

BYLAWS
OF
THE ISLANDS OF BEAUFORT
HOMEOWNERS' ASSOCIATION, INC.

ARTICLE I
ASSOCIATION

The following Bylaws shall govern the operation of The Islands of Beaufort Homeowners' Association, Inc.

Section 1. Association. In conjunction with the development of the The Islands of Beaufort subdivision as shown on the plat recorded in the Beaufort County Register of Deeds Office in Book 65 at Page 168 ("Property"), a South Carolina non profit corporation known as The Islands of Beaufort Homeowners' Association, Inc. has been formed ("Association"). The initial offices of the Association shall be at the offices of Beaufort Properties, LLC ("Declarant") located at 500 Carteret Street, Suite B, Beaufort, South Carolina 29902, or such other place as may be subsequently designated by the Board of Directors of the Association.

Section 2. Bylaws Applicability. The provisions of these Bylaws are applicable to the Association. All capitalized terms used herein and not otherwise defined shall have the meanings defined in the Declaration of Covenants, Conditions and Restrictions for The Islands of Beaufort Subdivision, recorded in the Office of the Register of Mesne Conveyances for Beaufort County, South Carolina on June 30, 1998 in Book 1060 at Page 954 et seq., as amended from time to time ("Declaration").

Section 3. Personal Application. All present or future Owners, Occupants, their guest and invitees, or any other person who might use the Property in any manner, are subject to these Bylaws as they may be amended from time to time. The acquisition or rental of any Lot , or the act of occupancy of any of any Lot , will signify that these Bylaws, and any authorized amendments to the foregoing are accepted and ratified, and will be complied with by the Owner, Occupant, their guests or invitees.

ARTICLE II
VOTING, QUORUM, PROXIES

Section 1. Eligibility. Any Owner, including the Declarant, is deemed to have consented to be a Member of the Association. There shall be one membership for each Lot owned. Transfer of ownership of a Lot , either voluntary or by operation of law, shall terminate membership in the Association, and said membership becomes vested in the transferee. If the Lot ownership is vested

in more than one Owner, then all of the Owners of such Lot shall agree upon the designation of one of the Owners to act as a Member of the Association. If Lot ownership is vested in a corporation, partnership, limited liability company, or other entity, said entity must designate one individual to act as a Member of the Association.

Section 2. Voting. Each Member shall have Association votes equal to the number of Lots owned by the Member.

Section 3. Quorum. The presence in person or by proxy of fifty-one percent (51%) of the Members at any meeting shall constitute a quorum. If the required quorum is not present at a meeting, the meeting shall be adjourned and a second meeting shall be called, subject to the giving of proper notice. The required quorum at the second meeting shall be the presence in person or by proxy of twenty-five percent (25%) of the Members. In the event the required quorum is not present at the second meeting, the meeting shall be adjourned and a third meeting shall be called, subject to the giving of proper notice. The quorum requirement for the third meeting shall be the presence in person or by proxy of one percent (1%) of the Members.

Section 4. Proxies. Member votes may be cast in person or by proxy. Appointment of proxies must be filed with the Secretary of the Association before the appointed time of each meeting and may be revoked at any time by the Member notifying the Secretary of such revocation..

Section 5. Voting Of Members. The vote of a majority of the Members represented in person or by appointment of proxy at any meeting which meets quorum requirements shall be binding upon all Owners for all purposes except where in the Declaration, or in these Bylaws, or by law, a higher percentage vote is required.

ARTICLE III

MEETINGS, NOTICES

Section 1. Association Responsibilities. The Association shall have the responsibility of administering to The Islands of Beaufort and electing the Board of Directors.

Section 2. Place Of Meetings. All meetings of the Association shall be at the offices of the Association, or at such other place as designated by the Board of Directors or the Management Agent and stated in the notice of meeting.

Section 3. Annual Meetings. The Association shall be hold its annual meeting during October or at such other date as the decided by the Board or the Members from time to time. At the annual meetings the Owners shall elect Directors to the Board. Additionally, there shall be a report by the Association officers on the activities and financial condition of the Association, and the Board shall present the Association's budget to the Members for the following year. The Members may also transact such other business of the Association as may properly come before them.

