

Register of Deeds

**Tammy L. Brunner
Wake County, NC**

01/14/2026 04:02:44 PM

B: 020119 P: 01788 Pages: 68

Recording Fee: \$238.00

DOCUMENT # 2026004353



**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
For
WHITE OAK TOWNHOMES**

Prepared by and upon
recording, please return to:

Jeanette T. Peace
1624 White Oak Church Road
Apex, NC 27523

TABLE OF CONTENTS

	<u>Page</u>
PART ONE: INTRODUCTION TO THE COMMUNITY	1
ARTICLE I CREATION OF THE COMMUNITY	1
1.1 Purpose and Intent	1
1.2 Binding Effect	1
1.3 Governing Documents	1
ARTICLE II CONCEPTS AND DEFINITIONS	2
PART TWO: CREATION AND MAINTENANCE OF COMMUNITY	
STANDARDS	4
ARTICLE III USE AND CONDUCT	4
3.1 Framework for Regulation	4
3.2 Rule Making Authority	5
3.3 Owners' Acknowledgment and Notice to Purchasers	5
3.4 Protection of Owners and Others	5
ARTICLE IV ARCHITECTURE AND LANDSCAPING	6
4.1 General	6
4.2 Architectural Review	7
4.3 Guidelines and Procedures	8
4.4 No Waiver of Future Approvals	10
4.5 Variances	10
4.6 Limitation of Liability	10
4.7 Certificate of Compliance	11
ARTICLE V MAINTENANCE AND REPAIR	11
5.1 Maintenance of Units	11

5.2 Responsibility for Repair and Replacement	11
5.3 Party Walls	12
PART THREE: COMMUNITY GOVERNANCE AND ADMINISTRATION	
ARTICLE VI THE ASSOCIATION AND ITS MEMBERS	
6.1 Function of Association	12
6.2 Membership	12
6.3 Voting	13
ARTICLE VII ASSOCIATION POWERS AND RESPONSIBILITIES	13
7.1 Acceptance and Control of Association Property	13
7.2 Maintenance of Area of Common Responsibility	13
7.3 Insurance	16
7.4 Management	19
7.5 Compliance and Enforcement	19
7.6 Implied Rights; Board Authority	20
7.7 Indemnification of Officers, Directors and Others	21
7.8 Security	21
7.9 Provision of Services	21
ARTICLE VIII ASSOCIATION FINANCES	22
8.1 Budgeting and Allocating Common Expenses	22
8.2 Budgeting for Reserves	23
8.3 Special Assessments	23
8.4 Specific Assessments	23
8.5 Authority to Assess Owners; Time of Payment	23
8.6 Personal Obligation	24
8.7 Lien for Assessments	25

8.8 Exempt Property	25
8.9 Limitations on Increases in Base Assessments	25
PART FOUR: COMMUNITY DEVELOPMENT	26
ARTICLE IX ADDITIONAL COVENANTS	26
9.1 Additional Covenants and Easements	26
ARTICLE X ADDITIONAL RIGHTS RESERVED TO DECLARANT	26
10.1 Withdrawal of Property	26
10.2 Marketing and Sales Activities	26
10.3 Right to Develop	27
10.4 Right to Approve Additional Covenants	27
10.5 Right to Approve Changes in Community Standards	27
10.6 Right to Transfer or Assign Declarant Rights	27
10.7 Exclusive Rights to Use Name of Development	27
10.8 Termination of Rights	28
PART FIVE: PROPERTY RIGHTS WITHIN THE COMMUNITY	28
ARTICLE XI EASEMENTS	28
11.1 Easements in Common Area	28
11.2 Easements of Encroachment	29
11.3 Easements for Utilities, Etc	29
11.4 Easements for Maintenance, Emergency and Enforcement	30
PART SIX: RELATIONSHIPS WITHIN AND OUTSIDE THE COMMUNITY	30
ARTICLE XII DISPUTE RESOLUTION AND LIMITATION ON LITIGATION	30
12.1 Consensus for Association Litigation	30
12.2 Alternative Method for Resolving Disputes	30
12.3 Claims	30

12.4 Mandatory Procedures	31
12.5 Allocation of Costs of Resolving Claims	33
12.6 Enforcement of Resolution	33
ARTICLE XIII MORTGAGEE PROVISIONS	33
13.1 Notices of Action	33
13.2 No Priority	34
13.3 Notice to Association	34
13.4 Failure of Mortgagee to Respond	34
13.5 HUD/VA Approval	34
PART SEVEN: CHANGES IN THE COMMUNITY	35
ARTICLE XIV CHANGES IN OWNERSHIP OF UNITS	35
ARTICLE XV CHANGES IN COMMON AREA	35
15.1 Condemnation	35
15.2 Partition	35
15.3 Transfer or Dedication of Common Area	35
15.4 Actions Requiring Owner Approval	36
ARTICLE XVI AMENDMENT OF DECLARATION	36
16.1 By Declarant	36
16.2 By Members	36
16.3 Validity and Effective Date	37
16.4 Exhibits	37

TABLE OF EXHIBITS

<u>Exhibit</u>	<u>Subject Matter</u>	<u>Page No.</u>
A	Legal Description of Land	Exhibits 1
B	Initial Use Restrictions and Rules	Exhibits 2
C	Rules of Arbitration	Exhibits 7
D	By-Laws of White Oak Townhomes Community Association	Exhibits 9

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS is made this ____ day of ____, 2025, by White Oak Foundation, a North Carolina non-profit corporation (“**Declarant**”).

PART ONE: INTRODUCTION TO THE COMMUNITY

ARTICLE I CREATION OF THE COMMUNITY

1.1 Purpose and Intent.

Pursuant to North Carolina Planned Community Act (N.C.G.S. Chapter 47F), Declarant, as the owner of the real property described on Exhibit A, or if not the owner, with the consent of such owner, intends by the recording of this Declaration to create a general plan of development for the planned community known as White Oak Townhomes (“**White Oak Townhomes**”). This Declaration provides for the overall development, administration, maintenance and preservation of the real property now and hereafter comprising White Oak Townhomes. An integral part of the development plan is the creation of the White Oak Townhomes Community Association (“**Association**”), a nonprofit, incorporated association which will be delegated the duties and powers needed to efficiently preserve, protect, and enhance the values of the real property, to insure the residents’ enjoyment of the specific rights, privileges and common areas, and to provide for the maintenance and upkeep of the common areas, and the lawn and landscaping surrounding each dwelling. The duties of the Association, comprised of all owners and their designees of residential property in White Oak Townhomes, shall include the administration and enforcement of this Declaration and the other Governing Documents referred to in this Declaration.

1.2 Binding Effect.

All property described in Exhibit A shall be owned, conveyed and used subject to all the provisions of this Declaration, which shall run with the title to such property. This Declaration shall be binding upon all Persons having any right, title, or interest in any portion of the Properties, their heirs, successors, successors-in-title, and assigns.

(a) This Declaration shall be enforceable by Declarant, the Association, any Owner, and their respective legal representatives, heirs, successors, and assigns, perpetually, from the date this Declaration is Recorded in the Public Records. Nothing in this Section shall be construed to permit termination of any easement right, or interest created in this Declaration in favor of Declarant or other third party without the consent of the holder of such easement, right, or interest.

1.3 Governing Documents.

(a) The Governing Documents create a general plan of development for White Oak Townhomes which may be supplemented by additional covenants, restrictions and

easements. In the event of a conflict between or among the Governing Documents and any such additional covenants or restrictions, and/or the provisions of any other articles of incorporation, bylaws, rules or policies, the Governing Documents shall control. Nothing in this Section shall preclude any Supplemental Declaration or other Recorded covenants applicable to any portion of the Properties from containing additional restrictions or provisions which are more restrictive than the provisions of this Declaration.

(b) All provisions of the Governing Documents shall apply to all Owners and to all occupants of their Units, as well as their respective tenants, guests and invitees. Any lease on a Unit shall provide that the lessee and all occupants of the leased Unit shall be bound by the terms of the Governing Documents.

(c) If any provision of this Declaration is determined by judgment or court order to be invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or applications.

ARTICLE II

CONCEPTS AND DEFINITIONS

The terms used in the Governing Documents shall generally be given their natural, commonly accepted definitions unless otherwise specified. Capitalized terms shall be defined as set forth below.

“Area of Common Responsibility”: The Common Area, together with such other areas, if any, for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration, resolution of the Board, Covenant to Share Costs, or any other contracts or agreements.

“Association”: White Oak Townhomes Community Association, a North Carolina nonprofit corporation, organized pursuant to N. C. G. S. 47F-3-101 and 55A-2-02, and its successors or assigns.

“Base Assessment”: Assessments levied on all Units subject to assessment under Article VIII to fund Common Expenses for the general benefit of all Units, as determined in accordance with Section 8.1.

“Board of Directors” or **“Board”**: The body responsible for administration of the Association, selected as provided in the By-Laws and generally serving the same role as the board of directors of a nonprofit corporation under North Carolina corporate law.

“Bylaws”: The bylaws of White Oak Townhomes Community Association, as they may be amended. A copy of the initial By-Laws is attached to this Declaration as Exhibit D.

“Common Area”: All real and personal property, including easements, which the Association owns, leases or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners and such other Persons as may be designated by the Board.

“Common Expenses”: The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners.

“Community-Wide Standard”: The standard of conduct, maintenance, or other activity generally prevailing at White Oak Townhomes, or the minimum standards established pursuant to the Design Guidelines, Restrictions and Rules, and Board resolutions, whichever is a highest standard. Declarant shall establish initially such standard and it may contain both objective and subjective elements. The Community-Wide Standard may evolve as development progresses and as the needs and desires within White Oak Townhomes change.

“Covenant to Share Costs”: A Recorded Declaration of Easements and Covenant to Share Costs which creates certain easements for the benefit of the Association and the present and future owners of the subject real property. It obligates the Association and such owners to share the costs of maintaining property described in the Covenant to Share Costs.

“Declarant”: White Oak Foundation, Inc., a North Carolina nonprofit corporation, or any member or manager thereof designated to act on behalf of such corporation, as well as any successor or assign who takes title to any portion of the property described on Exhibit A or for the purpose of development and/or sale and who is designated as Declarant in a Recorded instrument executed by the immediately preceding Declarant.

“Design Guidelines”: The architectural, design and construction guidelines and review procedures adopted pursuant to Article IV, as they may be amended.

“Governing Documents”: A collective term referring to this Declaration and any applicable Supplemental Declaration, the By-Laws, the Articles, the Design Guidelines, and the Use Restrictions and Rules, as they may be amended.

“Master Plan”: The land use plan for the development of White Oak Townhomes prepared by WithersRavenel and approved by the Town of Cary, North Carolina, which includes all of the property described on Exhibit A.

“Member”: An individual, corporation, partnership, limited liability company, association, trustee, or other legal entity subject to membership in the Association pursuant to Section 6.2.

“Mortgage”: A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Unit. A **“Mortgagee”** shall refer to a beneficiary or holder of a Mortgage.

“Nonprofit Corporation Act”: The North Carolina Nonprofit Corporation Act, codified in North Carolina General Statutes Chapter 55A, as the same may be amended.

“Owner”: One or more Persons who hold the record title to any Unit but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a recorded contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner.

“Person”: A natural person, a corporation, a partnership, a trustee, or any other legal entity.

“Planned Community Act”: The North Carolina Planned Community Act, codified in North Carolina General Statutes Chapter 47F, as the same may be amended.

“Properties” or “White Oak Townhomes”: The real property described on Exhibit A.

“Public Records”: The Office of the Register of Deeds of Wake County, North Carolina.

“Record,” “Recording,” or “Recorded”: The filing of a legal instrument in the Public Records, or such other place as may be designated as the official location for recording deeds, plats, and similar documents affecting title to real estate.

“Special Assessment”: Assessments levied in accordance with Section 8.3.

“Specific Assessment”: Assessments levied in accordance with Section 8.4.

“Supplemental Declaration”: An instrument Recorded in the Public Records pursuant to Article IX which subjects additional property to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on the land described in such instrument.

“Unit”: A Townhome, which may be independently owned and is intended for use and occupancy as a residence for a single family. The term shall refer to the land, if any, which is part of the Unit as well as any improvements thereon.

“Use Restrictions and Rules”: The initial use restrictions and rules set forth on Exhibit B as they may be supplemented, modified and repealed pursuant to Article III.

