

**BY-LAWS
OF
SOUTHWICK FARM HOMEOWNERS ASSOCIATION, INC.**

**Article I
Name, Principle Office, and Definitions**

1.1. **Name.** The name of the association is SOUTHWICK FARM HOMEOWNERS ASSOCIATION, Inc. (the "Association").

1.2. **Principle Office.** The Principle Office of the Association shall be located in Johnston County, North Carolina. The Association may have such other offices, either within or outside the State of North Carolina, as the Board of Directors may determine or as the affairs of the Association may require.

1.3. **Definitions.** The words used in these By-Laws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in that RESTRICTIVE COVENANTS SOUTHWICK FARM SUBDIVISION RESTRICTIONS as it may be amended (the "Declaration"), unless the context indicates otherwise and the and the DECLARATION OF THE HOMEOWNERS ASSOCIATION FOR SOUTHWICK FARM SUBDIVISION filed in the Register of Deeds of Johnston County, North Carolina

**Article II
Association: Membership, Meetings, Quorum, Voting, Proxies**

2.1. **Membership.** The Association Membership is defined in Article II in the DECLARATION OF THE HOMEOWNERS ASSOCIATION FOR SOUTHWICK FARM SUBDIVISION

2.2. **Place of 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 as the Board may designate, either within the Properties or as convenient as possible and practical.

2.3. **Annual Meetings.** The first meeting of the Association, whether a regular or special meeting, 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 no less than 10 days and no more than 60 days following the adoption and mailing of the summary of the proposed annual budget and notice of annual meeting at a time set by the Board.

2.4. **Special Meetings.** The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting if so directed by resolution of the Board or upon a petition signed by at least 10% of the total votes in the Association.

2.5. **Notice of Meetings.** Unless otherwise required by the Declaration or by the Articles of Incorporation, written or printed notice stating the place, day, and hour of any meeting of the Members shall be delivered, either personally or by mail, to each Member entitled to vote at such meeting, not less than 10 nor more than 60 days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting.

In the case of a special meeting or when otherwise required by statute or these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Member at its address as it appears on the records of the Association, with postage prepaid.

2.6. **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 based on lack of proper notice is raised before the business is put to a vote.

2.7. **Adjournment of Meetings.** 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 except as otherwise provided in the Declaration or in the Articles of Incorporation. 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.

Pursuant to § 47F-3-109 of the North Carolina Planned Community Act, in the event business cannot be conducted at any meeting because a quorum is not present, if that meeting is adjourned to a later date by the affirmative vote of a majority of those present in person or by proxy. Notwithstanding any provision, to the contrary in the declaration or the bylaws, the quorum requirement at the next meeting shall be one-half of the quorum requirements applicable to the meeting adjourned for lack of a quorum. This provision shall continue to reduce the quorum by fifty percent (50%) from that required at the previous meeting, as previously reduced, until a quorum is present and business can be conducted.

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.

2.8. **Voting.** The voting rights of the Members shall be set forth in the Declaration and in these By-Laws, and such voting rights provisions are specifically incorporated by this reference.

2.9. **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 duly specify the Lot or Living Unit 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 that fails to specify the Lot or Living Unit 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 Lot or Living 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.

2.10. **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.

2.11. **Quorum.**

2.11.1. **For Business Meetings:** Except as otherwise provided in these By-Laws or in the Declaration, or in the Articles of Incorporation, the presence, in person or by proxy, of Members representing 10% of the total Class "A" votes and 10% of the total Class "B" votes in the Association shall constitute a quorum at all meetings of the Association.

2.11.2. **For Assessments:** From and after when Declarant owns five (5) lots or less in Southwick Farm Subdivision, the maximum annual assessment shall be agreed upon a vote of two-thirds (2/3) of Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half(1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. If the quorum present at the second meeting is less than (30%), any HOA issue or business purpose shall be addressed and voted upon by the Homeowners association members present. However, if quorum present at the second such meeting is less than 30%, any decision approved by the HOA membership shall be left to the discretion of the Board of Directors as to whether to approve or reject.

