

Type: CONSOLIDATED REAL PROPERTY  
Recorded: 4/29/2022 4:21:40 PM  
Fee Amt: \$281.00 Page 1 of 37  
Buncombe County, NC  
Drew Reisinger Register of Deeds

**BK 6214 PG 446 - 482**

**THIS DOCUMENT REGULATES OR  
PROHIBITS THE DISPLAY OF  
POLITICAL SIGNS**

**PREPARED BY AND RETURN TO: THOMAS C. GRELLA, MCGUIRE, WOOD & BISSETTE, PA - BOX #31**

**AMENDED AND RESTATED DECLARATION OF SOUTHSIDE VILLAGE  
PLANNED UNIT DEVELOPMENT**

**DECLARANT: SOUTHSIDE VILLAGE ASSOCIATION, INC.**

**AMENDED AND RESTATED DECLARATION OF  
SOUTHSIDE VILLAGE PLANNED UNIT DEVELOPMENT**

THIS AMENDED AND RESTATED DECLARATION (“Declaration”), made on the day hereinafter set forth, and to be effective as of April 15, 2022 by **SOUTHSIDE VILLAGE ASSOCIATION, INC.** (hereinafter referred to as the “Association”), a North Carolina nonprofit corporation, having its principal office at 149 Mills Gap Road, Asheville, NC 28803, and supersedes the amended and restated declaration recorded on December 29, 2017 in Book 5624, at Page 1896, in the Buncombe County Registry of Deeds (which itself superseded prior declarations), and which Declaration has been affirmatively voted in favor of, or consented to in writing, by those owners of individual residential units (“Owners” or “Lot Owners” herein) listed on Exhibit C attached hereto constituting Lot Owners of Lots to which at least sixty-seven (67%) of the votes in the Association are allocated.

**WITNESSETH:**

WHEREAS, the Association represents the owners of seventy-four (74) separate residential units, each identified by a distinctive lot number (1 through 74) in the records of the Register of Deeds of Buncombe County, and is the owner of all the common elements of the subdivision and planned community known as SOUTHSIDE VILLAGE PLANNED UNIT DEVELOPMENT (hereinafter referred to as “Southside” or the “Planned Community”), said common elements being all the real property described in Exhibit “A” hereto, save and except the seventy-four (74) separate residential unit properties identified on the Plats (described below); and

WHEREAS the Association and the Owners desire to further amend the Declaration of Southside Village Planned Unit Development filed on September 11, 1998 as recorded in Deed Book 2047, at Page 283 in the Buncombe County Registry of Deeds, as has been amended from time to time and most recently was revised and restated in Book 5624, at Page 1896, Buncombe County Registry, and governing the Southside properties (as amended, and collectively, the “Existing Declaration”), consisting of the seventy-four (74) residential units and common elements and submit said properties to the following easements, restrictions, covenants, and conditions contained herein in replacement of the Existing Declaration; and

WHEREAS, the original Declarant, The Biltmore Group, LLC no longer owns property in the Planned Community; and

WHEREAS, even though the Planned Community predates adoption of the North Carolina Planned Community Act, pursuant to the North Carolina Planned Community Act, sixty-seven percent (67%) of the Owners have previously voted to adopt the North Carolina Planned Community Act; and

WHEREAS, more than sixty-seven percent (67%) of the Owners have affirmatively voted in favor of, or consented to in writing, their desire to amend the Existing Declaration by revision and restatement as set forth herein.

NOW, THEREFORE, the Owners declare that:

All property identified and described in Exhibit “A”, and only the property identified and described in Exhibit “A”, shall be subject to these Restrictive Covenants, easements, and conditions (which fully replaces the Existing Declaration, which is hereafter of no further force or effect), which are adopted for the purpose of protecting the value and desirability of the Southside real properties and which shall run with said real properties 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, as follows:

**ARTICLE 1 - SUBMISSION TO THE  
NORTH CAROLINA PLANNED COMMUNITY ACT**

The North Carolina Planned Community Act §§ 47F-1-101, et seq., (sometimes referred to as “Planned Community Act” or “Act”) is the statute that sets standards, guidelines and rules for private developments (known as “planned communities”) in North Carolina. Application of the Planned Community Act to Southside was approved by sixty-seven percent (67 %) of the Owners in good standing in Southside, and documents in the Existing Declaration. Therefore, the North Carolina Planned Community Act §§ 47F-1-101, et seq., applies to Southside, a planned community in Buncombe County, North Carolina.

## **ARTICLE 2 - DESCRIPTION OF PLANNED COMMUNITY**

SECTION 1. NAME. The name of the Planned Community is Southside Village (sometimes referred to herein as “Southside” or the “Planned Community”).

SECTION 2 LOCATION AND DESCRIPTION. The Southside Planned Community is located in Buncombe County, North Carolina. A legal description of Southside is set forth on “Exhibit A” attached hereto and incorporated herein by reference. Any real property not included in Exhibit A shall not be considered within the Southside Planned Community, notwithstanding inclusion within any prior declaration or amendment to declaration that might be on record.

## **ARTICLE 3 - DEFINITIONS**

In accordance with Section 47F-1-103 of the North Carolina Planned Community Act and unless specifically provided otherwise or the context otherwise requires, the following terms as used in the Declaration and Bylaws of the Planned Community shall have the following meanings:

SECTION 1. ASSOCIATION shall mean and refer to Southside Village Association, Inc., a North Carolina nonprofit corporation, its successors and assigns.

SECTION 2. OWNER or LOT OWNER shall mean and refer to the record property owner, whether one or more persons or entities, of fee simple title to any Lot (each Residential Duplex Unit) which is a part of the properties referred to herein, but excluding those having such interests merely as security for the performance of an obligation.

SECTION 3. PROPERTIES shall mean and refer to that certain real property described in Exhibit “A”, as the same is attached hereto and made a part hereof.

SECTION 4. COMMON ELEMENTS shall mean all common areas or real property owned or leased by the Association for the common use and enjoyment of Lot Owners. At the time of this Declaration it is that property described in Exhibit “A”, less the Lots owned by individual members of the Association as shown on the Plats.

SECTION 5. COMMON EXPENSES shall mean and include expenditures by, and financial liabilities of, the Association including but limited to the following: (a) all sums lawfully assessed the owners by the Association; (b) expenses of administration, operation, maintenance, repair, and replacement of the Common Elements, including common streets, and landscaping; (c) expenses agreed upon as Common Expenses by the Association; (d) insurance premiums as required in the Act or herein as a common expense of the Association; (e) expenses defined, referred to, or declared to be Common Expenses by this Declaration or the Planned Community Act; and (f) any allocations to reserves.

SECTION 6. LOT shall mean and refer to any numbered plot of land shown upon the recorded subdivision maps of the Properties with the exception of the Common Elements (such maps being recorded in Plat Book 86, Page 33, Plat Book 84, at Page 21, Plat Book 80, at Page 126, Plat Book 84, at Page 163, Plat Book 86, at Page 5, Plat Book 78, at Page 185 and Plat Book 94, at Page 88 (and each of the plats referenced within each of the foregoing plats for specific legal definition of the enumerated Lots), Buncombe County Registry, collectively the “Plats”. Lot herein shall be the same thing as “Unit” or “Lot” in the Existing Declaration.

SECTION 7. LIVING UNIT (*or RESIDENTIAL DUPLEX UNIT*) shall mean and refer to a building situated upon a Lot and intended for use and occupancy as a single family residence. Living Unit shall mean the same thing as “Duplex” in the Existing Declaration.

SECTION 8. MEMBER (*or LOT OWNER*) shall mean and refer to any person or entity who holds membership with voting rights in the Association.

SECTION 9. BOARD OF DIRECTORS shall mean those directors of the Association as elected or appointed in accordance with the Bylaws of the Association and acting as the governing body of the Association.

SECTION 10. CONSTRUCTION CODE VIOLATION shall mean any portion of a building or facility not built in accordance with any applicable regulation or code in effect at the time of construction.

SECTION 11. DECLARATION shall mean this Amended and Restated Declaration of Southside and including any duly recorded amendments to this Declaration and the covenants and restrictions therein.

SECTION 12. BYLAWS shall mean the Bylaws of Southside Village Association, Inc. (attached hereto as Exhibit “B”)

SECTION 13. DOCUMENTS shall mean the Declaration and Plats recorded and filed for real property making up the Planned Community, the Articles of Incorporation of Southside Village Association, Inc., the Bylaws and the Rules and Regulations, as they may be amended from time to time. Any exhibit, schedule, or certification accompanying a Document is a part of that Document.

SECTION 14. ASSESSMENTS shall mean any and all sums levied by the Association against any Lot and/or Lot Owner as Common Expenses or other charges to include, but not be limited to Common Expenses liabilities, General Assessments, Special Assessments, Individual Specific Assessments, fines, late charges, interest and attorney’s fees as set forth in the Declaration and Bylaws.

SECTION 15. MAJORITY OF TOTAL VOTES IN THE ASSOCIATION shall mean a vote of more than fifty percent (50%) of the Lot Owners entitled to vote.

SECTION 16. REASONABLE ATTORNEY’S FEES shall mean attorney’s fees reasonably incurred without regard to any limitations on attorney’s fees, which otherwise may be allowed by law.

SECTION 17. LESSEE shall mean a party, other than the Owner, entitled to present possession of a Lot (or Living Unit thereon) whether lessee, sublessee, or assignee.

SECTION 18. LIMITED COMMON ELEMENT means a portion of the Common Elements allocated by the Declaration for the exclusive use of one or more but fewer than all of the Lots or Residential Duplex Units, including without limitation: driveways used by and leading to a single Residential Duplex Unit, walkways leading to a single Residential Duplex Unit, decks attached to an individual Residential Duplex Unit, patios and porches leading to a single Residential Duplex Unit, privacy walls separating two Residential Duplex Units, landscaping directly in front of a single Residential Duplex Unit, and mailboxes serving an individual Residential Duplex Unit.

SECTION 19. INDIVIDUAL AMENITIES (*AMENITIES*) are those features or modifications which were approved by the Board of Directors and added by a present or past Lot Owner that are exclusively or substantially for the benefit of only that Lot Owner’s Lot.

SECTION 20. ANNUAL ASSESSMENT PERIOD means the fiscal year of the Association established by the Association's Board of Directors.

SECTION 21. RULES AND REGULATIONS means the general rules and regulations adopted, and amended from time to time, by the Board of Directors as set forth in Article 8, Section 12 herein.

#### **ARTICLE 4 - PROPERTY RIGHTS**

SECTION 1. OWNERS' EASEMENTS OF ENJOYMENT. Every Lot Owner shall have a right and easement of enjoyment in and to the Common Elements which shall be appurtenant to and shall pass with the title of every Lot, subject to the Association's rights set forth in North Carolina Planned Community Act, and specifically, §47F-3-102, and the following provisions:

- a) The right of an Owner or occupant of each Lot to the exclusive use of that parking area which lies between the individual Lot and the street which is shown on the Plats (but not including street adjacent parking pads).
- b) The right of the Association to charge reasonable admission and other fees for the use of any recreational facilities situated upon the Common Elements.
- c) Subject to the provisions of Section 47F-3-107.1 of the Act, the right of the Association to suspend the voting rights and right to use the recreational facilities by an Owner or occupant for any period during which any assessment against his Lot remains unpaid; and to the full extent permitted under applicable law, for any infraction of its published rules and regulations.
- d) The right of the Association to dedicate or transfer all or part of the Common Elements to any entity for a specific purpose, subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument is agreed to by at least two-thirds (2/3) of the Members and the instrument has been recorded along with a written document reciting that the dedication or transfer was approved by two-thirds (2/3) of the Members and signed in the corporate name of Southside Village Association, Inc. by its officers.
- e) The right of the Association through its Board of Directors to impose regulations for the use and enjoyment of the Common Elements and improvements thereon, which regulations may include a reasonable means of enforcement and further restrict the use of the Common Elements.

SECTION 2. DELEGATION OF USE. Any Lot Owner may only delegate, in accordance with the Bylaws and Rules and Regulations, his or her rights of enjoyment of the Common Elements to the members of his family, his tenants, or contract purchasers who reside on a Lot. In any case, the rights to and enjoyment of the Common Elements, including recreational facilities, shall be limited to those persons actually occupying the Living Unit. In the event that a Living Unit owner has leased the Living Unit to a third party or otherwise has transferred occupancy of the Living Unit to a third party, such Living Unit owner shall no longer be entitled to enjoyment of the Common Elements until such time as said Owner has resumed occupancy of the Living Unit. Extension of these rights to guests or invitees of such occupants shall be subject to the Rules and Regulations.

#### **ARTICLE 5 - MEMBERSHIP AND VOTING RIGHT**

SECTION 1. Every Lot Owner that is subject to assessment shall automatically be a Member of the Association upon recording a deed to the Owner's property. All Lot Owners by virtue of their ownership of a Lot in the Planned Community are Members of the Association and 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. The Bylaws attached to this Declaration as Exhibit "B" are the Bylaws effective as of the date of recording of this Declaration. Membership in the Association shall be appurtenant to and may not be separated from ownership of any Lot that is subject to assessment.

