

**City Council Agenda Items  
and  
Contracts, Leases or Agreements**

8/21/2012

City Council Meeting Date  
Agenda Items Only

Chris Brown  
Submitted By

Engineering  
Division

Development Services  
Department

**Action Required:**

Approval of a Resolution accepting the dedication of right of way and accepting ownership and maintenance responsibility for the private streets within the Sunbridge Villas Subdivision.

\$ _____ Cost of this request	_____ Category / Project Budget	_____ Program Category / Project Name
_____ Account Number	_____ Funds Used to Date	_____ Program / Project Category Name
_____ Project Number	\$ _____ Remaining Balance	_____ Fund Name
Budgeted Item <input type="checkbox"/>	Budget Adjustment Attached <input type="checkbox"/>	

<u>Jimmy Crnk.</u> Department Director	<u>08-03-2012</u> Date	Previous Ordinance or Resolution # _____
<u>[Signature]</u> City Attorney	<u>8-3-12</u> Date	Original Contract Date: _____
<u>Paul a. Berlin</u> Finance and Internal Services Director	<u>8-3-2012</u> Date	Original Contract Number: _____
<u>Don Man</u> Chief of Staff	<u>8-3-12</u> Date	<div data-bbox="906 1434 1484 1570" data-label="Text"> <p>Received in City Clerk's Office 08-03-12 A09:18 RCVD <u>King</u></p> </div> <div data-bbox="906 1604 1484 1740" data-label="Text"> <p>Received in Mayor's Office ENTERED 8/3/12 <u>[Signature]</u></p> </div>
<u>[Signature]</u> Mayor	<u>8/5/12</u> Date	

Comments:



www.accessfayetteville.org

C. 3  
Sunbridge Villas Subdivision  
THE CITY OF FAYETTEVILLE, ARKANSAS  
ENGINEERING DIVISION  
125 West Mountain  
Fayetteville, AR 72701  
Phone (479) 444-3443

## CITY COUNCIL AGENDA MEMO

**To:** City Council

**Thru:** Mayor Jordan  
Don Marr, Chief of Staff  
Jeremy Pate, Development Services Director *X*

**From:** Chris Brown, City Engineer *CB*

**Date:** August 3, 2012

**Subject:** Acceptance of Private Streets in Sunbridge Villas Subdivision

### BACKGROUND:

Sunbridge Villas Subdivision is located north of Sunbridge Drive, just west of College Avenue. In 1970, the subject property was developed as the Villa Mobile home park. The park included 141 mobile home lots and one lot for a community laundry and playground area. All streets within the development were private asphalt paved streets with curb and gutter. A minimum amount of storm sewer was installed at that time.

In 2006, the City Council approved the R-PZD for Sunbridge Villas. Sunbridge Villas is a residential subdivision with 138 lots and one community space area. This development utilized the existing street infrastructure to provide access to the lots. The storm sewer, public water and public sanitary sewer lines were all replaced or expanded to meet current code requirements and the time of development. Street lights, sidewalks and an asphalt overlay of all the private streets were required with the PZD. The City currently holds a guarantee for the asphalt overlay, which has not yet been completed. Street lights have been installed and the sidewalks are being constructed with each home construction.

### DISCUSSION:

Homes have been constructed on a majority of the lots at this time. The owner of the remaining lots has requested that the City take ownership of the street infrastructure within the development. Fortunately with the platting of the subdivision, a private right of way was reserved for the streets. Dedication of public right of way will not be required from every lot within the development. The private right of way could be dedicated to the City upon approval of the City Council. The Sunbridge Villas Property Owners Association, Inc. currently owns the streets and the private right of way.

In addition to acceptance of the streets and sidewalks, acceptance of the existing street lights for operation and maintenance by the City is also being requested.

The owner of the remaining lots and the right of way met with City Engineering and Transportation staff to evaluate the condition of the streets in the subdivision. All agreed that the streets have held up well for the past

40+ years and there was no visible sign of subgrade failure. The pavement is aged and in need of the required overlay. Much of the curb and gutter have been replaced with the individual lot construction. With the narrow lots, and a 24' wide driveway accessing each lot, the builders have opted to replace most of the curb during the home construction. The owner intends to continue this practice for the remaining lots.

Since the streets are planned to be improved with an asphalt overlay, and curbs and sidewalks have been or will be newly constructed, only minimal maintenance on the street infrastructure is expected for the 15 year expected life of the asphalt.

Acceptance of the street lights would have an impact on the City's operational budget. The City typically pays for the maintenance and operation of street lights that are owned by the local utility company, and are installed as un-metered lights, which is the case with the lighting in this subdivision. There are 23 lights total, representing a monthly cost of \$391.00.

**RECOMMENDATION:**

Staff recommends that the City take ownership of the right of way and maintenance responsibility for the streets within this development after the streets have been milled and received a minimum of 2" asphalt overlay on each private street. Acceptance of the operational and maintenance cost of the street lighting is also recommended. This item was reviewed by the Street Committee and recommended for approval at the June 26<sup>th</sup> meeting.

This request is unique in that the developer has brought the public infrastructure (water, sewer and storm drainage) up to standards and is planning to improve the street pavement prior to the City's acceptance. Acceptance of this right of way is similar to acceptance of right of way and infrastructure on any new subdivision, in that the developer is required to construct the infrastructure, which is then dedicated to the City as part of the final plat process. Additionally, these streets are all interconnected, and create a street network and therefore serve the entire neighborhood.

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION ACCEPTING DEDICATION OF STREET RIGHT-OF-WAY AND MAINTENANCE RESPONSIBILITY FOR STREETS IN THE SUNBRIDGE VILLAS SUBDIVISION FROM THE SUNBRIDGE VILLAS PROPERTY OWNERS ASSOCIATION, INC.

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:**

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby accepts dedication of street right-of-way and maintenance responsibility for streets in the Sunbridge Villas Subdivision from Sunbridge Villas Property Owners Association, Inc. as described in the attached Exhibit "A".

**PASSED and APPROVED** this 21<sup>st</sup> day of August, 2012.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN, Mayor**

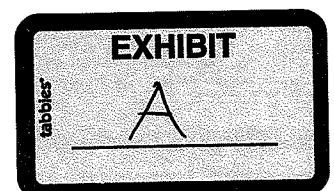
By: \_\_\_\_\_  
**SONDRA E. SMITH, City Clerk/Treasurer**

## SUNBRIDGE VILLAS STREET DEDICATION

### Property Description:

A part of the Northeast Quarter (NE ¼) of the Southwest Quarter (SW ¼) and a part of the Northwest Quarter (NW ¼) of the Southwest Quarter (SW ¼) of Section Thirty-Five (35), Township Seventeen (17) North, Range Thirty (30) West, Washington County, Arkansas, being more particularly described as follows:

All those portions of private street(s) as shown on Instrument Number 023A-00289 as filed with the Circuit Clerk of said Washington County. Said street(s) being named on said Instrument as Granada Street, Valencia Avenue, Madrid Street, Barcelona Avenue, Sierra Avenue, Miranda Avenue, and Arroyo Avenue each having a width of 34 feet.



# RESIDENTIAL PLANNED ZONING DISTRICT SUNBRIDGE VILLAS SUBDIVISION

## GENERAL PROVISIONS

### AUTHORITY:

THIS PZD MASTER DEVELOPMENT PLAN IS AUTHORIZED BY SECTIONS 161 AND 166 - PLANNED ZONING DISTRICTS OF THE CITY OF FAYETTEVILLE UNIFIED DEVELOPMENT CODE. THE PROVISIONS OF THIS PZD MASTER DEVELOPMENT PLAN SHALL RUN WITH THE LAND, THE LANDOWNERS, THEIR SUCCESSORS, HEIRS, OR ASSIGNS SHALL BE BOUND BY THIS MASTER DEVELOPMENT PLAN, AS AMENDED AND APPROVED BY THE CITY COUNCIL.

