

CODE OF BY-LAWS
OF
CUMBERLAND LAKES HOMEOWNERS' ASSOCIATION, INC.

ARTICLE I
NAME AND LOCATION

The name of the Corporation is Cumberland Lakes Homeowners' Association, Inc. (hereinafter referred to as the "Corporation"). The principal office of the Corporation shall be located at 9125 East 146th Street, Noblesville, Indiana 46060, until and unless changed in accordance with Indiana state law by the Board of Directors, but meetings of Members and directors may be held at such places either within or without the State of Indiana as may be designated by the Board of Directors.

ARTICLE II
DEFINITIONS

Section 1. "Declarant" shall mean Crooked Creek at Geist Development Co., Inc., an Indiana corporation, and any successors and assigns of it whom it designates in one or more written recorded instruments to have the rights of Declarant under the Declaration, including, but not limited to, any mortgagee acquiring title to any portion of the real estate pursuant to the exercise of rights under, or foreclosure of, a mortgage executed by Declarant.

Section 2. "Declaration" shall mean the Declaration of Covenants, Conditions and Restrictions of Cumberland Lakes recorded on _____, 1998, as Instrument No. _____, in the Office of the Recorder of Marion County, Indiana, as the same may be amended or supplemented from time to time as therein provided, said Declaration being incorporated herein by reference as if set forth at length herein.

Section 3. "Corporation" shall mean and refer to Cumberland Lakes Homeowners' Association, Inc., an Indiana nonprofit corporation.

Section 4. "Members" shall mean and include both Class A Members and Class B Members as each of those terms is defined in Article VI of the Articles of Incorporation. Reference to the "Members" shall be to any one of the Class A Members or Class B Members, unless the context indicates otherwise.

Section 5. All of the definitions and terms as defined and used in the Articles of Incorporation shall have the same meanings in this Code of By-Laws and reference is specifically made to Article II of the Articles of Incorporation containing definitions of terms.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership, Transfer, Voting Rights. Reference is hereby made to Article VI of the Articles of Incorporation of the Corporation which sets forth terms, provisions and conditions governing and relating to membership in the Corporation, transfer of membership and voting rights of classes of Members, all of which terms, provisions and conditions are incorporated herein by reference.

Section 2. Quorum. The presence in person or by proxy at any meeting of the membership of persons entitled to vote twenty-five percent (25%) of the votes of the membership shall constitute a quorum for any action except as otherwise provided in or required by the Articles of Incorporation of the Corporation, the Declaration, this Code of By-Laws, or by statute. 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 represented.

Section 3. Proxies. Votes may be cast in person or by proxy. Proxies must be filed with the secretary of the Corporation before the appointed time of each meeting of the Members of the Corporation. Cumulative voting shall not be permitted.

Section 4. Majority Required. A majority of the votes of Members present (in person or by proxy) at a meeting at which a quorum is present shall be sufficient for the transaction of all business of the Corporation except on matters where a greater vote is required by the Declaration, the Articles of Incorporation, the Code of By-Laws or by statute.

Section 5. Meetings. Meetings of the Corporation shall be in accordance with the following provisions:

(a) Annual Meetings. The first annual meeting of the Members of the Corporation shall be held within one (1) year from the date of incorporation of the Corporation, the exact date to be decided by the Board of Directors. At such first annual meeting of the Members, the Members may designate a regular day or date for successive annual meetings. If the Members fail to designate such a regular day or date, the Board of Directors may continue to designate the day or date of the next annual meeting until such a designation is made by the Members. If any designated day or date falls upon a legal holiday, it shall be understood that the actual date of the meeting shall be the next business day succeeding such designated day or date.

(b) Special Meetings. A special meeting of the Members shall be held within thirty (30) days after the termination of the Class B membership referred to in Article VI of the Articles of Incorporation of the Corporation, at which time an election shall be had of a full slate of directors who shall collectively replace, for their unexpired

terms, the board in office immediately prior to such election. Furthermore, it shall be the duty of the president to call a special meeting of the Members when requested in writing by a majority of the Board of Directors or upon a petition signed by Members of the Corporation who are entitled to vote twenty-five percent (25%) of all of the votes of the membership. Notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice unless by consent of four-fifths (4/5ths) of the votes present in person or by proxy at such meeting.

