

BYLAWS  
OF  
EIGHTEEN SOUTH HOMEOWNER=S ASSOCIATION, INC.

ARTICLE I

In construing these Bylaws and the government of the Association, the provisions of Chapter 55A of the General Statutes of North Carolina pertaining to the government of nonprofit business corporations, shall be controlling; the owners of lots within the townhouse project of Eighteen South located in Nags Head Township of Dare County, being considered the members of the Association.

Section 1. Personal Application: All present and future owners, tenants and future tenants, and their employees, and any other person that may at any time use the facilities of the townhouse project in any manner are subject to the regulations set forth in these Bylaws.

Section 2. Rules and Regulations: The Board of Directors may adopt, from time to time, rules and regulations regarding the use of common properties of the Association, the establishment and collection of fees and expenses for the Association, and other regulations as may be necessary to maintain the business and affairs of the Association. Such rules and regulations shall be binding upon the members as if set forth within these Bylaws.

ARTICLE II

The Owners

Section 1. Owners: The townhouse lots and units are owned by the owners of the lot, each of whom shall be entitled to a percentage vote for each lot owned by him. The vote percentage shall be one vote for each lot. No lessee, lienholder, mortgagee, pledge or contract purchaser shall have any voting rights with respect to the affairs of the Association.

Section 2. Annual Meetings: The Association shall hold an annual meeting of the owners each year for the election of Directors and the transaction of any business within the powers of the Association. **The meetings shall be held on the last Saturday in October**, or on a day within seven days thereof as may be established by the Board of Directors. The members shall be notified of the date of the meeting at least ten (10) days prior to the meeting. Any business of the Association may be transacted at an annual meeting without being specifically required by statute or these Bylaws to be stated in the notice. Failure to hold an annual meeting at the designated time shall not, however, invalidate the Association's existence or affect its otherwise valid acts.

Section 3. Special Meetings: At any time in the interval between annual meetings, special meetings of the Association may be called by the President or by a majority of the Board of Directors by vote at a meeting or in writing, with or without a meeting, or by **25% of the record owners** of Association units.

Section 4. Place of Meetings: All meetings of owners shall be held at the office of the Association in Dare County, North Carolina, except in cases in which the notice thereof designates some other place, but all such meetings shall be held within the State of North Carolina.

Section 5. Notice of Meetings: Not less than ten (10) days nor more than ninety (90) days before the date of every owners' meeting, the Secretary shall give to each owner entitled to vote at such meeting, written or printed notice stating the time and place of the meeting and in the case of a special meeting, the purpose or purposes for which the meeting is called, either by mail or by presenting it to him personally or by leaving it at his residence or usual place of business. If mailed, such notice shall be deemed to be given when deposited in the United States mail addressed to the owner at his post office address as it appears on the records of the Association, with postage thereon prepaid. Notwithstanding the foregoing provisions, a waiver of notice in writing signed by the person or persons entitled to such notice and filed with the records of the meeting, whether before or after the holding thereof, or actual attendance at the meeting in person or by proxy, shall be deemed equivalent to the giving of such notice to such persons. Any meeting of owners, annual or special, may adjourn from time to time to reconvene at the same or some other permitted place, and no notice need to be given of any such adjourned meeting other than by announcement.

Section 6. Quorum: At any meeting of owners, the presence in person or by proxy of owners entitled to cast a **majority** of the votes shall constitute a quorum. In the absence of a quorum, the owners present in person or by proxy, by majority vote and without notice other than by announcement, may adjourn the meeting from time to time until a quorum shall attend. At any such adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting originally scheduled.

Section 7. Votes Required: A majority of the votes cast at a meeting of owners, duly called and at which a quorum is present, shall be sufficient to take or authorize action upon any matter which may properly come before the meeting, unless more than a majority of votes cast is required by statute.

Section 8. Proxies: An owner may vote either in person or by proxy executed in writing by the owner or by his duly authorized attorney-in-fact. **All proxies are terminated at the end of each meeting.** Every proxy shall be in writing, subscribed by the owner or his duly authorized attorney, and dated, but need not be sealed, witnessed or acknowledged.