SECTION 2. The Association shall have only one (1) class of membership as follows: Voting Members shall be all Lot Owners, and each Owner shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members; the vote for such Lot shall be exercised as the owners among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

**ARTICLE 6 - COVENANT FOR ASSESSMENTS  
AND COLLECTION OF COMMON EXPENSES**

SECTION 1. PURPOSE OF ASSESSMENTS. The assessments for Common Expenses as described in Section 47F-3-115 of the Planned Community Act and as otherwise provided in the Documents and levied by the Association shall be used exclusively to promote the health, safety, common benefit, enjoyment and welfare of the residents of the Planned Community as may be more specifically authorized from time to time by the Board, and in particular for the acquisition, improvement and maintenance of properties, services and facilities devoted to this purpose and related to the exterior maintenance of the Living Units situated upon the Lots or for the use and enjoyment of the Common Elements, including, but not limited to: the cost of repairs, replacements and additions; the cost of labor, equipment, materials, management and supervision, any or all of which may be obtained from any contractor of choice; the payment of taxes owed by the Association; the cost of insurance for the Common Elements; the employment of attorneys and other experts and such other needs as may arise. As such, fees, charges, late charges, fines, all collection costs, including reasonable attorney's fees actually incurred and interest charged against a Lot Owner pursuant to the Planned Community Act, the Declaration, Bylaws and Rules and Regulations are enforceable as Common Expense assessments.

SECTION 2. ANNUAL ASSESSMENTS. At least thirty (30) days prior to the Association's next succeeding Annual Assessment Period the Board will adopt a budget for the next succeeding Annual Assessment Period by estimating the Common Expenses to be incurred during such Annual Assessment Period, including a reasonable allowance for contingencies and operating, maintenance and replacement reserves as determined in the Association Bylaws attached hereto, such budget to take into account the projected anticipated income which is to be applied in reduction of the amount to be collected as an assessment. The Common Expenses shall include a prepaid amount to cover the anticipated property and liability insurance premium at the next anniversary date of the policies. Upon adoption of the budget, a copy thereof will be delivered to each Owner. The Annual Assessment against each Unit will be based upon said budget and shall be equal for each Living Unit, except that the portion of the budget for the Reserve for Siding, and the Reserve for Roofs shall be allocated to each Living Unit based upon the size of each Living Unit subject to assessment (it being understood that there are three Living Unit sizes and therefore three different allocations for these respective reserves which shall be determined by the Board, or the management company hired by the Board to determine the budget), and the Board will give written notice to each Owner of the Annual Assessment fixed against his Living Unit for such next succeeding Annual Assessment Period.

Within thirty (30) days after adoption of the budget by the Board, the Board shall provide a copy of said budget or a summary thereof to each Owner and shall set a date for a meeting of the Owners to consider ratification of the budget not less than fourteen (14) or more than thirty (30) days after mailing of the budget or summary to the Owners. There shall be no requirement that a quorum be present at the meeting. The budget is deemed ratified unless at the meeting the Owners entitled to vote cast sixty-seven percent (67%) of the total votes of the Association to reject the budget. In the event the Board fails to propose a budget or the proposed budget is rejected, the annual budget last ratified or deemed ratified shall be continued until such time as the Unit Owners ratify a subsequent budget proposed by the Board.

Unless otherwise provided, the assessment installment payments shall be late and the Lot Owner in default if not paid on or before the tenth (10th) day after such installment becomes due. The Board shall permit payment of annual assessments in equal monthly installments, except that, when in the discretion of the Board, funds on hand and available are not adequate to meet current expenses, the Board without approval of the membership may accelerate the amount of future monthly payments by not more than 10%, without increasing the total annual assessment.

SECTION 3. SPECIAL ASSESSMENTS. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any emergencies, construction, reconstruction, repair, or replacement of a capital improvement upon the Common Elements, including structures, fixtures and personal property related thereto and for such other matters as the Association shall determine, provided that any such assessment shall have the assent of two-thirds (2/3) of the vote of Members who are entitled to vote and are voting in person or by proxy at a meeting duly called for this purpose.

SECTION 4. INDIVIDUAL SPECIFIC ASSESSMENTS. Any expenses incurred by the Association because of the actions of one or more Owners or occupants of an Owner's Unit, or because of their failure to act (including without limitation the failure to perform Lot, Living Unit or allocated Limited Common Element maintenance), and with respect to which such expenses are chargeable thereto and recoverable therefrom pursuant to any provision of this Declaration, the Bylaws or rules and regulations adopted thereunder, and any fines as may be imposed against an Owner in accordance with this Declaration will be specially assessed as a specific Assessment against each such Owner and the Owner's Unit. In addition, in the event that an Individual Specific Assessment is made for a judgment against the Association, such Assessment shall only be assessed against those who were Owners at the time the judgment was entered against the Association. It is intended that this paragraph describes a Declaration requirement pursuant to Section 3-115(c) of the Act.

SECTION 5. CREATION OF THE LIEN. Each Owner of any Lot by creation or acceptance of a deed therefore, whether or not it shall be expressed in such deed, is deemed to covenant and agree to pay to the Association: (a) annual General Assessments or charges in monthly or greater installments; (b) Special Assessments and (c) Individual Specific Assessments, such Assessments to be established and collected as hereinafter provided.

- a) Obligation of Owner. If an Assessment is not paid on the date when due, as hereinabove provided, then such Assessment together with such late charges and interest thereon and any costs of collection thereof, as hereafter provided, including reasonable attorney fees, will be a charge and continuing lien on the Lot to which it relates, and will bind such property in the hands of the Owner, his heirs, legal representatives, successors, and assigns. The personal obligation of the Owner to pay such Assessment, however, will remain his personal obligation, and when his successors in title assume his personal obligation, such prior Owner will nevertheless remain as fully obligated as before to pay to the Association any and all amounts which he was obligated to pay immediately preceding the transfer. Furthermore, such prior Owner and his successor in title who assumes such liabilities will be jointly and severally liable with respect thereto, notwithstanding any agreement between such prior Owner and his successor in title creating the relationship of principal and surety as between themselves, other than one by virtue of which such prior Owner and his successor in title would be jointly and severally liable to pay such amounts.
- b) Assessment Late Charge, Interest and Lien upon a Lot. Any Assessment shall be due on the 1<sup>st</sup> day of the month, with payment to be received by the Association in full not later than the tenth (10<sup>th</sup>) day of the month in which the Assessment is billed, and any Assessment or portion thereof which is not paid when so due will be delinquent. Any delinquent Assessment will incur a late charge in an amount as may be determined by the Board from time to time, but not to exceed the greater of twenty dollars (\$20.00) or ten percent (10%) of the amount of the unpaid assessment, and, will also commence to accrue simple interest at the rate set by the Board of Directors from time to time, not to exceed the lesser of eighteen percent (18%) or the highest amount permitted under applicable law. Until such time as the Board of Directors otherwise determines, the interest rate shall be the lesser of eighteen percent (18%) or the highest amount permitted under applicable law. A lien and equitable charge as herein provided for each Assessment installment shall attach simultaneously as the same will become due and payable, and if an Assessment installment has not been paid as aforesaid, the entire unpaid balance of the Assessment installments for the Annual Assessment Period then in effect remaining to be paid during the fiscal year may be accelerated by the option of the Board and be declared due and payable in full. Any assessment levied against a Lot remaining unpaid for a period of 30 days from the date upon which it is due or longer shall

constitute a perfected lien on that Lot when filed of record in the office of the clerk of superior court of the county in which the Lot is located.

c) Remedies of the Association.

i. Generally. The Association may bring legal action against the Owner personally obligated to pay the same or foreclose its lien against the Lot to which it relates or pursue both such courses at the same time or successively, subject, nevertheless, to the limitations and requirements applicable thereto under the Act; provided, however, a lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three years after the docketing thereof in the office of the clerk of superior court. The Association will be entitled also to recover reasonable attorney's fees actually incurred and all other costs of collection, as the same may be limited under the Act. Each Owner, by his acceptance of a deed or other transfer of a Lot, vests in the Association or its agent the right and power to bring all actions against him personally for the collection of such charges as a debt and, as allowed by law, to foreclose the aforesaid lien in any appropriate proceeding at law or in equity. All Owners, to the fullest extent permitted by law, waive the right to assert any statute providing appraisal rights which may reduce any deficiency judgment obtained by the Association against any Owner in the event of such foreclosure. The Association will have the power to bid on the Lot at any foreclosure sale and to acquire, hold, lease, mortgage and convey the same. No Owner may be relieved from liability from the Assessment provided for herein by abandonment of his Lot or otherwise.

ii. Non-Foreclosure Remedies The Association may, in addition to any foreclosure or other remedies by law provided, seek to collect delinquent Annual, Special or Individual Specific Assessments in any of the following ways against the Owner or any obligated prior owner of the Lot:

A. By a civil action in small claims court, pursuant to Article 19 of Chapter 7A of the N.C. General Statutes. If the Association chooses to proceed by an action in small claims court, and prevails, it may enforce the judgment as permitted under Article 28 of Chapter 1 of the N.C. General Statutes. The amount that may be recovered in small claims court to collect upon a debt for delinquent assessments may not exceed the jurisdictional limits of the small claims court and shall be the sum of the following: The amount owed as of the date of filing the complaint in the small claims court proceeding, plus, in the discretion of the court, an additional amount equal to the amount owed for the period from the date the complaint is filed until the estimated date of judgment.

B. Any other manner provided by law.

d) Suspension of Voting Rights and Use of Recreational Areas. During any period in which an Owner is in default in the payment of any Annual, Special or Individual Specific Assessments levied by the Association, the voting rights of the Owner and the rights of the Owner and lessees of the Owner, their families, invitees and guests, to use and enjoy the Common Elements may be suspended by the Board of Directors until such time as the Assessment has been paid, pursuant to the terms and procedures required by the Act. The procedures for suspension of such rights as described in Article 14 will apply.

**SECTION 6. NO WAIVER OF LIABILITY FOR COMMON EXPENSES.** No Lot Owner may exempt himself or herself from liability for payment of the Common Expenses by waiver of the use or enjoyment of the Common Elements or by abandonment of the Lot against which the assessments are made.



SECTION 7. LATE CHARGES. The Board shall set a late charge to be assessed against Lot Owners for late payment of any Common Expense assessments or installment thereof, Special Assessments, Individual Specific Assessments, fines, or any other charges, subject to the statutory limitations in the Act. Any payments received by the Association in the discharge of a Lot Owner's obligation may be applied to the oldest balance due.

SECTION 8. SURPLUS FUNDS. Any surplus funds of the Association remaining after payment of or provisions for Common Expenses and any prepayment shall be retained in the general operating funds or reserve funds of the Association in the sole discretion of the Board, and no such surplus funds shall be paid to Lot Owners nor shall such surplus funds be used as a credit to reduce future Common Expense assessments, except as may be determined through the Board's annual budget process.

SECTION 9. STATEMENT OF ASSESSMENTS. The Association, upon written request, shall furnish to a Lot Owner or the Lot Owner's authorized agent, a statement setting forth the amount of unpaid assessments and other charges against a Lot, and such statement shall be furnished within 10 business days after request thereof.

### **ARTICLE 7 - ARCHITECTURAL CONTROL**

No building, fence, wall, or other structure shall be commenced, erected, or maintained upon any Lot; nor shall any exterior addition to, or change, or alteration thereto be made until complete plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted and approved in writing as to suitability and harmony of external design and location in relation to surrounding structures and topography by the Board of Directors. Submittals shall be made to the Chairman of the Architectural Committee (if any) or their designated representative and a dated receipt obtained. The Architectural Committee (or similarly named Committee) will consist of minimum of three representatives appointed by the Board of Directors (or may instead be the Board of Directors). If the Architectural Committee is not made up exclusively of Board members, all decisions of such committee shall be recommendations for Board approval prior to taking effect. The architectural control and review process may be defined in Rules and Regulations or similar documents adopted by the Board of Directors, and made available to Lot Owners. No Lot Owner shall construct on, or make structural alterations or modifications to, any of the Common Elements, or Limited Common Elements, without the written approval of the Board of Directors.

The Board of Directors shall not approve of any alterations, decorations, or modifications which would jeopardize or impair the soundness, safety, or overall appearance of Southside. The Board of Directors will not approve any structure that detracts from the architectural design integrity of Southside, or obscures the responsibility for exterior maintenance, such as any building addition that alters the shape or slope of the roofline from that which the original developer of the Planned Community established.

The fact that an approved structure, feature, improvement or building modification similar to what is being requested exists at another Living Unit does not imply, or create any precedence for, Board approval for the same or a similar structure, feature, improvement or building modification at any other Living Unit. Notwithstanding anything else herein to the contrary, every structure, feature, improvement or building modification must be submitted to the Board of Directors for approval, and the Board of Directors is the final approval authority.

