

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
PAWLEYS PLACE**

THIS DECLARATION is made this 19th day of March 1999, by **PORTRAIT HOMES - Myrtle Beach, L.L.C.**, an Illinois limited liability company, (hereinafter referred to as the "Declarant").

**WITNESSETH:**

**WHEREAS**, Declarant is the owner of the real property in Georgetown County, South Carolina, shown on recorded maps of PAWLEYS PLACE, more particularly described in Article I below and desires to create thereon an exclusive residential community of single-family attached residential units to be named PAWLEYS PLACE; and

**WHEREAS**, Declarant desires to insure the attractiveness of the community, to prevent any future impairment thereof, to prevent nuisances, to preserve, protect and enhance the values and amenities of all properties within the community and to provide for the maintenance and upkeep of the exterior of all residential units and the Common Area, the real property described hereinbelow in Article 1, Section One, as hereinafter defined; and to this end, desires to subject set forth, each and all of to the coverage of the covenants, conditions, restrictions, easements, charges and liens hereinafter which is and are for the benefit of said property described below, and each owner thereof; and

**WHEREAS**, the Declarant has deemed it desirable for the efficient preservation, protection and enhancement of the values and amenities in the community to provide for the maintenance and upkeep of the exterior of all residential units and the Common Area, and to create an organization to which will be delegated and assigned the powers of owning, maintaining and administering the Common Area and maintaining the exterior of the residential units and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

**WHEREAS**, Declarant has incorporated or will incorporate under South Carolina law, PAWLEYS PLACE HOMEOWNERS ASSOCIATION, INC., as a non-profit corporation for the purpose of exercising and performing the afore said functions.

**NOW, THEREFORE**, Declarant hereby declares that all of the properties described in Article I, Section One sold below, and such additions thereto as may be hereafter made pursuant to Article I, Section Two hereof, shall be held, sold, and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

## ARTICLE I

### PROPERTIES SUBJECT TO THIS DECLARATION

**Section One. Existing Property.** The property which is and shall be held, transferred, sold, conveyed and occupied subject is located in Georgetown County, South Carolina and to this Declaration and within the jurisdiction of the Association"described as follows:

All that certain piece, parcel or tract of land lying and being in the Town of Pawleys Island, Georgetown County, South Carolina and being more particularly described in Exhibit"A", which is attached hereto and incorporated herein by reference.

**Section Two. Additions to Existing Property.** Additional land may be brought within following manner:

(a) Additional land within the area described in the metes and bounds description attached be annexed to the existing property by hereto as Exhibit B and incorporated herein by reference may other lot owner or owners or any Declarant, in future stages of development, without the consent of any mortgagee, provided that said annexations must occur within six (6) years after the date of this instrument.

(b) The additions authorized under Subsection Two shall be made by filing of record a the additional Supplement to Declaration of Covenants, Conditions and Restrictions with respect to properties, which shall extend the scheme of this Declaration to such properties and thereby subject forth herein. Such additions to the benefits, agreements, restrictions and obligations set the land

{c} The Declarant with respect to reserves the right to add additional covenants owned by the Declarant, described herein in Exhibits "A" &"B".

## ARTICLE II

### DEFINITIONS

**Section One.**"Association" shall mean and refer to PAWLEYS PLACE HOMEOWNERS ASSOCIATION, INC, its successors and assigns a coy of the Articles of Incorporation and By-Laws of the Association are attached hereto as Exhibits"C" &"D" respectively and incorporated herein by reference.

**Section Two.**"Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having any interest merely as security for the performance of an obligation.

**Section Three.**"Properties" shall mean and refer to that certain real property hereinbefore described in Article 1, Section One, and such additions thereto as may hereafter be brought to the jurisdiction of the Association and made subject to this Declaration.

**Section Four.**"Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area and shall include all improvements thereon.

**Section Five.** "Declarant" shall mean and refer to PORTRAIT HOMES - Myrtle Beach, L.L.C., an Illinois limited liability company, its successors and assigns, if such successors or assigns should acquire all of the Declarant's interest in the Properties.

**Section Six.** "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners. Common Areas, with respect to the property subject to this Declaration, shall be shown on the various plats of PAWLEYS PLACE recorded or to be recorded in the County Public Registry and designated thereon as "Common Areas," but shall exclude all lots as hereinafter defined and all public streets shown thereon. "Common Area" shall include all private drives shown on said plats as now recorded or hereinafter recorded in the County Public Registry. It is the intent of the Declarant to develop a planned residential community.

**Section Seven.** "Board of Directors" shall mean and refer to the Board of Directors of the Association.

**Section Eight.** "Member" shall mean and refer to an Owner who holds membership in the Association pursuant to Article IV of this Declaration.

**Section Nine.** "County Public Registry\*" shall mean and refer to the office of the Register of Deeds of Georgetown County, South Carolina.

### **ARTICLE III**

#### **PROPERTY RIGHTS**

**Section One. Owners Easements of Enjoyment.** Every Owner shall have a right and easement of enjoyment in and to the "Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

{b) The right of the Association to suspend the voting rights and right of use of the recreational facilities by an Owner:

(1) during any period for which the Owner is delinquent in the payment of assessments and

(2) for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

{c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed by the Members;

No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of Members agreeing to such dedication or transfer has been recorded;

(d) The right of individual owners to the exclusive use of parking spaces as provided in this Article;

(e) The right of the Association to limit the number of guests of Members;

(f) The right of the Association, in accordance with its Articles and Bylaws to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said property, and the rights of such mortgagee in said Properties shall be subordinate to the rights of the homeowners and respective mortgagees hereunder;

(g) The right of the Association to adopt, publish, and enforce reasonable rules and regulations as provided in Article IX;

(h) The right of the Association to enter any Lot in order to perform any maintenance, alteration, or repair required herein to be performed by the Association and the Owner of such Lot shall permit the Association or its representative to enter for such purpose at reasonable times and with reasonable advance notice;

(i) The right of the Association or its representative to enter any Lot in the case of any emergency threatening such Lot or any other Lot for the purpose of remedying or abating the cause of such emergency. Such right of entry shall be immediate; and

(j) The easement rights of the Declarant reserved in Article X of this Declaration.

**Section Two. Title to the Common Area.** The Declarant hereby covenants [or itself, its successors, and assigns, that it will convey fee simple title to the Common Area depicted on such maps of Pawleys Place from time to time recorded in the office of the Register of Deeds for Georgetown County to the Association, free and clear of all encumbrances and liens, except those set forth in this Declaration, and any utility, and storm drainage easements of record. Following the conveyance of Common Area to the Association, Declarant shall be entitled to a proration credit for all expenses of the Association incurred by Declarant (including insurance and real estate taxes) which have not theretofore been reimbursed to Declarant. The Common Area shall be conveyed without any express or implied warranties, which warranties are hereby expressly disclaimed by Declarant.

**Section Three. Parking Rights.** Ownership of each Lot shall entitle the Owner or Owners thereof to the use of not more than two (2) automobile parking spaces, which shall be as near and convenient to said Lot as reasonably possible, together with the right of ingress, regress in and upon said parking areas. The Association may assign vehicle parking spaces for each dwelling unit. The two automobile parking spaces for Lots having garages shall be the garage and the appurtenant driveway.

**Section Four. TV Antennas and Cablevision.** The Association may provide one or more central television antennas for the convenience of the Members and may supply Cablevision and the cost of these may be included in annual or special assessments.

