

**AMENDED AND RESTATED BY-LAWS  
of  
SOUTHWINDS ASSOCIATION, INC.**

**PREAMBLE**

These Amended and Restated By-Laws (the “By-laws”) of Southwinds Association, Inc. (the “Association”), duly adopted on December 11, 2018, by the members (as defined below) of the Association amend and replace in their entirety any and all By-laws of the Association in force and effect prior to the date of adoption hereof.

**ARTICLE I  
GENERAL**

SECTION 1. The Association: The Association refers to the non-stock corporation, incorporated under the laws of the State of Connecticut, of the property owners in the South Winds development located in the Village of Essex, Town of Essex, County of Middlesex, State of Connecticut (the “Development”).

SECTION 2. Defined Terms: Unless the context otherwise requires, reference herein to a “member” or “membership” or “members” means property owner(s) in the Development,

SECTION 3. Fiscal Year: The fiscal year of the Association shall run from January 1 through December 31.

**ARTICLE II  
MEETINGS of MEMBERS**

SECTION 1. Annual Meetings; Elections; Board of Directors: Annual meetings of the members of the Association (the “Annual Meeting”) shall be called by the Board of Directors of the Association (the “Board”) to be held on a day and time during the first two (2) weeks of December. At the Annual Meeting, members entitled to vote shall elect, by a plurality vote, officers of the Association for a term of three (3) years, commencing on the immediately following January 1.

At a minimum, these officers shall consist of President, Secretary, and Treasurer. By virtue of such election, the President, Secretary, and Treasurer are also directors and,

accordingly, members of the Board, and the President is the Chairman of the Board and Chief Executive Officer of the Association. The Board shall consist of the officers so elected plus any additional directors chosen by the Board to assist in conducting its business, subject to provisions in Article III.

Subject to Section 4 of this Article II, other business as shall properly be brought before the Annual Meeting may be transacted.

SECTION 2. Special Meetings: Special meetings of the members for any purpose may be called at the discretion of the Board or the President, and shall be called by the President upon the written request of no less than one-third (1/3) of the voting power of the Association entitled to vote at the meeting. If the President shall not within thirty (30) days after receipt of such written request call such meeting, no less than one-third (1/3) of the members may call the special meeting. Any such request shall state the purpose or purposes of the proposed meeting.

SECTION 3. Notice of Meetings: Written notice of a meeting of members, stating the place, day, time, and general purpose of the meeting shall be given to each member of record entitled to vote at least fifteen (15) days but not more than fifty (50) days before the date fixed for the meeting. Refer to Article V, Section 7.

SECTION 4. Conduct of Business at Meetings: Any business relating to the affairs of the Association may be transacted at the Annual Meeting, whether or not stated in the notice therefor; *provided, however*, that unless stated in such notice: (i) no By-Law may be brought up for adoption, amendment or repeal (*see Article VI*); and (ii) no matter other than election of directors, may be brought up which expressly requires the vote of members pursuant to the laws of the State of Connecticut.

At each Annual Meeting, the Board must propose the next year's budget for adoption by Association vote. The notice of the Annual Meeting shall include a draft budget for member review. The Board shall consider for inclusion in the draft budget all items it receives by no later than October 1st. The budget must include an allocation for each major category of expenditure. New projects to be started during the next year may be proposed by the Board or any member of the Association, either prior to or at the annual meeting. Budget items proposed by members, if received by the Board by October 1st prior to the meeting, will be included in the draft budget included with the meeting

notice. The budget and dues at least sufficient to cover the budget must be approved by a majority of those voting.

Business transacted at any special meeting of members shall be limited to the purposes stated in the notice.

SECTION 5. Location of Meetings: All meetings of members shall be held in the Town of Essex (including the Villages of Essex, Centerbrook and Ivoryton), State of Connecticut, at a location as shall be fixed and arranged by the Board of Directors.

SECTION 6. Quorum: One third (1/3) of members entitled to vote, present in person or represented by written proxy, shall constitute a quorum for the transaction of business at all meetings of members. For purposes of determining if quorum has been met at any meeting of members, the number of members present and entitled to vote at a meeting shall include all members: i) present in person; ii) represented by written proxy; and iii) participating remotely by electronic or Internet means including, without limitation, conference telephone, iChat, Skype, Facetime and other methods which permit both the remotely situated member and all members present in person to be heard and to hear each other and all manner of discussion conducted at the meeting; provided, however, that no member shall be permitted to participate remotely at any meeting of members unless the Secretary has received notice in writing or by email of such desire to so participate at least ten (10) calendar days in advance of the meeting.