Section 4. Special Meetings. It shall be the duty of the Secretary to call a special meeting of the Members as directed by: (i) resolution of the Board of Directors; (ii) at the request by a majority of the Directors; (iii) or upon a petition signed by five percent (5%) of the Members and presented to the Secretary. A notice of any special meeting shall state the time and place of such meeting and the purpose or purposes thereof. No business shall be transacted at a special meeting except as stated in the notice. If an Member intends to raise a matter at a special meeting, said Member shall submit such request in writing to the Secretary or President at least ten (10) days before the date notice is to be mailed to the Members in order for such matter to be included in the Notice of Special Meeting.

Section 5. Notice Of Meetings. It shall be the duty of the Secretary to mail a notice of each annual or special meeting, stating the purposes thereof as well as the time and place where it is to be held, to each Member of record at least fifteen (15), but not more than sixty (60) days prior to such meeting. The mailing of a notice shall be by first class mail. The notice of meeting shall include any matters the Members intend to raise at the meeting if a request is submitted to the Secretary or President in writing at least ten (10) days prior to notice being mailed, which requests sets forth the matters to be raised.

Section 6. Order Of Business. The order of business at all Annual Meetings of the Association shall be as follows:

- (a) Call to Order.
- (b) Proof of Notice of Meeting or Waiver of Notice.
- (c) Reading of Minutes of Preceding Meeting.
- (d) Financial Reports and Budget Presentation.
- (e) Reports of Committees.
- (f) Election of Directors.
- (g) Unfinished Business.
- (h) New Business.

The order of business at a Special Meeting of the Association shall include items (a) and (b) above, and thereafter, the agenda shall consist of the items specified in the notice of meeting.

Section 7. Record Date. The Board of Directors shall fix a record date for determining Members entitled to notice of and to vote at each annual or special meeting. Such record date shall be at least ten (10) days, but not more than forty (40) days before the meeting. Only Members holding title to Lots s as reflected in the Beaufort County records on the record date shall be entitled to notice.

Section 8. Action By Written Consent. Whenever the vote of Members at a meeting is required or permitted by these Bylaws to be taken in connection with action of the Association, the meeting and vote of Members may be waived if a majority of Members who would have been entitled to vote consent in writing to such action being taken. Notice of such action shall be given to all Members, unless all Members participated in the approval of such action.

Section 9. Waiver And Consent. Any Member may waive any notice of meeting required by these Bylaws if the waiver is submitted in writing, signed by the Member entitled to notice, and delivered to the Association by the date of the meeting. A Member's attendance at a meeting waives objection to lack of notice or defective notice of the meeting unless the Member objects to holding the meeting or transacting business at the meeting at the beginning of the meeting. Further, a Member's attendance at a meeting waives objection to considerations of a particular matter at the meeting that is not within the purpose described in the notice for the meeting, unless the Member objects to the consideration of the matter at the time when it is presented at the meeting.

Section 10. Membership List. After a record date for a notice of meeting has been fixed by the Board of Directors, a complete list of Members of the Association shall be prepared by the Secretary or Treasurer. This Membership list shall list the Members and shall include the addresses and number of votes each Member is entitled to vote at the meeting. Such list shall be maintained in the office of the Association beginning the day after notice is given of the meeting for which the list was prepared and continuing through the meeting.

ARTICLE IV

BOARD OF DIRECTORS

Section 1. Number And Qualification. The affairs of the Association shall be governed by a Board of Directors ("Board") comprised of three (3), five (5) or seven (7) persons. The Declarant shall appoint the initial Board until the first annual meeting of the Association. Board members appointed by the Declarant do not need to be Members. So long as the Declarant owns one or more Lots s, the Declarant shall be entitled to appoint at least two (2) Directors to the Board. Except for Director appointees, all Directors shall be Members or spouses of Members.

Section 2. General Powers And Duties. The Board shall have the powers and duties necessary for the administration of the affairs of the Association.