PART TWO: CREATION AND MAINTENANCE OF COMMUNITY STANDARDS

ARTICLE III

USE AND CONDUCT

3.1 Framework for Regulation.

The Governing Documents establish, as part of the general plan of development for the Properties, a framework of affirmative and negative covenants, easements and restrictions which govern the Properties. However, within that framework, the Board and the Members must have the ability to respond to unforeseen problems and changes in circumstances, desires, trends and technology which inevitably will affect White Oak Townhomes, its Owners, tenants, and

residents. Toward that end, this Article establishes procedures for modifying and expanding the initial Use Restrictions and Rules set forth on Exhibit B.

3.2 Rule Making Authority.

(a) Subject to the terms of this Article and the Board's duty to exercise business judgment and reasonableness on behalf of the Association and its Members, the Board may modify, cancel, limit, create exceptions to, or expand the Use Restrictions and Rules. The Board shall provide notice to Owners, by mail, by posting, or by any other reasonable method of broadcast or publication designed to notify Owners of any such proposed action at least five business days prior to the Board meeting at which such action is to be considered. Such action shall become effective after compliance with this subsection if approved by more than 67% of the members.

(b) Alternatively, the Members, at an Association meeting duly called for such purpose, may adopt rules which modify, cancel, limit, create exceptions to, or expand the Use Restrictions and Rules by a vote of Members representing more than 67% of the total votes in the Association.

(c) At least 30 days prior to the effective date of any action taken under subsections 3.2(a) or 3.2(b), the Board shall send a copy of the new rule or explanation of any changes to the Use Restrictions and Rules to each Owner specifying the effective date. The Association shall provide, without cost, a copy of the Use Restrictions and Rules then in effect to any requesting Member or Mortgagee.

3.3 Owners' Acknowledgment and Notice to Purchasers.

All Owners are given notice that use of their Units and the Common Area is limited by the Use Restrictions and Rules as they may be amended, expanded and otherwise modified hereunder. Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of his or her Unit can be affected by this provision and that the Use Restrictions and Rules may change from time to time. All purchasers of Units are on notice that changes may have been adopted by the Association. Copies of the current Use Restrictions and Rules may be obtained from the Association.

3.4 Protection of Owners and Others.

No rule shall be adopted in violation of the following provisions, except as may be specifically set forth in this Declaration (either initially or by amendment) or in the initial Use Restrictions and Rules set forth on Exhibit B:

(a) Equal Treatment. Similarly situated Owners shall be treated similarly.

(b) Signs and Displays. The rights of Owners to display religious and holiday signs, symbols, and decorations inside structures on their Units of the kinds normally displayed in dwellings located in single-family residential neighborhoods shall not be abridged, except that

the Association may adopt time, place, and manner restrictions with respect to displays visible from outside the dwelling. No rules shall regulate the content of political signs; however, rules may regulate the time, place and manner of posting such signs (including design criteria).

(c) Household Composition. Occupancy of each Unit shall be limited to a single family or, in the alternative, that number of unrelated persons equal to the number of bedrooms in the Unit plus one additional person. For purposes of this subsection 3.4(c), “**occupancy**” means staying overnight in a Unit for a total of more than 30 days, either consecutive or nonconsecutive, in any calendar year. “**Single family**” means any number of persons, all of whom are interrelated by blood, adoption, or marriage, and no more than one additional person who is not so related. The phrase “**by blood**” shall be deemed to encompass only children, grandchildren, grandparents, brothers, sisters, nieces, nephews, parents, aunts, uncles, and first cousins, and no other degree of kinship.

(d) Activities Within Dwellings. No rule shall interfere with the activities carried on within the confines of dwellings, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Units, that generate excessive noise or traffic, that create unsightly conditions visible outside the dwelling, or that create an unreasonable source of annoyance.

(e) Alienation. No rule shall prohibit leasing or transfer of any Unit, or require consent of the Association or Board for leasing or transfer of any Unit; *provided, however*, the Association or the Board may require a minimum lease term of up to 12 months. The Association may require that Owners use lease forms approved by the Association but shall not impose any fee on the lease or transfer of any Unit.

The limitations in subsections 3.4 shall only limit rulemaking authority exercised under Section 3.2; they shall not apply to amendments to this Declaration adopted in accordance with Article XVII.

ARTICLE IV

ARCHITECTURE AND LANDSCAPING

4.1 General.

(a) No structure or thing shall be placed, erected, installed or posted on the Properties and no improvements or other work (including staking, clearing, excavation, grading and other site work, exterior alterations of existing improvements, or planting or removal of landscaping) shall take place within the Properties, except in compliance with this Article and the Governing Documents.

(b) No approval shall be required to repaint the exterior of a structure in

accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications. Any Owner may remodel, paint or redecorate the interior of his or her Unit without approval. However, modifications to the interior of screened porches, patios, and similar portions of a Unit visible from outside the structure shall be subject to approval.

(c) All dwellings constructed on any portion of the Properties shall be designed by and built in accordance with the plans and specifications of a licensed architect or licensed building designer unless otherwise approved by Declarant or its designee in its sole discretion.

(d) This Article shall not apply to the activities of Declarant or any member or affiliate of Declarant.

4.2 Architectural Review.

(a) By Declarant.

Declarant shall have sole authority to review and approve activity within the scope of this Article. Each Owner, by accepting a deed or other instrument conveying any interest in any portion of the Properties, acknowledges that, as the developer of the Properties, Declarant has a substantial interest in ensuring that the improvements within the Properties preserve and promote the desirability of White Oak Townhomes and do not impair Declarant's ability to market, sell, or lease its property. Therefore, each Owner agrees that no activity within the scope of this Article ("**Work**") shall be commenced on such Owner's Unit unless and until Declarant or its designee has given its prior written approval for such Work, which approval may be granted or withheld in the sole discretion of Declarant or its designee.

(i) In reviewing and acting upon any request for approval, Declarant or its designee shall be acting solely in the interest of Declarant and shall owe no duty to any other Person. The rights reserved to Declarant under this Article shall continue so long as Declarant owns any portion of the property described in Exhibit A.

Declarant may, in its sole discretion, designate one or more Persons from time to time to act on its behalf in reviewing applications hereunder.

(ii) Declarant may from time to time, but shall not be obligated to, delegate all or a portion of its reserved rights under this Article to (A) an architectural review board ("**ARB**"), appointed by the Association's Board of Directors, or (B) a committee comprised of architects, engineers or other persons who may or may not be Members of the Association. Any such delegation shall be in writing, specifying the scope of responsibilities delegated, and shall be subject to (I) the right of Declarant to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated, and (II) the right of Declarant to veto any decision which Declarant determines, in its sole discretion, to be inappropriate or inadvisable for any reason. So long as Declarant has any rights under this Article, the jurisdiction of the foregoing entities shall be limited to such matters as are specifically delegated to it by Declarant.

(b) Architectural Review Committee.

(i) Upon delegation by Declarant or upon expiration or termination of Declarant's rights under this Article, the Association, acting through the ARB, shall assume jurisdiction over architectural matters hereunder. The ARB, when appointed, shall consist of at least three, but not more than seven, persons who shall serve and may be removed and replaced in the Board's discretion. The members of the ARB need not be Members of the Association or representatives of Members, and may, but need not, include architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the Board.

(ii) Unless and until such time as Declarant delegates all or a portion of its reserved rights to the ARB or Declarant's rights under this Article terminate, the Association shall have no jurisdiction over architectural matters.

(c) Fees; Assistance. For purposes of this Article, the entity having jurisdiction in a particular case shall be referred to as the "**Reviewer.**" The Reviewer may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers or other professionals. Declarant and the Association may employ architects, engineers, or other persons as deemed necessary to perform the review. The Board may include the compensation of such persons in the Association's annual operating budget as a Common Expense.

4.3 Guidelines and Procedures.

(a) Design Guidelines.

(i) Declarant will prepare the initial Design Guidelines, which may contain general provisions applicable to the entire Properties. The Design Guidelines are intended to provide guidance to Owners and Builders regarding matters of particular concern to the Reviewer in considering applications hereunder. The Design Guidelines are not the exclusive basis for decisions of the Reviewer and compliance with the Design Guidelines does not guarantee approval of any application.

(ii) Declarant shall have sole and full authority to amend the Design Guidelines as long as it owns any portion of the Properties. Upon termination or delegation of Declarant's right to amend, the ARB shall have the authority to amend the Design Guidelines with the consent of the Board. Any amendments to the Design Guidelines shall be prospective only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Design Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Design Guidelines less restrictive.

(iii) The Reviewer shall make the Design Guidelines available to Owners and Builders who seek to engage in development or construction within the Properties. In Declarant's discretion, such Design Guidelines may be recorded in the Public Records, in which

event the recorded version, as it may unilaterally be amended from time to time, shall control in the event of any dispute as to which version of the Design Guidelines was in effect at any particular time.

(b) Procedures.

(i) Prior to commencing any Work within the scope of this Article, an Owner shall submit to the appropriate Reviewer an application for approval of the proposed Work in such form as the Design Guidelines or the Reviewer may specify. Such application shall include plans and specifications (“**Plans**”) showing site layout, structural design, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, irrigation, and other features of proposed construction, as applicable. The Design Guidelines and the Reviewer may require the submission of such additional information as may be reasonably necessary to consider any application. The Reviewer may, in its sole discretion, designate one or more days per month when applications, Plans and information will be accepted for consideration.

(ii) In reviewing each submission, the Reviewer may consider any factors it deems relevant, including, without limitation, harmony of external design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements.

(iii) The Reviewer shall, within 45 days after receipt of a completed application and all required information, respond in writing to the applicant at the address specified in the application. The response may (A) approve the application, with or without conditions; (B) approve a portion of the application and disapprove other portions; or (C) disapprove the application. The Reviewer may, but shall not be obligated to, specify the reasons for any objections and/or offer suggestions for curing any objections.

(iv) If the Reviewer fails to respond in a timely manner, approval shall be deemed to have been given, subject to Declarant’s right to veto approval by the ARB pursuant to this section. However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Design Guidelines unless a variance has been granted pursuant to Section 4.5. Notice shall be deemed to have been given at the time the envelope containing the response is deposited with the U. S. Postal Service. Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery to the applicant.

(v) Until expiration of Declarant’s rights under this Article, the ARB shall notify Declarant in writing within five days after the ARB has approved any application relating to proposed Work within the scope of matters delegated to the ARB by Declarant. The notice shall be accompanied by a copy of the application and any additional information which

Declarant may require. Declarant shall have 10 days after receipt of such notice to veto any such action, in its sole discretion, by written notice to the ARB and the applicant.

(vi) If construction does not commence on a project for which plans have been approved within one year after the date of approval, such approval shall be deemed withdrawn and it shall be necessary for the Owner to reapply for approval before commencing the proposed Work. Once construction is commenced, it shall be diligently pursued to completion. All Work shall be completed within one year of commencement unless otherwise specified in the notice of approval or unless the Reviewer grants an extension in writing, which it shall not be obligated to do. If approved Work is not completed within the required time, it shall be considered nonconforming and shall be subject to enforcement action by the Association, Declarant or any aggrieved Owner.

(vii) The Reviewer may, by resolution, exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution.

4.4 No Waiver of Future Approvals.

Each Owner acknowledges that the person reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Design Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features of proposed Work until the Work is completed, in which case it may be unreasonable to require changes to the improvements involved, but the reviewer may refuse to approve similar proposals in the future. Approval of applications or Plans for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar applications, Plans, or other matters subsequently or additionally submitted for approval.

4.5 Variances.

The Reviewer may authorize variances from compliance with any of its guidelines and procedures when circumstances require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) estop the Reviewer from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

4.6 Limitation of Liability.

The standards and procedures established by this Article are intended as a mechanism for Maintaining and enhancing the overall aesthetics of the Properties but shall not create any duty to any Person. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and the Reviewer shall not bear any responsibility for ensuring

the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all dwelling are of comparable quality, value or size or of similar design. Neither Declarant, the Association, the Board, any committee, or member of any of the foregoing shall be held liable for soil conditions, drainage or other general site work, nor for any defects in plans revised or approved hereunder, nor for any injury, damage, or loss arising out of the manner or quality of approved construction or modifications to any Unit. In all matters, the ARB and all persons comprising the ARB shall be defended and indemnified by the Association as provided in Section 7.7.