#### ARTICLE IV

##### **MEMBERSHIP AND VOTING RIGHTS**

**Section One.** Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

**Section Two.** The Association shall have two classes of voting membership:

**Class A.** Class A Members shall be all Owners with the exception of the Declarant and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

**Class B.** The Class B Member(s) shall be the Declarant and shall be entitled to three {3} votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) When the total votes outstanding in Class A membership equal the total votes outstanding in Class B membership; or
- (b) On August 1, 2003

## **ARTICLE V MAINTENANCE ASSESSMENT**

**Section One.** **Creation and Personal Obligation of Assessments.** The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, late charges, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, late charges, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for the delinquent assessments shall not pass to his successors in title unless expressly assumed by them; however, if a lien has been properly filed in the Register of Deeds Office for Georgetown County, it will remain a valid lien against the Lot and it may be foreclosed as further described hereafter in Article V, Section Nine.

**Section Two.** **Purpose of Assessments.** The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents of the Properties and in particular for the improvement and maintenance of the Common Areas and of the exterior of the dwellings, including the maintenance, repair, and reconstruction of private water and/or sewer lines (and any meters or lift stations associated therewith), private drives, driveways, walks, and parking areas situated on the Common Area, such maintenance to include the cutting and removal of weeds and grass, the removal of trash and rubbish, or any other maintenance, and for the exterior maintenance of the residences situated upon the Properties as hereinafter provided, for the use and enjoyment of the Common Areas, including, but not limited to, the cost of repairs, replacements, and additions; the cost of labor, equipment, materials, management, and supervision; the payment of taxes and public assessments assessed against the Common Area; the procurement and maintenance of insurance in accordance with this Declaration; the employment of attorneys to represent the Association when necessary; the provision of adequate reserves for the replacement of capital improvements; including, without limiting the generality of the foregoing, roofs, paving, and any other

major expense for which the Association is responsible, and such other needs as may arise.

**Section Three. Reserves.** The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements to the Common Areas and those other portions of the Properties which the Association may be obligated to maintain. Such reserve fund is to be established, insofar as is practicable, out of regular assessments for common expense.

**Section Four. Maximum Annual Assessment.** Until January 1 of the year immediately following the conveyance of the first lot to an Owner, the maximum annual assessment shall be \$1200.00 per Lot (except that pursuant to Section Seven of this Article, the maximum annual assessment for Lots owned by Declarant which are not occupied as a residence shall be \$300.00 per Lot). Thereafter, maximum annual assessments shall be assessed as follows:

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased by the Board of Directors effective January 1 of each year without a vote of membership, but subject to the limitation that any such increase shall not exceed the greater of five percent (5%) or the percentage increase in the Consumer Price Index published by the Department of Labor, Washington, D.C.) for all cities over preceding twelve (12) month period which ended on the previous October 1.

{b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, or until increased as provided for in (b) or (c) below, whichever last occurs, the maximum annual assessment may be increased by the Board of Directors above the increase permitted in Section Four (a) above by a vote of two-thirds (2/3) of each class of Members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the monthly assessment at an amount not in excess of the maximum.

**Section Five. Special Assessments.** In addition to the annual assessments authorized above, the Association may levy in any assessment year a special assessment applicable to that year only for the purpose of supplying adequate reserve funds for the replacement of capital improvements or for defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, and in connection with exterior maintenance, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose.

**Section Six. Notice and Quorum for any Action Authorized Under Section Four and Five.** Written notice of any meeting called for the purpose of taking any action authorized under Sections Four or Five of this Article shall be all sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the proceeding meeting.

**Section Seven. Uniform Rate of Assessment.** Both annual and special assessments shall, except as herein otherwise specifically provided, be fixed at a uniform rate

for all Lots and shall be collected on a monthly basis. Provided, however, that the assessment for Lots owned by Declarant which have not been transferred to third parties and are not occupied as a residence, shall at all times be twenty-five percent (25%) of the regular assessments for other Lots.

**Section Eight. Date of Commencement of Annual Assessments: Due Dates.** The development consists of sixteen proposed buildings. The annual assessments provided for herein shall commence as to each building on the day of the month on which the first unit in such building is conveyed by Declarant. Such annual assessments shall be paid ratably on a monthly basis. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

**Section Nine. Effect of Nonpayment of Assessments: Remedies of the Association.** The payment of any assessment or installment thereof due to the Association shall be in default if such assessment, or any installment thereof, is not paid to the Association on the due date for such payment. A late charge of Fifteen dollars (\$15.00) shall be added to any assessment not paid within fifteen (15) days after the due date, together with interest from the due date of six percent (6%) per annum. The late charge penalty will be added to the month the payment is delinquent.

In the event of non-payment by an Owner of assessments, the Association is granted a lien upon the Lot, which shall secure all monies due for all assessments now or hereafter levied and which shall also secure interest payments, late penalties and costs and expenses, including a reasonable attorney's fee, which may be incurred by the Association enforcing the lien.

The lien granted to the Association may be foreclosed in the same manner as mortgages may be foreclosed in the State of South Carolina, and in any suit or foreclosure of said lien, the Association shall be entitled to rental from the owner of the Lot from the date on which the payment of any assessment became delinquent and shall be entitled to the Appointment of a Receiver to collect said rentals.

No Owner may exempt himself from liability for any assessment levied against such Owner and his Lot, by waiver of the use and enjoyment of the Common Area or by the abandonment of his Lot or in any other manner.

The Association, in the event of any default hereunder by an Owner, may proceed to enforce and collect the assessment against the Owner in any manner provided herein, including the right of foreclosure and sale. In any action instituted by the Association to enforce the procedures in this Declaration, including, but not limited to non-payment of assessments, the offending or defaulting Owner shall be responsible for all the costs of collection, including a reasonable attorney's fee incurred by the Association.

**Section Ten. Subordination of the Lien to Mortgages and Ad Valorem Taxes.** The lien of the assessments provided for herein shall be subordinate to the lien of any prior mortgages and ad valorem taxes. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

**Section Eleven. Working Capital Fund.** At the time of closing of the sale of each Lot, a sum equal to at least two months assessment for each unit shall be collected and transferred to the Association to be held as a working capital fund. The purpose of said fund is to insure that the Association Board will have adequate cash available to meet unforeseen expenses and to acquire additional equipment or services deemed necessary or desirable. Amounts paid into the fund shall not be considered advance payment of regular assessments.

## **ARTICLE VI**

### **EXTERIOR MAINTENANCE AND PARTY WALLS**

**Section One.** In addition to maintenance of the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: paint and/or stain the exterior of the townhouses and repair, replace and care for roofs, exterior building surfaces, trees and shrubs {excluding those planted by an Owner}, grass, walks, mailboxes, fences installed by Declarant or the Association, exterior post heights {excluding electricity therefor}, and other exterior improvements. Such exterior maintenance shall not include glass surfaces, but shall include screens. Further, the Owner of any Lot may, at his election, plant flowers in the front and rear beds established by Declarant in developing the Lot; provided, that such maintenance by the Owner does not hinder the Association in performing its maintenance of the exterior of the townhouse and the remaining yard spaces. No such maintenance by a Lot Owner shall reduce the assessment payable by him to the Association. The Owner shall not plant any vegetation in the front yard except with the prior written approval of the Association.

(As a matter of information to future Members of the Association, the Declarant's desire to make it known that due to differing amounts of exposure to the elements and other factors, some dwellings may require more maintenance than others and that it is in the best interests of the entire Association that all units be properly maintained and that the Association shall be required to provide such maintenance provided for herein and make a uniform charge without regard to the actual cost of maintenance of each dwelling).