### **ARTICLE 8 - PROTECTIVE COVENANTS**

SECTION 1. RESIDENTIAL USE. All Lots shall be used, improved, and devoted exclusively to single family residential use. Nothing herein shall be deemed to prevent the Owner of any Lot from leasing a Lot, subject to all provisions of this Declaration.

SECTION 2. NUISANCES. No nuisances shall be allowed upon the Planned Community and no person shall engage in any use, practice, or activity upon such property which is noxious, offensive, or a source of annoyance to Lot Owners or which reasonably interferes with the peaceful possession and proper use of the Planned Community by any Lot Owner. The Board of

Directors, in its sole discretion, shall have the power and authority to decide what acts or actions constitute a nuisance. All parts of the Planned Community shall be kept in a clean and sanitary condition. No rubbish, refuse, or garbage shall be allowed to accumulate and no fire hazard shall be allowed to exist. Any Lot Owner (or his family, tenants, guests or agents) who shall dump or place any trash or debris upon any portion of the Planned Community shall be liable to the Association for the actual cost of removal thereof and the same shall be added to and become a part of the assessment next coming due to which the Lot Owner is subject; or alternatively the Association may subject to the requirements of the Act impose a fine against the Lot Owner for violation of this section.

**SECTION 3. RESTRICTION ON FURTHER SUBDIVISION.** No Lot shall be further subdivided or separated into smaller lots by an Owner and no portion less than all of any Lot, nor shall an easement or other interest less than the entire fee therein be conveyed or transferred by a Lot Owner, except as may be required due to the exercise by a governmental body of the power of eminent domain.

**SECTION 4. ANIMALS.** Subject to limitations as may from time to time be set by the Association, Lot Owners may keep and maintain two cats or two dogs or one cat and one dog in a Living Unit, provided such pets are not kept or maintained for commercial purposes. All dogs and cats must be leashed while outside of a Living Unit and must be kept under the control of their owner when they are outside of a Living Unit. Owners may also keep tropical fish, goldfish, parakeets, canaries or other such pets that remain at all times inside the Living Unit. No pets may become a nuisance to other Lot Owners and residents whether inside or outside of a Living Unit.

**SECTION 5. PARKING.** Parking of all vehicles shall be only in paved areas designated by the Association for such parking. Except for emergency repairs, no person shall repair or restore any vehicle upon any portion of the Planned Community. The specific Rules and Regulations regarding parking adopted by the Board of Directors from time to time are incorporated herein by reference. In the event that a parking pad adjacent to the street (and which is not the primary parking spot for any specific individual Living Unit) is removed by the Board, no further parking shall be permitted at the same location as the removed parking pad absent specific written authorization from the Board.

**SECTION 6. MOTOR VEHICLES.** All motor vehicles shall be maintained in proper operating condition so as not to be a nuisance by noise, exhaust emissions, or otherwise. No motor vehicles shall be driven on pathways or the unpaved Common Elements, except as authorized by the Association.

**SECTION 7. OUTSIDE ANTENNAE.** No outside radio or television antennae, or satellite dish shall be erected on any Lot or in the Limited Common Elements or Common Elements, except as authorized by the Association, unless under applicable state or federal law such restriction is invalid (and in such event Association may restrict such radio or television antennae, or satellite dishes to the fullest extent permitted under such law).

**SECTION 8. CLOTHES LINES.** No drying or airing of any clothing or bedding or display of any clothes-hanging device shall be permitted on any Lot where the item(s) hung are visible from any other Lot or the Common Elements.

**SECTION 9. TRASH RECEPTACLES.** Storage, collection, and disposal of trash shall be in accordance with this Declaration and all of the rules set by the Association.

**SECTION 10. TRASH BURNING.** Trash, leaves, and other similar materials shall not be burned upon the properties except as authorized by the Association.

**SECTION 11. SIGNS.** Except as may be required by law or by legal proceedings, no signs or advertising posters of any kind, including, but not limited to, "For Rent," "For Sale," political signs, and other similar signs, shall be erected by an Owner, the Association, or any agent, broker, builder or subcontractor thereof, nor shall any sign or poster be maintained or permitted on any window, or within a Living Unit or its Limited Common Elements and viewable through any window, or on the exterior of any improvements or on any unimproved portion of property located within the Planned Community, without the express written permission of the Board of Directors. The approval of any signs and posters, including,

without limitation, name and address signs, shall be upon such conditions as may be from time to time determined by the Board of Directors, and may be arbitrarily withheld. In addition, the Association shall have the right to erect reasonable and appropriate signs on any portion of the Common Elements in accordance with architectural design standards adopted therefor and approved by governmental authority with jurisdiction thereof; however no Owner is permitted to erect any signs or flags on any portion of the Common Elements without the express written permission of the Board of Directors.

SECTION 12. GENERAL RULES AND REGULATIONS. The Association, but only through its Board of Directors, shall adopt general rules and regulations to implement the general purposes set forth in this document, and the authority granted in the Act. All such Rules and Regulations and subsequent amendments thereto shall be placed in a book available for public viewing at the office of the Association, or its property manager. It is the continuing responsibility of the Board of Directors to both promulgate, and to inform Owners, of the Rules and Regulations.

SECTION 13. INSPECTION OF LIVING UNITS. By acceptance of a deed of conveyance, each Living Unit Owner thereby grants a right of access to the Living Unit, to the Board of Directors or the managing agent, or any group of the foregoing, for the purpose of enabling the exercise and discharge of their respective powers and responsibilities, including without limitation making inspections, correcting any condition originating in the Unit or in a Common Element to which access is obtained through the Living Unit threatening another Living Unit or the Common Elements, performing installations, alterations or repairs to the mechanical electrical systems or the Common Elements in the Living Unit or elsewhere in the Planned Community; provided, however, that request for entry is made in advance and that any such entry is at a time reasonably convenient to the Living Unit Owner. In case of an emergency, such right of entry shall be immediate, whether or not the Living Unit Owner is present.

SECTION 14. CORRECTION OF UNSAFE, DAMAGED, OR WASTEFUL CONDITIONS. Where a Living Unit inspection reveals that the Living Unit has structural damage, or that the Living Unit contains material that may be a fire hazard, the Association Board of Directors shall have the right to order the Living Unit Owner to have the damaged or unsafe situation corrected within thirty (30) days. Where the Owner of a Living Unit fails to have the damaged or unsafe situation corrected within thirty (30) days; the Association may have the work done at Association expense and assess the Unit Owner for its costs, including any legal expenses incurred in obtaining access to the property involved. Where such assessments are not paid, the Association shall have the remedies described in Sections 5 through 7 of Article 6, and those in Article 14, herein.

#### **ARTICLE 9 - PARTY WALLS**

SECTION 1. GENERAL RULES OF LAW APPLY. Each wall which is built as a part of the original construction of the Living Units upon the properties and which is placed on the dividing line between the Lots shall constitute a party wall (common interior wall between Living Units), and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

SECTION 2. SHARING OF REPAIR AND MAINTENANCE. The cost of reasonable repair and maintenance of party walls (common interior wall between Living Units) shall be shared equally by the Lot Owners of Living Units adjoining such party wall.

SECTION 3. DESTRUCTION BY FIRE OR OTHER CASUALTY. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if other Lot Owners thereafter make use of the wall, such Lot Owners shall contribute equally to the cost of restoration thereof, without prejudice however, to the right of any such Owners to call for a larger contribution from the other under any rule of law regarding the liability for negligence or willful acts or omissions.

SECTION 4. WEATHERPROOFING. Notwithstanding any other provision of this Article, a Lot Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

SECTION 5. ALTERATION. The Owner of any Lot may not construct, reconstruct, extend or modify a party wall in any manner without the prior approval of the Association Board of Directors and the other owner adjoining the party wall.

SECTION 6. RIGHT OF CONTRIBUTION RUNS WITH LAND. The right of any Lot Owner to contribution from any other Lot Owner under this Article shall be appurtenant to the land and shall pass to such Lot Owner's successors in title.

SECTION 7. CERTIFICATION BY ADJOINING PROPERTY OWNER THAT NO CONTRIBUTION IS DUE. If any Lot Owner desires to sell his Lot, he may, in order to assure a prospective purchaser that no adjoining Lot Owner has a right of contribution as provided in this Article, request of the adjoining Lot Owner a certification that no right of contribution exists, whereupon it shall be the duty of such adjoining Lot Owner to make such certification immediately upon request and without charge. Where the adjoining Lot Owner does claim a right of contribution the certification shall contain a recital of the amount claimed and the basis on which the claim is made.

SECTION 8. ARBITRATION. In the event of any dispute arising concerning a party wall under the provisions of this Article, such dispute may be settled by the Association Board of Directors with the consent of the Lot Owners involved or by arbitration as provided by the then existing laws of North Carolina relating to arbitration. The Lot Owners involved in the dispute will bear any costs of arbitration.

#### **ARTICLE 10 – MAINTENANCE RESPONSIBILITY**

SECTION 1. MAINTENANCE BY ASSOCIATION. The Association shall maintain and keep in good repair, as a Common Expense, all of the Common Elements. As such, the Board of Directors is authorized to make minor improvements, repairs or alterations to the infrastructure and landscaping located on the Common Elements as a Common Expense.

In addition to maintenance of the Common Elements as set forth herein, but subject to the provisions of Article 11 herein setting forth the duty of a Living Unit owner to repair and replace a Living Unit in the event of damage to or destruction thereof as a result of fire or other casualty, the Association shall be responsible for and provide exterior maintenance and repair to each Lot and Living Unit which is subject to this Declaration and assessments hereunder, as follows:

- (a) All painting or staining of fences adjacent to each Living Unit, including the selection of the color of any paint or stain for all of the Living Units in the Planned Community; and
- (b) Repair, maintenance and care for gutters (but excluding replacement and excluding downspouts); and
- (c) Repair, maintenance, replacement and care for roof shingles and underlayment, roof decking or sheathing and roof flashing (but excluding maintenance or replacement of other portions of the roof); and the outermost surfaces of the buildings; and the repair and replacement of siding. The Association's maintenance responsibilities shall not include maintenance, repair and replacement of entry doors and their appurtenant hardware; decks, patios or porches and their respective roofs, walls, doors, windows, stairs, etc; the repair of wall sheathing; the repair or replacement of all exterior glass including windows and patio doors; the repair of any exterior steps or step fencing or handrails; the replacement of gutters; the maintenance, repair or replacement of downspouts or underground piping or overground piping that connects to downspouts; and further excluding any maintenance, repair or replacement on the heating, ventilation, and/or cooling systems ("HVAC") regardless of whether such HVAC equipment is located on the Lot, an adjacent Lot or the Planned Community Common Elements or Limited Common Elements; and

- (d) Except as set forth as an Owner responsibility below, all landscaping installed within the boundary of a Lot as part of the initial construction of the Planned Community (or thereafter installed by the Association or with consent of the Association) shall be controlled by the Association. The Association's maintenance responsibility shall include, but shall not be limited to, mowing of lawns, pruning of shrubbery, weed control, removal of dead, dying, and diseased or dangerous trees and shrubs (whether or not such items or areas are located in the Common Elements, Limited Common Elements or on a Lot); and
- (e) All parking pads located adjacent to the streets and roadways, and outside the perimeter boundaries of a Lot, are general Common Elements, and so long as they exist, both maintained and regulated by the Association. No such parking pads are for the exclusive use of any individual Lot Owner notwithstanding that the parking pad may be adjacent to a certain Lot, and generally are available for use by guests of any of the Lot Owners. The Association may remove a parking pad at any time, in its sole discretion and determination. Further, the Association Board may declare any portions of the streets, walkways and parking areas within the Planned Community to be for the benefit of some (but not all) of the Lots and/or to have some or all of the streets and walkways in the planned Community to be maintained by the State of North Carolina, and the balance of such streets and walkways to be maintained by the Association.

Notwithstanding the above, in the event that any damage or destruction to any of the portions of a Living Unit, or its Limited Common Elements shall occur, and the same damage or destruction is required to be insured under an Owners' policy of insurance purchased in accordance with Article 11 herein, such Owner shall be responsible for the repair or restoration of such damage to the extent of the insurance procured, or which should have been procured pursuant to the terms hereof. In the event that there are repairs or reconstruction that would otherwise be an Association responsibility, however are a loss for which an Owner is required to have insurance to cover the costs and expenses of such repairs or reconstruction pursuant to Article 11 herein, and Owner either does not have insurance, or does not have insurance in an adequate amount to cover the repairs or reconstruction necessitated due to such loss, Association shall have the power to make an Individual Specific Assessment against such Owner in an amount equal to the full amount of any deficiency in funds to make such repairs and reconstruction resulting due to such Owner either not having insurance, or being underinsured.

