

EXHIBIT A

**BYLAWS, Amendment 1 and Restatement BROOKSIDE  
HOMEOWNERS ASSOCIATION, INC.**

**ARTICLE I  
NAME AND LOCATION**

1.1 Name. The name of the corporation is Brookside Homeowners Association, Inc. hereinafter referred to as the "Association".

1.2 Location. The principal office of the corporation shall be located in Henderson County, North Carolina. The registered office of the Association may be, *but need not* be, identical with the principal office.

**ARTICLE II  
DEFINITIONS**

2.1 "Association" shall mean and refer to Brookside Homeowners Association, Inc., a North Carolina non-profit corporation, its successors and assigns.

2.2 "Common Area" shall mean: (i) all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners; and, (ii) all of those portions of the Development which are owned in undivided interests by the individual Owners of the separate Units in common with each other.

2.3 "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the Office of the Register of Deeds for Henderson County, North Carolina.

2.4 "Townhome(s)" shall mean and refer to the attached and detached single-family dwelling unit(s)

2.5 "Member" shall mean and refer to every person or entity that holds membership in Association.

2.6 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any town home which is part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

2.7 "Property" or "Properties" shall mean and refer to the "Property" described in paragraph 1 of the Statement of Purpose of the Declaration.

**ARTICLE III  
MEETING OF MEMBERS**

3.1 Annual Meetings. The first annual meeting of the Members shall be held within one year from the date of incorporation of the Association. All subsequent annual meetings of the Members shall be held as determined by the Board of Directors.

3.2 Special Meetings. Special meetings of the Members may be called at any time by the President or by the Board of Directors as hereinafter provided, or upon written request of the Members who are entitled to vote forty-percent (40%) of all the votes appurtenant to the town homes.

3.3 Place of Meetings. All meetings of the Members shall be held at such place, within Henderson County, North Carolina, as shall be determined by the Board of Directors of the Association.

3.4 Notice of Meetings. Not less than 10 or more than 60 in advance of any meeting the Secretary of the Association shall cause notice to be hand-delivered or sent prepaid by US mail to the mailing address of each townhome or to any other mailing address designated by the townhome owner, or sent by electronic means, including by electronic mail over the internet, to an electronic mailing address designated by the townhome owner. The notice of any meeting shall state the time and place, the items on the agenda the general nature of any proposed amendments to the Declaration or Bylaws, or any budget changes and any proposal to remove a Director or officer of the Association.

3.5 Quorum. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, forty percent (40%) of the votes appurtenant to the townhomes shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until quorum as aforesaid shall be present or be represented.

3.6 Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his townhome.

3.7 Waiver of Notice. Any member may at any time, waive notice of any meeting of the Members in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Member at any meeting of the Members shall constitute a waiver of notice by him of the time and place thereof; except where a Member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all Members are present at any meeting of the Members, no notice shall be required and any business may be transacted at such meeting.

**ARTICLE IV  
BOARD OF DIRECTORS**

4.1 Number of Directors. The business and affairs of the Association shall be managed by the Board of three (3) Directors, who need not be Members of the Association.

4.2 Term of Office Members shall elect three Directors. The initial term of office for one Director shall be fixed at one year, the initial term of office for one Director shall be fixed at two years, and the initial term of office for one Director shall be fixed at three years. At the expiration of the initial term of office of each respective director, his/her successor shall be elected to serve a term of three years. Each Director shall hold office until his death, resignation, retirement, removal, disqualification or his successor is elected and qualifies.

4.3 Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two other members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall, in its discretion, determine but not less than the number of vacancies that are to be filled.

4.4 Election. Except as provided in Paragraph 4.5 of this Article, Directors shall be elected at the annual meeting of the Members by written ballot. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected.

4.5 Removal. Any Director may be removed from the Board, with or without cause, by a majority Vote of the Members of the Association. Except as provided in Paragraph 4.2 of this Article, in the event of death, resignation or removal of a Director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor. The Members may elect a Director at any time to fill any vacancy not filled by the Directors.

4.6 Compensation. No Director shall receive compensation for any service he may render to the Association. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

**ARTICLE V  
MEETING OF DIRECTORS**

5.1 Regular meetings. Regular meetings of the Board of Directors shall be held quarterly, without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

5.2 Special Meeting. Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two Directors, after not less than three (3) days notice to each Director.