In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, or guests, or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Lot is subject. The Association is hereby granted an easement right of access to go upon any Lot for performance of repairs or maintenance, the responsibility of which is the Association's hereunder.

## Section Two. Party Walls.

(a) General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and Liability for property damage due to negligence or willful acts or omissions shall apply thereto. No alterations may be made to any party wall other than alterations to the interior surfaces.

(b) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

{c} Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or their casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

(d) Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements and of repairing any damage resulting from such exposure.

(e) Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

(f) Arbitration. In the event of any dispute arising concerning a party wall or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

## **ARTICLE VII**

### **ARCHITECTURAL CONTROL**

No building, fence, signs, wall, antenna or other structure shall be commenced, erected, or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein (including but not limited to, color or painting or the exterior and type of exterior finish, any existing or builder-installed construction material, plant material or ground cover) be made, except in exceptional cases, when in such case, three copies of the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board (said committee being hereinafter referred to as the "Architectural Control Committee"). Absent such approval, the proposed improvement may not be commenced. No fence, deck or patio may be erected or constructed so as to extend more than eleven (11) feet from the predominate rear building line of the dwelling located on the Lot. "Predominant Rear Building Line" shall be defined as the original ground floor rear building line

(excluding storage rooms). If more than one Rear Building Line exists {due to building offsets), the line with the maximum lineal footage will be considered the "Predominant Rear Building Line". No fence, deck, or patio may be constructed or erected in the side yard of Lots located at the ends of buildings.

Notwithstanding the above, the Board of Directors of the Association shall have the authority to waive this restriction in exceptional cases where the construction of fences, decks, or patios more than eleven (11) feet from Predominant Rear Building Line, but still within the Lot lines, does not adversely affect any of the conditions or restrictions contained in this Declaration.

In the event an Owner of any Lot in the Properties shall make unauthorized changes to the premises and the improvements situated thereon in a manner unsatisfactory to the said Board of Directors, or the Architectural Control Committee, said Board of Directors or the Architectural Control Committee shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain, and restore the Lot and the exterior of the buildings and any other improvements thereon. The cost of such exterior maintenance and any other costs or attorney's fees incurred in the enforcement of the rights under these provisions shall be added to and become a part of the assessments to which such Lot is subject. Any approval by the said Board of Directors or the Architectural Control Committee shall be in accordance with the requirements set forth hereafter.

## ARTICLE VIII

### INSURANCE

Section One. Insurance coverage on the Property shall be governed by the following provisions:

(a) Ownership of Policies. All insurance policies upon the Properties shall be purchased by the Association for the benefit of the Association and the Owners and their mortgagees as their interest may appear, and provisions shall be made for the issuance of certificates of mortgagee endorsements to the mortgagees of Owners. Owners may, at their option, obtain insurance coverage at their own expense upon their own personal property and for their personal liability and living expense and such other coverage, as they may desire.

(b) Coverage. All buildings and improvements upon the land and all personal property of the Association included in the Common Areas and facilities shall be insured in an amount equal to one hundred percent (100%) insurable replacement value as determined annually by the Association with the assistance of the insurance company providing coverage. Such coverage shall provide protection against:

(i) Loss or damage by fire and other hazards covered by a standard extended coverage endorsement;

(ii) Such other risks as from time to time shall be customarily covered with respect to buildings on the land; and

(iii) Such policies shall contain clauses providing for waiver of subrogation.

(c) Liability. Public liability insurance shall be secured by the Association with limits of Liability of no less than One Million Dollars

(\$1,000,000.00) per occurrence and shall include an endorsement to cover liability of the Owners as a group to a single Owner. There shall also be obtained such other insurance coverage as the Association shall determine from time to time to be desirable and necessary.

(d) Premiums. Premiums for insurance policies purchased by the Association shall be paid by the Association and shall be included as part of the annual assessment described in Article V above.

{e) Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association and the Owners and their mortgagees, as their interest may appear, and shall provide that all proceeds thereof shall be payable to the Association as insurance trustee under this Declaration. The sole duty of the Association as insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purpose stated herein stated in the Bylaws and for the benefit of the Owners and their mortgagees in the following shares:

(i) Proceeds on account of damage to Common Areas and facilities held for the Association;

(ii) Proceeds on account of damage to Lots shall be held in undivided shares for the Owners of damaged Lots in proportion to the cost of repairing the damage suffered by each Owner, which cost shall be determined by the Association; and

(iii) In the event a mortgagee endorsement has been issued for any Lot, the share of the Owner shall be held in trust for the mortgagee and the Owner as their interests may appear.

**Section Two. Distribution of Insurance Proceeds.** Proceeds of insurance policies received by the Association as insurance trustee shall be distributed to or for the benefit of the beneficial Owners in the following manner:

(A) Expense of the Trust. All expenses of the insurance trustee shall be first paid or provisions made therefor.

{B) Reconstruction or Repair. The remaining proceeds shall be paid to defray the cost of repairs. Any proceeds remaining after defraying such cost shall be distributed to the beneficial Owners as above provided.

**Section Three. Fidelity Insurance or Bond.** All persons responsible for or authorized to expend funds or otherwise deal in the assets of the Association or those held in trust, shall first be bounded by a fidelity insurer to indemnify the Association for loss or default in the performance of their duties in an amount equal to six (6) months assessments, plus reserves accumulated.

## ARTICLE IX

### **USE RESTRICTIONS**

**Section One. Rules and Regulations.** The Board of Directors of the Association shall have the power to formulate, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the yard space of each Lot and the Common Areas. Such rules and regulations may provide for imposition of fines or penalties for the violation thereof, or for the violation of any of the covenants and conditions contained in this Declaration.

**Section Two. Antennas.** No outside radio transmission tower or receiving antenna shall be erected by an Owner within the restricted property without the prior written approval of the Architectural Control Committee.

**Section Three. Quiet Enjoyment.** No obnoxious or offensive activity shall be carried on or upon the Properties, nor shall anything be done which may be or may become a nuisance or annoyance to the neighborhood.

**Section Four. Dwelling Unit Size.** The total square footage of the main structure Located on a Lot, exclusive of one-story open porches and garages, shall not be less than 900 square feet.

**Section Five. Nuisances.** No activity deemed noxious or offensive by the Architectural Control Committee shall be carried on upon any Lot or within the Common Area, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood as determined by said Architectural Control Committee. Examples of such offensive activities shall include, but to be limited to, the origination or emission of any loud or disturbing noise or vibrations, the maintenance of an auto repair site, the maintenance of unsightly outdoor storage of personal property (including toys, motorcycles or other motor vehicles, tricycles, bicycles, wood piles or other miscellaneous items) on porches, patios, terraces or yards, or similar unsightly activity not in keeping with the aesthetic character and high level of appearance of the community. The Architectural Control Committee, with the approval of the Board of Directors, may establish reasonable rules and regulations for enforcing the provisions of this Section Five.

**Section Six. Parking of Vehicles and Use of Property.** No house trailer, boat, boat trailer, camper, tent, shed, or any other such vehicle, trailer, vessel or temporary structure shall be permitted to be parked or placed within the Properties except within area(s) which may be specifically designated for such purposes by the Association; provided, however, temporary buildings and other structures shall be permitted during the construction period of the townhouses or as a temporary real estate sales office of Declarant for the sale of lots. No garage, outbuilding, or other appurtenant structure shall be used for residential purposes, either temporarily or permanently, nor shall any portion of the properties (except as expressly stated in the preceding sentence) be used except for residential purposes and for purposes incidental or necessary thereto.