In order to enable the Association to accomplish the foregoing duties of exterior maintenance, as well as maintenance of courtyards, there is hereby reserved to the Association the right of unobstructed access over and upon each Lot and courtyard at all reasonable times to perform maintenance as provided for in this Article.

In addition, the Association is responsible for maintaining the flow and direction of surface water on the Common Elements. Remedial action to treat runoff may include cleaning and flushing gutters or landscaping procedures to shed water away from the units. Notwithstanding the above, the Association is not responsible for subsurface water rising into the crawlspace of any Living Unit.

In the event that the need for maintenance, repair or replacement as herein described is caused through the willful or negligent act of the Owner, his family, guests or invitees, or is caused by fire, lightning, windstorm, hail, explosion, riot, riot attending a strike, civil commotion, aircraft, vehicles or smoke as the foregoing are defined and explained in North Carolina standard fire and extended coverage insurance policies (and therefore are covered therein and governed under the terms of Article 11 herein), the cost of such maintenance, replacement or repairs shall be added to and become a part of the assessment to such Owner's Lot, and shall not be a General Assessment of which all Living Unit owners are collectively responsible to share.

**SECTION 2. MAINTENANCE BY OWNERS.** Except as provided in Section 1 of this Article 10 above, each Owner shall be responsible for all the maintenance and repair of his or her Living Unit at the Owner's sole expense. Each Owner shall maintain, repair and replace, at the Owner's expense, all interior portions of the Living Unit, except for repairs and replacement covered by insurance purchased by the Association, on his or her Lot which shall need repair or replacement,

including, but not limited to, light fixtures or other electrical or plumbing equipment, pipes and fittings serving an Owner's Living Unit. Each Owner shall repair, maintain and replace, at his own expense, when necessary, the HVAC servicing his or her Living Unit, whether located on his or her Lot, an adjacent Lot, or the Common Elements or Limited Common Elements adjacent to his or her Living Unit. Each Owner shall be responsible for interior pest control. Each Owner shall repair, maintain and replace the patio, deck or porch appurtenant to his or her own Living Unit, whether located on his or her Lot, an adjacent Lot, or the Common Elements or Limited Common Elements adjacent to his or her Living Unit. Without the written prior permission of the Board, an Owner shall not make or permit to be made any structural alteration, in or to the Living Unit, or its deck, porches, patios or other exterior appurtenances, and shall not paint, stain or decorate any portion of the exterior of the Living Unit or any such appurtenances. Owners shall not in any way interfere with the Association's maintenance responsibilities set forth in Section 1 of this Article 10 above. Further each Owner shall be responsible:

- (a) For the routine cleaning, painting and repair of any patio, porch or deck area of such Owner's Living Unit, keeping the same in a neat, clean, odorless, orderly and attractive condition and shall ensure that the selection of the color of any stain or paint complies with the color chosen by the Association.
- (b) For exterior maintenance, repair or replacement to those portions of their Lot and Living Unit, and for the Limited Common Elements allocated to such Lot, including without limitation its driveway, walkways, deck, privacy walls and mailbox.
- (c) Notwithstanding the terms of Section 1 above, for maintaining and keeping in good repair, and providing all of the upkeep of all areas of a Lot which are within the exterior walls of the Living Unit.
- (d) To not do any work or to fail to do any work which, in the reasonable opinion of the Board, would materially jeopardize the soundness and safety of the Living Unit, the Lot, or reduce the value thereof or impair any easement or real property right thereto.
- (e) For any damage caused, regardless of fault or negligence, to any other Lot, or any of the Common Elements or Limited Common Elements, due to the damage or disrepair of any item for which the Lot Owner is responsible for maintenance of pursuant to the terms of this Article 10, Section 2.
- (f) To assure that all maintenance by Owner authorized or required herein of any exterior structure shall be done in accordance with the applicable architectural standards set forth herein.
- (g) To pay for individual pickup of garbage and trash, it being understood that this is contracted for by the County, but paid by each Lot Owner individually, and each Owner shall comply with the Board promulgated rules regarding garbage/trash pickup.

In the event that the Board determines that (i) any Owner has failed or refused to discharge properly his or her obligations with regard to the maintenance, repair or replacement of his or her Living Unit for which he or she is responsible hereunder; or (ii) that the need for maintenance, repair or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner, his or her family, guests, lessees or invitees, and is not covered or paid for by insurance, in whole or in part, then the Association may perform the repair, replacement or maintenance and shall, except in the event of an emergency situation, give the Owner written notice of the Association's intent to provide such necessary maintenance, repair or replacement, at the Owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repairs or replacement deemed necessary. The Owner shall have ten (10) days within which to complete such maintenance, repair or replacement; or, in the event that such maintenance, repair or replacement is not capable of completion within a ten (10) day period, to commence such work which shall be completed within a reasonable time. If any Owner does not comply with the provisions hereof, the Association may provide any such maintenance, repair or replacement at Owner's sole cost and expense, and all costs shall be added to and become a part of the Assessment to which such Owner is

subject and shall become a lien against the Owner's Lot.

If maintenance, repair or replacement of an individual amenity or improvement is needed, or requested from the Association, the cost thereof shall be the responsibility of the Owner(s) of such Living Units, which exclusively or substantially benefit from that improvement. Owners of Living Units with any individual amenity including improvements, additions, changes, or modifications as set forth herein must inform prospective buyers, in writing, that these items are the Living Unit Owner's responsibility and not the Association's responsibility.

The Lot Owner is responsible for any costs associated with maintenance, repair or replacement due to settling of the Living Unit or its utilities.

In furtherance of the duties above, the following additional understanding regarding Owner responsibilities apply:

- (a) All additions, improvements, modifications and/or changes. Additions, improvements, modifications or changes to Living Units which have been installed by a current or former Living Unit Owner are amenities and are the responsibility and obligation of the individual Owner. While the Association may have approved the installation of an individual addition or improvement, the Living Unit Owner is still responsible for maintenance, repair and replacement of that improvement and its effect on other Living Units.
- (b) Modification of Exterior by Owners. Any exterior portions of Living Units to be maintained by the Association as set forth herein, will be the responsibility of the Owner if such exterior portions are modified or changed by the Owner, with or without prior Board approval.
- (c) Joint costs. Costs for the maintenance and repair of additions or improvements which benefit more than one Living Unit shall be the responsibility of all of the Living Units that are benefited in proportion to the amount of benefit derived by each from the addition or improvement.
- (d) The Board of Directors or its designated agent shall maintain a list of all Living Units with individual improvements, showing the Living Unit address and describing the improvement.
- (e) Code Violations. The correction or repair of any Construction Code Violation is not the responsibility of the Association, but rather is the responsibility of the Lot Owner.

**SECTION 3. REPAIR AND RECONSTRUCTION BY ASSOCIATION.** The following terms shall only apply to repair and reconstruction required to be done by the Association pursuant to this Article 10 or Article 11 as incorporated therein:

The Board of Directors or its duly authorized agents shall arrange for and supervise the prompt repair and restoration of the damage in accordance with the original plats and plans, or reconstruction compatible with such plats and plans. The procedure for repair and construction shall be as follows:

- (a) Cost Estimates. Immediately after a fire or other casualty causing damage to the Common Elements, the Association shall obtain reliable and detailed estimates of the cost of repairing and restoring any structures to a condition as good as that existing before such casualty. Such costs may also include professional fees and premiums for such bonds as the Board of Directors determines to be necessary.
- (b) Source and Allocation of Proceeds. If the proceeds of insurance are not sufficient to defray the said estimated costs of reconstruction and repair, or if there are no insurance proceeds to fund such repairs or restoration as determined by the Board of Directors, or if at any time during the reconstruction and repair or upon completion of reconstruction and repair the funds for the payment of the costs thereof are insufficient, assessments shall be made against the individual Lot Owner (in the event of damage or casualty to a Living Unit that either should have been fully insured, or which is otherwise the responsibility of such Lot Owner to maintain or repair as set forth herein)

or all of the Lot Owners, as the case may be. If after repair and reconstruction is completed there is a surplus of funds, such funds shall be common funds of the Association to be used as decided by the Board of Directors (unless such funds are from a policy procured by an individual Lot Owner for damage or casualty to the Lot Owners Lot, and in such event disbursement shall be to the individual Lot Owner).

- (c) Plans and Specifications. Any such reconstruction or repair shall be substantially in accordance with the Plans and Specifications under which the Common Elements structure(s) or Lot of the Planned Community was originally constructed (unless such other revised plans and specifications are approved as otherwise set forth herein).
- (d) Construction Fund. The net proceeds of the insurance collected on account of a casualty and the funds collected by the Association from assessments against Lot Owner(s) on account of such casualty shall constitute a construction fund which shall be disbursed in payment of the cost of reconstruction and repair in the manner set forth in this Section.
- (e) Method of Disbursement. The construction fund shall be paid by the Association in appropriate progress payments to such contractor(s), supplier(s), and personnel performing the work or supplying materials or services for the repair and reconstruction of the buildings as are designated by the Board of Directors.

**SECTION 4. RESTRICTIONS MAINTENANCE.** No Lot Owner shall perform or cause to be performed any maintenance, repair, or replacement work upon his Lot or to his Living Unit which disturbs the rights of the other Owners or jeopardizes the soundness or the safety of the Common Elements without the prior written consent of the Board of Directors. If the Lot Owner shall cause any work so performed on the Lot, which in the sole opinion of the Board of Directors violates the terms of this provision, it shall be immediately corrected and the Lot Owner shall refrain from recommencing or continuing any such work without written consent of the Board. A Lot Owner shall not repair, alter, replace, or move any of the Common Elements or Limited Common Elements without the prior written consent of the Board.

In any instance when the claim involved is less than the Association's insurance deductible, the Board of Directors, or its designee, shall determine if a Lot Owner is responsible for damages to any Common Element or whether the Association is responsible for damages to any Lot. The Board, or its designee, shall accord the Lot Owner charged with causing the damage with notice, an opportunity to be heard, presentation of evidence and notice of decision in accordance with those procedures set forth herein or otherwise required by the Act. The Board, or its designee, may assess a liability for each damage incident not in excess the Association's insurance deductible against each Lot Owner charged or against the Association. Liabilities of Unit Owners shall be assessments in accordance with Section 47F-3-107 of the Planned Community Act and the Declaration. If the Board determines that the Association is at fault, and the damage is to the Living Unit of a Lot Owner, the Lot Owner may use liability of the Association as an offset against amounts owed to the Association.

**SECTION 5. LIMITED COMMON ELEMENTS.** Property designated as "Limited Common Elements" shall be devoted to the common use and enjoyment of the Owners of specifically designated Living Units and Lots to the exclusion of the common use and enjoyment of other Owners in Southside. The Owners of the specifically designated Living Units and Lots shall have a right to and easement of enjoyment in and to the particular Limited Common Elements and such easement shall be appurtenant to and shall pass with every such specifically designated Lot.

Maintenance, capital improvements, operation, taxes, and other expenses incident to these Limited Common Elements, shall be the sole obligation of the Owners of the Lots entitled to the use and enjoyment of the particular Limited Common Elements. The costs of maintaining, repairing or replacing the subdivision roads and street Common Elements to Lot driveways on those streets shall be shared equally by these Living Unit Owners as a common expense, and other users of said roads as described in prior recordings filed with the Buncombe County Register of Deeds, even though the Association may determine the extent to which maintenance is necessary, and is solely authorized to contract for the maintenance of such roads and streets.



## ARTICLE 11 - INSURANCE

### SECTION 1. PROPERTY AND CASUALTY INSURANCE.

(a) By Owners. Each Owner shall procure and maintain, at such Owner's own cost and expense, insurance coverage as follows:

1. Contents. Each Owner shall procure and maintain insurance upon the contents within the Living Unit located on his or her Lot with limits no less than the replacement value of such contents.

2. Living Units. Insurance policies upon Living Units, and all appurtenant Limited Common Elements (including without limitation any porches, decks and patios), shall be purchased by each Owner for the benefit of the Owner, the Owners' mortgagees, and the Association as their interests may appear. Each Living Unit shall be insured in an amount equal to one hundred percent (100%) of its insurable replacement cost basis exclusive of land, excavations, foundations and other items normally excluded from property policies, as determined annually by the insurance company providing such coverage. Such coverage shall provide protection against and shall insure against such risks and contain such provisions as the Board from time to time shall determine, provided that the coverage shall provide protection against:

- a. Loss or damage by fire and other hazards, including extended coverage, vandalism and malicious mischief, and
- b. Such other risks as from time to time shall be customarily covered by homeowner's fire and extended coverage policies.

(b) By Association. The Association shall procure and maintain, at Association cost and expense, insurance coverage as follows: All insurance policies upon the Common Elements and Limited Common Elements (other than as required to be included in an Owners' Living Unit policy) shall be purchased by the Association for the benefit of the Association and the Owners and their mortgagees, as their interests may appear. All buildings and improvements upon the Common Elements shall, at a minimum, be insured in an amount equal to eighty percent (80%) of its insurable replacement cost basis value as determined annually by the Association with the assistance of the insurance company providing such coverage. Such coverage shall provide protection against:

- a. Loss or damage by fire and other hazards, including extended coverage, vandalism and malicious mischief, and
- b. Such other risks as from time to time shall be reasonably required by the Board.