5.3 Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

5.4 Informal Action by Directors. Action taken by a majority of the Directors without a meeting is nevertheless Board action if written consent to the action in question is signed by all Directors and filed with the minutes of the proceedings of the Board, whether done before or after the action so taken.

5.5 Chairman. A Chairman of the Board of Directors shall be elected by the Directors and shall Preside over all board meetings until the President of the Association is elected. Thereafter, the President shall serve as Chairman. In the event there is a vacancy in the office of Presidency, a Chairman shall be elected by the Board of Directors and serve until a new President is elected

5.6 Liability of the Board. The members of the Board of Directors shall not be liable to the Owners for any mistake of judgment, negligence, or otherwise except for their own individual willful misconduct or bad faith. The owners shall indemnify and hold harmless each of the members of the Board against all contractual liability to others arising out of contracts made by the Board on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or the Bylaws. It is intended that the members of the Board of Directors shall have no personal liability with respect to any contract made by them on behalf of the Association, except to the extent that they are owner(s).

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

6.1 Powers. The Board of Directors shall have power to:

[a] adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct to the Members and their guests thereon, and to establish penalties for the infraction thereof;

(b) suspend the voting rights and right to use of the recreational facilities of a Member during a period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days, for infraction of published rules and regulation;

(c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation or the Declaration.

(d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors;

(e) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties;

(f) employ attorneys and accountants to represent the Association when deemed necessary;

(g) grant easements for the installation and maintenance of sewerage, utilities, cable television, or drainage facilities upon, over, under and across the Common Area without the assent of the membership when such easements are requisite for the convenient use and enjoyment of the properties;

(h) appoint and remove at pleasure all officers, agents and employees of the Association, prescribe their duties, fix their compensation and require of them such security or fidelity bond as it may deem expedient.

6.2 Duties. It shall be the duty of the Board of Directors to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by Members entitled to at least forty-percent (40%) of the votes appurtenant to the homes;

(b) supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;

(c) as more fully provided in the Declaration, to

i. Fix the amount of the annual assessment against each home at least thirty (30) days before January 1 of each year;  
ii. Send written notice of the assessment for the following year to every ownersubject thereto at least 15 days before the assessment period;

iii. foreclose the lien against any property for which assessments are not paid within forty-five (45) days after due date or to bring an action at law against the owner personally obligated to pay the same;

(d) issue, or to cause an appropriate Officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid; (A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment.)

(e) procure and maintain adequate liability insurance covering the Association and the Directors and officers thereof, and adequate hazard insurance on the property owned by the Association including premises liability insurance for the Common Areas and Open Space;

(f) cause all officers or employees having fiscal responsibility to be bonded, as it may deem appropriate;

(g) cause the Common Area to be maintained; and

(h) cause the exterior of the dwellings to be maintained.

## **ARTICLE VII OFFICERS AND THEIR DUTIES**

7.1 Officers. The Officers of the Association shall be a President and Vice-President, who shall at all time be members of the Board of Directors, a Secretary, and a Treasurer, and such other Officers as the Board may from time to time by resolution create.

7.2 Election of Officers. The election of Officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

7.3 Term. Each officer of the Association shall be elected annually by the Board and shall hold office for one (1) year or until his death, resignation, retirement, removal, disqualification or his successor is elected and qualifies.

7.4 Special Appointment. The Board may elect such other Officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority and perform such duties as the Board may, from time to time, determine.

7.5 Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any Officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date 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.

7.6 Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the Officer he replaces.

7.7 Multiple Officers. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 7.4 of this Article.

7.8 Compensation. No officer shall receive any compensation from the Association for acting as such.

7.9 Duties. The duties of the Officers are as follows:

- (a) President. The President shall be the principal executive officer of the Association, shall be subject to the control of the Board, and shall supervise and control the management of the association. The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments, and shall co-sign all checks in excess of 150.00 and promissory notes. Expenses that have prior Board approval may be paid by electronic means at the discretion of the Treasurer.
- (b) Vice Presidents. The Vice-President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.
- (c) Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.
- (d) Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual review of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare or have a public accountant prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy to the Members.