2.12. **Conduct of Meetings.** The President, or an appointed chairman, shall preside over all meetings of the Association, and the Secretary, or an appointed person, shall keep the minutes of the meetings and record in a minute book all resolutions adopted and all other transactions occurring at such meetings.

2.13. **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.** A Board of Directors, each of whom shall have one equal vote, shall govern the affairs of the Association. Except with respect to directors appointed by the Class "B" Member, the directors shall be Members or Residents; provided, no Owners and Residents occupying the same Living Unit may serve on the Board at the same time. A "Resident" shall be any natural person 18 years of age or older whose principle place of residence is a Living 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, no Member may have more than one such representative on the Board at a time, except in the case of directors appointed by the Class "B" Member.

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

3.3. **Directors During Class "B" Control Period.** Subject to the provisions of Section 3.5 below, the directors shall be appointed by the Class "B" Member acting in its sole discretion and shall serve at the pleasure of the Class "B" Member until the first to occur of the following:

- (a) when the total votes outstanding in Class A membership exceed the total votes outstanding in Class B membership, but provided, that the Class B membership shall be reinstated if thereafter, and before the time stated in Subparagraph (b) below, such additional lands are annexed to the Property without the assent of Class A members on account of the development of such additional lands by the Declarant, all as provided for in Article VII below; or
- (b) Ten (10) years from the date of Conveyance of the first Lot by Declarant; or
- (c) When, in its sole discretion the Class "B" Member so determines.

3.4. **Nominations and Election Procedures.**

- (a) **Nomination of Directors.** Except with respect to directors selected by the Class "B" Member, nominations for election to the Board of Directors may be made by a Nominating Committee, or from the floor of a duly called meeting for the election of Board Members. If the Board elects to utilize a Nominating Committee, it shall consist of a Chairman, who shall be a member of the Board of Directors, and two 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 appointment shall be announced at each such election. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but in no event less than the number of positions to be filled as provided in Section 3.5 below. Nominations shall also be permitted from the floor. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and solicit votes. If a majority of the Association Members, at a duly called annual or special elections meeting, agree to nominate and elect Board Members solely from the floor of the meeting without the Nominating Committee process the elections shall be valid.
- (b) **Election Procedures.** Elections shall be held at the Association's duly called elections or annual meeting, unless the Board determines that such elections shall be held by mail. If elections are held by mail, the Board or an election committee appointed by the Board shall open and count the ballots on the election date. Ballots may or may not be used when the elections are held at a duly called meeting.

Each Owner may cast the entire vote assigned to his Lot or Living 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.

3.5. **Election and Term of Office.** Notwithstanding any other provision of these By-Laws:

- (a) From and after the time that Class "A" Members own 33% of the Lots, or whenever the Class "B" Member earlier determines, the President shall call for an election at the next annual meeting thereafter by which the Class "A" Members shall be entitled to elect one of the three directors. The remaining two directors shall be appointees of the Class "B" Member. The director elected by the Class "A" Members shall not be subject to removal by the Class "B" Member and shall be elected for a term of two years or until the happening of the event described in subsection (b), whichever is shorter. If such director's term expires prior to the happening of the event described in subsection (b), a successor shall be elected for a like term.

- (b) From and after the time that Class "A" Members own 67% of the Lots or whenever the Class "B" Member earlier determines, the President shall call for an election at the next annual meeting thereafter by which the Class "A" Members shall be entitled to elect two of the three directors. The remaining director shall be the appointee of the Class "B" Member. The directors elected by the Class "A" Members shall not be subject to removal by the Class "B" Member and shall be elected for a term of two years or until the happening of the event described in subsection (c) below, whichever is shorter. If such directors' terms expire prior to the happening of the event described in Subsection (c) below, successors shall be elected for a like term.
- (c) Not later than the first annual meeting after the termination of the Class "B" Control Period, an election shall be held, by which the Class "A" Members shall be entitled to elect all of the number of directors (except those already elected by Class "A" Members whose terms have not expired, with the two directors receiving the greatest number of votes being elected for a term of two years. An increase or decrease in the number of directors, between three and seven, may be determined at each annual meeting by members holding a majority of the votes, in form of a successful motion to increase or decrease the number of Directors between three and seven. Upon the expiration of the term of office of each director elected by the Class "A" Members, a successor shall be elected to serve a term of three years. The directors elected by the Class "A" Members shall hold office until their respective successors have been elected.
- (d) If the entire Board of Directors is elected at an annual meeting, the number of votes received by each candidate shall determine the term for their seats. The newly elected members in a proportionate numbers shall serve 2, and 1 year terms, based on the total number of votes received. The Board members receiving the most votes will fill the majority of seats for the two year term. The remaining seats serve a one year term and are filled by the candidates receiving the fewer number of votes.