### ADOPTION:

THE ADOPTION OF THIS PZD MASTER DEVELOPMENT PLAN SHALL EMERGE THE FININGS AND DECISION OF THE FAYETTEVILLE CITY COUNCIL THAT THIS PLANNED ZONING DISTRICT FOR SUNBRIDGE VILLAS IS IN CONFORMITY WITH THE FAYETTEVILLE GENERAL PLAN 2020. IS AUTHORIZED BY THE PROVISIONS OF SECTIONS 161 AND 166 OF THE CITY OF FAYETTEVILLE UNIFIED DEVELOPMENT CODE.

THE PROVISIONS OF THIS PZD MASTER DEVELOPMENT PLAN SHALL PREVAIL AND GOVERN THE DEVELOPMENT OF SUNBRIDGE VILLAS. PROVIDED, HOWEVER, THAT WHERE THE PROVISIONS OF THIS MASTER DEVELOPMENT PLAN DO NOT ADDRESS A PARTICULAR SUBJECT, THE RELEVANT PROVISIONS OF THE CITY OF FAYETTEVILLE UNIFIED DEVELOPMENT CODE, AS AMENDED, OR ANY OTHER APPLICABLE RESOLUTIONS OR REGULATIONS OF THE CITY OF FAYETTEVILLE, SHALL BE APPLICABLE.

### ENFORCEMENT:

TO FURTHER THE MUTUAL INTEREST OF THE RESIDENTS, OCCUPANTS, AND OWNERS OF THE PZD MASTER DEVELOPMENT PLAN AND OF THE PUBLIC IN THE PRESERVATION OF THE INTEGRITY OF THE PLAN, THE PROVISIONS OF THIS PLAN RELATING TO THE USE OF LAND, STATEMENT OF COMMITMENTS, DEVELOPMENT AND ARCHITECTURAL STANDARDS, AND THE LOCATION OF COMMON OPEN SPACE SHALL RUN IN FAVOR OF THE CITY OF FAYETTEVILLE AND SHALL BE ENFORCEABLE AT LAW OR IN EQUITY BY THE CITY WITHOUT LIMITATION ON ANY POWER OR REGULATION OTHERWISE GRANTED BY LAW.

### CONFLICT:

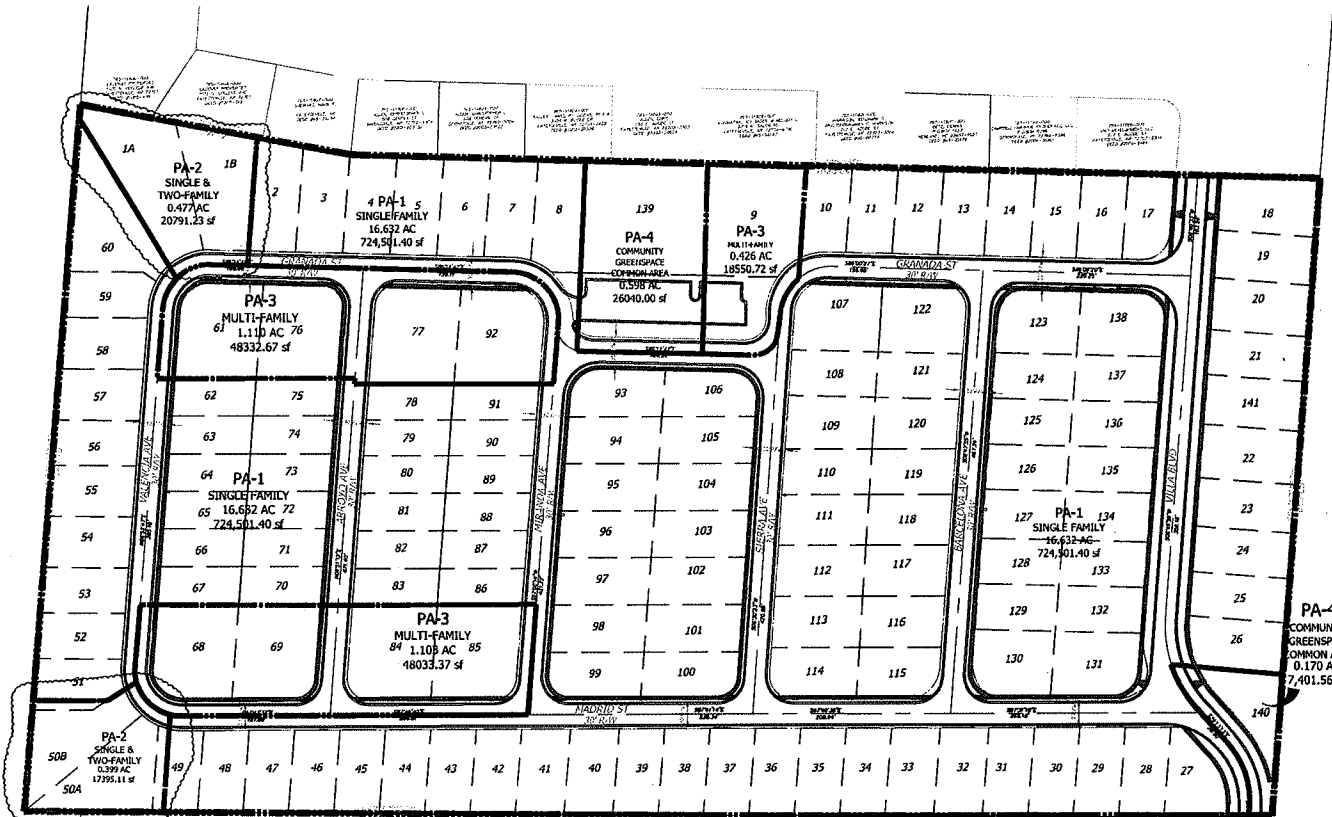
WHERE THERE IS MORE THAN ONE PROVISION WITHIN THE PZD MASTER DEVELOPMENT PLAN THAT COVERS THE SAME SUBJECT MATTER, THE PROVISION WHICH IS MOST RESTRICTIVE OR IMPOSES HIGHER STANDARDS OR REQUIREMENTS SHALL PREVAIL UNLESS DETERMINED OTHERWISE BY THE ZONING AND DEVELOPMENT ADMINISTRATOR.

### MAXIMUM LEVEL OF DEVELOPMENT:

THE TOTAL NUMBER OF DWELLINGS OR THE TOTAL COMMERCIAL, BUSINESS, OR INDUSTRIAL INTENSITY APPROVED FOR DEVELOPMENT WITHIN THE PLANNING AREAS IS THE MAXIMUM DEVELOPMENT REQUESTED FOR PLANNING OR CONSTRUCTION. THE ACTUAL NUMBER OF DWELLINGS OR LEVEL OF DEVELOPMENT FOR COMMERCIAL, BUSINESS, OR INDUSTRIAL PROPERTIES MAY BE LESS DUE TO SUBDIVISION OR SITE IMPROVEMENT PLAN REQUIREMENTS OR OTHER REQUIREMENTS OF THE CITY COUNCIL.

### PROJECT TRACKING:

AT THE TIME OF SUBMISSION FINAL PLAT OR LARGE SCALE DEVELOPMENT THE APPLICANT SHALL PROVIDE A SUMMARY OF THE DEVELOPMENT, TO DATE, TO THE PLANNING DEPARTMENT IN ORDER TO ASSURE MAXIMUM DEVELOPMENT LIMITS ARE NOT EXCEEDED.