Section 9. List of Owners: At each meeting of owners, a full, true and complete list in alphabetical order of all owners entitled to vote at such meeting shall be furnished by the Secretary.

Section 10. Voting: In all elections for Directors, every owner shall have the right to vote, in person or by proxy, for as many persons as there are Directors to be elected. At all meetings of owners, the proxies and ballots shall be received, and all questions touching the qualification of voters and the validity of proxies and the acceptance or rejection of votes shall be decided by the chairman of the meeting. Unless demanded or ordered by a majority of owners present, no vote need be by ballot, and voting need not be conducted by inspectors.

Section 11. Informal Action by Owners: Any action required or permitted may be taken without a meeting, if a consent in writing, setting forth such action, is signed by all of the owners entitled to vote on the subject matter thereof, provided said consent is filed with the records of the Association.

### ARTICLE III

#### Board of Directors

Section 1. Powers: The business and affairs of the Association shall be managed by the Board of Directors. The Board of Directors may exercise all powers of the Association except such as are by statute or the Bylaws conferred upon or reserved to the owners. In particular, but not by way of limitation, the Board of Directors shall be responsible for, and have all necessary power in connection with, the care, upkeep, and surveillance of the building and other facilities of the Association, including its general and limited common elements, services, and Association-owned property, designation, hiring, and dismissal of the personnel necessary for the good working order of the buildings and to provide services for the buildings. The Board of Directors may delegate any of such responsibilities or all and the expenses therefor shall be a common expense. The Board of Directors or any officer or officers to whom such power may be delegated, shall have power to take any action necessary or appropriate to enforce payment of all sums, including assessments against others, due the Association, including the power to enforce any lien for the same. The Board of Directors shall establish the rules and regulations described in Article I, Section 2 of these Bylaws. The Board of Directors shall have the power to alter, amend or repeal the Bylaws or adopt new Bylaws, provided however that a vote of the property owners on any such amendment conducted with proper notice in accordance with meetings for members and owners in the townhouse shall be capable of overriding the decision of the Board of Directors for such amendments on the basis of by two-thirds (2/3) majority vote.

Section 2. Number: The number of Directors of the Association shall be three (3). Directors shall serve for a term of three (3) years, but shall remain in office until their successors are elected and qualified. The terms of the Directors shall be adjusted so that no more than one Director shall be elected at any meeting to fill the expired term of the prior Director. Following the first annual meeting, at which time all three (3) Directors shall be elected, the newly elected Directors shall draw lots to determine what term of office shall apply to each, with one Director receiving a one year term, one Director receiving a two year term and one Director receiving a three year term.

Section 3. Vacancies: A vacancy occurring in the Board of Directors for any cause may be filled by the remaining members of the Board of Directors until the next annual meeting, at which time a new Director shall be elected by the owners. A Director elected by the Board of Directors to fill a vacancy shall be elected to hold office until the next annual meeting of owners and until his successor is elected and qualifies.

Section 4. Regular Meetings: After each meeting of owners at which a Board of Directors shall have been elected, the Board of Directors so elected shall meet **immediately after said**

**meeting** for the purpose of organization and the transaction of other business at such time as may be designated by the owners at such meeting. Such first meeting shall be held at such place within the State of North Carolina as may be designated by the owners, or in default of such designation, at the office of the Association in North Carolina. No notice of such first meeting shall be necessary if held as hereinabove provided. Other regular meetings of the Board of Directors shall be held on such dates and at such places within the State of North Carolina as may be designated from time to time by the Board of Directors.

Section 5. Special Meetings: Special meetings of the Board of Directors may be called at any time by the President or by the Board of Directors by a vote at a meeting, or by a majority of the Directors in writing with or without a meeting. Such special meetings shall be held at such place or places within the State of North Carolina as may be designated from time to time by the Board of Directors. In the absence of such designation, such meetings shall be held at such places as may be designated in the call.