3.6. **Removal of Directors and Vacancies.** Any director elected by the Class "A" Members 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 director, a successor shall be elected by the Class "A" Members to fill the vacancy for the remainder of the term of such director.

Any director elected by the Class "A" Members 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 to the Association, may be removed by the 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.

In the event of the death, disability, or resignation of a director elected by the Class "A" Members, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Class "A" Members shall elect a successor for the remainder of the term.

This Section shall not apply to directors appointed by the Class "B" Member nor to any director serving as a representative of the Declarant. The Class "B" Member shall be entitled to appoint a successor to fill any vacancy on the Board resulting from the death, disability or resignation of a director appointed by or elected as a representative of the Class "B" Member.

B. Meetings.

3.7. **Organizational Meetings.** The first meeting of the Board following each annual meeting of the membership shall be held within 30 days thereafter at such time and place, as the Board shall fix.

3.8. **Regular Meetings.** Regular Meetings of the Board may be held at such time and place, as a majority of the directors shall determine. 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.

3.9. **Special Meetings.** Special meetings of the Board of Directors shall be held when called by written notice signed by the President or Vice 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 may 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.

3.10. **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.

3.11. **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.

3.12. **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.

3.13. **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.

3.14. **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.

3.15. **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.

3.16. **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 effects as a unanimous vote.

C. Powers and Duties.

3.17. **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 Declaration and Articles of Incorporation and as provided by law. The Board may do or cause to be done all acts and things as are not by the Declaration, Articles, these By-Laws, or North Carolina law directed to be done and exercised exclusively by the membership generally.

3.18. **Duties.** The duties of the Board shall include, without limitation:

- (a) preparing and adopting, in accordance with the Declaration, an annual budget establishing each Owner's share of the Common Expenses and any Limited Common Area expenses;
- (b) levying and collecting such assessments from the Owners;
- (c) providing for the operation, care, upkeep, and maintenance of the Common Areas;
- (d) 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;
- (e) 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, any reserve fund may be deposited, in the directors' best business judgment, in depositories other than banks;
- (f) making and amending use restrictions and rules in accordance with the Declaration;
- (g) opening of bank accounts on behalf of the Association and designating the signatories required;
- (h) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Areas in accordance with the Declaration and these By-Laws;
- (i) enforcing by legal means the provisions of the Declaration and Articles of Incorporation and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association; provided, 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;
- (j) 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;
- (k) paying the cost of all services rendered to the Association;
- (l) keeping books with detailed accounts of the receipts and expenditures of the Association;
- (m) making available to any prospective purchaser of a Lot, any Owner, and the holders, insurers, and guarantors of any Mortgage on any Lot, current copies of the Declaration and Articles of Incorporation and all other books records, and financial statements of the Association, as provided in Section 6.4;
- (n) permitting utility suppliers to use portions of the Common Areas reasonably necessary to the ongoing development or operation of the Properties;
- (o) 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; provided, however, that no indemnification shall be paid for a financial obligation and as a Member of the Association.

- (p) Assisting in the resolution of disputes between Owners and others without litigation, as set forth in the Declaration
- (q) Contracting with a professional property management firm to perform any and all of the above-referenced duties.

3.19. **Right of Declarant Member to Disapprove Actions.** So long as the Class "B" membership exists, the Declarant shall have the right to disapprove any action, policy or program of the Association, the Board, and any committee which, in the sole judgment of the Declarant, would tend to impair rights of the Declarant or builders under the Declaration or these By-Laws, or interfere with development of or construction on any portion of the Properties.

