

## **BYLAWS OF LAXTON SQUARE OWNERS ASSOCIATION**

These ByLaws are adopted in accordance with and are subject to the Articles of Incorporation of Laxton Square Owners Association (the "Association") and a Declaration of Covenants and Restrictions for Laxton Square at Wyndhurst ("Declaration"), of dated as of December 11, 2006, and all amendments and supplements thereto. In case of any conflict between these ByLaws and the Articles of Incorporation or the Declaration, the Articles of Incorporation or the Declaration shall control.

### **Article One Membership**

**Section 1.** The Association has the following classes of Members:

Class A. Class A Members shall be all owners of "Living Units" (as defined in the Declaration) in a "Development" (as defined in the Declaration) located in the City of Lynchburg, Virginia and the County of Campbell, Virginia, known as "Laxton Square at Wyndhurst" (the "Development") shown or established on or by any deed, plat, declaration or other instrument recorded in the Clerk's Office of the Circuit Court of the City of Lynchburg, Virginia and in the Clerk's Office of the Circuit Court of Campbell County by Braxton Park, LLC, a Virginia limited liability company, its successors and/or assigns, (the "Declarant"), except the Class B Member (as defined in the Declaration) subject to the provisions of the following paragraph. Class A Membership shall be appurtenant to a Living Unit and upon sale, conveyance or other transfer of ownership of a Living Unit the Class A Membership shall pass to the successive Owner or Owners and shall not otherwise be assigned, transferred, pledged, hypothecated, conveyed, or alienated. Upon the transfer of fee simple title to a Living Unit or an interest in a Living Unit, the purchaser or transferee shall give written notice of the transfer to the Secretary of the Association which notice shall contain the name, residence address and mailing address of the transferee and the date of recordation of the deed, will or other instrument by which such title was transferred. The Board of Directors may authorize a form to be used by a transferee of a Living Unit or an interest in a Living Unit for the purpose of notice of the transfer.

Class B. The Class B Member shall be the Declarant (as defined in the Declaration), or any successor or assignee to whom the Declarant assigns any or all of its rights as Declarant pursuant to the Declaration by assignment recorded in the land records of the City of Lynchburg and, if applicable, the County of Campbell, Virginia. Such assignment shall only operate as to the land which is owned by such successor or assignee and which is referenced specifically in the instrument of assignment. In the event of the assignment by the Declarant of its rights as Declarant as to less than all of the land in the Development then owned by the Declarant the Class B votes shall be allocated between the Declarant and the assignee as agreed by the Declarant and the assignee and stated in the instrument of assignment. The Class B Membership and Class B voting rights shall cease upon the earliest of the date that the Declarant does not own any vacant or undeveloped land or Lot in the Development or December 31, 2015. Thereafter, the Declarant shall have Class A membership rights for each Lot which it owns. For the purpose of this provision the term "vacant" shall mean both land with no building erected thereon and a

Lot upon which Declarant has erected a Living Unit (as defined in the Declaration) that has not been occupied and used as a residence by Declarant or a tenant or other person occupying a Living Unit with the permission of Declarant. Once a Living Unit on a Lot has been occupied and used as a residence by Declarant or a tenant or other person occupying a Living Unit with the permission of Declarant, the Declarant shall have Class A membership rights and obligations for such Lot whether or not the Class B membership has ceased.

### **Section 2. Voting.**

Class A Members shall be entitled to one vote for each Living Unit owned. The vote for any membership held by more than one person may be exercised by any one of them, provided that no objection or protest by any other holder of such membership is made prior to the completion of a vote. If such protest is lodged prior to the completion of the vote, the vote for such membership shall not be counted, but the Member whose vote is in dispute shall be counted as present at the meeting for quorum purposes if the protest is lodged at such meeting. In no case may a Member be entitled to vote at any meeting who is obligated to the Association for an unpaid assessment or portion thereof as of the date of the meeting.

The Class B Member(s) shall have the number of votes equal to two hundred percent (200%) of the total of the number of Class A votes outstanding at the time the vote is taken. The votes of the Class B Member may be cast at any meeting by any officer, employee or agent of the Class B Member so authorized by a written authorization or proxy executed by any officer of the Class B Member dated prior to the meeting and filed with the Secretary of the Association at or prior to the convening of the meeting. The authorization or proxy of any employee or agent of the Class B Member to cast the votes of the Class B Member may provide that the authorization or proxy may continue for a specified time or until revoked by a written revocation executed by any Manager or Member of the Class B Member filed with the Secretary of the Association.

