

AMENDED AND RESTATED
BYLAWS
OF
HARBOR SOUTH PROPERTY OWNERS ASSOCIATION
An Arkansas Nonprofit Corporation

These are the Amended and Restated Bylaws (these "Bylaws") of Harbor South Property Owners Association, an Arkansas nonprofit corporation (the "POA"). The POA was formed and exists pursuant to (i) the Articles of Incorporation (the "Articles of Incorporation") of the POA filed with and approved by the Circuit Court of Montgomery County, Arkansas; (ii) the Bill of Assurance (as amended, the "Bill of Assurance") filed with the Circuit Clerk of Montgomery County, Arkansas, for the Harbor South Development (the "Development") in Montgomery County, Arkansas; and (iii) the Arkansas Nonprofit Corporation Act, Ark. Code Ann. § 4-28-201, *et seq.* (the "Act").

Article I
Principal Office

1.1 The principal office of the POA shall be located at such place as may be designated from time to time by the Board of Directors of the POA (the "Board").

Article II
Form of Administration

2.1 **Form of Administration.** The form of administration of the POA shall be that which is set forth in these Bylaws. The administration of the POA shall be governed by the Articles of Incorporation, these Bylaws, and the Bill of Assurance. All present and future owners of lots and tracts within the Development (each such lot or tract being referred to herein as a "Lot," and all such lots and tracts being referred to herein collectively as the "Lots"), and all present and future mortgagees and occupants of Lots, and their respective employees, and any other persons who may use the facilities or the property within the Development in any manner, are subject to the Bill of Assurance, the Articles of Incorporation, these Bylaws and all rules and regulations made pursuant hereto and any amendment thereof or hereof. The acceptance of an instrument of conveyance or the act of occupancy of any property located within the Development shall constitute an agreement by the person(s) taking such action that the provisions of the Bill of Assurance, the Articles of Incorporation, these Bylaws, and any rules and regulations made pursuant hereto, as they may be amended from time to time, are accepted and ratified and will be complied with.

2.2 Actions by the POA. The POA is a nonprofit corporation organized under the Act. The name in which contracts shall be entered into, title to property shall be acquired, held, dealt with, and disposed of, bank accounts shall be opened, and suits shall be brought and defended by the Board or officers thereof on behalf of and as agents for the members of the POA, is: AHarbor South Property Owners Association.©

Article III **Membership of the POA**

3.1 Membership. The POA shall have as its members the owners of the Lots. In the event a Lot within the Development has multiple owners, the owners thereof shall collectively constitute a single member of the POA.

3.2 Place of Meetings. The POA shall hold meetings of the membership at the park located within the Development, or at such other place as the Board shall designate from time to time.

3.3 Annual Meetings. An annual meeting of the membership shall be held at the place, date and time designated from time to time by the Board. At the annual meeting, the members shall fill any vacancies in the Board and may transact such other business as may properly come before the meeting.

3.4 Special Meetings. Special meetings of the membership may be called by a majority of the Board and must be called by the Board upon receipt by the Board of a written request from at least ten percent (10%) of the members of the POA entitled to vote.

3.5 Notice of Meetings. The secretary shall forward notice of any annual or special meeting of the membership to each member of the POA not less than ten (10) nor more than sixty (60) days prior to the date of such meeting. All such notices shall be mailed to the address of such member reflected on the records of the POA; it shall be the responsibility of each member to ensure that the POA records accurately reflect such member's current address. Notice of a meeting other than an annual meeting shall indicate the purpose of the meeting. Notice of meetings need not be given to any owner who signs a waiver of notice thereof.

3.6 Quorum. Members representing ownership of more than fifty percent (50%) of the Lots must be present in person or by proxy in order to constitute a quorum for the transaction of business at any meeting of the membership.

