

EXHIBIT B  
SOUTH OAKS TOWNHOMES OWNERS' ASSOCIATION  
BYLAWS  
SECTION 1  
Identity

These are the Bylaws of SOUTH OAKS TOWNHOMES OWNERS' ASSOCIATION a North Carolina non-profit corporation, (the "Association").

For purposes of these Bylaws, terms specifically defined either in the Declaration of Restrictions, Covenants and Conditions for the South Oaks Townhomes and amendments thereto (the "Restrictions") located in Buncombe County or the North Carolina Nonprofit Corporation Act, Chapter 55A, North Carolina General Statutes (the "Non-profit Act"), shall have the same meaning herein. Unless the Restrictions or Bylaws expressly provide otherwise, the procedures and substantive matters governing the Association can be determined by reference to the Non-Profit Act.

**Definitions**

All defined terms herein shall have the same definition as the defined terms contained in the Declaration of Restrictions, Covenants and Conditions for South Oaks Townhomes.

**SECTION 2**  
**Qualifications and Responsibilities of Members**

2.1 MEMBERS. Every Lot Owner of South Oaks Townhomes shall be a member of the Association and shall remain a member until he ceases to be a Lot Owner.

2.2 More than One Owner. When there is more than one owner of a Lot, all such persons shall be members of the Association.

2.3. Registration. It shall be the duty of each Lot Owner to register his name and his mailing address with the Secretary of the Association. If a Lot Owner does not so register, the Association shall be under no obligation to recognize his privileges of being a member. In addition, a Lot Owner shall register with the Secretary the name and mailing address of any applicable person, firm or company holding a note secured by a first deed of trust lien on that Lot (the "First Mortgagee").

2.4 Prohibition of Assignment. The interest of a member in the Association assets cannot be transferred or encumbered except as an appurtenance to his Lot.

**SECTION 3**  
**Members' Meeting and Voting**

3.1 Place Meetings of the members shall be held at such place within South Oaks Townhomes or within Buncombe County, North Carolina, as may be designated from time to time by the Board of Directors of the Association (the "Board").

3.2 Annual Meeting. The members shall meet at least once each year, the day being specified in the notice of such meeting given pursuant to Section 3.4. At each annual meeting, the members may transact any business properly coming before them.

3.3 Special Meetings. Special meetings of the members may be called at any time by the President or by the Board, and shall be called and held within sixty (60) days after written request thereof signed by members of the Association entitled to cast at least fifty-one percent (51%) of the total votes in the Association is delivered to any officer or Director of the Association. No business shall be transacted at a special meeting except that which is stated in the notice thereof.

3.4 Notices. Notice of all meetings of the members, stating the time and place, and accompanied by a complete agenda thereof, shall be given by the President or Secretary to each member. Such notice shall be in writing and shall be hand delivered or sent by United States mail to the members at the addresses of their respective Lots and to others addresses as any member may have designated to the President or Secretary as it appears on the records of the Association. The annual meeting shall be held on the third Tuesday in January. The Association may vote or transact business on any matter at an annual meeting whether or not specific notice of said item had been given in the notice of the annual meeting. However, for special meetings, only items which were included in the meeting's notice to members can be voted on.

3.5 Quorum: Adjournment if No Quorum. A quorum shall consist of members present, in person or by proxy, entitled to cast at least fifty-one percent (51%) of the total votes in the Association. If a quorum is not present, the meeting shall be adjourned from time to time until a quorum is present.

3.6 Vote. Each Lot Owner is entitled to one (1) vote. Where there is more than one owner of a Lot, said Owners shall designate the person authorized to vote for said Lot.

3.7 Manner of Casting Votes. Votes may be cast in person or by proxy. A proxy must be in writing, be signed by all owners of the Lot, the votes of which are subject to the proxy, be given only to another member or to a Security Holder of that Lot, and be filed with the Secretary on or before the meeting. A proxy shall be valid until revoked in writing by all Lot Owners of such Lot. A proxy should denote the vote desired on a specific issue and/or be a general authorization to the proxy holder to vote according to his discretion.

3.8 Required Votes. All questions shall be decided by a majority of the votes cast on the question, unless the provisions of applicable law, the Restrictions or these Bylaws require a greater vote.

3.9 Action by Members without Meeting. Any action that may be taken at a meeting of the members, may be taken without a meeting if such action is authorized in writing setting forth the action taken and is signed by all members, or if such action is taken in any other manner.

