

**BY-LAWS OF THE  
AVINGTON PLACE COMMUNITY ASSOCIATION, INC.**

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**BY-LAWS OF THE  
AVINGTON PLACE COMMUNITY ASSOCIATION, INC.**

**ARTICLE I  
NAME AND LOCATION**

The name of the corporation is the **AVINGTON PLACE COMMUNITY ASSOCIATION, INC.** (hereinafter the "Association"). The principal office of the Association shall be located at 7B Corporate Center Court, Greensboro, Guilford County, North Carolina 27408. The location of the principal office of the Association may be changed by the Board of Directors. Meetings of Members and directors shall be held in such places within Wake County, North Carolina, as may be designated by the Board of Directors.

**ARTICLE II  
DEFINITIONS**

All terms defined in the Declaration Of Covenants, Conditions And Restrictions For The Avington Place Community Association, Inc., to be recorded in office of the Register of Deeds of Wake County, North Carolina, as from time to time amended (the "Declaration"), shall have the same meanings when used herein.

**ARTICLE III  
MEMBERSHIP AND VOTING RIGHTS**

Membership and voting rights shall be as provided for in Article III of the Declaration.

**ARTICLE IV  
MEETINGS OF MEMBERS**

Section 1.        Annual Meetings. The first annual meeting of the Members shall be held within eighteen (18) months from the date of incorporation of the Association. Each subsequent regular annual meeting of the Members shall be held in the same month of each year thereafter on the day, at the hour, and at the place specified in the notice to the Members of the meeting.

Section 2.        Special Meetings. Special meetings of the Members may be called at any time by the President or a majority of the members of the Board of Directors. Special meetings of the Members shall be called upon the written request of the Members entitled to one-fourth (1/4) of the votes appurtenant to the Class A Lots (as defined in the Declaration).

Section 3.        Place of Meetings. Meetings of the Members shall be held at such place within Wake County, North Carolina, as may be determined by the Board of Directors.

Section 4.        Notice of Meetings. Except as otherwise provided in the Articles of Incorporation, the Declaration or these By-Laws, written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, to each Member entitled to vote at such meeting, by hand delivery or by mailing a copy of such notice, postage prepaid, 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. Except as otherwise provided in the Declaration or Articles of Incorporation or these By-Laws, notice shall be mailed or delivered not less than fifteen (15) days nor more than thirty (30) days before the date of the meeting. Such notice shall specify the place, day and hour of the meeting, and, in case of a special meeting, the exact purpose of the meeting, including the text of any proposals to be voted on at such special meeting. Waiver by a Member in writing of the notice required herein, signed by him before or after such meeting, shall be equivalent to the giving of such notice.

Section 5.        Quorum. Except as otherwise provided in the Articles of Incorporation, the Declaration (including, specifically, Section 6 of Article V thereof) or these By-Laws, the presence at a meeting of Members or their proxies entitled to cast one-tenth (1/10) of the votes appurtenant to each Class of Lots (Class A and Class B) shall constitute a quorum for any action. If, however, a quorum is not present or represented at any meeting, the Members or their proxies present and 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 shall be present or be represented.

Section 6.        Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot.

Section 7.        Informal Action by Members. Any action which may be taken at a meeting of the Members may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the persons who would be entitled to vote upon such action at a meeting and filed with the Secretary of the Association to be kept in the minute book of the Association.

**ARTICLE V  
BOARD OF DIRECTORS**

Section 1.        General Powers. The business and affairs of the Association shall be managed by a Board of Directors.

Section 2.        Number, Term and Qualification. The number of directors of the Association shall be three (3) until the first annual meeting of the Association, at which time the number of Directors shall be increased to five (5). At the first annual meeting, the Members shall elect one director to serve for a term of one year, two directors to serve for a term of two years, and two directors to serve for a term of three years.

At each annual meeting thereafter, the Members shall elect the number of directors needed to fill the vacancy or vacancies created by the director or directors whose term(s) is (are) expiring, to serve for a term of three years (except in the case of the initial election of a director, in which case the term of that director may be shortened to provide for the staggering set forth in this Section, or in the case of the filling of a vacancy, in which case the director elected to fill the vacancy shall be elected for the unexpired term of the director whose vacancy is being filled).

The term of office of the directors shall be staggered so that, except for an election to fill a vacancy or to fill a newly-created directorship, the terms of not less than one (1) nor more than three (3) directors shall expire at each annual meeting. Each director shall hold office until his death, resignation, retirement, removal, disqualification, or his successor is elected and qualified. Directors need not be members of the Association.

