

BYLAWS OF PARK CROSSING OWNERS ASSOCIATION, INC.

Amended and restated as of September 01, 2001

ARTICLE I
DEFINITIONS

Capitalized terms used and not otherwise defined herein shall have their meanings as defined in the Declaration of Covenants, Conditions and Restrictions for the Park Crossing Community dated November 19, 1981 and duly recorded in Book 4488 at Page 192 in the Mecklenburg Public Registry (the "*Declaration*").

ARTICLE II
OFFICES, REGISTERED AGENT & NOTICES

Section 1. Principal Office. The principal office of the Association shall be located at 10201 Park Crossing Drive, Charlotte, NC 28210 or such other address as the Board of Directors may from time to time otherwise designate in writing by written resolution.

Section 2. Registered Office & Agent. The registered office and registered agent of the Association required by law to be maintained in the State of North Carolina shall each be on file with the North Carolina Secretary of State.

Section 3. Notices. Any notice, process or demand to the Association given, served or made by or on behalf of any of its Members shall be addressed to the attention of the President of the Association at the Association's principal office and shall be delivered in person or mailed to that address.

ARTICLE III
PURPOSES OF THE ASSOCIATION

The purposes for which the Association has been formed are set forth in the Association's Articles of Incorporation, and the carrying out of such purposes shall be subject to such Articles of Incorporation, the Declaration, the North Carolina Nonprofit Corporation Act ("*NCA*") and the provisions of the North Carolina Planned Community Act ("*Planned Community Act*") applicable to planned communities created prior to the effective date of the Planned Community Act.

ARTICLE IV
NO PRIVATE USE OF FUNDS

As provided in Article VI of the Association's Articles of Incorporation, no part of the net earnings of the Association shall inure to the benefit of any of the Association's Officers, Directors or Members. Therefore, and without limiting the foregoing, all Officers and Directors shall serve in such capacities without compensation, and any assessments, fees, charges or other amounts due the Association from any of the Association's Members cannot be waived.

ARTICLE V
MEMBERSHIP IN THE ASSOCIATION

Section 1. Membership. For purposes of Article IV of the Association's Articles of Incorporation, the acceptance, appointment, election or designation of Members is governed by Article IV of the Declaration, which is hereby incorporated by reference.

Section 2. Classes of Membership. For purposes of Article IV of the Association's Articles of Incorporation, the Association shall have one class of voting membership consisting of Class A Members, it being recognized that the Class B membership formerly held by the Declarant has ceased in accordance with Article V of the Declaration.

Section 3. Record of Membership. The Secretary shall have charge of the membership books of the Association and shall keep at the registered or principal office of the Association a record of Members showing the name and address of each Member.

ARTICLE VI
MEETINGS OF MEMBERS

Section 1. Place of Meetings. All meetings of Members shall be held at the principal office of the Association or at such other place located in Mecklenburg County as may be designated by written notice of the President, the Secretary or the Board of Directors delivered to the Members.

Section 2. Annual Meetings. A meeting of the Members shall be held annually on the second Sunday of November of each year at 7:00 p.m. (Charlotte time) or at such other reasonable time or date as may be designated by written notice of the President, the Secretary or the Board of Directors delivered to the Members.

Section 3. Special Meetings. Special meetings of the Members may be called by the President or by a majority of the Board of Directors. In addition, special meetings of the Members shall be called by the Secretary within 30 days of the Secretary's receipt of any written demand of not less than 10% of all of the Members that meets the requirements of Section 55A-7-02 of the NCA.

Section 4. Notice of Meetings. (a) Written notice of any meeting of the Members shall state the date, time and place of the meeting, shall be given by or at the direction of the President, the Secretary, or a majority of the Board of Directors to each person who is a Member at the close of business on the business day preceding the day such notice is delivered (if by hand) or mailed, and shall be delivered (if by hand) or mailed by first class, registered or certified mail, not less than ten (10) nor more than sixty (60) days before the meeting date.