3.7 Voting. Subject to the limitations set forth in this Section 3.7, the owners of each Lot shall be entitled to a single vote as to any matters that may come before any annual or special meeting of the membership. The owner(s) of any Lot which has delinquent assessments or other unpaid charges owing to the POA shall not be entitled to vote on any matter until all such assessments and other charges are paid in full. In the event a Lot has multiple owners, the owners thereof shall designate one of their number who will be the only person entitled to cast a vote on behalf of said owners. Upon approval of a majority of the membership present at a meeting and entitled to vote, the vote on any matter to come before the membership shall be by written ballot; otherwise, all votes shall be by voice or other

method designated by the chairperson of the meeting. All matters before the POA shall be decided by a majority of the membership present and entitled to vote at the meeting, except as otherwise provided by these Bylaws or as otherwise required by law.

3.8 Proxies. A vote may be cast in person or by proxy. To be valid, proxies must be duly signed and filed with the secretary before the appointed time of the meeting. The proxy is valid only for the particular meeting designated therein. A proxy may be revoked by the member in writing or by appearance in person at the meeting.

Article IV **Board of Directors**

4.1 General Powers. The management of the affairs of the POA shall be vested in a board of directors which, subject to the restrictions imposed by law, the Bill of Assurance, the Articles of Incorporation or these Bylaws, may exercise all the powers of the POA.

4.2 Number; Qualifications; Term of Office. The Board shall consist of five (5) persons. The members of the Board shall serve staggered three (3) year terms. Each member of the Board must be a natural person and must be an owner of a Lot, either directly or by virtue of an interest in a corporation, partnership or other entity which is an owner or co-owner of such Lot.

4.3 Quorum. A majority of the members of the Board shall constitute a quorum for the transaction of business at any meeting of the Board. The vote of a majority of the Board members present at any meeting shall constitute the action of the Board.

4.4 Vacancies. Vacancies in the Board may be filled until the date of the next annual meeting of the POA membership by the remaining members of the Board. If any member of the Board shall be absent from any four (4) meetings during his term or any two (2) meetings during any calendar year, the remaining members of the Board may, by resolution, declare such absent member to be deemed to have resigned from the Board, and a vacancy in the Board shall thereupon exist.

4.5 Regular and Special Meetings. The Board shall meet regularly at least four (4) times each year, at such times, dates and places as the Board may designate from time to time. Regular meetings, once established, may thereafter be held without notice at the time, date and place agreed upon by the Board. Special meetings of the Board may be called by the president or by the secretary or upon the call of any two members of the Board on at least one week's written notice to each member of the Board.

4.6 Compensation. Members of the Board shall not receive any compensation for their services as members of the Board.

4.7 Powers and Duties of the Board. The Board shall have charge of and be responsible for the management of the affairs of the POA, including the management of any common areas within the Development and any other assets held by it on behalf of the POA. It shall have and may exercise all of the powers granted to it by the Bill of Assurance, the

Articles of Incorporation, these Bylaws, the Act and other applicable law. The Board shall have the power, but shall not be obligated:

(a) To make, levy and assess common charges and individual charges against the owners of Lots (subject to paragraph 17 of the Bill of Assurance) for the purposes set forth in these Bylaws and the Bill of Assurance and to use the same in the exercise of its powers and duties;

(b) To maintain, repair, replace and operate the common areas within the Development and other property of the POA;

(c) To contract for the management of the POA, the common areas of the Development and the other property of the POA, on such terms as the Board, in its discretion, may deem advisable;

(d) To enforce by legal means all of the provisions of the Bill of Assurance, these Bylaws, the rules and regulations made pursuant hereto and the resolutions and decisions rendered in pursuance of these Bylaws;

(e) To prevent loss or damage to the Development by paying taxes, assessments, or other liens against any part of the Development and to assess the same against the Lots for which such taxes, assessments or other liens were paid;

(f) To generally control the use of the Development, the common areas within the Development and the other property of the POA;

(g) To make or amend rules and regulations, not inconsistent with the Bill of Assurance, the Articles of Incorporation or these Bylaws, respecting the use and operation of the Development, the common areas of the Development and the other property of the POA;

(h) To own and operate, either directly or through a subsidiary or affiliate, facilities for the provision of utility services to or for the benefit of the Lots, and to assess the costs of such services to the Lots and the owners thereof in such manner as the Board deems appropriate;

(i) To enforce the provisions of these Bylaws and the Bill of Assurance by legal action, if necessary, and to employ legal, accounting, maintenance or other personnel for reasonable compensation to perform the services required for the proper administration of the POA and the Development;