3.10 Prohibition of Cumulative Voting. There shall be no cumulative voting.

## **SECTION 4** **Directors**

4.1 Number and Qualifications of Directors. The Board shall consist of at least three (3) natural persons. A Director must be a Lot Owner or the individual nominee of a Lot Owner which is other than an individual.

4.2 Election of Directors. Election of Directors by the members shall occur at the annual meeting of the members and at each subsequent annual meeting after the term of the Directors have expired. The members shall elect the Directors by a majority of the votes cast in the election.

4.3 Term. The term of each Director shall be for two (2) years beginning with the annual election in January of 2010. One (1) Director shall be elected in even-numbered calendar years (beginning with 2010), and two (2) Directors shall be elected in odd-numbered calendar years (beginning with 2011). Directors may serve consecutive terms. Once elected, a Director shall hold office until his successor has been duly elected and qualified.

4.4 Removal. Any Director may be removed, with or without cause, by a vote of the members entitled to cast at least sixty-seven (67%) of the total votes in the Association, at a special meeting called for such purpose. The members by majority vote shall appoint a successor to serve the balance of the removed Director's term.

4.5 Vacancies. Any vacancy in the Board arising by death or resignation of a Director shall be filled by act of the remaining Directors, whether or not constituting a quorum, and a Director so elected shall serve for the unexpired term of his predecessor in office.

4.6 Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined by a majority of the Directors, but at least one (1) time a fiscal year. Notice of regular meetings shall be given to each Director, personally or by mail, telephone, facsimile or e-mail, at least thirty (30) days prior to the meeting.

4.7 Special Meetings. Special meetings of the Board may be called by the President and shall be called by the President or Secretary and held within ten (10) days after written request signed by two (2) Directors is delivered to any other Director or the President or the Secretary. Not less than seventy-two (72) hours' notice of such special meeting shall be given personally or by mail, telephone, facsimile or e-mail to each Director; provided that in case the President or any Director determines that an emergency exists, a special meeting may be called by giving such notice as is possible under the circumstances. All notices of a special meeting shall state the time, place and purpose thereof. No business shall be transacted at a special meeting except that which is stated in the notice thereof.

4.8 Quorum; Adjournment if No Quorum. A majority of the Board shall constitute a quorum for the transaction of business at any meeting of the Board. If a quorum is not present, the meeting shall be adjourned until a quorum is present. The signing by a Director of the minutes of a meeting shall constitute the presence of such Director at that meeting for the purpose of determining a quorum.

4.9 Manner of Acting. Each Director shall be entitled to one (1) vote. The act of a majority of the Directors present at a meeting shall constitute the act of the Board unless the act of a greater number is required by the provisions of applicable law, the Restrictions or these Bylaws.

4.10 Meeting Forums; Board Action without Meeting. Although regular or special meetings may occur at such places as specified in the notice, regular or special meetings by means of a conference telephone or similar communication device are permissible as long as the required notice is given. Any action that may be taken at a meeting of the Board may be taken without a meeting if such action is authorized in writing, setting forth the action taken, signed by all Directors.

4.11 Compensation of Directors Restricted. Directors shall receive no compensation for their services but may be paid for out-of-pocket expenses incurred in the performance of their duties as Directors.

4.12 Powers and Duties of the Board. All of the powers and duties of the Association shall be exercised by the Board, including those existing under the common law, applicable statutes, the Act, the Restrictions, the Articles, and these Bylaws, as any thereof may from time to time be amended. Such powers and duties shall be exercised in accordance with the provisions of applicable law, the Act, the Restrictions, the Articles, and these Bylaws, and shall include, but not be limited to, the following:

(a) To prepare and provide to members annually by December 15, a proposed budget for the fiscal year commencing January 1 and concluding December 31 of the following calendar year (the "Fiscal Year"), to be approved by a majority of the members attending in person or by proxy. In addition to the proposed said report shall contain at least the following:

(i) A statement of the status and amount of any reserve or replacement, fund and any portion of the fund designated for any specified project by the Board.

(ii) A statement of the financial condition of the Association for the last Fiscal Year, with a final annual income statement and balance sheet provided to all owners within 75 days of the end of each fiscal year.

(iii) A statement of the status of any pending suits or judgments in which the Association is a party.

(iv) A statement of the insurance coverage provided by the Association.