(b) In the case of any annual meeting, any such notice need not specifically state the business to be transacted thereat unless it is a matter, other than the election of Directors, on which the vote of Members is expressly required by the provisions of the NCA. In the case of a special meeting, the notice of meeting shall specifically state the purpose or purposes for which the meeting is called.

Section 5. Voting Rights. The voting rights of Members are governed by Article V of the Declaration, which is hereby incorporated by reference. As provided therein, only one vote may be cast with respect to any Lot, and no fractional votes may be cast. Therefore, when the ownership of any Lot is held by more than one Member, a vote will be counted with respect to that Lot when only one vote is cast with respect to that Lot. When more than one person or entity holding an interest in any Lot attempts to vote separately, it shall be deemed that a single vote for that Lot has been cast only when their separate votes are completely consistent. If such separate votes are inconsistent, it shall be deemed that no vote was cast with respect to that Lot.

Section 6. Quorum. (a) Except as otherwise provided in the Declaration, the presence in person or by proxy at any meeting of Members having one-tenth (1/10) of the total votes entitled to be cast at the meeting shall constitute a quorum at such meeting. If there is no quorum at the opening of a meeting of Members, such meeting shall be deemed adjourned until such time as a quorum is present and the meeting is reconvened.

(b) At any meeting at which a quorum is present at the commencement of the meeting (or at the reconvening of any meeting adjourned for lack of a quorum), that quorum will be deemed to be present throughout the meeting until it is adjourned, notwithstanding the withdrawal of enough Members to leave less than a quorum.

Section 7. Voting Requirements. (a) Except as otherwise required by these Bylaws, the Declaration or the NCA, the vote of a majority of Members voting on any matter, in person or by proxy, at a meeting of Members at which a quorum is present shall be the act of the Members.

(b) Voting on all matters, except the election of Directors, may be by voice vote, by a show of hands, or by secret written ballot, at the discretion of the President. Election of Directors at any annual meeting of Members shall be made by secret ballot (including proxies, if any) in accordance with Section 10 below.

Section 8. Proxies. Members may vote either in person or by proxy appointed to vote or otherwise act for the Member by signing an appointment form, either personally or by the Member's attorney-in-fact or by any other method permitted by the NCA. An appointment of a proxy shall be effective when received by the Secretary or by the Election Teller referred to in Section 10 below. Any right, entitlement or obligation of the Association to accept any proxy and the revocability of any proxy shall be governed by the NCA.

Section 9. Procedures. Subject to any requirements of the NCA, the Board of Directors may prescribe reasonable rules and procedures for the conduct of all meetings of Members, or, in the absence of such rules, *Roberts Rules of Order* shall be used at the discretion of the President.

Section 10. Election of Directors. (a) Directors shall be elected by ballot (including proxies, if any) at the annual meeting of the Members by a plurality of the votes cast by Members entitled to vote in the election at that annual meeting provided that a quorum is present. Every Member entitled to vote at the election of Directors shall be entitled to vote on a non-cumulative voting basis for as many Directors as there are to be elected at such meeting, and the candidates receiving the highest number of votes with respect to the positions to be filled shall be deemed to be elected, or in the case of any tie vote between candidates for a Director's position, that Director shall be chosen by lot.

(b) The following are the procedures for the election of Directors at the annual meeting of Members:

(i) Election Teller. At the meeting, the President (or his or her delegate) may appoint an "Election Teller", who shall issue an official election ballot to each voting Member who desires to vote in person. In the event a proxy has previously been submitted with respect to the Lot for which a Voting Member is to receive an official ballot, then such proxy will be retrieved and shall be deemed null and void.

(ii) Tabulation of Votes. Once Members have been given the opportunity to mark their ballots, then the Election Teller shall collect and tally all proxies and ballots voted. Any ballot or proxy which is voted on a cumulative basis or for more persons than there are positions to be filled at that election automatically shall be disqualified and not counted. The Election Teller shall promptly certify the election results to the current Board of Directors of the Association.

