

BYLAWS OF BARCLAY DOWNS  
HOMEOWNERS ASSOCIATION, INC.

ARTICLE I

NAME AND LOCATION

Section 1.1 Name. The name of the corporation is BARCLAY DOWNS HOMEOWNERS ASSOCIATION, INC.

Section 1.2 Registered and Principal office. The principal office of the Association shall be located in Charlotte, North Carolina. The registered office of the Association may be, but need not be identical with the principal office.

Section 1.3 Objectives. The objectives of the Association shall be to promote good fellowship among the neighbors, to enable the neighbors to become better informed citizens, to protect and improve the neighborhood.

ARTICLE II

DEFINITION

Section 2.1 "Association" shall mean and refer to the Barclay Downs Homeowners Association, Inc., a North Carolina nonprofit corporation, its successors and assigns.

Section 2.2 "Board of Directors" shall mean and refer to the duly elected Board of Directors of the Association.

Section 2.3 "Members" shall mean and refer to an adult resident homeowner of Barclay Downs whose annual dues to the Association have been paid in full and are not in arrears.

Section 2.4 "Barclay Downs" shall mean and refer to that area bounded by a line, the beginning point which is at Runnymede and Colony Road and which proceeds down Colony Road to Wickersham Road to Ayscough Road, then south on Ayscough to the point where Ayscough Road is a dead end (Glen Terrance and all of Ayscough Road shall be included), then through Barclay Downs Swim and Tennis Club to Barclay Downs Drive, the west on Scofield to Topping Place, then north on Topping Place to Briar Creed (All of Moncure Drive shall be included) the along Briar Creek to Sagamore Road then along Sagamore to Runnymede Lane, then east on Runnymede to the point of beginning. Lots immediately adjoining the roadway shall be included in Barclay Downs except those lots on Colony Road and Runnymede Lane.

Section 2.5 "Household" shall mean and refer to those persons, as an integral unit, residing in any residence unit in Barclay Downs.

Section 2.6 "Resident" shall mean and refer to any individual residing in Barclay Downs.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 3.1 Every resident of Barclay Downs shall have the right to become and remain a Member of the Association provided that such resident shall have paid annual dues to the Association such time and in such amount as is determined by the Board of Directors.

pursuant to such resolution and not filled by the Members shall be treated as vacancies to be filled by and in the discretion of the Board of Directors. The number of directors fixed pursuant to such a resolution shall be deemed to be the number of directors fixed by these Bylaws.

Section 5.3 Term and Qualification. At each annual meeting, the Members shall elect the number of directors needed to fill the vacancy or vacancies created by the director or directors whose term(s) are expiring to serve for a term of one year. Each director shall hold office for a period from the effective date of that director's election or appointment to the next annual meeting of the Members and until that director's successor is elected and qualifies, or until that director's earlier death resignation, retirement, removal or disqualification. Directors must be Members of the Association.

Section 5.4 Nomination. Nominations for election to the Board of Directors shall be made by a Nominating Committee. The Nominating Committee shall consist of a chairperson, who shall be a member of the Board of Directors, and two other Members of the Association. The Nominating Committee shall be appointed by the President and confirmed by the Board of Directors prior to each annual meeting of the Members, to serve until the close of such 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 shall be made from among Members but need not include any current member of the Board of Directors.

Section 5.5 Election. Directors shall be elected at the annual meeting of the Members. At such election, the Members or their proxies may cast one vote with respect to each vacancy. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

Section 5.6 Removal. The Board of Directors or any individual Director may be removed from office at any duly constituted meeting of the membership with or without cause by a vote of the majority of Members entitled to vote at an election of the Directors. If any or all Directors are so removed, new Directors may be elected at the same meeting and such new Director(s) shall thereupon take office and shall serve until the next Annual Meeting.

Section 5.7 Compensation. Unless otherwise approved by the Board of Directors, no director shall receive compensation for any service rendered to the Association. However, a director may be reimbursed for the director's actual expenses incurred in the performance of the director's duties, all these expenses must be approved by the Board. Expenses shall be limited to out of pocket expenses.

## ARTICLE VI

### MEETINGS OF DIRECTORS

Section 6.1 Regular Meetings. Regular meetings of the Board of Directors shall be held at least quarterly at such date, place and time as shall be fixed, from time to time, by the President of the Association. Notice of such meetings shall be given at least three (3) days prior to such meetings by any usual means of communication.