(v) A statement of any unpaid assessments payable to the Association, identifying the Lot and the amount of the unpaid assessment. All Lot owners do hereby acknowledge that this reporting of unpaid assessments shall not constitute a violation of any federal or state unfair debt collection laws.

(b) To adopt and amend budgets and to determine, and collect assessments to pay the Association's common expenses, including operating expenses and Common Area maintenance fees (the term "Common Expenses" being defined with more particularity in Section 8.12), and capital improvements costs. The Board may engage a certified public accountant to do the Association bookkeeping, to file annual returns and to assist in preparing the report described above.

(c) To regulate the use of, and to maintain, repair, replace, modify and improve the Common Area.

(d) To adopt and amend rules and regulations and to establish reasonable penalties for infraction thereof.

- (e) To enforce the provisions of the Restrictions, the Articles, these Bylaws, the Act and rules and regulations by all legal means, including injunction and recovery of monetary penalties.
- (f) To hire and terminate agents and independent contractors.
- (g) To institute, defend, intervene in, or settle any litigation or administrative proceeding in its own name on behalf of itself or two (2) or more Lot Owners on matters affecting the Common Area.
- (h) To establish and dissolve and liquidate, from time to time, reserve accounts for any purpose.
- (i) To borrow money for the maintenance, repair, replacement, modification or improvement of the Common Area and to pledge and pay assessments, and any and all other revenue and income, for such purpose.
- (j) To buy Lots in foreclosure of an assessment lien, or at any other time or for any other reason, and to sell, lease, mortgage, and otherwise deal in Lots from time to time owned by the Association.
- (k) To impose and receive payment, fee and charges for the use rental or operation of the Common Area for all purposes permitted a nonprofit corporation.
- (l) To grant leases, licenses, concessions and easement through and over the Common Area, unless contrary to the Restrictions.
- (m) To impose and collect reasonable charges, including reasonable costs and attorneys' fees, for the enforcement of any use restrictions or rules and regulations set forth in the Restrictions or these Bylaws.
- (n) To provide for indemnification of the Association's Officers and Directors and maintain Officers and Directors liability insurance.
- (o) To impose charges for the late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines, to be approved by a majority of the members, for violations of the Restrictions, these Bylaws, or the rules and regulations.

**Any assessments, charges or fines levied against members shall specifically relate to the need to preserve and fulfill the purposes set forth in the Association's Article of Incorporation and are applied to owners of Lots in their capacity as owners-members rather than in some other capacity such as customers for services.**

## **SECTION 5** **Officers**

**5.1 Designation of Officers.** The officers of this Association shall be a President, a Secretary, and a Treasurer. Each officer shall be a Lot Owner or the individual nominee of the Lot Owner which is other than an Individual. A person shall hold only one office at one time. The Board may elect an assistant treasurer, an assistant secretary and such other officers as in its judgment may be necessary.

**5.2 Election of Officers.** Officers of the Association shall be elected by the Board. Elections shall be held every two (2) years at the first meeting of the Board held after the annual meeting of the members. Each officer shall serve until his successor has been duly elected.

**5.3 Removal.** Any officers may be removed, with or without cause, and without notice, by a vote of 67% of the homeowners.

5.4 Vacancy. Any vacancy in any office shall be filled by the Board, and an officer elected to fill a vacancy shall serve for the unexpired term of his predecessor in office.

5.5 Powers and Duties of Officers.

(a) President. The president shall be the chief Executive officer of the Association and shall see that all actions and resolutions of the Board are carried into effect.

(b) Secretary. The Secretary shall keep the minutes of all meetings and actions of the Board and of the members; shall give all required notices to the Directors and members; shall keep the records of the Association, except those kept by the Treasurer; shall perform all other duties incident to the office of a secretary of a corporation; and shall perform such other duties required by the Board or the President.

(c) Treasurer. The Treasurer shall have custody of all intangible property of the Association, including funds, securities, and evidences of indebtedness; shall keep the books of the Association in accordance with good accounting practices and principles, and upon request, shall submit them, together with all vouchers, receipts, records, and other papers to the Board for examination and approval; shall deposit all monies and other valuable effects in depositories designated by the Board; shall disburse funds of the Association as directed by the Board; and shall perform all other duties incident to the office of a treasurer of a corporation.

5.6 Execution of Agreements, Etc. All agreements, deeds, mortgages, or other instruments shall be executed by the President with an attest by the Secretary (or Assistant Secretary if appointed), or by such other person or persons as may be designated by the Board.

