

# Magnolia Place By-Laws

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## BY-LAWS OF MAGNOLIA PLACE HOMEOWNER'S ASSOCIATION, INC.

### ARTICLE I

NAME AND LOCATION. The name of the corporation is Magnolia Place Homeowner's Association, Inc. , hereinafter referred to as the "Association". The principal office of the corporation shall be located at 116B West Main Street, Carrboro, NC 27510, but meetings of members and directors may be held at such places within the State of North Carolina, County of Orange, as may be designated by the Board of Directors.

### ARTICLE II

#### DEFINITIONS

Section 1. "Association" shall mean and refer to Magnolia Place Homeowner's Association, Inc., its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions and Restrictions of Magnolia Place, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Areas" shall mean all real and personal property, together with those areas within dedicated portions of the development which may be deeded to or owned by the Association for the common use and enjoyment of the Owners.

Section 4. "Lot" shall mean and refer to any separately numbered tract of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 6. "Declarant" shall mean and refer to Orange Community Housing Corporation, its successors and assigns if such successors or assigns should acquire more than one developed Lot from the Declarant for the purpose of development.

Section 7. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the Office of the Register of Deeds, Orange County, North Carolina.

Section 8 . "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

### ARTICLE III

#### MEETING OF MEMBERS

Section 1. Annual meetings. The first annual meeting of the members shall be held during the month of September 1995, and each subsequent regular annual meeting of the members shall be held during the same month of each year thereafter at a time designated in the notice of such meeting. If the day for the annual meeting of the members is a legal holiday, the meeting will be held on the first day following which is not a legal holiday at the time designated in the notice for such meeting.

Section 2. Special Meetings. Special Meetings of the members may be called at any time by the President, the Board of Directors, or upon written request of the members who are entitled to vote one-fifth (1/5) of all of the votes of the Type A membership as defined in the Declaration of Covenants, Conditions and Restrictions of Magnolia Place.

Section 3. Notice of Meetings. 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, by mailing a copy of such notice, postage prepaid, at least 30 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. A member may, in writing signed by him, waive notice of any meeting before or after the date of the meeting stated therein.

Section 4. Informal Action by Members. Any action required or permitted by law to be taken at a meeting of the members of the Association may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all of the members of the Association, which consent shall be filed with the Secretary of the Association as part of the corporate records.

Section 5. The Quorum Required for any Action Authorized at Regular or Special Meetings of the Association

The quorum required for any action which is subject to vote of the members at an open meeting of the Association shall be as follows:

(a) The first time a meeting of the Members of the Association is called to vote on (i) an increase in the Maximum Regular Annual Assessment greater than that provided for by Section A of Article 6 of the Covenants, (ii) a Special Assessment as provided for in Article 7 of the covenants, (iii) the gift or sale of any parcel of land and improvements thereon designated as a Common Area as provided for by the Covenants, or (iv) an Amendment to the Covenants as provided for by Section A of Article 3.6 of the Covenants, the presence at the meeting of members or proxies entitled to cast sixty (60%) percent of the total vote of the Membership required for such action shall constitute a quorum.

(b) The first time a meeting of the Members of the Association is called to vote on any action proposed to be taken by the Association, other than that described in subparagraph (a) above, the presence at the meeting of Members or proxies entitled to Cast thirty (35%) percent of the total vote of the Membership required for such action shall constitute a quorum.

If the required quorum is not present at any meeting described in subparagraphs (a) or (b) above, another meeting or meetings may be called subject to the giving of proper notice and the required quorum at such subsequent meeting or meetings shall be one-half (1/2] of the required quorum at the preceding meeting.

Unless otherwise provided, any reference hereafter to “votes cast at a duly called meeting” shall be construed to be subject to the quorum requirements established by this Section and any other requirements for such “duly called meeting” which may be established by the By-Laws of the Association. For the purpose of this section, “proper notice” shall be deemed to be given when given to each Member not less than thirty (30) days prior to the date of the meeting at which any proposed action is to be considered.

Section 6. Conduct of Meetings. The Board of Directors may make such regulations as they deem advisable for any meeting of the members, including proof of membership in the Association, evidence of the right to vote and the appointment and duties of inspectors of votes. Such regulation shall be binding upon the Association and its members.

Section 7. Ballots by Mail. When required by the Board of Directors, there shall be sent with notices of regular or special meetings of the Association, a statement of certain motions to be introduced for vote of the Members and a ballot on which each member may vote for or against each motion. Each ballot which is presented at such meeting shall be counted in calculating the requirements set out in Section 5 above. Provided, however, such ballots shall not be counted in determining whether a quorum is present to vote upon motions not appearing on the ballot.