4.7 Certificate of Compliance.

Any Owner may request that the Reviewer issue a certificate of architectural compliance certifying that there are no known violations of this Article or the Design Guidelines. The Association shall either grant or deny such request within 30 days after receipt of a written request and may charge a reasonable administrative fee for issuing such certificates. Issuance of such a certificate shall estop the Association from taking enforcement action with respect to any condition as to which the Association had notice as of the date of such certificate.

ARTICLE V

MAINTENANCE AND REPAIR

5.1 Maintenance of Units.

Each Owner shall maintain his or her Unit and all landscaping and improvements comprising the Unit in a manner consistent with the Governing Documents, the Communitywide Standard and all applicable covenants, unless such maintenance responsibility is otherwise assumed by or assigned to the Association pursuant to Article VIII, any Supplemental Declaration or other declaration of covenants applicable to such Unit. This shall include, but not be limited to, the obligation to maintain all Common Area, easement areas, and swales adjacent to such Owner's Unit up to the edge of any pavement, curb, water's edge, or open space; *provided, however*, there shall be no right to remove trees, shrubs or similar vegetation from this area without prior approval of the Board.

5.2 Responsibility for Repair and Replacement.

(a) Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement, as necessary to maintain the property to a level consistent with the Community-Wide Standard. By virtue of taking title to a Unit, each Owner covenants and agrees with all other Owners and with the Association to carry property insurance for the full replacement cost of all insurable improvements on his or her Unit, less a reasonable deductible. If the Association assumes responsibility for obtaining any insurance coverage on behalf of Owners, the premiums for such insurance shall be levied as a Specific Assessment against the benefited Unit and the Owner.

(b) Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising his Unit, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article IV. The Owner shall pay any costs which are not covered by insurance proceeds.

5.3 Party Walls.

(a) Each wall which is built as a part of the original construction of the Townhomes upon the property and placed on the dividing line between Townhome Lots shall constitute a party wall 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. The cost of reasonable repair and maintenance of a party wall shall be shared equally by the Owners of the two (2) adjoining townhomes utilizing said wall. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and the Owner of the other Townhome adjoining such wall shall contribute one-half (1/2) of the cost of restoration thereof, without prejudice to the right of any such Owner to call for a larger contribution from the other owner under any rule of law regarding liability for negligent or willful acts or omissions. Notwithstanding any other provision of this Article, an Owner who, by his negligent or willful act or omission, causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protections against such elements. The right of any Owner to contribution from any other owner under this Article shall be appurtenant to the Lot and shall pass to such Owner's successors-in-title.

PART THREE: COMMUNITY GOVERNANCE AND ADMINISTRATION

ARTICLE VI

THE ASSOCIATION AND ITS MEMBERS

6.1 Function of Association.

The Association shall be the entity responsible for management, maintenance, operation and control of the Common Areas. The Association also shall be the primary entity responsible for enforcement of the Governing Documents. The Association shall perform its functions in accordance with the Governing Documents and the laws of the State of North Carolina.

6.2 Membership.

The Declarant and every Unit Owner shall be Members of the Association. There shall be only one membership per Unit. If a Unit is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in subsection 6.3(b) and in the Bylaws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner which is not a natural person may be exercised by any officer,

director, partner or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

6.3 Voting.

- (a) Membership in the Association and the voting rights of the membership shall be appurtenant to the ownership of the units. Members shall be all Owners. Each Member shall have one equal vote for each Unit in which they hold interest, except that there shall be only one vote per Unit. Except as otherwise specified in this Declaration or the By-Laws, the vote for each Unit shall be exercised by that Owner.
- (b) No vote shall be exercised for any property which is exempt from assessment. Owners may designate a bona fide Tenant of a Unit to vote as long as there is only one vote per Unit.
- (c) In any situation where a Member is entitled personally to exercise the vote for his or her Unit, and there is more than one Owner of such Unit, or more than one Tenant, the vote for such Unit shall be exercised as the co-Owners must determine among themselves and advise the Secretary of the Association, in writing, prior to the vote being taken. Absent such advice, the Unit's vote shall be suspended if more than one Person attempts to exercise it.

ARTICLE VII

ASSOCIATION POWERS AND RESPONSIBILITIES

7.1 Acceptance and Control of Association Property.

- (a) Declarant and its designees may convey to the Association personal property and fee title, leasehold or other property interests in any real property, improved or unimproved, described on Exhibit A. The Association shall accept and maintain such property at its expense for the benefit of its Members, subject to any restrictions set forth in the deed or other instrument transferring such property to the Association. Upon written request of Declarant, the Association shall reconvey to Declarant any unimproved portions of the Properties originally conveyed by Declarant to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to make minor adjustments in property lines.

7.2 Maintenance by the Association.

- (a) Unless otherwise assigned to a Unit, the Association shall maintain, in accordance with the Community-Wide Standard, the Area of Common Responsibility, which may include, but need not be limited to:
 - (i) all portions of and structures situated upon the Common Area;

- (ii) landscaping within public rights-of-way within or abutting the Properties;
 - (iii) such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, the Covenant to Share Costs, or any contract or agreement for maintenance thereof entered into by the Association;
 - (iv) all swales, berms, ponds, streams, and/or wetlands located within the Properties which serve as part of the stormwater drainage system for the Properties, including improvements and equipment installed therein or used in connection therewith; and
 - (v) any property and facilities owned by Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members, such property and facilities to be identified by written notice from Declarant to the Association and to remain a part of the Area of Common Responsibility and be maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association.
 - (vi) landscaped common areas; underground utilities serving the Units that are located outside the Unit's boundaries; the mail kiosk, and the roofing for all units.
- (b) The Association may maintain other property which it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.
- (c) The Association shall not be liable for any damage or injury occurring on, or arising out of the condition of, property which it does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.
- (d) The Association shall maintain the facilities and equipment within the Area of Common Responsibility in continuous operation, except for any periods necessary, as determined in the sole discretion of the Board, to perform required maintenance or repairs, unless 75% of the Members in the Association vote and agree in writing to discontinue such operation. Except as provided above, the Area of Common Responsibility shall not be reduced by amendment of this Declaration or any other means except with the prior written approval of Declarant if Declarant owns any property described on Exhibit A of this Declaration.
- (e) The costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense; *provided, however*, the Association may seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, the

Covenant to Share Costs, other recorded covenants, or agreements with the owner(s) thereof.

- (f) The Association shall provide lawn and landscaping maintenance with respect to each Unit within the Townhome Neighborhood which shall include mowing, blowing, edging, fertilizing, application of weed treatment on the turf portions of the lawn and the installation of mulch and/or pine needles in plant beds. Declarant and the Association, acting through the Board, may adopt rules and regulations requiring the removal of property, animals, and other possible obstructions from the Unit so that lawn maintenance can be efficiently completed. To the extent areas on any Lot are fully fenced in or are otherwise inaccessible, the Owner of the Lot shall be responsible for maintaining those areas in accordance with the Community Wide Standard as provided in the Governing Documents, at Owner's sole expenses and without any assessment credit or reduction. Owners shall not interfere with, hinder, or in any way seek to instruct or direct the contractor selected by the Association and sent to the Unit to provide lawn maintenance as provided herein. Lawn and landscaping maintenance services provided pursuant to this subsection (a) shall be paid for using Assessments authorized by the Governing Documents.
- (g) The Association may pay the costs to maintain a termite bond on all of the Townhomes but is under no obligation to do so.
- (h) The Association shall maintain, repair, and replace all fencing and retaining walls erected by the Declarant anywhere on the property, including Lots and Common Areas. The costs and expenses incurred by the Association to maintain, repair, and/or replace fencing and retaining walls located in the Community shall be common expenses. Notwithstanding the foregoing, any retaining wall or fencing that is located entirely within the boundaries of a single Lot shall be maintained, repaired, and replaced by the Owner of the Lot on which the wall or fencing is located, and the Association shall have no responsibility for any such wall or fencing.
- (i) The Association shall be responsible for maintaining the improvements and facilities located with storm water and public drainage easements. The Association's repair responsibility under this subsection shall include all pipes, culverts, and catch basins installed on a Lot and with an established easement that serve portions of the Property other than the Lot on which they are located, including any settlement or subsurface collapse that occurs as a result of a failure of any component or improvement which is part of the storm water management or public drainage system.
- (j) The Association shall maintain all sidewalks constructed in the Community, unless and until the responsibility for maintaining the sidewalks is assumed and accepted by a governmental entity or agency. Maintenance and repair of walkways and driveways

located on and intended to serve a single lot shall be the responsibility of the Owner of the Unit.

- (k) The Association shall maintain all roofing for each Unit and shall be responsible for the repair and replacement of each roof. The Association's repair responsibility under this section shall include, but not be limited to, decking repair, underlayment, flashing, vents, shingles, flashing, ridge vents, ridge caps, and replacement/repair of damaged plywood or sheathing as needed. The costs and expenses incurred by the Association shall be paid from the reserve.

7.3 Insurance.

- (a) Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance as a Common Expense, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:
 - (i) Blanket property insurance on the Area of Common Responsibility covering the full replacement cost of all insured improvements under current building ordinances and codes, to the extent that Association has assumed responsibility in the event of a casualty, regardless of ownership;
 - (ii) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, such coverage (including primary and any umbrella coverage) shall have a limit of at least \$1,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage; *provided, however*, should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits;
 - (iii) Workers' compensation insurance and employers' liability insurance, if and to the extent required by law;
 - (iv) Directors' and officers' liability coverage;
 - (v) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's best business judgment but not less than an amount equal to one-sixth of the annual Base Assessments on all Units plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation; and

- (vi) Such additional insurance as the Board, in its best business judgment, determines advisable.

(b) Policy Requirements.

- (i) The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in the Wake County, North Carolina area. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Member insured.
- (ii) The policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of the Governing Documents. In the event of an insured loss, the deductible shall be treated as a Common Expense. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Units as a Specific Assessment.
- (iii) All insurance coverage obtained by the Board shall:
 - (a) be written with a company authorized to do business in the State of North Carolina which satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate; be written in the name of the Association as trustee for the benefited parties. Policies on the Common Areas shall be for the benefit of the Association and its Members;
 - (b) not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;
 - (c) contain an inflation guard endorsement; include an agreed amount endorsement, if the policy contains a co-insurance clause;
 - (d) provide that each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Area or membership in the Association;
 - (e) provide a waiver of subrogation under the policy against any Owner or household member of an Owner;

- (f) include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure; and include an endorsement precluding cancellation, invalidation, or condition to recovery under the policy on account of any act or omission of any one or more individual Owners, unless such Owner is acting within the scope of its authority on behalf of the Association.
- (g) In addition, the Board shall use reasonable efforts to secure insurance policies which list the Owners as additional insureds and provide: a waiver of subrogation as to any claims against the Association's Board, officers, employees, and its manager, the Owners and their tenants, servants, agents, and guests; a waiver of the insurer's rights to repair and reconstruct instead of paying cash; an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause; an endorsement requiring at least 30 days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal; a cross liability provision; and a provision vesting in the Board exclusive authority to adjust losses; *provided, however*, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

(c) Restoring Damaged Improvements.

In the event of damage to or destruction of Common Area or other property which the Association is obligated to insure, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property. Damaged improvements in the Common Area shall be repaired or reconstructed unless Members representing at least 75% of the total units decide, within a reasonable time, after the loss not to repair or reconstruct. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed. If a decision is made not to restore the damaged improvements, and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by the Association for the benefit of its Members, as appropriate, and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit. If

insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, levy Special Assessments to cover the shortfall.

7.4 Management.

The Association, through its Board, may employ a professional management agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board may delegate such powers as are necessary to perform the manager's assigned duties but shall not delegate policymaking authority. Declarant or an affiliate of Declarant may be employed as managing agent or manager.

