



# **Avian Woods Homeowners Association, Inc.**

A Oklahoma Non-profit Corporation

## **BYLAWS**

### **ARTICLE I NAME**

#### **1.01 Name (Not currently in the Bylaws)**

The name of this corporation shall be *Avian Woods Homeowners Association, Inc.* The business of the corporation may be conducted as *Avian Woods Homeowners Association, Inc.* or *Avian Woods* and is referred to as “association” throughout this document.

### **ARTICLE II PURPOSES AND POWERS**

#### **2.01 Powers (6.1 of current)**

The Board of Directors shall have all of the powers and duties necessary for the administration of the Association’s affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Declaration, these Bylaws, the article, and as provided by law. The Board may, do or cause to be done all acts and things which the Covenants, Articles, these Bylaws or Oklahoma Law do not direct to be done and exercised exclusively by Members or the membership generally.

#### **2.02 Nonprofit Status and Exempt Activities Limitation. (Currently not in bylaws/new Fed requirement for nonprofits)**

(a) Nonprofit Legal Status. *Avian Woods Homeowners Association, Inc.* is an Oklahoma non-profit corporation.

(b) Exempt Activities Limitation. Notwithstanding any other provision of these Bylaws, no director, officer, employee, member, or representative of this corporation shall take any action or carry on any activity by or on behalf of the corporation not permitted to be taken or carried on by

an organization exempt under Section 501(c)(3/4) of the Internal Revenue Code as it now exists or may be amended, or by any organization contributions to which are deductible under Section 170(c)(2) of such Code and Regulations as it now exists or may be amended. No part of the net earnings of the corporation shall inure to the benefit or be distributable to any director, officer, member, or other private person, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in the Articles of Incorporation and these Bylaws.

(c) Distribution Upon Dissolution. Upon termination or dissolution of *Avian Woods Homeowners Association, Inc.*, any assets lawfully available for distribution shall be distributed to a fund set up for the continued maintenance of the common areas and roads of the HOA until such time as the funds are depleted or a new organization is formed to govern the development.

In the event, the court shall find that this section is not applicable then the court shall direct the distribution of its assets lawfully available for distribution to the Treasurer of the State of Oklahoma to be added to the general fund.

### **ARTICLE III** **MEMBERSHIP**

#### **3.01 Membership (6.02; 5.01; 3.01 of current)**

Ownership of a lot in *Avian Woods Homeowners Association, Inc.* development is required to qualify for membership in the Association. Any person on becoming an owner of a lot that is subject to assessment, shall mandatorily and automatically become a member of the Association and be subject to the bylaws.

3.01a If a lot is owned by more than one person, all Co-owners shall share the privileges of such membership subject to voting set forth in section 3.02 and in the bylaws, and all such Co owners shall be jointly and severally obligated to perform the responsibilities of owners. The membership rights of an owner which is not a natural person (example Business entity) may be executed by any officer, director, partner, or trustee, or by the individual designated from time to time by the owner in a written instrument provided to the secretary or designee of the association.

#### **3.02 Voting by Members (5.02 of current)**

The Voting rights of the Members shall be as set forth in the Covenants and in these Bylaws, and such voting rights provision in the Covenants are specifically incorporated herein by this reference.

- a) Each eligible lot for which an assessment may be levied shall be equal to one vote regardless of the number of total owners of a said lot. Each lot with multiple owners shall Assess one person to represent the total vote of the lot. Each lot owned by a corporation shall have a certified letter stating who shall have the presiding vote for the lot.

### **3.03 Majority of Members (Not currently in bylaws)**

A simple majority shall mean the members of more than fifty (50%) percent of those in person or by proxy of the eligible number of total lots.

### **3.04 Voting Quorum of Members (7.02e broke into two pieces)**

Except as otherwise provided in these Bylaws, the presence in person, by proxy or vote in absentee of Fifty percent (50%) of the members eligible to vote shall constitute a quorum.

### **3.05 Proxies of Members. (Not currently in the bylaws)**

Votes can be received either in person or by written proxy. Proxies must be received by the Secretary or their designee before the appointed time, a minimum of 48 hours in advance, of each scheduled meeting. Each lot is entitled to one vote in absentee or one in-person per voting topic vote. Each representative member may cast a proxy vote by either a) signing and presenting their written vote on a matter prior to the designated time or b) assigning an eligible person to vote in person on their behalf.

Every Proxy shall be revocable and shall automatically cease upon: (a) conveyance of any lot for which it was given; (b) receipt by the Secretary of written notice of revocation of the proxy or of the death or judicially declared incompetence of a Member who is a natural person; or (c) on the date specific to the proxy.

