat Book 36, Page 11, Buncombe County Registry of Deeds, which lots are collectively known as Section A of Ballantree (hereinafter Section A);

WHEREAS, Ballantree Project as declarant recorded a Restrictive Agreement for Section A of Ballantree in Deed Book 982, Page 613, Buncombe County Registry of Deeds on June 24, 1968 ("Section A Restrictions"); and

WHEREAS, Ballantree Properties, Inc. was the successor declarant and developer at Ballantree for all the lots shown on the plats for the respective Sections recorded in the Buncombe County Registry of Deeds as follows:

<u>Ballantree Section</u>	<u>Plat Book</u>	<u>Page</u>
B	40	106
C	42	56
D	42	124
E	42	167
F	46	79

(hereinafter Sections B, C, D, E, F respectively); and

WHEREAS, Ballantree Properties, Inc. as successor declarant for Ballantree recorded Restrictive Agreements which are the same or very similar to each other as well as the Restrictive Agreement for Section A. Those Restrictive Agreements were recorded as follows in the Buncombe County Registry of Deeds:

Section B - Deed Book 1122, Page 632
Section C - Deed Book 1144, Page 681
Section D - Deed Book 1171, Page 437
Section E - Deed Book 1187, Page 224
Section F - Deed Book 1225, Page 703

("Section B-F Restrictive Agreements"); and

WHEREAS, the Individual Owners of lots in Section F-2 of Ballantree recorded a plat in Plat Book 46 at Page 151, Buncombe County Registry of Deeds, which lots are collectively known as Section F-2 (hereinafter Section F-2); and

WHEREAS, the Individual Owners of lots in Section F-2 of Ballantree, on their own behalves, recorded a Restrictive Agreement for Section F-2 which is the same or very similar to the Restrictive Agreements for Sections A through F of Ballantree and which is recorded in Deed Book 1288, Page 355, Buncombe County Registry of Deeds; and

WHEREAS, all lot owners at Ballantree have been members of the Ballantree Homeowners Association, Inc. since its incorporation even though the lots in the various sections have been submitted to individual Restrictive Agreements; and

WHEREAS, in order to have a more cohesive and uniform community with respect to restrictions and their enforcement, the lot owners desire to amend the individual Restrictive Agreements for all the sections by replacing them with a uniform Common Restrictive Agreement; and

WHEREAS, the lot owners in each section have voted section by section to amend the Restrictive Agreements and approved the Common Restrictive Agreement by a majority of the lot owners in each section as required by each of the Restrictive Agreements; and

WHEREAS, the President of the Ballantree Homeowners Association has certified and can attest to the approval through the voting of all sections;

NOW THEREFORE, in accordance with the votes of the lot owners in each section at Ballantree, the Restrictive Agreement for Sections A, B, C, D, E, F, and F-2 are hereby struck in their entirety and replaced by the following Common Restrictive Agreement for Ballantree:

Common Restrictive Agreement for Ballantree

1.

The Ballantree Homeowners Association, Inc. ("Association"), a North Carolina non-profit corporation, shall manage and administer the Ballantree Community.

All Owners by virtue of their ownership of a lot in the Community are members of the Association and shall be entitled to vote on all matters upon which members of the Association are entitled to vote pursuant to the Common Restrictive Agreement (the Agreement) and in accordance with the Bylaws. Such Owners shall be entitled to one (1) vote for each developed Lot in which they hold the interest required for membership. A Lot is considered "developed" when ground is broken for construction.

Acting by and through its Board of Directors, the Association shall have the powers and duties necessary for the administration of the affairs of the Community which shall include, but not be limited to, the following:

1. Adopt and amend Bylaws and Rules and Regulations;
2. Adopt and amend budgets for revenues, expenditures, and reserves;
3. Collect dues for common expenses for Lot Owners;
4. Hire and terminate independent contractors and managing agents;
5. Institute, defend, or intervene in its own name in litigation or administrative proceedings on matters affecting the Community;
6. Make contracts and incur liabilities;
7. Regulate the use, maintenance, repair, replacement, and modification of common elements;
8. Cause improvements to be made on common elements;
9. Hold and convey in its own name any right, title or interest to real or personal property;
10. Grant easements through or over the common elements;
11. Impose reasonable charges for the preparation and recordation of amendments to the Common Restrictive Agreement;
12. Provide for the indemnification of and maintain liability insurance for its officers, directors, and agents;
13. Exercise all other powers that may be exercised in this State by non-profit corporations; and
14. Exercise any other powers necessary and proper for the governance and operation of the Association.