Section 6. Notice of Meetings: Except as provided in Section 5 of this Article, notice of the place, day and hour of every regular and special meeting shall be given to each Director two (2) days (or more) before the meeting, by delivering the same to him personally, or by sending the same to him by telegraph, or by leaving the same at his residence or usual place of business, or in the alternative, by mailing such notice five (5) days (or more) before the meeting, postage prepaid, and addressed to him at his last known post office address, according to the records of the Association. Unless required by these Bylaws or by resolution of the Board of Directors, no notice of any meeting of the Board of Directors need state the business to be transacted. No notice of any meeting of the Board of Directors need be given to any director who attends, or to any director who, in writing, executed and filed with the records of the meeting either before or after the holding thereof, waives such notice. Any meeting of the Board of Directors, regular or special, may adjourn from time to time to reconvene at the same or some other place, and no notice need be given of any such adjourned meeting other than by announcement.

Section 7. Quorum: At all meetings of the Board of Directors, two (2) Directors shall constitute a quorum for the transaction of business. Except in cases in which it is by statute or by the Bylaws otherwise provided, the vote of a majority of such quorum at a duly constituted meeting shall be sufficient to direct and pass any measure. At any adjourned meeting at which a quorum shall be present, any business may be transacted at the meeting as originally notified.

Section 8. Compensation: By resolution of the Board of Directors, expenses of attendance, if any, may be allowed to Directors for attendance at each regular or special meeting of the Board of Directors or of committees thereof, but Directors as such shall not receive any compensation for their services except such as may be authorized or permitted by vote of the owners. A director who serves the Association in any other capacity, however, may receive compensation therefor without such vote of the owners.

Section 9. Informal Action by Directors: Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if written consent to such action is signed by all members of the Board or such committee, as the case

may be, and such written consent is filed with the minutes of the proceedings of the Board of Directors or committee.

Section 10. Committees: The Board of Directors may by resolution provide for such standing or special committees as it deems desirable, and discontinue the same at its pleasure. Each such committee shall have such powers and perform such duties, not inconsistent with law, as may be assigned to it by the Board of Directors.

Section 11. Indemnification: Every director, every member of the architectural review committee and every officer of the Association shall be indemnified against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with a court proceeding to which he may become involved, by reason of his being or having been a director or officer of the Association, whether or not he is a director or officer at the time such expenses are incurred, except in such cases wherein the director or officer is adjudged guilty of malfeasance or negligence in the performance of his duties; provided, that in the event of a settlement, the indemnification herein shall apply only when the Board of Directors approves such settlement and reimbursement as being in the best interest of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all rights of indemnification to which such director or officer may be entitled.

Section 12. Budget:

A. The Board of Directors shall adopt a budget for each fiscal year (with the fiscal year to be determined by the Board) which shall contain estimates of the costs of performing the functions of the Association including but not limited to:

1. Common Expenses of the Association

- (a) maintenance and upkeep of common areas and elements;
- (b) maintenance and upkeep of Association-owned real property and personal property;
- (c) staff payroll, supplies and office expenses;
- (d) manager's salary or fees;
- (e) insurance;
- (f) common utilities;
- (g) service contracts;
- (h) fees and permits.

2. Capital Improvements Reserve

3. Anticipated Special Assessments

A. Copies of the proposed budget shall be transmitted to each member or lot owner on or before one month prior to the annual meeting for the fiscal year for which the budget is

made. If the budget is subsequently amended, then a copy of the amended budget shall be furnished immediately to each lot owner.

A. Accounting shall be on a cash basis and conform to generally accepted accounting principals.

**Section 13. Removal of Director: A director may be removed from office only by majority vote of association members at a called Special Meeting designated for this purpose only.**

## ARTICLE IV

### Officers

Section 1. Executive Officers: The Board of Directors shall choose a President, Vice President, Secretary and Treasurer who need not be Directors. Any two (2) of the above mentioned officers, except that of President and Vice President, may be held by the same person, but no officer shall execute, acknowledge or verify any instrument in more than one (1) capacity if such instrument be required by statute, by the Bylaws or by resolution of the Board of Directors to be executed, acknowledged or verified by any two (2) or more officers. Each such officer shall hold office until the first meeting of the Board of Directors after the annual meeting of owners next succeeding his election and until his successor shall have been duly chosen and qualified, or until he shall have resigned or shall have been removed. Any vacancy in any of the above offices may be filled for the unexpired portion of the term by the Board of Directors at any regular or special meeting.