(c) Notice of Meetings. It shall be the duty of the secretary to serve a notice of each annual or special meeting, stating the purposes thereof as well as the time and place where it is to be held, upon each Member of record, not less than ten (10) nor more than thirty (30) days prior to such meeting. The mailing of a notice to each Member at the address shown for such Member on the Corporation's records shall be deemed notice served.

(d) Order of Business. The order of business at all meetings of the Members shall, to the extent applicable, be as follows:

- (1) Roll call;
- (2) Proof of notice of meeting or waiver of notice;
- (3) Reading of minutes of preceding meeting;
- (4) Reports of officers;
- (5) Report of committees;
- (6) Election of directors;
- (7) Unfinished business;
- (8) New business.

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 additional Members of the Corporation. The Nominating Committee shall be appointed by the Board of Directors prior to each 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, but not less than the number of vacancies that are to be filled. Such nominations may be made only from among Members of the Corporation, or persons deemed to be Members thereof in accordance with the Articles of Incorporation.

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 Articles of Incorporation. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE V BOARD OF DIRECTORS

Section 1. Number and Qualifications. Subject to amendment of this Section, the affairs of the Corporation shall be governed by a Board of Directors composed of three persons. Directors must be or be deemed to be Members of the Corporation.

Section 2. First Board of Directors. The first Board of Directors as named in the Articles of Incorporation shall maintain, manage and administer the affairs, the real estate and other property of the Corporation, until the Applicable Date as defined in Article VI of the Articles of Incorporation and until their successors have been duly elected and qualified, unless said directors sooner resign, be removed or otherwise disqualified to serve.

Section 3. Powers. The Board of Directors shall have such powers as are reasonable and necessary to accomplish the performance of their duties, which powers include, but are not limited to, the power:

(a) To adopt and publish rules and regulations governing the use of the facilities, if any, of the Corporation, and the personal conduct of the Members and their guests thereon, and to establish penalties for the violation and infraction thereof;

(b) To suspend a Member's voting rights and right to use any Corporation facilities, but not a Member's rights of access and easements necessary for the use of his Lot, during any period in which such Member shall be in default for a period of thirty (30) days in the payment of any Assessment levied by the Corporation, or the payment of any other amount or the performance of any other term of the Declaration, Articles of Incorporation or this Code of By-Laws. Such rights shall be suspended after the Lot Owner receives written notice and a hearing shall be held within sixty (60) days from the date of such notice for the Lot Owner's violation or infraction;

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

(d) To declare the office of a Member of the Board of Directors to be vacant in the event such Member shall be absent from three (3) consecutive meetings of the Board of Directors;

(e) To employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties, subject to the limitations set forth in the Declaration; and

(f) To do and take all such action as is or may be necessary, desirable, or appropriate to perform the duties, obligations and responsibilities of the Board of Directors as required by the Declaration, the Code of By-Laws, the Articles of Incorporation or by statute.

Section 4. Duties. The Board of Directors shall have the following duties:

(a) To 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 Members holding one-fourth (1/4) of the total votes of the membership entitled to vote;

(b) To prepare the proposed annual budget, a copy of which shall be mailed or delivered to each Owner at the same time as the notice of annual meeting is mailed or delivered.

(c) To prepare and deliver annually to the Owners a full accounting of all receipts and expenses incurred in the prior year; such accounting shall be delivered to each Owner simultaneously with delivery of the proposed annual budget for the current year.

(d) To keep a current, accurate and detailed record of receipts and expenditures affecting the Common Areas, the Common Properties and the business and affairs of the Corporation, specifying and itemizing the Common Expenses; all records and vouchers shall be available for examination by an Owner at any time during normal business hours.

(e) To supervise all officers, agents and employees of this Corporation, and to see that their duties are properly performed.

(f) To establish the annual Assessment period and fix the amount of the annual Assessment against each Owner for each Lot owned, all in accordance with the terms of the Declaration, the Articles of Incorporation and this Code of By-Laws.