SECTION 2. LIABILITY INSURANCE. The Association shall maintain liability insurance in reasonable amounts covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Common Elements and covering the Association, the Board of Directors, Officers, and all agents and employees of the Association and all Lot Owners and persons entitled to occupy any Lot or other portion of the Planned Community. Each Owner shall separately, or as a coverage in the insurance required pursuant to Section 1 of this Article 11 herein, procure and maintain public liability insurance covering all occurrences commonly insured against death, bodily injury, and property damage arising out of or in connection with the

use, ownership and maintenance by an Owner, and its occupants, tenants and invitees of such Owner's Lot, Limited Common Elements, and insuring all of the duties required of an Owner to be conducted by an Owner on such Owner's Lot or Limited Common Elements as described in Article 10 herein.

**SECTION 3. POLICY REQUIREMENTS.** In accordance with Section 47F-3-113(c) of the Planned Community Act, the insurance policies carried in accordance with Section 1 and 2 of this Article 11 above must provide that:

- (a) Each Lot Owner is an insured person under the policy to the extent of the Lot owner's insurable interest;
- (b) The insurer waives its right of subrogation under the policy against any Lot Owner or members of the Lot Owner's household;
- (c) No act or omission by any Lot Owner, unless acting within the scope of his or her authority on behalf of the Association, will preclude recovery under the policy; and
- (d) If at the time of a loss under the policy, there is other insurance in the name of a Lot Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

**SECTION 4. ASSOCIATION AS TRUSTEE.** Except for insurance procured by a Lot Owner under Section 1 (a)(1) of this Article 11 above, all such insurance coverage shall be written in the name of the insured (specific Lot Owner in the event that the policy covers an individual Lot), but such that the Association is named: (i) as an Additional Insured as trustee for itself, the specific insured Lot Owner (in the event of individual insurance procured by a Lot Owner under Section 1(a)(2) of this Article 11 above), or each of the Owners, and the mortgagees of the Lot Owner (or all Lot Owners), if any (as the case may be), or (ii) in the event that an Owner's insurance company refuses, for any reason, to designate non-owners as Additional Insureds, either as an Interested Party or an Additional Party. It shall be the duty of the Board of Directors at least annually to conduct an insurance review to determine that the required policies are in force on each Lot, and the Common Elements, and are adequate to meet the risks of the Lot Owner(s) (as the case may be), and the Association. Such a responsibility may be performed and shall be deemed reasonably performed by the Board requesting the Association's insurance agent to verify insurance policies in existence to meet the needs of the Association (with respect to Association procured insurance) and by being provided a certificate of insurance from each Lot Owner. All insurance shall run to the benefit of the Association, the respective Lot Owner(s) (as the case may be), and their respective mortgagees as their interests may appear. Policies may contain reasonable deductibles and the amount thereof shall be added to the face amount of the policies in determining the amount of coverage, and to the extent reasonably available, provide Association with prior written notice of any proposed cancellation or nonrenewal of an Owner insurance policy.

**SECTION 5. ADJUSTMENT AND USE OF PROCEEDS.**

- (a) In the event of damage to or destruction of any Living Unit or its Limited Common Elements or appurtenant improvements on a Lot as a result of fire or other casualty, the Lot Owner shall have the responsibility of repairing or reconstructing said Living Unit or its Limited Common Elements or appurtenant improvements. However, any loss covered by the policy obtained by an Owner under Section 1(a)(2) of this Article 11 (each an "Event" herein) shall be adjusted with the Association in consultation with the Owner, and the insurance proceeds for the loss shall be payable to an insurance trustee designated by the Association for that purpose, or otherwise to the Association, and not to any mortgagee or beneficiary under a deed of trust, or to the Lot Owner directly. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Lot Owners so insured, and any interested lienholders as their interests may appear. The proceeds shall be disbursed first for the repair or restoration of the damaged property, and Lot Owners and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the improvements on the affected Lot have been completely repaired or restored, or the Planned Community is terminated. The repair or rebuilding of the Lot improvements, and the use of funds for repair and restoration, shall proceed in conformity with the terms of Section 3 of Article 10 above, and either: 1) the original plans and specifications of the Living Unit (or its Limited

Common Elements or appurtenant improvements) that was damaged or destroyed, or 2) plans and specifications of repair or restoration approved in advance by the Association Board. In the event the cost to repair or reconstruct shall exceed the balance of insurance proceeds payable (and notwithstanding whether a Lot Owners' mortgagee requires that insurance proceeds be applied to pay down its mortgage), the cost to repair or reconstruct shall be the sole expense of the Lot Owner, and the Lot Owner shall immediately upon determination of the deficiency by the Association, pay into the Association (which shall hold such funds in the same manner as in its Trustee capacity referenced above) the full amount of such deficiency so determined. In the event of any deficiency in the amount of funds available through insurance proceeds to pay for repair or reconstruction, and in case of default by any such Lot Owner in the payment in full of the cost to repair or reconstruct said Lot improvements as required above, the Association is authorized (but not required) to advance for the benefit of said Lot Owner the balance necessary to pay for said repair or reconstruction, in which case said sums advanced, together with costs and reasonable attorney's fees incurred in connection with the collection thereof, shall be a continuing lien against the Lot against which such additional costs were incurred and shall also be a personal debt of the Lot Owner at the time of such damage or destruction, and the collection of such costs advanced can be enforced in the same manner as a lien for General Assessment, Special Assessment or Individual Specific Assessment as the same is set forth in the Act, this Declaration and the Bylaws of the Association.

- (b) Notwithstanding the foregoing, if the Event does not impact (i) fences adjacent to a Living Unit, (ii) gutters, (iii) roof shingles and underlayment, roof decking or sheathing, or roof flashing, (iv) the outermost surfaces of a building, (v) siding or (vi) a party wall as defined in Section 1 of Article 9 of this Declaration (the items listed in (i) through (vi) being referred to herein as the "Exterior of the Living Unit"), the Association has no responsibility for the repair, maintenance, reconstruction or replacement of any damaged property, and therefore the Association waives its rights under Section 4 and this Section 5 of Article 11 to adjust any loss and receive and hold in trust any proceeds relating to such Event from property and casualty insurance claims under the Owner's required insurance policy. As a result, the Owner is entitled to the insurance proceeds for the loss, however, this provision is not intended to modify, amend or revise any duty of a Lot Owner to repair or replace as otherwise set forth herein.
- (c) Notwithstanding the foregoing, if the insurance company disburses insurance proceeds to contractor(s), supplier(s) and personnel performing work or supplying materials or services for any repair, replacement or reconstruction of a building instead of to the named insured or the Association, if the Event impacts the Exterior of the Living Unit, the Owner will transfer or assign to the Association, in writing, all rights related to the damaged or destroyed Exterior of the Living Unit due to the Event from property and casualty insurance claims under the Owner's required homeowners insurance policy.

**SECTION 6. PROOF OF INSURANCE.** A copy of each policy of insurance that must be procured by each Owner, issued by an insurance company or insuring organization, shall be delivered by each Owner to Association upon taking title to a Lot, and proof of renewal shall be annually provided to Association on or before January 31<sup>st</sup> of each calendar year.

**SECTION 7. OTHER INSURANCE.** The Board of Directors shall obtain as a common expense:

- (a) Worker's Compensation Insurance if and to the extent necessary to meet the requirements of North Carolina law;
- (b) Officers and Directors Liability Insurance in such amount as the Board may determine, which insurance shall contain a cross liability endorsement; and
- (c) Such other insurance as the Board of Directors may determine to be necessary.

## **ARTICLE 12 - PROPERTY SUBJECT TO THIS DECLARATION**

The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is all that certain real property- described in Exhibit "A".

### **ARTICLE 13 - LEASES AND SALES**

In order to assure a community of congenial resident Owners and thus protect the value of the Living Units, leasing of a Living Unit by an Owner shall be subject to the following provisions so long as the Living Unit shall be owned in accordance with the terms and conditions of the Declaration, Bylaws, Rules and Regulations and the Planned Community Act.

**SECTION 1. RENTING OR LEASING OF LIVING UNITS.** Living Units may be rented only in their entirety; no fraction or portion may be rented. All leases must be for a term of not less than six (6) months, except in the case of Owners selling their Living Units and leasing back from the new record Owner of title. All leases and lessees are subject to the provisions of the Declaration, Bylaws, and Rules and Regulations of the Association. The Living Unit Owner must make available to the tenant copies of the Declaration, Bylaws, and Rules and Regulations.

Any lease of a Living Unit in Southside shall be deemed to contain the following provisions, whether or not expressly therein stated, and each Owner covenants that any lease of a Living Unit after the date of recording of this Declaration shall contain the following language and agrees that if such language is not incorporated into a lease such covenants shall nevertheless apply to the Living Unit, through the existence of this covenant. Any lessee, by the occupancy of a Living Unit, agrees to the applicability of this covenant and incorporation of the following language into the lease:

"Compliance with Declaration, Bylaws and Rules and Regulations. Lessee agrees to abide by and comply with all provisions of the Declaration, Bylaws and Rules and Regulations adopted pursuant thereto. Owner agrees to cause all occupants of his or her Living Unit to comply with the Declaration, Bylaws and Rules and Regulations adopted pursuant thereto, and is responsible for all violations and losses caused by such occupants, notwithstanding the fact that such occupants of the Living Unit are fully liable and may be sanctioned for any violation of the Declaration, Bylaws and Rules and Regulations adopted pursuant thereto. In the event that the Lessee, or a person living with the Lessee, violates the Declaration, Bylaws or Rules and Regulations for which a fine is imposed, such fine shall be assessed against the Owner. Unpaid fines constitute a lien against the Living Unit in accordance with the Planned Community Act and this Declaration. Any Owner whose tenant or lessee is charged with a violation of the Declaration, Bylaws or Rules and Regulations adopted pursuant thereto, is entitled to the same procedure prior to the imposition of a fine or other sanction set forth in the Declaration, Bylaws or Rules and Regulations as is due to any Owner.

Any violation of the Declaration, Bylaws or Rules and Regulations adopted pursuant thereto by the tenant or lessee, is deemed to be a violation of the terms of the Lease and authorizes the Owner to terminate the Lease without liability and to evict the Lessee in accordance with North Carolina law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority to evict the Lessee on behalf of and for the benefit of the Owner, in accordance with the terms hereof. In the event the Association proceeds to evict the Lessee, any costs, including attorney's fees actually incurred and court costs associated with the eviction, shall be assessed against the Living Unit and the Owner thereof as a common expense, such being deemed hereby as an expense which benefits the leased Living Unit and the Owner thereof."

**SECTION 2. TRANSIENT USE AND PROHIBITION ON TIME SHARING.** Transient use of Living Units is prohibited. Transient use shall include, but not be limited to, short term use by employees of any entity that is Owner of a Living Unit and short term repetitive use by friends or relatives of an Owner. Short term shall mean use of a Living Unit which is less than six (6) months in duration.

Timeshares and timeshare-like arrangements are prohibited in Southside. Timeshare is defined as a right to occupy a Living Unit or any of several Living Units during five or more separate time periods over a period of at least five years, including renewal options, whether or not coupled with a freehold estate or an estate for years in a timeshare project or a specified portion thereof, including, but not limited to, a vacation license, prepaid hotel reservation, club membership, limited partnership, vacation bond, or a plan or system where the right to use is awarded or apportioned on the basis of points, vouchers, split, divided or floating use.

Timeshare-like arrangements that include, but are not limited, to multi-party purchasing and use schemes but which do not fit within the North Carolina statutory definition of timeshares, are likewise prohibited in Southside. By way of illustration but not limitation, an Owner(s) is prohibited from setting up a timeshare arrangement in which one Owner is named as Grantee on the deed but that Owner arranges dates of separate occupancy and use for other individuals. It is furthermore prohibited for multiple Owners as tenants in common to divide up the occupancy of the Living Unit on any time-based formula, if an Owner or group of Owners devises a timeshare-like arrangement that does not meet the North Carolina statutory definition of a timeshare, such arrangement may still be considered by the Southside Board to be in violation of this paragraph, and therefore in its sole determination, be prohibited.

**SECTION 3. NOTICE OF SALE OR LEASE.** Any Owner intending to sell or lease his or her Living Unit shall give notice in writing to the Board of Directors of such intention at the time the Living Unit goes under contract and provide such other information as the Board may reasonably require. Any Owner who leases his or her Living Unit shall use an Association-approved lease and shall provide to the Board or its designated agent a copy of the signed lease within fifteen days of the signing of the lease. Failure to provide a copy of the lease may result in the imposition of a fine against the Owner (subject to the process required by the Act). The Board of Directors shall have authority to make and to enforce reasonable rules and regulations in order to enforce this provision, including the right to impose fines, in accordance with the terms of the Act.