**Section Seven. Signs.** With the exception of signs erected by Declarant pursuant to Article XI hereof, no sign of any kind whatsoever shall be erected upon or displayed or otherwise exposed to view on any Lot or any improvement thereon without the prior written consent of the Board of Directors of the Association.

**Section Eight. Livestock and Poultry.** No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot; provided, however, dogs, cats or other household pets may be kept, provided they are not kept, bred or maintained for any commercial purposes, and provided facilities for such pets, and pets themselves do not create a nuisance as determined by the Board of Directors or its designated committee, in which case the nuisance will immediately be abated upon request of said Board of Directors or its designated committee.

**Section Nine. Control of Dogs.** Every person owning or having possession, charge, care, custody or control of any dog shall keep such dog exclusively upon his own premises; provided, however, that such dog may be off the premises if it be under the control of a competent person and restrained by a chain, leash or other means of adequate physical control.

**Section Ten. Garbage and Refuse Disposal.** No Lot shall be used or maintained as a

dumping ground for rubbish, and all trash, garbage or other waste shall be stored in sanitary containers in accordance with the rules and regulations of any health or public safety authority having jurisdiction over the property. All incinerators or other equipment shall be kept in clean and sanitary condition. No trash, garbage or other waste may be placed within the Common Area, except in containers approved by the Board of Directors.

**Section Eleven. Oil and Mining Operations.** No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, or within the Common Area, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon any Lot or within the Common Area, No derrick or other structure designated for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot or within the Common Area.

## ARTICLE X

### EASEMENTS

All of the Properties, including Lots and Common Areas, shall be subject to such easements for driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone, and electric power line and other public utilities as shall be established by the Declarant or by its predecessors in title, prior to subjecting the Properties to this Declaration; and the Association shall have the power and authority to grant and establish upon, over, under, and across the Common Areas conveyed to it, such further easements as are requisite for the convenient use and enjoyment of its Properties. In addition, there is hereby reserved to the Declarant and its agents and employees an easement and right of ingress, egress, and regress across all Common Areas, now or hereafter owned by the Association, for the purpose of construction of improvements within the Properties, including the right of temporary storage of construction materials on said Common Areas.

So long as Declarant owns any property described on Exhibits "A" or "B", Declarant reserves blanket easements and the right to grant such specific easements over all Lots and Common Areas, as may be necessary in conjunction with the orderly development of the property described on Exhibits "A" or "B", or any adjacent property (including without limitation the planning, construction, marketing, leasing, management and maintenance of improvements) for access, construction and maintenance of public or private utilities and storm drainage (whether sub surface or surface). No such easements may be located within the area beneath any building located thereon.

All Lots shall be subject to easements for the encroachment of initial improvements constructed on adjacent Lots by the Declarant to the extent that such initial improvements actually encroach including, but not limited to, such items as overhanging eaves and walls.

Declarant reserves access easements over all Lots for construction, for either that Lot or any adjacent property and easements for the installation of public or private utilities and storm drainage (whether subsurface or surface).

There are reserved cross-easements in favor of owners of Lots that comprise a building for access to and from each other Lot comprising the building and the Common Area adjacent to the Lots comprising the building, including, but not limited to the transportation of roll-out garbage containers; however, this does

not include access to approved decks, patios or areas with approved fences. All rights and easements reserved under this Declaration shall also be reserved to the assigns and successors in the interest of the Declarant.

## ARTICLE XI

### DECLARANTS RIGHTS

The right is reserved by Declarant, or agents, to place and maintain on the Properties all model homes, sales offices, advertising signs and banners and lighting in connection therewith and other promotional facilities at such locations and in such forms as shall be determined by Declarant. There is also reserved unto Declarant, its agents and prospective purchasers and tenants, the right of ingress, egress and transient parking in and through the Properties for such sales purposes.

Declarant also reserves the right to maintain on the Properties without charge (a) a general construction office for Declarant's contractors and (b) appropriate parking facilities for the employees of Declarant's agents and contractors. Declarant's aforesaid reserved rights shall exist at any time Declarant is engaged in the construction, sale or leasing of residences on any portion of the Properties and no charge shall be made with respect thereto. Notwithstanding any provision herein to the contrary, the rights and easements created under this Declaration are subject to the right of the Declarant to execute all documents and do all other acts and things affecting the premises, which in the Declarant's opinion, are required to implement any right of Declarant Properties or on any land adjacent to set forth in this Declaration (including the making of any dedications or conveyances to public use) provided any such document or act is not inconsistent with the then existing property rights of any Owner. All rights and easements reserved under this Declaration shall also be reserved to the assigns and successors in the interest of the Declarant.

## ARTICLE XII

### DISPUTE RESOLUTIONS AND LIMITATIONS ON LITIGATION

**Section One. Agreement to Avoid Costs of Litigation and to Limit Rights to Litigate Disputes.** The Association, Declarant, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties") agree to encourage the amicable resolution of disputes involving the Properties in order to avoid the emotional and financial costs of Litigation. Accordingly, each Bound Party covenants and agrees that all claims, grievances or disputes between such Bound Party and any other Bound Party involving the Properties including, without limitation, claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of this Declaration, the By-Laws, the Association rules, or the Articles (collectively "Claim"), except for those Claims authorized in Section Two, shall be resolved using the procedures set forth in Section Three in lieu of filing suit in any court or initiating proceedings before any administrative tribunal seeking redress or resolution of such Claim.

**Section Two. Exempt Claims.** The following Claims ("Exempt Claims") shall be exempt from the provisions of Section Three hereinbelow:

(a) Any suit by the Association against any Bound Party to enforce the provisions of Article V (Assessments);

(b) Any suit by the Association to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Article VII (Architectural Control) and Article IX (Use Restrictions);

(c) Any suit between Owners (other than Declarant) seeking redress on the basis of a Claim which would constitute a cause of action under federal law or the laws of the State of South Carolina in the absence of a claim based on the Declaration, By-Laws, Articles or rules of the Association, if the amount in controversy exceeds \$5,000.00;

(d) Any suit arising out of any written contract between Owners, or between the Declarant and any Builder, which would constitute a cause of action under the laws of the State of South Carolina in the absence of the Declaration, By-Laws, and Articles of the Association and;

(e) Any suit in which all parties are not Bound Parties. Any Bound Party having an Exempt Claim may submit it to the alternative dispute resolution procedures set forth in Section Three, but there shall be no obligation to do so. The submission of an Exempt Claim involving the Association to the alternative dispute resolution procedures of Section Three shall require the approval of the Association.

**Section Three. Mandatory Procedures for All Other Claims.** All claims other than Exempt Claims shall be resolved using the following procedures:

(a) Notice. Any Bound Party having a claim ("Claimant") against any other Bound Party ("respondent"), other than an Exempt Claim, shall notify each respondent in writing of the Claim (the "Notice"), stating plainly and concisely:

1. The nature of the Claim, including date, time, location, persons involved and Respondent's role in the Claim,
2. The basis of the Claim (i.e., the provisions of this Declaration, the By-Laws, the Articles or rules or other authority out of which the Claim arises);
3. What Claimant wants Respondent to do or not do to resolve the Claim; and
4. That Claimant wishes to resolve the Claim by mutual agreement with Respondent and is willing to meet in person with Respondent at a mutually agreeable time and place to discuss in good faith ways to resolve the Claim.

(b) Negotiation.

1. Each Claimant and Respondent (the "Parties") shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim through good faith negotiation.