5.7 Compensation. No officer shall be compensated for his services in such capacity, but may be reimbursed for out-of-pocket expenses incurred in performing his duties.

**SECTION 6**  
**Indemnification of Directors and Officers**

The Association shall indemnify such persons, for such expenses and liabilities, in such manner, under such circumstances, and to such extent, as permitted by the North Carolina General Statutes, as now enacted or hereafter amended. In addition, the Association is authorized to maintain Officers and Directors Liability Insurance.

**SECTION 7**  
**Fiscal Management**

7.1 Depository. The Board shall designate a depository for the funds of the Association, and may change such depository at any time. Withdrawal of funds from such depository shall be only be for budgeted items, or as authorized by the Board.

7.2 Fiscal Year. The fiscal year of the Association shall run January 1 through December 31, provided that the Board, from time to time, by resolution, may change the Fiscal Year to some other designated period.

## **SECTION 8** **Assessments**

8.1 Obligation of Members to Pay assessments; Amount of Levy. Each Lot Owner shall be personally and severally liable for an assessment equaling the total amount of the Association's Common Expenses as determined in the Board's discretion divided by the total number of Lots owned by parties at the time of the annual assessment. The levy of an annual assessment noted above does not include any special assessment which may be levied against a Lot Owner in accordance with Section 8.7 below..

8.2 Allocation of Common Surplus. Any common surplus, including funds in reserve accounts, may be allocated to each Lot in accordance with its percentage of the share of assessments, and if allocated, shall be owned by the Lot Owner, and, if allocated, may be paid to the Lot Owner or credited against that Lot's share of Common Expenses subsequently assessed. Notwithstanding the above, the Board shall retain the authority to apply said surpluses to any current Fiscal Year expenditures in order to satisfy the exempt function income qualification for nonprofit corporations under Section 528 of the Internal Revenue Code.

8.3 Preparation of Budget and Levying of Assessment. Except as hereinafter provided, for each Fiscal Year, beginning with the Fiscal Year commencing January 1, 2000, the Board shall prepare and adopt a budget, including therein estimates of the amount necessary to pay the Common Expenses, together with amounts considered necessary by the Board for reserves. After preparation and adoption of each such budget, the Board shall provide each member with a copy and shall give each member notice of the assessment made against that member's Lot based upon such budget and may also state the interest to be charged on delinquent payments thereof (other than as provided in these Bylaws). The assessment shall be deemed levied upon the giving of such notice.

8.4 Assessment A Lien. Every assessment shall constitute a lien upon each Lot assessed from the date the assessment is levied, prior to all other liens except only (i) real estate taxes and other governmental assessments or charges against that Lot and (ii) liens and encumbrances recorded before the recordation of the Restriction.

8.5 Payment of Assessments. Assessments shall be payable when notice thereof is given, but shall not be delinquent if paid at the times and in the amounts specified by the Board in the notice of the assessment. Payments shall be made to the Association, or as the Board may from time to time otherwise direct. Unless the notice states contrary, annual assessments are typically due and payable in monthly installments at the first of every month.

8.6 Notices to First Mortgages. Although the lien of assessments may be superior to the lien of a First Mortgagee, any enforcement of said assessment lien by the Association's filing of a collection or foreclosure action with the courts shall require the giving of notice to the applicable First Mortgagee, if any. All owners of Lots acknowledge that such notice shall not constitute a violation of any state or federal unfair debt collection laws. Failure to give the notice provided for herein shall not be a defense for the defaulting member in the enforcement action filed by the Association.

8.7 Special Assessments. In addition to the assessments levied pursuant to Section 8.3, the Board may levy special assessments at such other and additional times as in its judgment are required for:

- (a) Alterations, restoration and reconstruction of Common Area and its facilities.
- (b) Improvements, acquisitions and additions to the Common Area.
- (c) Payment of costs and expenses incurred in curing defaults pursuant to Sections 9.1 and 9.3, hereof

Special assessments made pursuant to this Section shall be a Common Expense, shall be deemed levied upon notice thereof being given to the members subject to such special assessment and shall be payable as determined by the Board and as set out in such notice. The Board may levy special assessments only with the consent of 67% of the members voting.