#### **ARTICLE 14 - ENFORCEMENT PROCEDURES**

Each Owner will comply strictly with the Bylaws and with the Rules and Regulations of the Association, as either of the same may be lawfully amended from time to time, and with the covenants, conditions and restrictions set forth in this Declaration and in the deed to his or her Lot. Failure to comply with any of the same will be grounds for an action to recover sums due, for damages or injunctive relief, or for all three, maintainable by the Board of Directors on behalf of the Association or by any aggrieved Owner. In addition, the rights of any Owner or lessee of an Owner, their families, invitees or guests to use and to enjoy the Common Element, or the right to vote as a Member of the Association, may be suspended by the Board of Directors for continued violation of the Rules and Regulations, but only in accordance with the terms and requirements set forth in the Planned Community Act. Failure by the Association or any Owner to enforce any of the foregoing will in no event be deemed a waiver of the right to do so thereafter.

The Board of Directors or its designated representatives or committee shall not impose a fine or charge for damages, or impose other sanctions (such as suspension of rights) against a Lot Owner unless and until the following procedure is followed:

**SECTION 1. AUTHORITY AND ENFORCEMENT.** Upon the violation of this Declaration, the Bylaws, or the Rules and Regulations duly adopted hereunder, including, without limitation, the failure to timely pay any Assessments, the Board will have the power in accordance with the terms of the Act (i) to impose reasonable monetary fines which will constitute an equitable charge and a continuing lien as a specific Assessment (as the same is described in Article 5 above), (ii) to suspend an Owner-Member's right to vote in the Association, or (iii) to suspend an Owner's or Lot occupant's right to use any of the Common Elements. The Board will have the power to impose all or any combination of these sanctions, and may establish each day a violation remains uncured as a separate violation for which a fine is due; provided, however, an Owner's access to its property over the private roads and streets constituting Common Elements will not be terminated hereunder. An Owner or Lot occupant will be subject to the foregoing sanctions in the event of such a violation by such Owner or Lot occupant. Any

such suspension of rights may be for the duration of the infraction and for any additional period thereafter, not to exceed thirty (30) days.

SECTION 2. PROCEDURE. Except with respect to the failure to pay Assessments, the Board will not suspend voting rights, or infringe upon or suspend any other rights of an Owner or other occupant of the Planned Community for violations of the Declaration, By-Laws, or the Rules and Regulations of the Association, or impose a fine in excess of \$100 per occurrence of the event or condition giving rise to the imposition of a fine, but not exceeding \$100, for each day more than ten (10) days after a decision is rendered following the hearing provided in this Section below, until the following procedure is followed:

(a) Demand to Cease and Desist. Written demand to cease and desist from an alleged violation will be served upon the Owner responsible for such violation specifying:

1. The alleged violation;
2. The action required to abate the violation; and
3. A time period of not less than ten (10) days during which the violation may be abated without further sanction, if such violation is a continuing one, or if the violation is not a continuing one, a statement that any further violation of the same provision of this Declaration, the By-Laws, or of the rules and regulations of the Association may result in the imposition of sanctions after notice and hearing.

(b) Notice of Hearing. Within twelve (12) months of such demand, if the violation continues past the period allowed in the demand for abatement without penalty, or if the same violation subsequently occurs, the Board may serve such Owner with written notice of a hearing to be held by the Board in executive session. The notice will contain:

1. The nature of the alleged violation;
2. The time and place of the hearing, which time will be not less than ten (10) days from the giving of the notice;
3. An invitation to attend the hearing and produce any statement, evidence, and witnesses on his behalf; and
4. The proposed sanction to be imposed.

(c) Hearing. The hearing will be held in executive session of the Board of Directors pursuant to the notice and will afford the alleged violator a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the opportunity to be heard will be placed in the minutes of the meeting. Such proof will be deemed adequate if the officer, director, or other individual who delivered such notice enters a copy of the notice together with a statement of the date and matter of delivery. The notice requirement will be deemed satisfied if an alleged violator appears at the meeting. The minutes of the meeting will contain a written statement of the results of the hearing and the sanction imposed, if any.

SECTION 3. COMMITTEE. The Board may establish a Committee to carry out its hearing duties described above, however, in the event that the Board establishes a Committee to enforce the provisions of this Declaration pursuant to this Article 14, no member of the Board shall serve on such Committee, and the violator shall have the right of appeal to the Board as set forth in Section 3-107.1 of the Act.

## ARTICLE 15 - CONDEMNATION

If part or all of the Planned Community is taken by any power having the authority of eminent domain, all compensation and damages for and on account of the taking shall be payable in accordance with Section 47F-1-107 of the Planned Community Act.

#### **ARTICLE 16 - TERMINATION**

Termination of the Planned Community shall be accomplished only in accordance with Section 47F-2-118 of the North Carolina Planned Community Act.

#### **ARTICLE 17 - GENERAL PROVISIONS**

SECTION 1. DURATION. The covenants and restrictions contained in this Declaration shall run with and bind the properties which are made subject hereto for a period of twenty (20) years from the date this Declaration as recorded in the office of the Register of Deeds for Buncombe County, North Carolina, after which time such covenants and restrictions shall be automatically extended for successive periods of ten (10) years each.

SECTION 2. AMENDMENT. This Declaration may be amended at any time by sixty-seven (67%) percent or more of the Lot Owners of Lots to which at least sixty-seven (67%) of the votes in the Association are allocated, affirmatively voting in favor of or consenting in writing thereto, in accordance with Section 2-117 of the Act. Upon approval by such vote or written consent, the amendment as approved shall be evidenced by a written document reciting that such amendment was approved by the vote or written consent of sixty-seven (67%) percent of the Owners. It shall be signed in the corporate name of Southside Village Association, Inc., a North Carolina nonprofit corporation, by its duly authorized officers and the corporate seal affixed. Such amendments shall be recorded in the Office of the Register of Deeds of Buncombe County, North Carolina.

SECTION 3. ENFORCEMENT. The Association or any Owner shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

SECTION 4. SEVERABILITY. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions of this Declaration, which shall remain in full force and effect.

SECTION 5. MANAGEMENT. The Association reserves the right to enter into a contract with a management firm which said contract shall provide for payments to said firm for services rendered on behalf of the Association in connection with maintenance and control of the Common Elements and all other duties delegated herein to the Association.

SECTION 6. CAPTIONS. The captions contained in the Documents are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of the Documents or the intent of any provision thereof.

SECTION 7. GENDER. The use of the masculine gender refers to the feminine and neuter genders and the use of the singular includes the plural, and vice versa, whenever the context of the Documents so requires.

SECTION 8. WAIVER. No provision contained in the Documents is abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

SECTION 9. CONFLICT. The Documents are intended to comply with the requirements of the North Carolina Planned Community Act and the Nonprofit Corporation Act, Chapters 47F and 55A of the North Carolina General Statutes. In the event of any conflict between the Documents and the provisions of the statutes, the provisions of the statutes shall control. In the event of any conflict between this Declaration and any other Document, this Declaration shall control.

SECTION 10. CONSTRUCTION. This Declaration shall be construed and controlled by and under the laws of the State of North Carolina.

IN WITNESS WHEREOF, the Association has caused this instrument to be executed by its duly authorized representatives and its corporate seal to be hereunto affixed, this 25<sup>th</sup> day of APRIL, 2022, attesting that this declaration superseding all previous declarations and their amendments relating to SOUTHSIDE was approved by the affirmative vote or written consent of Lot Owners of Lots to which at least sixty-seven (67%) of the votes in the Association are allocated.

ATTEST:

**SOUTHSIDE VILLAGE  
ASSOCIATION, INC.**

BY [Signature]  
SECRETARY

BY [Signature]  
PRESIDENT

**SOUTHSIDE VILLAGE ASSOCIATION, INC. Acknowledgment**



STATE OF NORTH CAROLINA  
COUNTY OF BUNCOMBE

I, a Notary Public of said State and County, certify that Christine Mary; William Costenbader personally came before me this day and (I have personal knowledge of the identity of the principal) (having produced satisfactory evidence of the principal's identity, by a current state or federal identification with his/her photograph in the form of a Drivers License) (a credible witness has sworn to the identity of the principal) and acknowledged that he or she is Secretary of SOUTHSIDE VILLAGE ASSOCIATION, INC., a North Carolina corporation, and that, by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its                      President, sealed with its corporate seal, and attested by himself or herself as its                      Secretary.

WITNESS my hand and Notarial Seal, this 25<sup>th</sup> day of April, 2022.

[Signature]  
Morgan DeWitt  
NOTARY PUBLIC

My Commission Expires: 10-14-2026

**Morgan DeWitt**  
Notary Public  
Buncombe County, NC  
Commission Expires 10-14-2026



**EXHIBIT "A"**  
**Description of Southside's boundary perimeter**

Being the perimeter boundary surrounding the individual numbered Lots 1 through 40 and 45 through 66 as shown on Plat Book 78 at Page 185, Buncombe County Registry (which plat does not show Lots 41 through 44 at the time it was recorded, but which were later located in such boundaries), together with all of that property surrounding Lots 67 through 74 as shown on Plat Book 94 at page 88, and to the east of the western boundary of Southside Village Drive, to the north of the boundary shown thereon with Southside Village Phase 2, and otherwise bounded by the Duckett, Powell & Thomson Real Estate Development Co. Property described in Deed Book 3048, at page 142 with a dividing boundary line as shown on said plat.

**EXHIBIT "B"**  
**BYLAWS**  
**OF**  
**SOUTHSIDE VILLAGE ASSOCIATION, INC.**  
**(Revised, 2022, Effective April 15, 2022)**  
**Buncombe County, North Carolina**

---

**ARTICLE I**  
**NAME AND LOCATION**

The name of the corporation is **SOUTHSIDE VILLAGE ASSOCIATION, INC.**, hereinafter referred to as the "Association". The principal office of the corporation shall be located at 149 Mills Gap Road, Asheville, NC 28803, but meetings of members (owners of lots) and directors may be held at such place within the State of North Carolina, County of Buncombe, as may be designated by the Board of Directors.

**ARTICLE II**  
**DECLARATION AND MEMBERSHIP**

**SECTION 1. INCORPORATION OF DECLARATION.** That Amended and Restated Declaration of Southside Village Planned Unit Development to which these Bylaws are attached, as the same may be amended from time to time (hereinafter referred to as the "Declaration"), is herein incorporated by reference.

The Association shall have the responsibility of administering the Southside Planned Community, establishing the means and methods of collecting the contributions to the common expenses, arranging for the management of the Planned Community, enforcing the Declaration and these Bylaws, and performing all of the other acts that may be required to be performed by the Association by the Planned Community Act and the Declaration. The Association shall also amend and supplement the system of administration, the Declaration and these Bylaws as may be required from time to time and perform all other things or acts required or permitted to the Association under the North Carolina Planned Community Act. Except as to those matters which either the Planned Community Act, the Declaration, these Bylaws or the North Carolina Nonprofit Corporation Act specifically require to be performed by the vote of the Association, the administration of the foregoing responsibilities shall be performed by the Board of Directors, as is more particularly set forth herein.

**SECTION 2. MEMBERSHIP.** As provided in the North Carolina Planned Community Act (N.C. Gen. Stat. 47F-1-101 et seq.) [referred to herein as the "Planned Community Act" or "Act"], an Owner of a Lot shall become a Member of the Association upon taking title to the Lot and shall remain a Member for the entire period of ownership. If title to a Lot is held by more than one person, the membership shall be shared in the same proportion as the title, but there shall be only one (1) membership and one (1) vote per Lot. Membership does not include persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. Membership shall be appurtenant to each Lot and shall be transferred automatically by conveyance of that Lot and may be transferred only in connection with the transfer of title.

**SECTION 3. TERMS.** The terms as used in these Bylaws shall have the meanings as set forth in Article 3 of the Declaration unless specifically provided otherwise or the context otherwise requires.

## **ARTICLE III MEETING OF MEMBERS**

**SECTION 1. ANNUAL MEETINGS.** There shall be a general meeting of all Members of the Association held each year between May 15<sup>th</sup> and June 15<sup>th</sup>, for the purpose of electing directors to replace those whose term is to expire, to approve the budget for the coming year and conduct what other business is appropriate. The date and time of the annual meeting is set by the Board of Directors and notice shall be sent by U.S. Mail or other equally reliable means to all members at least fifteen (15) days, but not more than fifty (50) days, prior to the meeting date. The meeting shall be held in the association Clubhouse, or other suitable convenient location.

**SECTION 2. SPECIAL MEETINGS.** Special meeting of the Members may be called at any time by the President or by a majority of the Board of Directors, or by Members having ten percent (10.0%) of the votes in the Association.

**SECTION 3. NOTICE OF MEETING.** It shall be the duty of the Secretary or Managing Agent to mail or to cause to be delivered to the Lot Owners a notice of each annual or special meeting of the Association in accordance with the terms of Section 1 of Article VIII herein.