2. Upon receipt of a written request from any Party, accompanied by a copy of the Notice, the Board shall appoint a representative to assist the Parties in resolving the dispute by negotiation, if in its discretion it believes its efforts will be beneficial to the Parties and to the welfare of the community.

{c} Mediation.

1. If the Parties do not resolve the Claim through negotiation within 30 days of the date of the Notice (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiations"), Claimant shall have 30 additional days within which to submit the Claim to mediation under the auspices of any dispute resolution center or other such independent agency providing similar services in the Georgetown County, specifically including, but not limited to the National procedures.

2. If Claimant does not submit the Claim to mediation within 30 days after Termination of Negotiations, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such claim; provided, nothing herein shall release or discharge Respondent from any liability to Persons not a Party to the foregoing proceedings.

3. If the Parties do not settle the Claim within 30 days after submission of the matter to the mediation process, or within such time as determined reasonable or appropriate by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation"). The Termination of Mediation notice shall set forth when and where the Parties met, that the parties are at an impasse, and the date that mediation was terminated.

4. Each Party shall, within ten days of the Termination of Mediation, make a written offer of settlement in an effort to resolve the Claim. The Claimant shall make a final written settlement demand ("Settlement Demand") to the Respondent. The Respondent shall make a final written settlement offer ("Settlement Offer") to the Claimant. If the Claimant fails to make a Settlement Demand, Claimant's original Notice shall constitute the Settlement Demand. If the Respondent fails to make a Settlement Offer, Respondent shall be deemed to have made a "zero" or "take nothing" Settlement Offer.

(d) Final and Binding Arbitration.

1. If the Parties do not agree in writing to accept either the Settlement Demand, the Settlement Offer, or otherwise resolve the Claim within 15 days of the Termination of Mediation, the Claimant shall have 15 additional days to submit the Claim to arbitration in accordance with the Rules of Arbitration contained in the S.C. Arbitration Statute or the Claim shall be deemed abandoned, and Respondent shall be released and discharged from any and all liability to Claimant arising out of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to Persons not a Party to the foregoing proceedings.

2. This subsection (d) is an agreement of the Bound Parties to arbitrate all Claims except Exempt Claims and is specifically enforceable under the applicable arbitration laws of the State of South Carolina. The arbitration award (the "Award") shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of the State of South Carolina.

**Section Four. Allocation of Costs of Resolving Claims.**

(a) Each Party shall bear its own costs incurred prior to and during the proceedings described in Section Three (a), (b) and (c), including the fees of its attorney or other representative. Each Party shall share equally all charges rendered by the mediator(s) pursuant to Section Three (c).

(b) Each Party shall bear its own costs (including the fees of its attorney or other representative) of incurred after the Termination of Mediation under

Section Three (c) and shall share equally in the costs conducting the arbitration proceeding (collectively, "Post Mediation Costs"), except as otherwise provided in subsection Section Four(c).

Any Award which is equal to or more favorable to Claimant than Claimant's Settlement Demand shall add such Claimant's Post Mediation Costs to the Award, such Costs to be borne equally by all Respondents. Any Award which is equal to or less favorable to Claimant than Respondent's Settlement Offer to that Claimant shall also award to such Respondent its Post Mediation Costs, such Costs to be borne by all such Claimants.

**Section Five. Enforcement of Resolution.** If the Parties agree to a resolution of any Claim through negotiation or mediation in accordance with Section Three and any Party thereafter fails to abide by the terms of such agreement, or if any Party fails to comply with the terms of any Award following arbitration, then any other Party may file suit or initiate administrative proceedings to enforce such agreement or Award without the need to again comply with the procedures set forth in Section Three. In such event, the Party taking action to enforce the agreement or Award shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement or Award, including, without limitation, attorneys fees and court costs.

**Section Six. Commencement Of Litigation.** Any litigation by the homeowners association other than the "Exempt Claims" set out in Section Two shall require an affirmative vote of 66 2/3% of the members of the homeowners association prior to the institution of such litigation.

### **ARTICLE XIII GENERAL PROVISIONS**

**Section One. Enforcement.** The Association, or any Owner, shall have the right to enforce, by proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

**Section Two. Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

**Section Three. Amendment.** The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners, and thereafter by an instrument signed by not less than sixty-six and two-thirds percent (66 2/3%) of the Lot Owners.

**Section Four. Management and Contract Rights of Associations.** Declarant shall enter into a contract with a Management Company or manager for the purposes of providing all elements of the operation, care, supervision, maintenance, and management of the property. Declarant contemplates that the initial manager may be the Declarant or a firm affiliated with the Declarant. No such management contract shall be binding upon the Association except through express adoption or ratification of the

terms and conditions of such contract. Any such contract or lease entered into by Declarant or by the Association while Declarant is in control thereof shall contain a provision allowing the Association to terminate such contract, without justification or penalty, upon ninety days notice after transfer of management by Declarant to the Association.

**Section Five. FHA/VA Approval.** As long as there is a Class B membership, the following actions will require the prior written approval of the Federal Housing Administration or the Veterans Administration: annexation of additional Properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions, and Restrictions.

**Section Six. Rights of Noteholders.** Any institutional holder of a first mortgage on a Lot will, upon written request, be entitled to (a) inspect the books and records of the Association during normal business hours, (b) receive an annual financial statement of Association within ninety (90) days following the end of its fiscal year, (c) receive written notice of all meetings of the Association and the right to designate a representation to attend all meetings, (d) receive written notice of any condemnation or casualty loss that affects either a material portion of the project or the unit securing its mortgage, (e) receive written notice of any sixty-day delinquency in the payment of assessments or charges owed by the owner of any unit on which it holds the mortgage, (f) receive written notice of a lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Owners' Association, (g) receive written notice of any proposed action that requires the consent of a specified percentage of mortgage holders, and (h) be furnished with a copy of the master insurance policy.

**Section Seven. Notices.** Any notice required or desired to be given under the provisions of this Declaration shall be deemed to have been properly delivered when, deposited in the United States mail, postage prepaid, directed to the last known Mortgage Holder or other party entitled to notice, at last known address for each such party, all as shown on the books and records of the Association at the time such notice is given.

**Section Eight. Default by Association:** Upon default by the Owner's Association in the payment to the jurisdiction entitled thereto of any assessments for public improvements or ad valorem taxes levied against the common areas, which default shall continue for a period of six (6) months, each owner of a lot in the development shall become personally obligated to pay to the jurisdiction a portion of the taxes or assessments in an amount determined by dividing the total taxes and/or assessments due to the jurisdiction by the total number of lots in the development. If the sum is not paid by the owner within thirty (30) days following receipt of the notice of the amount due, the sum shall become a continuing lien on the property of the owner, his heirs, devisees, personal representatives, and assigns. The taxing or assessing jurisdiction may either bring an action at law against the owner personally obligated to pay the same, or may elect to foreclose the lien against the owner.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused this instrument to be executed in its name pursuant to the authority of its Members, the day and year first above written.

Signed, Sealed and Delivered in the presence of:

PORTRAIT HOMES - Myrtle Beach, L.L.C.

STATE OF ILLINOIS  
COUNTY OF WILL

I Alecia E. Summers a Notary Public in and for said County do hereby certify that John Giompoli personally appeared me this day and acknowledge that he is the managing member of Portrait Homes Myrtle Beach L.L.C., and that by authority duly given and as the act of limited liability company the foregoing instrument was signed in its name by its Managing Member.