(iii) Election Judge. Whenever any issue arises at the annual meeting with respect to the existence of a quorum, the validity of any proxy, the eligibility of any individual to vote thereat, or any other matter relating to the conduct of the meeting, such issue shall be decided by an "Election Judge" appointed by the President (or by his or her delegate) from among the voting Members present. Subject to the provisions of these Bylaws, the Declaration, and the NCA (including, without limitation, Section 55A-7-27 thereof), the decision of the Election Judge on any issue shall be final and binding.

(iv) Post Election Recordkeeping. The ballots, proxies, and the results for the election shall be kept in the permanent files of the Association for a period of one (1) year after the date of the meeting and will be opened for inspection only by any court of competent jurisdiction in the event of any legal challenge to the election.

(c) Nothing herein is intended to limit or restrict Directors from being elected in any other lawful manner under the NCA in the event that such election of Directors is not validly held or otherwise fails to take place in any given year at an annual meeting of the Members.

ARTICLE VII **BOARD OF DIRECTORS**

Section 1. General powers. The business and affairs of the Association shall be managed by the Board of Directors, or under the authority of the Board of Directors through one or more Committees of the Board established by the Board for specific purposes as set forth in these Bylaws or resolutions adopted by the Board from time to time.

Section 2. Qualifications. Directors shall be natural persons who are residents of the State of North Carolina who are Members of the Association. At any time a Director ceases to be a Member of the Association, that Director shall immediately be disqualified to continue acting as and holding the office of a Director. From and after the 2001 annual meeting of Members, no more than one person holding an interest in any Lot may serve as a Director at any time.

Section 3. Number. The number of Directors of the Association shall be fixed by the Board of Directors, but in no event shall such number be less than three (3) or more than twenty-five (25). The voting Members having a majority of the total votes may from time to time increase or decrease such minimum and maximum number of Directors at any annual or special meeting of the Members.

Section 4. Class. There shall be only one class of Directors.

Section 5. Term. (a) Subject to paragraph (b) below, each Director shall be elected for a two-year term, and all qualified Directors may succeed themselves. Each Director shall hold office until that Director's death, resignation, retirement, removal, disqualification, or such Director's successor is duly elected and qualified upon the expiration of the Director's term, whichever occurs first.

(b) As permitted by Section 55A-8-06 of the NCA, the Board of Directors may provide for the staggering of terms of Directors in the following manner. The Board of Directors may divide the total number of Directors into two groups for purposes of the next election of Directors to occur after that division is made, designating for one group the number of Directors to be elected for a two-year term at such election, and for the other group the remaining number of Directors to be elected for a one-year term at such next election. Provided that such two-year and one-year terms are shown on any notice or proxies required or permitted to be distributed to the Members in advance of such election, the Directors to be elected at such next election shall have such respective two-year and one-year terms. The two-year term offices shall be filled first from among the two-year term candidates receiving the highest number of votes (or to be chosen by lot in the case of any tie), and the one-year term offices shall be filled from among the remaining candidates receiving the highest number of votes, whether they are running for a two-year term or a one-year term (or to be chosen by lot in the case of any tie). If an insufficient number of two-year term Directors are elected to fill such two-year term offices at such election, the unfilled offices shall be considered one-year term offices and may be filled from among the one-year term candidates. Once the staggering of terms of Directors has been so established at such election, all Directors to be elected thereafter shall be elected for two-year terms.

Section 6. Resignation. A Director may resign at any time by communicating that resignation, orally or in writing, to the Board of Directors, the President or the Association. Such resignation shall be effective when it is communicated unless the resignation specifies a later effective date or subsequent event upon which it will become effective.