- (a) The Class "B" Member shall be given written notice of all meetings and proposed actions approved at meetings (or by written consent in lieu of a meeting) of the Association, the Board or any committee. Such notice shall be given by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, which notice complies as to the Board meetings with Sections 3.8, 3.9 and 3.10, and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth in reasonable particularity the agenda to be followed at said meeting; and
- (b) The Declarant shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein.

No action, policy or program subject to the right of disapproval set forth herein shall become effective or be implemented until and unless the requirements of subsections (a) and (b) above have been met.

The Declarant, its representatives or agents shall make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee. The Declarant, acting through any officer or director, agent or authorized representative, may exercise its right to disapprove at any time within 10 days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within 10 days following receipt of written notice of the proposed action. This right to disapprove may be used to block proposed actions but shall not include a right to require any action or counteraction on behalf of any committee, or the Board or the Association. The Declarant shall not use its right to disapprove to reduce the level of services, which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

3.20. **Management.** 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 policy making authority or those duties set forth in Sections 3.18(a), 3.18(b), 3.18(f), 3.18(g), and 3.18(i). The Declarant, or an affiliate of the Declarant, may be employed as managing agent or manager.

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. All management contracts shall contain a provision, which allows the Association, after ninety days written notice, to terminate such contracts.

3.21. **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; any thing 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: (1) a balance sheet; (2) an operating (income) statement; and (3) 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, the Board shall obtain Member approval in the same manner provided in Article IV, Section 4 of the Declaration for Special Assessments if the proposed borrowing is for the purpose of making 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 Property.

3.24. **Enforcement.** Prior to exercising certain enforcement rights set forth in the Declaration and taking other actions specified in the Declaration and Articles of Incorporation, 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 15 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 15 days of the notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed; provided, the Board may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the 15-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 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, Vice 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. The same person, except the offices of President and Secretary, may hold any two or more offices.

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 of the By-Laws.

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 Lot, 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 Lot: 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, in accordance with N.C.G.S. Section 55A-15-02 with respect to:

- (i) the contents of the written notice to be given to the custodian of 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 dwelling of such Member; or
- (b) if to the Association, the Board of Directors, or the managing agent, at the principle office of the Association or the managing agent, or at such other address shall be designated by notice in writing to the Members pursuant to this Section.

6.6. **Amendment.**

(a) **By Class "B" Member.** Until termination of the Class "B" Membership and subject to the approval requirements of the Declaration, the Class "B" Member 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 dwellings; 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 Lots unless the Owner shall consent thereto in writing. So long as the Class "B" membership exists, the Class "B" Member may unilaterally amend these By-Laws for any other purpose, provided the amendment has no material adverse effect upon any substantive right of any Member.

- (b) **By Members Generally.** Except as provided above, these By-Laws may be amended during the first twenty (20) year period only by the affirmative vote or written consent, or any combination thereof, of 75% of the total Class "A" votes in the Association, and the consent of the Class "B" Member, if such exists; thereafter, these By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, of 67% of the total Class "A" votes in the Association. In addition, the approval requirements set forth in 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.** Amendments to these By-Laws shall become effective upon enactment, unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its enactment 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.

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.

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.

- (d) **FHA/VA Approval.** As long as there is a Class "B" membership, and if Declarant determines to qualify this Property for Federal Housing Administration or Veterans Administration approval the following actions will require the prior written approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional property, dedication of Common Areas, and amendment of this Declaration of Covenants, Conditions and Restrictions.

6.7. **Conflicts.** Any conflicts between the terms of these By-laws and the Declaration shall be resolved in favor of the Declaration, which shall be deemed to control, any conflicts between the terms of these By-Laws and the Articles of Incorporation shall be resolved in favor of these By-Laws, which shall be deemed to control.

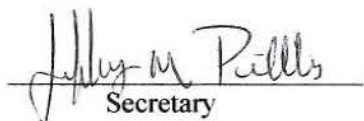
CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of SOUTHWICK FARM HOA, INC., a North Carolina non-profit 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 13 day of MAY, 2012.

IN WITNESS WHEREOF, I have hereunto subscribed my name on behalf of the Association this 13 day of MAY, 2012.


Secretary