

**THE OAKS III  
BY-LAWS OF THE HOMEOWNERS' ASSOCIATION, INC.**

**ARTICLE I -NAME AND LOCATION**

The name of the corporation is The Oaks 111 Homeowners' Association, Inc. The principal office of the corporation shall be located at, the home of the President of the Corporation but meetings of lot owners and Directors may be held at such places within the State of North Carolina, County of Durham or Orange as may be designated by the Board of Directors.

**ARTICLE II - DEFINITIONS**

**Section 2.1** The terms defined below shall be deemed to have the meanings specified whenever they appear in these By- Laws and the Articles of Incorporation unless the context otherwise requires. These definitions shall apply whether or not the defined terms are capitalized.

**"Articles of Incorporation"** means the articles of Incorporation of the Association, as amended from time to time.

**"Association"** means the 'OAKS III Homeowners' Association, Inc., a North Carolina nonprofit corporation), formed for the purpose of exercising the powers of the Association under the By-Laws and the Articles of Incorporation.

**"Board of Directors"** or "Board" means the board of directors of the Association, which is the governing body of the Association.

**"By-laws"** means the by-laws of the Association, as amended from time to time.

**"Directors"** means a member of the Board of Directors.

**"Lot Owner"** has the same meaning as Owner and means one or more persons who own a lot and who has paid the annual dues required by the Association for membership therein. This term does not include a mortgagee in his capacity as such .

**"Majority"** means more than fifty (50%) percent in any context, unless a different percentage is expressly required.

**"Member"** has the same meaning as Lot Owner

**"Officer"** means an officer of the Association

**"Owner"** has the same meaning as Lot Owner

**"Person"** means a natural person, corporation, business trust, estate trust, partnership, association, joint venture or other legal entity, or any combination thereof.

**"Submitted Property"** means the property lawfully subjected to the provision of the Restrictive and protective Covenants recorded at Book 1397 Page 938, Durham County Registry from time to time. The original Submitted property, before the addition of any additional property, is the land described and shown in Plot Book 117, Pages 114-16 and Plot book 115, page 96, together with all improvements thereon and all rights and easements appurtenant thereto. 'This term shall include any additional property that has been lawfully subjected to such Restrictive and Protective Covenants, from and after the date that such additional property is subjected to such Restrictive and Protective Covenants.

**"Vote"** means the vote in the Association to which each Member is entitled. No Member shall be entitled to more than one vote on Association matters, regardless of the number of lots owned by such Lot Owner.

### **ARTICLE III - MEMBERSHIP**

An Owner of the lot shall automatically become a member of the Association upon taking title to the lot and shall remain a member for the entire period of ownership. If a title to a lot is held by more than one person, the membership shall be shared in the same proportion as the title, but there shall be only one membership per lot. Membership does not include a mortgagee, and the giving of a mortgage shall not terminate the lot owner's membership. Membership shall be appurtenant to the lot to which it appertained and shall be transferred automatically by conveyance of that lot, and may be transferred only in connection with the conveyance of title of that lot. The member remains a member in good standing and is entitled to vote on all actions of the association upon payment of the annual dues of the Association. Failure to pay the annual dues forfeits the right to vote

### **ARTICLE IV - MEETING OF MEMBERS**

**Section 4.1 Annual Meeting.** The annual meeting of the Member's shall be held on the fourth Sunday in March of each year at the hour of 4:00 o'clock P.M. for the purpose of transacting any business authorized to be transacted by the Members; provided, however, if that day is a legal holiday, this meeting shall be held either the previous or following Sunday as selected by the board.

**Section 4.2 Substitute Annual Meeting.** If the "annual meeting of the Members is not held as provided in Section 4.1, any business, including the election of Directors, which might properly have been acted upon at that meeting may be acted upon at any subsequent members meeting held pursuant to these by-laws or to a court order requiring a substitute annual meeting.

**Section 4.3 Special meeting.** Special meetings of the members may be called at any time by the President, Secretary, any two or more Directors or, upon written request of the members who are entitled to vote, one-fourth (1/4) of all of the votes in the Association.