Section 3. Specific Powers And Duties. In addition to the general powers referenced above, the Board shall be responsible for the following:

- (a) Care and upkeep of the Common Property.
- (b) Establishment of the annual budget. A proposed budget shall be available to all Members at least fifteen (15) days in advance of the Association's annual meeting. The budget may be modified by the Association at the annual meeting or a special meeting of the Association by a majority vote of the Members present at such meeting, in person or by proxy.
- (c) As a part of the annual budget, establishment and maintenance on behalf of the Association of an adequate reserve fund for periodic maintenance, repair and replacement of improvements to the Common Property.
- (d) Employment, dismissal and control of the Management Agent and any personnel necessary for the maintenance and operation of the Common Property.
- (e) Collection of all assessments, fines, and fees from the Members.
- (f) Obtaining of insurance for the Common Property.

(g) Grant or relocate easements which are not inconsistent with the Owners' full use and enjoyment of the Common Property.

(h) Making of, or causing to be made, repairs, additions and improvements to or alterations of, the Common Property and repairs to and restoration of the Common Property.

(i) To make available for inspection, upon request during normal working hours or under other reasonable circumstances, to Owners, the holders, insurers or guarantors of any first mortgage on any Lot, Bylaws, other rules or regulations pertaining to the Association, and the books, records and financial statements of the Association.

(j) To adopt and implement a policy regarding resale of Lots, the purpose of said policy to assist Owners to provide timely information to prospective buyers while not burdening the Association financially.

Section 4. Management Agent. The Board of Directors may retain a Management Agent, at the compensation established by the Board, to perform such duties and services as the Board shall authorize including, but not limited to, the duties listed in this Article. Any contracts with the Management Agent shall be for a reasonable term and shall contain reasonable provisions regarding the right of the Association to terminate said contracts.

Section 5. Board Of Directors. The first Board of Directors consisting of three (3) persons shall be designated by the Declarant at an organizational meeting. These appointments will continue until the first annual meeting of the Association. At the first annual meeting of the Association, the Board shall be increased to five (5) directors. The initial term of office for two (2) directors of the Board shall be fixed at three (3) years. The term of office of two (2) directors of the Board shall be fixed at two (2) years, and the term of office of one (1) director of the Board shall be fixed at one (1) year. At the expiration of the initial term of office of each director of the Board, a successor shall be elected to serve a term of three (3) years. The directors of the Board shall hold office until their successors have been elected and hold their first meeting. All directors shall be subject to replacement, in the event of resignation or death, in the manner set forth in Section 6 of this Article.

Section 6. Vacancies. Vacancies in the Board of Directors caused by reason other than the removal of a director of the Board by a vote of the Members shall be filled by vote of the majority of the remaining directors. Each person so elected shall be a director of the Board until a successor is elected at the next meeting of the Association. If a quorum cannot be achieved due to vacancies in the Board, only a majority of the remaining Board shall be required to elect successor Board members.

Section 7. Removal Of Director. At any annual or special meeting of the Association, any Director may be removed with or without cause by a majority of Members and a successor may then be elected to fill the vacancy. Any Director whose removal has been proposed to the Association shall be given an opportunity to be heard at the meeting. If a Director ceases to be a Member, said Director shall either resign or be removed by the Board. Notwithstanding any other provision contained herein, a Director may be removed by the Members at a meeting only if the purpose, or one of the purposes, as stated in the Notice of Meeting, is the removal of said Director.

Notwithstanding the preceding, any Director may be removed by the Board by a vote of the majority of the Directors then serving at any duly organized Board meeting.

Section 8. Organizational Meeting. The organizational meeting of the Declarant's appointed first Board shall be held at such time and place as shall be determined by the Declarant. No notice shall be necessary to the newly elected Board members to legally constitute such an organizational meeting, providing a majority of the Board shall be present.

Section 9. Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of the Board, but at least four (4) such meetings shall be held each fiscal year. Regular meetings of the Board do not require notice to Directors.

Section 10. Special Meetings. Special meetings of the Board may be called by the President or a majority of the Board, on three (3) days' prior notice to each Director, given personally, by mail, or facsimile, which notice shall state the time, place, and the purpose or purposes of the meeting.

Section 11. Waiver Of Notice. Before or at any meeting of the Board, a Director may waive in writing notice of such meeting. Attendance or participation by a Director at any meeting of the Board shall constitute a waiver of notice. If all Directors are present at a meeting of the Board, no notice shall be required.

Section 12. Action Without A Meeting. Actions of the Board may be taken without a meeting if the action is taken by all Directors of the Board and evidenced by one or more written consents describing the action taken, signed by each Director, and included in the corporate records of the Association.

Section 13. Board Quorum. At all meetings of the Board, a majority of the directors shall constitute a quorum for the transaction of business. Actions and resolutions approved by a vote of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board. Directors may participate in a regular or special meeting by, or conduct the meeting through any means of communication by which all Directors participating may hear each other simultaneously during the meeting, and directors so participating by this means shall be deemed to be present in person at the meeting. If at any meeting of the Board there is less than a quorum present, the majority of the directors present may adjourn the meeting to another time. At any such adjourned meeting any business which might have been transacted at the meeting as originally called may be transacted without further notice so long a quorum requirements are satisfied. Proxies shall not be available for either a Board quorum or for voting purposes.

Section 14. Fidelity Bonds. The Board may require that any Management Agent, officers or employees of the Association handling or responsible for Association funds furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Association.

Section 15. Compensation. No director shall receive any compensation from the Association. However, a Director may be reimbursed for actual expenses incurred in the performance of his or her duties.

Section 16. Liability Of The Board Of Directors. Except as required under the laws of South Carolina, the directors shall not be liable to the Owners or Members for any mistake of judgment, negligence, or otherwise, except for willful misconduct. To the extent permitted under the laws of South Carolina, the Owners and Members shall indemnify and hold harmless the Board of Directors against all contractual liability to others arising out of contracts entered into by the Board of Directors on behalf of the Association, unless any such contract is contrary to the provisions of the Declaration or of these Bylaws. Directors who are members of, or employed by Declarant, are authorized and allowed to contract with Declarant and affiliated corporations without being charged with self-dealing.

ARTICLE V

OFFICERS

Section 1. Designation. The principal officers of the Association shall be a President, a Vice President, and a Secretary and/or Treasurer all of whom shall be elected by the Board. The Board may appoint an Assistant Treasurer and Assistant Secretary, and such other officers as, in their judgment, may be necessary. One person may hold more than one office.

Section 2. Election Of Officers. The officers of the Association shall be elected annually by the Board at the organizational meeting of each new Board and shall hold office at the pleasure of the Board.

Section 3. Removal Of Officers. Upon an affirmative vote of a majority of the Directors of the Board, any officer may be removed either with or without cause, and a successor elected at any regular meeting of the Board, or at any special meeting of the Board called for such purpose. No officer shall continue to serve as such if he or she shall cease to be an Member or spouse of a Member.

Section 4. Vacancies. A vacancy in any office may be filled by appointment by the Board of Directors. The officer appointed to such vacancy shall serve for the remainder of the term of the office.

Section 5. President. The President shall be the Chief Executive Officer of the Association. The President shall preside at all meetings of the Association and of the Board. The President shall have all of the general powers and duties which are usually vested in the office of President of an incorporated nonprofit Association, including but not limited to, the power to appoint committees from among the Members as appropriate to assist in the conduct of the affairs of the Association. The President shall sign all leases, mortgages, deeds and other written contracts and instruments and shall co-sign all checks and promissory notes, and perform all of the duties which may be delegated from time to time by the Board of Directors.

Section 6. Vice President. The Vice President shall take the place of the President and perform the President's duties when the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board shall appoint some other director of the Board to perform such duties on an interim basis. The Vice President shall also perform other duties as requested by the Board.

Section 7. Secretary And Treasurer. The offices of Secretary and Treasurer may be combined or separated. The Secretary or Treasurer shall keep the minutes of all meetings of the Board and the minutes of all meetings of the Association. The Secretary or Treasurer shall have charge of the record books and papers of the Association and shall authenticate the records of the Association. The Secretary or Treasurer shall have responsibility for Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association and shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit, of the Association in such depositories as may from time to time be designated by the Board.

ARTICLE VI

NOTICES

Section 1. Definition. Whenever under the provisions of the Declaration or these Bylaws notice is required to be given to the Board of Directors, the Management Agent or a Member, it shall not be construed to require personal notice; but such notice may be given in writing, by first class, certified or registered mail, by depositing the same in a post office or letter box, in a postpaid sealed envelope, addressed to the Board of Directors, the Management Agent or the Member, at such address as appears on the books and records of the Association. Notice shall be deemed given as of the date of mailing.

ARTICLE VII

OBLIGATIONS OF THE OWNERS

Section 1. Assessments For Common Expenses. All Owners shall be obligated to pay the Assessments imposed by the Association and to meet all Association expenses for upkeep and maintenance of Common Property as set forth in the Declaration.

Section 2. Assessments To Remain In Effect Until New Assessments Made. The omission by the Board of Directors before the expiration of any year to fix the Assessments for that or the next year shall not be deemed a waiver or modification in any respect of the provisions of the Declaration and Bylaws or a release of any Owner from the obligation to pay Assessments, or an installment thereof, for that or any subsequent year, but the Assessment fixed for the preceding year shall continue until a new Assessment is fixed by the Board at a duly held Board meeting.

Section 3. Records. The Management Agent or Board of Directors shall keep detailed records of the receipts and expenditures affecting the Common Property and any other Association expenses incurred. Records and vouchers authorizing the payments involved shall be available for examination by the Members during reasonable business hours.

Section 4. Default In Payment Of Common Charges. The Board shall take prompt action to collect any Assessment due from an Owner which remains unpaid for more than thirty (30) days from the due date for payment thereof. In the event of default by any Owner in paying Assessments, such Owner shall be obligated to pay interest, late charges and collection charges as set forth in the Declaration.

Section 5. Statement Of Assessments. When requested in writing, the Board shall promptly provide any purchaser, Owner, mortgagee or prospective mortgagee of a Lot with a written statement of all unpaid Assessments due from the Owner of that Lot for a reasonable fee. The purchaser or mortgagee's liability therefor shall be limited to the Assessment amount as set forth in the statement. Any mortgagee holding a lien on a Lot may pay any unpaid Assessments payable with respect to such Lot and upon such payment such mortgagee shall have a lien on such Lot for the amounts paid of the same rank as the lien of his encumbrance. Any mortgagee holding mortgages on more than five (5) Lots shall be entitled, upon request, to receive a statement of account on the Lots securing all of said mortgages once each calendar year without any fee or charge.

Section 6. Statement Upon Resale. No Owner shall convey or sell a Lot unless and until all unpaid Assessments against the Lot shall have been paid. Such unpaid Assessments, however, may be paid out of the proceeds from the sale of a Lot or by the Owner's grantee. Upon the written request of an Owner or the Owner's prospective purchaser, the Board or the Management Agent shall furnish a written statement of the unpaid Assessments due from such Owner for a reasonable fee, which shall be conclusive evidence of the payment of Assessments prior to the date of the statement. Further, the Association shall undertake to provide copies of the Declaration, these Bylaws, or other materials regarding the Association upon the written request of an Owner in connection with the sale of a Lot. A reasonable charge may be made by the Board for the issuance of Assessment statements and Association materials.

Section 7. Maintenance And Repair. All maintenance, repair and replacement to the Common Property shall be made by the Board or its agent and shall be charged to all the Owners as Common Expenses, excepting to the extent that the same may be necessitated by the negligence, misuse or neglect of an Owner, in which such case the expense shall be charged to such Owner.

Section 8. Rules and Regulations. As set forth in Section 6 of the Declaration, the Board may from time to time adopt, modify, and revoke in whole or in part rules and regulations, governing the conduct of persons on the The Islands of Beaufort. Such rules and regulations, and every amendment, modification, and revocation thereof, shall be provided to each Owner by hand deliver or first class mail at the last registered address of the Owner and shall be binding upon all Owners and the occupants of Lot. Amendment, modification and revocation of the rules and regulations shall not be considered a Bylaw amendment.

Section 9. Abatement And Enjoinment Of Violations By Owners. The violation of any rule or regulation, or any provision of the Declaration or Bylaws shall give the Board the right, in addition to any other rights set forth in these Bylaws: (a) to enter the Lot in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition, that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board shall not thereby be deemed guilty in any manner of trespass; or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach and to recover the cost of such enforcement, including attorneys' fees, and until such expense is recovered it shall be a lien upon said Lot which lien shall be inferior to the lien of all prior mortgages.

Section 10. Fiscal Year. The fiscal year for the Association shall be determined by the Board of Directors.

Section 11. Litigation. No judicial proceeding or litigation shall be commenced or prosecuted by the Association unless approved by a vote of seventy-five percent (75%) of the votes eligible to be cast by the Members. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of the Declaration or Bylaws (including, without limitation, the foreclosure of liens); (b) the imposition and collection of assessments as provided herein; (c) proceedings involving taxation, including, e.g., challenges to ad valorem taxation; or (d) counterclaims brought by the Association in proceedings instituted against it. In the event any judicial proceeding or litigation is instituted, then the Association shall assess all Owners for the costs of such litigation, including, without limitation, attorneys' fees incurred, and funds from regular Assessments shall not be used for any such claim or litigation.

ARTICLE VIII

INSURANCE

The Board of Directors shall be required to obtain and maintain insurance policies covering the Property Common Property without prejudice of the right of the Owner to obtain additional individual insurance policies at his or her own expense.

ARTICLE IX

MORTGAGES

Section 1. Notice To Board. An Owner who mortgages a Lot shall notify the Board of the name and address of the Mortgagee. The Association shall maintain such mortgagee information.

Section 2. Notice To Mortgagee. The Board shall give reasonable advance written notice of the events below to all mortgagees from which it receives a written request. Such written request must identify the name and address of the mortgagee and the encumbered Lot number and address:

- (a) Any unpaid Assessments due the Association for over ninety (90) days from the Owner(s) of the Lot ;
- (b) Any default by the Owner of the Lot in the performance of obligations under the Declaration or Bylaws when such default is not cured within sixty (60) days.
- (c) Any notice of special or annual meetings of the Association.
- (d) Any condemnation loss or any casualty loss which affects a material portion of the Property or any Lot on which there is a first mortgage held, insured, or guaranteed by such mortgagee;
- (e) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;
- (f) Any proposed action which would require the consent of a specified percentage of mortgagees as specified in these Bylaws or in the Declaration.

Section 3. Statements To Mortgagee. Upon written request to the Association from any mortgagee of which it has notice as herein provided, the Board shall supply such mortgagee with a reasonably current financial statement of the Association within a reasonable time of such request.

ARTICLE X

AMENDMENTS

Section 1. Requirements For Amendments. These Bylaws may be amended the Members at any meeting following notice to the Members in which one of the stated purposes of the meeting is to consider the adoption, amendment, or repeal of the Bylaws. Notwithstanding the foregoing, so long as the Declarant remains the Owner of more than one Lot in the Property, these Bylaws shall not be amended so as to adversely affect the Declarant without the Declarant's consent.

ARTICLE XI

MISCELLANEOUS MATTERS

Section 1. Number. When the context requires, the use of the singular includes the plural.

Section 2. Definitions. The definitions contained in the Declaration apply to these Bylaws.

Section 3. Execution Of Documents. The President, Vice President, or Secretary are responsible for preparing, executing, and filing amendments to the Bylaws, and shall be authorized to execute any other document which the Association may from time to time be required to execute.

Section 4. Captions. The captions contained in these Bylaws are inserted as a matter of convenience and for reference, and in no way define, limit, or describe the scope of these Bylaws or the intent of any provision of the Bylaws.

Section 5. Invalidity. The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these Bylaws.

Section 6. Conflict. These Bylaws are set forth to comply with the requirements of the Horizontal Property Act of South Carolina, as amended, and the South Carolina Non-Profit Corporation Act of 1994, and may be amended from time to time. In the event of any conflict between these Bylaws and the provisions of such statutes or the Declaration, the provisions of such statutes or the Declaration, as the case may be, shall control.

Section 7. Waiver. No restriction, condition, obligation, or covenant contained in these Bylaws shall be deemed to have been abrogated or waived by reason of failure to enforce the same, irrespective of the violations or breaches thereof which may occur.