WITNESS my hand and official seal, this 19th day of March 1999

(NOTARIAL SEAL)

"OFFICIAL SEAL"

ALECIA E. SUMMERS

NOTARY PUBLIC STATE OF ILLINOIS

MY COMMISSION EXPIRES 12-1-02

## **EXHIBIT "A"**

### **Submitted Property**

All that certain piece, parcel or lot of land situate, lying and being in the Pawleys Island mainland area of the County of Georgetown, State of South Carolina, designated as Tract "A", containing 10.01 acres, more or less, as shown on that plat entitled "ALTA/ACSM Land Title Survey of 21.70 ACRES FOR GERALD R. TILLER, PASQUINELLI FUTURES 1, L.L.C., AN ILLINOIS LIMITED LIABILITY COMPANY, PORTRAIT HOMES CONSTRUCTION COMPANY AND HARRIS TRUST & SAVINGS BANK and CHICAGO TITLE INSURANCE COMPANY located at Pawleys Island, Georgetown Co., S.C. dated April 1, 1998, prepared by ETS-Engineering and Technical Services, Inc. and recorded in the office of the Register of Deeds for Georgetown County, South Carolina in plat book S269 page 2. Please refer to the herein described plat, which is incorporated herein by reference, for a more complete description as to courses and distances.

## **EXHIBIT "B"**

### **Additions to Existing Submitted Property**

All that certain piece, parcel or lot of land situate, lying and being in the Pawleys Island mainland area of the County of Georgetown, State of South Carolina, designated as Tract "B", containing 11.69 acres, more or less, as shown on that plat entitled "ALTA/ACSM Land Title Survey of 21.70 ACRES FOR GERALD R. TILLER, PASQUINELLI FUTURES 1, L.L.C., AN ILLINOIS LIMITED LIABILITY COMPANY, PORTRAIT HOMES CONSTRUCTION INSURANCE COMPANY AND HARRIS TRUST & SAVINGS BANK and CHICAGO

TITLE COMPANY located at Pawleys Island, Georgetown Co., S.C." dated April 1, 1998, prepared by ETS-Engineering and Technical Services, Inc. and recorded in the office of the Register of Deeds for Georgetown County, South Carolina in Plat Book S269 at Page 2. Please refer to the herein described plat, which is incorporated herein by reference, for a more complete description as to courses and distances.

## **EXHIBIT "C"**

### **ARTICLES OF INCORPORATION OF PAWLEYS PLACE HOMEOWNERS ASSOCIATION, INC.**

In compliance with the requirements the South Carolina Nonprofit Act §33-31-101 et seq. Code of Laws of South Carolina (1976), as amended, the undersigned, a natural person of full age, has this day executed these Articles of Incorporation for the purpose of forming a non-profit corporation and hereby certifies:

#### **ARTICLE I NAME**

The name of the corporation is PAWLEYS PLACE HOMEOWNERS ASSOCIATION, INC., hereinafter called the "Association."

#### **ARTICLE II REGISTERED OFFICE AND INITIAL AGENT**

The principal office and the office of the registered agent of the Association is located at 3930 Wesley Street, Unit 704, Myrtle Beach, South Carolina 29579. The location of the registered office may be changed by a majority vote of the Board of Directors. The name of the initial registered agent at the above address is David Trimmer. The principal office and the office of the registered office is located in Horry County, South Carolina.

#### **ARTICLE III PURPOSE AND POWERS OF THE ASSOCIATION**

This Association does not contemplate a pecuniary gain or profit to the members thereof, and the specific purposes for which it is formed are to provide for maintenance, preservation, and architectural control of the residence Lots and Common Area within that certain tract of property described on EXHIBIT A attached hereto and incorporated herein by reference, and to promote the health, safety, and welfare of the residents within the above-described property and any additions thereto as may hereafter be brought within the jurisdiction of this Association, and for this purpose to:

(a) exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Covenants, Conditions, and Restrictions recorded in or to be recorded in the County of Georgetown Public Registry, applicable to the above described property, as the same may be amended from time to time, said Declaration being incorporated herein as if set forth at length;

(b) fix, levy, collect, and enforce payment by any lawful means all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes, or governmental charges levied or imposed against the property of the Association;

(c) acquire (by gift, purchase, or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use, or otherwise dispose of real or personal property in connection with the affairs of the Association;

(d) borrow money, and with the assent at least two-thirds (2/3) of the votes appurtenant to each Class A Lot and Class B Lot, mortgage, pledge, deed of trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the property rights of the members of the Association, as provided in Article III of the Declaration;

(e) dedicate, sell, or transfer all or any part of the Common Area to any public agency, authority, utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument has been signed by members entitled to at least two-thirds (2/3) of the votes appurtenant to each Class A Lot and Class B Lot, agreeing to such dedication, sale, or transfer;

(f) participate in mergers and consolidations with other non-profit corporations organized for the same purposes or annex additional residential property and Common Area, provided that any such merger, consolidation, or annexation shall have the consent of the members as provided in paragraph (d) above; and

(g) have and to exercise any and all powers, rights, and privileges which a corporation organized under the Non-Profit Corporation Act of the State of South Carolina §33-31-101 et seq. Code of Laws of South Carolina (1976), as amended, may now or hereafter have or exercise.

#### **ARTICLE IV FINANCE**

This corporation is a non-stock corporation and no part of the profits (if any) of the corporation shall inure to the pecuniary benefit of its members or to any other person.

#### **ARTICLE V MEMBERSHIP**

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the association.

#### **ARTICLE VI VOTING RIGHTS**

The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in Any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant (as defined in the Declaration), and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or

(b) On August 1, 2003.

#### **ARTICLE VII BOARD OF DIRECTORS**

The affairs of this Association shall be managed by an initial Board of five (5) Directors who need not be members of the Association. The number of Directors may be changed by amendment of the By-laws of the Association. The names and addresses of the persons who are to act in the capacity of Directors until the selection of their successors are:

Name	Address
Bruno A. Pasquinelli	905 W. 175 St. Homewood, Illinois 60430
Michael Hanberry	9305-L Monroe Road Charlotte, North Carolina 28270
John Giampoli	915 W. 175 <sup>TM</sup> Street Homewood, Illinois 60430
David Trimmer	3930 Wesley St., Unit 704 Myrtle Beach, South Carolina 29579
Anthony Pasquinelli	915 W. 175th Street Homewood, Illinois 60430

At the first annual meeting, the members shall elect two (2) Directors for a term of one year and three (3) Directors for a term of two years, and at each annual meeting thereafter, the members shall elect for a term of two (2) years the number of Directors whose terms are expiring.

#### **ARTICLE VIII DISSOLUTION**

The Association may be dissolved only upon the signed written assent of the members entitled to not less than three-fourths (3/4) of the votes appurtenant to each Class A and Class B Lot. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was credited. In the event that such dedication is refused, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust, or other organization to be devoted to such similar purposes.

**ARTICLE IX  
DURATION**

The period of existence of this corporation is unlimited.

**ARTICLE X  
AMENDMENT**

Amendment to these Articles shall require the assent of the members entitled to at least three-fourths (3/4) of the entire vote of the membership.

**ARTICLE XI  
FHA/VA APPROVAL**

As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, mergers and consolidations, mortgaging of Common Areas, dedication of Common Areas, and dissolution and amendment of the Articles.

**ARTICLE XII  
INCORPORATOR**

The name and address of the incorporator is as follows:

David Trimmer  
3930 Wesley Street, Unit 704  
Myrtle Beach, South Carolina 29579

IN WITNESS WHEREOF, I, the undersigned incorporator have hereunto set my hand and seal, this the 16th day of March 1999.