**Section 4.4 Notice of Meetings.** Written notice of each meeting of Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, not less than seven (7) days nor more than Sixty (60) days, before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting. Proof of such mailings shall be given by the affidavit of the person giving the notice. Notice of meeting may be waived before or after meetings by majority vote of the members of the Association.

**Section 4.5 Quorum.** The presence at the meeting of members entitled to cast, members voting by absentee ballot or of proxies entitled to cast, three-tenths (3/10) of the votes in the Association shall constitute a quorum for any action. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented. The presence of a member at the beginning of a meeting shall constitute the presence of such member for the purpose of determining a quorum.

**Section 4.6 Proxies.** At all meetings of the members each member may vote in person or by proxies. All proxies shall be in writing and filed with the Secretary or duly appointed Board representative. Every proxy shall be revocable and shall

automatically cease upon conveyance by the member of his lot. All proxies must be submitted to the Board and the Board must exercise the vote as defined by the member. Proxy forms will be sent with the meeting announcement and shall contain a brief statement of the issues known to be considered at the meeting and a statement indicating what a "for" and "against" vote means with respect to the issues. Proxy statements must be delivered to the Secretary or duly identified board member no less than 5 days prior to the meeting to be valid. Proof of receipt of the proxies will be given by affidavit of the Secretary

**Section 4.7 Absentee Ballots.** At all meetings of members each member may vote by absentee ballot and must make the request to the Secretary or the person authorized to call the meeting . The Secretary or person authorized to call the meeting shall mail an absentee ballot, postage pre-paid, not less than seven (7) days, before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. The absentee ballot shall contain brief statement of the issues known to the secretary to be considered at the meeting and a statement indicating 'What a "for" and "against" vote means with respect to these issues. Absentee ballots must be actually delivered to the Secretary prior to the beginning of: the meeting to be considered and counted. Proof of mailing the absentee ballots shall be given by the affidavit of the Secretary.

**Section 4.8 Order.** The order of business at annual members' meetings, and, as far as practical at all other members' meetings, shall be:

- a. Calling of the roll and certifying of proxies and absentee ballots.
- b. Proof of notice of meeting or waiver of notice.
- c. Reading and disposal of any unapproved minutes.
- d. Unfinished business.
- e. New Business.
- f. Adjournment.

**Section 4.9 Conduct of Meetings.** The President shall preside over all members meetings. The Secretary shall keep a minute book with all resolutions adopted by the members, minutes of all meetings, and all written consents to actions taken without a meeting. Robert's Rules of order (latest edition) shall govern the conduct of the meeting.

**Section 4.19 Adjournments.** Any meeting of the members, whether or not a quorum is present may be adjourned by a majority of the votes at the meeting to reconvene at a specific time and place. It shall not be necessary to give any notice of the reconvened meeting or of the business to be transacted, if the time and place of the reconvened meeting are announced at the meeting which was adjourned. Any business may be transacted which could have been transacted at the meeting which was adjourned, if a quorum is at the reconvened meeting.

**Section 4.1 Action of Members Without a Meeting.** Any action which may be taken at a meeting of the members may be taken without a meeting if a written consent setting forth the action authorized, is signed by all of the members. The consent shall be filed in the minute book or other appropriate records by the Secretary. It shall then have the same effect as a unanimous vote of the members at a special meeting called for the purpose of considering the action authorized.

**Section 4.12 Vote Required for Action.** Except as otherwise provided by the Non-Profit Corporation Act or herein, the act of a majority of the members at a meeting at which a quorum was present shall be the act of the members.

## **ARTICLE V - BOARD OF DIRECTORS**

**Section 5.1 General Powers.** The business and affairs of the Association shall be managed by the Board of Directors. The board shall have all powers of the Association that are not required by law, the Articles of Incorporation or these By-Laws to be exercised by the members. The powers of the Association include those set forth in Section 55A-15 of the North Carolina Non-Profit Corporation Act.