SECTION 7. Voting: The owners of the lots in the South Winds Development shall be entitled to one (1) vote for each lot. When more than one individual or entity owns a lot, the vote shall be exercised as they may, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any such lot.

If payment of Association dues, fees, or assessments are in arrears in excess of sixty (60) days for any lot, no vote shall be counted for such lot, nor shall such lot be considered in determining whether a quorum exists in any meeting.

No vote on any question need be by ballot unless the chairman of the meeting shall order that such vote be taken by ballot.

SECTION 8. Action by Consent in Lieu of Meeting: Any action required or permitted by law, the Articles of Incorporation of the Association, or these Bylaws to be taken at a meeting of the members may be taken without a meeting if a consent or

consents in writing, setting forth the action so taken, shall be signed by members holding at least a majority of the voting power; provided however, that if a different proportion of voting power is required for such an action at a meeting, then that proportion of written consents is required. Such signed consent (which may be in several counterparts) shall be delivered to the Secretary of the Association for inclusion in the Minute Book of the Association.

### **ARTICLE III**

#### **BOARD OF DIRECTORS**

SECTION 1. The Board: The business, property, and affairs of the Association shall be managed by the Board, and the Board may exercise all of the powers of the Association without any action or consent by the members, except as may otherwise be provided by the laws of the State of Connecticut, or these By-Laws.

SECTION 2. Directors – Number, Voting, Election, Term, Removal: The number of directorships of the Association shall be at least three (3) (namely, the President, Secretary, and Treasurer), but not more than five (5) and, within such limits, shall be fixed from time to time by resolution of the Board, or, in the absence thereof, shall be the number of directors elected at the preceding Annual Meeting of the members.

Directors must be members of the Association by virtue of property ownership and residence in the Development and must be eligible to vote. Loss of eligibility to vote will result in automatic removal of the director.

Directors shall, except as provided in Sections 4 and 5 of this Article III, be elected annually. Each director shall be elected for a term of three (3) years commencing on January 1 immediately following the election (by the members or by the Board, as the case may be), or until he or she shall resign, die, or be removed in the manner hereinafter provided. Reduction in the number of directorships shall not remove any director from office or shorten his or her term of office.

The three (3) year terms for President, Secretary, and Treasurer shall be staggered such that only one (1) of these offices expires each year. Officers shall be limited to serve two (2) consecutive three (3) year terms, unless there is no other qualified candidate nominated for office.

SECTION 3. Resignation of Directors: Any director of the Association may resign at any time either by oral tender of resignation at any meeting of the Board or by giving written notice thereof to the Association. Such resignation shall take effect immediately upon receipt by the Chairman of the Board (or any other director if the Chairman of the Board is the resignee) if no time is specified therein, or at such later time as such director may specify.

SECTION 4. Removal of Directors: Any director may be removed with or without cause at any time by the affirmative vote of a majority of the voting power of the Association entitled to vote at a special meeting of the members called for such purpose, and the vacancy in the Board caused by any such removal may be filled by the members at such meeting or at any subsequent meeting. Any such removal pursuant to *Section 4 of this Article III* shall be final and unappealable.

SECTION 5. Filling Vacancies in the Board: Vacancies in the Board, except for the office of President, shall be filled as follows: (i) if a vacancy occurs, the vacancy may be filled for the unexpired term by the concurring vote of a majority of the remaining directors; (ii) if a vacancy is created by an increase in the number of directorships, it shall be filled for the unexpired term at a meeting of members; (iii) the members may elect a director at any time to fill any vacancy which is permitted by this Section 5 to be filled by the directors but has not been filled; (iv) in the case of resignation of a director to take effect at a date later than the receipt thereof by the Association, appropriate action to elect a successor to take office when the resignation becomes effective may be taken at any time after such receipt in the same manner as though such resignation were effective on receipt; and (v) a vacancy of the President shall be filled only by plurality vote of the membership, either at a special meeting or by written ballot submitted to the Secretary. A quorum for such a vote is one-third (1/3) of the membership.

SECTION 6. Meetings of the Board: The Board may hold meetings, both regular and special at a location of convenience within the Town of Essex (including the Villages of Essex, Ivoryton, and Centerbrook), State of Connecticut.