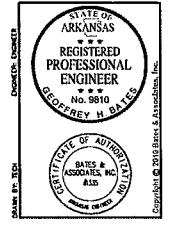


### SURVEY DESCRIPTION:

A PART OF THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHWEST QUARTER (SW1/4) AND A PART OF THE NORTHWEST QUARTER (NW1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION 35, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A FOUND IRON PIN AT A BOUND POINT IN THE NORTH LINE OF LOT 6 IN SUNBRIDGE CENTER, AS SHOWN ON THE FINAL PLAT THEREOF RECORDED IN PLAT BOOK 13 AT PAGE 60; THENCE NORTH 75° 19' E 748.76 FEET TO THE SOUTHWEST CORNER OF LOT 12, BLOCK 8 IN VILLA NORTH, AS SHOWN ON THE ANNEALED FINAL PLAT THEREOF RECORDED IN PLAT BOOK 7 AT PAGE 122; THENCE ALONG THE SOUTH LINE OF SAID VILLA NORTH THE FOLLOWING TWO COURSES: S75° 27' 49" E 291.02 FEET TO A FOUND CONCRETE POST; THENCE S80° 25' 18" W 1028.8 FEET TO THE SOUTHWEST CORNER OF LOT 1, BLOCK 1 IN SAID VILLA NORTH; THENCE DEPARTING SAID SOUTH LINE S87° 23' 48" W 876.34 FEET; THENCE NORTH 73° 47' 30" E 891.97 FEET TO A FOUND IRON PIN; THENCE NORTH 22° 29' W 437.23 FEET TO THE POINT OF BEGINNING, CONTAINING 2092 ACRES, MORE OR LESS, BEING SUBJECT TO THE RIGHT-OF-WAYS OF VALENCIA AVENUE, ARROYO AVENUE, MIRANDA AVENUE, SIERRA AVENUE, BARCELONA AVENUE, VILLA BOULEVARD, MADRID STREET AND GUANAJATA STREET, AND ALSO SUBJECT TO ANY EASEMENTS, CONTINGENTS OR RESTRICTIONS OF RECORD OR FACT.

STATE PLAT CODE: S00-140-300-0-05-RZD-072-1552  
CITY PLAT PAGE: 324



REVISIONS

R-PZD  
SUNBRIDGE VILLAS SUBDIVISION  
COVER SHEET  
FAYETTEVILLE, ARKANSAS

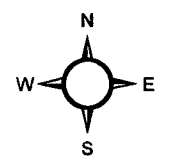
**Bates & Associates, Inc.**  
Civil Engineering & Surveying  
Phone: (479) 483-8333 Fax: (479) 483-8335  
511 W. Coll Street, Suite 100 Fayetteville, Arkansas 72701

PROJECT NO 10-041  
DRAWING NO 1



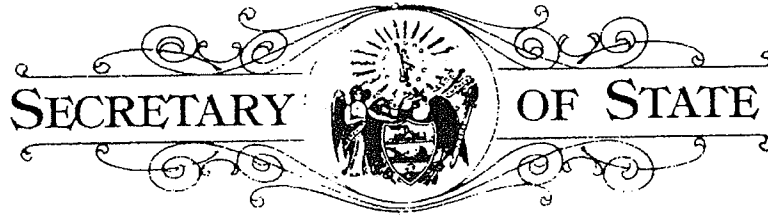
# SUNBRIDGE VILLAS

4260 LF OF PRIVATE STREETS



1 inch = 200 feet

**STATE OF ARKANSAS**



**Charlie Daniels**  
SECRETARY OF STATE

To All to Whom These Presents Shall Come, Greetings:

I, Charlie Daniels, Secretary of State of Arkansas, do hereby certify that the following and hereto attached instrument of writing is a true and perfect copy of

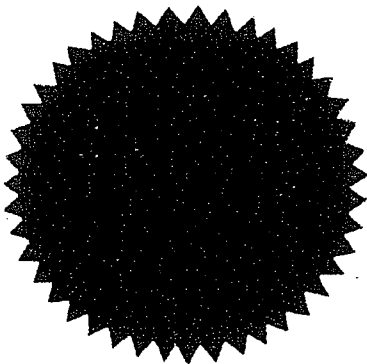
**Articles of Incorporation**

of

**SUNBRIDGE VILLAS PROPERTY OWNERS ASSOCIATION, INC.**

filed in this office November 19, 2007 in compliance with the provisions of the law and are hereby declared a body politic and corporate, by the name and style aforesaid, with all the powers, privileges and immunities granted in the law thereunto appertaining.

In Testimony Whereof, I have hereunto set my hand and affixed my official Seal. Done at my office in the City of Little Rock, this 19th day of November 2007.



*Charlie Daniels*

Secretary of State



Document Number: 8217210002

SUNBRIDGE VILLAS PROPERTY OWNERS ASSOCIATION, INC.

ARTICLES OF INCORPORATION

FILED: 11/19/07, #Pages: 4

Arkansas Secretary of State  
Business Services Division

**ARTICLES OF INCORPORATION**  
**OF**  
**SUNBRIDGE VILLAS**  
**PROPERTY OWNERS ASSOCIATION, INC.**

The undersigned, in order to form a nonprofit corporation for the purposes hereinafter stated, under and pursuant to the provisions of the laws of the State of Arkansas, particularly the Arkansas Nonprofit Corporation Act of 1993, Chapter 33 of Title 4 of the Arkansas Code of 1987 Annotated, does hereby certify as follows:

1. Name. The name of this Corporation shall be SUNBRIDGE VILLAS PROPERTY OWNERS ASSOCIATION, INC. (the "Corporation").

2. Mutual Benefit. This Corporation is a mutual benefit corporation.

3. Purposes. This Corporation is organized as a nonprofit corporation to operate exclusively as a residential and community facility real estate management association for the mutual benefit of its members. The purposes for which the Corporation is formed are more specifically described as follows:

(a) To provide for the acquisition, construction, management, maintenance, and care of Association Property. For the purposes hereof the term "Association Property" shall mean: (1) property owned by the Corporation; (2) property commonly owned by the members of the Corporation; (3) residential property privately owned by the members but situated within the geographical boundaries of the area served by the Corporation; and, (4) property owned by a municipality or other governmental unit and used for the benefit of the residents.

(b) To receive and to maintain a fund or funds of real or personal property, or both, and, subject to the restrictions hereinafter set forth, to use and apply the whole, or any part, of the income therefrom and the principal thereof exclusively for the purpose of carrying on the exempt functions of a homeowners association as defined in Section 528 of the Internal Revenue Code of 1986 (or the corresponding provisions of any future United States Internal Revenue law).

4. Powers. The Corporation shall have and exercise all powers, privileges and rights conferred on corporations by the laws of the State of Arkansas and all powers and rights incidental to carrying out the purposes for which this Corporation is formed, except such as are inconsistent with the express provisions of the Act under which this Corporation is incorporated.

5. Prohibitions.

(a) Other than by the acquisition, construction, management, maintenance, and care of Association Property, no part of the net earnings of the Corporation shall inure to the benefit of any member, director, or officer of the Corporation, or to any other interested individual; provided, however, reasonable compensation may be paid for services rendered to, or for, the Corporation, effecting one or more of its purposes, and the Corporation may make reimbursement to its members, directors, officers or employees for expenses incurred in attending to their authorized duties.

(b) Notwithstanding any other provision of these Articles, the Corporation shall not carry on any other activities not permitted to be carried on by a corporation exempt from federal income tax under Section 528 of the Internal Revenue Code of 1986, as amended, or the corresponding provision of any future United States Internal Revenue law (the "Code").

6. Dissolution, Liquidation, and Termination. Upon the dissolution of the Corporation, the Board of Directors shall, after paying or making provision for the payment of all liabilities of the Corporation, dispose of all assets of the Corporation exclusively to such persons or organizations as are permitted distributees under Section 528 of the Code. Any of such assets not so disposed of shall be disposed of by the Circuit Court of the county in which the principal office of the Corporation is located exclusively to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

7. Principal Office. The principal office or place of business of this Corporation shall be located at 1747 N. College Avenue, Fayetteville, Arkansas 72703.