(g) To fix the amount of any special Assessment against each Member for each Lot owned, all in accordance with the terms of the Declaration, the Articles of Incorporation and this Code of By-Laws.

(h) To establish and maintain a roster setting forth the identification of each and every Lot and each Assessment applicable thereto in accordance with the terms of the Declaration, the Articles of Incorporation and this Code of By-Laws.

(i) To send written notice to all Members of any meeting of the Members called for the purpose of voting upon changes in annual Assessments or voting upon a proposed special Assessment, as and to the extent required by the Articles of Incorporation and this Code of By-Laws.

(j) To send written notice of each Assessment to every Owner in accordance with the Declaration, the Articles of Incorporation and this Code of By-Laws.

(k) To foreclose the Corporation's lien for Assessments 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 or other person personally obligated to pay the same.

(l) To 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 of Directors for issuance of these certificates. If a certificate states an Assessment has been paid, such certificate shall be conclusive evidence of such payment.

(m) To procure and maintain liability, fire and other hazard insurance on property owned by the Corporation which shall include fire and extended coverage on insurable Common Areas and Common Properties on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement only); and to use the proceeds of such hazard insurance solely for the repair, replacement or reconstruction of such insurable Common Areas and Common Properties including insured improvements and to procure and maintain other insurance as required or authorized by the Declaration, the Articles of Incorporation and this Code of By-Laws.

(n) To procure and maintain a fidelity bond and insurance in accordance with the terms of the Declaration, the Articles of Incorporation and this Code of By-Laws.

(o) To cause all officers or employees having fiscal responsibilities to be bonded, as it may deem reasonable and appropriate, and at least as required by the Declaration and the Articles of Incorporation.

(p) To cause all of the Common Areas to be maintained; and

(q) To perform or cause to be performed, all duties and obligations imposed upon the Corporation and the Board of Directors under the Declaration, the Articles of Incorporation and the Code of By-Laws.

Section 5. Term of Office. At the first annual meeting after the Applicable Date, and at each annual meeting thereafter, the Members shall elect directors for a term of one (1) year to fill the vacancies created by expiring terms. There shall be no limit on the number of times a director may serve.

Section 6. Vacancies. Any vacancy in the Board of Directors, other than that caused by the expiration of a director's term of office, shall be filled by vote of the majority of remaining directors, even though they may constitute less than a quorum. Each person so elected shall be a director for the unexpired term of his predecessor, or until his successor is elected.

Section 7. Compensation. No director shall receive compensation for any service he may render to the Corporation in his capacity as a director. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties, and any director may be paid and compensated for services to the Corporation in a capacity other than as a director.

Section 8. Removal of Directors. At any regular or special meeting of the Corporation duly called, any director may be removed with or without cause by a majority of the votes of the Members and a successor may then and there be elected to fill the vacancy thus created.

Section 9. Organization Meeting. The first meeting of a newly elected Board of Directors shall be held within ten (10) days of its election at such place as shall be fixed by the directors at the meeting at which such directors were elected, and no notice shall be necessary to the newly elected directors in order legally to constitute such meeting, provided a majority of the whole Board of Directors shall be present.

Section 10. Regular Meetings. Regular meetings of the Board of Directors shall be held at such regular intervals, without notice, at such place and hour as may be determined from time to time by resolution of the Board of Directors. 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 11. Special Meetings. Special meetings of the Board of Directors may be called by the president on three (3) days' notice to each director, given personally, by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the president or secretary in like manner and on like notice on the written request of a majority of the directors.

Section 12. Waiver of Notice. Before or at any meeting of the Board of Directors, any director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board of Directors shall be deemed a waiver of notice by him of the time and place thereof. If all the directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

Section 13. Quorum. At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business, and the acts of the majority of the directors present at a meeting at which quorum is present shall be the acts of the Board of Directors except as otherwise provided in or required by the Declaration, the Articles of Incorporation, this Code of By-Laws or by statute. If, at any meeting of the Board of Directors, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted at a later date without further notice.