#### **ARTICLE VIII COMMITTEES**

8.1 Appointment of Committees. The Association shall appoint a Nominating Committee, as provided in these Bylaws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

#### **ARTICLE IX BOOKS AND RECORDS**

9.1 Inspection. The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation and the Bylaws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at a reasonable cost.

#### **ARTICLE X ASSESSMENTS**

10. 1 Annual and Special Assessments. As more fully provided in the Declaration, each Member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments that are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the initial rate of twelve-percent (12%) per annum, plus such (ate charge as may be established by the Board of Directors, and after forty-five (45) days, the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property; and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. Said interest rate may be changed from time to time by the Board of Directors. No Owner or Member may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his home.

**ARTICLE XI  
AMENDMENTS**

11.1 By Majority. These Bylaws may be amended at a regular or special meeting of the Members , by a vote Of a majority of a quorum of Members present in person or by proxy.

**ARTICLE XII  
MISCELLANEOUS**

12.1 Fiscal Year. The fiscal year of the Association shall begin on the first day of January and end on the 31 " day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

12.2 The Association may send all required notices via E-Mail when the Owner provides both an EMail address and specific written permission for the Association for the Association to use this method of notification. Such permission may be rescinded at any time by the owner notifying the Secretary of the Association in writing of such rescission.

**ARTICLE XIII**

**INDEMNIFICATION OF DIRECTORS, OFFICERS AND OTHERS**

13.1 Indemnification The Association shall indemnify any Director or Officer or former Director or officer of the Association, or any person who may have served at the request of the Association as a Director or Officer of another corporation, whether for profit or not for profit, against expenses (including attorney's fees) or liabilities actually and reasonably incurred by him in connection with the defense of or as a consequence of any threatened, pending or completed action, suit or proceeding (whether civil or criminal) in which he is made a party or was (or is threatened to be made) a party by reason of being or having been such Director or Officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for gross negligence or misconduct in the performance of duty.

13.2 Non-exclusive. The indemnification provided herein shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any statute, bylaw, agreement, vote of members or disinterested Directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a Director, Officer, employee or agent, and shall inure to the benefit of the heirs, executors and administrators of such a person.

13.3 Insurance. The Association may purchase and maintain insurance on behalf of any person who is or was a Director, Officer, employee or agent of the Association, or is or was serving at the request of the Association as a Director, Officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability.

13.4 Reduction of Indemnification. The Association's indemnity of any person who is or was a Director, Officer, employee or agent of the Association, or is or was serving at the request of the Association, as a Director, Officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall be reduced by any amounts such person may collect as indemnification (i) under any policy of insurance purchased and maintained on his behalf by the Association or (ii) from such other corporation, partnership, joint venture, trust or other enterprise.

13.5 Applicable State Law. Nothing contained in the Article XIII, or elsewhere in these Bylaws, shall operate to indemnify any Director or Officer if such indemnification is for any reason contrary to any applicable state or federal law.

#### **ARTICLE XIV ARBITRATION**

14.1 Arbitration Requirement. Any claim that shall be made against one or more members of the Board of Directors shall be settled by arbitration except as otherwise provided herein, in the Declaration or under any applicable law, and judgment upon the award may be entered in any court having jurisdiction thereof. Such arbitration shall be commenced upon the delivery of any such claim, in writing, to one or more members of the Board; shall be before one disinterested arbitrator if one can be agreed upon, otherwise before three disinterested arbitrators, one named by the Director(s), one by the Owner(s), and one by the two thus chosen. The arbitrator or arbitrators shall determine the controversy in accordance with the laws of North Carolina as applied to the facts found by him/them. If the Director(s) or the Owner(s) shall refuse or fail to so name an arbitrator in thirty (30) days after written notice from the other party requiring the naming of an arbitrator, then the arbitrator so named by the party not in default hereunder shall have the power to proceed to arbitrate and determine the matters in controversy as if he were an arbitrator appointed by both parties for that purpose, and his award in writing signed by him shall be final. The rules of procedure for the arbitration hearing may be adopted by the arbitrators. All arbitration proceedings hereunder shall be conducted in Henderson County, North Carolina.