

**BY-LAWS OF THE  
MALLARD COVE PROPERTY OWNERS' ASSOCIATION INC.**

**ARTICLE I. OFFICES**

- Section 1. **Principal Office.** The principal office of the Association shall be located at the home of the President of the Association situated in Mallard Cove, Carolina Trace, Sanford, North Carolina.
- Section 2. **Registered Office.** The registered office of the Association required by law to be maintained in the State of North Carolina may be, but need not be, identical with the principal office. Mailing address shall be 5000 Cardinal Circle, Sanford, North Carolina 27332-8348.

**ARTICLE II. MEMBERSHIP**

- Section 1. **Mallard Cove Members.** All present owners of improved lots, owners of unimproved lots and all residents of the Mallard Cove Subdivision of Lee County, North Carolina are Members.

**ARTICLE III. MEETINGS OF MEMBERS**

- Section 1. **Place of Meeting.** All meetings of Members shall be held at the Carolina Trace Country Club, or at such other place, either within or outside the State of North Carolina, as shall be designated in the notice of the meeting or agreed upon by a majority of the members entitled to vote thereat.
- Section 2. **Annual Meeting.** The annual meeting of Members shall be held on a business day during the months of October or November, but no later than November 15 of each year at a time determined by the Board of Directors for the purpose of electing Directors of the Association, approving the annual budget, changing the annual assessment, levying a special assessment, changes or additions to these By-Laws, changes or additions to the Statement of Covenants, Reservations and Restrictions, and for the transaction of such other business as may be properly brought before the meeting.
- Section 3. **Special Meetings.** Special meetings of the Members may be called at any time by the President, Secretary, or the Board of Directors of the Association, or by any voting member pursuant to the written request of not less than one-tenth (10%) of the of the Members entitled to vote at the meeting, as described in Article II.
- Section 4. **Notice of Meeting.** Written or printed notice stating the date, time and place of the meeting shall be delivered not less than ten (10) or more than fifty (50) days before the date of any meeting, either personally or by mail, by or at the direction of the President, the Secretary, or persons calling the meeting, to each Member entitled to vote at such meeting. If mailed, such notice shall be deemed delivered when deposited in the United States mail, addressed to the member at the address as it appears on the records of the Association with postage thereon prepaid.

In the case of a special meeting, the notice of meeting shall specifically state the purpose(s) for which the meeting is called; but, in the case of an annual meeting, the notice of the meeting need not, specifically state the business to be transacted thereat.

When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. When a meeting is adjourned for less than thirty days in any one adjournment, it is not necessary to give notice of the adjourned meeting other than announcement at the meeting at which the adjournment is taken.

- Section 5. **Judges of Election.** On or before September 15th of each year, the President shall appoint a panel of Judges of Election consisting of two voting members, no one of whom shall be serving as a Director, Officer or a Director Nominee or be a member of the household of a Director, Officer or Nominee. The Judges of Election shall receive all the ballots and proxies and report the results of voting on each agenda item coming before the meeting of Members requiring a vote.