Section 6.2 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 6.3 Quorum. One-half (1/2) of the number of directors shall constitute a quorum for the transaction of business.

Section 6.4 Manner of Acting. The act of a majority of the directors present at a duly held meeting at which a quorum is present shall be the act of the Board of Directors.

Section 6.5 Informal Action by Directors. Action taken by a majority of the Directors is nevertheless Board action if written consent of the action in question is signed by all of the Directors and filed with the

Section 3.2 Each Household shall have one vote with respect to matters to be voted on by the Members.

Section 3.3 Board of Directors. The Association shall be governed by a Board of Directors in accordance with these Bylaws of the Association.

## ARTICLE IV

### MEETING OF MEMBERS

Section 4.1 Annual Meetings. The regular annual meeting of the Members shall be held on a date in February of each year at a time fixed by the Board of Directors.

Section 4.2 Place of Meetings. All meetings of the Members shall be held at such place, within Mecklenburg County, North Carolina, as shall be determined by the Board of Directors.

Section 4.3 Special meetings. Special meetings of the Members may be called at any time by the President, Vice President or Secretary of the Association, by a majority of the members of the Board of Directors or upon written request of ten percent (10%) of the Members.

Section 4.4 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, not less than ten (10) days nor more than fifty (50) days before the date of such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association. 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.

Section 4.5 Quorum. The presence at the meeting of members entitled to cast, or of persons holding proxies entitled to cast, ten (10%) percent of the Members votes shall constitute a quorum for any action except as otherwise provided in the Articles of the Incorporation or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have the power to adjourn the meeting from time to time, until a quorum as aforesaid shall be present or be represented. The vote of a majority of those present is required for action.

Section 4.6. 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 of the Association.

Section 4.7 Waiver of Notice. Any Member may at any time, waive notice of any meeting of the Members in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Member at any meeting of the Members shall constitute a waiver of notice by the Member of the date, time and place thereof except where a Member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called.

## ARTICLE V

### BOARD OF DIRECTORS

Section 5.1 General Powers. The business and affairs of the Association shall be managed and directed by the Board of Directors or by such executive committee and other committees as the Board of Directors may establish from time to time.

Section 5.2 Number. The number of directors shall consist of such number, not less than five (5) nor more than nine (9) of the board of Directors adopted by the affirmative vote of not less than a majority of directors then in office. No such resolution reducing the number of directors below the number of directors then in office shall of itself have the effect of removing any director prior to the expiration of that director's term of office. If any positions on the Board of Directors created by an increase in the number of directors

minutes of the proceedings of the Board, whether done before or after the action so taken. All minutes of the meetings and all consents evidencing Board action shall be available for inspection by the membership.

Section 6.6 Liability of the Board. The members of the Board of Directors shall not be liable to the Members for any mistake of judgment, negligence, or otherwise except for their own individual willful misconduct of bad faith.

## ARTICLE VII

### POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 7.1 Powers. The Board of Directors shall have power to:

- (a) exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provisions of these Bylaws or the Articles of Incorporation;
- (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 or special meetings of the board of Directors;
- (c) employ attorneys, accountants and other professionals to represent the Association when deemed necessary. Fees may not be increased to pay for such professionals and approved by a majority of the membership.
- (d) notwithstanding any provision herein to the contrary, the Board shall have no power to commit any Member or Resident to any letter of intent, contract or opinion before any governmental organization, and it shall not enter into any such letter of intent, contract or opinion on behalf of the Association without first securing the approval of the Membership.

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;
- (b) supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;
- (c) recommend the amount of the annual dues of each Member at least thirty (30) days before March 1 of each year, to be voted on at the annual meeting.
- (d) send written notice of each Member's dues to every Member at least fifteen (15) days before its due date; and
- (e) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate.
- (f) all checks for expenditures shall require two signatures. *- not anyone by bank*

## ARTICLE VIII

### OFFICERS AND THEIR DUTIES

Section 8.1 Officers. The officers of the Association shall consist of a President, a Vice-President, a Secretary, a Treasurer, and such other officers as the Board of Directors may from time to time by resolution establish. All officers shall be members of the Board of Directors.

Section 8.2 Election of Officers. Officers of the Association shall be elected annually by the Members at the annual meeting of Members.

Section 8.3 Term. Each officer of the Association shall hold office for a period of one (1) year, or until such officer's death, resignation, retirement, removal or disqualification, or such officer's successor shall have been duly elected and qualified.