(j) To hire and discharge persons employed for the operation of the Development on such terms and conditions as the Board, in its discretion, may deem advisable;

(k) To enter or to employ an agent to enter any Lot when necessary in connection with any maintenance, landscaping, or construction for which the Board is responsible. Such entry shall be made with as little inconvenience to the owner of the

Lot as practicable, and any damage caused thereby shall be repaired by the Board out of the common expense fund;

(l) To purchase, hold, sell, convey, mortgage, or lease any one or more Lots in the name of the POA or its designee;

(m) To bring, prosecute, and settle litigation for itself, the POA, and the Development;

(n) To borrow such funds and execute such promissory notes as is necessary to carry out its duties under the Bylaws and the Bill of Assurance.

Article V **Officers**

5.1 **Officers.** The Board shall elect a president, one or more vice presidents, a secretary, a treasurer and such other officers and assistant officers as the Board may deem necessary from time to time. All officers must be members of the Board and shall serve at the pleasure of the Board. The office of secretary and treasurer may be held by the same person.

5.2 **President.** The president shall be the chief executive officer of the POA and shall have the powers to appoint such committees as he may deem appropriate. He shall serve as the chairman of all meetings of the Board and of the membership of the POA. He shall exercise such other powers and duties as shall be prescribed by the Board and shall see that all orders and resolutions of the Board are carried into effect.

5.3 **Vice President.** The vice president shall perform such duties as shall be delegated to him by the president, and shall assume the responsibilities of the president in his absence.

5.4 **Secretary.** The secretary shall keep a record of all actions of the Board and the membership of the POA at the meetings thereof. He shall attend to the giving of all notices of meetings of the Board and the membership of the POA. He shall prepare and have available at each meeting of the POA a list of the names of the owners of the Lots and certify which of them are entitled to vote at the meeting.

5.5 **Treasurer.** The treasurer shall keep the financial records of the POA. He shall render an annual financial report at the annual meeting of the POA membership.

Article VI **Fiscal Management**

6.1 **Proportionate Share of Common Expenses.** Each Lot (subject to paragraph 17 of the Bill of Assurance) and each owner thereof shall be liable for a proportionate share of the common expenses for the operation of the POA and the maintenance of its properties and all other common areas within the Development. At the beginning of each year, the Board shall estimate the common expenses for the year. The estimated common expenses may include

such amounts as the Board may deem proper for general working capital, for a general operating reserve, for a reserve fund for replacements and major maintenance, and shall take into account any expected income, surplus, or deficit in the common expenses for any prior year. The estimated common expenses shall thereafter be assessed equally to the owners of the Lots. If the estimated common expenses prove inadequate for any reason, including nonpayment of any Lot owners' assessments, the Board may, by resolution duly adopted, make additional assessments, which shall be assessed to the Lot owners in the same manner as described above. Each Lot owner shall be obligated to pay to the POA assessments made pursuant to this paragraph in such manner as the Board may designate from time to time. The Board may allow for a reasonable discount for the early payment of assessments on such terms as the Board determines to be appropriate. The funds received by the Board from assessments shall be kept in either the capital account or in the common expense fund and shall be expended by the Board only in accordance with the provisions of the Bill of Assurance, the Articles of Incorporation, these Bylaws, the Act and other applicable law. The failure by the Board, in any year, to estimate the common expenses as required herein shall not be deemed a waiver or modification in any respect of the provisions of the Bill of Assurance or these Bylaws, or a release of any Lot or any Lot owner from the obligation to pay any past, present or future assessments, and the estimated common expenses fixed for the previous and current year shall continue until a new estimate is fixed. No Lot owner may exempt himself from liability for common expenses by waiver of the use or enjoyment of any of the common areas and facilities or by abandonment of his Lot.

6.2 Additional Assessments. Each Lot (subject to paragraph 17 of the Bill of Assurance) and each owner thereof shall be liable, as an additional assessment, for any and all debts of the Lot owner owed to the POA and any and all expenses, including attorney's fees, incurred by the POA in enforcing the Bill of Assurance or these Bylaws or incurred by the POA in any legal proceeding involving the Lot or the Lot owner.