- Section 6. **Voting Lists.** At least ten (10) days before each meeting of members the Treasurer of the Association shall prepare an alphabetical voting list of names & addresses of members whose dues are paid to date and are therefore entitled to vote at the meeting and any adjournment thereof. This voting list shall be delivered to the Judges of Election to be kept by them and shall be subject to inspection by any voting member at any time during normal business hours. This list shall also be produced and kept open at the time and place of the meeting and shall be subject to inspection by any voting Member during the whole time of the meeting. The fact that the above requirements were met shall be part of the official minutes of such meeting.
- Section 7. **Quorum.** The number of Members of the Association entitled a vote and attending any annual or special meeting of members represented either in person or by proxy, even though less than a majority, shall constitute a quorum at such meeting for the purpose of the election of Directors, approval of the Annual Budget, changes in the General Assessment or levying a Special Assessment, changes or additions to these By-Laws, changes or additions to the Statement of Covenants, Reservations and Restrictions or for other matters coming before the meeting.
- Section 8. **Proxies.** Members entitled a vote may vote either in person or by one or more agents authorized by a written proxy executed by the Member or by his authorized attorney in fact. A proxy is valid only for a specific annual meeting or special meeting of the members and any adjournments thereof. Proxies become invalid at the conclusion of the said meeting of the members.
- Section 9. **Voting Member.** There shall be one class of voting membership in the Association. Voting Members include all present owners of improved lots and all adult household members residing in that home in Mallard Cove and owners of unimproved lots in Mallard Cove. Eligible voting members shall be those whose dues are paid. Mallard Cove residents who are lessees are non-voting Members.
- Eligible voting Members shall be entitled to one vote per lot owned. Eligible voting Members may cast their vote on each matter submitted to vote at a meeting of members. When a lot shall be titled in more than one owner's name or there are multiple voting members in the household, those members jointly shall be entitled to one vote on any question put before the membership for a vote, which shall be exercised as they themselves determine. No fractional voting will be permitted. If more than one ballot is received when only one is entitled, and the cast ballots are voted the same, only one vote shall be counted. If the cast ballots are not voted the same, all ballots are spoiled and no vote will be counted.

#### **ARTICLE IV. BOARD OF DIRECTORS**

- Section 1. **General Duties.** The Board of Directors shall:
- a. Have the authority to handle all business matters including contracts for normal maintenance and other budgeted expenses.
  - b. The Board will prepare a budget and recommend changes in the general assessment each year for presentation to and approval by the Voting Members at the annual meeting.
- Section 2. **Number, Term, Qualifications.** The number of Directors constituting the Board of Directors shall be no less than seven or more than eleven. Directors shall be elected for a term of three (3) years. Directors shall be resident Members of Mallard Cove entitled to vote.

Section 3. **Nomination and Election of Directors.** On or before August 15th of each year, the President shall appoint a Nominating Committee consisting of three (3) Voting Members, no more than one of who shall be serving as a Director. Such Nominating Committee shall meet and select a number of nominees equal to or greater than the number of Directors to be elected and shall notify the Secretary of the Association in writing of its selection not later than October 1st.

Any group of voting members entitled to ten (10) or more votes may also submit their slate of nominees in writing to the Secretary by October 1st. The Nominating Committee or the members at large shall not be nominated anyone to hold office as a Director, unless such person's prior consent to such nomination has been obtained and whose eligibility for election has been determined. No Director shall be nominated for a third consecutive three (3) year term. A ballot containing the names of all nominees and a brief biographical sketch of each will be sent to each Member eligible to vote with the notice of the annual meeting. Except as provided in Section 5 of this Article IV, Directors shall be elected at the annual meeting of Members. Those persons who receive the highest number of votes shall be deemed to have been elected. The election of Directors will be by ballot rather than voice vote.

Section 4. **Removal.** Any Director may be removed at any time with cause by a vote of the members entitled to vote at an election, either in person or by proxy described in Section 7 & 8 of Article III of these By-laws, at a meeting called to affect such action.

Section 5. **Vacancies.** Any vacancy occurring in the Board of Directors may be filled by the affirmative vote of the majority of the remaining Directors even though less than a quorum, or by the sole remaining Director. Any Directorship to be filled by reason of an increase in the authorized number of Directors shall be filled only by election at an annual meeting or special meeting of the members called for that purpose.

Section 6. **Chairman of the Board.** The President of the Association shall serve as Chairman of the Board of Directors and shall preside at all meetings of the Board and at all meetings of the Members.

Section 7. **Compensation.** The Board of Directors shall not be compensated for their services as Directors but may be reimbursed for all reasonable expenses incurred as Directors.