7.5 Compliance and Enforcement.

Every Owner and occupant of a Unit shall comply with the Governing Documents. The Board may impose sanctions for violation of the Governing Documents after notice and a hearing in accordance with the procedures set forth in the Bylaws. Such sanctions may include, without limitation:

- a. imposing reasonable monetary fines which shall constitute a lien upon the violator's Unit. (In the event that any occupant, guest or invitee of a Unit violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the violator; *provided, however*, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board);
- b. suspending an Owner's right to vote;
- c. suspending any Person's right to use any recreational facilities within the Common Area; *provided, however*, nothing herein shall authorize the Board to limit ingress or egress to or from a Unit;
- d. suspending any services provided by the Association to an Owner or the Owner's Unit if the Owner is more than 30 days delinquent in paying any assessment or other charge owed to the Association;
- e. exercising self-help or taking action to abate any violation of the Governing Documents in a non-emergency situation;
- f. requiring an Owner, at its own expense, to remove any structure or improvement on such Owner's Unit in violation of Article IV and to restore the Unit to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass; without liability to any Person, precluding any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of Article IV and the

Design Guidelines from continuing or performing any further activities in the Properties;

- g. levying Specific Assessments to cover costs incurred by the Association to bring a Unit into compliance with the Governing Documents.
- h. In addition, the Board may take the following enforcement procedures to ensure compliance with the Governing Documents without the necessity of compliance with the procedures set forth in the Bylaws;
- i. exercising self-help in any emergency situation (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations);
- j. suing at law or in equity to enjoin any violation or to recover monetary damages or both.

In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may record a notice of violation in the Public Records or perform such maintenance responsibilities and assess all costs incurred by the Association against the Unit and the Owner as a Specific Assessment.

All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity.

In any action to enforce the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorney's fees and court costs, reasonably incurred in such action.

The Association shall not be obligated to take any action if the Board reasonably determines that the Association's position is not strong enough to justify taking such action. Such a decision shall not be construed as a waiver of the right of the Association to enforce such provision at a later time under other circumstances or estop the Association from enforcing any other covenant, restriction or rule. The Association, by contract or other agreement, may enforce applicable city or county ordinances and permit the Town of Cary or Wake County, North Carolina to enforce ordinances within the Properties for the benefit of the Association and its Members.

7.6 Implied Rights; Board Authority.

The Association may exercise any right or privilege given to it expressly by the Governing Documents or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

7.7 Indemnification of Officers, Directors and Others.

(a) The Association shall indemnify every officer, director, and committee member against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under North Carolina law.

(b) The officers, directors, and committee members shall not be liable for any mistake of judgment, negligence or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment or action, subject to the provisions of Article 8, Part 5, of the Nonprofit Corporation Act. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

7.8 Security.

The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be. Neither the Association nor Declarant shall in any way be considered insurers or guarantors of security within the Properties, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to the Properties, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants and all occupants of its Unit that the Association, its Board and committees, and Declarant are not insurers and that each Person using the Properties assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties.

7.9 Provision of Services.

The Association shall be authorized but not obligated to enter into and terminate, in the Board's discretion, contracts or agreements with other entities, including Declarant, to provide services to and facilities for the Members of the Association and their guests, lessees and invitees and to charge use and consumption fees for such services and facilities. By way of example,

some services and facilities which might be offered include, pest control service, cable television service, security, transportation, fire protection, utilities, and similar services.

ARTICLE VIII ASSOCIATION FINANCES

8.1 Budgeting and Allocating Common Expenses.

(a) At least 60 days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses for the coming year, including any contributions to be made to a reserve fund pursuant to Section 8.2. No proposed budget shall be effective until ratified pursuant to N. C. G. S. Section 47F-3-103(a). The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Units, and the amount to be generated through the levy of Base Assessments and Special Assessments against the Units, as authorized in Section 8.5.

(b) The Association is hereby authorized to levy Base Assessments equally against all Units subject to assessment under Section 8.5 to fund the Common Expenses. In determining the Base Assessment rate per Unit, the Board may consider any assessment income expected to be generated from any additional Units reasonably anticipated to become subject to assessment during the fiscal year.

(c) Declarant may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under Section 8.7, which may be either a contribution, an advance against future assessments due from Declarant, or a loan, in Declarant's discretion. Any such subsidy shall be disclosed as a line item in the income portion of the budget. The payment of such subsidy in any year shall not obligate Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and Declarant.

(d) The Board shall send a summary of the final budget, together with notice of the amount of the Base Assessment to be levied pursuant to such budget, to each Owner at least 30 days prior to the effective date of such budget. The budget shall automatically become effective unless disapproved at a meeting by Members representing at least 75% of the total votes. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the as provided for special meetings in Bylaws, which petition must be presented to the Board within 10 days after delivery of the budget and notice of any assessment.

(e) If any proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

(f) The Board may revise the budget and adjust the Base Assessment from time to time during the year, subject to the notice requirements and the right of the Members to disapprove the revised budget as set forth above.

8.2 Budgeting for Reserves.

The Board shall prepare and review, at least annually, a reserve budget for the Area of Common Responsibility. The budgets shall consider the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall include in the Common Expense budget adopted pursuant to Section 8.1, as appropriate, a capital contribution to fund reserves in an amount sufficient to meet the projected need with respect both to amount and timing by annual contributions over the budget period.

8.3 Special Assessments.

In addition to other authorized assessments, the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment shall be levied against the entire membership. Except as otherwise specifically provided in this Declaration, any Special Assessment shall require the affirmative vote or written consent of more than 50% of the total votes. Special Assessments shall be payable in such manner and at such times as determined by the Board and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

8.4 Specific Assessments.

The Association shall have the power to levy Specific Assessments against a particular Unit as follows:

(a) to cover the costs, including overhead and administrative costs, of providing services to Units upon request of an Owner pursuant to any menu of special services which may be offered by the Association (which might include the items identified in Section 7.9 as well as additional services and facilities provided by or through the Club). Specific Assessments for special services may be levied in advance of the provision of the requested service; and

(b) to cover costs incurred in bringing the Unit into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their agents, contractors, employees, licensees, invitees, or guests; *provided, however*, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing, in accordance with Section 3.24 of the By-Laws, before levying any Specific Assessment under this subsection 8.4(b).

8.5 Authority to Assess Owners; Time of Payment.

(a) Declarant hereby establishes and the Association is hereby authorized to levy assessments as provided for in this Article and elsewhere in the Governing Documents. The obligation to pay assessments shall commence as to each Unit subject to the Declaration: (i) one

year after such Unit 'is conveyed or transferred from Declarant; or (ii) upon the issuance of a certificate of occupancy for the dwelling located on such Unit; which is earlier. The first annual Base Assessment levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

(b) Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of assessments at closing of the transfer of title to a Unit and impose special requirements for Owners with a history of delinquent payment. If the Board chooses, assessments may be paid in two or more installments. Unless the Board otherwise provides, the Base Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his Unit, the Board may require the outstanding balance on all assessments to be paid in full immediately.

8.6 Personal Obligation.

(a) Each Owner, by accepting a deed or entering into a Recorded contract of sale for any portion of the Properties is deemed to covenant and agree to pay all assessments authorized in the Governing Documents. All assessments, together with interest (computed from its due date at a rate of 15% per annum or such higher rate as the Board may establish, subject to the limitations of North Carolina law), late charges as determined by Board resolution, costs, and reasonable attorneys' fees, shall be the personal obligation of each Owner and a lien upon each Unit until paid in full. Upon a transfer of title to a Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance.

(b) Failure of the Board to determine an assessment or to deliver an assessment notice shall not be deemed a waiver or release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

(c) No Owner may exempt himself from liability for assessments by non-use of Common Area or other facilities or services provided to Owners by the Association, abandonment of his/her Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

(d) The Association shall, upon request, furnish to any Owner liable for any type of assessment a certificate in writing signed by an Association officer setting forth whether such assessment has been paid by the Owner. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

8.7 Lien for Assessments.

(a) The Association shall have a lien against each Unit to secure payment of delinquent assessments, as well as interest, late charges (subject to the limitations of North Carolina law), and costs of collection (including attorney's fees). Such lien shall be superior to all other liens, except (i) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (ii) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgment, and judicial or nonjudicial foreclosure.

(b) The Association may bid for the Unit at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Unit. While a Unit is owned by the Association following foreclosure: (i) no right to vote shall be exercised on its behalf; (ii) no assessment shall be levied on it; and (iii) each other Unit shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

(c) The sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. However, the sale or transfer of any Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to the Mortgagee's foreclosure. The subsequent Owner to the foreclosed Unit shall not be personally liable for assessments on such Unit due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment under Section 8.4, including such acquirer, its successors, and assigns.

8.8 Exempt Property.

The following property shall be exempt from payment of Base Assessments and Special Assessments:

(a) All Common Area and such portions of the property owned by Declarant as are included in the Area of Common Responsibility and

(b) Any property dedicated to and accepted by any governmental authority or public utility.

8.9 Limitations on Increases in Base Assessments.

Base Assessments may be increased by a maximum of 10% per year; *provided, however*, there may be no more than four such increases in any five-year period.

PART FOUR: COMMUNITY DEVELOPMENT

ARTICLE IX

ADDITIONAL COVENANTS

9.1 Additional Covenants and Easements.

Declarant may subject any portion of the Properties to additional covenants and easements, including covenants obligating the Association to maintain and insure such property. Such additional covenants and easements may be set forth either in a Supplemental Declaration subjecting such property to this Declaration or in a separate Supplemental Declaration referencing property previously subjected to this Declaration. If the property is owned by someone other than Declarant, then the consent of the Owner(s) shall be necessary and shall be evidenced by their execution of the Supplemental Declaration. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

ARTICLE X

ADDITIONAL RIGHTS RESERVED TO DECLARANT

In addition to any other rights reserved by Declarant, under any other provisions of the Declaration, Declarant reserves the following rights:

10.1 Withdrawal of Property.

Declarant reserves the right to amend this Declaration, so long as such amendment is consistent with the overall, uniform scheme of development for the community. Such amendment shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if not Declarant. If the property is Common Area, the Association shall consent to such withdrawal.

10.2 Marketing and Sales Activities.

Declarant and Builders authorized by Declarant may maintain and carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of Units, including, but not limited to, business offices, signs, model units, and sales offices. Declarant and authorized Builders shall have easements for access to and use of such facilities.

10.3 Right to Develop.

Declarant and its employees, agents and designees shall have a right of access and use and an easement over and upon all of the Common Area for the purpose of making, constructing and installing such improvements to the Common Area as it deems appropriate in its sole discretion. Every Person that acquires any interest in the Properties acknowledges that White Oak Townhomes is a planned community, the development of which is likely to extend over a reasonable period of time, and agrees not to protest, challenge or otherwise object to the Declarant and Builder's access to the Common Areas.

10.4 Right to Approve Additional Covenants.

No Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Properties without Declarant's review and written consent. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed by Declarant and Recorded in the Public Records.

10.5 Right to Approve Changes in Community Standards.

No amendment to or modification of any Use Restrictions and Rules or Design Guidelines shall be effective without prior notice to and the written approval of Declarant so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1.

10.6 Right to Transfer or Assign Declarant Rights.

Any or all of the special rights and obligations of Declarant set forth in this Declaration or the By-Laws may be transferred in whole or in part to other Persons; *provided, however*, the transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration or the By-Laws. No such transfer or assignment shall be effective unless it is in a written instrument signed by Declarant and duly recorded in the Public Records. The foregoing sentence shall not preclude Declarant from permitting other Persons to exercise, on a one time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety, and in such case it shall not be necessary to record any written assignment unless necessary to evidence Declarant's consent to such exercise.

10.7 Exclusive Rights to Use Name of Development.

No Person shall use the name "White Oak Townhomes" or any derivative of such name in any printed or promotional material without Declarant's prior written consent. However, Owners may use the name "White Oak Townhomes" in printed or promotional matter where such term is used solely to specify that particular property is located within White Oak Townhomes and the Association shall be entitled to use the word "White Oak Townhomes" in its name.

10.8 Termination of Rights.

White Oak Townhomes is a planned community under the Act that may be terminated only as set forth in N. C. G. S. Section 47F-2-118. The rights contained in this Article shall not terminate until the earlier of (a) 40 years from the date this Declaration is Recorded in the Public Records, or (b) Recording by Declarant of a written statement that all sales activity has ceased.