**Section 5.2 Qualifications.** Each Director must be a member.

**Section 5.3 Nomination.** Nomination for election to the Board of Directors shall be made by a nominating committee, which shall consist of up to five (5) members appointed by the President. The nominating committee may not contain more than two (2) current Directors. The nominating committee may nominate any number of qualified individuals, but no less than the number of Directors to be elected. Separate nomination shall be made for each seat on the Board for which a Director is to be elected. The nominations and the names of those on the nominating committee shall be included with the notice of the meeting. Nominations shall also be allowed from the floor at the meeting. Acceptance of nomination by the nominee is required before his name is placed in nomination.

**Section 5.4 Election.** Subject to Section 5.5 hereof, election to the Board of Directors shall be by written ballot. At such election the members, members by their absentee ballots, or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions hereof. The member or members receiving the largest number of votes shall be elected. Cumulative voting shall not be permitted.

**Section 5.5 Number and Term of Office.** The Board shall consist of seven (7) Directors with each having a three (3) year term of office. The Directors shall be divided into three (3) classes with the terms of one class expiring each year. The first and second class shall have two (2) Directors, and the third class shall have three (3) Directors. Section 5.3 shall govern nominations. The terms of the Directors in the first class shall expire at the next annual meeting, the terms of the Directors in the second class shall expire at the second annual meeting thereafter, and the terms of the Directors in the third class shall expire at the third annual meeting thereafter. Each Director shall serve until his term expires and his successor has been elected and qualified, subject to removal, disqualification or resignation.

**Section 5.6 Removal.** Any Director may be removed from office with or without cause by a vote of at least sixty- seven percent (67%) of the members at any meeting of the Association at which a quorum is present. Removal action may be taken at any annual or special meeting with respect to which notice of such purpose has been given. A removed Director's successor may be elected at the same meeting to serve the unexpired term.

**Section 5.7 Vacancies.** A vacancy occurring on the Board of Directors may be filled by a majority of the Directors remaining in office though less than a quorum of the Board of Directors. The Director so elected by the Board shall serve until the next annual meeting, at which time a Director shall be elected by the members for the remaining term, if any.

**Section 5.8 Compensation.** Directors shall not receive compensation for their services as Directors. Directors may be reimbursed to cover expenses of the

Association advanced by such Director if such expenses are authorized by the Board of Directors. A Director or an association member may serve the Association in another capacity and receive compensation, if disclosed to the Board in advance in writing.

**Section 5.9 Committees of the Board of Directors.** Board may designate from among its members an executive committee and one or more other committees, each consisting of at least one (1) Director. Each committee shall have the authority set forth in the resolution establishing the committee.

## **ARTICLE VI - MEETINGS OF THE BOARD OF DIRECTORS**

**Section 6.1 Place of Meetings.** Directors may hold their meetings at any place within reasonable proximity to the Oaks III as the board may from time to time establish.

**Section 6.2 Regular Meetings.** Regular meetings of the Board of Directors shall be held at least once every six (6) months on a regular schedule established by the Board.

**Section 6.3 Special Meetings.** No notice shall be required for regularly scheduled meetings. Notice of each special meeting shall be given to each Director stating the time, place and purpose of the meeting. The notice shall be given by mail posted at least five (5) days before the meeting or by telephone, personal delivery or electronic delivery at least three (3) days before the meeting. Notice by telephone or personal delivery shall be deemed effective only when actually communicated to the Director. Delivery by electronic means requires proof of receipt by return electronic communication.

**Section 6.5 Quorum.** A quorum shall be deemed present throughout any meeting of the Board of Directors when Directors entitled to cast a majority of the votes on the board are present at the beginning of the meeting.

**Section 6.6 Voting.** Except as otherwise provided by law, the act of a majority of the directors present at a meeting at which a quorum is present at the time shall be the act of the Board of Directors. Each Director shall have one equal vote on the Board.

**Section 6.7 Adjournments.** Any meeting of the Board, whether or not a quorum is present, may be adjourned by a Majority of the Directors present to reconvene at a specific time and place. It shall not be necessary to give notice of the reconvened meeting

or of the business to be transacted, other than by announcement at the meeting which was adjourned. Any business may be transacted which could have been transacted at the meeting which was adjourned, if a quorum is present at the reconvened meeting.