DAVID TRIMMER, Incorporator

STATE OF SOUTH CAROLINA )  
)  
COUNTY OF HORRY )

I Patrick F. O'Dea, a Notary Public in and for said County and State aforesaid, do hereby certify that DAVID TRIMMER personally appeared before me this day and acknowledged the due execution of the foregoing instrument,

WITNESS my hand and Notarial seal, this the 16th day of March, 1999.

Patrick F. O'Dea  
Notary Public for South Carolina  
My Commission Expires: 2/11/2003

## EXHIBIT "D"

### BY-LAWS OF PAWLEYS PLACE HOMEOWNERS ASSOCIATION, INC

#### ARTICLE 1

**NAME AND LOCATION.** The name of the corporation is, **PAWLEYS PLACE HOMEOWNERS ASSOCIATION, INC.**, hereinafter referred to as the "Association." The principal office of the corporation shall be located at 3930 Wesley Street, Unit 704, Myrtle Beach, South Carolina, but meetings of members and directors may be held at such place or places within the State of South Carolina, Georgetown County as may be designated by the Board of Directors.

#### ARTICLE II

>

##### DEFINITIONS

**Section 1.** "Association" shall mean and refer to **PAWLEYS PLACE HOMEOWNERS ASSOCIATION, INC.** its successors and assign.

**Section 2.** "Properties" shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions and Restrictions, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

**Section 3.** "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners.

**Section 4.** "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties, with the exception of the Common Area and shall include all improvements thereon.

**Section 5.** "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

**Section 6.** "Declarant" shall mean and refer to **PORTRAIT HOMES - MYRTLE BEACH L.L.C.**, an Illinois limited liability company, its successors and assigns, if such successors or assigns should acquire all of the Declarant's interest in the Properties.

**Section 7.** "Declaration" shall mean and refer to the Declaration of Covenants,

Conditions, and Restrictions applicable to the Properties recorded in the Office of the Register of Deeds of Georgetown County.

**Section 8.** "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

### **ARTICLE III MEETING OF MEMBERS**

**Section 1. Annual Meetings.** The first annual meeting of the members shall be held within fourteen months from the date of conveyance of the first unit to a homeowner, and each subsequent regular annual meeting of the members shall be held on the same day of the same month of each thereafter, at the hour of 7:30 p.m. or at such other time or date as established by the Board of Directors. If the day for the annual meeting of the members is a legal holiday, the meeting held at the same hour on the first day following which is not a legal holiday.

**Section 2. Special Meetings.** Special meetings of the members may be called at any time by President or by the Board of Directors, or upon written request of the members who are entitled to vote one-fourth (1/4) of all of the votes of the Class A membership.

**Section 3. Notice of Meetings.** Written notice of each meeting of the members shall be given by, the meeting, by mailing a copy of such or at the direction of, the secretary or person authorized to call notice, postage prepaid, at least fifteen (15) days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice; provided, however, that written notice of any meeting called for the purpose of taking any action authorized under Section Four or Five of Article V of the Declaration shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of such meeting. Such notice shall specify the place, day, and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

**Section 4. Quorum.** The presence at the meeting of members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

**Section 5. Proxies.** At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Lot.

### **ARTICLE IV BOARD OF DIRECTORS: SELECTION: TERM OF OFFICE**

**Section 1. Number.** The affairs of this Association shall be managed by a Board of five (5) directors who need not be members of the Association.

**Section 2. Term of Office.** At the first annual meeting, the members shall elect

two (2) directors of two (2) years, and at each annual meeting for a term of one year and three (3) directors for a term the number of directors whose terms thereafter, the members shall elect for a term of two (2) years are expiring.

**Section 3. Removal.** Any director may be removed by the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation, or removal of the remaining members of the Board and shall serve for a director, his successor shall be selected by the unexpired term of his predecessor.

**Section 4. Compensation.** No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

**Section 5. Action Taken Without a Meeting.** The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

## **ARTICLE V NOMINATION AND ELECTION OF DIRECTORS**

**Section 1. Nomination.** Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members or non-members.

**Section 2. Election.** Election to the Board of Directors shall be by secret written ballot. At such election, the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected.

## **ARTICLE VI MEETINGS OF DIRECTORS**

**Section 1. Regular Meetings.** Regular meetings of the Board of Directors shall be every three months without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

**Section 2. Special Meetings.** Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two directors, after not less than three (3) days notice to each director.

**Section 3. Quorum.** A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

**ARTICLE VII  
POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

**Section 1. Powers.** The Board of Directors shall have power to:

(a) adopt and publish rules and regulations governing the use of the Common Area and facilities, the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;

(b) suspend the voting rights and right to use of the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations;

(c) exercise for the Association all powers, duties, and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;

(d) exercise for the Association all powers, duties and authority as set forth in the South Carolina Nonprofit Corporation Act code Section 33-31-101 et seq., Code of Laws of South Carolina Annt. (1976), as amended;

(e) declare the office of a member of the Board of Directors to be vacant in the event that such member shall be absent from three(3) consecutive regular meetings of the Board of Directors;

(f) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties. Provided further, that the Board shall ratify and approve the Management Agreement between Declarant, on behalf of the Association, and Encore Real Estate Company employing Encore Real Estate Company to act as Managing Agent for the property for a term commencing on the date the Declaration is recorded and terminating two years thereafter at a rate of Fourteen and no/100 Dollars (\$14.00) per lot per month for each lot which has been conveyed to an Owner; provided, however, that notwithstanding anything contained herein or elsewhere to the contrary, that the Association has the right to terminate such Management Agreement without cause, which right is exercisable without penalty at any time after the termination of Class B membership, upon not more than ninety (90) days written notice to said Managing Agent; and

(g) to do all things necessary or convenient, not inconsistent with law, to further the activities and affairs of the Association.

**Section 2. Duties.** It shall be the duty of the Board of Directors to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Class A members who are entitled to vote;

(b) supervise all officers, agents, and employees of this Association, and to see that their duties are properly performed

(c) as more fully provided in the Declaration, to:

(1) fix the amount of the annual assessment against each Lot at least

thirty (30) days in advance of each annual assessment period;

(2) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

(3) file an assessment lien and foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to pay the same.

(d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(e) procure and maintain adequate liability and hazard insurance as set forth in the Declaration and specifically on property owned by the Association;

(f) cause all officers or employees having fiscal responsibilities to be bonded, as provided in Article XIV hereof;

(g) cause the Common Area to be maintained; and

(h) cause the exterior of the dwellings to be maintained.

## **ARTICLE VIII OFFICERS AND THEIR DUTIES**

**Section 1.** Enumeration of Offices. The officers of this Association shall be a president and vice president, who shall, at all times, be members of the Board of Directors; a secretary, a treasurer, and such other officers as the Board may from time to time by resolution create.

**Section 2.** Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

**Section 3.** Term. The officers of this Association shall be elected annually by the Board, and each shall hold office for one (1) year, unless he shall sooner resign, shall be removed, or otherwise disqualified to serve.

**Section 4.** Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have 'such' authority, and perform such duties as the Board may, from time to time, determine.

**Section 5.** Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time, giving written notice to the Board, the president, or the secretary. Such resignation shall take effect on the date of 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.

**Section 6.** Vacancies. A vacancy in any office may be filled by appointment by the

Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

**Section 7. Multiple Offices.** The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices, except in the case of special offices created pursuant to Section 4 of this Article.

**Section 8. Duties.** The duties of the officers are as follows:

President

(a) The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments; and absent some resolution from the Board of Directors specifying otherwise shall co-sign all checks and promissory notes.