PART FIVE: PROPERTY RIGHTS WITHIN THE COMMUNITY

ARTICLE XI

EASEMENTS

In addition to any easements described in any Recorded plat applicable to the Properties, Declarant grants the following easements:

11.1 Easements in Common Area.

- (a) Declarant grants to each Owner a nonexclusive right and easement of use, access, and enjoyment in and to the Common Area which is appurtenant to the Unit, subject to:
 - (i) The Governing Documents and any other applicable covenants;
 - (ii) Any restrictions or limitations contained in any deed conveying such property to the Association;
 - (iii) The right of the Board to adopt rules regulating the use and enjoyment of the Common Area, including rules limiting the number of guests who may use the Common Area;
 - (iv) The right of the Board to suspend the right of an Owner to use portion of the Common Area (A) for any period during which any charge against such Owner's Unit remains delinquent, and (B) for a period not to exceed 30 days for a single violation or for a longer period in the case of any continuing violation of the Governing Documents after notice and a hearing pursuant to Section 3.24 of the bylaws;
 - (v) The right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area, subject to such approval requirements as may be set forth in this Declaration; and
 - (vi) The right of the Association, acting through the Board, to mortgage, or pledge, any or all its real or personal property as security for money borrowed or debts incurred, subject to the approval requirements set forth in Sections 14.5 and 16.4.

(b) Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit for the period of the lease.

11.2 Easements of Encroachment.

Declarant grants reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area and between adjacent Units due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than five feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

11.3 Easements for Utilities, Etc.

(a) Declarant reserves for itself, so long as Declarant owns any property described on Exhibit A of this Declaration, and grants to the Association and all utility providers, perpetual non-exclusive easements throughout all of the Properties (but not through a structure) to the extent reasonably necessary for the purpose of:

(i) utility and infrastructure easement along the front of each Unit and a five foot utility easement adjacent to the side boundaries of each Unit, for the installation, operation, and maintenance of water and electrical service throughout the property described on Exhibit A for the installation and maintenance of walkways, pathways and trails, drainage systems, and street lights;

(ii) installing utilities and infrastructure to serve the Properties, water meters, cable and other systems for sending and receiving data and/or other electronic signals, security and similar systems, walkways, pathways and trails, drainage systems, street lights and signage on property which Declarant owns or within public rights-of-way or easements reserved for such purpose on recorded plats;

(iii) inspecting, maintaining, repairing and replacing the utilities, infrastructure and other improvements described in subsection 11.3(a)(i) or subsection 11.3(a)(ii); and

(iv) access to read utility meters.

11.4 Easements for Maintenance, Emergency and Enforcement.

Declarant grants to the Association easements over the Properties as necessary to enable the Association to fulfill its maintenance responsibilities under Section 7.2. The Association shall also have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance and to inspect for the purpose of ensuring compliance with and enforce the Governing Documents. Such right may be exercised by any member of the Board and its duly authorized agents and assignees, and all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

PART SIX: RELATIONSHIPS WITHIN AND OUTSIDE THE COMMUNITY

ARTICLE XII

DISPUTE RESOLUTION AND LIMITATION ON LITIGATION

12.1 Consensus for Association Litigation.

Except as provided in this Section, the Association shall not commence judicial or administrative proceedings without the approval of at least 75% of the voting members of the Association. This Section shall not apply, however, to (a) actions brought by the Association to enforce the Governing Documents (including, without limitation, the foreclosure of liens); (b) the collection of assessments; (c) proceedings involving challenges to ad valorem taxation; or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is approved by 75 percent of eligible voters, and pursuant to the same procedure, necessary to institute proceedings as provided above.

12.2 Alternative Method for Resolving Disputes.

Declarant, the Association, its officers, directors, and committee members, all persons subject to this Declaration, any Builder, and any person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, “**Bound Parties**”), agree to encourage the amicable resolution of disputes involving the Properties, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees to submit those claims, grievances or disputes described in Sections 12.3 (“**Claims**”) to the procedures set forth in Section 12.3 in lieu of filing suit in any court.

12.3 Claims.

(a) Unless specifically exempted below, all Claims arising out of or relating to the interpretation, application or enforcement of the Governing Documents, or the rights, obligations and duties of any Bound Party under the Governing Documents or relating to the

design or construction of improvements on the Properties shall be subject to the provisions of Section 12.4.

(b) Notwithstanding the above, unless all parties thereto otherwise agree, the following shall not be Claims and shall not be subject to the provisions of Section 12.4:

(i) any suit by the Association against any Bound Party to enforce the provisions of Article VIII (Assessments);

(ii) any suit by the Association to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Article III (Use and Conduct) and Article IV (Architecture and Landscaping);

(iii) any suit between Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents;

(iv) any suit in which any indispensable party is not a Bound Party;

(v) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by subsection 12.4(a), unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article; and

(c) With the consent of all parties thereto, any of the above may be submitted to the alternative dispute resolution procedures set forth in Section 12.4.

12.4 Mandatory Procedures.

(a) Notice. Any Bound Party having a Claim ("**Claimant**") against any other Bound Party ("**Respondent**") (collectively, the "**Parties**") shall notify each Respondent in writing (the "**Notice**"), stating plainly and concisely:

- (i) the nature of the Claim, including the Persons involved and Respondent's role in the Claim;
- (ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
- (iii) Claimant's proposed remedy; and
- (iv) that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation and Mediation.

(i) The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in negotiation.

(ii) if the Parties do not resolve the Claim within 30 days of the date of the Notice (or within such other period as may be agreed upon by the Parties) ("**Termination of Negotiations**"), Claimant shall have 30 additional days to submit the Claim to mediation under the auspices of an independent agency providing dispute resolution services in the Raleigh, North Carolina area.

(iii) If Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; *provided, however*, nothing herein shall release or discharge Respondent from any liability to any Person other than the Claimant.

(iv) Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the Parties. If the Parties do not settle the Claim within 30 days after submission of the matter to the mediation, or within such time as determined by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("**Termination of Mediation**"). The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

(v) Within five days of the Termination of Mediation, the Claimant shall make a final written settlement demand ("**Settlement Demand**") to the Respondent, and the Respondent shall make a final written settlement offer ("**Settlement Offer**") to the Claimant. If the Claimant fails to make a Settlement Demand, Claimant's original Notice shall constitute the Settlement Demand. If the Respondent fails to make a Settlement Offer, Respondent shall be deemed to have made a "zero" or "take nothing" Settlement Offer.

(c) Final and Binding Arbitration.

(i) If the Parties do not agree in writing to a settlement of the Claim within 15 days of the Termination of Mediation, the Claimant shall have 15 additional days to submit the Claim to arbitration in accordance with the Rules of Arbitration contained in Exhibit C or such rules as may be required by the agency providing the arbitrator. If not timely submitted to arbitration or if the Claimant fails to appear for the arbitration proceeding, the Claim shall be deemed abandoned, and Respondent shall be released and

discharged from any and all liability to Claimant arising out of such Claim; *provided, however*, nothing herein shall release or discharge Respondent from any liability to Persons other than Claimant.

(ii) This subsection 12.4(c) is an agreement to arbitrate and is specifically enforceable under the applicable arbitration laws of the State of North Carolina. The arbitration award (the “**Award**”) shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of the State of North Carolina.

12.5 Allocation of Costs of Resolving Claims.

(a) Subject to subsection 12.5(b), each Party shall bear its own costs, including attorneys fees, and each Party shall share equally all charges rendered by the mediator(s) and all filing fees and costs of conducting the arbitration proceeding (“**Post Mediation Costs**”).

(b) Any Award which is equal to or more favorable to Claimant than Claimant’s Settlement Demand shall add Claimant’s Post Mediation Costs to the Award, such costs to be borne equally by all Respondents. Any Award which is equal to or less favorable to Claimant than any Respondent’s Settlement Offer shall award to such Respondent its Post Mediation Costs.

12.6 Enforcement of Resolution.

After resolution of any Claim, if any Party fails to abide by the terms of any agreement or Award, then any other Party may file suit or initiate administrative proceedings to enforce such agreement or Award without the need to again comply with the procedures set forth in Section 12.4. In such event, the Party taking action to enforce the agreement or Award shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement or Award, including, without limitation, attorneys’ fees and court costs.

ARTICLE XIII

MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Units in the Properties. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

13.1 Notices of Action.

An institutional holder, insurer, or guarantor of a first Mortgage who provides a written request to the Association (such request to state the name and address of such holder, insurer, or

guarantor and the street address of the Unit to which its Mortgage relates, thereby becoming an “**Eligible Holder**”), will be entitled to timely written notice of:

- (a) Any condemnation loss or any casualty loss which affects a material portion of the Properties or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;
- (b) Any delinquency in the payment of assessments or charges owed by a Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Governing Documents relating to such Unit or the Owner or Occupant which is not cured within 60 days; or
- (c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association.

13.2 No Priority.

No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

13.3 Notice to Association.

Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner’s Unit.

13.4 Failure of Mortgagee to Respond.

Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within 30 days of the date of the Association’s request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

13.5 HUD/VA Approval.

As long as there is a Class B membership, the following actions shall require the prior approval of the U.S. Department of Housing and Urban Development or the U.S. Department of Veterans Affairs, if either such agency is insuring or guaranteeing the Mortgage on any Unit: merger, consolidation or dissolution of the Association; annexation of additional property other than that described on Exhibit B, dedication, conveyance or mortgaging of Common Area; or material amendment of this Declaration or the Articles. The granting of easements for utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a conveyance within the meaning of this Section.

PART SEVEN: CHANGES IN THE COMMUNITY

ARTICLE XIV

CHANGES IN OWNERSHIP OF UNITS

Any Owner desiring to sell or otherwise transfer his or her Unit shall give the Board at least seven days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. In addition, the transferee shall pay to the Association such administrative charge amount as may be established from time-to-time by resolution of the Board, in reimbursement of the administrative costs incurred by the Association in connection with the Unit transfer. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Units, including assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title.

ARTICLE XV

CHANGES IN COMMON AREA

15.1 Condemnation.

If any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Members representing at least 75% of the votes in the Association and of Declarant, as long as Declarant owns any property subject to the Declaration or which may be made subject to the Declaration by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance. Such award or proceeds shall be payable to the Association and the Association shall restore or replace such improvements, if any, on the remaining land included in the Common Area to the extent available. Otherwise, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

15.2 Partition.

Except as permitted in this Declaration, the Common Area shall remain undivided, and no Person shall bring any action partition of any portion of the Common Area without the written consent of all Owners and Mortgagees. This Section shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Declaration.

15.3 Transfer or Dedication of Common Area.

The Association may dedicate portions of the Common Area to the Town of Cary, North Carolina or to any other local, state, or federal governmental or quasi-governmental entity subject to such approval requirements as may be required by Section 14.5 and Section 16.4.

15.4 Actions Requiring Owner Approval.

If either the U.S. Department of Housing and Urban Development or the U.S. Department of Veterans Affairs is insuring or guaranteeing the Mortgage on any Unit, then the following actions shall require the prior approval of not less than two-thirds (2/3) of the total Members in the Association (excluding votes held by Declarant) merger, consolidation or dissolution of the Association; annexation of additional property other than that described on Exhibit A; and dedication, conveyance or mortgaging of Common Area. Notwithstanding anything to the contrary in Section 17.1 or this section, the Association, acting through the Board, may grant easements over the Common Area for installation and maintenance of utilities and drainage facilities and for other purposes not inconsistent with the intended use of the Common Area, without the approval of the membership.

ARTICLE XVI

AMENDMENT OF DECLARATION

16.1 By Declarant.

Declarant may unilaterally amend this Declaration if such amendment is necessary (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on the Units; (c) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on the Units; or (d) to satisfy the requirements of any local, state or federal governmental agency. However, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent in writing. In addition, so long as Declarant owns property described in Exhibit A as part of the Properties, it may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse effect upon the rights of any Owner.

16.2 By Members.

- (a) Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing at least 75% of the total owners in the Association. In addition, the approval requirements set forth in Article XIV shall be met, if applicable.
- (b) Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

16.3 Validity and Effective Date.

- (a) No amendment may remove, revoke, or modify any right or privilege of Declarant, or Member, without the written consent of Declarant, the Member, or, respectively (or the assignee of such right or privilege).
- (b) If an Owner consents to any amendment to this Declaration or the Bylaws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.
- (c) Any amendment shall become effective upon Recording in the Public Records, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six months of its Recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

17.4 Exhibits.

Exhibit A is attached to this Declaration, is incorporated by this reference, and amendment of such exhibits shall be governed by this Article. Exhibit B is attached for informational purposes and may be amended as provided in Article III. Exhibit C provides the rules for Arbitration if mediation does not resolve the claim or issue. Exhibit D may be amended as provided therein. Exhibit E is for informational purposes.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration under seal the date and year first written above.