8. Registered Agent. The name and address of the registered agent of this Corporation is Robert N. Schmitt, 1747 N. College Avenue, Fayetteville, Arkansas 72703.

9. No Stock or Dividends. The Corporation shall not have or issue shares of stock and no dividends shall be paid, and no part of the income of the Corporation shall be distributed to its members, directors, or officers.

10. Membership. The Corporation shall have members, and the classes of membership shall be as provided in the Bylaws.

11. Directors. The business of the Corporation shall be conducted by the Board of Directors. The Board of Directors may employ for the Corporation, a Managing Agent, at a compensation established by the Board, to perform such duties and services as the Board shall authorize, including but not limited to all of the powers granted to the Board of Directors by these Articles and the By-Laws of the Corporation. The number of the directors of the Corporation shall be provided in the Bylaws; provided, however, at no time shall the number of directors be less than

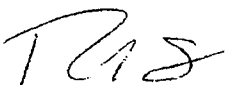
three (3). The terms of office of the directors shall be provided in the Bylaws. The initial Board of Directors shall have the direction of the affairs of this Corporation and shall meet as soon as is practicable after the issuance of the Articles of Incorporation by the Arkansas Secretary of State for the purposes of electing officers, adopting Bylaws and taking such other action as may be necessary to perfect the organization of the Corporation. Thereafter, the Bylaws may be amended and officers elected as provided in the Bylaws. The directors shall be permitted to hold office for more than one term by re-election.

12. Name of Incorporator. The name and address of the Incorporator is as follows:

Robert T. Smith  
400 West Capitol  
Suite 2000  
Little Rock, Arkansas 72201-3522

13. Amendments. From time to time any of the provisions of the Articles of Incorporation may be amended, altered, or repealed, and other provisions authorized by the Code and the laws of the state of Arkansas at the time in force may be added or inserted in the manner and at the time prescribed by said laws and the Bylaws.

IN WITNESS WHEREOF, the Incorporator has hereunto affixed his hand this 19<sup>th</sup> day of November, 2007.

  
\_\_\_\_\_

Robert T. Smith

**BY-LAWS  
OF  
SUNBRIDGE VILLAS  
PROPERTY OWNERS ASSOCIATION, INC.**

**ARTICLE I  
DEFINITIONS**

Unless the context otherwise specifies or requires, the terms defined in Article I hereunder shall, for all purposes of the By-Laws have the meaning herein specified.

Articles. The term "Articles" shall mean the Articles of Incorporation of Sunbridge Villas Property Owners Association, Inc. which are filed in the office of the Secretary of the State of Arkansas, a true copy of which is on file at the principal office of the Association, together with such amendments to the Articles as may from time to time be properly made.

Association. The term "Association" shall mean Sunbridge Villas Property Owners Association, Inc., an Arkansas nonprofit corporation.

Board. The term "Board" shall mean the Board of Directors of the Association.

By-Laws. The term "By-Laws" shall mean this instrument as it may be amended from time to time pursuant to the provisions of this instrument.

Common Area. The term "Common Area" shall mean all real property, including any roadway and streets, owned or maintained by the Association for the common use and enjoyment of the Owners.

Common Charges. The term "common charge" or "common expense" shall be those common expenses incurred for the operation of the Common Area in Sunbridge Villas as set forth in Article VIII of this instrument.

Declaration of Covenants and Restrictions. The term "Declaration of Covenants and Restrictions" shall mean the Declaration of Covenants and Restrictions and subsequent amendments and supplements thereto, filed in the office of the Circuit Clerk of Washington County, Arkansas, affecting the Sunbridge Villas Neighborhood.

Developer. The term "Developer" shall collectively mean Sunbridge Villas Holdings, LLC, Sunbridge Villas Development 1, LLC, and their respective successors and assigns.

Fiscal Year. The term "fiscal year" shall mean the calendar year, unless changed or modified by the Board of Directors of the Association.

Grantor. The term "Grantor" shall collectively mean Sunbridge Villas Holdings, LLC and Sunbridge Villas Development 1, LLC.

Lot. The term "Lot" shall mean any Lot within the Property which may be purchased by any Person or owned by the Grantor. For purposes of the definition of "Lot" all four plexes in the Property shall contain four (4) lots, one for each residential dwelling and all duplexes in the Property shall contain (2) lots, one for each residential dwelling.

Managing Agent. The term "Managing Agent" shall mean an individual or corporation hired by the Board to oversee the maintenance and management of Sunbridge Villas Property Owners Association, Inc. as the Board may direct.

Member. The term "Member" shall mean and refer to any Owner who by virtue of holding title to any Lot is a Member of the Association. If any Owner holds title to more than one Lot, he shall be entitled to an additional membership for each additional Lot he owns. The Developer may be a Member if it owns real property.

Owner. The term "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of a title to any Lot which is a part of the Property, but excluding those having such interest merely as security for the performance of an obligation.

Person. The term "Person" shall mean an individual or individuals, corporation, unincorporated association, partnership, joint venture, trustee, conservator, administrator, or other legal entity which has the right to hold title to real property.

Property. The term "Property" shall mean the land, buildings, and all other improvements thereon (including the Common Areas owned or maintained by the Association) which is subject to the Declaration of Covenants and Restrictions of Sunbridge Villas, and all amendments thereto.

Rules and Regulations. The term "Rules and Regulations" shall mean the rules and regulations as adopted by the Board pursuant to the Declaration of Covenants and Restrictions and this instrument, as they may be amended from time to time.

## **ARTICLE II GENERAL**

**SECTION 1. The Property.** The Property is located in Washington County, Arkansas. It is all that Property known as Sunbridge Villas as defined in the Declaration of Covenants and Restrictions of Sunbridge Villas.

**SECTION 2. The Association.** The Association has been organized to perform the functions described herein except for those performed by others as set forth herein. The Association is charged with the duties and has the powers prescribed by law and set forth in the Articles, By-Laws and the Declaration of Covenants and Restrictions of Sunbridge Villas. Neither the Articles

nor the By-Laws shall, for any reason be amended or otherwise changed or interpreted so as to be inconsistent with the Declaration of Covenants and Restrictions of Sunbridge Villas.

The Association is an organization owned by the Owners of Lots in Sunbridge Villas and used by them to manage and regulate Sunbridge Villas. Each Owner of a Lot shall have the same proportion of interest in the Association as the number of Lots in Sunbridge Villas except as provided in Article III.

Each Owner, for so long as he is such an Owner, shall be deemed a Member of the Association. Upon becoming a Member of the Association, the rights, duties, privileges, immunities and liabilities of being an Owner shall be those set forth in and shall be exercised in accordance with the Declaration of Covenants and Restrictions of Sunbridge Villas, the Articles, and these By-Laws and may be amended or adopted by the Association or by the Board, as provided therein.

Membership in the Association shall not be transferred, pledged or alienated in any way except upon transfer of title of a Lot, and then only to the transferee of title, except in the instance of suspension as provided hereunder. Any attempt to make a prohibited transfer shall be null and void.

SECTION 3. Provisions of By-Laws Applicable. The provisions of these By-Laws are applicable to Sunbridge Villas Property Owners Association, Inc.

SECTION 4. By-Laws Applicable to Present and Future Owners. All present and future Owners, mortgagees, lessees, and occupants of Lots and their employees, and any other Person(s) who may use the Common Area facilities of Sunbridge Villas in any manner, are subject to these By-Laws, all covenants, agreements, restrictions, easements and declarations of record, and the Declaration of Covenants and Restrictions of Sunbridge Villas. The acceptance of a deed of conveyance or the entering into a lease or the act of occupancy of a Lot shall constitute an agreement that all of the above documents, restrictions and conditions, as they may be amended from time to time, are accepted, ratified and will be complied with.