Section 7. Vacancies. Vacancies in the Board of Directors, including vacancies created by any increase in the number of Directors, may be filled by a majority vote of the remaining Directors. Any Director so elected to fill a vacancy shall hold office for a term equal to the unexpired term of the Director's position being filled.

Section 8. Removal. Directors may be removed from office: (i) with or without cause by a vote of a majority of the Members entitled to vote at an election of Directors, provided that a Director elected by Members may be removed by the Members only at a meeting of the Members called for the purpose of removing the Director and the meeting notice states that the purpose, or one of the purposes, of the meeting is removal of the Director; (ii) by majority vote of the Directors in office if that Director misses more than 3 Board meetings in any calendar year, provided that such Director was elected after May 2001; or (iii) in any other manner specified in the NCA.

Section 9. Board Committees. (a) The Board of Directors may, by resolution adopted by a majority of Directors at a meeting at which a quorum is present, designate two or more Directors to constitute a Committee, which Committee to the extent provided in such resolution or these Bylaws, shall have and may exercise all of the authority of the Board of Directors specifically delegated to that Committee in such resolution or these Bylaws, subject to the limitations placed on committees of boards of directors under the NCA and those contained in paragraph (b) below.

(b) Committees shall have no authority as to the following matters:

- (i) The dissolution, merger or consolidation of the Association; or the sale, pledge, lease, transfer or exchange of all or substantially all of the Association's assets or property.
- (ii) The election, appointment or removal of any Directors, the filling of any vacancies in the Board of Directors or in any Committee, or the formation or creation of any other Committee.
- (iii) The adoption, amendment or repeal of the Association's Articles of Incorporation or Bylaws.

ARTICLE VIII
MEETINGS OF THE BOARD OF DIRECTORS

Section 1. Meetings. (a) The Board of Directors may hold regular or special meetings of the Directors at the Association's principal office or at any other place in Mecklenburg County. The Directors may participate in any such meetings by telephone whether they are individually located in or out of the State of North Carolina.

(b) The Board of Directors shall meet immediately after, and at the same place as, the annual meeting of Members. In addition, the Board of Directors shall meet no less than four times each year on or at such dates, times, and places as shall be established by the Board of Directors or the President.

(c) Special meetings of the Board of Directors may be called upon notice given to the Directors by, or at the request of, the President or 20% of the Directors then in office.

Section 2. Notice of Meetings. (a) Regular meetings of the Board of Directors may be held without notice of the date, time, place or purpose of the meeting. In the event that notice of any regular meeting is given (including any notice of any change in the date, time, place or purpose of the meeting), such notice shall be deemed sufficiently given to each Director if it is published prior to the meeting in the Board's minutes or the Association's newsletter or is otherwise delivered before the meeting by hand, by mail or electronic mail, or orally (whether in person or by telephone, including the leaving of a recorded message).

(b) Notice of special meetings of the Board of Directors shall be given to the Directors no later than the second day before the date of the meeting. Any such notice shall be deemed sufficiently given to each Director if it is published before the meeting in the Board's minutes or is otherwise delivered by hand, by mail or electronic mail, or orally (whether in person or by telephone, including the leaving of a recorded message).

Section 3. Waiver of notice. Any notice required to be given to any Director may be waived in accordance with the NCA.

Section 4. Quorum. A quorum of the Board of Directors consists of a majority of the Directors in office before a meeting begins provided that there are at least three Directors in office.

Section 5. Board Action. (a) Except as otherwise required by these Bylaws, the Association's Articles of Incorporation, the Declaration, or the NCA, the affirmative vote of a majority of the Directors present at a meeting of the Board of Directors at which a quorum is present shall be the act of the Board of Directors.

(b) A Director who is present at a meeting of the Board of Directors or a Committee thereof when corporate action is taken is deemed to have assented to the action taken unless: (i) the Director objects at the beginning of the meeting, or promptly upon arrival, to holding, or transacting business at, the meeting, (ii) the Director's dissent or abstention from the action is entered in the minutes of the meeting, or (iii) the Director files written notice of the Director's dissent or abstention with the presiding officer of the meeting before its adjournment or with the Association immediately after the adjournment of the meeting. Such right of dissent or abstention is not available to a Director who votes in favor of the action taken.