DECLARANT: White Oak Foundation, Inc.
a North Carolina nonprofit

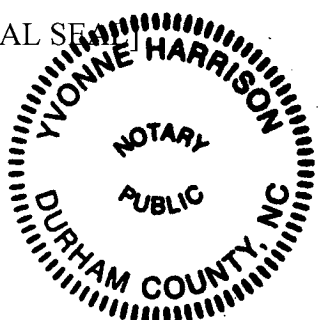
By: Charles R. Tyner, Sr.
Charles R. Tyner, Sr. Executive Director

STATE OF NORTH CAROLINA)
)
COUNTY OF Durham)

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and, in the capacity, indicated: Charles R. Tyner

Witness my hand and official stamp or seal this the 6 day of JAN^{4th} 2025. 2026

[OFFICIAL SEAL]



Yvonne Harrison
Notary Public
My Commission Expires: 8-17-2030

Exhibit A

Legal Description of Land

Being all of those certain lots or parcels of property located in White Oak Township, Wake County, North Carolina, and being more particularly depicted on a Plat entitled Subdivision Plat for White Oak Townhomes Property of White Oak Missionary Baptist Church by WithersRavenel dated _____ and recorded in BM 2025 Page 00373 on _____ in the Wake County Registry.

Exhibit B**Initial Use Restrictions and Rules**

The following restrictions shall apply to all of the Properties until such time as they are amended, modified, repealed or limited by Use Restrictions of the Association adopted pursuant to Article III of the Declaration or as otherwise provided in the Declaration.

1. General. The Properties shall be used only for residential, recreational, and related purposes (which may include, without limitation, an information center and/or a sales office for any real estate broker retained by Declarant and/or a Builder to assist in the sale of property described on Exhibit A, offices for any property manager retained by the Association, and business offices and construction areas for Declarant, Builder, or the Association) consistent with this Declaration and any Supplemental Declaration. To the extent permitted by law, any Owner may use their Unit as a home office, provided, however, that such home office use (a) shall be ancillary to the residential use of the Unit, (b) does not generate any additional pedestrian or vehicular traffic to or from any Unit or the Common Elements, and (c) does not cause any disturbance of other Owners, residents, or Occupants of the Property. In addition, Declarant shall have the right to use any portion of the property as a sales office, construction office, storage areas, model Unit, or similar facility in connection with the sale and development of the Property.

2. Leases and renting. A Unit shall be deemed rented or leased if any occupant pays or provides money or other consideration of any type in exchange for permission to occupy all or any part of a Unit. No Unit may be leased or rented for a period shorter than twelve (12) months and no lease may be executed sooner than 12 months after the execution of any prior lease. Lots may be leased or rented only to tenants who intend to occupy the Unit for at least the minimum lease term. A complete copy of every lease or rental agreement of any type shall be provided to the Association prior to its commencement and upon request. No Owner shall rent their Unit for hotel purposes. Time sharing, interval ownership and all other forms of fractional ownership are hereby expressly prohibited.

3. Restricted Activities. The following activities are prohibited within the Properties unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board of Directors:

- (a) Parking of any vehicles is;
 - (i) prohibited on public or private streets or thoroughfares within the Properties except for construction vehicles of Declarant or Builders which may be parked in the streets of a construction area until 100% of the property described on Exhibit A of the Declaration has been developed.
 - (ii) parking of commercial vehicles or equipment, mobile homes, recreational vehicles, trailers, boats or watercraft exceeding 18 feet in length, stored vehicles or inoperable vehicles anywhere within the Properties other than in enclosed garages is prohibited; *provided, however*, construction, service and delivery vehicles shall be exempt from this provision during daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Unit or the Common Area, and recreational vehicles and trailers may be parked in driveways for not more than 24 hours while loading and unloading, which shall not occur more than twice per month. No vehicle of any type which is unlicensed, without a current inspection, abandoned, inoperative or

unsightly as determined by the Board of Directors, in its sole and absolute discretion, shall be parked, stored, or kept on any lot or elsewhere within the Community.

(b) Raising, breeding or keeping of animals, livestock, or poultry of any kind is prohibited, except that a reasonable number of dogs, cats, or other usual and common household pets may be permitted in a Unit. The number of pets shall not exceed three (3), except for newborn offspring which are under six (6) months in age; *provided, however*, those pets which are permitted to roam free, or, in the sole discretion of the Board, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants of other Units shall be removed upon request of the Board. The Board shall have the power and authority to adopt a rule, at any time and without the consent or approval of the Members, that prohibits any breed or type of Pet from being brought to or kept on the Property that the Board, in its sole and absolute discretion, determines has dangerous propensities, may be or create a nuisance or may be safety hazard. If the pet owner fails to honor such request, the Board may remove the pet. Dogs shall be kept on a leash or otherwise confined in a manner acceptable to the Board whenever outside the dwelling. No Owner or Occupant shall permit a pet to defecate in the Common Elements or any Lot other than the Owner's Lot, and each Owner shall immediately clean up after his or her pet if such occurs. Pets shall be registered, licensed and inoculated as required by law. Each person owning or having possession, charge, care, custody, or control of any permitted pet shall keep such pet exclusively upon his own Lot; *provided, however*, that such Pet may be off the lot if it is under the control of a competent person and restrained by a chain, leash, or other means of adequate physical control. Each Owner agrees to hold the Association harmless from any claim or loss resulting from any action of his Pet and shall repair at the Owner's sole expense any damage to the Common Elements caused by the pet. Each Owner shall indemnify and hold the Association harmless from any claim or expense any damage to the property caused by their pet. If an Owner or Tenant violates these rules more than twice in any twelve (12) month period, the Association shall have the right to require the Owner to remove the Pet permanently from the property upon not less than ten (10) days' written notice, which remedy shall be in addition to all other rights or remedies.

(c) Any activity which emits foul or obnoxious odors outside the Unit or creates noise or other conditions which tend to disturb the peace or threaten the safety of the occupants of other Units;

(d) Any activity which violates local, state or federal laws or regulations; however, the Board shall have no obligation to take enforcement action in the event of a violation;

(e) Pursuit of hobbies or other activities which tend to cause an unclean, unhealthy or untidy condition to exist outside of enclosed structures on the Unit;

(f) Any noxious or offensive activity which in the reasonable determination of the Board tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants of other Units;

(g) Outside burning of trash, leaves, debris or other materials, except by Declarant or a Builder;

(h) Use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be an unreasonable annoyance or nuisance to occupants of other Units in the Board's judgment, except alarm devices used exclusively for security purposes;

(i) Posting or maintaining any sign, banner or advertisement, unless approved by the

Reviewer and maintained in a manner consistent with the Design Review Guidelines and any applicable governmental regulations;

(j) Dumping of grass clippings, leaves or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, pond, or lake, or elsewhere within the Properties, except that fertilizers may be applied to landscaping on Units provided care is taken to minimize runoff, and Declarant and Builders may dump and bury rocks and trees removed from a building site on such building site;

(k) Accumulation of rubbish, trash, or garbage except between regular garbage pick ups, and then only in approved containers. All rubbish, trash, garbage, junk, and other waste shall be kept temporarily in sanitary containers within each Lot and removed at least weekly from the property. All trash containers or other equipment for storage or disposal of such waste shall be kept in a clean, odor free, and sanitary condition and shall be located so as to be concealed from view from any roadway or Dwelling except on the days and during the periods established by the Board from time to time when the containers may be moved to a designated location for pick up.

(l) Subdivision of a Unit into two or more Units, or changing the boundary lines of any Unit after a subdivision plat including such Unit has been approved and filed in the Public Records, except that Declarant shall be permitted to subdivide or replat Units which it owns;

(m) Fishing, swimming, boating, use of personal flotation devices, or other active use of lakes, ponds, streams or other bodies of water within the Properties, except in designated areas and as specifically permitted by the Association. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of rivers, lakes, ponds, streams or other bodies of water within or adjacent to the Properties;

(n) Use of any Unit for operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of years, except that Declarant and its assigns may operate such a program with respect to Units which it owns;

(o) Use and discharge of firecrackers and other fireworks; *provided, however*, the Board shall have no obligation to take action to prevent or stop such discharge;

(p) On-site storage of gasoline, heating, or other fuels, except that a reasonable amount of fuel may be stored on each Unit for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment. This provision shall not apply to any underground fuel tank pursuant to Article IV;

(q) Any business, trade, garage sale, moving sale, rummage sale, or similar activity, except that an Owner or occupant residing in a Unit may conduct business activities within the Unit so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Unit; (ii) the business activity conforms to all zoning requirements for the Properties; (iii) the business activity does not involve regular visitation of the Unit by clients, customers, suppliers, or other business invitees or door-to-door solicitation of residents of the Properties; and (iv) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or

offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

The terms “business” and “trade,” as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider’s family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time, (ii) such activity is intended to or does generate a profit, or (iii) a license is required.

The leasing of a Unit shall not be considered a business or trade within the meaning of this subsection. This subsection shall not apply to any activity conducted by Declarant or a Builder approved by Declarant with respect to its development and sale of the Properties or its use of any Units which it owns within the Properties, including the operation of a timeshare or similar program;

(r) Capturing, trapping, or killing of wildlife within the Properties, unless authorized by Declarant or the Association;

(s) Any activities which materially disturb or destroy the vegetation, wildlife, wetlands, or air quality within the Properties or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution;

(t) Conversion of any carport or garage to finished space for use as an apartment or other integral part of the living area on any Unit without prior approval pursuant to Article IV, provided that use of such areas shall be permitted by a Builder during the construction and marketing of any portion of the Properties;

(u) Operation of motorized vehicles, golf carts, or similar items on public or private roads, streets, pathways, bike trails, or trails maintained by the Association;

(v) Any construction, erection, or placement of anything, permanently or temporarily, on the outside portions of the Unit, whether such portion is improved or unimproved, except in strict compliance with the provisions of Article IV of the Declaration. This shall include, without limitation, signs, basketball hoops, swing sets and similar sports and play equipment; clotheslines; garbage cans; woodpiles; above-ground swimming pools; docks, piers and similar structures; and hedges, walls, dog runs, animal pens, or fences of any kind. To the extent that the reviewer of a request for any of the foregoing permits antennas or satellite dishes within the Properties, such shall be restricted to a size of 40 inches or less and be located or screened from view from the streets, adjacent Units, or Common Area;

(w) Unless otherwise provided by law, placement of antennas, satellite dishes, or other apparatus for the transmission, reception, or communication of television, radio, satellite, or other signals except for one small receiver which may be located in the side or rear yard, installed adjacent to the residence, and integrated with the residential structure and landscaping. Unless otherwise provided by law, dishes shall not exceed 40 inches in diameter. Any such devices shall be screened or landscaped from view from the street and adjacent Units;

(x) Changing, altering, impeding, dumping, or otherwise interfering with the flow and volume of water in any portion of the Surface Water Management System; and

(y) Holiday lighting and decorations on the exterior of Units except for lighting and decorations that are displayed in commemoration or celebration of publicly observed holidays. Such lighting and decorations may not be displayed more than six weeks in advance of the holiday and must be removed within 30 days after the holiday has ended.

3. Prohibited Conditions. The following shall be prohibited within the Properties:

(a) Plants, animals, devices, or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Properties;

(b) Structures, equipment, or other items on the exterior portions of a Unit which have become rusty, dilapidated, or otherwise fallen into disrepair;

(c) Sprinkler or irrigation systems or wells of any type which draw upon water from lakes, creeks, streams, rivers, ponds, wetlands, canals, or other ground or surface waters within the Properties, except that Declarant and its designees, shall have the exclusive right to draw water from such sources and to reduce the level of such bodies of water.