The Board of Directors shall have the authority to make, modify, repeal, and to enforce reasonable Rules and Regulations governing the conduct, use, and enjoyment of Lots and the common areas, so long as copies of all such Rules and Regulations are furnished to all Owners; provided, however, any Rule or Regulation may be repealed by the affirmative vote or written agreement of a majority of the total Association vote at an annual or special meeting. No Rule or Regulation shall be in conflict with either the Agreement or Bylaws and such Rules or Regulations shall not be intended as an amendment of the Agreement.

The allocated interest in the common expense liability of and votes in the Ballantree Community for each developed Lot is equal. The dues obligation of each developed Lot is equal.

If the Owner of a developed Lot does not pay its allocated interest in the common expense liability, the Lot Owner loses its voting privileges.

2.

The Common Restrictive Agreement runs with the land and is binding on all parties and all persons claiming under them until January 1, 2013, at which time said Agreement shall be automatically extended for successive periods of ten (10) years. The Agreement may be amended at any time by a majority vote of all Lot Owners held at any annual or special meeting or by a majority vote of all Lot Owners procured by written ballot as allowed by North Carolina non-profit corporation act (NCGS, Chapter 55A). The Agreement applies to all Lots within the Community.

If the parties hereto, or any of them or their heirs or assigns, violate or attempt to violate any of the restrictions in the Agreement, it is lawful for any Owner, or the Association, which has standing hereby, to enforce and to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such restriction and either to prevent that person or those persons from so doing, or to recover damages or other dues for such violation. The Board will review an alleged violation only upon receipt of written complaint from two or more Lot Owners. The Board will determine whether there is a violation, considering the general standard of the Community, and will attempt to resolve the issue. If it cannot be resolved, the Board will determine whether it is appropriate for the Association to pursue arbitration or legal action.

Invalidation of any of these restrictions by waiver, judgment or court order shall not affect any of the other provisions, which shall remain in full force and effect. Settlement or failure to prosecute a violation does not constitute a waiver of the restriction.

3.

None of the Lots as shown on the recorded plats of Ballantree Community property shall be re-subdivided so as to create an additional lot.

The Association in its sole discretion may allow a transfer of a small portion of one Lot to an adjacent Lot Owner as will benefit not only both Lot Owners concerned but the Community as a whole. Any decision by the Association in allowing the conveyance of said small portion shall be in writing and shall be affixed to the deed conveying said small portion.

4.

No structure shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family residential dwelling not to exceed two stories in height above the

basement and a private garage for not more than three cars. Other appurtenant structures may be erected only with prior written permission from the Association.

All developed Lots shall include a private garage sufficient to accommodate at least two cars and adequate provision for off-street parking sufficient to accommodate all vehicles that can reasonably be anticipated to be owned by or in the ordinary use of the occupants of the property.

Driveways shall have a minimum width of nine (9) feet of asphalt, concrete or other hard surface material. Said hard surface material must be in place within twelve (12) months of the start of construction of any residence on a Lot, beginning with the grading of the Lot.

The minimum livable floor area of any residence shall be not less than fifteen hundred (1500) square feet of heated living space. In any residence of two stories there shall be a minimum of twelve hundred (1200) square feet of heated living space on the ground level and in any residence of split-level construction, there shall be a minimum of thirteen hundred (1300) square feet of heated living space in the combined area of the single-story portion plus the area of either story of the two-story portion. Basements, unfinished attic space, storage space, garages, porches, or any area not enclosed in the main structure shall not be counted as part of the required heated living floor space.

Each residence must conform to all local building codes and be permanently constructed onto a permanent foundation.

No mobile home or manufactured home shall be allowed on any Lot.

No portion of any building, including outbuildings, shall be located nearer than thirty (30) feet from the front street property lines or side street lines and twelve (12) feet from any side lot line. Where steep or unusual terrain creates a severe hardship on construction, the Association may grant permission to alter the setback restrictions to accommodate the construction. This permission to vary setback restrictions must be obtained in writing from the Association before construction is begun.

In the event of unintentional violation of any of the set-back or side line restrictions, the Association may, by written instrument, approve a change of such set-back or side line, provided that such change does not exceed 15% of the marginal requirement of the same and only if all Owners affected by the change agree in writing.