SECTION 5. Office of the Association. The Office of the Association and the Board shall be located in Fayetteville, Washington County, Arkansas or such other locations in the State of Arkansas as may be selected from time to time by the Board which the Owners and listed mortgagees have been given written notice of.

SECTION 6. Documents Available for Review. Copies of these By-Laws, the Articles, the Declaration of Covenants and Restrictions of Sunbridge Villas, as they may be amended from time to time, and all books and records of the Association shall be made available for inspection by Members of the Association and their authorized agents during regular business hours.

### ARTICLE III MEMBERSHIP, VOTING RIGHTS, AND SHARES

SECTION 1. Membership. Every Person who is an Owner of record of a fee or individual fee interest in any Lot which is subject by the Declaration of Covenants and Restrictions of Sunbridge Villas to assessments by the Association shall be a Member of the Association, provided that any such Person who holds such interest merely as a security for the performance of an obligation shall not be a Member. As herein defined, Person may be one or more and all such Persons or entities constituting one Person or Member shall vote their membership as they, among themselves, determine but in no event shall more than one membership be held in the Association for any one Lot. If any Person is an Owner of more than one Lot, then such Owner shall have the same number of memberships as the number of Lots to which he holds title.

SECTION 2. Voting Rights. Every Member shall be entitled to one vote per Lot owned by it in the election of Directors for the Board. Where more than one membership is held by a Member, then such Member shall be entitled to one vote for each such membership in the election of Directors for the Board. For all other purposes, the Association shall have two classes of voting membership.

(a) Class A - Class A Members shall be all those Owners of Lots with the exception of the Grantor. A Class A Member shall be entitled to one vote for each Lot in which he holds the interest required for membership as described in Section 1 above.

(b) Class B - Class B Members shall be each Grantor and shall be entitled to ten (10) votes for each Lot, whether built upon or not, in which either Grantor holds the title.

SECTION 3. Shares. For purposes of dissolution, or distribution of assets only, Class A and B Members shall be deemed to hold one equal share of the assets of the Association for each Lot in which they hold the interest required for membership, provided that when more than one individual or entity shall hold such interest in any Lot, they shall determine among themselves the distribution of such shares, provided that there shall be no more than one share with respect to any Lot.

### ARTICLE IV BOARD OF DIRECTORS

SECTION 1. Directors. The number of Directors which shall constitute the whole Board shall be three (3). Until succeeded by the Directors elected by the Members, the Directors need not be Owners. Upon expiration of the term of each member of the first Board, the successors to such Director, elected by the Members of the Association, shall be an Owner. Except as provided in the Articles with respect to the first Board, Directors shall be elected on a staggered basis. In any event however, each Director shall hold office until such time as his successor has been elected. In the event that a corporation, limited liability company or other legal entity is a Member of the Association, it may designate one or more Persons who shall be eligible to serve as Director on its behalf.



SECTION 2. Election of Directors. Subject to the provisions of these By-Laws concerning the first Board, at each Annual Meeting of the Association or at a Special Meeting called for this purpose, the Members shall elect Directors to fill such vacancies as may exist on the Board. There shall be no cumulative voting. Voting by written proxy is permitted for Members. The candidates receiving the highest number of votes, up to the number of Directors to be elected shall be deemed elected. A quorum of the membership at an annual or special called meeting shall be twenty-five percent (25%) of the memberships.

SECTION 3. Resignation. Any Director may resign at any time by giving written notice to the President or to the Secretary of the Board.

SECTION 4. Powers and Duties of the Board. The Board shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things, except for those things and matters which are by these By-Laws and by the Declaration of Covenants and Restrictions of Sunbridge Villas reserved to the Members of the Association acting at a properly called meeting. Such powers and duties of the Board shall include, but shall not be limited to the following:

(a) Provisions for the operation, care, upkeep and maintenance of the Common Areas and Lot open areas.

(b) Determination of the common expenses, including assessments for a maintenance reserve fund, required for the affairs of the Association including, subject to the limitations imposed by the Association or by the Declaration of Covenants and Restrictions of Sunbridge Villas, the operation and maintenance of the Property and the allocation of income and expenses.

(c) Collection of the common charges from the Owners, including the right to enforce these collections by methods described elsewhere in these By-Laws and the Declaration of Covenants and Restrictions of Sunbridge Villas.

(d) Opening of bank accounts on behalf of the Association and designating the signatories required therefor.

(e) Leasing, managing and otherwise dealing with the Common Areas.

(f) Owning, conveying, encumbering, leasing and otherwise dealing with Lots conveyed to it or purchased by it as the result of enforcement of a lien for common expenses, or otherwise, and also as to other property, real or personal.

(g) Obtaining of insurance for the Common Areas.

(h) Making of repairs, additions, improvements to or alterations of the Property and Lots in accordance with the other provisions of these By-Laws and as described in the Declaration of Covenants and Restrictions of Sunbridge Villas.

(i) Enforcement of obligations of the Owners.

(j) Adoption of Rules and Regulations relating to the use, upkeep or preservation of Sunbridge Villas Neighborhood and the Common Areas.

SECTION 5. Employment of Managing Agent. The Board may employ for the Association, a Managing Agent at a compensation established by the Board, to perform such duties and services as the Board shall authorize, including, but not limited to all of the powers granted to the Board by these By-Laws. The management agreement shall be terminable for cause or upon reasonable notice and run for a period of from one year, renewable by consent of the Association and the Managing Agent.

SECTION 6. The First Board and Subsequent Boards. The first Board shall be appointed by the Grantor and shall consist of three (3) Directors who shall serve until the first Annual Meeting held pursuant to Article V, Section 1 of these By-Laws. At the first Annual Meeting, the Directors shall be elected by the Members of the Association to serve for staggered terms, one Director having a term of one (1) year from the first Annual Meeting, one Director having a term of two (2) years from the first Annual Meeting, and, one Director having a term of three (3) years from the first Annual Meeting. As a vacancy occurs in each of the Board positions, then the newly elected Director shall serve a term of three (3) years. Upon the vacancy occurring in each of these Board positions, the newly elected Director shall hold a three (3) year term. Each election shall result in staggered terms for the various Directors in order that all Directors will not be elected during one year in order to provide continuity of membership.

SECTION 7. Removal of Directors. Except for the members of the initial Board, Directors may be removed for cause and successors elected by an affirmative vote of Persons, individually or collectively, holding two-thirds (2/3) (a "Super Majority") of the memberships of the Association. However, removal of members of the initial Board prior to the expiration of their respective terms shall require a Super Majority vote of all memberships and approval of the Developer.

SECTION 8. Vacancies in the Board. Vacancies in the Board caused by any reason other than the removal of a Director under Section 7 of this Article, shall be filled by vote of a majority of the remaining Directors at a special meeting of the Board held for that purpose, which meeting shall be held promptly after the occurrence of any such vacancy, even though the Directors present at such meeting may constitute less than a quorum and each person so elected shall be a Director until the next Annual Meeting of the Association, or until a Special Meeting of the Association is duly called and held for the express purpose of electing a Director to fill the vacancy until the expiration of the term. Except for members of the first Board, no Director shall continue to serve as such if, during his term of office, he shall cease to be an Owner.

SECTION 9. Board Meeting Following First Annual Meeting. Following the first Annual Meeting of the Association, there shall be a meeting of the Board within ninety (90) days thereafter.

SECTION 10. Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of the Directors. Notice of regular meetings of the Board shall be given to each Director, by mail, at least five (5) business days prior to the day named for such meeting. Members may attend the meetings by telephone.

SECTION 11. Special Meetings. Special meetings of the Board may be called by the President on five (5) business days notice to each Director given by mail, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board shall be called by the President or Secretary in like manner and on like notice on the written request of at least two (2) Directors. Members may attend the meetings by telephone.

SECTION 12. Waiver of Notice of Meeting. Any Director may at any time waive notice of any meeting of the Board in writing and such waiver shall be deemed equivalent to the giving of such notice.

