

NORTH CAROLINA  
COUNTY OF HENDERSON

Reference: Deed Book, 729, Page 809

**AMENDED AND RESTATED  
RESTRICTIVE COVENANTS  
OF THE LEDGES OF HIDDEN HILLS**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS made and entered into this 24th day of November, 2003, by and among the Lot Owners in THE LEDGES OF HIDDEN HILLS, County of Henderson, State of North Carolina, members of THE LEDGES HOMEOWNERS ASSOCIATION, INC., hereinafter referred to as the "Association", a North Carolina nonprofit corporation, located in Henderson County, North Carolina,

**WITNESSETH**

WHEREAS, The Ledges of Hidden Hills, hereinafter referred to as "The Ledges", is comprised of certain real property as shown on plats recorded in Slides 515 and 516, Henderson County Registry, entitled THE LEDGES OF HIDDEN HILLS; and

WHEREAS, all real property in The Ledges since the 7<sup>th</sup> day of December, 1988, has been under Restrictive Covenants created by Vogel Development Corporation, the developer of The Ledges, and recorded at Deed Book 729 Page 809 in the Henderson County Registry of Deeds; and

WHEREAS, Section (36) of those Restrictive Covenants provides "that any portion of the Restrictive Covenants may be released, changed, modified or amended by a majority vote of the then Lot Owners within this Subdivision;" and

WHEREAS, the Lot Owners in The Ledges desire to make and agree to covenants between and among themselves, for the purpose of protecting the value and desirability of The Ledges real properties and the community; and

WHEREAS, at a meeting of the Association duly noticed and held on November 24, 2003 more than a majority of the Lot Owners and members of The Ledges Homeowners Association, Inc. agreed that it is in their best interest to adopt the following Restrictive Covenants in order to address the current needs and desires of The Ledges community.

NOW, THEREFORE, the Lot Owners declare that:

All of the property as shown on the plats recorded in Slides 515 and 516, Henderson County Registry, identified and described above, is and shall be subject to these Restrictive Covenants, conditions and restrictions, which shall run with the land and be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each Owner thereof.

#### **Article 1. Previous declarations and covenants.**

This amended and restated Declaration of Restrictive Covenants supercedes and replaces the Restrictive Covenants and any other restrictions that apply to or have applied to The Ledges.

#### **Article 2. Duration of Restrictive Covenants.**

These covenants, conditions and restrictions are to run with the land, to take effect immediately upon recordation in the Henderson County Registry, and shall be binding on all Lots and residents described herein for a period of twenty-five (25) years from the date these covenants are recorded. At that time, these covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years each unless it is agreed by vote of the majority of the Owners of the Lots of said The Ledges to change the same.

#### **Article 3. Definitions.**

Unless specifically provided otherwise or the context otherwise requires, the following terms as used in the Declaration and Bylaws for the Association shall have the following meanings:

**Section 3.1.** Allocated Interests means the undivided interest in the common expense liabilities, and votes in the Association allocated to each Lot.

**Section 3.2.** ASC means the Architectural Standards Committee.

**Section 3.3.** Association means The Ledges Homeowners Association, Inc.

**Section 3.4.** Board or Board of Directors means the Board of Directors of The Ledges Homeowners Association, Inc. which is the governing body on behalf of and for the Association; Director or Directors means a member or members of the Board.

**Section 3.5.** Bylaws means the Bylaws of the Association.

**Section 3.6.** Common Expenses means expenditures made by or financial liabilities incurred for the operation of or connected in any way with the administration of the Association, including, but not limited to:

- (a) Expenses defined, referred to, or declared to be common expenses by this Declaration, the Bylaws or applicable North Carolina statutory law. The common expenses shall include, but not be limited to, the costs of mowing grass on berms between the pavement edges and ditches along Sunlight Ridge Road, and on similar berms adjacent to undeveloped lots elsewhere in the community; snow removal from the community's roads; street lighting; maintenance, repair and replacement of elements of The Ledges' entrance area and sign; administrative and legal expenses related to operation of the Association and enforcement of these Restrictive Covenants; liability insurance for the Association's directors and officers; and incidental expenses related to the conduct of "potluck" social events and similar community activities. The common expenses shall not include any costs associated with the acquisition and development of real property.
- (b) Expenses agreed upon as common expenses by the Association.
- (c) Such reasonable reserves as may be established or allocated by the Association, whether held in trust or by the Association.
- (d) Expenses levied against or which may be allocated to any particular Lot and Lot Owner for interest, costs of collection, and attorney's fees.