The Members of the Association may, by a majority of the votes cast at any duly called annual or special meeting of the Members at which a quorum is present, increase or decrease the number of directors of the Association, provided, however, that the number of directors may not be increased to more than nine (9) nor decreased to less than five (5) without amendment of these By-Laws.

Section 3.        Nomination. Nomination for election to the Board of Directors may be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting of the Members. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting, and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among Members or non-members.

Section 4.        Election. Except as provided in Section 6 of this Article, the directors shall be elected at the annual meeting of the Members by secret written ballot. In such election, the

Members or their proxies may cast, with respect to each vacancy, as many votes as they are entitled under the provisions of Article III of these By-Laws. The person(s) receiving the highest number of votes shall be elected. Neither cumulative voting nor fractional voting is permitted.

Section 5.        Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association.

Section 6.        Vacancies. A vacancy occurring in the Board of Directors may be filled by the selection by the remaining directors of a successor, who shall serve for the unexpired term of his predecessor. The Members may elect a director at any time to fill any vacancy not filled by the directors.

Section 7.        Compensation. No director shall receive compensation for any service he may render to the Association in the capacity of director. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

## ARTICLE VI MEETINGS OF DIRECTORS

Section 1.        Regular Meetings. Regular meetings of the Board of Directors shall be held at least annually, without notice, and at such place and hour as may be fixed from time to time by resolution of the Board. Should the date of such meeting fall on a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2.        Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Association or by any two directors, after not less than three (3) days' notice to each director.

Section 3.        Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly-held meeting at which a quorum is present shall be regarded as the act of the Board.

Section 4.        Informal Action by Directors. Any action which may be taken at a meeting of the Board of Directors may be taken without a meeting if written consent to the action so taken is signed by all the directors and filed with the minutes of the proceedings of the Board, whether done before or after the action so taken.

Section 5.        Chairman. A Chairman of the Board of Directors shall be elected by the directors and shall preside over all Board meetings until the President of the Association is elected. Thereafter, the President shall serve as Chairman. In the event there is a vacancy in the office of the

President, a Chairman shall be elected by the Board of Directors to serve until a new President is elected.

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

Section 1.        Powers. The Board of Directors shall have power to:

(a)        adopt and publish rules and regulations governing the use of the Common Area and the personal conduct of the Members and their guests thereon and establishing penalties for infractions thereof, and adopt and publish rules and regulations interpreting the restrictions and covenants applicable to the Properties;

(b)        suspend a Member's voting rights during any period in which he shall be in default in the payment of any assessment levied by the Association pursuant to Article V of the Declaration. Such rights may also be suspended after such notice and hearing as the Board, in its sole discretion, shall establish, for a period not to exceed 60 days, for infraction of the published rules and regulations of the Association;

(c)        exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the Members by other provisions of these By-Laws, the Articles of Incorporation or the Declaration;

(d)        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 without good cause;

(e)        employ a manager and such other employees or independent contractors as it deems necessary and prescribe their duties, and contract with a management company to manage the operation of the Association. In the event that a contract is entered into with a management company, such contract must be terminable by the Board of Directors without cause or penalty on not more than ninety (90) days' notice and any management contract made with the Declarant shall be for a period not to exceed three years;

(f)        employ attorneys, accountants and other persons or firms to represent the Association when deemed necessary;

(g)        grant easements for the installation and maintenance of sewage, ~~water~~ utility or drainage facilities upon, over, under and across the property owned by the Association without the assent of the Members when such easements are necessary for the convenient use and enjoyment of the Properties; and

(h) appoint and remove at pleasure all officers, agents and employees of the Association, prescribe their duties, fix their compensation, and require of them such security or fidelity bond as it may deem expedient.

Section 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 when such statement is requested in writing at least five (5) working days before such meeting by Members entitled to at least one-fourth (1/4) of the votes appurtenant to the Class A Lots;

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

(c) as more fully provided in the Declaration, to:

(1) fix the amount of the annual assessment against each Lot at least thirty (30) days before January 1 of each year;

(2) send written notice of such assessment to every Owner subject thereto at least fifteen (15) days before January 1 of each year; and

(3) as to any Lot for which an assessment is not paid within thirty (30) days after it becomes due, bring an action at law against the Owner personally obligated to pay the assessment and/or foreclose the lien against such Lot.