Section 8.4 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 8.5 Resignation and Removal. Any officer may be removed from office with or without cause by the Board of Directors. 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 for its effectiveness.

Section 8.6 Vacancies. A vacancy in any office may be filled by appointment by the Board of Directors. The officer appointed to fill such vacancy shall serve for the remainder of the term of the officer replaced.

Section 8.7 Multiple offices. The offices of Secretary and Treasurer may be held by the same person. 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 8.4 of this Article.

Section 8.8 Compensation. No officer shall receive any compensation from the Association for acting as such. However, an officer may be reimbursed for the officer's actual expenses incurred in the performance of the officer's duties. Expenses shall be limited to out of pocket expenses.

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

#### President

- (a) The President shall be the principal executive officer of the Association, and, subject to the control of the Board of Directors, shall supervise and control the management of the Association. The President shall (i) preside at all meetings of the Board of Directors, (ii) see that orders and resolutions of the Board of Directors are carried out, in the absence of the Treasurer, sign all checks.
- (b) Vice President shall act in the place and stead of the President in the event of the President's absence, and shall exercise and discharge such other duties as may be required of the Vice President by the Board of Directors.

#### Secretary

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

#### Treasurer

- (d) The Treasurer shall (i) 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, (ii) sign all checks of the Association, (iii) keep proper books of account and (iv) and prepare an annual budget and a statement of income and expenditures to be presented to the Members at the annual meeting.

## ARTICLE IX

### COMMITTEES

The Association shall appoint a Nominating Committee, as provided in these Bylaws. In addition, the Board of Directors shall appoint other committees, and a chair of such committees, as deemed appropriate in carrying out its purposes.

## 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 Members. The Articles of Incorporation and the Bylaws of the Association shall be available for inspection by any member, and copies may be purchased at reasonable cost by any Member.

## ARTICLE XI

### ANNUAL DUES

Each Member is obligated to pay to the Association annual dues in the amount and at such time as shall be determined at a meeting of the Membership. Any dues which are not paid when due shall be delinquent and in arrears.

## ARTICLE XII

### CORPORATE SEAL

The Association shall have a seal in such form as shall be approved by the Board of Directors.

## ARTICLE XIII

### AMENDMENTS

Section 13.1 These Bylaws may be amended, at a regular or special meeting of the Members, by a vote of a majority of a quorum of the members.

Section 13.2 In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control.

## ARTICLE XV

### INDEMNIFICATION OF DIRECTORS, OFFICERS AND OTHERS

The Association shall indemnify any director or officer or former director or officer of the Association or any person who may have served at the request of the Association as a director or officer of another corporation, whether for profit or not for profit, against expenses (including attorneys fees) or liabilities actually and reasonably incurred by the director or officer in connection with the defense of, or as a consequence of, any threatened, pending or completed action, suit or proceeding (whether civil or criminal) in which that individual is made a party or was (or is threatened to be made) a party by reason of being or having been such director or officer, except in relation to matters as to which that individual shall be adjudged in such action suit or proceeding to be liable for negligence or misconduct in performance of duty.

The indemnification provided herein shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any statute, bylaw, agreement, vote of Members or disinterested directors of otherwise, both as to action in their official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

The Association may purchase and maintain insurance on behalf of any person who is or was a directors, officer, employee, or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against them and incurred by them in such capacity, or arising out of their status as such, whether or not the Association would have the power to indemnify them against such liability.

The Association's indemnity of any person who is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association, a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall be reduced by any amounts such person may collect as indemnification (i) under any policy of insurance purchased and maintained on their behalf by the Association or (ii) from such other corporation, partnership, joint venture, trust or other enterprise.

Nothing contained in this Article XV, or elsewhere in these Bylaws, shall operate to indemnify any director or officer if such indemnification is for any reason contrary to any applicable state or federal law.

#### CERTIFICATION

I, the undersigned, do hereby certify:

THAT I am the duly elected and acting Secretary of the Barclay Downs Homeowners Association, Inc., a North Carolina nonprofit corporation, and,

THAT the foregoing Bylaws constitute the amended Bylaws of said Association as duly adopted at a meeting of the Board of Directors thereof, held on the \_\_\_\_ day of \_\_\_\_\_ 1997, which supersede and supplant any existing Bylaws under which the Association has heretofore operated.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this \_\_\_\_ day of \_\_\_\_\_, 1997.

\_\_\_\_\_  
Secretary