In cases where, prior to the adoption of these restrictions, an Owner has erected a structure or made material changes to a structure with the required approval of the Association, the structure remains approved under these restrictions. In a case where, prior to the adoption of these restrictions, an Owner has erected a structure or made material changes to a structure without the required approval from the Association, such structure or material changes are subject only to the Restrictive Agreement in existence at the time of the construction. In either case, upon replacement of or material changes to such structure, these restrictions apply.

Utility easements shall be as shown on the recorded plats for each section

5.

A primary purpose of the Association is to preserve the desirability of the Community and the value of the properties therein. Toward that goal, the Association considers it important to ensure that new structures and alterations to existing structures are compatible with the quality and appearance of the neighborhood.

Prior to beginning the construction or installation of any new structure or making material alterations to the exterior of any structure or driveway or paved area, plans with specifications must be submitted to the Association for approval, by delivering such plans to the Association's president or vice president. Plans submitted accordingly will be approved or disapproved by the Association within forty-five (45) days of submission. If plans are disapproved and amended plans are re-submitted, such plans will be approved or disapproved within fifteen (15) days. If the Association fails to approve or disapprove submitted plans within the time indicated, the Association is deemed to have waived the requirement for written approval. Construction or installation of any new structure or the making of material alterations shall not begin until the Association approves such plans in writing or has been deemed to have waived the requirement. Any material changes to approved plans must be approved in writing. The Association will retain approved plans until the project is completed.

Plans must include drawings of the front and side elevations of any new structure or of alterations to an existing structure. Plans for any new structure must include its placement on the Lot. The Lot must be marked off with stakes so that the structure's location can be easily identified and all trees, stumps and shrubbery to be removed from the Lot must be marked before construction or installation begins.

Any material repairs or replacements shall be made with similar materials and of similar design as the original structure. The Association may approve other materials or design if such changes are determined to be compatible with the quality and appearance of the Community.

Construction of any residence on a Lot shall be completed within twelve (12) months of the start of construction, beginning with the grading of the Lot. Other construction or material alterations of an existing structure shall be completed in a reasonable time, as estimated in the plans approved by the Association.

No structure shall have exposed concrete block. All concrete block must be veneered with brick or stone, or covered with stucco or other high-quality exterior finishing material. Reference to any such building requirements of the Association shall not be interpreted as limiting the authority of the Association to make other requirements concerning such plans and specifications.

No fence or wall shall be erected on any Lot without the prior written approval of the Association. No fence or wall shall be erected which may interfere with vision of any street or driveway so as to endanger the safety of pedestrians or drivers of vehicles.

No chain link fence of any kind shall be allowed to exist between any part of the residence, including the garage, and the street or streets bordering the Lot.

No storage tank of any kind shall be installed or erected above ground.

During construction on any Lot, the Owner and any contractor or builder shall minimize disturbance of neighbors. Owners shall require their contractors or builders to observe reasonable work hours and otherwise respect other Lot Owners. The street or streets bordering the Lot shall be kept free of equipment, building materials and rubbish.

6.

In order to assure a community of congenial resident Owners and thus protect the value of the Lots, the leasing of any residence is restricted as follows, except by written permission of the Association: Homes may be rented only in their entirety; no fraction or portion may be rented. No transient tenants shall be permitted. Any lease must be for a term of not less than twelve (12) months. No timeshare or timeshare-like arrangements shall be permitted.

All Lots shall be known and described as single-family residential lots and no Lot shall be used for any other purpose, and particularly, no religious, trade or commercial enterprise of any type shall be carried on upon any Lot. A private home office may be maintained in a residence so long as such use is incidental to the primary residential use of the Lot and does not involve significant coming and going of members of the public.

Occupancy of a residence shall be strictly limited to a single family and any family member's personal caretakers. For purposes of this restriction, "Single Family" means a traditional family unit, a single housekeeping unit, or persons substantively structured as an integrated family unit such that any of these must function as a family within the dwelling and the composition of the family unit must be relatively stable and permanent.

No trailer, camper, or recreational vehicle, basement of a house, tent, shed, garage, or any outbuilding shall at any time be used as a residence, temporarily or permanently.

