

# **FHPOA BYLAWS AMENDMENT SUMMARY**

## **Summary:**

The current version of the Forest Heights Property Owners' Association (FHPOA) Bylaws was written at the time the lots were owned by the developer and as such, there are items in the Bylaws that are written specifically for and to the benefit of the developer. This update of the FHPOA Bylaws is intended to update the Bylaws to represent the management of the FHPOA by owners.

## **Motion to Amend ARTICLE I of the FHPOA Bylaws:**

**Summary:** This section of the Bylaws defines the name and address of the association. Propose changing the recorded address for the association from the original developer's address and changing the address for the association to a Forest Heights address.

**Current:** "The principal office of the Association shall be 559 Davidson Gateway Drive, Suite 101, Davidson, North Carolina 28036."

**Proposed:** "The principal office of the Association shall be 26 Forest Country Drive, Marion, North Carolina 28752."

## **Motion to Amend ARTICLE II of the FHPOA Bylaws:**

**Summary:** This section of the Bylaws lists definitions of terms used throughout the document. Propose adding new definitions & correcting capitalization.

1. In the "Declaration" definition ...

**Current:** "Office of the Register of deeds of McDowell County"

**Proposed:** "Office of the Register of deeds of McDowell County"

2. Added new definitions ...

**Proposed:**

"FHPOA" shall mean and refer to the FOREST HEIGHTS PROPERTY OWNERS' ASSOCIATION.

"Qualified voting member" shall mean and refer to a FHPOA member that has an account in good standing."

## **Motion to Amend ARTICLE IV of the FHPOA Bylaws:**

**Summary:** This section of the Bylaws defines Membership and Voting requirements. Propose removing references of developer specific requirements and the multiple class members.

1. In the first paragraph ...

**Proposed:** Delete the following sentence "The Developer shall also be a member of the Association as provided for in the Declaration."

2. In the second paragraph ...

**Current:** "The Association shall have two classes of voting membership:

- 1)** Class A members shall be all owners with the exception of the Developer. Class A members 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 determined by the owners, but in no event shall more than one vote be cast with respect to any Lot, fractional voting with respect to any Lot is prohibited.

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- 2) The Developer, its successor and assigns, shall be a Class B member and shall be entitled to three votes for each Lot owned. Class B membership shall cease and be converted to Class A membership when the Developer shall turns the subdivision over to the home owners association."

**Proposed:** "Members 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 determined by the owners, but in no event shall more than one vote be cast with respect to any Lot, fractional voting with respect to any Lot is prohibited."

### **Motion to Amend ARTICLE V of the FHPOA Bylaws:**

**Summary:** This section of the Bylaws defines the requirements for meetings of the members. Propose changing meeting scheduling requirements and enhancing communication of scheduled meetings.

1. In the first paragraph ...

**Current:** "Each subsequent annual meeting shall be held on the anniversary of the first annual meeting. If the day of the annual meeting falls on a holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday."

**Proposed:** "Each subsequent annual meeting shall be scheduled by the Board of Directors."

2. In the second paragraph ...

**Current:** "Special meetings may be called at any time by the president or the Board of Directors."

**Proposed:** "Special meetings may be called at any time by the President or the Board of Directors."

**Current:** "The membership at large ... signed by Owners representing at least ½ of the votes entitled to be cast at any meeting."

**Proposed:** "The membership at large ... signed by Owners representing at least fifty percent (50%) of the current qualified FHPOA voting membership."

3. In the third paragraph ...

**Current:** "Written notice of each meeting of the members ... call the meeting, by mailing a copy of such notice, postage prepaid, at least 15 days, but not more than 60 days, in advance of the meeting, to the last known address of each member."

**Proposed:** "Written notice of each meeting of the members ... call the meeting, by either mailing, postage prepaid, or emailing a copy of such notice at least 15 days, but not more than 60 days, in advance of the meeting, to the last known mailing or email address of each member."

4. In the last paragraph ...

**Current:** "a. Reading of the minutes of immediate prior meeting for information and approval."

**Proposed:** "a. Approval of the minutes of immediate prior meeting."

### **Motion to Amend ARTICLE VI of the FHPOA Bylaws:**

**Summary:** This section of the Bylaws defines the selection and term of office for the Board of Directors (BOD). Propose changing the requirement for number of members and term requirements for the BOD.

**Current:** "The affairs of the Association shall be managed by a Board of Directors consisting of at least 2 members, who need not be members of the Association."

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**Proposed:** “The affairs of the Association shall be managed by a Board of Directors consisting of at least 5 members, who must be members of the Association.”

**Current:** “At each annual meeting thereafter, the members shall fill the expiring term by electing a director for a term of two years.”

**Proposed:** “At each annual meeting thereafter, the members shall fill the expiring term by electing a director for a term of two years. If the number of Board of Directors changes, the directors should continue with approximately ½ of the Board of Directors having expiring terms in any year.”