6.3 Special Use Fees. The Board may assess special use fees against individual Lots and the owners thereof for services provided to or that benefit such Lots. Such services may include, for example, utility services (water, sewer, trash removal, etc.) provided by the POA or an affiliate of the POA or a contractor engaged by the POA for the provision of such services. The amount of such special use fees shall be determined and assessed by the Board in such manner as the Board deems appropriate, taking into consideration the cost of providing such services and the relative benefit provided for each Lot that uses or has access to such services; the amount of such special use fees assessed to each Lot may vary based upon such factors as the Board deems appropriate. The POA shall notify the Lot owners of the amount or rate of all such special use fees.

6.4 Default in Payment of Assessment. Each assessment shall be a distinct personal debt of the owner(s) of the affected Lot against which the assessment is made and shall be a lien upon the Lot against which it is assessed until paid as hereinafter provided. If not paid at the time and in the manner as the Board directs, such assessment shall be deemed to be delinquent. The Board may charge a late payment fee for any delinquent assessment or installment thereof, such late payment fees to be additional assessment hereunder. Suit to recover a money judgment for delinquent assessments shall be maintainable without foreclosing or waiving the liens securing such assessment. The amount of any delinquent assessment, plus interest at the rate of ten (10%) percent per annum, costs, and reasonable

attorney=s fees shall become a lien upon such Lot at the time said assessment is levied and shall continue as such until paid. Such lien may be perfected as against third parties upon the filing of a Notice of Delinquent Assessment in the office of the Clerk of Montgomery County, Arkansas. Such lien shall have priority with respect to all other liens and encumbrances recorded or unrecorded. Such lien for a delinquent assessment may be foreclosed in any manner permitted by law.

6.5 Records. The POA shall keep detailed records of all receipts and expenditures, including expenditures affecting the common areas and facilities, specifying and itemizing the maintenance, repair, and replacement expenses of the common areas and facilities and any other expenses incurred. All books and financial records shall be kept in conformity with sound accounting principles. In accordance with the actions of the Board assessing the common expenses against the Lot and Lot owners, the POA shall keep an accurate record of such assessments and of the payments thereof by each Lot owner. The books and accounts of the POA shall be available for inspection by any Lot owner or his authorized representative for any proper purpose at any reasonable time.

6.6 Bond. Bonds may be required by the Board from all officers and employees of the POA. The amounts shall be determined by the Board and the premium on such bond shall be paid by the POA.

Article VII **Building Committee and** **Other Special Committees**

7.1 Building Committee. Pursuant to paragraph 10 of the Bill of Assurance, the Board shall elect three members of the POA to the Building Committee to exercise all of the powers and duties stated therein and as otherwise specified from time to time by the Board. The members of the Building Committee shall serve staggered three (3) year terms. The Building Committee shall serve at the pleasure of the Board and shall at all times comply with directives of the Board. Upon the request of any interested party, the actions of the Building Committee shall be appealable to and subject to change by the Board, provided such request is received in writing by the Board at its principal place of business within ten (10) days after the action appealed from. The Building Committee shall keep regular minutes of its proceedings and report the same to the Board.

7.2 Utility Committee. If at any time the POA owns and operates, either directly or through a subsidiary or affiliate, any facility for the provision of utility services for the Lots, the Board, by resolution, may designate a utility committee to consist of three (3) or more members of the POA, who shall generally oversee the operation of such facility, make recommendations to the Board with respect to assessments related to such services, and exercise such additional powers as may be set forth in a resolution of the Board. Such utility committee shall serve at the pleasure of the Board and shall at all times comply with directives of the Board. Such utility committee shall keep regular minutes of their proceedings and report the same to the Board.

7.3 Other Special Committees. The Board, by resolution, may designate one or more special committees, each committee to consist of two (2) or more members of the POA

which, to the extent provided in said resolution, shall have and may exercise the powers set forth in said resolution. Such special committee or committees shall serve at the pleasure of the Board and shall at all times comply with directives of the Board. All actions of such special committee or committees shall be subject to the review of the Board. Such special committees shall keep regular minutes of their proceedings and report the same to the Board.