The votes appertaining to any Living Unit may be cast pursuant to a proxy or proxies duly executed by or on behalf of the Owner, or, in cases where the Owner is more than one person, by or on behalf of all such persons. No such proxy shall be revocable except by actual notice to the persons presiding over the meeting, by the Owner or by any of such persons, that it be revoked. Any proxy shall be void if it is not dated, if it purports to be revocable without notice as aforesaid, or if the signatures of those executing the same have not been witnessed by a person who shall have signed his full name and address. The proxy of any person shall be void if not signed by a person having authority, at the time of the execution thereof, to execute deeds on behalf of that person. Any proxy shall terminate automatically upon the adjournment of the first meeting held on or after the date of that proxy, and must be filed with the Secretary before the appointed time of that meeting.

### **Section 3. Assessments.**

Imposition: Assessments provided for in the Declaration shall be set by the Board of Directors. Assessments shall be payable at such time and in such installments as the Board of Directors shall determine. Assessments are a debt to the Association.

Annual Assessment: During the month of October of each year, the Board of Directors shall determine the amount of Annual Assessment to be assessed for the next fiscal year. Annual Assessments become incurred as of the first day of each fiscal year. Prior to the first day of December of each year the Treasurer shall send to each Class A Member a statement of Annual Assessment due for the next fiscal year and a schedule for payment of such assessment. The Annual Assessment due by a Class A Member upon the initial purchase of a Living Unit by a Class A Member from the Declarant or the Declarant becoming a Class A Member as to a Living Unit (as defined in the Declaration) shall be the prorated portion of the Annual Assessment for the fiscal year in which such purchase or event occurs for the period beginning on the date of purchase or the date the Declarant becomes a Class A Member as to a Living Unit and ending on the last day of the fiscal year.

Special Assessment: The Board of Directors shall determine the amount, and manner of assessment and payment of any Special Assessments. Special Assessments become incurred as of the date adopted by the Board of Directors; however, no assessment or installment payment of a Special Assessment shall be due and payable by a Class A Member sooner than one month following the date of giving of notice of the assessment to the Member by written notice delivered personally or mailed to the last known address of the intended recipient. A majority of votes cast, in person or by proxy, at a meeting of the membership convened in accordance with the provisions of these ByLaws within sixty days of promulgation of the notice of a Special Assessment shall rescind or reduce the special assessment. No director or officer of the association shall be liable for failure to perform his fiduciary duty if a special assessment for funds necessary for the director or officer to perform his fiduciary duty is rescinded by the owners pursuant to this section, and the association shall indemnify such director or officer against any damage resulting from any claimed breach of fiduciary duty arising therefrom.

#### **Section 4. Membership Meetings.**

Regular Meetings: The annual membership meeting shall be held on the second Tuesday in October of each year commencing October 9, 2007.

Special Meetings: Special membership meetings may be called by the President or the Class B Member and shall be called by the President upon a vote of a majority of the members of the Board or receipt of a petition signed by ten or more Class A Members.

Notice: Except as otherwise provided herein, written notice of a meeting shall be sent by the Secretary of the Association no less than fourteen (14) nor more than sixty (60) days prior to the date of a Regular Meeting and no less than seven (7) nor more than sixty (60) days prior to the date of a Special Meeting. The notice of a Special Meeting shall state the purpose of the meeting and no other business shall be transacted. If an amendment of the articles of incorporation, a plan of merger, the sale, lease, exchange or other disposition of all, or substantially all, of the property of the corporation or the dissolution of the corporation is to be acted upon at a meeting, notice of the meeting shall be sent by the Secretary no less than twenty five (25) nor more than sixty (60) days prior to the date of the meeting. Notice to Class A Members shall be given to the Owners who have given notice of their ownership of a Living Unit in accordance with Article One, Section 1 of these ByLaws.

Record Date: The record date for determination of the Class A Members entitled to notice of a meeting shall be a date that is seventy days before the meeting or other action requiring a vote or determination by the Members.

Members List: The Secretary shall make, at least ten days before each meeting (or such longer period that may be required by applicable law) a complete list of the members, with the address of each, arranged by class of membership. For a period of ten days prior to a meeting (or such longer period that may be required by applicable law) the list of members shall be subject to inspection by any member at any time during usual business hours. The list shall be produced and kept open at each meeting and subject to the inspection of any member during the meeting.