8.8 Failure to Prepare Budget and Levy Annual Assessment. Deficiencies in Procedure. The failure of the Board or delay of the Board in preparing any budget, and to levy or in levying assessments, shall not constitute a waiver or release of the members' obligation to pay assessments whenever the same shall be determined and levied by the Board, until a new assessment is levied by the Board pursuant to Section 8.3, each member shall continue to pay the assessment then previously levied pursuant to Section 8.3 in the same amount and at the same periodic times as levied, or as the Board may otherwise advise in writing. Also, any deficiencies or inadequacies in the procedure followed by the Board in levying an assessment shall not in any way affect its validity of the obligation of members to pay such assessment.

8.9 Assessment Roll: Certificate All assessments shall be set forth upon a roll of the Lots which shall be available to the Association for inspection at all reasonable times by members and Security Holders, and their duly authorized representatives. Such roll shall include, for each Lot, the name and address of the member or members, all assessments levied, and the amount of all assessments unpaid. The Association, upon written request, shall furnish to the Lot Owner, or his authorized agent, a recordable certificate setting forth the amount of unpaid assessments currently levied against his Lot. The certificate shall be furnished within fourteen (14) business days after the receipt of the request and shall be binding upon the Association and all Lot Owners. For such certificate a reasonable fee may be charged by the Board. All owners of Lots acknowledge that such notice provided in an assessment roll or certificate shall not constitute a violation of any state or federal unfair collection laws.



8.10 Default and Enforcement. If any assessment, or installment thereof, remains delinquent for thirty (30) days, then that assessment, and all other assessments then a lien against that Lot, may be declared by the Board to be immediately due and payable in full, with interest, without further notice, and such lien may be enforced in accordance with Article 2, Chapter 44A of the North Carolina General Statutes, with Chapter 47A for liens on unpaid common expenses or such other relief allowed by law. All fees, late charges, attorneys' fees, fines or interest levied or collected by the Association in connection with any unpaid assessments shall have the same priority as the assessment to which they relate.

The Association also shall be entitled to suspend the right of a defaulting Lot Owner to use the Common Area (except roads) and its facilities until the delinquency is cured.

The remedies noted herein for default on assessments shall include, without limitation, any and all remedies set forth in the Restrictions. The failure of the Association to enforce any assessment delinquency shall not constitute a waiver or abrogation of the right of the Association or its agents to enforce such delinquency in the future, irrespective of the number of breaches thereof that may have occurred by the member regarding delinquencies.

8.11 Interest on Delinquent Assessments. Assessments, or installments thereof, paid before they become delinquent, shall not bear interest, but all sums delinquent more than thirty (30) days shall bear interest at the rate of twelve percent (12%) per annum or as set forth in the notice levying the assessment (but not exceeding the rate of interest allowed by law) from the date of the delinquency until paid. All payments upon account shall be applied first to interest and then to the assessment, or installment thereof, longest delinquent. All such interest shall have the same priority as the assessment on which such interest accrues.

8.12 Common Expenses. Common Expenses shall mean and include all sums declared Common Expenses by any specific provision of these Bylaws or the Restrictions, and Shall include, without limitation, the following: real estate taxes and other governmental assessments or charges against the Common Area; costs associated with the maintenance, repair, and improvement of the Common Area; premiums for any and all insurance maintained by the Association, including any deductible or coinsurance amount not covered by insurance; legal and accounting fees; costs and expenses incurred in connection with any litigation or administrative proceeding pursuant to Section 4.12 (g) hereto; deficits remaining from any prior assessment period; the cost, including fees and interest, incurred in connection with any borrowing done by the Association; the cost of all fidelity bonds; costs imposed upon the Association or any part of the Common Area by, or incurred by the Association as a result of the performance, enforcement or amendment of, any agreement or easement to which the Association is a party or to which the Common Area, or any part of either thereof, is or may be subject including, but not limited to amounts determined necessary for reserve funds; and indemnity payments made by the Association pursuant to Section 6 thereof.

**SECTION 9**  
**Compliance, Enforcement, Fines and Penalties, Other than Assessment Liens**

9.1 Default and Remedies. A default in or failure to comply with any of the terms, conditions, obligations, and provisions of the Restrictions, these Bylaws, the Articles, or the rules and regulations, as the same may be amended from time to time, by any Lot Owner or Occupant, shall be grounds for relief that may include, without intending to limit the same or to constitute an election of remedies, an action to recover fines and penalties as determined by the Board, sums due for damages, an injunction or any combination thereof, and which relief may be sought by the Association, an aggrieved Lot Owner, or any person or class of persons adversely affected. Also, if any member fails to perform any obligation under the Act, the Restrictions, these Bylaws, the Articles or such rules and regulations as hereinafter promulgated, then the Association may, but is not obligated to, perform the same for the member's account, and for such purpose may enter upon his Lot, may make necessary repairs, advance expenses or other sums necessary to cure the default, and for such expenses and costs may levy a special assessment against the Lot owned by such defaulting member. The Association also shall be entitled to suspend the right of a defaulting Lot Owner to use the Common Community Areas (except roads) and its facilities until the default is cured.