(d) issue, or cause an appropriate officer of the Association to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be established by the Board of Directors for the issuance of such certificate. If a certificate states that an assessment has been paid, such certificate shall be conclusive evidence of payment and the amount thereof;

(e) procure and maintain adequate liability insurance covering the Association in an amount not less than \$1,000,000.00 and full replacement value hazard insurance on the real and personal property owned by the Association;

(f) procure and maintain directors' and officers' liability insurance;

(g) cause the Common Area and all facilities erected thereon and any portions of any Lot or Unit for which the Association has maintenance responsibility to be maintained;

(h) establish and maintain an adequate reserve fund for the periodic



maintenance, repair and replacement of the improvements constructed on the Common Area;

(i) provide such notices to and obtain such consents from the owners and holders of first deeds of trust on Lots within the Properties as is required by the Declaration or these By-Laws;

(j) pay all ad valorem taxes and public assessments levied against the real and personal property owned in fee by the Association;

(k) hold annual and special meetings and elections for the Board of Directors;  
and

(l) prepare annual budgets and financial statements for the Association and make same available for inspection by the Members and their agents at all reasonable times.

Section 3. Enforcement. In addition to such other rights as are specifically granted in the Articles of Incorporation, the Declaration or these Bylaws, the Board of Directors shall have the power, pursuant to the procedures set forth in this Section, to impose sanctions for violations by an Owner, a member of his family, or any occupant, tenant, employee, guest or invitee of the Owner, of the Declaration, these Bylaws, rules and regulations adopted Association or the Restrictive Covenants applicable to the Properties (hereinafter individually and collectively referred to as the "Rules"), which sanctions may include, but are not limited to, reasonable monetary fines, not to exceed the greater of the costs actually incurred by the Association in abating such violation including, without limitation, attorney's fees, or \$10.00 per day, or part thereof, in which the violation continues to exist for a first violation, \$25.00 per day for a second violation of the same rules or regulations, and \$100.00 per day for a third or subsequent violation, and which fines shall constitute a lien upon the Lot of the Owner, and suspension of the right to vote and the right to use any recreational amenities within the Common Area. In addition, the Board may suspend any services provided by the Association to an Owner or the Owner's Lot if the Owner is delinquent in paying any assessment or other charges owed to the Association. The failure of the Board to enforce any of the Rules shall not be deemed a waiver of the right to do so thereafter.

(a) Notice. Before imposition of any sanction, the Board or its delegate shall give the Owner written notice describing: (i) the nature of the alleged violation; (ii) the proposed sanction to be imposed; (iii) a period of not less than 10 days within which the Owner may present a written request for a hearing; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a request for a hearing is received by the Board before the end of the period set forth in such notice (the "Notice Period"). Such notice may be hand delivered by any person or sent by certified mail, return receipt requested. Any notice hand delivered shall be deemed received when received by the Owner or by any person more than 18-years old who is present at the address of the Owner as shown on the records of the Association. Notice sent by certified mail shall be deemed received on the third business day after same is deposited in the United States Mail. The Board shall include in its minutes evidence of the giving of such notice, including a copy of the notice

and a statement of the date and manner of delivery signed by the officer, director or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative appears at the meeting, unless the appearance is made to protest the lack of notice.

If a request for a hearing is not received before the end of the Notice Period, the sanction stated in the notice shall be imposed; provided, however, that the Board may waive any proposed sanction if the violation is cured before the end of the Notice Period. Such waiver shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any person.

(b) Hearing. If a hearing is timely requested, the hearing shall be held by the Board in executive session or by a committee of not less than three (3) Members (who may or may not be Directors of the Association) appointed by the Board for the purpose of hearing such appeals. The Owner shall be afforded a reasonable opportunity to be heard. A written statement of the results of the hearing and the sanctions, if any, imposed, shall be placed in the minutes of the Board and a copy of such statement shall be provided to the Owner in the same manner as the notice required by subsection (a) of this Section 3.

If the hearing was held before a subcommittee appointed by the Board, the Owner shall have the right to appeal the decision to the Board by giving a written notice of appeal to the President or Secretary of the Association within ten (10) days after receiving a copy of the written statement of the results of the hearing. If such notice of appeal is given, the Board shall schedule and notify the Owner of the date of the appeal hearing, which shall be not less than five (5) nor more than fifteen (15) days after notice of appeal is given, and which must be attended by not less than 75% of the members of the Board. The Owner shall be afforded a reasonable opportunity to be heard. The Board may, by majority vote of the Directors present at such appeal hearing, affirm, modify or reverse the decision of the subcommittee. A written statement of the results of the appeal hearing and the sanctions, if any, imposed, shall be placed in the minutes of the Board and a copy of same shall be provided to the Owner in the same manner as the notice required by subsection (a) of this Section 3.