**Section 3.7.** Declaration means this Amended and Restated Declaration of Restrictive Covenants for The Ledges of Hidden Hills, including any duly recorded amendments to the Declaration.

**Section 3.8.** Documents means the Declaration, Plats and/or Deeds recorded and filed for real property making up The Ledges of Hidden Hills, the Articles of Incorporation of The Ledges Homeowners Association, Inc., the Bylaws, and any rules and regulations, as each may be amended from time to time. Any exhibit, schedule, or certification accompanying a Document is part of that Document.

**Section 3.9.** Fees means any and all sums levied by the Association against any Lot and its Owner as common expenses or other charges, to include but not be limited to, common expense liabilities, special assessments, specific assessments, interest and attorney's fees as set forth in the Declaration and Bylaws.

**Section 3.10.** The Ledges of Hidden Hills or "The Ledges" means the community composed of the real property as shown on plats recorded in Slides 515 and 516, Henderson County Registry, entitled THE LEDGES OF HIDDEN HILLS, with respect to which any person, by virtue of the person's ownership of a Lot, is expressly obligated by this Declaration to pay insurance premiums and other expenses to maintain, improve, or benefit other lots or other real estate described in this Declaration.

**Section 3.11.** Lot means the physical portion of the community designated for separate ownership or occupancy by a Lot Owner.



**Section 3.12.** Lot Owner or Owner means any person who owns a lot, but does not include a person having an interest in a lot solely as security for an obligation.

**Section 3.13.** Officer shall mean those individuals who are elected by the Board to serve as officers of the Association, including President, Vice President, Secretary, Treasurer and such other support and offices as the Board may determine necessary.

**Section 3.14.** Person means a natural person, corporation, business, trust, estate trust, partnership, association, joint venture, government, governmental subdivision or agency or other legal or commercial entity.

**Section 3.15.** Reasonable Attorneys' fees means attorneys' fees reasonably incurred without regard to any limitations on attorneys' fees which otherwise may be allowed by law.

**Section 3.16.** Resident means and includes Lot Owners, their immediate family members, tenants, and lessees.

#### **Article 4. Homeowners Association, membership and meetings.**

The Ledges Homeowners Association, Inc. was incorporated as a non-profit corporation under the laws of North Carolina on the 20<sup>th</sup> day of September, 1994. Each person, co-owner or entity record owner or purchaser of a fee interest in a Lot in The Ledges is subject to recorded Restrictive Covenants of The Ledges of Hidden Hills requiring the Owner to become and remain a member of the Association. This membership shall be maintained so long as such ownership exists.

**Section 4.1.** Association Authority. The Association shall manage and administer The Ledges and shall have all powers and duties granted to it under applicable North Carolina law and in the documents.

**Section 4.2.** Voting Rights. As all Lot Owners by virtue of their ownership of a Lot in The Ledges are members of the Association, they shall be entitled to vote on all matters upon which members of the Association are entitled to vote pursuant to the Declaration and in accordance with the Bylaws. Subject to the provisions of the Documents, such Owners shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership.

**Section 4.3.** Powers and Duties. Acting by and through its Board of Directors and/or its membership in accordance with the provisions of the Documents, the Association shall have the powers and duties necessary for the administration of the affairs of The Ledges which shall include, but not be limited to, the following:

- (a) Adopt and amend Bylaws and Rules and Regulations;
- (b) Adopt and amend budgets for revenues, expenditures, and reserves;
- (c) Collect fees for common expenses for Lot Owners;



- (d) Hire and terminate independent contractors;
- (e) Institute, defend, or intervene in its own name in litigation or administrative proceedings on matters affecting The Ledges;
- (f) Make contracts and incur liabilities;
- (g) Impose reasonable charges for the preparation and recordation of amendments to the Declaration or Bylaws;
- (h) Provide for the indemnification of and maintain liability insurance for its officers and directors;
- (i) Exercise all other powers that may be exercised in this State by non-profit corporations; and
- (j) Exercise any other powers necessary and proper for the governance and operation of the Association.

#### **Article 5. Controlling precedence.**

In the event of conflict between these Restrictive Covenants, the Association's articles of incorporation, the Association's bylaws and any rules and regulations adopted by the Association's Board of Directors, the documents will take precedence as follows:

- a) North Carolina law,
- b) The Restrictive Covenants,
- c) The articles of incorporation.
- d) The bylaws.
- e) The rules and regulations.

#### **Article 6. General restrictions.**

**Section 6.1. Use of Property.** All property is intended for use as residential property. Activities such as a home office or home-based business that are consistent with use as residential property are permitted. Such use shall not create an imposition upon other Lot Owners. Specific restrictions include:

- a) No commercial or business signs shall be displayed.
- b) The activity shall be conducted wholly within the residence and shall not unduly increase vehicular traffic or congestion within The Ledges.
- c) Noise created by business-related activity shall not be heard past the property line.

d) No commercial operations such as an auto repair shop, a boarding and/or grooming kennel or a commercial farming operation shall be maintained on any property.

e) No commercial structure of any type shall be placed upon or constructed within the Subdivision.

**Section 6.2. Pets.** Dogs, cats or other usual and common household pets may be kept in reasonable number, but may not be kept, bred, or maintained for commercial purposes. No other animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Lot. Dogs that are household pets, whenever they are outside the dog owner's Lot, must at all times be controlled by a leash. Animal waste that is excreted by a dog when outside the dog owner's Lot shall be picked up by the dog owner, using an appropriate sanitary method.

Lot Owners are personally responsible for control of their pets and the pets of their guests. The Association shall be held harmless for any loss, damage or liability caused by any Lot Owner's pet, regardless of whether the Association or its Directors gave permission for the pets to be kept within the Community.

**Section 6.3. Signage.** No billboard, outdoor advertising or other display signs shall be constructed, erected, used or placed upon the land, except signs relating to the sale of the property or signs related to one-day community events such as garage and yard sales, which signs shall be of a size and form generally used for such advertising. Signs related to a community event shall not be displayed earlier than seven days prior to the date of the event, and shall be removed promptly after the event's conclusion. All builders shall keep the area cleared of trash and debris during construction.

**Section 6.4. Nuisances.** No person shall engage in any use, practice, or activity within The Ledges which is noxious, offensive or a source of annoyance to Lot Owners or which reasonably interferes with any Lot Owner's peaceful possession and proper use of that Lot Owner's property. Such nuisances include, but are not limited to, excessive smoke, dust or odor; excessive noise; and structures or objects of an unsightly nature or appearance.

**Section 6.5. Seasonal or Recreational Vehicles and Temporary Structures.** Storage of all recreational vehicles, travel trailers, motor homes, fold-down campers, snow mobiles, boats, mowers and all self-propelled vehicles other than operable motor vehicles outside the attached garage on a Lot is prohibited. Storage is defined as leaving such a vehicle outside the attached garage for any time longer than is needed to load it in preparation for a trip or to unload it upon returning from a trip. In no case may such a vehicle be left outside longer than three (3) consecutive days or a total of fourteen (14) days within a calendar year. No motor vehicle shall be parked or stored outside unless it is in a drivable condition, properly titled, registered and tagged and regularly used. No commercial vehicles, enclosed commercial trailers or mobile equipment exceeding a curb weight of three (3) tons or a height of eight feet shall be parked or kept on any Lot.



No structure of a temporary character, trailer, mobile home, travel trailer, basement, tent, shack, or garage or other outbuilding shall be used on any Lot as a residence, either temporarily or permanently. Lot Owners may seek an exception to these provisions by applying to the Association's Board of Directors, which shall have the power to grant variances on a case-by-case basis.

**Section 6.6. Tree removal.** No trees measuring twelve (12) inches or more in diameter at a point two (2) feet above ground level may be removed without the written approval of the ASC unless located within fifteen (15) feet of the house or accessory building or within ten (10) feet of the approved sites for water and sewage systems and driveways for the house. No trees shall be removed from any Lot until the Owner shall be ready to begin construction without the prior written consent of the ASC. No healthy trees may be grossly disfigured by topping.

**Section 6.7. Fences.** Any fence erected within the front or side yard building setback line shall be of an ornamental nature and shall not be more than three (3) feet in height, excluding the fence posts. Fences shall be approved by the Association or the ASC as set forth in Section 7.6.

**Section 6.8. Renting or Leasing.** A Lot Owner may rent or lease his or her property, but only in its entirety; no fraction or portion may be rented or leased. No transient tenants shall be permitted. All rental agreements and leases must be for a term of not less than six (6) months except with prior written permission of the Board of Directors.

All rental agreements and leases, and renters and lessees, are subject to the provisions of the Documents of The Ledges of Hidden Hills. The Lot Owner shall provide copies of this Declaration and any rules and regulations to the renter or lessee, and the Lot Owner shall be responsible for the consequences of any violations by said renter or lessee.

**Section 6.9. Prohibition Against Time-Shares.** The use of any Lot, parcel, improvement, single-family house, multiple-family house, or any other property or land within The Ledges, for Time-Share Programs, Time-Share Estates, Time-Share Intervals or any other Time-Share Use, is prohibited. The intent of this prohibition is to preserve the character of The Ledges as a residential community of low-intensity use with minimum disturbance from move-in and move-out of Owners or residents and use by them.

**Section 6.10. Recreational facilities.** In order to maintain an attractive appearance for the community, all basketball and other recreational facilities shall be placed to the rear of the Lot to the extent possible. No tennis court shall be lighted and no light from the illumination of other recreational facilities shall extend beyond the property lines.

**Section 6.11. Swimming Pools.** No swimming pool may be erected in front of a residence or closer than fifteen (15) feet from any side lot line, and any swimming pool placed upon any Lot or Lots in this Subdivision shall be properly fenced in or enclosed in such a manner as not to cause a hazard to this Subdivision.

**Section 6.12. Light Posts and Mailboxes.** The Association will provide to each Lot Owner, at the Lot Owner's expense, a matching outside light post containing two light fixtures and an attached mail box. One light shall be operated by a photo cell so all lights in the subdivision are on at night. A second light shall be equipped with a switch to turn it on in a blinking fashion to denote an emergency situation.

**Section 6.13. Over-The-Air Reception Devices.** Installation, maintenance and use in The Ledges of satellite dishes larger than one meter in diameter is prohibited. Residents are urged to install dishes one meter or less in diameter in a location that will be as unobtrusive as possible to passersby and other homeowners.

**Section 6.14. Waste Containers.** Each Lot Owner shall provide sanitary containers for garbage, waste and trash. All garbage receptacles, tools and equipment for use by the Lot Owner or otherwise shall be placed in a fenced enclosure or in a non-visible place so as not to be seen by adjoining neighbors or from the road.

**Section 6.15. Building Relocation.** No building of any kind or structure shall be moved from any other place onto any of the Subdivision Lots or from one Lot onto another within the Subdivision.

**Section 6.16. Sight Line Limitations.** No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight line limitations shall apply on any lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such lines.

**Section 6.17. Liability for damage to an Owner's property.** Should the Association, or an agent of the Association in the scope of the agent's activities, cause damage to an Owner's property, the Association shall be liable to repair such damage or to reimburse the Lot Owner for the cost of repairing such damage.

**Section 6.18. Utility Easements.** Easements five (5) feet wide are reserved along the side lot lines and ten (10) feet wide along the rear lot line for the installation and maintenance of telephone lines, electric lines and maintenance of telephone lines, electric lines, water lines, gas lines and other public utilities and for drainage facilities. Where two or more adjoining Lots are owned by the same person or persons, no such easement shall be reserved along the interior lot lines.

All Lots shall be subject to any public utility easements as required or as set forth in the deed, recorded plat, and other instruments or documents of record.



## **Article 7. Construction restrictions.**

**Section 7.1. Building Limitations.** No building shall be erected, altered, placed or permitted to remain on any Lot other than a one-family house with garage and any outbuilding incidental to residential use. No building shall have exposed cement or cinder block on the exterior; stucco is required.