SECTION 13. Quorum. At all meetings of the Board, a majority of the Directors thereof shall constitute a quorum for the transacting 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. If at any meeting of the Board, there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time.

SECTION 14. Fidelity Bonds. The Board may obtain adequate fidelity bonds or insurance policies for all officers and employees of the Association handling or responsible for the Association funds. If so obtained the premium on such bonds or insurance policies shall constitute a common expense.

SECTION 15. Compensation of Board. No elected Director shall receive any compensation from the Association for acting as such, except for reimbursement of necessary and duly incurred expenses.

SECTION 16. Directors Not Liable. The Directors shall not be liable to the Members of the Association for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith. The Association shall and does indemnify and hold harmless each Director against all contractual liability to others arising out of contract made by the Board on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration of Covenants and Restrictions of Sunbridge Villas or contrary to these By-Laws. It is intended that the Directors shall have no personal liability with respect to any contract made by them on behalf of the Association. It is also intended that the liability of any Owner arising out of any contract made by the Board out of the aforesaid indemnity in favor of the Directors shall be limited to such proportion of the total liability thereunder as the number of Lots owned by him bears to the total number of Lots in Sunbridge Villas. Every agreement made by the Board or by

the Managing Agent on behalf of the Association shall provide that the Directors or the Managing Agent as the case may be, are acting only as agents for the Association and shall have no personal liability thereunder (except as an Owner), and that each Owner's liability thereunder shall be limited to that proportion which the number of Lots owned by him bears to the total number of Lots in Sunbridge Villas.

SECTION 17. Records. The Board shall cause to be kept detailed records of the actions of the Board and of the Managing Agent, if any, minutes of the meetings of the Board, minutes of the meetings of the Members and financial records and books of account of the Association.

SECTION 18. Annual Report. An annual report of the receipts and expenditures of the Association shall be made at the end of each fiscal year. The Board shall cause this report to be made and a copy of said report shall be kept on file at the office of the Association and shall be made available for inspection by Members and their authorized agents during reasonable business hours.

## ARTICLE V ASSOCIATION MEMBERS' MEETINGS

SECTION 1. Annual Meetings; Election of Directors. Within two (2) years following the date the Association is organized, the Board shall call the first Annual Meeting of the Members. Thereafter, Annual Meetings shall be held in each succeeding year on a date established by the Board; the date of the Annual Meeting may be changed by a proper amendment of these By-Laws. At such meeting, Directors shall be elected by ballot of the Members of the Association, in accordance with the requirements of Article IV of these By-Laws. The Association may also transact such other business as may properly come before it. For purposes of this Article, the term Member shall include both Class A and Class B Members as defined in Article III hereof.

SECTION 2. Location of Annual Meetings. The Annual Meetings shall be held at the principal office of the Association, or at such suitable place convenient to the Members as may be designated by the Board.

SECTION 3. Special Meetings. It shall be the duty of the President to call a special meeting of the Members as directed by the Board or upon petition signed by at least one-third of the memberships, delivered to the Secretary.

SECTION 4. Notice of Meetings. It shall be the duty of the Secretary to mail or deliver a notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Member, at least ten (10) but not more than sixty (60) days prior to such meeting. The mailing or delivery of a notice in the manner provided in these By-Laws shall be considered notice served. Notice of a meeting need not be given to a Member if a written waiver thereof executed before, during or after the meeting by such Member or his duly authorized attorney or agent, is filed with the records of the meeting.

SECTION 5. Quorum. Except as otherwise provided in these By-Laws, the presence in person or by proxy of twenty-five percent (25%) of the memberships shall constitute a quorum at all meetings of the Association. If any meeting of the Association cannot be held because a quorum has not attended, a majority in interest of the memberships who are present at such meeting, either in person or by proxy, shall adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called for.

SECTION 6. Voting. The Member(s), or some person designated by such Member(s) to act as proxy on his or their behalf, who need not be an Owner, shall be entitled to cast their vote(s) at any meeting. The designation of any proxy shall be made in writing to the Secretary and shall be revocable at any time upon written notice to the Secretary. Any or all Members may be present at any meeting and may vote or take any other action as a Member either in person or by proxy. Each Member (including the Grantor, if the Grantor shall then own one or more Lots) shall be entitled to cast one vote at all meetings which vote shall be weighed by multiplying it by the number of Lots, whether built upon or not, owned by each Member, and the vote of the Grantor shall be weighed by multiplying it by five (5) times the total number of Lots, whether built upon or not. The votes attributable to each Member must be voted as an entirety and if Owners of a Lot shall be unable to agree on the vote to be cast on any issue their right to vote on that issue shall be deemed to have been waived.

SECTION 7. Majority Defined. As used in these By-Laws, the term "majority of Members" shall mean those Members having more than fifty percent (50%) of the total authorized votes of all Members present in person or by proxy and voting at any meeting determined in accordance with the provisions of Section 6 of this Article. The vote of the majority of Members present at a meeting at which a quorum shall be present shall be binding upon all Members for all purposes except when a higher percentage vote is required by law, the Declaration of Covenants and Restrictions of Sunbridge Villas or these By-Laws.

## ARTICLE VI OFFICERS

SECTION 1. Principal Officers of the Corporation. The principal officers of the Association shall be the President, Secretary and the Treasurer, and such other officer as may be approved by the Board from time to time, and shall be elected by the Board. The President shall be a member of the Board. Any vacancies which may occur in the offices of Secretary and Treasurer shall be filled by the Board. The Secretary and Treasurer need not be Members of the Association. The Board may appoint an Assistant Treasurer, an Assistant Secretary, and such other officers as in its judgment may be necessary.

SECTION 2. Officers Chosen by Board. Those officers of the Association to be chosen by the Board shall be elected annually at a meeting of the Board described in Article IV, Section 6 of these By-Laws, and shall hold office at the pleasure of the Board and until their successors are elected.

SECTION 3. Removal of Officers Chosen by Board. Upon the affirmative vote of the majority of the Board at a regular or special meeting called for that purpose, any officer chosen by the Board may be removed, either with or without cause, and his successor elected.

SECTION 4. President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board. He shall have all of the general powers and duties which are incidental to the office of President, including but not limited to the power to appoint committees from among the Owners from time to time, as he may in his discretion decide are appropriate to assist in the conduct of the affairs of the Association. He is elected by the Board and need not be an Owner.

SECTION 5. Vice-President. The Vice-President shall take the place of the President, and shall perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice-President is able to act, the Board shall appoint some other Director to act in place of the President, on an interim basis. The Vice-President shall also perform such other duties as shall from time to time be imposed upon him by the Board or by the President. The Vice-President is elected by the Board and need not be an Owner.

SECTION 6. Secretary. The Secretary shall keep the minutes of all meetings of the Association and of the Board; shall have charge of such books and papers as the Board may direct; and shall perform all the duties incidental to the office of Secretary, and as described elsewhere in these By-Laws or the Declaration of Covenants and Restrictions. The Secretary is elected by the Board and need not be an Owner.

SECTION 7. Treasurer. The Treasurer shall have the responsibility for all funds and securities and shall be responsible for keeping full and accurate financial and books of account showing all receipts and disbursements and for the preparation of required financial data. He shall be responsible for the deposit of all monies and other valuable effects in the name of the Board or the Managing Agent in such depositories as may from time to time be designated by the Board and he shall perform all duties incidental to the office of Treasurer. No payment voucher shall be paid unless and until approved by the Treasurer, or in his absence the Assistant Treasurer. The Treasurer is elected by the Board and need not be an Owner. The Assistant Treasurer is appointed by the Board and need not be an Owner.

SECTION 8. Execution of Documents for the Board. All agreements, contracts, deeds, leases, checks, and other instruments of the Association may be executed by the President or by such other person(s) as may be authorized by the Board.