Article VIII **Mortgagees**

8.1 **Notice.** The Board shall, at the written request of a mortgagee of a Lot, notify the mortgagee of any default by an owner of such Lot in the performance of the owner=s obligations to the POA, including any failure to pay assessments.

8.2 **Foreclosure.** Any first mortgagee coming into possession of a Lot pursuant to the remedies provided for in the mortgage, including foreclosure or deed in lieu of foreclosure, shall take the Lot, free of all claims for unpaid assessments or charges against the mortgaged Lot which accrued prior to the time such holder comes into possession of the Lot, excluding, however, claims or charges accruing prior to the creation and perfection of the mortgage=s lien and excluding claims for a pro rata share of such assessments or charges resulting from a pro rata reallocation of such assessments or charges to all Lots, including the mortgaged Lot.

Article IX **Restrictions on Use**

9.1 **Rules and Regulations.** The Board is authorized to adopt rules and regulations for the Development, including the use of the common areas and facilities of the POA, and prescribe penalties for any violation thereof, and shall furnish such rules in writing to the members of the POA, all of whom shall be bound thereby.

ARTICLE X **Board Indemnity**

10.1 **Indemnification of Board Members and Officers.** Each member of the Board and each officer of the POA shall be indemnified by the POA against all expenses and liabilities, including attorney=s fees, reasonably incurred by or imposed upon them in connection with any proceeding to which they may be a party, or in which they may become involved, by reason of their being or having been a member of the Board or an officer of the POA, or any settlement thereof, whether or not he is a member of the Board at the time such expenses are incurred, except in such cases where such person is adjudged guilty of willful misfeasance or malfeasance in the performance of their duties; provided, that in the event of a settlement, the indemnification shall apply only when the Board approves such settlement and reimbursement as being in the best interest of the POA. The Board may cause the POA to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the POA against any liability asserted against such person and incurred in any such capacity or arising out of such status, whether or not the POA would have the power to indemnify such person.

Article XI
Amendments

11.1 Amendment of Bylaws. These Bylaws may be amended at any meeting of the membership or the Board, by the affirmative majority vote of the membership, or a majority of the members of the Board. Provided, that any amendment modifying or affecting the form of administration set forth in Article II hereof, may be made only by the affirmative two-thirds (2/3) vote of the membership. Any amendment shall not be effective until it is filed for record in the office of the Circuit Clerk and Ex-Officio Recorder of Montgomery County, Arkansas.

CERTIFICATE OF ADOPTION

The undersigned, as the President and the Secretary, respectively, of the POA, hereby certify that the foregoing Amended and Restated Bylaws were duly adopted by action of the Board of Directors on and as of the 13th day of May, 2005, in witness whereof we have hereunto affixed our signatures.

HARBOR SOUTH PROPERTY
OWNERS ASSOCIATION



President

ATTEST:



Secretary

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)ss
COUNTY OF MONTGOMERY)

On this 13th day of May, 2005, before me the undersigned officer, personally appeared Dick Antoine and Anne Glover, who acknowledged themselves to be the President and Secretary respectively of Harbor South Property Owners Association, an Arkansas nonprofit corporation, and that they, as such officers, being authorized to do so, executed the foregoing instrument for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

Cathy Sanchez
Notary Public

My Commission Expires:

March 1, 2006

FILED FOR RECORD
this 20th day of June 2005
at 8:17 o'clock A.M.
Debbie Baxter Clerk
DEBBIE BAXTER
Aystal Coulter D.C.

CERTIFICATE OF RECORD

STATE OF ARKANSAS } ss. _____ } ss.
County of Montgomery }

I, DEBBIE BAXTER, Circuit Clerk and Ex officio Recorder within and for the county aforesaid do hereby certify that the within or attached and foregoing instrument of writing was filed for record in my office and the same is now duly recorded with acknowledgements and certificates In add record book 132 Page 733-742

In witness whereof, I have hereunto set my hand and affixed my seal of said court this 20th day of June, 2005

DEBBIE BAXTER, Clerk
by Aystal Coulter D.C.