**Section 7.2. Minimum Lot Size.** No residence shall be constructed on any Lot of less than twenty thousand (20,000) square feet of land. No Lot shall be subdivided without prior written permission from the Association.

**Section 7.3. Minimum Square Footage of Residences.** The livable finished and heated floor area of one-story houses shall not be less than one thousand eight hundred (1,800) square feet. Two-story and split level residences shall not be less than one thousand three hundred (1,300) square feet on the first or main floor of livable heated floor area. Unfinished basements, attic space, other storage space, garages, porches or any area not enclosed by the main structure shall not be considered floor space.

**Section 7.4. Property Lines and Set back Requirements.** The building line of any house or the building appurtenant thereto constructed on any of the Subdivision Lots shall not be less than sixty (60) feet from the center of the street on which the house fronts, and not less than twenty (20) feet from either side line, not less than twenty-five (25) feet from the rear line, and not less than thirty (30) feet from the street line of a side street if the property is on a corner. The Association may grant a variance with respect to set backs for any justifiable exception, such as to accommodate exceptional topography of any given Lot and/or to cure any unintentional violation. However, such variances shall not exceed twenty-five percent (25%) of any setback requirement.

**Section 7.5. Building Positioning.** The fronts of all houses shall face to the street. Any variance due to topography shall be at the discretion of the Association and the ASC.

**Section 7.6. Construction Approval Procedure.** No new structure shall be constructed or placed on a Lot unless the Lot Owner first obtains a Certificate of Construction Approval from the Board of Directors, or the ASC appointed by the Board. For example, no building, fence, sidewalk, wall, drive or other structure or addition shall be erected, placed or altered on any Lot until approval has been given by the Board or Directors, or the ASC. Likewise, as set forth in Section 6.6, no tree shall be removed without prior written approval of the ASC.

The ASC may base refusal or approval of plans, location or specifications upon any ground, including purely aesthetic considerations. Decisions by the ASC are subject to confirmation by the Board of Directors. No alterations may be made in such plans after approval except by and with the written consent of the ASC. If the ASC is not appointed by the Board of Directors, all powers and obligations described under this Article shall be the responsibility of the Board. Landscaping is specifically excluded from these provisions.

For construction of buildings and building additions, two sets of plans and specifications covering contemplated construction are to be submitted to the Association for approval. For other types of construction, such as fences, sidewalks, walls or driveways, the Lot Owner at the discretion of the ASC may submit a sketch or drawing, or a photograph of an essentially similar project, plus a summary of materials to be used, in lieu of detailed plans and specifications. No construction work shall be started until the plans and specifications, or the materials submitted in lieu of detailed plans and specifications, have been approved in writing by the ASC. One set of approved plans shall be returned to the Lot Owner, and the other set shall be retained by the ASC to assure compliance with said proposed plans. Upon receipt of the above-requested information, the ASC shall act upon the Owner's request within fifteen (15) business working days. The ASC may approve the application, reject it or request additional information or clarification. If the ASC does not respond within fifteen (15) business working days, the application shall be considered approved.

Any construction on properties, including any addition or alteration of any kind, to be made within The Ledges shall be in general conformity with the surrounding houses and structures, and in the case of additions or alterations to existing structures, in conformity with the original plans and architecture of the original building. This does not preclude Lot Owners from repairing or replacing any existing elements on their property in kind.

Compliance with applicable federal/state/county standards and codes shall be left to the appropriate governing bodies.

**Section 7.7. Construction time limit.** The exterior of all houses and other structures must be completed within one year after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the Owner or builder due to strikes, fires, national emergencies or natural calamities. Reasonable exceptions may be granted by the ASC.

**Section 7.8. Garage requirements.** Side entrance garages are encouraged. All residences shall have connecting garages with a minimum total overall garage door width of sixteen (16) feet. No open carports are permitted.

**Section 7.9. Driveways and Culverts.** All driveways shall have culverts at the intersection to streets and shall be installed to the specifications at the North Carolina Department of Transportation and to the grade of the drainage ditch. Driveways shall be either black top or concrete and shall be completed at the time of house completion.

**Section 7.10. Roof Pitch.** Roofs shall have a minimum pitch of 5/12.

**Section 7.11. Sanitation and Waste Disposal.** No unsanitary condition prejudicial to the public health shall be permitted. All sewage shall be disposed of by septic tanks, approved by the State Board of Health, until such time as a public sewage system is put into effect and being properly used. No liquid wastes of any description shall be drained, dumped or disposed of in any way into open ditches or watercourses. Trash, garbage or other wastes shall be kept in sanitary containers until disposed of. No Lot, or any portion thereof, shall be used or maintained as a



dumping ground for rubbish.

**Section 7.12. Landscaping.** Upon completion of the house, the premises must be immediately landscaped.

**Section 7.13. Construction Debris.** Each Lot Owner is responsible for keeping mud and debris cleaned off the road during construction of his residence.

## **Article 8. Fees.**

**Section 8.1. Apportionment of Common Expenses.** The Association assesses fees against all Lots to cover a prorated share of common expenses. Except as set forth in this Article, common expenses shall be assessed against all Lots in accordance with the allocated interests in the common expenses as set forth in this Declaration. The fees assessed for common expenses shall be used for the general purposes of promoting the safety, welfare, recreation, health, common benefit, and enjoyment of the residents of Lots in The Ledges as may be more specifically authorized from time to time by the Board. Any payments received by the Association in the discharge of a Lot Owner's obligation may be applied first to the oldest balance due.

Fees and collection costs, including reasonable attorney's fees incurred and interest, charged against a Lot Owner pursuant to North Carolina state law, this Declaration, the Bylaws and any rules and regulations are enforceable as common expense assessments.

**Section 8.2. Common Expenses Attributable to Fewer than All Lots.** If a common expense is caused by the misconduct of a Lot Owner, the Association may assess that expense exclusively against that Lot Owner's Lot. Such an expense and all collection costs, including reasonable attorney's fees, are enforceable as common expense assessments.

**Section 8.3. Lien for Unpaid Fees and Charges.** Any fee or other charge levied against a Lot remaining unpaid for a period of ninety (90) days or longer shall constitute a lien on that Lot when recorded in the Office of the Clerk of Courts of Henderson County. Fees, charges, late charges, collection costs, reasonable attorneys' fees, and interest charged pursuant to the Declaration, Bylaws, and any rules and regulations, are enforceable as assessments under this Section.

- (a) The Association may foreclose the lien in like manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the General Statutes of North Carolina. For purposes of foreclosing a lien, the Association is the "mortgagee" and "trustee", as defined by N.C. Gen. Stat. §45-21.1, of said lien with a power of sale. As the owner of the indebtedness secured by the lien, the Association, acting through the Board may, in its discretion, substitute a trustee in accordance with N.C. Gen. Stat. § 45-10, by the execution of a written instrument properly recorded pursuant to Chapter 47 of the North Carolina Statutes.
- (b) The lien under this Section is prior to all other liens and encumbrances on a Lot except (i) liens and encumbrances (specifically including, but not limited to, a mortgage or deed of trust on the Lot) recorded before the docketing of the claim of lien in the Office of the Clerk of Superior Court, and (ii) liens for real estate taxes and other governmental assessments or

charges against the Lot. This subsection does not affect the priority of mechanics' or materialmen's liens.

- (c) A judgment, decree or order in any action brought under this Section shall include costs and reasonable attorney's fees for the prevailing party.
- (d) A lien for an unpaid assessment is extinguished unless proceedings to enforce the lien are instituted within three years after the docketing of the claims of lien in the Office of the Clerk of Superior Court; provided, that if an Owner of a Lot subject to a lien under this Section files a petition for relief under the United States Bankruptcy Code, the period of time for instituting proceedings to enforce the Association's lien shall be tolled until thirty days after the automatic stay of proceedings under Section 362 of the Bankruptcy Code is lifted.
- (e) This Section does not prohibit separate collection actions to recover sums which are personal obligations of Owners and for which subsection (a) creates a lien.
- (f) Where the holder of a first mortgage or first deed of trust of record, or other purchaser of a Lot, obtains title to the Lot as a result of foreclosure of a first mortgage or first deed of trust, such purchaser, and its heirs, successors and assigns, shall not be liable for the fees against such Lot which became due prior to acquisition of title to such Lot by such purchaser. Such unpaid fees shall be deemed to be common expenses collectible from all Lot Owners including such purchaser, and its heirs, successors and assigns.