Section 8. Proxies. At all meetings of the members, each member may vote in person or by proxy. All proxies shall be in writing by the member or his duly authorized attorney— in-fact and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Lot. No proxy shall extend beyond the date of the meeting given unless such meeting is adjourned to a subsequent date and no proxy shall be valid after eleven (11) months from the date of its execution unless otherwise provided in the proxy.

#### ARTICLE IV

##### BOARD OF DIRECTORS: SELECTION: TERM OF OFFICE

Section 1. Number. The affairs of this Association shall be managed by an initial Board of three (3) Directors appointed by the Developer. The number of directors may be increased by majority vote of the Board of Directors from time to time but shall not exceed nine (9) in number. The initial Board of Directors need not be members of the Corporation.

Section 2. Election of the Board of Directors. Each Type “A” member is entitled to as many votes for directors as equals the total number of votes he is entitled to based upon his ownership of lots. The Type A members elect the number of directors such that the Type B member always elects the majority of the Board until such time as the Type B member gives an express written waiver of such right or such time as in excess of fifty percent (50%) of all the lots in Magnolia Place are owned by Owners other than the Type B member, whichever shall first occur. The Type A elected director must be a member of the Corporation. The Type B member elects the majority the Board of Directors. The Type B elected directors need not be members of the Corporation.

Section 3. Annual Meetings. Annual meetings of the Board of Directors shall be held annually immediately following the annual meeting of the members. The Board of Directors may provide by resolution the time and place for the holding of additional regular meetings of the Board without notice.

Section 4. Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the President or any two directors by giving notice thereof as provided in Section 4 of Article III. Such persons calling a special meeting of the Board of Directors may fix any location as the place for holding such special meeting.

Section 5. Notice. When notice of any meeting of the Board of Directors is required, such notice shall be given at least three days previous to such meeting by written notice delivered personally or sent by mail to each director at his address as shown on the records of the Association. If mailed, such notice shall be deemed to be delivered when deposited, postage prepaid, in the United States mail in a sealed envelope properly addressed. Any director may waive notice of any meeting before or after the time of the meeting stated therein and attendance of a director at any meeting shall constitute a waiver of notice of such meeting except where a director attends a

meeting for the purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted to, nor the purpose of, any regular or special meeting of the Board need be specified in the notice or waiver of notice of such meeting unless specifically required by law, the Articles of Incorporation, these or the Covenants.

Section 6. Quorum. A majority of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board; but if less than a majority of the directors are present at said meeting, a majority of the directors present may adjourn the meeting without further notice.

Section 7 . Manner of Acting. The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 8. Compensation.. Directors as such shall not receive any stated salaries for their services, but by resolution of the Board of Directors any director may be reimbursed for his actual expenses incurred in the performance of his duties as director but nothing herein contained shall be construed to preclude any director from serving the Association in any other capacity and receiving compensation therefor.

Section 9. Information Action by Directors. Any action required or permitted by law to be taken at a meeting of directors may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by a majority of the directors, which consent shall be filed with the secretary of the Association as part of the corporate records.

## ARTICLE V

### 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 Areas and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;

(b) suspend the voting rights and right to use of the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days for infraction of published rules and regulations;

(c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership 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;  
and

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

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 by one-fourth {1/4th) of the members who are entitled to vote:

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

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

(1) fix the amount of all assessments;

(2) send written notice of each assessment to every Owner subject thereto;

(3) in the discretion of the Board of Directors:  
foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or bring an action at law against the owner personally obligated to pay the same.

(4) provide for an Architectural Standards Committee.

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

(e) procure and maintain adequate liability and hazard insurance on property owned by the Association;

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

(g) cause the Common Areas to be maintained or improved.

ARTICLE VI

## OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Offices. The officers of this Association shall be a President and Vice-President, a Secretary, and a Treasurer, and such other officers as the Board may from time to time by resolution create. Any two or more offices may be held by the same person, except the offices of President and Secretary. The President shall be a director of the Board of Directors. Other officers may be, but need not be directors.

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 this Association shall be elected annually by the Board of Directors and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Resignation and Removal. Any officer may be removed from office with or without cause by the Board of Directors when in its judgment, the best interest of the Association will be served thereby. Any officer may resign at any time by giving written notice to the Board of Directors, 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 5. Vacancies. A vacancy in any office may be filled by appointment by the Board of Directors. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 6. Duties. In addition to such power and duties as may from time to time be specifically conferred or imposed by the Board of Directors, the duties of the officers are as follows:

### President

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

### Vice-President

(b) 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 of Directors.