9.2 Notice of Default and Failure to Cure. In the event of any such default or failure, the Board shall serve upon or mail to the defaulting member, and to each First Mortgagee of member's lot when required under Section 8.6 of these Bylaws, a written notice specifying the nature of the default or failure, the cure thereof, and the time within which the cure shall be effected. Within the time limit specified in the notice, the defaulting member may cure the default or failure specified, or serve upon or mail during the specified cure period a written notice to the Board requesting a hearing before the Board. If a hearing is so requested, the Board shall thereafter serve upon or mail to the defaulting member, and to each First Mortgagee which was entitled to notice of the default as above provided, a notice specifying the time and place for such hearing. At the hearing, the Board shall take such evidence and hear such testimony as it deems necessary or desirable. The Board shall not exercise any remedies to obtain relief from the default until the hearing is over and the Board has made its determination and served upon or mailed the same to the defaulting member and each such First Mortgagee. The hearing may be continued from time to time as determined by the Board. Upon taking such evidence and hearing such testimony, the Board, at the hearing or at such later time, shall determine, in writing, and at its sole option, to waive the default in whole or in part, to extend the time within which the default may be cured, or to proceed immediately to levy a fine or penalty, or to exercise any one or more of the remedies available to the Board due to such default. The Board shall serve upon or mail to the defaulting member, and to each such First Mortgagee Which was entitled to notice of the default as above provided, a copy of its determination. A violating party shall have thirty (30) days to appeal a decision of the Board to a court of Law and failure to file said appeal within thirty (30) days after receipt of the hearing determination or notice of default and cure if a hearing is not requested shall bar any challenges or any causes of action brought afterwards by appeal within the above prescribed time.

If the defaulting member (i) does not cure the default or request hearing within the time limit specified in the original notice of default given pursuant to the this section, or (ii) so requests a hearing, but fails to cure the default (to the extent not waived by the Board) within the extended time, if any, granted by the Board after hearing, then the board shall serve upon or mail to the defaulting member, and to each such First Mortgagee which was entitled to notice of the default as above provided, a written notice of such member's failure to effect a cure, and the Board may then proceed to take such action as it deems necessary to obtain relief.

**9.3 Remedy of Abatement in Addition to Other Remedies.** In the event a member fails to the cure specified by the Board within the time period set out in Section 9.2 hereof, where the default is a structure, thing, or condition existing in or on the premises of the member's Lot, the Board, or its duly authorized representative, shall have the right to enter upon the premises of the member's Lot in which, on which, or as to which, such default exists, and summarily to abate and remove, at the defaulting member's expense (and levy an assessment therefor as provided in Section 9.1 hereof, the structure, thing or condition constituting the default, and the Board, the Association, and their agents, employees, and representatives shall not thereby deemed guilty of any manner of trespass.

**9.4 Injunction.** Any person or class of persons entitled to seek relief for any such default or failure may obtain a temporary restraining order, injunction or similar relief, without first using the procedure established by Section 9.2 hereof, in such default or failure creates an emergency or a situation dangerous to persons or property.

**9.5 Recovery of Attorneys' Fees and Costs.** In any proceeding arising because of an alleged default by a member, the prevailing party shall be entitled to recover the costs of such proceeding and such reasonable attorneys' fees as may be allowed by the court, with interest thereon at the higher of (i) 4% over prime rate announced by the Branch Banking and Trust Company at the time the costs are incurred and (ii) the highest rate allowed by law at the time the costs are incurred, from the dates such costs are incurred until paid.

**9.6. Nonwaiver of Covenants.** The failure of the Association or of any member thereof to enforce any term, provision, right, covenant, or condition that may be granted by the Restrictions, these Bylaws, the Articles, the rules and regulations or the Act, as the same may from time to time be amended, shall not constitute a waiver or abrogation of the right of the Association or a member to enforce such term, provision, right, covenant, or condition in the future, irrespective of the number of violations or breaches thereof that may have occurred.