Vice President

(b) The vice president shall act in the place and stead of the president in the event of his absence, inability, or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

Secretary

(c) The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association, together with their addresses; and shall perform such other duties as required by the Board.

Treasurer

(d) The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; absent some resolution from the Board of Directors specifying otherwise shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting and deliver a copy of each to the members.

**ARTICLE IX  
COMMITTEES**

The Association shall appoint an Architectural Control Committee, as provided in the Declaration, and a Nominating Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

**ARTICLE X  
BOOKS AND RECORDS**

The books, records, and papers of the Association shall, at all times during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation, and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

## **ARTICLE XI ASSESSMENTS**

**Section 1. General.** As more fully provided in the Declaration, each member is obligated to pay to the Association monthly and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within fifteen (15) days after the due date, a late charge of \$15.00 shall be added to it and the assessment shall bear interest from the date of delinquency at the rate of six (6%) percent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interests, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

**Section 2. Annual Budget.** The Board shall cause to be prepared an estimated annual budget for each fiscal year of the Association. The annual budget shall provide for a reserve for contingencies for the year and a reserve for capital expenditures, in reasonable amounts as determined by the Board.

**Section 3. Records and Statement of Account.** The Board shall cause to be kept detailed and accurate records of the receipts and expenditures affecting the Common Area, specifying and itemizing the common expenses incurred. Payment vouchers may be approved in such manner as the Board may determine.

**Section 4. Discharge of Liens.** The Board may cause the Association to discharge any mechanic's lien or other encumbrance which in the opinion of the Board may constitute a lien against the Property or the Common area, other than a lien against only a particular Lot. When less than all the Owners are responsible for the existence of any such lien, the Owners responsible shall be jointly and severally liable for the amount necessary to discharge the same and for all costs and expenses, including attorneys' fees, incurred by reason of such lien.

**Section 5. Forbearance.** The Association shall have no authority to forebear the payment of assessments by any Owner.

## **ARTICLE XII CONTRACTUAL POWERS**

No contract or other transaction between this corporation and one or more of its Directors or between this corporation and any corporation, firm or association in which one or more of the Directors of this corporation are directors, or are financially interested, is void or voidable because such Director or Directors are present at the meeting of the Board or a committee thereof which authorizes or approves the contract or transaction or because his or their votes are counted, if the circumstances specified is either of the following subparagraphs exists:

(a) the fact of the common directorship or financial interest is disclosed or known to the Board or committee and noted in the minutes and the Board or committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of such Director or Directors; or

(b) the contract or transaction is just and reasonable as to the corporation at the time it is authorized or approved.

Common or interested Directors may be counted in determining the presence of a quorum at a meeting of the Board or a committee thereof which authorizes, approves or ratifies a contract or transaction.

### **ARTICLE XIII INDEMNIFICATION**

**Section 1. General.** The Association shall indemnify and hold harmless each of its directors and officers, each member of any committee appointed pursuant to the By-Laws of the Association, and the Board, and Declarant, against all contractual and other liabilities to others arising out of contracts made by or other act of such directors, Board, officers, committee members, or Declarant, on behalf of the Owners, or arising out of their status as directors, Board, officers, committee members, unless any such contract or act is contrary to the provisions of laws of the State of South Carolina, the Declaration or these By-Laws or shall have been made fraudulently or with gross negligence or criminal intent. It is intended that the foregoing indemnification shall include indemnification against all cost and expenses (including, but not limited to, counsel fees, amounts of judgment paid and amounts paid in settlement) reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative or other, in which any such director, officer, Board, committee member or Declarant, may be involved by virtue of such persons being or having been such directors, officer, Board, committee member or Declarant; provided, however, that such indemnity shall not be operative with respect to (a) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for gross negligence or fraud in the performance of his duties as such director, officer, Board, committee member, or Declarant; or (b) any matter settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Board, there is not reasonable ground for such persons being adjudged liable for gross negligence or fraud in the performance of his duties as such director, Board, officer, committee member or Declarant.

**Section 2. Success on Merits.** To the extent that the Declarant or a member of the Board of Directors or an officer of the Association or a member of any committee appointed pursuant to the By-Laws of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 1, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonable incurred by him in connection therewith.

**Section 3. Advance Payment.** Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors in the specific case upon receipt of any undertaking by or on behalf of the person or entity seeking such indemnification or payment in advance to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this Article XIII.

**Section 4. Miscellaneous.** The Association and the Board shall have the power to raise and the responsibility for raising by special assessment or otherwise, any sums required to discharge its obligations under this article. Every agreement made by the directors, Board, officers, members of such committees or by the Managing Agent on behalf of the Owners shall provide that the directors, Board, officers, members of such committees, Declarant or the Managing Agent, as the case may be, are acting only as agents for the Association and shall have no personal liability thereunder. The indemnification provided by this Article XIII shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any statute, agreement, vote of members of the Association or is interested members of the Board of Directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. Such right to indemnification shall continue as to Declarant and any person or entity who has ceased to be Declarant or a member of the Board of Directors, officer of the Association or a member of such committee, and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of Declarant such person or entity.

#### **ARTICLE XIV MISCELLANEOUS**

**Section 1. Fidelity Bond.** The Board shall require (1) that all officers, employees or other persons who either handle or are responsible for funds held or administered by the Association shall furnish fiduciary insurance coverage which covers the maximum amount of funds that will be in custody of the Association plus the Association reserve funds, the premium cost of which will be paid by the Association and (2) that all management companies who either handle or are responsible for funds held or administered by the Association shall furnish a fidelity bond to the Association which covers the maximum amount of Association funds and the Association reserves that will be in the custody of the management company, the premium cost of which will be paid by the Association, and shall at all times maintain a separate account for each reserve fund, for the total operating funds of the Association managed by the management company and for all other monies of the management company. The management company may hold all operating funds of the Association which it manages in a single operating account but shall at all times maintain records identifying all monies of each Association on such operating account.

**Section 2. Applicability of Documents to Lessees of a lot.** The Declaration, By-Laws, and other Rules and Regulations of the Association shall be applicable to any person leasing the lot and shall be deemed to be incorporated in any lease for any lot in the project.

#### **ARTICLE XV CORPORATE SEAL**

The Association shall have a seal in circular form, having within its circumference the words: **PAWLEYS PLACE HOMEOWNERS ASSOCIATION, INC.**

#### **ARTICLE XVI AMENDMENTS**

**Section 1.** These By-Laws may be amended at a regular or special meeting of the members by a vote of a majority of a quorum of members present in person or by proxy, except that the Federal Housing Administration or the Veteran Administration shall have the right to veto amendments while there is Class B membership.

**Section 2.** In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

**ARTICLE XVII  
FISCAL YEAR**

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

In witness thereof, we the Directors of **PAWLEYS PLACE HOMEOWNERS ASSOCIATION, INC.** have hereunto set our hands this 19th day of March, 1999.

Bruno A. Pasquinelli, Director

Anthony A. Pasquinelli, Director

John Giampoli, Director

Michael Hanberry, Director

David Trimmer, Director

I, the undersigned, do hereby certify that I am the duly elected and acting Secretary of **PAWLEYS PLACE HOMEOWNERS ASSOCIATION, INC.**, a South Carolina corporation, and that the foregoing By-Laws constitute the original By-Laws of said Association, as duly adopted at a meeting of the Board of Directors thereof held on the 19th day of March, 1999.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of the said Association, this 19th day of March, 1999.

Assistant Secretary - Michael Hanberry

Secretary - Anthony R. Pasquinelli