Section 8. **Indemnification.** When by reason of the fact that he or she was serving as an Officer or a Director of the Mallard Cove Property Owners Association, Inc., or in any capacity at the request of the Mallard Cove Property Owners Association, Inc. in any other corporation, partnership, joint venture, trust or other enterprise, any person was a party to any suit or proceedings, whether civil, administrative or investigative, not brought by any party seeking derivatively to enforce a liability of such a person to the Mallard Cove Property Owners Association, Inc. The Mallard Cove Property Owners Association, Inc. will pay in full such expenses of defense of participation, including attorney fees, and the amount of any judgment, money decree, fine or settlement for which he or she may become liable. Provided, however, that the Mallard Cove Property Owners Association, Inc. will not indemnify any Officer or Director for expenses incurred in a criminal proceeding which resulted in a conviction against the officer or Director.

The Board of Directors will maintain a Directors' and Officers' Errors and Omissions Liability Policy of Insurance with a minimum coverage of one million dollars (\$1,000,000.00) at all times.

## **ARTICLE V. MEETINGS OF DIRECTORS**

Section 1. **Regular Meetings.** A regular meeting of the Board of Directors shall be held immediately after, and at the same place, as the annual meeting of members. In addition, the Board of Directors will decide the time and place of meeting for each additional regular meeting.

- Section 2. **Special Meetings.** Special meetings of the Board of Directors may be called by or at the request of the President or any two Directors.
- Section 3. **Notice of Meeting.** Regular meetings of the Directors may be held without notice. The person or persons calling a special meeting of the Board of Directors shall, at least five days before the meeting, give notice thereof by usual means of communication. Such notice must specify the purpose for which the meeting is called.
- Section 4. **Waiver of Notice.** Any Director may waive notice of any meeting. The attendance by any Director at a meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting of the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.
- Section 5. **Quorum.** Except as otherwise provided in Article IV Section 5 of these By-Laws, a majority of the number of elected Directors fixed by these by-laws shall constitute a quorum for the transaction of business at any meeting of the Board of Directors.
- Section 6. **Manner of Acting.** Except as otherwise provided in these by-laws, the act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.
- Section 7. **Presumption of Assent.** A Director of the Association who is present at a meeting of the Board of Directors at which action on any matter is taken shall be presumed to have assented to the action taken unless his contrary vote is recorded or his dissent is otherwise entered in the minutes of the meeting or unless he shall file his written dissent to such action with the Secretary or the person acting as the Secretary of the meeting before the adjournment thereof or shall forward such dissent by certified mail to the Secretary of the Association immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favor of such action.
- Section 8. **Informal Action by Directors.** Action taken by a unanimous Board of Directors without a meeting is nevertheless Board action if written consent to the action taken is signed by all the Directors and filed with the minutes of the proceedings meeting of the Board, whether done before or after the action is taken.

## **ARTICLE VI. OFFICERS**

- Section 1. **Officers of the Association.** The Officers of the Association shall consist of a President, Vice President, Secretary, Treasurer and such other Officers as the Board of Directors may from time to time elect. No two or more offices may be held by the same person. A Director, however, may also serve as an Officer.
- Section 2. **Election and Term.** The Officers of the Association shall be elected by the Board of Directors and each Officer shall hold office for one (1) year. Any Officer may be re-elected by the Board of Directors.
- Section 3. **Compensation of Officers.** No Officer shall be compensated for their services but may be reimbursed by the Board of Directors for all reasonable expenses incurred in the performance of their duties.
- Section 4. **Removal.** Any Officer or agent selected or appointed by the Board of Directors may be removed by the Board whenever in its judgment the best interest of the Association will be served thereby; but such removal shall be without prejudice to contract rights, if any, of the person so removed.