Section 2. President: The President shall preside at all meetings of owners and of the Board of Directors at which he shall be present; he shall have general charge and supervision of the business of the Association; he may sign and execute, in the name of the Association, all authorized deeds, mortgages, bonds, contracts, or other instruments, except in cases in which the signing and execution thereof shall have been expressly delegated to some other officer or agent of the Association; and, in general, he shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

Section 3. Vice President: The Vice President shall, at the request of the President, or in the absence or disability of the President, perform the duties and exercise the powers of the President, and shall perform such other duties and have such other powers as the Board of Directors shall from time to time prescribe.

Section 4. Secretary: The Secretary shall keep the minutes of the meetings of owners and of the Board of Directors in books provided for the purpose; he shall see that all notices are duly given in accordance with the provisions of the Bylaws or as required by law; he shall have general charge of the records of the Association; and in general, he shall perform all duties incident to the office of Secretary, and such other duties as may be assigned to him from time to time by the President or

Board of Directors. This office may be combined with the following office of Treasurer with the same term, by election of the Board of Directors.

Section 5. Treasurer: The Treasurer shall have charge and be responsible for all funds, securities, receipts and disbursements of the Association and shall deposit, or cause to be deposited, in the name of the Association, all monies or other valuable effects in such banks, trust companies or other depositories as shall from time to time be selected by the Board of Directors; he shall render to the President and to the Board of Directors, whenever requested, an account of the financial condition of the Association, and in general, he shall perform all duties incident to his office and such other duties as may be assigned to him from time to time by the President or by the Board of Directors. This office may be combined with the prior office by election of the Board of Directors.

Section 6. Removal: Any officer or agent of the Association may be removed by the Board of Directors whenever, in its judgment, the best interest of the Association will be served thereby, but such removal shall be without prejudice to the contractual rights, if any, of the person so removed.

Section 7. Loans to Officers and Directors: No loans shall be made by the Association to any of its Directors or officers.

## ARTICLE V

### Obligations of the Owners

Section 1. Assessments: Each owner is obligated to pay the assessments imposed upon him by the Association to meet general common element expenses, which shall include a liability insurance policy premium and may include other insurance if necessary for the insurance of the common properties of the Association. The assessments shall be made pro rata according to the percentage interest owned as stipulated in the Declaration of Protective Covenants. Such assessments levied upon the owner of a lot shall become a lien on said lot at the time assessed and until paid in full. Each regular assessment levied shall be due and payable quarterly, within thirty (30) days after the date of assessment, which said date of assessment shall be the first day of July. Any special assessment, designated as such by the Board of Directors shall be due and payable within ninety (90) days of when assessed. There will be no declaration in trust for enforcement of said lien.

#### Section 2. Maintenance and Repair:

A. Every owner must perform all maintenance and repair work within his own lot which, if omitted, would affect the general or limited common elements, or any other lot, such owner being expressly responsible for the damages and liabilities his failure to do so may engender.

A. All the repairs of internal installations of the lot such as water, light, power, telephones, cable television, doors, windows, lamps and all other accessories belonging to the lot area shall be at the owner's expense.

A. An owner shall reimburse the Association for any expenditures incurred in repairing or replacing any general or limited common element damaged through his fault, other than damage arising from an insured casualty.

## ARTICLE VI

### Insurance

Section 1. Protective Policies: The Board of Directors shall procure and maintain, in its name as agent or trustee for the benefit of the co-owners who shall be deemed parties insured, policies of insurance in stock or mutual insurance companies licensed to do business in the State of North Carolina, to the extent obtainable, as follows:

A. If by decision of the Board of Directors it is deemed necessary, a policy or policies insuring the common properties of the Association against loss, damage or destruction by fire or other casualty, including lightning, windstorm, hail, explosion, riot, civil commotion, aircraft, vehicle, falling object, smoke, malicious mischief, vandalism, collapse through weight of snow, ice or sleet, water, flood, and other similar casualties, in an aggregate amount equal to the full insurable replacement value of the improvements, without regard to depreciation. In lieu of the foregoing insurance, the Board of Directors may procure and maintain such other insurance against loss, damage or destruction of the general common elements of the Association as shall give substantially equal or greater protection to the co-owners, as their interest may appear.