Exhibit C

Rules of Arbitration

1. Claimant shall submit a Claim to arbitration under these Rules by giving written notice to all other Parties stating plainly and concisely the nature of the Claim, the remedy sought and Claimant's submission of the Claim to arbitration ("**Arbitration Notice**").
2. The Parties shall select arbitrators ("**Party Appointed Arbitrators**") as follows: all the Claimants shall agree upon one (1) Party Appointed Arbitrator, and all the Respondents shall agree upon one (1) Party Appointed Arbitrator. The Party Appointed Arbitrators shall, by agreement, select one neutral arbitrator ("**Neutral**") so that the total arbitration panel ("**Panel**") has three (3) arbitrators.
3. If the Panel is not selected under Rule 2 within 45 days from the date of the Arbitration Notice, any party may notify the nearest chapter of The Community Associations Institute, for any dispute arising under the Governing Documents, or the American Arbitration Association, or such other independent body providing arbitration services, for any dispute relating to the design or construction of improvements on the Properties, which shall appoint one Neutral ("**Appointed Neutral**"), notifying the Appointed Neutral and all Parties in writing of such appointment. The Appointed Neutral shall thereafter be the sole arbitrator and any Party Appointed Arbitrators or their designees shall have no further duties involving the arbitration proceedings.
4. No person may serve as a Neutral in any arbitration in which that person has any financial or personal interest in the result of the arbitration. Any person designated as a Neutral or Appointed Neutral shall immediately disclose in writing to all Parties any circumstance likely to affect impartiality, including any bias or financial or personal interest in the outcome of the arbitration ("**Bias Disclosure**"). If any Party objects to the service of any Neutral or Appointed Neutral after receipt of that Neutral's Bias Disclosure, such Neutral or Appointed Neutral shall be replaced in the same manner in which that Neutral or Appointed Neutral was selected.
5. The Appointed Neutral or Neutral, as the case may be ("**Arbitrator**") shall fix the date, time and place for the hearing. In fixing the date of the hearing, or in continuing a hearing, the Arbitrator shall take into consideration the amount of time reasonably required to determine Claimant's damages accurately.
6. Any Party may be represented by an attorney or other authorized representative throughout the arbitration proceedings. In the event the Respondent fails to participate in the arbitration proceeding, the Arbitrator may not enter an Award by default, but shall hear Claimant's case and decide accordingly.
7. All persons who, in the judgment of the Arbitrator, have a direct interest in the arbitration are entitled to attend hearings. The Arbitrator shall determine any relevant legal issues, including whether all indispensable parties are Bound Parties or whether the claim is barred by the statute of limitations.
8. There shall be no stenographic record of the proceedings.
9. The hearing shall be conducted in whatever manner will, in the Arbitrator's judgment, most fairly and expeditiously permit the full presentation of the evidence and arguments of the Parties. The Arbitrator may issue such orders as it deems necessary to

safeguard rights of the Parties in the dispute without prejudice to the rights of the Parties or the final determination of the dispute.

10. If the Arbitrator decides that it has insufficient expertise to determine a relevant issue raised during arbitration, the Arbitrator may retain the services of an independent expert who will assist the Arbitrator in making the necessary determination. The scope of such professional's assistance shall be determined by the Arbitrator in the Arbitrator's discretion. Such independent professional must not have any bias or financial or personal interest in the outcome of the arbitration, and shall immediately notify the Parties of any such bias or interest by delivering a Bias Disclosure to the Parties. If any Party objects to the service of any professional after receipt of a Bias Disclosure, such professional shall be replaced by another independent licensed professional selected by the Arbitrator.

11. No formal discovery shall be conducted in the absence of express written agreement among all the Parties. The only evidence to be presented at the hearing shall be that which is disclosed to all Parties at least 30 days prior to the hearing; *provided, however*, no Party shall deliberately withhold or refuse to disclose any evidence which is relevant and material to the Claim, and is not otherwise privileged. The Parties may offer such evidence as is relevant and material to the Claim, and shall produce such additional evidence as the Arbitrator may deem necessary to an understanding and determination of the Claim. The Arbitrator shall be the sole judge of the relevance and materiality of any evidence offered, and conformity to the legal rules of evidence shall not be necessary. The Arbitrator shall be authorized, but not required, to administer oaths to witnesses.

12. The Arbitrator shall declare the hearings closed when satisfied the record is complete.

13. There will be no posthearing briefs.

14. The Award shall be rendered immediately following the close of the hearing, if possible, and no later than 14 days from the close of the hearing, unless otherwise agreed by the Parties. The Award shall be in writing, shall be signed by the Arbitrator and acknowledged before a notary public. If the Arbitrator believes an opinion is necessary, it shall be in summary form.

15. If there is more than one arbitrator, all decisions of the Panel and the Award shall be by majority vote.

16. Each Party agrees to accept as legal delivery of the Award the deposit of a true copy in the mail addressed to that Party or its attorney at the address communicated to the Arbitrator at the hearing.

BY-LAWS OF
WHITE OAK TOWNHOMES COMMUNITY ASSOCIATION

TABLE OF CONTENTS

	<u>Page</u>
Article I Name, Principal Office, and Definitions	4
1.1 Name	4
1.2 Principal Office	4
1.3 Definitions.....	4
Article II Association: Membership, Meetings, Quorum, Voting, Proxies	4
2.1 Membership	4
2.2 Meetings	4
2.3 Waiver of Notice	5
2.4 Adjournment of Meetings	5
2.5 Voting	5
2.6 Proxies.....	5
2.7 Majority.....	6
2.8 Quorum	6
2.9 Conduct of Meetings	6
2.10 Action Without a Meeting	6
Article III Board of Directors: Number, Powers, Meetings	6
3.1 Governing Body; Composition	6
3.2 Number of Directors	6
3.3 Nominations and Election Procedures	6
3.4 Election and Term of Office	7
3.5 Removal of Directors and Vacancies	7
3.6 Organizational Meetings	8
3.7 Regular Meetings	8
3.8 Special Meetings	8

3.9	Waiver of Notice	8
3.10	Telephone Participation in Meetings	8
3.11	Quorum of Board of Directors	9
3.12	Compensation	9
3.13	Conduct of Meetings	9
3.14	Open Meetings	9
3.15	Action Without a Formal Meeting	9
3.16	Powers	9
3.17	Duties	10
3.18	Management	11
3.19	Accounts and Reports	11
3.20	Borrowing	12
3.21	Right to Contract	12
3.22	Enforcement	12
Article IV Officers		13
4.1	Officers	13
4.2	Election and Term of Office	13
4.3	Removal and Vacancies	13
4.4	Powers and Duties	13
4.5	Resignation	13
4.6	Agreements, Contracts, Deeds, Leases, Checks, Etc.	13
4.7	Compensation	14
Article V Committees		14
5.1	General	14
5.2	Covenants Committee	14
Article VI Miscellaneous		14
6.1	Fiscal Year	14

6.2	Parliamentary Rules	14
6.3	Conflicts	14
6.4	Books and Records	14
6.5	Notices	15
6.6	Amendment	15
Certification		16

BYLAWS OF
WHITE OAK TOWNHOMES COMMUNITY ASSOCIATION

Article I

Name, Principal Office, and Definitions

- 1.1 Name. The name of the corporation is White Oak Townhome Community Association.
- 1.2 Principal Office. The principal office of the Association shall be 1624 White Oak Church Road Apex, NC 27523.
- 1.3 Definitions. The words used in these Bylaws shall be given their normal, commonly understood definitions.

Article II

Membership, Meetings, Quorum, Voting, Proxies

- 2.1 Membership. The Association shall have members who are Unit owners, as set forth in the Declaration.
- 2.2 Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members, either within the property or as convenient as possible and practical, as the Board may designate.

The first meeting of the Association shall be held within one year from the date of incorporation of the Association. Subsequent regular annual meetings shall be set by the Board to occur during the first quarter of the Association's fiscal year on a date and time set by the Board,

Special Meetings may be called by the President. A special meeting may also be called if the president is presented with a petition signed by at least 10% of the Members of the Association.

Notice stating the place, day, and hour of any meeting of the members shall be delivered, in writing, either personally or by mail, to each Member entitled to vote at such meeting, not less than 10 days nor more than 60 days before the date of each meeting.

If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Member.

If a special meeting is required, the purpose of the meeting shall be stated in the notice and the business transacted at a special meeting shall be limited to what has been stated in the notice.

2.3 Waiver of Notice. Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member or the Member's proxy shall be deemed waiver by such Member of notice of the time, date, and place thereof, unless such Member or proxy specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting also shall be deemed waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.4 Adjournment of Meetings.

(a) If any meeting of the Association cannot be held because a quorum is not present, Members or their proxies holding a majority of the votes represented at such meeting may adjourn the meeting to a time not less than 5 nor more than 30 days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Members in the manner prescribed for regular meetings.

(b) The Members represented at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, provided that any action taken is approved by at least a majority of the votes required to constitute a quorum.

2.5 Voting. The voting rights of the Members shall be as set forth in the Declaration and in these Bylaws, and such voting rights provisions are specifically incorporated by this reference.

2.6 Proxies. At all meetings of Members, each Member may vote in person (if a corporation, partnership or trust, through any officer, director, partner or trustee duly authorized to act on behalf of the Member) or by proxy, subject to the limitations of North Carolina law. Each proxy shall be in writing, shall specify the Unit(s) for which it is given, and shall be signed by the Member or its duly authorized attorney-in-fact, dated and filed with the Secretary of the Association prior to any meeting for which it is to be effective. A proxy which fails to specify the Unit(s) for which it is given shall be presumed to cover all votes which the Member giving such proxy is entitled to cast. In the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid. Every proxy shall be revocable and shall automatically cease upon conveyance of any Unit for which it was given, or upon receipt of notice by the Secretary of the death or judicially declared incompetence of a Member who is a natural person, or of written revocation, or 11 months from the date of the proxy, unless a shorter period is specified in the proxy.

2.7 Majority. As used in the Governing Documents, the term “**majority**” shall mean the votes of Owners, Members or other group as the context may indicate, totaling more than 50% of the total eligible number.

2.8 Quorum. Except as otherwise provided in these By-Laws or in the Declaration, the presence, in person or by proxy, of Members representing at least 20% of the total votes in the Association shall constitute a quorum at all meetings of the Association.

2.9 Conduct of Meetings. The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meetings and record in a minute book all resolutions adopted and all other transactions occurring at such meetings.

2.10 Action Without a Meeting. Any action required or permitted by law to be taken at a meeting of the Members may be taken without a meeting, without prior notice and without a vote, if written consent specifically authorizing the proposed action is signed by all Members entitled to vote on such matter. Such consents shall be filed with the minutes of the Association and shall have the same force and effect as a vote of the Members at a meeting.

Article III

Board of Directors: Number, Powers, Meetings

A. Composition and Selection

3.1 Governing Body; Composition. The affairs of the Association shall be governed by a Board of Directors, each of whom shall have one equal vote. Directors shall be Members or Residents; *provided, however*, no Owner and Resident occupying the same Unit may serve on the Board at the same time. A “**Resident**” shall be any natural person 18 years of age or older whose principal place of residence is a Unit within the Properties. In the case of a Member which is not a natural person, any officer, director, partner, employee or trust officer of such Member shall be eligible to serve as a director unless otherwise specified by written notice to the Association signed by such Member; *provided, however*, no Member may have more than one such representative on the Board at a time.

3.2 Number of Directors. The Board shall consist of three to five directors, as provided in Section 3.3 and Section 3.5. The initial Board shall consist of three directors as identified in the Articles of Incorporation.

3.3 Nominations and Election Procedures

(a) Nomination of Directors

(i) Nominations for election to the Board of Directors shall be made by a Nominating Committee. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and three or more Members or representatives of Members. The Nominating Committee shall be appointed by the Board of Directors not less than 30 days prior

to each election to serve a term of one year or until their successors are appointed, and such appointments shall be announced at each such election.

(ii) The Nominating Committee may make as many nominations for election to the Board as it shall in its discretion determine. In making its nominations, the Nominating Committee shall use reasonable efforts to nominate candidates representing the diversity which exists within the pool of potential candidates. Nominations shall also be permitted from the floor. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes.

(b) Election Procedures.

(i) Elections shall be held at the Association's annual meeting.

(ii) Each Owner may cast the vote assigned to his Unit for each position to be filled. There shall be no cumulative voting. That number of candidates equal to the number of positions to be filled receiving the greatest number of votes shall be elected. Directors may be elected to serve any number of consecutive terms.

3.4 Election and Term of Office. Notwithstanding any other provision of these By-Laws, within 30 days after 50% of the Units proposed for sale have been sold, a President shall be elected by the owners. After 75% of the Units proposed for sale, have been sold, the President shall call for an election by which one additional Board of Director shall be elected. Once 100% of the Units proposed for sale, have been sold, the President shall call for an election by which the third and final Board of Director shall be elected. Each Director shall serve an initial two (2) year term.