If such proxies have not been properly completed or returned in a timely fashion to the Secretary or appointed person and a member or such person's duly authorized representative does not personally appear at a meeting, the vote of the member shall be deemed to have been forfeited.

### **3.06 Annual Meeting of Members (7.02)**

An annual meeting of the members of *Avian Woods Homeowners Association, Inc.* shall commence in the third quarter of each year. An appropriate time, place and date set by the board, with a minimum of 30 days' notice so that members could reasonably attend.

### **3.07 Special Meeting of Members (7.02c)**

The President may call for a special meeting of the member to address only issues directly related to the cause for the special meeting as directed by the board or upon a petition signed by members representing at least ten (10) lots/memberships of the total eligible membership of the Association. At the time of the special meeting no business other than what is described in the agenda shall be discussed and no action can be taken.

### **3.08 Notice of Meeting of Member (7.02b)**

Notice of meetings shall contain information reflecting the place, day, time and reason for the meeting. Notice can be delivered in person; email, for those members who give written consent and appropriate email addresses; or by mail to registered addresses. If email consent is not given notice must be given by mail or hand delivered, in instance of special meeting; in addition to other potential methods and is considered delivered within three days after deposit at the postal service. Annual meetings shall require a minimum of 30 days' notice and special meetings require no less than 10 days' notice with the exception of matters sacrifice the health and/or safety of the community.

#### **ARTICLE IV** **BOARD OF DIRECTORS**

##### **4.01 Number of Directors (7.03a)**

*Avian Woods Homeowners Association, Inc.* shall have a board of directors consisting of at least 4 and no more than 9 directors. Within these limits, the board may increase or decrease the number of directors/trustees serving on the board, including for the purpose of staggering the terms of directors.

##### **4.02 Powers and Duties (7.04; 7.05; 6.03)**

All corporate powers and duties necessary for the administration of the Associations affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Articles, Bylaws and Covenants shall be exercised by or under the authority of the board of the *Avian Woods Homeowners Association.* and shall be managed under the direction of the board, except as otherwise provided by law.

Duties of the Board of Directors shall include, but not limited to:

- a. Preparing and adopting an annual budget and establishing each members' share of the common expenses and assesses those expenses equally to members of the association. The Board of Directors may raise dues or annual assessments no more than a total of ten percent (10%) in one year without the review and approval at a called meeting of the membership.
- b. The Board of Directors may not raise dues two years in a row without a vote of members at an annual meeting.
- c. The board of directors may assess special assessments per lot above and beyond the annual responsibility of the member, Provided the board hold a special meeting to address the need for the additional funds and provide a minimum of 15 days' notice to the members.
- d. Providing for the operation, care, upkeep, and maintenance of the Common Areas, Roads and drainage channels. Including equipment and materials in and for the use of the common areas, roads, and drainage channels.

- e. Designating, hiring, and dismissing the personnel necessary to carry out the rights and responsibilities of the Association and where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties.
- f. Depositing and or causing to be deposited all funds received on behalf of the Association in a bank depository which it shall approve and use such funds to operate the Association; provided any reserve funds may be deposited, in the Board's best business judgment, in depositories other than banks.
- g. Making and amending use restriction and rules in accordance with the covenants of the Association as relevant to common spaces and creating a community standard policy that will act as a guide for enforcement of covenants in preserving the integrity of the association and community.
- h. Making and contracting for repairs, additions, and improvements to or alterations of the common areas in accordance with the covenants and the bylaws.
- i. Enforcing the provisions of the covenants, these bylaws, and the rules adopted pursuant thereto and bringing any legal proceedings which may be instituted on behalf of or against the member(s) concerning the Association; provided, the Association shall not be obligated to take action to enforce any covenant, restriction, or rule which the Board has specific knowledge of the circumstances regarding the member/lot owner and chooses to continue to pursue other enforcement methods with the member.
  - (1) Notwithstanding anything to the contrary in this Article, the Board may elect to enforce any provision of the governing documents of the Association by self-help. And to recover monetary damages or enjoin a violation, from the owner/member responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred. Any entry onto a lot for purposes of exercising this power of self-help shall not be deemed a trespass.
  - (2) A policy and procedure shall be developed as to when and how this clause can be enacted.
- j. Obtaining and carrying property and liability insurance and fidelity bonds, as provided in the covenants, paying the cost thereof, and filing and adjusting claims, as appropriate.
- k. Paying the cost of all services rendered to the Association.
- l. Keeping books of detailed accounts of the receipts and expenditures of the Association

- m. Indemnifying a director, officer or committee member, or former director, officer, or committee member of the Association to the extent such indemnity is authorized by Oklahoma Law, the Articles of the Incorporation, or the Declaration.
- n. Enforcing the provisions of the Declaration, these Bylaws and the rules adopted pursuant thereto and bringing any legal proceedings which may be instituted on behalf of or against the owners concerning the association; provided, the association shall not be obligated to take action to enforce any covenant, restriction or rule which the Board in the exercise of its business judgment determine is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the board reasonably determine that the association's position is not strong enough to justify taking enforcement action.