**SECTION 4. WAIVER OF NOTICE.** Waiver of notice of a meeting of the Owners shall be deemed the equivalent of proper notice. Any Owner may, in writing, waive notice of any meeting of the Owners, either before or after such meeting. Attendance at a meeting by an Owner, whether in person or by proxy, shall be deemed waiver by such Owner of notice of the time, date, and place thereof, unless such Owner specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed waiver of notice of all business transacted, unless objection to lack of notice is raised before the business, of which proper notice was not given, is put to a vote.

**SECTION 5. QUORUM.** The presence at the meeting of members entitled to cast and the total of proxies entitled to cast equals fifty percent (50%) of the votes of the membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement of the meeting, until a quorum as aforesaid shall be present or represented.

**SECTION 6. PROXIES.** At all meetings of Members, each Member may vote in person or by proxy. The appointment form of proxy shall be in writing and received by the Secretary before the appointed time of the meeting. Every proxy appointment shall automatically cease upon conveyance by the Member of his Unit, or upon receipt of written notice by the Secretary of the death or judicially declared incompetence of a Member prior to the counting of the vote, upon receipt of a written notice of revocation, or upon the expiration of eleven (11) months from the date of the proxy. Unless the proxy appointment form otherwise states, it shall be deemed to confer the authority to execute consents and waivers and to exercise the right to examine the books and records of the Association. Any proxy appointment form distributed by any person to the membership of the Association shall afford the opportunity to specify a choice between approval and disapproval of each matter or group of matters to be acted upon set forth in the notice of the meeting. The appointment shall provide that, where the Member specifies a choice, the vote shall be cast by the proxy in accordance with that choice. The form shall also identify the person or persons acting as the proxy and the length of time it will be valid. In addition, voting by a proxy shall comply with any other applicable requirements of the Nonprofit Corporation Act. The Member's

signed proxy appointment form shall be delivered to the Secretary by hand delivery, by U.S. mail, and by such other means as shall be permitted under North Carolina law, including, but not limited to and if allowed, overnight courier service, facsimile and e-mail transmission, internet form submission, or by any other technology or medium, now existing or hereafter devised, provided in every such case the sender retains proof of transmission and receipt. No proxy shall be revocable except by written notice delivered to the Association before a meeting or, if at the meeting, to the person presiding.

**SECTION 7. VOTE BY WRITTEN BALLOT.** In accordance with Section 55A-7-08 of the North Carolina Nonprofit Corporation Act, any action that may be taken at any annual, regular, or special meeting of members may be taken without a meeting if the Association delivers by mail or otherwise a written ballot to every member entitled to vote on the matter. The ballot shall set forth the matter to be voted upon and provide thereon a place to vote for or against such matter. Approval by written ballot without a meeting shall be effective only when the number of votes cast by ballot equals or exceeds the quorum required to be present had the matter been considered at a meeting, and the number voting for the matter equals or exceeds the number of votes required to approve it had the matter been considered at a meeting at which the requisite quorum is present. A solicitation of votes by ballot shall (1) indicate the record date for Members eligible to vote; (2) indicate the number of returned ballots voting for or against the matter that is required to satisfy the quorum requirement; (3) state the required number of votes or percentage voting in favor of the matter required to approve it (except in the case of election of directors, which shall be by plurality); and (4) state the date and time by which a Member's completed ballot must be received by the Secretary or any managing agent designated by the Board in order to be counted in the vote to be taken. A ballot, once delivered to the Secretary or any managing agent designated by the Board, may not be revoked. A Member's signed ballot shall be delivered to the Secretary or any managing agent designated by the Board by hand delivery, by U.S. mail, or by such other means as shall be permitted under North Carolina law, including, but not limited to and if allowed, overnight courier service, facsimile and e-mail transmission, internet form submission, or by any other technology or medium, now existing or hereafter devised, provided in every such case the sender retains proof of transmission and receipt.

**SECTION 8. ADJOURNMENT.** Any meeting of the Owners may be adjourned from time to time by the President or Chairperson or by a vote of the Owners holding the majority of the votes represented at such meeting, regardless of whether a quorum is present. Any business which could be transacted properly at the original session of the meeting may be transacted at an adjourned session, and no additional notice of such adjourned session shall be required.

**SECTION 9. CONDUCT AND BUSINESS.** Simplified Parliamentary rules shall govern the conduct of the meeting, when not in conflict with the Declaration, Articles of Incorporation, these Bylaws, or any ruling made by the person presiding over the meeting.

**SECTION 10. VOTING.** Each Lot shall be entitled to one (1) vote, which may be cast in accordance with the terms herein. A vote may be cast by the Owner, or by a lawful proxy, as set forth herein, and shall be allocated as provided in the Declaration. When more than one person owns a Lot, the vote for such Lot shall be exercised as they between or among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. In the event of disagreement among such persons and an attempt by two or more of them to cast such vote or votes, such persons shall not be recognized and such vote or votes shall not be counted. The Board may prohibit any owner from voting, either in person or by proxy, or from being elected to the Board of Directors if such owner is shown on the books or management accounts of the Association to be more than sixty (60) days delinquent in any payment due the Association.

**SECTION 11. MAJORITY.** As used in these Bylaws, for any vote of the membership held in accordance with or pursuant to the Declaration, the term "majority" shall mean those votes, owners, or other group as the context may indicate totaling more than fifty percent (50%) of the total number of eligible votes, owners, or other groups. Unless otherwise specifically stated, the words "majority vote" shall mean more than fifty percent (50%) of the eligible votes of the Association represented at a meeting in person or by proxy. Unless otherwise provided in the Declaration or these Bylaws, all decisions shall be by majority vote.

**ARTICLE IV  
BOARD OF DIRECTORS: SELECTION, TERM OF OFFICE**

**SECTION 1. COMPOSITION.** The affairs of the Association shall be governed by a Board of Directors. The Board shall be composed of no less than three (3) and no more than five (5) directors. Directors must be residents of the Planned Community. Owners of a single Living Unit are prohibited from serving as Directors at the same time.

**SECTION 2. NOMINATION.** Nomination for election to the Board of Directors shall be made by any member. Nominations may also be made from the floor at the annual meeting. Such nominations may be made only from among members.

**SECTION 3. ELECTION AND TERM OF OFFICE.** Directors shall be elected by vote of those persons present, in person or by proxy, at the annual meeting, a quorum being present. Election to the Board of Directors shall be by written ballot. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. Those persons receiving the most votes shall be elected to the number of positions to be filled. The Association shall publish the names and addresses of all Directors within 30 days of their election.

The term of office for directors shall be for three (3) years, commencing from the date of elections and continuing until the election of successors. Election of the directors shall be staggered such that at least one (1) director shall be elected one year for a three (3) year term of office, and the following year at least one (1) director shall be elected for a three (3) year term of office, and the following year at least one (1) director shall be elected for a three (3) year term of office, all successors being elected at the annual meeting. No Director may serve more than two (2) consecutive terms, nor may any Director collectively serve more than a total of ten (10) years as a Director.

**SECTION 4. REMOVAL OF MEMBERS OF THE BOARD OF DIRECTORS.** At any regular or special meeting of the Association duly called at which a quorum is present, any one or more of the members of the Board of Directors may be removed, with or without cause, by at least a majority vote of all persons present and entitled to vote at such meeting and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the Members shall be given at least ten (10) days' notice of the calling of the meeting and the purpose thereof and shall be given an opportunity to be heard at the meeting. Additionally, any member of the Board of Directors who has been absent without an excuse from three (3) consecutive Board meetings may be removed from the Board by the vote of a majority of the Board members present at a Board meeting, a quorum being had.

**SECTION 5. COMPENSATION.** No director shall receive compensation for any service he or she may render to the association in his or her capacity as a director. However, any director may be reimbursed for his or her reasonable expenses incurred in the performance of his or her duties or his or her actual expenses incurred while serving as a contractor to the Association.

**SECTION 6. ACTION TAKEN WITHOUT A MEETING.** The directors shall have the right to take any action in the absence of a Board of Director's meeting, which they could take at a meeting by obtaining the oral or written approval of all the directors. Any action so approved shall be confirmed at the next regular meeting, shall be entered into the minutes of that meeting, and shall have the same effect as though taken at a meeting of the directors.

**SECTION 7. VACANCIES.** Vacancies in the Board of Directors caused by any reason, other than the removal of a director by a vote of the Association, shall be filled by a vote of the majority of the remaining directors, even though less than a quorum, at any meeting of the Board of Directors. Each person so selected shall serve until a successor shall be elected at the next annual meeting of the Association to fill the un-expired portion of the term.

## **ARTICLE V MEETINGS OF DIRECTORS**

**SECTION 1. REGULAR MEETINGS.** Regular meetings of the Board of Directors shall be held at least quarterly, at such place and hour as may be fixed from time to time by resolution of the Board. Twice each year, typically at a regularly called Board meeting held in February and August (but which schedule may be revised at the discretion of the Board to be other regular intervals), the Board shall provide Owners an opportunity to attend at least a portion of a Board meeting, and speak to the Board about their issues or concerns. The Board may place reasonable restrictions on the number of persons who speak on each side of an issue, and may place reasonable time restrictions on persons who speak.

**SECTION 2. SPECIAL MEETINGS.** Special Meetings of the Board of Directors may be called by the President on three (3) days' notice to each director given by mail, by electronic mail, in person or by telephone, which notice shall state the time, place, and purpose of the meeting. Special meetings of the Board of Directors shall be called by the Vice President, Secretary, or Treasurer in like manner and on like notice on the written request of at least two (2) directors.

**SECTION 3. QUORUM.** A majority (greater than 50%) of the numbers of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at duly held meeting at which a quorum is present shall be regarded as the act of the Board.

**SECTION 4. WAIVER OF NOTICE.** Any director may, at any time, in writing, waive notice of any meeting of the Board of Directors, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board of Directors shall also constitute a waiver of notice by him of the time and place of such meeting. If all directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

**SECTION 5. CONDUCT OF MEETINGS.** The President shall preside over all meetings of the Board of Directors, and the Secretary shall keep a minute book recording therein all resolutions adopted by the Board of Directors and a record of all transactions and proceedings occurring at such meetings. Simplified Parliamentary procedures shall govern the conduct of the meetings of the Board of Directors when not in conflict with the Planned Community Act, the Declaration, the Articles of Incorporation, these Bylaws, or any ruling made by the person presiding over the meeting.

**SECTION 6. TIE VOTES.** In the event of a tie vote by the Board of Directors, the President may, in addition to his vote as a Board member, exercise a supplemental vote to break the tie vote.

**SECTION 7. EXECUTIVE SESSION.** The Board may, with approval of a majority of the Directors present at a meeting in which a quorum for the transaction of business has been established, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel, matters involving contracts of which the Association is a party, litigation in which the Association is or may become involved, matters that the Directors deem to be private Owner' matters, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

## **ARTICLE VI**

### **POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

**SECTION 1. POWERS AND DUTIES.** The Board of Directors shall manage the affairs of the Association and shall have all the powers and duties necessary for the administration of the Planned Community and may do all such acts and things as are not by the Declaration, Articles of Incorporation, or these Bylaws directed to be done and exercised exclusively by the Association Members. The Board shall have the power to adopt, modify, and repeal such reasonable rules and regulations as it deems necessary and appropriate for the governance of the Planned Community or the administration of the affairs of the Association and to impose sanctions for violations thereof, including, without limitation, monetary fines. Such powers and duties shall include but not be limited to:

- (a) Adopt and amend Rules and Regulations;
- (b) Adopt and amend budgets for revenues, expenditures, and reserves;
- (c) Collect assessments for common expenses for Lot Owners;
- (d) Hire and terminate managing agents and other employees, agents, and independent contractors;
- (e) Institute, defend, or intervene in its own name in litigation or administrative proceedings on matters affecting the Planned Community;
- (f) Make contracts, open bank accounts, and incur liabilities;
- (g) Regulate the use, maintenance, repair, replacement, and modification of common elements;
- (h) Cause additional improvements to be made as a part of the common elements within the limits of expenditures permitted by the Declaration and/or Bylaws;
- (i) Acquire, hold, encumber, and convey in its own name any right, title or interest to real or personal property, provided that common elements may be conveyed or subjected to a security interest only pursuant to Section 47F-3-112 of the Planned Community Act;
- (j) Grant easements, leases, licenses, and concessions through or over the common elements;
- (k) Impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements;
- (l) Impose reasonable charges for the late payment of assessments, not to exceed the greater of twenty dollars (\$20.00) per month or 10% of any assessment installment unpaid, and after notice and an opportunity to be heard levy fines and suspend privileges in accordance with the provisions of Section 47F-3-107.1 of the Planned Community Act;
- (m) Impose reasonable charges for the preparation and recordation of amendments to the Declaration or statements of unpaid assessments;
- (n) Provide for the indemnification of and maintain liability insurance for its officers, directors, employees and agents;

- (o) Borrow money and assign its right to future income, including the right to receive common expense assessments subject to approval of the purpose of the borrowing by a majority of the vote of the members of the Association;
- (p) Prepare, execute, certify and record amendments to the Declaration and Bylaws on behalf of the Association;
- (q) Exercise any other powers conferred by the Declaration or Bylaws;
- (r) Exercise all other powers that may be exercised in this State by nonprofit corporations;
- (s) Exercise any other powers necessary and proper for the governance and operation of the Association;
- (t) Employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties. All contracts let are to be reviewed by the Board of Directors in consultation with the management firm;
- (u) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Members who are entitled to vote;
- (v) Supervise all officers, agents and employees of this association, and to see that their duties are properly performed;
- (w) Issue, or cause an appropriate officer to issue, upon demand by any person, a certification setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such a payment;
- (x) Procure and maintain adequate liability and hazard insurance on property owned by the Association; and
- (y) Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate.