**Section 6.8 Action by Directors Without a Meeting.** Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting if a written consent is signed by all the Directors and is filed with the minutes of the Board. The consent shall have the same force and effect as a unanimous vote of the Board.

**Section 6.9 Conduct of Meeting.** The President shall preside over all meetings of the Board. The Secretary shall keep a minute book with all resolutions adopted by the Board, minutes of all meetings, and all written consents to the actions taken without a meeting and proceedings occurring at such meetings. Robert's Rules of Order (latest edition) shall govern the conduct of the meetings.

## ARTICLE VII - POWERS AND DUTIES OF THE BOARD OF DIRECTORS

**Section 7.1 Powers.** The Board of Director shall have the power to:

(a) exercise for the Association all powers, duties and authority vested in or delegated to this Associations and not reserved to the membership by other provisions of these By- Laws, the Articles of Incorporation, or law;

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

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

(d) exercise such other powers as are conferred upon the Association by the Articles of Incorporation or these By-Laws; and

(e) exercise all powers set forth in Section 55A-15 of the. North Carolina Non-Profit Corporation Act.

**Section 7.2 Duties.** It shall be the duty of the Board of Directors to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting which such statement is requested in writing by one-fourth (1/4) of the members who are entitled to vote;

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

(c) to:

(1) fix the amount of the annual dues against each lot at least thirty (30) days in advance of each annual period; and

(2) send written notice of each change in the annual dues to every member subject thereto at least thirty (30) days in advance of each annual period.

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

(e) provide a summary of the proposed budget to all members not less than seven (7) days prior to the annual meeting;

(f) to perform all other duties imposed by the Articles of Incorporation and these By-Laws;

(g) pay any license fees or governmental charges levied or imposed against the property, real or personal, owned by the Association; and

(h) appoint an Audit Committee to review the Association's books and records and report to the Membership at the annual meeting.

## **ARTICLE VIII - OFFICERS**

**Section 8.1 Number.** The offices of the Association shall consist of a President, one or more Vice Presidents as designed by the Board, a Secretary, a Treasurer and one or more Assistant Secretaries and Treasurers as designated by the Board. The Association shall not be required to have at any time any officers other than a President, Secretary and Treasurer. Any two or more offices may be held by the same person, except the offices of President and Secretary.

**Section 8.2 Election and Term.** All Officers shall be elected by the Board and shall serve at the pleasure of the Board. Only Directors shall qualify to hold the offices of the Association.

**Section 8.3 Compensation.** Officers shall not receive compensation for their services as officers. Officers may be reimbursed to cover expenses of the Association advanced by such Officers if such expenses are authorized by the Board of directors. An Officer may serve the Association in another capacity and receive compensation, if disclosed to the Board in advance in writing.

**Section 8.4 Removal.** Any officer or agent elected by the Board may be removed by the Board at any meeting with respect to which notice of such purpose has been given to the directors.

**Section 8.5 President.** The President shall be the chief executive officer of the Association and shall have responsibility for the general supervision of the business of the Association. He shall see that all orders and resolutions of the Board are carried into effect. The President shall perform such other duties as may from time to time be delegated to him by the Board. He shall have all the general powers and duties which are incident to the office of the President of a corporation organized under the North Carolina Non-Profit Corporation Act.

**Section 8.6 Vice Presidents.** The Vice President shall, in the absence or disability of the President, or at the direction of the President have the duties and powers of the President. If the Association has more than one Vice President, the Board shall designate one of them to act for the President. Vice Presidents shall have whatever duties and powers the Board may from time to time assign.

**Section 8.7 Secretary.** The Secretary shall keep accurate and complete records of all meetings of lot owners, Directors and committees of Directors, including minutes

of the meetings, all resolutions adopted and all consents to actions without a meeting. He/she shall be custodian of the corporate books, records, contracts and other documents. The Secretary may affix the corporate seal to any lawfully executed documents requiring it and shall sign such instruments as may require his signature. The Secretary shall have whatever additional duties and powers the Board may from time to time assign or may be incident to the office of secretary of a corporation organized under the North Carolina Non-Profit Corporation Act.