Quorum: The quorum for membership meetings shall be twenty percent (20%) of the members holding votes entitled to be cast at such meeting.

Place, Date and Hour: All meetings of the Corporation, whether of the membership or the Directors, shall be held in the City of Lynchburg at such place, date and hour as may be designated by the person or persons authorized herein to call such a meeting.

**Section 5. Notices to Members.** Any notice given to Members shall be sent by United States mail to all Members at the address of their respective Living Units and to such other addresses as any of them may have designated to an officer of the Association; or as may be provided in the Rules and Regulations adopted by the Association; or notice may be hand delivered by an officer of the Association, provided the officer certifies in writing that notice was delivered to the member.

**Section 6. Distribution of Information by Members.** The Board of Directors shall establish a reasonable, effective and free method for Members to communicate among themselves and with the Board of Directors regarding any matter concerning the Association.

**Section 7. Termination of Membership.**

Resignation: No member may resign or unilaterally terminate a membership.

Lapsing: A membership will be considered as lapsed and automatically terminated upon the sale or transfer of legal title to the Living Unit to which the membership applies. However, such termination shall not relieve the Member of liability for any unpaid assessment or terminate the lien of the Association upon the Living Unit for any unpaid assessment except to the extent provided in the Declaration for the sale or transfer of any Living Unit pursuant to foreclosure of a first priority mortgage or first priority deed of trust.

## **Article Two Directors and Officers**

### **Section 1. Board of Directors.**

Number of Directors: Until the Class B membership ceases the number of directors shall be not less than two nor more than three. As of the first annual membership meeting after the Class B membership ceases the number of directors shall be nine (9) unless the number of persons eligible and willing to serve is less than nine (9), in which event the number of directors shall be the number nominated and elected at the annual meeting.

Election: The directors constituting the initial board of directors shall be elected by the incorporator pursuant to § 13.1-822, Code of Virginia, and shall hold office until the first annual election of directors. The initial board of directors are not required to be members. Upon and after the first annual election of directors the Board shall be comprised of either members in good standing or persons who may or may not be members designated and approved by the Class B Member.

Term of Office: Directors shall be elected for terms of one year and shall serve until their successors are duly elected.

Elections Committee: Until the Class B membership ceases the Board of Directors shall act as the Elections Committee. After the Class B membership ceases, the Board of Directors shall appoint an Elections Committee consisting of a member of the Board of Directors and at least two other Class A Members at least ninety days prior to each annual meeting of the Association. The Elections Committee shall develop election procedures and administer such procedures as are approved by the Board of Directors.

Nominations: Persons qualified to be Directors may be nominated for election only by a nominating petition submitted to the Chairman of the Elections Committee at least thirty-five days before the annual meeting at which the election is to be held signed by either the Class B Member, a member of the Elections Committee or by Owners representing at least ten percent (10%) of the Class A Members and either signed by the nominee or accompanied by a document signed by the nominee indicating willingness to serve as a member of the Board of Directors; provided, however, that additional nominations may be made from the floor at the meeting at which the election is held for each vacancy on the Board of Directors for which no more than one Person has been nominated by petition. The nominee must either be present and consent to the nomination or have indicated in writing the willingness to serve.

Election: At any election of Directors if the number of nominees is more than nine (9) the nine (9) nominees receiving the highest number of votes each shall be declared elected. If the number of persons nominated and eligible and willing to serve is nine (9) or less, each nominee shall be deemed elected.

Powers and Duties: In addition to the powers and duties set forth in these ByLaws, the Board of Directors shall have and execute all powers and duties granted, authorized or imposed

by Chapter 10, Title 13.1, Code of Virginia (the Virginia Nonstock Corporation Act), Chapter 26, Title 55, Code of Virginia (the Virginia Property Owners' Association Act), the Articles of Incorporation and the Declaration.

## **Section 2. Officers.**

**Offices and Election:** The officers of the Association, consisting of the President, Secretary and Treasurer, shall be elected by the Board of Directors at the annual meeting of the Board and serve in their respective capacities both with regard to the membership and its meetings and the Board and its meetings. The Board of Directors may elect a Vice-President at any time. One person may serve as both Secretary and Treasurer.

**President:** The President shall be a member of the Board of Directors and shall preside at all meetings of the membership and of the Board and shall perform such other duties as are incident to his or her office or are properly required of him or her by the Board of Directors.

**Vice-President:** The Vice-President shall be a member of the Board of Directors and shall exercise the authority of the President in his or her absence and perform such other duties as may be assigned to him or her by the President or Board of Directors.

**Secretary:** The Secretary shall be responsible for recording the minutes of the membership and Board meetings and maintaining such other records as may be required of him or her by the President or the Board. He or she shall have charge of the correspondence, notify members of meetings, notify new members of their election to membership, notify officers and directors of their election to office, keep a roll of the members with their addresses, and carry out such other duties incident to his or her office as the President may request or the Board assign. The Secretary shall be either a Class A Member in good standing or designated and approved by the Class B Member but the Secretary is not required to be a member of the Board of Directors.

**Treasurer:** The Treasurer shall collect and receive all monies due or belonging to the Association. He or she shall deposit the same in a bank designated by the Board in the name of the Association. His or her books shall at all times be open to inspection by the Board and he shall report to them at every meeting the condition of the Association's finances and every item of receipt or payment not before reported; and at the annual membership meeting he or she shall render an account of all monies received and expended during the previous fiscal year. There shall be an annual audit of books as directed by the Board. The Treasurer shall be either a Class A Member in good standing or designated and approved by the Class B Member but the Treasurer is not required to be a member of the Board of Directors.

**Section 3. Vote Required to Elect.** At any election of Officers the candidate receiving the greatest number of votes for each office shall be declared elected.

## **Section 4. Meetings.**

**Definition:** "Meeting" or "meetings" means the formal gathering of the board of directors where the business of the Association is discussed or transacted.

Meetings Open to Members: All meetings of the board of directors shall be open to all Members of record. The board of directors shall not use work sessions or other informal gatherings of the board of directors to circumvent the open meeting requirements of this section. Minutes shall be recorded and shall be available as provided in Article 4.

Annual: The annual meeting of the Board of Directors shall be held immediately following the annual meeting of the membership. At the annual meeting the Board shall elect officers of the Association to serve until their successors are duly elected.

Regular: Regular meetings of the Board of Directors shall be held at least four times in each year. At the annual meeting the Board of Directors shall establish a schedule of regular meetings. Written notice of each such meeting shall be mailed by the Secretary at least five (5) days prior to the date of the meeting.

Special: Special meetings of the Board may be called by the President, and shall be called by the Secretary upon the receipt of a written request signed by at least two members of the Board. Written notice of such meeting shall be mailed by the Secretary at least five (5) days and not more than ten (10) days prior to the date of the meeting, or email or facsimile notice shall be transmitted at least three (3) days and not more than five (5) days prior to the date of the meeting. Any such notice shall state the purpose of the meeting and no other business shall be transacted thereat.

Quorum: A quorum for a meeting of the Board shall be a majority of the Board.

Notice: Notice of the time, date and place of each meeting of the board of directors shall be published where it is reasonably calculated to be available to a majority of the lot owners and shall be sent by first-class mail or e-mail to any lot owner requesting such notice. A lot owner may make a request to be notified on a continual basis of any such meetings which request shall be made at least once a year in writing and include the lot owners' name, address, zip code, and any e-mail address as appropriate. Notice, reasonable under the circumstances, of special or emergency meetings shall be given contemporaneously with the notice provided members of the association's board of directors conducting the meeting. Notice given as may be provided in the Rules and Regulations adopted by the Association shall satisfy the requirements of this paragraph.

Conduct: A meeting may be conducted by telephone conference or video conference or similar electronic means if at least two members of the board of directors shall be physically present at the meeting place included in the notice. The audio equipment shall be sufficient for any member in attendance to hear what is said by any member of the board of directors participating in the meeting who is not physically present.

Recording: Any member may make an audio recording of any portion of a meeting required to be open. The board of directors conducting the meeting may adopt rules governing the placement and use of equipment necessary for recording a meeting to prevent interference with the proceedings.

Voting: Voting by secret or written ballot in an open meeting is prohibited except for the election of officers.

**Section 5. Vacancies.** Any vacancies occurring on the Board or among the officers during the year shall be filled for the unexpired term of office by a majority vote of the Board at its first regular meeting following the creation of such vacancy, or at a special Board meeting called for that purpose; except that a vacancy in the office of President shall be filled automatically by the Vice-President if a Vice-President is then serving and the resulting vacancy in the office of Vice-President shall be filled by the Board.

**Section 6. Compensation.** Except as otherwise provided herein, the directors and officers shall serve without compensation. The Board may authorize the reimbursement of expenses actually incurred by a director or officer in the performance of duties of the office and the Members may authorize compensation for the either the Secretary or Treasurer.

**Section 7. Termination.** The election and term of any director or officer who is a Class A Member, other than a director appointed by the Class B Member, shall automatically terminate upon the sale or transfer of legal title to the Living Unit or all Living Units (if the director or officer is the Owner of more than one Living Unit) to which the membership applies

### **Article Three Committees**

**Section 1. Standing Committee.** The Standing Committee shall be the Elections Committee appointed and acting in accordance with Article Two, Section 1, of these ByLaws.

**Section 2. Other Committees.** In addition to the Elections Committee, the Board may at any time appoint committees to advance the work of the Association in such matters as the Board may determine.

**Section 3. Termination and Replacement.** Any committee appointment may be terminated by a majority vote of the full membership of the Board upon three days written notice to the appointee; and the Board may appoint successors to those appointees whose services have been terminated.

### **Article Four Books and Records**

**Section 1. Financial Records.** The association shall keep detailed records of receipts and expenditures affecting the operation and administration of the association. All financial books and records shall be kept in accordance with generally accepted accounting practices.

**Section 2. Minutes.** Minutes shall be recorded of all meetings of the members or the board of directors and retained by the association.

**Section 3. Access.** Subject to the provisions of subsection C of §55-510, Code of Virginia, all books and records kept by or on behalf of the association, including, but not limited to, the association's membership list and addresses, which shall not be used for purposes of pecuniary gain or commercial solicitation, and aggregate salary information of employees of the association, shall be available for examination and copying by a member in good standing or his authorized agent so long as the request is for a proper purpose related to his membership in the association. This right of examination shall exist without reference to the duration of membership and may be exercised (i) only during reasonable business hours or at a mutually convenient time and location and (ii) upon five days' written notice reasonably identifying the purpose for the request and the specific books and records of the association requested. Prior to providing copies of any books and records to a member in good standing under this section, the association may impose and collect a charge, reflecting the reasonable costs of materials and labor, not to exceed the actual costs thereof.

## **Article Five General Provisions**

**Section 1. Calendar.** The first fiscal year of the Association shall begin on the date the Association first has a Class A member and end on the 31st day of December of that year. Commencing January 1 of the year after the Association first has a Class A member, the fiscal year of the Association shall be a calendar year.

### **Section 2. Amendments.**

Amendments to the Articles of Incorporation may be proposed by a resolution of the Board of Directors recommending the amendment to the members unless the Board of Directors determines that because of conflict of interests or other special circumstances it should make no recommendation and communicates the basis for its determination to the members. The resolution shall be submitted to the membership at a regular or special meeting. The written notice of the meeting shall contain the date, time, and place, and that the purpose of the meeting is to consider the proposed amendment; the notice shall contain or be accompanied by a copy of the proposed amendment. The notice shall be given to each member not less than twenty-five (25) days nor more than sixty (60) days before the meeting. The amendment shall be adopted upon receiving more than two-thirds (2/3) of all votes entitled to be cast by the members voting as a single group.

Amendments to the ByLaws may be made by a majority vote of the Directors at any meeting at which a quorum is present, provided ten (10) days written notice is given to the Directors and Members of any proposed change. The foregoing notwithstanding, ByLaws made by the Members may not be altered or repealed by the Board of Directors without the consent of the Members. Such consent shall be obtained in the same manner as hereinabove provided for an amendment to the Articles of Incorporation. Any ByLaws made by the Board of Directors may be repealed or changed, and new ByLaws made, by a majority vote of the members voting as a single group.

**Article Five**  
**Dissolution**

The Association may be dissolved with the written consent of seventy-five percent (75%) of the Class A Members and the consent of the Class B Member, if any. Prior to the dissolution of the Association, the assets of the Association shall be offered for dedication to the City of Lynchburg or County of Campbell, as applicable. In the event that such dedication is refused acceptance, upon dissolution such assets shall be granted, conveyed, and assigned to any nonprofit corporation, association, trust, or other organization to be devoted to similar purposes.

These ByLaws were adopted by unanimous consent in writing of the Incorporator, the Declarant, and Board of Directors of the Laxton Square Owners Association as of the 11th day of December 2006.

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Secretary