**9.7. Assessment Liens.** Assessment liens shall be enforced pursuant to Section 8 hereof and not pursuant to this Section 9.

## **SECTION 10** **Amendment**

The amendment of By Laws and Declarations of Restrictions, Covenants and Conditions or adoption of new By Laws and Restrictions, Covenants and Conditions can only occur at a regular meeting of the members and shall require an affirmative vote of sixty-seven percent (67%) of the members to such changes.

## **SECTION 11**

### **General Provisions**

#### **11.1 Rules and Regulations.**

- (a) By the Board. The Board may promulgate from time to time to time such rules and regulations as it deems reasonable and necessary governing the administration, management, operation and use of the Common Area so as to promote the common use and enjoyment thereof by Lot Owners and Occupants and for the protection and preservation thereof. In addition, the Board may adopt such rules and regulations as it deems reasonable and necessary with respect to Lots and to provide for the common good and enjoyment of all Lot Owners and Occupants.
- (b) By the Association. Any such rule or regulation adopted by the Board may be amended, modified, or revoked and new and additional rules and regulations may be adopted, by members at an annual or special meeting of the members. Any such act of the members shall control over any contrary rule or regulation then or thereafter adopted by the Board.
- (c) Uniform Application. All rules and regulations shall be equally and uniformly applicable to all Lot Owners and their Occupants, but need not be equally and uniformly applicable to all Lot Owners and their Occupants, but need not be equally and uniformly applicable if it is determined that such unequal or non-uniform application is in the best interest of the Association or if equal and uniform application is not practicable.
- (d) Copies Furnished. Copies of all such rules and regulations and any amendments thereto shall be furnished to all members and to all prospective new homeowners and members. However, failure to furnish, or post, or make available, such rules or regulations shall not affect in any way their validity or enforceability.

**11.2 Parliamentary Authority.** Robert's Rules of Order, Newly Revised, shall govern the conduct of Association proceeding when not in conflict with the Restrictions, these Bylaws, the Articles, the Act, or any statutes of the State of North Carolina applicable thereto. The President of the Association shall have the authority to appoint a parliamentarian.

**11.3 Compliance with the Act; Conflict; Severability.** These Bylaws are established in compliance with the Act. Should any of the terms, conditions, provision, paragraphs, or clauses of these Bylaws conflict with any of the provision of said Act, the provisions of said Act shall control unless the Act permits these Bylaws to override the Act, in which event these Bylaws shall control. In the case of any conflict between the provisions of these Bylaws and the Restrictions, the Restriction shall control. If any term, provision, limitation, paragraph, or clause of these Bylaws, or the application thereof to any person or circumstance, is judicially held to be invalid, such determination shall not affect the enforceability, validity, or effect of the remainder of these Bylaws, or the application thereof to any other person or circumstance.

**11.4 Corporate Seal.** An impression of the Corporate Seal of the Association is affixed hereto. Said seal shall be sufficient if it states "Corporate Seal" and is circular in style. Said seal shall also be considered the official seal if around the edge thereof the words "South Oaks Townhomes Owners' Association" are used.

11.5 Notices. Whenever in the Restrictions, the Act or these Bylaws it shall be required or permitted that notice or demand be given or served on the Association or a Lot Owner or a First Mortgagee or other party entitled to notice, such notice or demand shall be given in writing by registered or certified mail, postage prepaid, to the respective addresses an hereinafter set forth. All notices of demands provided under the terms of the Restrictions, the Act or these Bylaws shall be effective when actually received by a party entitled to notice or when attempted to be delivered as authorized above. The addresses of a party entitled to notice may be changed, from time to time, by either party serving notice as above provided.

THESE BYLAWS adopted and approved at a duly called meeting of the Board of Directors, this the 19<sup>th</sup> day of SEPTEMBER, 2000.

SOUTH OAKS OF BUNCOMBE, LLC

BY: Kasey and Carroll Property LLC, Member/Manager

AMENDED AND RECORDED ON THE 31<sup>st</sup> DAY OF JANUARY, 2005. Bk 3911, Pgs. 106-111.

SOUTH OAKS TOWNHOMES HOMEOWNERS' ASSOCIATION

BY: George Albright, President

AMENDED AND RECORDED ON THE 18<sup>th</sup> DAY OF AUGUST, 2010.

SOUTH OAKS TOWNHOMES HOMEOWNERS' ASSOCIATION

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Tom Hallmark, President