- Section 5. **President.** The President shall be the principal executive of the Association and, subject to control of the Board of Directors, shall in general supervise and control all business and affairs of the Association. The President shall, when present preside at all meetings of the Association. The President shall form and assign committees and describe explicit duties. The President shall sign, with the Secretary or any other proper Officer of the Association thereunto authorized by the Board of Directors, any deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these By-Laws to some other Officer or agent of the Association or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incidental to the office of President and other duties as may be prescribed by the Board of Directors from time to time.
- Section 6. **Vice President.** In the absence of the President or in the event of the death, inability, or refusal to act of the President, the Vice President, unless otherwise determined by the Board of Directors, shall perform the duties of the President, and when so acting shall have all the powers of and be subject to all restrictions upon the President. The Vice President shall, with the assistance of the Treasurer and other such Directors as may be required, cause a budget and recommended annual assessment for the ensuing year to be prepared for submission to the members for approval at the Annual Meeting. The Vice President may sign, with the Secretary, corporate documents; and shall perform other duties as from time to time may be assigned by the President or Board of Directors.
- Section 7. **Secretary.** The Secretary shall: (a) keep the minutes of the meetings of Members, of the Board of Directors and of all Executive committees in one or more books provided for the purpose; (b) see that all notices are duly given in accordance with the provisions of the By-Laws or as required by law or as specified in the Statement of Covenants, Reservations for the Mallard Cove Subdivision; (c) be custodian of the records and the seal of the Association and see that the seal of the Association is affixed to all documents, the execution of which on the behalf of the Association under its seal, is duly authorized; (d) keep a register of the name, address and telephone number of each resident which shall be furnished to the Secretary by such resident; (e) sign with the President, or Vice President, corporate documents; and (f) in general perform all duties incidental to the office of Secretary and such other duties as from time to time may be assigned by the President or the Board of Directors.
- Section 8. **Treasurer.** The Treasurer shall: (a) have charge and custody of and be responsible for all funds and securities of the Association; receive and give receipts for moneys due and payable to the Association from any sources whatsoever, and deposit all such moneys in the name of the Association in such depositories as shall be selected in accordance with the provisions of Section 3 of Article VIII of these By-Laws; (b) prepare, or cause to be prepared, a true statement of the Association's assets and liabilities as of the close of each fiscal year, all in reasonable detail; which statement shall be made and filed at the Association's registered office or principal place of business in the State of North Carolina within four months after the end of such fiscal year and thereat kept available for a period of at least ten years; (c) keep or cause to be kept in the State of North Carolina at the Association's registered office or principal place of business a record of the Association's members, giving the names and addresses of all members, and prepare or cause to be prepared voting lists prior to each meeting of the members as required by Article III, Section 6 of these By-Laws, and (d) in general perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned by the President or the Board of Directors.

Section 9. **Director – Carolina Trace Association, Inc.** The Director (as chosen by the Mallard Cove Property Owners Association, Inc.'s Board of Directors) shall represent the Mallard Cove Property Owner's Association, Inc. on the Board of Directors of the Carolina Trace Association, Inc. Duties include: (1) attendance at all regular and special meetings of the Carolina Trace Association, Inc.; (2) participate as an Officer or on committee assignments as selected according to the By-Laws of the Carolina Trace Association, Inc. dated September 17, 1990 or as subsequently amended; (3) Vote on any fiscal matters of the Carolina Trace Association, Inc., budgets, assessments, changes in assessment allocations, etc., as well as changes in By-Laws or major policy decisions only with the approval of the majority of the Mallard Cove Property Owners Association's Board of Directors; (4) coordinate with the alternate(s) (as chosen by the Mallard Cove Property Owners Association's Board of Directors) to assure compliance with the responsibilities as specified in this position description.

## **ARTICLE VII. ARCHITECTURAL COMMITTEE**

Section 1. **Description and Powers.** The architecture and appearance of lots, homes and all other structures shall be controlled by an Architectural Committee as set forth in Articles V through IX in the Statement of Covenants, Reservations and Restrictions of Mallard Cove and Appendixes thereto.

Section 2. **Architectural Committee.** The Architectural Committee shall be composed of one chairperson and two members, at least one of which shall be a Director of the Association, all designated and appointed by the Board of Directors of the Association. The Chairperson and each member may be removed from the Architectural Committee by the Board of Directors, or may resign at any time. Any vacancies are to be filled by the Board of Directors.

## **ARTICLE VIII. LOANS, CHECKS AND DEPOSITS**

Section 1. **Loans.** No loans shall be contracted on behalf of the Association and no evidences of indebtedness shall be issued in its name unless authorized by resolution of the Board of Directors.