**Section 8.8 Treasurer.** The Treasurer shall have custody of all funds and securities belonging to the Association and shall receive, deposit or disburse them under the direction of the Board. The Treasurer shall keep full and true accounts of all receipts and disbursements and shall make reports to the Board and President upon request. He/she shall perform all duties as may be assigned from time to time by the Board. The Treasurer shall prepare or cause to be prepared all required financial statements, tax returns and budgets. If the Association employs a property manager, accountant, attorney or other agent, the duties may be delegated to the agent. However, the Treasurer shall remain responsible for supervising the agent.

**Section 8.9 Assistant Secretary and Assistant Treasurer.** The Assistant Secretary and Assistant Treasurer shall, in the absence or disability of the Secretary or the Treasurer, respectively, have duties and powers of those offices. They shall, in general, perform any other duties assigned to them by the Board. Specifically, the Assistant Secretary may affix the corporate seal to all necessary documents and attest the signature of any Officer.

**Section 8.10 Bonds.** The Board may require any or all of the officials, agents or employees of the Association to give bonds, at the Association's expense, to the Association, with sufficient surety, conditioned on the faithful performance of the duties of their respective Offices or positions.

## **ARTICLE IX MISCELLANEOUS**

**Section 9.1 Fiscal Year.** The fiscal Year of the Association shall begin on or the first day of April and end on the thirty-first (31<sup>st</sup>) day of March of every year, except that the first year shall begin on the date of incorporation of the Association.

**Section 9.2 Seal.** The corporate seal of the Association shall be in circular form having within its circumference the words; The Oaks III Homeowner's Association, Inc.  
-Corporate Seal.

**Section 9.3 Inspection of Books and Records.** All accounts, books and records of the Association shall be open to inspection by the members during normal business hours subject to such reasonable rules as the Board may establish.

**Section 9.4 Indemnification.** Each Director or officer shall be indemnified by the Association against those expenses which are allowed by the laws of North Carolina and which are reasonably incurred in connection with any action, suit or proceeding, whether completed, pending or threatened, in which such person may be involved by reason of his being or having been a Director or Officer. Indemnification shall be made only in accordance with the laws of North Carolina. The Association may purchase and maintain insurance on behalf of any such officers and Directors against any liabilities asserted against them whether or not the Association would have the power to indemnify the Officers and Directors against the liability under the laws of North Carolina. If any expense or other amounts are paid by way of indemnification,



other than by court order, by action of members or by an insurance carrier, the Association shall provide notice of such payment to the members in accordance with the laws of North Carolina.

**Section 9.5 Waiver of Notice.** Whenever any notice is required to be given to any member or Director, a waiver, signed by the Director or member entitled to such notice, whether before or after the meeting to which the waiver pertains, shall be deemed equivalent to proper notice. Attendance at a meeting, whether in person, by absentee ballot or by proxy, shall be a waiver of notice of the time and place unless specific objection to improper notice is made when the meeting is called to order. Attendance shall also be a waiver as to all business transacted unless specific objection is made before the objectionable business is put to vote.

**Section 9.6 Amendment.** These By-Laws may be amended at a regular or special meeting of the members, by the vote of at least two-thirds (2/3rds) of quorum of members present in person or by proxy.

**Section 9.7 Self-Dealing.** Each Director and Officer and any property manager shall disclose in the written minutes of the Board any contract or agreement of any kind between the Association and any person or entity to which he/she is related by blood or marriage or in which he has an interest, whether direct or indirect.

**Section 9.8 Conflicts.** In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles of Incorporation shall control.

IN WITNESS WHEREOF, we, being all of the Directors of the Oaks III Homeowners' Association, Inc. have hereunto set our hands this Seventh day of April, 2013

#### **CERTIFICATION**

I, the undersigned, do hereby certify;

THAT I am the duly elected and acting secretary of the Oaks III Homeowners' Association, Inc., a North Carolina non- profit corporation, and,

THAT the foregoing By-Laws constitute the original By- Laws of such Association, and were duly adopted at a meeting of the Board of Directors thereof, held on the Seventh day of April, 2013

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of the Association this Seventh day of April, 2013