SECTION 7. First Meeting of Board: The first (1<sup>st</sup>) meeting of each newly-elected Board shall be held at such time and place as shall be determined and announced by the newly-elected Board at the Annual Meeting, and no further notice of such meeting

shall be necessary to the newly-elected directors in order legally to constitute the meeting, provided a quorum shall be present.

SECTION 8. Notice of Board Meetings: Meetings of the Board shall be called by the Secretary on at least seven (7) days' notice to each director on the request of the President or on the request of any two directors. Any business of the Association may be transacted at any Board meeting. The purpose or business to be transacted at any meeting of the Board is to be specified in the notice or waiver of notice of such meeting.

SECTION 9. Board Meetings – Quorum, Voting: At every meeting of the Board two-thirds (2/3) of the total number of directorships (as fixed pursuant to Section 2 of this Article III) shall constitute a quorum, but in no event shall a quorum be constituted by less than two (2) directors except when the Board consists of one (1) person. The act of a majority of the directors present at any meeting at which a quorum is present at the time of the act shall be the act of the Board, except as may be otherwise specifically provided by these By-Laws or the laws of the State of Connecticut. If a quorum shall not be present at any meeting of the Board, the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

Each Director is entitled to one vote.

Association members are welcome at any Board meeting. Non-Board members are not entitled to and may not vote at Board meetings. The Board is under no obligation to provide formal notification of Board meetings to non-directors, but should make a good faith effort to inform Association members about such meetings in the normal course of activities.

SECTION 10. Action by Consent in Lieu of a Meeting: Any action required or permitted by law, the Articles of Incorporation of the Association, or these Amended and Restated Bylaws to be taken at a Board meeting may be taken without a meeting if a consent or consents in writing, setting forth the action so taken, shall be signed by all directors. Such signed consent (which may be in several counterparts) shall be delivered to the Secretary of the Association for inclusion in the Minute Book of the Association.

SECTION 11. Establishment and Operation of Committees: The Board may establish such committees as it deems necessary or desirable to assist with governance of

the Association for the benefit of the Development without compromising the Board's authority and in keeping with the policies established by the Board. The President shall be a member of each and every committee. The President, in consultation with the Board, shall appoint committee chairs. Each committee, whether standing or *ad hoc*, shall adopt a charter which must be approved by the committee and approved and ratified (along with any and all amendments thereto) by the Board prior to effectiveness.

SECTION 12. Certain Expenditures: With respect to expenditures other than real estate taxes and premiums for liability insurance, a majority of directors may approve expenditures of the Association for items included in the budget up to the budgeted amount. A majority of directors may approve expenditures that do not exceed TWO HUNDRED FIFTY DOLLARS (\$250.00) in excess of amounts budgeted or expenditures up to TWO HUNDRED FIFTY DOLLARS (\$250.00) for items not specifically budgeted as long as the funds are available from the contingency portion of the approved budget. Board has authority to pay real estate taxes and premiums for liability insurance policies up for renewal without regard to the preceding limitations.

SECTION 13. Emergency and Urgent Extraordinary Circumstance Expenditures: Notwithstanding the provisions of Section 12 of this Article III, the President, has discretionary, but limited, authority to spend amounts not exceeding FIFTEEN HUNDRED DOLLARS (\$1,500.00) in the aggregate for each Emergency (as defined below), and each Urgent Extraordinary Circumstance (as defined below) in the absence of prior approval of the Board when there are either: i) emergency situations that affect the Association, the Development, and or the members where time is of the essence and immediate action is required (collectively, "Emergencies"); or ii) extraordinary situations that do not rise to the level of Emergencies but still affect the Association, the Development, and or the members where prompt action is necessary or, at a minimum, highly desirable (collectively, "Urgent Extraordinary Circumstances"). By way of example and not limitation: a) Emergencies include: hurricane, Nor'easter, and snowstorm related matters, electric service blackouts and brownouts, hazardous substance releases, and other circumstances of equal or similar importance and effect; and b) Urgent Extraordinary Circumstances include: arboreal and other open space related or landscaping and maintenance matters where safety or damage to property is an

issue, traffic matters, traffic safety and signage matters, permanent fixture damage repair, and other circumstances of equal or similar importance and effect.