Section 2. **Checks and Drafts.** All checks, drafts or other orders for payment of money, issued in the name of the Association, shall be signed by an officer or Director of the Association and in such manner as shall from time to time be determined by resolution of the Board of Directors. The Treasurer is authorized to pay all budgeted expenditures and spend up to two hundred dollars (\$200.00) of unbudgeted expenditures without prior approval of the Board of Directors.

Section 3. **Deposits.** All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such depositories as the Board of Directors may select.

Section 4. **Reserves.** Reserve accounts shall be established for the maintenance and improvements of the roadways, recreation areas (pool, pavilion, tennis courts, boat dock, etc.) and other common areas. The amounts of such reserves shall be a matter of record reported regularly at Board of Directors Meetings and at the Annual Meeting of Members by the Treasurer. Only the Board of Directors may approve Reserve fund spending. A documented approved request must exist prior to spending Reserve funds. Unless otherwise ordered by the Board of Directors, Reserve fund investments are limited to North Carolina Municipal bonds, certificates of deposit (CD's), cash and cash equivalents.

## **ARTICLE IX. ASSESSMENTS**

- Section 1. **Annual and Special Assessments.** Annual and special assessments of members shall be in amounts as set by the Board of Directors in accordance with the Membership approved budget as called for in Article IV of the Statement of Covenants, Reservations and Restrictions of Mallard Cove.
- Section 2. **Payment of Assessments.** Payment of assessments is as described in Article IV of the Statement of Covenants, Reservations and Restrictions of Mallard Cove.
- Section 3. **Delinquency.** Lots belonging to delinquent members are subject to liens and other legal remedies under the provisions of the North Carolina Planned Community Act.

## **ARTICLE X. GENERAL PROVISIONS**

- Section 1. **Seal.** The corporate seal of the Association shall consist of two concentric circles between which is the name of the Association and in the center of which is inscribed SEAL; and such seal, as impressed on the margin hereof adopted as the corporate seal of the Association.
- Section 2. **Waiver of Notice.** Whenever any notice is required to be given to any member or Director by law, by the charter or by these By-Laws, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to giving such notice.
- Section 3. **Fiscal Year.** Unless otherwise ordered by the Board of Directors, the fiscal year of the Association shall be from January 1<sup>st</sup> through December 31<sup>st</sup>.
- Section 4. **Amendments.** These By-Laws may be amended or repealed and new By-Laws may be adopted by the affirmative vote either in person or by proxy at a meeting of the Voting Members of the Association as provided in Article III of these By-Laws.
- Section 5. **Rules of Order.** Roberts Rules of Order shall apply to all meetings.
- Section 6. **North Carolina Planned Community Act.** Except as specifically provided for in these By-Laws and amendments thereto, the Mallard Cove Property Owners Association, Inc. operates in accordance with the provisions of the North Carolina Planned Community Act.

Revised 4/2023 and supersedes all provisions adopted By-Laws properly voted upon by members of Mallard Cove Property Owners Association, Inc.

In Witness whereof, this instrument, the above stated Bylaws were approved by a majority of its members at a meeting held April 30, 2023, is executed by the undersigned this the 10 day of May, 2023.

Mallard Cove Property Owners Association, Inc.

By: [Signature] Dan Jouppi, President

Attest: By: [Signature] Bonni Markovich, Secretary

(SEAL)

MALLARD COVE P.O.A.

5000 Cardinal Circle

Sanford, NC, 27332

NORTH CAROLINA LEE COUNTY

I, [Signature], a Notary Public of Lee County do hereby certify that Dan Jouppi and Bonni Markovich personally appeared before me this day and stated that she is Secretary of Mallard Cove Owners Association, Inc., a North Carolina Corporation, and that by authority duly given and as an act of the corporation, the forgoing instrument was signed in its name by its President, sealed with its corporate seal and attested by her as its secretary.

Witness my hand and official seal, this 10<sup>th</sup> day of May, 2023

[Signature]  
Notary Public

My commission expires: \_\_\_\_\_

**CORY S RUSHATZ**  
Notary Public, North Carolina  
Lee County  
My Commission Expires  
November 23, 2025