#### **4.03 Terms (7.03b; 7.03d)**

- (a) All directors shall be elected to serve a two-year term by members of the Association; however the term may be extended until a successor has been elected.
- (b) Director terms shall be staggered so that approximately half the number of directors will end their terms in any given year.
- (c) Directors may serve terms in succession.
- (d) The term of office shall be considered to begin October 1 and end September 31 of the second year in office, unless the term is extended until such time as a successor has been elected.
- (e) The elected Directors shall at their first meeting assign and vote for the positions most suited to each elector's qualifications to the best benefit of the Association.

#### **4.04 Qualifications and Election of Directors (Not in the current Bylaws)**

To be eligible to serve as a director on the board of directors, the individual must be 21 years of age and member in good standing with *Avian Woods Homeowners Association, Inc.*

#### **4.05 Vacancies (7.03c)**

Vacancies in the board of directors shall be filled by other directors or trustees, and such person shall hold office until the election of the successor by the members. Any director who ceases to be a member, shall cease to be a director/trustee of the board.

- (a) Unexpected Vacancies. Vacancies in the board of directors due to resignation, death, or removal shall be filled by the board for the balance of the term of the director being replaced.

#### **4.06 Removal of Directors (Currently Not in bylaws)**

A duly elected director may be removed from the board of directors/trustee position when:

**OPTION A:** The board of directors conducts a meeting to address the member being removed and has a two-thirds (2/3) vote in favor of removal

**Or**

**OPTION B:** A special meeting is held by the members and a simple majority as defined in these bylaws votes in favor of the removal of the duly elected director/trustee

- (a) the director/trustees may be removed from office for reasons similar to (a) being absent and unexcused from three or more meetings of the board of directors in a twelve-month period; (b) delinquent in the payment of any assessment or other charge due the association (c) violating covenants (d) and/or acting outside the assigned role on the board of directors.
- (b) The board president is empowered to excuse directors from attendance for a reason deemed adequate by the board president. The president shall not have the power to excuse him/herself from the board meeting attendance and in that case, the board vice president shall excuse the president.

(c) Any director whose removal is sought shall be properly notified prior to the meeting called for that purpose. Upon removal of a director a successor shall be elected by the members to fill the vacancy for the remaining balance of the term.

#### **4.07 Board of Directors Meetings. (7.03d,e,f,g,h)**

(a) Regular Meetings. The board of directors shall have a minimum of four (4) regular meetings each calendar year at times and places fixed by the board. Board meetings shall be held with no less than two (2) days' notice or properly waived notice by Board members.

(b) Special Meetings. Special meetings of the board may be called by the president, vice president, secretary, treasurer, or any two (2) trustees of the board of directors. A special meeting must be preceded by at least 2 days' notice to each director of the date, time, and place, and the purpose of the meeting. Only business related to the special meeting shall be conducted. Proper notice of business to be conducted shall be included in the notice to each director.

(c) Waiver of Notice. Any director may waive notice of any meeting, in accordance with Oklahoma State law.

(d) Proper Notice. Proper notice to any director shall be proved through written text, mailing or a meeting of the board where everyone is able to hear and acknowledge receipt of notice. Notice shall also be available for members, should they wish to attend, in a manner where all members can access the meeting information.

#### **4.08 Manner of Acting.**

(a) Quorum. At all meetings of the Board, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board, unless otherwise specifically provided in these bylaws or the Declaration. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not present, a majority of the directors present at such meeting adjourn the meeting to a time not less than five nor more than 30 days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called by be transacted without further notice.

(b) Participation. Members of the Board or any committee designated by the board may participate in a meeting of the Board or committee by means of conference telephone or similar communications equipment, by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this subsection shall constitute presence in person at such meeting.

(c) Action without a Meeting. Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, and such consent shall have the same force and effect as a majority vote. (example email communication with board members approving an action)

#### **4.09 Compensation for Board Service**

Directors shall receive no compensation for carrying out their duties as directors. The board may adopt policies providing for reasonable reimbursement of directors for expenses incurred in conjunction with carrying out board responsibilities, such as expenses related to board training.

#### **4.10 Compensation for Professional Services by Directors**

Directors are not restricted from being remunerated for professional services provided to the corporation. Such remuneration shall be reasonable and fair to the corporation and must be reviewed and approved in accordance with the board's procedures.