SECTION 14. Requisite Notification to Members Upon Expenditures Pursuant to Section 13: Within one (1) business day after each and every expenditure pursuant to the provisions of Section 13 of this Article III, the President shall request the Secretary to notify all members of such expenditure, the need therefor, and the details of thereof. Upon such request, the Secretary shall within five (5) days thereafter so notify members by United States mail or electronic means in the discretion of the Secretary.

## **ARTICLE IV**

### **NOTICES**

SECTION 1. Notices: Notices to directors and members must be in writing and shall be delivered personally or mailed to the directors or members at their Association addresses, or emailed to the Internet address supplied to the Secretary in writing by the director or member. Notice by mail or by e-mail shall be deemed given on the day on which the same shall be deposited in the mail or sent *via* email. In computing the period of time required or permitted for any notice to be given under these Amended and Restated By-Laws, the laws of the State of Connecticut, or a resolution of members or the Board, both the day on which the notice is given and the day on which the matter noticed is to occur shall be included.

## **ARTICLE V**

### **APPOINTED VICE AND ASSISTANT OFFICERS**

SECTION 1. Officers of the Association: At any time, the Board may choose one or more Vice-Presidents, Assistant Secretaries, Assistant Treasurers, and or such other officers as in its judgment the business of the Association may require, subject to the provisions of Article III. The Board of may fill such vacancies among the officers of the Association as may from time to time occur by reason of death, resignation, removal or otherwise, *except* that the office of President can be filled only by vote of members of the Association. Two (2) or more offices may be held by the same person, *except* that the



offices of President and Secretary shall not be held by the same person; holding multiple offices does not entitle the holder thereof to more than one vote.

SECTION 2. Compensation of Agents and Contractors: The compensation of agents of or contractors for the Association shall be fixed by the Board within the limits of the respective budget item for the specific purpose approved by the Association at either the Annual Meeting or a special meeting of members of the Association.

SECTION 3. Agents: Any agent of the Association may be removed by the Board in its sole discretion, with or without cause, but without prejudice to such agent's contract rights, if any. The appointment of an officer or agent for a given term, or a general provision in these Amended and Restated By-Laws, with respect to the term of office, shall not of itself create contract rights.

SECTION 4. President: The President shall be the Chief Executive Officer of the Association and, subject to the control of the Board, shall have general and active charge, control and supervision of all its business and affairs. He or she shall preside at all meetings of members and of the Board at which he or she is present. The President shall perform such other duties as the Board may from time to time prescribe.

SECTION 5. Execution and Delivery of Contracts: The President shall have general authority to execute and deliver contracts in the name and on behalf of the Association, *except* where any such documents are required by law to be otherwise executed, *provided, however*, that authority to execute any such documents may also be delegated by these Amended and Restated By-Laws or by the Board to any other officer.

Any such contract must be in accordance with the Association budget and associated projects or activities approved by the Association, including but not limited to property insurance, legal counsel, billing and collections.

SECTION 6. Vice President: The Vice-President, or if there shall be more than one, the Vice-Presidents, shall perform such duties or exercise such powers as the Board or the President may from time to time prescribe.

SECTION 7. Secretary and Assistant Secretary: The Secretary shall: i) give, or cause to be given, notice of all meetings of the members and all meetings of the Board whether regular, or special, and whether called by the Board or by the members; ii) record, or cause to be recorded, the proceedings of all such meetings in a book or

document kept for that purpose; iii) perform like duties for the standing committees, when required; iv) keep, or cause to be kept, and account for, all books, documents, papers and records of the Association, except those for which some other officer or agent is properly accountable; and v) perform such other duties as may be prescribed from time to time by the Board or the President

SECTION 8. Treasurer – Generally: The Treasurer shall have custody of Association funds and shall keep full and accurate accounts of receipts and disbursements in books of the Association and shall deposit all moneys and other property or valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board.

The Treasurer shall deliver or cause to be delivered to all Association members the annual bill for dues at least 35 days before due, and be responsible for collecting, or causing to be collected, and depositing, moneys received.