(c) Additional Enforcement Rights. Notwithstanding anything to the contrary in this Article, the Board may elect to enforce any provision of the Rules, without the necessity of compliance with the notice and hearing procedures set forth herein, by self-help methods (specifically including, but not limited to, the towing of Owner and tenant vehicles parked in violation of parking rules) or by action at law or in equity to enjoin any violation or to recover monetary damages or both. In any such action, to the maximum extent permissible, the Association shall be entitled to recover all costs or such action, including reasonable attorney's fees incurred. Any entry onto any Lot for purposes of exercising this power of self-help shall not be deemed as trespass.

**ARTICLE VIII  
OFFICERS AND THEIR DUTIES**

Section 1.        Enumeration of Offices. The officers of the Association shall be a President, who shall at all times be a member of the Board of Directors, a Secretary, a Treasurer, and such Vice President(s) and other officers as the Board may from time to time by resolution appoint.

Section 2.        Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

Section 3.        Term. The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year unless they shall sooner resign, be removed, or be otherwise disqualified to serve.

Section 4.        Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may from time to time determine.

Section 5.        Resignation and Removal. Any officer may be removed from office, with or without cause, by the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6.        Vacancies. A vacancy in any office may be filled by the Board. The person appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7.        Multiple Offices. No person shall simultaneously hold more than one of any of the other offices, except in the case of special offices created pursuant to Section 4 of this Article. Notwithstanding the foregoing, the offices of Secretary and Treasurer may be held by the same person.

Section 8.        Duties. The duties of the officers are as follows:

(a)        President. The President shall: preside at all meetings of the Board of Directors and of the Members; see that orders and resolutions of the Board are carried out; sign all leases, promissory notes, mortgages, deeds and other written instruments; and, in the absence of the Treasurer, sign all checks.

(b)        Vice President. The Vice President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

(c) Secretary. The Secretary shall: record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it on all papers requiring a seal; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association and their addresses; and perform such other duties as required by the Board.

(d) Treasurer. The Treasurer shall: receive and deposit in appropriate bank accounts all funds of the Association and disburse such funds as directed by resolution of the Board of Directors; keep proper books of account; issue, or cause to be issued, all requested certificates setting forth whether the assessments applicable to a specific Lot have been paid; cause an annual audit of the Association books to be made by an independent public accountant at the completion of each fiscal year; prepare an annual budget and a statement of income and expenditures to be represented to the membership at its regular annual meeting, and deliver a copy of each to the Members; and, if directed by resolution of the Board of Directors, sign all checks of the Association.

## **ARTICLE IX COMMITTEES**

The Board of Directors of the Association shall appoint a Nominating Committee as provided in Section 3 of Article V of these By-Laws. The Board of Directors may appoint an architectural committee and such other committees as it deems necessary to carry out the affairs of the Association.

## **ARTICLE X BOOKS AND RECORDS**

The books, records and papers of the Association shall, at all times during reasonable business hours, be subject to inspection by any Member or his agent. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

## **ARTICLE XI ASSESSMENTS**

As provided in Article V of the Declaration, each Member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the Lot against which the assessment is made. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or by abandonment of his Lot.

## ARTICLE XII MISCELLANEOUS

Section 1.            Corporate Seal. The Association shall have a seal in a circular form having within its circumference the words: Avington Place Community Association, Inc.; and such seal, as impressed in the margin hereof, is hereby adopted as the corporate seal of the Association.

Section 2.            Amendments. Except as otherwise provided herein, these By-Laws may be amended or repealed and new by-laws adopted at any regular or special meeting of the Board of Directors by the affirmative vote of a majority of the directors then holding office.

These By-Laws may also be amended or repealed and new by-laws adopted at any regular or special meeting of the Members, by the affirmative vote of two-thirds of the votes cast at such meeting, subject to normal quorum requirements, except that the Federal Housing Administration or the Veterans Administration shall have the right to veto amendments while there is Class B membership.

No by-law adopted or amended by the Members shall be amended or repealed by the Board of Directors, except to such extent that such by-law expressly authorizes its amendment or repeal by the Board of Directors.

Section 3.            Conflicts. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control. In the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

Section 4.            Fiscal Year. The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

Section 5.            Gender. Any use of the masculine gender in these By-Laws shall be construed to include the feminine gender. Any use of the singular shall be construed, as appropriate, to include the plural.