4.10a the board shall develop guidelines on how to submit and receive bids for services. The guidelines shall be open to the membership.

### **ARTICLE V** **OFFICERS OF THE BOARD OF DIRECTORS**

#### **5.01 Board Officers (7.06 of current covenants)**

The officers of the corporation shall be a board president, vice-president, secretary, and treasurer, all of whom shall serve at the pleasure of the members of *Avian Woods Homeowners Association, Inc.* Each board officer shall have the authority and shall perform the duties set forth in these



Bylaws or by resolution of the board or by direction of an officer authorized by the board to prescribe the duties and authority of other officers.

**5.02 Board President (7.07 of current Covenants)**

The board president shall be the chief volunteer officer of the corporation. The board president shall lead the board of directors in performing its duties and responsibilities, including, if present, presiding at all meetings of the board of directors, and shall perform all other duties incident to the office or properly required by the board of directors.

**5.03 Vice President (Not currently in bylaws or covenants)**

In the absence or disability of the board president, the ranking vice-president shall perform the duties of the board president. When so acting, the vice-president shall have all the powers of and be subject to all the restrictions upon the board president. The vice-president shall maintain the primary duty of coordinating and overseeing all neighborhood committees. It is not the intent that the vice president shall be the chair for each committee; but to oversee the work being done by all committees and ensure the progress of the committees. And to have such other powers and perform such other duties prescribed for them by the board of directors or the board president.

**5.04 Secretary (Section 7.08 of current covenants/ we broke into separate sections for Treasurer)**

The secretary shall keep or cause to be kept a book of minutes of all meetings and actions of directors. The minutes of each meeting shall state the time and place that it was held, and such other information as shall be necessary to determine the actions taken and whether the meeting was held in accordance with the law and these Bylaws. The secretary shall cause notice to be given of all meetings of directors as required by the Bylaws. The secretary shall have such other powers and perform such other duties as may be prescribed by the board of directors or the board president. The secretary may appoint, with approval of the board, a director to assist in performance of all or part of the duties of the secretary.

**5.05 Treasurer**

The treasurer shall be the lead director for oversight of the financial condition and affairs of the corporation. The treasurer shall oversee and keep the board informed of the financial condition of the corporation and of audit or financial review results. In conjunction with other directors or officers, the treasurer shall oversee budget preparation and shall ensure that appropriate financial reports, including an account of major transactions and the financial condition of the corporation, are made available to the board of directors on a timely basis or as may be required by the board of directors. The treasurer shall perform all duties properly required by the board of directors or the board president. The treasurer may appoint, with approval of the board a qualified fiscal agent or member of the staff to assist in performance of all or part of the duties of the treasurer.

**5.06 Non-Director Trustees (Not currently in the bylaws/covenants)**

The board of directors may designate additional officer positions (trustees) of the corporation and

may appoint and assign duties to other trustees of the corporation. All officers and trustee positions of the *Avian Woods Homeowners Association, Inc.* shall initially be elected by the members unless otherwise provided for in these bylaws.

**ARTICLE VI**  
**MISCELLANEOUS (ALL NEW LANGUAGE)**

**6.01 Books and Records**

The corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of all meetings of its board of directors, a record of all actions taken by board of directors without a meeting, and a record of all actions taken by committees of the board. In addition, the corporation shall keep a copy of the corporation's Articles of Incorporation and Bylaws as amended to date.

**6.02 Fiscal Year**

The fiscal year of the corporation shall be from June 1 to May 31 of each year.

**6.03 Conflict of Interest**

The board shall adopt and periodically review a conflict-of-interest policy to protect the corporation's interest when it is contemplating any transaction or arrangement which may benefit any director, officer, employee, affiliate, or member of a committee with board-delegated powers.

**6.04 Bylaw Amendment**

These Bylaws may be amended or altered by a vote of the majority (51%) of the members in good standing of the *Avian Woods Homeowners Association, Inc.*

(a) that no amendment shall be made to these Bylaws which would cause the corporation to cease to qualify as an exempt corporation under Section 501 (c)(3/4) of the Internal Revenue Code of 1986, or the corresponding section of any future Federal tax code; and,

(b) that an amendment does not affect the voting rights of members. An amendment that does affect the voting rights of members further requires ratification by a two-thirds ( $\frac{2}{3}$ ) vote of a quorum of members.

(c) that all amendments be consistent with the Articles of Incorporation.

**6.05 Conflict of Governing Documents**

Should a conflict arise among the provision of Oklahoma Law, the Articles of Incorporation, Covenants and Bylaws, the provisions of Oklahoma Law shall prevail; but shall not negate any portion of the governing documents other than those in conflict. All other documents shall remain in full effect.