SECTION 9. Compensation of Officers. No elected officer shall receive any compensation from the Association for acting as such, except for reimbursement of necessary and duly incurred expenses.

SECTION 10. Resignation. Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Any such resignation shall take effect at the date of the

receipt of such notice or at any later time specified therein. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

## **ARTICLE VII NOTICES**

SECTION 1. Notice Procedure. Whenever under the provisions of the Declaration of Covenants and Restrictions of Sunbridge Villas or the By-Laws, notice is required to be given to the Board, any Managing Agent, or Member, it shall not be construed to mean personal notice; but such notice may be given in writing, either by mail, by depositing the same in a post office or letter box in a postpaid sealed wrapper, addressed to the Board, such Managing Agent or Member, respectively, at such address as appears on the books of the Association. Notice shall be deemed given as of the date of mailing or by delivery to such person's address, provided that such mailing is made in the State of Arkansas.

SECTION 2. Waiver of Notice. Whenever any notice is required to be given under the provisions of the Declaration of Covenants and Restrictions of Sunbridge Villas, the law, or these By-Laws, a waiver thereof, in writing, signed by the person or persons entitled to the notice, whether before or after the time stated therein, shall be deemed the equivalent thereof.

## **ARTICLE VIII OPERATION OF THE PROPERTY**

SECTION 1. Budget. The Board shall from time to time and at least annually, prepare a budget for the Association and in connection therewith, determine the amount of common expenses of the Association and allocate and assess each common charge among the Owners according to their respective needs of various types of Lots within Sunbridge Villas. The common expenses shall include among other things, the cost of all insurance premiums on all policies of insurance, the amount charged for the operation, care, upkeep and maintenance of the entire Sunbridge Villas subdivision, including without limitation, any amount for working capital of the Association, an amount for a general operating reserve or a reserve fund for replacements, and an amount to make up any deficit in the common expenses of any prior year. The common expenses may also include such amounts as may be required for the purchase or lease by the Board on behalf of all Owners, any Lot which is to be sold at foreclosure or other judicial sale, such purchase or lease to be in accordance with provisions of Article VIII of this instrument.

The Board shall advise all Owners promptly and in writing of the amount of the common charges payable by each of them as determined by the Board, and shall make available at the office of the Association copies of each budget on which such charges are based.

In lieu of assessments being imposed upon such Lots owned by the Developer, the Developer may, but shall not be obligated to, underwrite all reasonable costs for the operation of the Association not covered by assessments paid by owners of Lots other than Developer until twenty

percent (20%) of all Lots are owned by persons or entities other than Developer. Once twenty percent (20%) of all Lots are owned by persons or entities other than the Developer, the remaining Lots owned by the Developer shall be subject to the same assessments as Lots by Owners other than the Developer.

No assessment may be used to maintain property in which the Association does not have an interest. However, the Association shall maintain, as necessary, all highway rights-of-ways that are adjacent to or adjoining the Property and all entrance ways into the property. This expense may be shared with other property owner associations.

SECTION 2. Payment of Common Charges. All Owners shall pay the common charges assessed by the Board pursuant to the provisions of these By-Laws, annually or in advance or at such other time that the Board shall determine in its sole and absolute discretion.

No Owner shall be liable for the payment of any part of the common charges assessed against his Lot subsequent to the transfer of a conveyance by him recorded in the records of the Circuit Clerk's office of Washington County, including conveyance to the Board made in accordance with the provisions of Article VIII of these By-Laws. A purchaser of a Lot shall be liable for the payment of the common charges assessed and unpaid against such Lot prior to the acquisition by him of such Lot, and a mortgagee or other purchaser of a Lot and at a foreclosure sale of such Lot shall be subject to and liable for a lien for the payment of common charges assessed both prior to and subsequent to the foreclosure sale.

SECTION 3. Power to Suspend Membership. In the event of default by any Owner in the payment of the common charges, or any other amounts owed the Association, or the Owner being in violation of any Bylaw or Rule of the Association, the Board shall have the power to suspend the Owner's membership in the Association, and such suspension shall remain in effect only until such amounts as are owed are paid and until Owner is in compliance with the Bylaws and Rules of the Association.

SECTION 4. Foreclosure. In any action brought by the Board to foreclose a lien on a Lot because of unpaid common charges, the Owner shall be required to pay a reasonable rental for the use of his Lot, if such continues after the foreclosure, and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Board acting on behalf of the Owners, shall have the power to bid upon such Lot at the foreclosure sale and to acquire, hold, lease, convey, mortgage (but not to vote the share(s) appurtenant thereto), or otherwise deal with the same. A suit to recover a money judgment for unpaid common charges shall be maintainable without foreclosing or without waiving the lien securing same.

SECTION 5. Statement of Unpaid Common Charges. The Board shall promptly provide any Owner requesting same in writing, with a written statement of all unpaid common charges due from such Owner in a form suitable for recording and the same when recorded in the Circuit Clerk's office of Washington County, Arkansas shall operate to discharge the Lot from any other sums not



included in such statement then unpaid, at least as to bonafide third parties relying on such statement.

In all events the lien for assessments created herein shall be subject to and subordinate to the lien or any recorded first mortgage or deed of trust.

SECTION 6. Maintenance. All maintenance, repair, and replacements to the Common Areas as defined in the Declaration of Covenants and Restrictions of Sunbridge Villas or in the Plat or to those areas concerning which easements have been conveyed to the Association, and the painting and decorating of the exterior of the Tracts described in the Plat shall be done by the Board or its appointee and shall be included as a common expense of the Association.

SECTION 7. Cost Allotment of Improvements.

(a) If twenty five percent (25%) or more but less than fifty percent (50%) of the memberships agree to make an improvement to the Common Areas or to areas concerning which an easement has been granted to the Association, the cost of such improvement shall be borne by the Members so agreeing.

(b) If fifty percent (50%) or more of the memberships agree to make an improvement to the Common Areas or to areas concerning which an easement has been granted to the Association, the cost of such improvement shall be borne by all Members as a common expense.

(c) All improvements undertaken pursuant to this Section 7 shall be subject to the written approval of the Board.

SECTION 8. Rules and Regulations. The use of the Tracts described in the Plat and the Common Areas shall be subject to rules and regulations from time to time adopted by the Board and to rules and regulations from time to time adopted by the Association; copies of said rules and regulations shall be made available at the office of the Association to each Owner prior to their effective date.

**ARTICLE IX  
INDEMNIFICATION OF OFFICERS AND DIRECTORS**

SECTION 1. Mandatory Indemnification. In accordance with Ark. Code Ann. §§ 4-33-852 and 4-33-856, the Association shall indemnify any director or officer and his or her estate or personal representative who is wholly successful, on the merits or otherwise, in the defense of any proceeding to which the officer or director is a party by virtue of his or her status as an officer or director of the Association.

SECTION 2. Permissible Indemnification. Pursuant to Ark. Code Ann. § 4-33-851, and except as provided in Section 3 below, the Association may indemnify an officer or director made a party to a proceeding by virtue of his or her status as an officer or director, against liability incurred in the proceeding if the following conditions are met: (1) the officer or director conducted himself

or herself in good faith; (2) with respect to conduct in his or her official capacity, the officer or director had reason to believe that his or her conduct was in the best interests of the Association; and (3) in cases of conduct not in his or her official capacity, the officer or director had reason to believe that his or her conduct was at least not opposed to the best interests of the Association.

SECTION 3. Prohibition of Indemnification in Certain Cases. The Association shall not indemnify an officer or director in connection with any proceeding by or in the right of the Association in which the officer or director was adjudged liable to the Association, or in connection with any other proceeding charging improper personal benefit to the officer or director, whether or not involving action in his or her official capacity, in which the officer or director was adjudged liable on the basis that personal benefit was improperly received by the officer or director.