Section 14. 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 consent and approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE VI OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The officers of this Corporation shall be a president, a secretary and a treasurer, all of whom shall be Members of the Board of Directors, and such other officers as the Board of Directors 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 Corporation shall be elected annually by the Board of Directors and each shall hold office for one (1) year unless they shall sooner resign, be removed or otherwise disqualified to serve, which terms shall coincide with their serving as a member of the Board of Directors.

Section 4. Special Appointments. The Board of Directors may elect such other officers as the affairs of the Corporation may require, each of whom shall hold office for such period, have such authority and perform such duties as the Board of Directors may, from time to time, determine; provided, however, such other officers shall not serve as members of the Board of Directors.

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

(a) President. The president shall preside at all meetings of the Board of Directors; he shall see that orders and resolutions of the Board of Directors are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes. He shall have the power to appoint committees from among the Members of the Corporation from time to time as he may in his discretion deem appropriate to assist in conducting the affairs of the Corporation. The president shall have and discharge all the general powers and duties usually vested in the office of the president or chief executive officer of an association or a stock corporation organized under the laws of the State of Indiana.

(b) Vice President. The vice president, if any, 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 by him by the Board of Directors or as are delegated to him by the president.

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

(d) Treasurer. The treasurer shall receive and deposit in appropriate bank accounts all monies of the Corporation and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the

Corporation; keep proper books of account; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular meeting, and deliver a copy of each to the Members.

ARTICLE VII COMMITTEES

Section 1. Architectural Review Committee. As a standing committee of the corporation, the Board of Directors shall establish an Architectural Review Committee as follows:

(a) Membership and Renewal. The initial Architectural Review Committee shall consist of three (3) individuals appointed by Declarant, who shall be subject to removal by Declarant at any time without cause. Any vacancies shall be filled by appointment of Declarant until such time as the subdivision known as Cumberland Lakes is completely developed, or such earlier time as Declarant may turn over its responsibilities to the Association, at which time the Association shall appoint the Members to the Architectural Review Committee.

(b) Purposes. The Architectural Review Committee shall regulate the external design, appearance, use, location and maintenance of the real estate and of improvements thereon in such manner as to preserve and enhance values and to maintain a harmonious relationship among structures, improvements and the natural vegetation and topography.

(c) Conditions. No improvements, alterations, repairs, change of colors, excavations, changes in grade or other work which in any way alters the exterior of any Lot or the improvements located thereon from its natural or improved state existing on the date such Lot was first conveyed in fee by the Declarant to an Owner shall be made or done without the prior approval of the Architectural Review Committee, except as otherwise expressly provided in the Declaration. No building, fence, wall, dwelling unit, or other structure shall be commenced, erected, maintained, improved, altered, made or done on any Lot without the prior written approval of the Architectural Review Committee.

(d) Procedures. The Architectural Review Committee shall approve or disapprove of proposed improvements within twenty (20) days after all of the required information shall have been submitted to it. In the event the Architectural Review Committee fails to approve, modify or disapprove in writing an application within twenty (20) days after such application (and all plans, drawings, specifications and other items required to be submitted to it in accordance with such rules as it may adopt) have been given to it, approval will be deemed granted by the Architectural Review Committee. A decision of the Architectural Review Committee may be appealed to the Board of Directors which may reverse or modify such decision by a majority vote of the directors then serving.

(e) Liability. Neither the Architectural Review Committee nor any agent thereof, nor Declarant shall be responsible in any way for any defects in any plans, specifications or other materials submitted to it, nor any defect in any work done according thereto.

Section 2. Nominating Committee. The Board of Directors shall appoint a Nominating Committee as provided in this Code of By-Laws. At anytime when a Nominating Committee has not been appointed, the Board of Directors shall itself act as, and be and constitute, such committee.

Section 3. Other Committees. The Board of Directors or the president may appoint other committees as deemed appropriate in carrying out the purposes of the Corporation.