SECTION 9. Treasurer – Collection of Dues: The Treasurer shall be responsible for any collection actions necessitated by payments that are overdue. A fee of THIRTY-FIVE DOLLARS (\$35.00) will be charged for dues not fully paid as of ninety (90) days from the billing date or ninety (90) days from January 1 of the current year, whichever is later. On the sixty-first (61<sup>st</sup>) day beyond the due date of dues, fees or assessments, and at the discretion and direction of the Board, the Treasurer shall initiate collection action in Small Claims Court. All costs of such actions shall be borne by the Association member(s) against whom such action is taken. Upon successful completion of such action, a lien may be placed on the debtor's property pending collection of such amounts as determined by the Court and these By-Laws. For amounts past due at the date of approval of these Amended and Restated By-Laws, a THIRTY-FIVE DOLLARS (\$35.00) fee will be charged thirty (30) days from the date of approval. Properties with past due amounts at the time of approval of these Amended and Restated By-Laws shall be subject to Small Claims Court action on the sixty-first (61<sup>st</sup>) day after approval.

SECTION 10. Treasurer – Disbursals: The Treasurer shall disburse the funds of the Association as may be ordered by the Board and shall promptly render to the President and to the Board, whenever required or requested, an account of all his or her transactions as Treasurer and of the financial condition of the Association.

SECTION 11. Treasurer – Annual Report: The Treasurer will submit an annual report of the current year's budget at each annual meeting in December, and review the proposed budget for the coming fiscal year.

SECTION 12. Treasurer – Bond: If requested by the Board, the Treasurer shall give the Association a bond in such sum and with such surety or sureties as shall be satisfactory to the Board for the faithful performance of the duties of the office and for the restoration to the Association, in case of his or her death, resignation, retirement or removal from office, of all books, papers, vouchers, money and other property of whatever kind in his or her possession or under his or her control belonging to the Association. The cost of any such bond shall be paid by the Association and is subject to budget approval prior to execution.

## **ARTICLE VI AMENDMENTS**

SECTION 1. Amendments: These Amended and Restated By-Laws may be adopted, repealed or amended by the Association members by the affirmative vote of a majority of those present, either in person or by proxy, and constituting a quorum at a meeting called for this purpose or at the Annual Meeting, except that any proposal to amend these By-Laws that would affect a minority of members, directly or indirectly, must receive no less than the affirmative vote of three-quarters (3/4) of those entitled to vote, either in person, by proxy, or by remote participation in accordance with the procedures set forth herein. Any member eligible to vote may propose a change to these Amended and Restated By-Laws at the Annual Meeting. The Board must be notified of any such proposed changes by November 1st prior to the Annual Meeting, or forty-five (45) days prior to any special meeting to be scheduled for such purpose. The Board is responsible for communicating the proposal to the property owners in the Association fifteen (15) days prior to the meeting. (Refer to Article II, Sections 2 and 3).

SECTION 2. No Effect Prior to Approval: Nothing in these By-Laws is intended to affect the timing for submission, review or approval of this version by the Association as these By-Laws are not currently in effect.

**ARTICLE VII**  
**INDEMNIFICATION**

SECTION 1. Indemnification: Each director and officer of the Association shall be indemnified by the Association against any costs and expenses including attorneys fees actually and necessarily incurred in connection with the defense of any civil, criminal, administrative or other claim, action, suit or proceeding (whether by or in the right of the Association or otherwise) in which he or she may become involved, by reason of his or her being or having been a director or officer of the Association, and against any payments in settlement of any such claim, action, suit or proceeding or in satisfaction of any related judgment, fine or penalty upon receipt by the Association of independent legal counsel opinion that he or she acted in good faith, ethically and in a manner he reasonably believed to be in, or not opposed to, the interests of the Association and in respect of any criminal action, that he or she reasonably believed that his conduct was lawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create an assumption that the director or officer did not act in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interest of the Association, and in respect of any criminal action or proceeding, did not reasonably believe that his or her conduct was lawful. The foregoing indemnification shall not be deemed exclusive of any other rights to which any director or officer may be entitled, as a matter of law or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding each office and shall continue as to a person who has ceased to be a director or officer and shall inure to the benefit of the heirs, executors and administrators of such a person.

Notwithstanding the provisions of the preceding paragraph, no person shall be entitled to indemnification pursuant thereto in relation to any matter as to which indemnification shall not be permitted by law.

SECTION 2. Insurance: The Association shall purchase and maintain insurance on behalf of any person who is or was an officer or director of the Association against any liabilities, costs or expenses relating to the defense of any civil, criminal, administrative or other claim, action, suit or proceeding asserted against or incurred by

him or her, arising out of his status as such, whether or not the Association would have the power to indemnify him or her against such liability under the preceding provisions of this Article or applicable provisions of law.