Section 6. Informal Board Action. Action required or permitted to be taken at a meeting of the Board of Directors may be taken without a meeting if the action is taken by all Directors then in office. The action must be evidenced by one or more written consents signed by each Director before or after such action, describing the action taken, and included in the minutes or filed with the corporate records. Any such action is effective when the last Director signs it, unless the consent specifies a different effective date. Any such consent has the effect of a meeting vote.

ARTICLE IX
OFFICERS

Section 1. Election of Officers. (a) The Board of Directors shall elect from among the Directors the following officers: (i) a President to preside over meetings of the Board of Directors and of the voting Members, and who shall be the chief executive officer of the Board of Directors and of the Association and who shall perform all the duties incident to the office of the President or as prescribed by the Board of Directors; (ii) a Secretary to keep the minutes of all meetings of the Board of Directors and of the voting Members and to maintain and authenticate the documents and records of the Association and who shall perform all the duties incident to the

office of the Secretary or as prescribed by the Board of Directors; and (iii) a Treasurer to keep the financial records and books of account of the Association and who shall perform all the duties incident to the office of the Treasurer or as prescribed by the Board of Directors.

(b) The Board of Directors may elect such additional officers of the Association with such additional titles as the Board in its sole discretion may deem fit, provided that no person may be elected as an officer unless that person is a Member of the Association, and at any time any officer ceases to be a Member, that officer shall immediately be disqualified to continue acting as or holding office as an officer of the Association.

(c) If the Board shall elect a Director to serve as a Vice President, then in addition to any other duties prescribed by the Board of Directors for that office, the Vice President may, in the absence of the President or in the event of the President's death, inability or refusal to act, perform the duties of the President unless otherwise instructed by the Board of Directors, and when so acting shall have all the powers and duties of, and be subject to all the restrictions upon, the President.

Section 2. Term. Following an officer's election, the officer's term shall expire (i) at the next meeting of the Board of Directors that immediately follows the annual meeting of Members provided that the officer's successor is appointed at that Board meeting, or (ii) upon such officer's death, resignation, retirement, removal or disqualification, whichever of (i) or (ii) shall occur first. All qualified officers may succeed themselves.

Section 3. Removal. Any officer may be removed by the Board of Directors at any time with or without cause, but such removal shall be without prejudice to the contractual rights, if any, of the person so removed.

Section 4. Resignation. An officer may resign at any time by communicating that resignation, orally or in writing, to the Board of Directors, the President or the Association. Such resignation shall be effective when it is communicated unless the resignation specifies a later effective date or subsequent event upon which it will become effective.

ARTICLE X **IMMUNITY & INDEMNIFICATION** **OF OFFICERS AND DIRECTORS**

Section 1. Immunity. Directors and officers shall be entitled to immunity from civil liability and monetary damages to the extent provided in Section 55A-8-60 of the NCA.

Section 2. Indemnification. Pursuant to Section 55A-8-57 of the NCA, and subject to the limitations therein and herein provided, the Association will indemnify and hold harmless each of the Directors and Officers of the Association against all contractual and other liabilities arising out of any contracts made by, or other acts of, the Board of Directors and Officers of the Association on behalf of the Association or its Members or otherwise arising out of their status as Directors or Officers, which shall include indemnification against all costs and expenses (including, but not limited to, attorneys' fees, amounts of judgments paid and amounts paid or received in settlement) reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative or otherwise, in which any of the Directors or Officers of the Association may be involved by virtue of such persons being or having been a Director or Officer of the Association, provided that such indemnity shall not be available with respect to: (i) any matter as to which the Director or Officer shall have been finally judged in such action, suit or proceeding to be liable for gross negligence, fraud or willful misconduct in the performance of his or her duties as a Director or Officer; (ii) any matter settled or compromised, unless, in the opinion of independent counsel selected by the Board, there are not reasonable grounds for such Director or Officer being adjudged liable for fraud, gross negligence or willful misconduct in the performance of his or her duties as a Director or Officer; or (iii) any matter as to which the Director or Officer derived an improper personal financial benefit. The foregoing obligation of the Association shall not create any personal liability on the part of any of its Members as provided in Section 55A-6-22 of the NCA.