ARTICLE VIII BOOKS OF ACCOUNT: FISCAL YEAR

Section 1. Books of Account. The Corporation shall keep detailed books of account showing all expenditures and receipts of administration which shall specify the maintenance and repair expense of the Common Areas and Common Properties, and any other expenses incurred by or on behalf of the Corporation and the Members. Such accounts, books, records, financial statements and other papers of the Corporation shall be open for inspection by the Members and other persons having an interest in any Lot, including any Owner, any lender and any holder, insurer or guarantor of a first mortgage on any Lot, during reasonable business hours or under other reasonable circumstances. The cost of any audits requested by the Members shall be a Common Expense. Any holder, insurer guarantor of a first mortgage on a Lot shall be entitled upon written request and for a nominal charge to the requesting party to receive a financial statement for the immediately preceding fiscal year and within a reasonable time of such request. Current copies of the Declaration, the Articles of Incorporation, the Code of By-Laws of the Corporation, and other rules concerning the real estate, shall be available for inspection by any owner and lender, and by holders, insurers or guarantors of any first mortgage, at the principal office of the Corporation during normal business hours or under other reasonable circumstances, where copies of the same and of audits may be purchased at reasonable costs.

Section 2. Fiscal Year. The fiscal year of the Corporation shall commence January 1 and end the following December 31 each year; provided, however, that the fiscal year for purposes of Assessments may be different than the general fiscal year of the Corporation.

ARTICLE IX
COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 1. Purpose of the Assessments. The Assessments levied by the Board of Directors shall be used exclusively for the purpose of preserving the values of the Lots within Cumberland Lakes and promoting the health, safety and welfare of the Owners, users and occupants of Cumberland Lakes and, in particular, for the improvement, repairing, operating and maintenance of the Common Areas and the Common Property, including, but not limited to, the payment of taxes and insurance thereon and for the cost of labor, equipment, material and management furnished with respect to the Common Areas and the Common Property; provided that the Association shall not be responsible for the replacement, repair or maintenance of any of the Common Areas or Common Property which is or hereafter may be dedicated to the public. Each Owner hereby covenants and agrees to pay to the Association:

(a) A Pro Rata Share (as hereinafter defined) of the annual Assessments fixed, established and determined from time to time, as hereinafter provided.

(b) A Pro Rata Share (as hereinafter defined) of any special Assessments fixed, established and determined from time to time, as hereinafter provided.

Section 2. Liability for Assessment. Each Assessment, together with any interest thereon and any costs of collection thereof, including attorneys' fees, shall be a charge on each Lot and shall constitute a lien from and after the due date thereof in favor of the Association upon each Lot. Each such Assessment, together with any interest thereon and any costs of collection thereof, including attorneys' fees, shall also be the personal obligation of the Owner of each Lot at the time when the Assessment is due. 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 become due prior to such sale or transfer. No sale or transfer shall receive such Lot from liability for any Assessments thereafter becoming due or from the lien thereof, nor shall any sale or transfer relieve any Owner of the personal liability hereby imposed. The personal obligation for delinquent Assessments shall not pass to any successor in title unless such obligation is expressly assumed by such successor.

Section 3. Pro Rata Share. The Pro Rata Share of each Owner for purposes of this Article IX shall be the percentage obtained by dividing the total number of Lots owned by an Owner by the total number of Lots shown on the Plat or Plats of Cumberland Lakes ("Pro Rata Share").

Section 4. Basis of Annual Assessments. The Board of Directors of the Association shall establish an annual budget prior to the beginning of each fiscal year, setting forth estimates of all Common Expenses for the coming fiscal year, together

with a reasonable allowance for contingencies and reserves of the Association. A copy of this budget shall be delivered to each Owner prior to the beginning of each fiscal year of the Association.

Section 5. Basis of Special Assessments. Should the Board of Directors of the Association at any time during the fiscal year determine that the Assessment levied with respect to such year are insufficient to pay the Common Expenses for such year, the Board of Directors of the Association may, at any time, and from time to time, levy such special Assessments as it may deem necessary for meeting the Common Expenses. In addition, the Board of Directors of the Association shall have the right to levy at any time, and from time to time, one or more special Assessments for the purpose of defraying, in whole, or in part, any unanticipated Common Expense not provided for by the annual Assessments.