3.5 Removal of Directors and Vacancies.

(a) Any director elected may be removed, with or without cause, by Members holding a majority of the votes entitled to be cast for his or her election. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director, a successor shall be elected to fill the vacancy for the remainder of the term of such director.

(b) Any director who has three or more consecutive unexcused absences from Board meetings, or who is more than 30 days delinquent (or is the representative of a Member who is so delinquent) in the payment of any assessment or other charge due the Association, may be removed by a majority of the directors present at a regular or special meeting at which a quorum is present, and the Board may appoint a successor to fill the vacancy for the remainder of the term.

(c) In the event of the death, disability, or resignation of a director elected by

the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time Members shall elect a successor for the remainder of the term.

B. Meetings.

3.6 Organizational Meetings. The first meeting of the Board following each annual meeting of the membership shall be held within 10 days thereafter at such time and place as the Board shall fix.

3.7 Regular Meetings. Regular meetings of the Board may be held at such time and place as a majority of the directors shall determine, but at least four such meetings shall be held during each fiscal year with at least one per quarter. Notice of the time and place of a regular meeting shall be communicated to directors not less than four days prior to the meeting; *provided, however*, notice of a meeting need not be given to any director who has signed a waiver of notice or a written consent to holding of the meeting.

3.8 Special Meetings. Special meetings of the Board of Directors shall be held when called by written notice signed by the President or by any two directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each director by: (a) personal delivery; (b) first class mail, postage prepaid; (c) telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (d) facsimile, computer, fiber optics or such other communication device. All such notices shall be given at the director's telephone number, fax number, electronic mail number, or sent to the director's address as shown on the records of the Association. Notices of special meetings of the Board shall be posted in a prominent place within the Properties. Notices sent by first class mail shall be deposited into a United States mailbox at least seven business days before the time set for the meeting. Notices given by personal delivery, telephone, or other device shall be delivered or transmitted at least 72 hours before the time set for the meeting.

3.9 Waiver of Notice. The transactions of any meeting of the Board, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.10 Telephone Participation in Meetings. Members of the Board or any committee designated by the Board may participate in a meeting of the Board or committee by means of conference telephone or similar communications equipment, by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this subsection shall constitute presence in person at such meeting.

3.11 Quorum of Board of Directors. At all meetings of the Board, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board, unless otherwise specifically provided in these By-Laws or the Declaration. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not present, a majority of the directors present at such meeting may adjourn the meeting to a time not less than 5 nor more than 30 days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

3.12 Compensation. Directors shall not receive any compensation from the Association for acting as such. Any director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other directors. Nothing herein shall prohibit the Association from compensating a director, or any entity with which a director is affiliated, for services or supplies furnished to the Association in a capacity other than as a director pursuant to a contract or agreement with the Association, provided that such director's interest was made known to the Board prior to entering into such contract and such contract was approved by a majority of the Board of Directors, excluding the interested director.

3.13 Conduct of Meetings. The President shall preside over all meetings of the Board, and the Secretary shall keep a minute book of Board meetings, recording all Board resolutions and all transactions and proceedings occurring at such meetings.

3.14 Open Meetings. Subject to the provisions of Section 3.16, all meetings of the Board shall be open to all Members, but Members other than directors may not participate in any discussion or deliberation unless permission to speak is requested on his or her behalf by a director. In such case, the President may limit the time any Member may speak. Notwithstanding the above, the President may adjourn any meeting of the Board and reconvene in executive session, and may exclude Members, to discuss matters of a sensitive nature, such as pending or threatened litigation, personnel matters, etc.

3.15 Action Without a Formal Meeting. Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote.

C. Powers and Duties.

3.16 Powers. The Board of Directors shall have all of the powers and duties necessary for the administration of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Governing Documents and as provided by law.

3.17 Duties. The duties of the Board shall include, without limitation: preparing and adopting, in accordance with the Declaration, an annual budget establishing each Owner's share of the Common Expenses; levying and collecting assessments from the Owners; providing for the operation, care, upkeep, and maintenance of the Area of Common Responsibility; designating, hiring, and dismissing the personnel necessary to carry out the rights and responsibilities of the Association and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties.

Additional duties shall include:

- (a) depositing all funds received on behalf of the Association in a bank depository which it shall approve, and using such funds to operate the Association; *provided, however*, any reserve fund may be deposited, in the directors' best business judgment, in depositories other than banks;
- (b) making and amending use restrictions and rules in accordance with the Declaration;
- (c) opening of bank accounts on behalf of the Association and designating the signatories required;
- (d) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Area in accordance with the Declaration and these By-Laws;
- (e) enforcing by legal means the provisions of the Governing Documents and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association; *provided, however*, the Board shall not be obligated to take action to enforce any covenant, restriction or rule which the Board in the exercise of its business judgment determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement action;
- (f) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Declaration, paying the cost thereof, and filing and adjusting claims, as appropriate;
- (g) paying the cost of all services rendered to the Association;
- (h) keeping books with detailed accounts of the receipts and expenditures of the Association.
- (i) making available to any prospective purchaser of a Unit, any Owner, and the holders, insurers, and guarantors of any Mortgage on any Unit, current copies of the Governing Documents and all other books, records, and financial statements of the Association, as provided in Section 6.4;

- (j) permitting utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Properties;
- (k) indemnifying a director, officer or committee member, or former director, officer or committee member of the Association to the extent such indemnity is required under North Carolina law, the Articles of Incorporation or the Declaration; and assisting in the resolution of disputes between owners and others without litigation, as set forth in the Declaration.

3.19 Management.

- (a) The Board of Directors may employ for the Association a professional management agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board of Directors may delegate such powers as are necessary to perform the manager's assigned duties, but shall not delegate policymaking authority or those duties set forth in subsections 3.18(a), 3.18(b), 3.18(f), 3.18(g) and 3.18(i). Declarant, a member of Declarant, an affiliate of Declarant or any of its members, or an affiliate or subsidiary of the Club may be employed as managing agent or manager.
- (b) The Board of Directors may delegate to one of its members the authority to act on behalf of the Board on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Board.

3.20 Accounts and Reports. The following management standards of performance shall be followed unless the Board by resolution specifically determines otherwise:

- (a) accrual accounting, as defined by generally accepted accounting principles, shall be employed;
- (b) accounting and controls should conform to generally accepted accounting principles;
- (c) cash accounts of the Association shall not be commingled with any other accounts;
- (d) no remuneration shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; anything of value received shall benefit the Association;
- (e) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board;

(f) an annual report consisting of at least the following shall be made available to all Members within 120 days after the close of the fiscal year: (i) a balance sheet; (ii) an operating (income) statement; and (iii) a statement of changes in financial position for the fiscal year. Such annual report may be prepared on an audited, reviewed or compiled basis, as the Board determines, by an independent public accountant.

3.22 Borrowing. The Association shall have the power to borrow money for any legal purpose; *provided, however*, the Board shall obtain Member approval in the same manner provided in Section 8.3 of the Declaration for Special Assessments if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous 12-month period, exceeds or would exceed 25% of the budgeted gross expenses of the Association for that fiscal year.

3.23 Right to Contract. The Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with owners associations outside the Properties.

3.24 Enforcement. Prior to exercising certain enforcement rights set forth in Section 7.5 of the Declaration and taking other actions specified in the Governing Documents, the Association shall comply with the following notice and hearing procedures:

(a) Notice. Prior to imposition of certain sanctions specified in the Governing Documents, the Board or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a period of not less than 10 days within which the alleged violator may present a written request for a hearing to the Board; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within 10 days of the notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed; *provided, however*, the Board may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the 10-day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

(b) Hearing. If a hearing is requested within the allotted 10 day period, the hearing shall be held before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

(c) Additional Enforcement Rights. Notwithstanding anything to the contrary in this Section, the Board may elect to enforce any provision of the Governing Documents by certain sanctions set forth in Section 7.5 of the Declaration, including by suit at law or in equity to enjoin any violation or to recover monetary damages or both, without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred.

Article IV

Officers

4.1 Officers. The officers of the Association shall be a President, Secretary, and Treasurer. The President and Secretary shall be elected from among the members of the Board; other officers may, but need not be members of the Board. The Board may appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two or more offices may be held by the same person, except the offices of President and Secretary.

4.2 Election and Term of Office. The Board shall elect the officers of the Association at the first meeting of the Board following each annual meeting of the Members, to serve until their successors are elected.

4.3 Removal and Vacancies. The Board may remove any officer whenever in its judgment the best interests of the Association will be served and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise, for the unexpired portion of the term.

4.4 Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may specifically be conferred or imposed by the Board of Directors. The President shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

4.5 Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of the 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.

4.6 Agreements, Contracts, Deeds, Leases, Checks, Etc. All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two officers or by such other person or persons as may be designated by Board resolution.

4.7 Compensation. Compensation of officers shall be subject to the same limitations as compensation of directors under Section 3.13.

Article V **Committees**

5.1 General. The Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution,

5.2 Covenants Committee. In addition to any other committees which the Board may establish pursuant to Section 5.1, the Board may appoint a Covenants Committee consisting of at least three and no more than seven Members. Acting in accordance with the provisions of the Governing Documents and resolutions the Board may adopt, the Covenants Committee, if established, shall be the hearing tribunal of the Association and shall conduct all hearings held pursuant to Section 3.24.

Article VI **Miscellaneous**

6.1 Fiscal Year. The fiscal year of the Association shall be the calendar year unless the Board establishes a different fiscal year by resolution.

6.2 Parliamentary Rules. Except as may be modified by Board resolution, Robert's Rules of Order (current edition) shall govern the conduct of Association proceedings when not in conflict with North Carolina law, the Articles of Incorporation, the Declaration, or these By-Laws.

6.3 Conflicts. If there are conflicts between the provisions of North Carolina law, the Articles of Incorporation, the Declaration, and these By-Laws, the provisions of North Carolina law, the Declaration, the Articles of Incorporation, and the By-Laws (in that order) shall prevail.

6.4 Books and Records.

(a) Inspection by Members and Mortgagees. The Board shall make available for inspection and copying by any holder, insurer or guarantor of a first Mortgage on a Unit, any Member, or the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to his or her interest in a Unit: the Declaration, By-Laws, and Articles of Incorporation, any amendments to the foregoing, the rules of the Association, the membership register, books of account, and the minutes of meetings of the Members, the Board, and committees. The Board shall provide for such inspection to take place at the office of the Association or at such other place within the Properties as the Board shall designate.

(b) Rules for Inspection. The Board shall establish reasonable rules with respect to:

- (i) notice to be given to the custodian of the records;
- (ii) hours and days of the week when such an inspection may be made; and
- (iii) payment of the cost of reproducing copies of documents requested.

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make a copy of relevant documents at the expense of the Association.

6.5 Notices. Except as otherwise provided in the Declaration or these By-Laws, all notices, demands, bills, statements, or other communications under the Declaration or these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, first class postage prepaid:

(a) if to a Member, at the address which the Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Unit of such Member; or

(b) if to the Association, the Board of Directors, or the managing agent, at the principal office of the Association or the managing agent, or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

6.6 Amendment.

(a) By Declarant. Declarant may unilaterally amend these By-Laws if such amendment is necessary (i) to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Units; or (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans to make, purchase, insure or guarantee mortgage loans on the Units; *provided, however*, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent thereto in writing.

(b) By Members Generally. Except as provided above, these By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, of Class A Members representing more than 50% of the total Class A votes in the Association, and the consent of the Class B Member, if such exists. In addition, the approval requirements set forth in Article XIV of the Declaration shall be met, if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) Validity and Effective Date of Amendments.

(i) Amendments to these By-Laws shall become effective upon recordation in the Registry of Deeds of Wake County, North Carolina, unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these By-Laws.

(ii) No amendment may remove, revoke, or modify any right or privilege of Declarant or the Class B Member without the written consent of Declarant, the Class B Member, or the assignee of such right or privilege.

(iii) If a Member consents to any amendment to the Declaration or these By-Laws, it will be conclusively presumed that such Member has the authority so to consent and no contrary provision in any Mortgage or contract between the Member and a third party will affect the validity of such amendment.

CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly acting Secretary of White Oak Townhomes Community Association, a North Carolina corporation;

That the foregoing By-Laws constitute the original By-Laws of said Association, as duly adopted at a meeting of the Board of Directors thereof held on the 6th day of January, 2026.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 6th day of January, 2026.

James Harrison [SEAL]