SECTION 4. Procedure for Authorizing Indemnification of Directors. Before the Association may indemnify any director pursuant to Section 2 above, a determination must be made that indemnification of a director is permissible because the director has met the standards of conducts set forth in Section 2 of this Article IX. The Board of Directors shall make that determination by a majority vote of a quorum consisting of directors who are not at the time parties to the proceeding; provided, however, that if such a quorum cannot be obtained, then the determination shall be made either by a committee designated by the Board of Directors or by special legal counsel in accordance with Ark. Code Ann. § 4-33-855(b)(2) and (3). Furthermore, the Association may not indemnify a director until twenty (20) days after the effective date of the written notice of the proposed indemnification to the Attorney General of the State of Arkansas. The Association may pay for or reimburse the reasonable expenses incurred by an officer or director who is a party to a proceeding in advance of final disposition of the proceeding upon authorization made in accordance with Ark. Code Ann. § 4-33-855 and upon satisfaction of all the conditions prescribed in § 4-33-853.

SECTION 5. Insurance. The Association may purchase and maintain insurance on behalf of its officers and directors to insure against liabilities inserted against or incurred by the Association's officers and directors in that capacity or arising from their status as officers and directors, whether or not the Association would have the power to indemnify them against the same liability under the preceding sections of this Article IX.

SECTION 6. Definitions. The following definitions apply to the indemnification provisions of this Article IX:

(a) Proceeding. "Proceeding" means any threatened, pending or completed civil action, suit or proceeding, whether judicial, administrative, or investigative, and whether formal or informal.

(b) Liability. "Liability" means the obligation to pay a judgment, settlement, penalty, fine (including an excise regarding an employee benefit plan), or reasonable expenses actually incurred with respect to a proceeding.

(c) Expenses. Indemnification against expenses which is mandated or permitted under this Article IX is limited to reasonable expenses, including attorneys' fees, incurred in connection with a proceeding.

## ARTICLE X INSURANCE

SECTION 1. Physical Damage. All buildings and improvements owned by the Association, and all of the personal property owned by the Association, may be insured for the benefit of the Association, the Owners and mortgagees of a Lot as their interest may appear, against risks of physical damage as follows:

(a) Amounts - As to real property, for an amount equal to not less than the agreed amount of its replacement cost; as to personal property, for an amount equal to its actual cash value. Prior to obtaining any insurance on real property under this section, and at least annually thereafter, the Board may obtain an appraisal from a qualified appraiser for the purpose of determining the replacement cost of such real property.

(b) Risks Insured Against - The insurance shall afford protection against loss or damage by reason of:

- (1) fire and other perils normally covered by extended coverage;
- (2) vandalism and malicious mischief;
- (3) such other risk of physical damage as from time to time may be customarily covered with respect to buildings and improvements similar in construction, location and use as those on the Property, including without limitation, builder's risk coverage for improvements under construction; and
- (4) such other risks of physical damage as the Board may from time to time deem appropriate.

SECTION 2. Liability Insurance. The Board may obtain and maintain public liability insurance for bodily injury and property damage in such limits as the Board may from time to time determine, insuring the Association, the Board, the Managing Agent (at the discretion of the Board), with respect to their liability arising from operation, maintenance or repair of Sunbridge Villas, which is the responsibility of the Association including, without limitation, liability arising from construction operations, and Common Area maintenance, and also insuring each Owner including the Grantor with respect to its liability arising from ownership of the said Lot. Such liability insurance may also cover cross-liability claims among Owners and the Association. The Board shall review such limits at least annually. The insurance provided under this section shall include, without limitation, the following provisions:

(a) That the insurance shall not be affected or diminished by any act or neglect of any Owner or any occupants or Owners of any improvements when such act or neglect is not within the control of the Association;

(b) That the insurance shall not be affected or diminished by failure of any improvements to comply with any warranty or condition when such failure to comply is not within the control of the Association; and

(c) Waivers by the insurer of rights of subrogation, other than those based on fraud or criminal acts, against the Association or the Owners.

## **ARTICLE XI DAMAGE TO OR DESTRUCTION OF PROPERTY**

SECTION 1. Duty to Repair or Restore. Any portion of Sunbridge Villas owned by the Association which is damaged or destroyed may be repaired or restored promptly by the Association, as provided in this Article. The Architectural Control Committee as established by the Declaration of Covenants and Restrictions (the "Architectural Control Committee") may waive this requirement.

SECTION 2. Estimate of Cost. Promptly after damage to or destruction of some portion of the buildings, and thereafter as it deems advisable, the Board shall obtain reliable and detailed estimates of the cost of repair or restoration. If the cost in the opinion of the Board may exceed \$5,000, the Board may retain the services of an architect or engineer or construction consultant to assist in the determination of such estimate and in the supervision of repair and restoration.

SECTION 3. Collection of Construction Funds. Construction funds may consist of insurance proceeds, condemnation awards, proceeds of assessments against Owner, payments by Owners for damage to or destruction of lots or improvements thereto, and other funds received on account of or arising out of injury or damage to the buildings, etc.

(a) Insurance Proceeds - The Board shall adjust losses under physical damage insurance policies of the Association.

(b) Assessments against Owners - Notwithstanding the limitations of Article VIII, Section 2, if the insurance proceeds are insufficient to effect the necessary repair or restoration of the Common Areas, such deficiency shall be charged against all Owners as a common expense. The proceeds of assessments for such common expenses shall be paid by the Board directly to the vendor making the repairs and restoration.

(c) Payments by Others - Any other funds received on account of or arising out of injury or damage to the buildings, etc. shall be administered directly by the Board.

## ARTICLE XII AMENDMENTS TO BY-LAWS

These Bylaws may be altered, amended or repealed and new Bylaws may be adopted by the Board of Directors at any regular or special meeting of the Board of Directors. Unless notice is waived, the Association shall provide seven (7) days written notice to the directors that the amendment will be voted upon at the meeting, and the notice must state that the purpose, or one of the purposes, of the meeting is to consider the proposed amendment of the Bylaws, and the notice shall also contain or be accompanied by a copy or a summary of the amendment or state the general nature of the amendment. Any amendment must be approved by a majority of the Directors in office at the time the amendment is adopted and the Grantor until such time as the Grantor does not own any of the Lots.

## ARTICLE XIII CONFLICTS

In case any of these By-Laws are in conflict with the provisions of any statutes, the Articles or the Declaration of Covenants and Restrictions of Sunbridge Villas as the case may be, the statutes, Articles, Declaration of Covenants and Restrictions of Sunbridge Villas shall control.

## ARTICLE XIV MISCELLANEOUS

SECTION 1. Invalidity. The invalidity of any part of these By-Laws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these By-Laws.

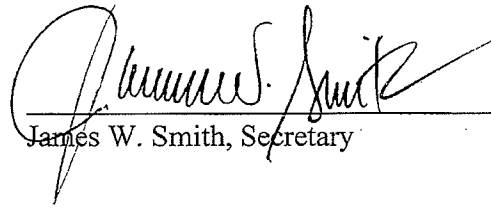
SECTION 2. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these By-Laws or the intent of any provisions thereof.

SECTION 3. Gender. The use of the masculine gender in these By-Laws shall be deemed to include the feminine and neuter gender, and the use of the singular shall be deemed to include the plural, whenever the context so requires.

SECTION 4. Waiver. No restriction, condition, obligation, or provisions contained in these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which occur.

SECTION 5. Attorney Fee. In any legal or equitable proceeding for the enforcement or to restrain the violation of this instrument or any provisions thereof, by reference or otherwise, the prevailing party or parties shall be entitled to attorney fees in such amount as the court finds reasonable. All remedies provided for herein, or at law or equity, shall be cumulative and not exclusive.

**ADOPTED** by the Board of Directors of the Association effective as of the 19<sup>th</sup> day of November, 2007.



James W. Smith, Secretary