The property shall not be used or configured for any purpose or maintained in any way that may endanger the health of or unreasonably disturb or be a nuisance to the Owner of any Lot or any resident thereof

No sign of any kind shall be displayed on any Lot after the residence has been built and occupied other than one sign not more than four (4) square feet in size offering a Lot for sale. Specifically, no sign shall be displayed offering a property for rent. No signs shall be posted in any common area, including for-sale signs at the entrance, other than an "open house" sign within seven (7) days of the event, with the exception of notices of Ballantree Homeowners Association events. Political signs are permitted on a Lot, but no more than one per candidate and not more than four (4) square feet in size. Any such political sign may be erected no earlier

than thirty (30) days before an election day and must be removed immediately after an election day.

Property, including structures, lawns, shrubbery and landscaping shall be maintained in an adequate and reasonable fashion relative to the general standard of the Community.

7.

No motor vehicles (other than private passenger vehicles), boat, boat trailer, mobile home, motor home, trailer, or any similar items shall be stored on any Lot.

The undersigned, being the President of the Ballantree Homeowners Association, Inc., hereby certifies and attests that Sections A, B, C, D, E, F, and F-2 have individually voted to adopt the above Common Restrictive Agreement.

This the 18th day of February, 2008. ^{me}

Ballantree Homeowners Association, Inc.

by: Maureen Christian
President

Attest: Sarah R McKeever
Secretary

NORTH CAROLINA
BUNCOMBE COUNTY

I Karen Sullivan, Notary Public for said County and State, certify that Maureen Christian ^{President} personally came before me this day and acknowledged that (s)he is Secretary of Ballantree Homeowners Association, Inc., a corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by (her)himself as its Secretary.

Witness my hand and official seal, this the 18th day of February, ~~2008~~ ²⁰⁰⁹.



Karen Sullivan
Notary Public

My commission expires 2/11/2012.

**BYLAWS
of the
BALLANTREE HOMEOWNERS ASSOCIATION**

**ARTICLE I
Name**

The name of this organization shall be Ballantree Homeowners Association. The address of the Association shall be the mailing address of the current Secretary.

**ARTICLE II
Purposes and Objects**

Section 1. The purposes and objects of this Association shall be to develop, improve and maintain the overall environment of the Ballantree community in order to provide for safe, healthful and harmonious living and to assure protection of its natural features for the esthetic enjoyment of its residents.

Section 2. To promote the collective and individual property and civic interests and rights of all members of the Ballantree Subdivision as said property is shown and described in a deed, dated February 29, 1968, from Harry L. Nettles and Margaret G. Nettles to Ballantree Project and recorded in Deed Book 977, Page 75, and contains 134.47381 acres as shown on a map, revised January 1973, of Ballantree prepared by Ray Anders, Land Surveyor, covering that portion where restrictive covenants and agreements are recorded by Sections of sale and development over which the Association has authority and power, the said property being a subdivision located in Buncombe County, North Carolina.

Section 3. To care for the improvement and maintenance of facilities of any kind dedicated to the community use and other open spaces and ornamental features of the above described subdivision. This includes but is not limited to the entrance gateway, parks, parkways, grass plots, parking areas, trees, nature areas, streams, structures and public easements.

Section 4. To cooperate with the owners of all vacant or unimproved lots and plots now existing or that hereafter shall exist in the tract in keeping them in good order and condition, in preventing them from becoming a nuisance and a detriment to the beauty of the tract and to the value of the improved property therein, and to take any action with reference to such vacant and unimproved lots and plots as may be necessary or desirable to keep them from becoming such nuisances and detriment.

Section 5. To aid and cooperate with members of this Association in the enforcement of such covenants and restrictions on their property as are now in existence or which may be adopted in the future. Further, to counsel with such entities as the City of Asheville and Buncombe County and their Planning and Zoning Commissions having jurisdiction in relation to zoning that may affect the Ballantree subdivision.

Section 6. To acquire, own or lease such real or personal property as may be necessary or convenient for the transaction of its business and fulfillment of its purposes and objects, and to exercise all rights, powers, and privileges of ownership to the same extent as natural persons might or could do.

Section 7. To arrange social and recreational activities for its members.

Section 8. To exercise any and all powers that may be delegated to it from time to time by the members of the Association.

Section 9. This association shall not engage in any partisan political activity or pursue partisan political purposes of any kind or character.