A. Such insurance as will protect the owners, and each of them, from claims under workmen's compensation acts and other employee benefit acts, where necessary.

A. Such insurance as will protect the manager or agent, the Board of Directors, the owners and each of them, from claims for damage to the property, any or all of which may arise out of or result from ownership of any interest in the Association project or the management or operation of said project, or because of any injury or damage sustained on or attributable to the property, including the ownership, maintenance and use of the parking areas. It is intended that the insurance described in this subparagraph C be a comprehensive general liability policy endorsed to protect each co-owner against all liability arising out of or otherwise attributable to the property, including operation of the premises, products liability, liability attributable to work or other act of an independent contractor, or let or sublet work, landlord-tenant liability, and contractual liability. Further, the insurance shall cover the liability of one or more co-owners, as parties insured. Such public liability insurance shall be in the limits of at least \$100,000.00 for injuries or damages sustained by any one person, \$300,000.00 for injuries or damages sustained by two or more persons in any one accident, and \$10,000.00 for property damage. The public liability insurance policy shall be so endorsed as to protect the insured against liability imposed or assumed by any contract.

A. In all events, each policy of insurance procured under this Section 1 of Article VI shall contain a waiver of the insurer's subrogation rights against each co-owner, and a waiver of any defense maintainable by the insurer by reason of any co-insurance provision of any policy or by reason of any act or neglect of any co-owner, whether before or after the loss, damage or destruction may occur. Further, each policy of insurance shall provide that any co-owner in his own right may procure other insurance, fire casualty, liability or otherwise, and that such other insurance shall in no way serve to reduce, abate or diminish, or cause any proration in payment of the total loss by the insurer. Each policy of insurance procured under paragraphs A or B of this section shall state that the exclusive right and authority to adjust losses under the policy shall be vested in the Board of Directors.

A. The Association shall indemnify and hold harmless the individual lot owners from any liability on matters where such liability would appropriately be borne by the Association. In the event that liability for any matter or act arising out of the ownership of the property subject to these Bylaws or the common properties appurtenant thereto, other than intentional or malicious acts which are so adjudicated, shall be adjudicated by final decree against any one or more owners and in the further event that the liability for such act or event exceeds the policy limits of insurance or in the event that the insurance does not provide coverage for such events of liability, the owners of all of the lots in the townhouse, shall indemnify and hold harmless the parties so adjudicated to be liable, in proportion to the interests held by each of them to the total lots in the townhouse, and such indemnity shall extend to include the damages, cost of defense including attorney fees, judgment award and all other similar costs. Such indemnity shall take the form of an assessment or assessments and shall constitute a lien in the same manner as other common expenses of the Association. The provisions of this paragraph are not to be construed so as to imply that any individual owner is liable directly for the acts or responsibilities of the Association or to otherwise change the liability of any party as it would stand if not for the provisions hereof, except as stated herein.

Nothing provided in this Article VI shall prejudice the right of any owner to insure himself against liability to others.

Section 2. Application for Insurance: Each owner shall furnish such information and sign such application forms or other documents, if any, as may be required to obtain insurance as provided in this Article VI.

## ARTICLE VII

### Finance

Section 1. Checks, Drafts, Etc.: All checks, drafts, or other orders for the payment of money, notes and other evidences of indebtedness issued in the name of the Association shall be signed by such officers, agents or manager of the Association, as determined by the Board of Directors.

Section 2. Annual Reports: There shall be prepared annually a full and correct statement of the affairs of the Association, including a balance sheet and a financial statement of operations for and filed at the principal office of the Association.

Section 3. Fiscal Year: The fiscal year of the Association shall be determined by the Board of Directors.

## ARTICLE VIII

### Architectural Review

Section 1. The covenants, conditions, and restrictions for the Eighteen South project establish certain standards for construction of improvements, setbacks, and other building requirements. These standards are made applicable to each lot in the townhouse project. The covenants also provide for the review process to be administered by the association of property owners for the townhouse project. Based upon such authority, the Board of Directors shall establish a committee for the purpose of administering the architectural standards set forth in the declaration of covenants and restrictions for the townhouse. The rules of operation, number of committee members and their eligibility shall be established by the Board of Directors and shall be subject to further change in the discretion of the board.