**Motion to Amend ARTICLE VII of the FHPOA Bylaws:**

**Summary:** This section of the Bylaws defines the nomination and election of Directors. Propose changing the requirements for selecting the Nomination committee.

1. In the first paragraph ...

**Current:** "The Nomination 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 announce at each annual meeting."

**Proposed:** "The Nomination Committee Chairperson shall be appointed by the Board of Directors and the committee members selected by the Nominating Committee Chairperson prior to the next annual meeting of the members to serve until the close of that annual meeting."

2. At the end of the first paragraph ...

**Proposed:** Delete the sentence "Such nominations may be made from among members or non-members."

**Motion to Amend ARTICLE VIII of the FHPOA Bylaws:**

**Summary:** This section of the Bylaws defines the requirements of meetings of the Directors. Propose changing the requirements for frequency of the meetings and removing details of scheduling meeting.

**Current:** "Regular meetings of the Board of Directors shall be held monthly, or at such other periodic intervals as may be established by the Board from time to time, 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 legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday."

**Proposed:** "Regular meetings of the Board of Directors shall be held quarterly, or at such other periodic intervals as may be established by the Board from time to time, without notice at such place and hour."

**Motion to Amend ARTICLE IX of the FHPOA Bylaws:**

**Summary:** This section of the Bylaws defines the power and duties of the Board of Directors. Propose clarifying the requirements for the duties of the Board of Directors and changing the timing associated with assessments.

In the "duty of the Board of Directors" section ...

1. **Current:** "a. cause to be kept a complete record ... statement is requested in writing by members representing ¼ of votes entitled to be cast at any meeting."

**Proposed:** "a. cause to be kept a complete record ... statement is requested in writing by members representing twenty-five percent (25%) of the current qualified FHPOA voting membership."

2. **Current:** "c. fix the amount of annual assessment against each lot at least 30 days in advance of each annual assessment period."

**Proposed:** "c. fix the amount of annual assessment against each lot at least 60 days in advance of each annual assessment period."

3. **Current:** "d. send written notice of each assessment to every owner subject thereto at least 10 days in advance of each annual assessment period;"

**Proposed:** "d. send written notice of each assessment to every owner subject thereto at least 30 days in advance of each annual assessment due date; assess late fees if assessment is not paid by any due date;"

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4. **Current:** “e. foreclose the lien against any property for which assessments are not paid within 30 days after due date ....”

**Proposed:** “e. foreclose the lien against any property for which assessments are not paid within 90 days after due date ....”

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### **Motion to Amend ARTICLE X of the FHPOA Bylaws:**

**Summary:** This section of the Bylaws defines the Officers and their duties for the Board of Directors. Propose changing the minimum officer requirements.

1. In the first paragraph ...

**Current:** “The officers of this Association shall be a President and Vice-President, who shall at all times be members of the Board of Directors, and a Secretary and a Treasurer, and such other officers as the Board may from time to time by resolution create. The Secretary and Treasurer may be combined into one office and the requirement to be a member of the Board of Directors does not apply to either office, or to the combined one.”

**Proposed:** “The officers of this Association shall be a President, a Vice-President, a Secretary and a Treasurer who shall be members of the Board of Directors, and such other officers as the Board may from time to time by resolution create. The Secretary and Treasurer may be combined into one office.”

2. In the duties of the officers list ...

**Current:** “1. President: The President shall ... written on the Association. The president shall be an ex-officio member of all committees.”

**Proposed:** “1. President: The President shall ... written on the Association. The President shall be an ex-officio member of all committees.”

### **Motion to Amend ARTICLE XIII of the FHPOA Bylaws:**

**Summary:** This section of the Bylaws defines the requirements for assessments and the budget. Propose clarifying the requirements associated with late fees.

1. In the fourth paragraph ...

**Current:** “Any assessments which are not paid when due shall be delinquent.”

**Proposed:** “Any assessments which are not paid when due shall be delinquent and late fees will be assessed.”

2. In the fifth paragraph ...

**Current:** “If any assessment is not paid within 30 days after the due date, the assessment shall accrue interest from the date of delinquency at the rate of 8% annum, and the Association ... foreclose the lien against the Lot, and interest, costs, ...”

**Proposed:** “If any owner has an assessment balance that is not paid by the assessment due date, the assessment shall be assessed late fees, and the Association ... foreclose the lien against the Lot, and late fees, costs ....”

### **Motion to Amend ARTICLE XVII of the FHPOA Bylaws:**

**Summary:** This section of the Bylaws is used for miscellaneous requirements. Propose changing the notice requirement to add electronic notices.

**Current:** “All notices required to be given shall be mailed to the physical (911) address of the property owned by the members, and such mailing shall constitute presumptive evidence of service.”

**Proposed:** “All notices required to be given shall be mailed or emailed to the owner’s mailing or email address on record with the Association, and such mailing shall constitute presumptive evidence of service.”