ARTICLE III

Members

Section 1. Membership. Every person owning Property in the Ballantree Subdivision in Buncombe County, North Carolina, shall be a member without payment of an admission fee. Such membership shall terminate upon such member ceasing to be the owner of such property.

Section 2. Obligations. Membership shall include an undertaking by the owner to comply with and be bound by these bylaws and amendments thereto, and the policies adopted by the Association in accordance with these bylaws.

Section 3. Dues. A member, to be in good standing and to have all rights and privileges accorded thereto, shall have paid any dues in the amount set by the Association within ninety (90) days from January 1 of each year. Members qualifying for membership after January shall pay dues prorated to the number of months remaining in the calendar year from the month in which they qualify.

Such dues shall be set by the Association at its annual meeting and shall be the same for each member. If the Association fails to set dues at the annual meeting for lack of a quorum, the Executive Board shall set the amount before January 1 of each year.

Section 4. Assessments. Special assessments may be levied on members of the Association only by affirmative vote of two-thirds of all members of the Association. The procedures for voting on proposed assessments shall be the same as procedure for voting on amendments to these bylaws.

Section 5. Default in Payment of Dues. When any member shall be in default in the payment of dues or assessments for a period of ninety (90) days from the date on which dues or assessments shall become payable, he shall, for the purpose of voting, not be considered a member in good standing, and shall be placed on the inactive list and he shall have no rights of any kind arising out of membership in the Association. Such member shall not be reinstated until he has paid dues in full for the current year.

Section 6. Voting Rights. Each member in good standing shall be entitled to vote on each matter submitted to a vote of the members, provided, however, that where two or more members own a residential unit, only one vote for each such unit owned shall be allowed. At membership meetings all votes shall be cast in person or by proxy executed in writing by the member and registered with the Secretary. No proxy shall be valid after one month from its execution unless otherwise provided in the proxy. Members shall be entitled to vote by mail when the Executive Board establishes regulations for such mail voting.

ARTICLE IV

Officers

Section 1. The officers of the Association shall be a President, a Vice President, a Secretary, a Treasurer, the Immediate Past President and eight (8) Directors.

Section 2. Qualifications and Method of Election. The officers shall be members in good standing of the Association, provided, however, that not more than one officer shall be allowed for each residential unit. The President, Vice President, Secretary and Treasurer shall serve for terms of one (1) year or until their successors have been elected. The Directors shall serve for terms of two (2) years or until their successors have been elected. The members at the annual meeting of the Association shall elect the officers. When there is more than one nominee for a given office, a paper ballot shall be used and a candidate must receive a majority of votes cast to be elected. The officers elected shall assume the duties and obligations of the office to which elected immediately following adjournment of the annual meeting.

Section 3. President. The President shall preside at all meetings of the Association and of the Executive Board. He shall exercise general supervision of the affairs and activities of the Association. The President shall recommend to the Executive Board the appointment, duties,

authority and chairman for all committees and shall serve as *ex officio* member of all committees except the Nominating Committee.

At least thirty (30) days before each annual meeting the President shall appoint a Nominating Committee of not less than five (5) members, no more than two of which shall be members of the Executive Board, to make nominations for the officers and directors to be elected at the annual meeting. The President shall designate the chairman of this committee.

Section 4. Vice President. The Vice President shall act as general assistant to the President and in the absence or disability of the President shall perform the duties of the President.

Section 5. Secretary. The Secretary shall keep the minutes of all meetings of the members and of the Executive Board and shall be custodian of all records of the Association.

Section 6. Treasurer. The Treasurer shall receive all monies of the Association, deposit them in a bank approved by the Executive Board, and pay out funds under guidelines set by the Executive Board. The Treasurer shall assist the President and the Executive Board in the preparation of the annual budget of the Association.

Section 7. Directors. There shall be eight (8) Directors, four of which shall be elected at each annual meeting for terms of two (2) years following the established rotation.

ARTICLE V

Meetings

Section 1. Annual Meeting. An annual meeting of the members for the purpose of hearing reports from officers and standing committees, for electing officers and directors, for adopting a budget, and for setting the amount of annual dues, shall be held in the County of Buncombe, State of North Carolina, in October of each year. The Executive Board shall fix the time and place for such meeting.

Section 2. Special Meetings. The Executive Board shall call special meetings of the members when deemed necessary. The President shall call a special meeting of the members within ten (10) days after a request by not less than one-fourth of the members having voting rights.