Section 6. Date of Commencement of Assessments: Due Date: The annual Assessments of each Lot in each section of Cumberland Lakes shall commence on the first day of the second month following the month in which Declarant first conveys ownership of any Lot to an Owner. The first annual Assessment shall be made for the balance of the Association's fiscal year in which such Assessment is made and shall become due and payable commencing on a date fixed by the Board of Directors. The annual Assessment for each year after the first assessment year shall be due and payable on the first day of each fiscal year of the Association. Annual Assessment shall be due and payable in full as of the above date, except that the Association may from time to time by resolution authorize the payment of such Assessments in installments.

Section 7. Duties of the Association

(a) The Board of Directors of the Association shall cause written notice of all Assessments levied by the Association upon the Lots to be mailed to the Owners as promptly as practicable and in any event not less than thirty (30) days prior to the due date of such Assessment or any installment thereof; provided, however, failure of the Board of Directors to timely mail such notice shall not excuse the Lot Owner's payment of such Assessment.

(b) The Association shall promptly furnish to any Owner or Mortgagee upon request a certificate in writing signed by an officer of the Association, setting forth the extent to which Assessments have been levied and paid with respect to such requesting Owner's or Mortgagee's Lot. As to any person relying thereon, such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

(c) The Association shall notify any Mortgagee from which it has received a request for notice of any default in the performance by any Owner of any

obligation under the Code of By-Laws or this Declaration which is not cured within sixty (60) days.

Section 8. Nonpayment of Assessments: Remedies of Association.

(a) If any Assessment is not paid on the date when due, then such Assessment shall be deemed delinquent and shall, together with any interest thereon and any cost of collection thereof, including attorneys' fees, become a continuing lien on the Lot against which such Assessment was made, and such lien shall be binding upon and enforceable as a personal liability of the Owner of such Lot as of the date of levy of such Assessment, and shall be enforceable against the interest of such Owner and all future successors and assignees of such Owner in such Lot; provided, however, that such lien shall be subordinate to any mortgage on such Lot recorded prior to the date on which such Assessment becomes due.

(b) If any Assessment upon any Lot is not paid within thirty (30) days after the due date, such Assessment and all costs of collection thereof, including attorneys' fees, shall bear interest from the date of delinquency until paid at an annual rate which is two (2) times the rate in effect for ninety (90) day U.S. Treasury Bills at the time such Assessment is due, but in no event greater than the maximum rate allowable under any applicable usury laws, and the Association may bring an action in any court having jurisdiction against the delinquent Owner to enforce payment of the same and/or to foreclose the lien against said Owner's Lot, and there shall be added to the amount of such Assessment all costs of such action, including the Association's attorneys' fees, and in the event a judgment is obtained, such judgment shall include such interest, costs and attorneys fees.

Section 9. Adjustments. In the event that the amounts actually expended by the Association for Common Expenses in any fiscal year exceed the amount budgeted and assessed for Common Expenses for that fiscal year, the amount of such deficit shall be carried over and become an additional basis for Assessments for the following fiscal year. Such deficit may be recouped either by inclusion in the budget for annual Assessments or by the making of one or more special Assessments for such purpose, at the option of the Board of Directors of the Association. In the event that the amounts budgeted and assessed for Common Expenses in any fiscal year exceed the amount actually expended by the Association for Common Expenses for that fiscal year, a Pro Rata Share of such excess shall be a credit against the Assessment(s) due from each Owner for the next fiscal year(s).

ARTICLE X
AMENDMENTS

Section 1. Amendments. The power to amend, alter, add to and repeal this Code of By-Laws is vested in the Members of the Corporation; provided, however, that no amendment or other change shall be made in this Code of By-Laws which

conflicts with the terms and provisions of the Declaration unless the same is adopted by and approved by two-thirds(2/3) of the Members of the Corporation requesting notice of such action and entitled by the terms of the Articles of Incorporation to vote on amendments to the Declaration, the Articles of Incorporation and the Code of By-Laws as provided therein; provided further, there shall be no amendment of or other change to this Code of By-Laws without the prior written approval of the Declarant so long as the Declarant owns at least six (6) Lots within Cumberland Lakes.

Section 2. Conflicts. In the case of any conflict between the Articles of Incorporation and this Code of By-Laws, the Articles of Incorporation shall control; and in the case of any conflict between the Declaration and the Articles of Incorporation or this Code of By-Laws, the Declaration shall control.