ARTICLE XI **FINANCIAL MATTERS**

Section 1. Fiscal year. The fiscal year of the Association shall be from January 1 to December 31.

Section 2. Financial Accounts & Statements. (a) The Treasurer shall keep full and accurate accounts of the finances of the Association in books specifically prepared for that purpose.

(b) The Treasurer shall cause a true statement of the Association's assets and liabilities as of the close of each fiscal year and of the results of its operations and of changes in surplus for such fiscal year, all in reasonable detail, including particulars as to convertible securities then outstanding, to be made and filed at the registered or principal office of the Association within four months after the end of such fiscal year. The statements so filed shall be kept available for inspection by any Member for a period of ten (10) years.

Section 3. Funds. (a) The Treasurer shall have charge and custody of and be responsible for all funds, securities and financial instruments of the Association, and shall receive, deposit, invest and disburse the same under the direction of the Board of Directors.

(b) All funds of the Association, to the extent not otherwise invested, shall be deposited from time to time to the credit of the Association in such depositories as may be selected by the Treasurer.

Section 4. Checks and Drafts. All checks, drafts, or other orders for the payment of money, issued in the name of the Association, shall be signed by at least two of the following officers: the President, Treasurer and Secretary.

Section 5. Loans. No loans shall be contracted on behalf of the Association, and no evidence of indebtedness shall be issued in its name, unless expressly authorized by the Board of Directors.

Section 6. Employment Taxes. If any person is engaged to provide services to the Association, the Board of Directors must satisfy itself that such person is an independent contractor for all relevant purposes under North Carolina and Federal law, and no one may hire anyone as an employee of the Association without the approval of the Board of Directors and then only after first obtaining the advice of the Association's attorneys as to the requirements for employing personnel under North Carolina and Federal law.

Section 7. Late Charges. In addition to any interest payable under the Declaration on delinquent assessments, and without limiting the rights and remedies of the Association, the amount of any late charge that may be imposed by the Board of Directors pursuant to Section 47F-3-102 of the Planned Community Act shall not exceed \$50 per Owner per assessment.

ARTICLE XII **GENERAL PROVISIONS**

Section 1. Signing Authority. Except as otherwise provided by law or in these Bylaws, the Articles of Incorporation, the Declaration, or any resolution of the Board of Directors, the President may sign for and on behalf of the Association any deeds, mortgages, bonds, agreements, contracts, leases and other instruments which may be lawfully executed in the name of the Association, provided that the Treasurer also signs.

Section 2. Notices. (a) Unless otherwise provided by law or in these Bylaws, the Articles of Incorporation, the Declaration, or any resolution of the Board of Directors, when any notice is to be given by or on behalf of the Association or the Board of Directors, it may be given by the President or the Secretary.

(b) Whenever any notice is required to be given to any Director or Member under the provisions of these Bylaws, the Association's Articles of Incorporation, the Declaration or the NCA, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

Section 3. Amendments. These Bylaws may be amended or repealed and new Bylaws may be adopted in accordance with Section 55A-10-21 of the NCA.

The undersigned hereby certifies that this is a true and correct copy of an amendment and restatement of the Association's Bylaw's as adopted by the Board of Directors on July 8, 2001 and approved by a majority of the Association's members on _____, 2001.

Secretary of Park Crossing Owners Association, Inc.