**Section 8.4. No Waiver of Liability for Common Expenses.** No Lot Owner may exempt himself or herself from liability for payment of the common expenses by abandonment of the Lot against which the fee is assessed.

**Section 8.5. Special Fees.** If the annual fee proves inadequate for any year or in the event of an emergency, the Board may at any time assess a special fee against all Lot Owners. The Board of Directors may levy special fees for such other matters as the Association shall determine. Prior to becoming effective, however, any such special fee shall be approved by the affirmative vote of a majority of all the Lot Owners at a special meeting of the Association duly called for that purpose.

**Section 8.6. Interest and Payments.** In accordance with North Carolina law, the Association hereby establishes that any past due common expense fee, past due special fee, or other past due charges shall bear interest at twelve percent (12%) per annum.

**Section 8.7. Surplus Funds.** Any surplus funds of the Association remaining after payment of or provisions for common expenses and any prepayment shall be retained as a prudent reserve in the general operating funds or long-range fund of the Association, and no such surplus funds shall be paid to Lot Owners.

## **Article 9. Enforcement.**

**Section 9.1. Enforcement Powers and Procedures.** The Lot Owners of The Ledges, to a large extent, maintain a "live-and-let-live" attitude toward rule making and enforcement, and believe that the Association should not involve itself in disputes between two Lot Owners. It is the intent



of the Association and its members, however, to enforce actively the limited restrictions in these Restrictive Covenants. This section explains the procedures to be followed in dealing with Lot Owners who violate the Restrictive Covenants.

**Section 9.2. Rule-Making Authority.** Property in The Ledges shall be used only for the uses and purposes set out in the Documents. The Board of Directors shall have the authority to make, modify, repeal, and to enforce reasonable Rules and Regulations governing the conduct, use, and enjoyment of Lots, so long as copies of all such Rules and Regulations are furnished to all Owners. Any Rule or Regulation may be repealed by the affirmative vote or written agreement of a majority of the total Association members voting at an annual or special meeting. No rule or regulation shall be in conflict with either the Restrictive Covenants or the Bylaws.

**Section 9.3. Charge of Violation.** The Board of Directors, by majority vote, may charge a Lot Owner with violating the Restrictive Covenants, Bylaws, or Rules and Regulations. Such violation(s) shall be specific and in writing. The charge shall also state remedies and/or time requirements to correct the violation, where applicable.

**Section 9.4. Lot Owner's right to be heard.** A Lot Owner so charged may, within ten (10) business working days of receipt of the charge, request an opportunity to be heard by the Board and to present evidence. The Board shall provide the Lot Owner with a notice in writing of its decision within ten (10) business working days of the hearing.

**Section 9.5. Costs of Legal Action.** All costs of any legal action to enforce the provisions of the Restrictive Covenants, Bylaws, and Rules and Regulations, including reasonable attorney's fees actually incurred, shall be awarded by the court to the prevailing party.

**Section 9.6. Enforcement by Lot Owners.** These provisions shall not limit the rights of any Owners of any Lot or Lots in this Subdivision to prosecute proceedings at law or in equity against the person, persons, or parties violating or attempting to violate provisions of the Restrictive Covenants, Bylaws or Rules and Regulations.

## **Article 10. Waiver.**

No provision in these Restrictive Covenants, the Bylaws or the Articles of Incorporation shall be deemed to have been waived, abandoned or abrogated by reason of failure to enforce them.

## **Article 11. Severability.**

Invalidation of any of these covenants, conditions, and restrictions or uses by judgment or Court order shall not in any way affect any of the other provisions, which remain in full force and effect.

**Article 12. Amendments.** These Restrictive Covenants of The Ledges may be amended only by affirmative vote of or written agreement signed by Lot Owners of Lots to which at least sixty-seven percent (67%) of the votes in the Association are allocated. No amendment shall become effective until recorded in the office of the Register of Deeds of Henderson County, North Carolina and shall be prepared, executed, recorded, and certified in accordance with N.C. General Statute § 47-41. Furthermore, no action to challenge the validity of an amendment adopted pursuant to these provisions shall be brought more than one year after the amendment is recorded.