**SECTION 2. COMMITTEES.** The Board may establish an Architectural Committee for the purpose of establishing and maintaining architectural standards on Planned Community property, as hereinafter provided. Furthermore, the Board may establish such other committees as it deems desirable. The Board shall elect the chairperson of any such committee it establishes.

**SECTION 3. RESERVE FUNDS.** The Board of Directors shall maintain three reserve funds that are separate from the general operating fund used to meet routine monthly expenses in accordance with the annual budget. These three reserve funds may be established and maintained by allocation of a portion of the Lot monthly assessment or by periodic special assessments. The three reserve funds are as follows:

- (a) Road Reserve Fund. The purpose of the Road Reserve Fund is for the Association to have sufficient resources available to pay for major maintenance, repair or replacement of the common element roads within the Planned Community. The Association shall assess Lot Owners uniformly (each Lot an equal share) for the maintenance of appropriate levels of funds in the Road Reserve Fund.
- (b) Siding Reserve Fund. The purpose of the Siding Reserve Fund is for the Association to have sufficient resources available to pay for major maintenance, repair or replacement of the exterior siding on all Living Units in the Planned Community. The Association shall assess Lot Owners based on the size of each Living Unit, acknowledging that there are three different sizes of Living Units, and the determination of the variance in assessment per each size is made by the Board, and the management agent hired by the Board, in their reasonable discretion.
- (c) Roof Reserve Fund. The purpose of the Roof Reserve Fund is for the Association to have sufficient resources available to pay for major maintenance, repair or replacement of the roofs of all buildings containing Living Units in the Planned Community. The Association shall assess Lot Owners based



on the size of each Living Unit, acknowledging that there are three different sizes of Living Units, and the determination of the variance in assessment per each size is made by the Board, and the management agent hired by the Board, in their reasonable discretion. Individual Lot Owners are responsible for all costs to repair, replace and maintain roof coverings for decks, patios and porches.

## **ARTICLE VII OFFICERS**

**SECTION 1. DESIGNATION.** The officers of the Association shall consist of a President, a Secretary, a Treasurer, and such Vice-Presidents, Assistant Secretaries, Assistant Treasurers, and other officers as the Board may from time to time elect. Except for the President, no officer need be a member of the Board.

**SECTION 2. ELECTION OF OFFICERS AND TERM.** The officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board following each annual meeting of the members and shall hold office at the pleasure of the Board of Directors and until a successor is elected. The Association shall publish the names and addresses of all officers within 30 days of their election.

**SECTION 3. RESIGNATION AND REMOVAL OF OFFICERS.** Any officer may be removed from office with or without cause by the Board with a majority vote. Any officer may resign at any time giving written notice to the Board, the president, or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**SECTION 4. VACANCIES.** A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he or she replaces.

**SECTION 5. PRESIDENT.** The President shall be the chief executive officer of the Association and shall preside at all meetings of the Members and of the Board of Directors. The President shall have all the general powers and duties which are incident to the office of the president of a corporation organized under the North Carolina Nonprofit Corporation Act.

**SECTION 6. VICE PRESIDENTS.** The Vice Presidents, if any, in the order of their election, unless otherwise determined by the Board shall act in the President's absence and shall have all powers, duties, and responsibilities provided for the President when so acting.

**SECTION 7. SECRETARY.** The Secretary shall keep the minutes of all meetings of the members and of the Board of Directors and shall have charge of such books and papers as the Board of Directors may direct and shall, in general, perform all duties incident to the office of the secretary of a corporation organized in accordance with North Carolina law.

**SECTION 8. TREASURER.** The Treasurer shall have the responsibility for the Association's funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, for preparing all required financial statements and tax returns, and for the deposit of all monies and other valuable effects in the name of the Association or the managing agent in such depositories as may from time to time be designated by the Board of Directors. Furthermore, the Treasurer shall cause an audit or review of the Association's books to be made as directed by the Board or the Association; keep proper books of account; and

shall prepare an annual budget and statement of income and expenditures to be presented to the membership at its regular annual meetings, and deliver a copy of each to the members.

**SECTION 9. AMENDMENTS TO DECLARATION AND BYLAWS.** The Board of Directors shall prepare and the President shall execute, certify, and record amendments to the Declaration and Bylaws on behalf of the Association. The Secretary shall attest to such execution and certification.

**SECTION 10. LIABILITY OF OFFICERS AND DIRECTORS OF THE ASSOCIATION.** To the fullest extent permitted under applicable law, the officers of the Association, and the members of the Board of Directors, shall not be liable to the Owners for any mistake in judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith. The Owners shall indemnify and hold harmless each of the officers and members of the board against all contractual liability to others arising out of contracts made by the officers and/or Board on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or of these Bylaws. It is intended that the officers and members of the Board shall have no personal liability with respect to any contract made by them on behalf of the Planned Community. It is also intended that the liability of any Owner arising out of any contract made by the officers and/or Board or out of the aforesaid indemnity in favor of the officers and/or members of the Board shall be limited to such proportion of the total liability thereunder as such Owner's property's value bears to all other such values. Every agreement made by the officers or members of the Board or the management agent or by the manager on behalf of the Planned Community shall provide that the officers, members of the Board, management agent or manager, as the case may be, are acting only as agents for the Owners and shall have no personal liability thereunder (except as they may have as an Owner).

## **ARTICLE VIII MISCELLANEOUS**

**SECTION 1. NOTICES.** Unless otherwise provided in the Declaration, the Articles of Incorporation, in these By-Laws, or in the Nonprofit Corporation Act, written notice of each meeting of the Members, annual or special, shall be given by, or at the direction of, the Secretary, not less than fifteen (15) but not more than fifty (50) days before such meeting to each Member, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice, or in any of the following manners: (i) by personal hand delivery; (ii) by facsimile transmission to a fax number supplied by the Owner for notice purposes; (iii) to the e-mail address supplied by the Owner for notice purposes, with proof of transmission and receipt thereof being retained in the minutes of the meeting; (iv) by US Mail or (v) by any other technology or medium permitted under North Carolina law. In the case of written demand of Members representing ten percent (10%) of the total voting power of the Association, written notice of such meeting shall be given not more than thirty (30) days after written demand is delivered to the Association. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting, and shall provide for voting by proxy. If action is proposed to be taken at any meeting for approval for any of the following proposals, the notice shall also state the general nature of the proposal: (a) removing a Director without cause; (b) filling vacancies in the Board of Directors by the Members; or (c) amending the Articles of Incorporation. Meetings shall be held within the Project or at a meeting place within the same county, as close to the Project as possible.

**SECTION 2. SEVERABILITY.** The invalidity of any part of the Declaration or these Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of the Declaration or these Bylaws.

**SECTION 3. CAPTIONS.** The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope of the Declaration or these Bylaws or the intent of any provision thereof.

**SECTION 4. FISCAL YEAR.** The fiscal year of the Association shall begin on the first day of July and end on the 30<sup>th</sup> day of June the following year.

**SECTION 5. AUDIT.** An audit or review of the accounts of the Association shall be required by an affirmative vote by a majority of the Board or by the affirmative vote of a majority of the Lot Owners present and voting in person or by proxy at any annual meeting or any special meeting duly called for that purpose. The results of any audit or review shall be communicated to each of the members. However, after having received the Board's audit or review at the annual meeting, the Owners may, by a majority of the total Association vote, require that the accounts of the Association be audited as a common expense by an independent accountant.

**SECTION 6. CONFLICTS.** In the event of conflicts between the North Carolina Planned Community Act, the Declaration, these Bylaws, and Rules and Regulations, the Planned Community Act, the Declaration, the Bylaws and Rules and Regulations shall control, in that order.

**SECTION 7. BOOKS AND RECORDS.** The books, records, and papers of the Association shall at all times during regular business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation, and the Bylaws of the Association shall be available for inspection by any member at the office of the managing agent, where copies may be purchased at a reasonable cost. All Association records shall be kept and made available in accordance with the terms of Section 47F-3-118 of the Act.

**SECTION 8. AMENDMENT.** These Bylaws may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the Members holding a majority of the total votes entitled to be cast on the amendment. Notice of any meeting at which an amendment will be considered shall state that fact and the subject matter of the proposed amendment.

---

**CERTIFICATION**

I, the undersigned, do hereby certify:

That I am the duly elected and acting President of the SOUTHSIDE VILLAGE ASSOCIATION, INC., a North Carolina corporation, and

THAT the foregoing Bylaws constitute the Bylaws of said Association, as revised, approved, and duly adopted at a meeting of the Association held on the 25<sup>th</sup> day of APRIL, 2022.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association, this 25<sup>th</sup> day of APRIL, 2022.

By: *Christine M Marx*  
CHRISTINE M MARX President

(Corporate Seal)

Attest: *William B Cosentino*  
William B Cosentino Secretary



STATE OF NORTH CAROLINA

COUNTY OF BUNCOMBE

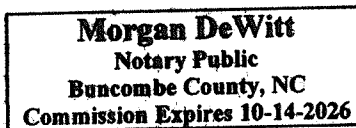
I, a Notary Public of said State and County, certify that Christine Marx; William Cosentino personally came before me this day and (I have personal knowledge of the identity of the principal) (having produced satisfactory evidence of the principal's identity, by a current state or federal identification with his/her photograph in the form of a DRIVERS license) (a credible witness has sworn to the identity of the principal) and acknowledged that he or she is Secretary of Southside Village Association, Inc. a North Carolina non-profit corporation, and that, by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Christine Marx President, sealed with its corporate seal, and attested by himself or herself as its William Cosentino Secretary.

WITNESS my hand and Notarial Seal, this 25<sup>th</sup> day of April, 2022.

*Morgan DeWitt*  
Morgan DeWitt NOTARY PUBLIC  
(typed/printed name of Notary)

My Commission Expires:

10-14-2026



**EXHIBIT "C"**

**OWNERS APPROVING AMENDMENT BY VOTE OR CONSENT**

<b><u>Lot Number</u></b>	<b><u>Name</u></b>	<b><u>Lot Number</u></b>	<b><u>Name</u></b>
1	David and Jeanne Lewter	38	Rickie Mason/Paul Clements
3	David and Tammy Bradley	41	William and Judy LaMee
5	Mary Ann and Joseph Sferruzza	43	Janice Orson
6	Herbert and Elke Buder	44	Christine Marx and Martin Conlon
9	Francine King	45	Bryant-Hacker Revocable Trust
10	Steve and Lynn Gast	47	Michael and Vickie Sexton
11	Kathy Hoyle	48	Craig and Patti Hersch
12	Ron and Janet Armstrong	49	John and Barbara Fisher
13	Aubert and Carole Valentine	50	Donald and Cheryl Brickner
14	Hugh & Judith McWilliams	51	Karen Klein
15	Benjamin Hall and George O'Neal	52	David Bennert
16	Charles Thomas Butler and Marilyn Laufer		
17	Russell Benton and Kayce Shaeffer	53	Tom and Linda Fisler
18	Gloria Leader	54	Jeffrey and Anne Hague
19	James Buchanan and Kyung Noh	55	Nancy Peterson
20	Corinna Wilson	56	Margaret Graham
22	William & Theresa Mance	57	Sandra C Gamber
23	Laura Carson	58	Rita Whaley
24	Amy K. Schmitz	59	Kristina Krider
25	Ronald Phillips	60	Treva Johnson
27	Karen Alstadt	62	Edward Joffe
30	Gerald and Michael Ann Argall	63	William Blanks
31	Steve Gustafson and Rebecca Hayes	64	Lynn Hajj and Mary Dooley
32	William Costenbader	65	Brad Semma and Dawn Newell
33	Aron and Frances Brumm	66	Greg and Elise Couch
34	Monks Family Trust	67	Pauline Waldburger
35	Robert Campbell	69	Wm. John and Sarah Lordeon
36	Neil and Cynthia Garraway	70	Thomas and Therese Figura
37	Joseph and Karen Schneider	73	Steve and Danelle Springer