Section 3. Notice of Meetings. Written notice stating the place, day and hour of any meeting of the members shall be delivered either personally or by mail to each member entitled to vote at such meeting not less than ten (10) days before the date of the meeting.

Section 4. Quorum. Fifteen (15) percent of the members in good standing shall constitute a quorum at any meeting of the members. In the absence of a quorum, a majority of the members present may adjourn the meeting from time to time without further notice.

ARTICLE VI

Executive Board

Section 1. Composition. The elected officers of the Association, including the Directors, shall constitute the Executive Board of the Association. The Immediate Past President shall serve as a non-voting member of the Board.

Section 2. Powers. The affairs of the Association shall be managed by the Executive Board subject to instructions of the members as expressed at any meetings of members or by mail vote of members. The Board shall have power to:

- a). Designate committees and define the duties of such committees.
- b). Fill any vacancy in any office on the Executive Board
- c). Propose amendments to these bylaws
- d). Administer the activities of the Association and make contracts, leases, conveyances, deeds and notes.

e). Propose a budget for adoption at the annual meeting in October for the ensuing fiscal year January 1 through December 31.

f). Provide for the handling of funds of the Association and provide for the operation and maintenance of Association property.

g). Approve a depository for the Association funds and, subject to these bylaws, determine the manner in which checks, drafts and other instruments for payment of funds for the Association shall be executed.

h). Provide for competent audit of the Association books and records at such times as may be deemed necessary.

i). Exercise its power to control existing covenants and restrictions which are binding upon all lot owners, including the seeking of court orders or injunctions as necessary to enforce compliance. It shall exercise such power in the following prescribed manner:

The Executive Board shall review requests by homeowners for departure from existing covenants or restrictive agreements of each dedicated area or section in question as shown on a plat of Ballantree and recorded in the Office of the Register of Deeds for Buncombe County, North Carolina, and shall provide written approval or disapproval of all such requests to the homeowner making such request and to other parties in the area or section who may be involved by covenant.

The Executive Board shall cooperate with owners of lots and home sites in assuring compliance with the general restrictive covenants common to all lots, especially as to use and maintenance of such property, including lawns, landscaping and structures. The Board shall recommend to the membership of the Association any legal action it may deem desirable or necessary to enforce covenant restrictions.

Section 3. Meetings. The Executive Board shall meet at least bi-monthly at a time and place it shall select. Special meetings shall be called by the President or at the request of any three (3) other board members. A majority of board members shall constitute a quorum at board meetings.

ARTICLE VII

Committees

Such committees as are deemed necessary to carry out the work of the Association shall be recommended by the President for approval by the Executive Board.

ARTICLE VIII

Parliamentary Authority

The rules contained in the current edition of Robert's Rules of Order Newly Revised shall govern the Association in all cases in which they are applicable and in which they are not inconsistent with these bylaws and any special rules of order the Association may adopt.

ARTICLE IX

Amendment of Bylaws

Section 1. Adoption of Amendment. These bylaws may be amended at any meeting of the Association by a two-thirds vote provided that the amendment has been reviewed by the Executive Board and submitted to members in writing with recommendations as to its adoption at least sixty (60) days prior to the meeting at which it will be considered.

Section 2. Effective Date. Any amendment shall become effective immediately upon approval unless otherwise specified in the amendment.

ARTICLE X

Dissolution

1. Legal Requirements. In case the members of Ballantree Homeowners Association vote formally to disband, dissolution shall be carried out in accordance with the provisions of North Carolina State Law under which it is incorporated.

2. Distribution of Assets. The Association shall, if consistent with such laws, make distribution of assets as follows:

After payment of debts of the corporation, invest remaining funds at the current rate of interest with a reputable bank or loan institution to remain in trust for a period not to exceed ten (10) years, during which period of time these funds may be withdrawn only by the president and treasurer of a reactivated Ballantree Homeowners Association. After a period of ten (10) years, should the Ballantree Homeowners Association fail to be reactivated, then said bank or loan institution shall turn over said funds to the American Cancer Society.

These by-laws were approved by the members of the Ballantree Homeowners Association at the October 2002 annual meeting.

Ballantree Homeowners Association, Inc.

Rules and Regulations

Introduction

In accordance with the Amended and Restated Common Restrictive Agreement for Ballantree, the Board of Directors (the Board) of the Ballantree Homeowners Association has the authority to make, modify, repeal, and to enforce reasonable Rules and Regulations governing the conduct, use, and enjoyment of Ballantree's Lots and common areas.

Any Rule or Regulation may be repealed by the affirmative vote or written agreement of a majority of the total Association vote at an annual or special meeting, subject to the requirements noted at the end of this document.

Invalidation of any of these Rules or Regulations by waiver, judgment or court order shall not affect any of the other provisions, which shall remain in full force and effect. Failure to prosecute a violation does not constitute a waiver of the Rule or Regulation.

The Board has no intent to police the Community. Because of the natural characteristics of Ballantree properties, a violation on a property may be virtually unnoticeable to the whole of the Community or even to adjoining properties, while a similar violation on another property may be offensive to nearby properties or even to the Community as a whole. For this reason, the Board will review an alleged violation only upon receipt of written complaint from two or more Lot Owners. The Board will determine whether there is a violation, considering the general standard of the Community, and will attempt to resolve the issue. If it cannot be resolved, the Board will determine whether it is appropriate for the Association to pursue arbitration or legal action.

A primary purpose of the Association is to preserve the desirability of the Community and the value of the properties therein. Toward that goal, the Association has established the following Rules and Regulations. The specific restrictions that follow are not inclusive, but are indicative of the standard that must be maintained. In all cases, the general standard of the neighborhood is the controlling factor.

Rules and Regulations

The property shall not be used or configured for any purpose or maintained in any way that may endanger the health of or unreasonably disturb or be a nuisance to the Owner of any Lot or any resident thereof. This prohibition includes, but is not limited to the display of oversized flags, extreme yard décor, excessive lighting or sound, large satellite dishes, or paint colors that are not compatible with the neighborhood.

Outside or exterior storage of equipment, furniture, appliances or other items is prohibited.

No junk, trash, or waste may be kept on a Lot except temporarily and within a sanitary container.

No dumpster-type waste receptacle or storage pod shall remain on any Lot longer than 21-days except with written approval of the Association.

No livestock or wild or exotic animals such as, but not limited to, horses, pot-bellied pigs, goats, reptiles or poultry may be kept on any Lot. Dogs must be confined to the owner's property or restrained by a leash.

Grass must be neatly maintained and weeds kept down on all Lots, developed or vacant, to prevent an unsightly or unsanitary condition.

Lot Owners must ensure that no tree or shrubbery on the Lot interferes with vision of any street or driveway so as to endanger the safety of drivers or pedestrians.

It is prohibited to park or store the following on any Lot, except within a garage: any inoperable or unlicensed or unused or unsightly vehicle; any boat, travel trailer, camper, or recreational vehicle; or any commercial or industrial vehicle except during normal business hours for the purpose of providing services to residents.

For purposes of this provision, a "commercial vehicle" is defined as any vehicle that:

- Is larger than a $\frac{3}{4}$ ton truck or a standard passenger van, or
- Is licensed as a commercial vehicle, or
- Bears mounted equipment that is used in a business or commercial enterprise, or
- Displays any sign or device or any logo, lettering, or graphics identifying or advertising a business or commercial enterprise.

This prohibition does not include law enforcement vehicles and unmarked "company cars" that are unmodified and bear no sign identifying or advertising any business or commercial enterprise.

Any vehicle parked on a Lot must be parked in a garage or within a driveway or paved parking area and within the property line.

No vehicle or equipment shall be parked on any street where it creates a hazard to drivers or pedestrians.

The Ballantree park is a lovely greenspace with waterways and uneven terrain. The grounds are not maintained as a playground. Use of the park by children under six is prohibited except when accompanied by an adult. Anyone using the park is responsible for his or her own safety. The Association furthermore makes no representation as to the safety of the park for use by anyone.

Amending the Rules and Regulations

Only the board has the authority to make or amend a Rule or Regulation.

A member can propose the repeal of a Rule or Regulation to be voted on at a meeting of the members.

In order to ensure compliance with BHOA documents and NC statutes, the proposal must:

- state the item to be repealed,
- have the supporting signatures of at least 10% of members eligible to vote, and
- be submitted to the Board of Directors with adequate time for consideration at a regularly scheduled board meeting.

If the proposal meets the stated requirements and the board determines that there is no conflict with other BHOA documents or the statutes, notice of the proposed repeal will be included in the notice to members of the annual meeting, along with the board's recommendation.