### Secretary

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

#### Treasurer

(d) The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors: shall sign all checks and promissory notes of the Association: keep proper books of account: cause annual compilation of the Association books to be prepared by a public accountant at the completion of each fiscal year, cause annual income tax returns to be prepared on behalf of the Association and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

### ARTICLE VII

#### COMMITTEES

Section 1. Committees of Directors The Board of Directors, by resolution adopted by a majority of the directors in office, may designate one or more committees, each of which shall consist of two or more directors, which committees, to the extent provided in the resolution, shall have and exercise the authority of the Board of Directors in the management of the affairs of the Association; provided, however, that no such committee shall have the authority of the Board of Directors as to the following matters: (a) the levy of the Annual Assessment; the dissolution, merger or consolidation of the Association; the amendment of the Articles of Incorporation of the Association: the amendment of the Covenants: mortgage of the properties of the Association or the pledge of revenues of the Association as security for loans made to the Association; or the sale, lease or exchange of any land and any improvements thereon owned by the Association; the designation of any such committee or the filling of vacancies in the Board of Directors or in any such committee; (c) the amendment or repeal of these By-laws or the adoption of new By-Laws; and (d) the amendment or repeal of any resolution of the Board of Directors which by its terms shall not be so amendable or repealable.

Section 2. Other Committees. Other committees not having and exercising the authority of the Board of Directors in the management of the affairs of the Association may be designated by a resolution adopted by a majority of directors present at a meeting of which quorum is present. Such committees shall perform such duties and have such powers as may be provided in the resolution.



Section 3. Rules. Each committee may adopt rules for its own government not inconsistent with the terms of the resolution of the Board of Directors designating the committee or inconsistent with rules adopted by the Board of Directors.

## ARTICLE VIII

### BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection of any member. 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 a reasonable cost.

## ARTICLE IX

### ASSESSMENTS

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the maximum annual interest rate allowed by law, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. The Board of Directors may authorize a Billing Agent to collect assessments, and, if so, interest which shall accrue on past due sums shall be the maximum interest rate such agent may lawfully charge. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Areas or abandonment of his Lot.

## ARTICLE X

### CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: Magnolia Place Homeowners Association, Inc. or an abbreviation thereof.

## ARTICLE XI

### AMENDMENTS

Section 1. These By-Laws may be amended or repealed and new By-laws may be adopted by (i) the Board of Directors or (ii) at a regular or special meeting of the members, by a vote of a majority votes of the Association.

Section 2. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

## ARTICLE XII

### MISCELLANEOUS

#### I. 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.

#### 2. Certificates.

The Board of Directors may provide for the issuance of Certificates evidencing membership in the Association, which shall be in such form as may be determined by the Board.

#### 3. Merger or Consolidation

To the extent and in the manner provided by law, the Association may participate in mergers and consolidation with other non-profit associations organized for the same purpose, provided, however, that any such mergers or consolidations shall require approval by receiving more than two-thirds of the votes of the members present or represented by proxy at a meeting held in accordance with the provisions of North Carolina State law.

Upon mergers or consolidation of the Association with another association or associations, its property rights and obligations may, by operation of law, be transferred to another surviving or consolidated association, or in the alternative, the properties, rights and obligations of another association may, by operation of law, be added to the properties of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the existing property, together with the covenants and restrictions established upon any other property as one plan. No mergers or consolidation shall effect any revocation, change or addition to the Covenants, including, without limitation, the maximum limit on assessments and dues of the Association, or any other matter substantially affecting the interests of members of the Association.

#### 4 .Power to Mortgage

To the extent provided by law, the Board of Directors of the Association shall have the power and authority to mortgage the property of the Association and to pledge the revenues of the Association as security for loans made to the Association which loans shall be used by the Association in performing its authorized functions; provided that any such mortgage is with the prior consent of two—thirds (2/3) of the members at a duly called meeting of the Association. Notwithstanding anything in the Covenants to the contrary, the Association shall not be allowed to reduce the level of the Annual Assessment below the limit of the Maximum Regular Annual Assessment at any time there are outstanding any amounts due the Company as repayment of any such loans made by the Company to the Association without the express written consent of the Company.

IN WITNESS WHEREOF, we, being all of the directors of the Magnolia Place Homeowners Association, have hereunto set our hands this \_\_\_\_\_ day of \_\_\_\_\_, 1995.

STATE OF NORTH CAROLINA

COUNTY OF ORANGE

I, \_\_\_\_\_, a Notary Public in and for the above County and State, do hereby certify that \_\_\_\_\_, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 1995.

My Commission Expires:

STATE OF NORTH CAROLINA

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public in and for the above County and State do hereby certify that \_\_\_\_\_, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 1995.

Notary Public

My Commission Expires:

STATE OF NORTH CAROLINA

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public in and for the above County and State, do hereby certify that \_\_\_\_\_ personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 1995.

Notary Public

My Commission Expires: