



NORTH CAROLINA

Department of The Secretary of State

To all whom these presents shall come, Greetings:

I, **ELAINE F. MARSHALL**, Secretary of State of the State of North Carolina, do hereby certify the following and hereto attached to be a true copy of

ARTICLES OF INCORPORATION

OF

MAIN STREET SQUARE COMMUNITY ASSOCIATION, INC.

the original of which was filed in this office on the 4th day of January, 2008.



IN WITNESS WHEREOF, I have hereunto
set my hand and affixed my official seal at the
City of Raleigh, this 4th day of January, 2008

Elaine F. Marshall
Secretary of State

**ARTICLES OF INCORPORATION
OF
MAIN STREET SQUARE COMMUNITY ASSOCIATION, INC.**

The undersigned natural person of the age of eighteen (18) years or more, does hereby execute these Articles of Incorporation pursuant to the laws of the State of North Carolina, as contained in Chapter 55A of the General Statutes of North Carolina, entitled "Non-Profit Corporation Act", and the several amendments thereto, and does hereby make, sign, and acknowledge these Articles of Incorporation, and to that end does hereby set forth:

ARTICLE I

NAME

The name of the corporation is "Main Street Square Community Association, Inc.," hereinafter called the "Association".

ARTICLE II

PRINCIPAL AND REGISTERED OFFICE

The initial principal and registered office of the Association is located at 410 North Boylan Avenue, Suite 138, Raleigh, Wake County, North Carolina 27603

ARTICLE III

REGISTERED AGENT

Jim O'Brien, whose address is 410 North Boylan Avenue, Suite 138, Raleigh, Wake County, North Carolina 27603 is hereby appointed the initial registered agent of this Association.

ARTICLE IV

PURPOSE AND POWERS OF THE ASSOCIATION

This Association does not contemplate pecuniary gain or profit to the members thereof, and the specific purposes for which it is formed are to provide for maintenance, preservation and architectural control of the Lots and Common Areas within that certain tract or property (herein referred to as "Property") described in that certain Declaration for Main Street Square recorded contemporaneously with these Articles in the Office of Register of Deeds of Wake County (herein "Declaration"), and to promote the health, safety and welfare of the residents within the above described Property and any additions thereto as may hereafter be brought within the jurisdiction of this Association and for those purposes to:

- (a) exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that Declaration applicable to the Property as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length;

(b) fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses including all licenses, taxes or governmental charges levied or imposed against the property of the Association;

(c) acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;

(d) borrow money, and with the assent of two-thirds (2/3) of each class of members, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred; provided, the rights of any such mortgagee shall be subordinate to the rights of the Lot Owners and the Association in the Common Areas;

(e) pursuant to Section 47F-3-112 of the Planned Community Act and with the consent of Members entitled to cast at least sixty-seven percent (67%) of the votes of each class of Members of the Association, to sell, dedicate or transfer fee title to all or any part of the Common Areas for such purposes and subject to such conditions as may be agreed to by the Members consenting to such dedication or transfer; provided, however, during Declarant's Development Period, Declarant must also consent to such action and, further provided that no such dedication or transfer shall interfere with or obstruct utility service to, or ingress, egress and regress to or from, the Lots or any remaining Common Areas or cause any Lot or any remaining Common Areas to fail to comply with applicable laws, regulations or ordinances;

On any instrument of dedication, sale, or transfer of real property, the Secretary of the Association shall certify that sixty-seven percent (67%) of the votes of each class of members have approved the action evidenced by the instrument, and that certificate shall be conclusive that the execution and delivery of such instrument was properly authorized by the Association and its members and shall be relied upon and binding as to any third party or as to any grantee, its successor and assigns; provided, however, conveyances for general service utility purposes as specified in the Declaration may be made without consent of the members, and the Association may execute an instrument of conveyance therefore without such certification;

(f) dedicate or transfer non-exclusive easements on, over and upon all or any part of the Common Areas for such purposes and subject to such conditions as may be agreed to by the Association's Board; provided, however, no such dedication or transfer shall interfere with or obstruct drainage rights in favor of, utility service to, or ingress, egress and regress to or from, the Lots or any remaining Common Areas or cause any Lot or any remaining Common Areas to fail to comply with applicable laws, regulations or ordinances and no such dedication or transfer shall be effective unless an instrument executed on behalf of the Association by its duly authorized officers, agreeing to such dedication or transfer, has been recorded.

(g) participate in mergers and consolidations with other non-profit corporations organized for the same purposes or annex additional property and Common Areas, provided that any such merger, consolidation or annexation shall have the assent of two-thirds (2/3) of each class of members;

(h) to participate in an equal exchange of land, as permitted by local government ordinances.

(i) have and to exercise any and all powers, rights and privileges which a corporation organized under the Non-Profit Corporation Law of the State of North Carolina by law may now or hereafter have or exercise.

ARTICLE V

MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by Declaration to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities which hold an interest merely as security for the performance of an obligation or trustees under a security instrument. Membership shall be appurtenant to, and may not be separated from, ownership of any Lot which is subject to assessment by the Association.

ARTICLE VI

VOTING RIGHTS

The Association shall have two (2) classes of voting Members as follows:

Class A. Class A Members are all Owners of Development Parcels and Lots, excluding the Declarant during the Declarant Control Period. Class A Members are entitled to the following votes:

(1) A Class A Member is entitled to one (1) vote for each acre of a Development Parcel owned by such Class A Member. Provided, however: (i) as portions of a Development Parcel become Lots for purposes of assessments under this Declaration, votes for those portions shall be determined in accordance with the number of Lots; (ii) as portions of a Development Parcel become Apartment Units for purposes of assessments under this Declaration, votes for those portions shall be determined in accordance with the number of Apartment Units; and (iii) once a Development Parcel has been fully developed as Lots or Apartment Units in accordance with the applicable Subdivision Plan, or there has been no development or marketing of a Development Parcel for a period of twenty-four (24) consecutive months, no votes will be allocated to any remaining acreage in that Development Parcel. In determining the number of votes for a Development Parcel, a partial acre equal to 0.5 acre or more shall be rounded up to the nearest whole acre, and a partial acre less than 0.5 acre shall be rounded down to the nearest whole acre, except that where the acreage is less than one (1) acre, the Development Parcel shall be allocated one (1) vote. Only one (1) vote is entitled to be cast for each acre of a Development Parcel, regardless of the number of Owners thereof;

(2) A Class A Member is entitled to one (1) vote for each Lot owned by such Class A Member. Only one (1) vote is entitled to be cast for each Lot, regardless of the number of Owners thereof; and

(3) A Class A Member is entitled to one-fourth (1/4) vote for each Apartment Unit owned by such Class A Member. Only one-fourth (1/4) vote is entitled to be cast for each Apartment Unit, regardless of the number of Owners thereof.

Class B. The Class B Member is the Declarant. The consent of the Class B member shall be required for various actions of the Board, the membership and committees, as specifically provided elsewhere in the Governing Documents. In addition, the Class B member may appoint the members of the Board of Directors during the Declarant Control Period, as set out herein. Additional rights of the Class B Member are specified in the relevant sections of this Declaration.

The Class B Membership shall terminate at the end of the Declarant Control Period. Upon such termination, the Declarant shall become a Class A Member, shall have Class A votes with respect to the portions of The Properties owned by the Declarant, and shall become subject to assessment as a Class A Member on the first day of the month immediately following the month in which the Declarant Control Period ends, and all Unsubdivided Land shall be treated in the same manner as Development Parcels for purposes of assessments and voting under this Declaration.

Non-Voting Membership. Owners of Exempt Property, except for the City (which shall not be a Member of the Association), shall be non-voting Members of the Association with respect to that Exempt Property.

ARTICLE VII

BOARD OF DIRECTORS

The affairs of this Association shall be managed by a Board of not less than three (3) nor more than five (5) Directors, who shall be qualified as set forth in the Bylaws. The initial Board shall be comprised of three (3) members. The number of directors may be changed by amendment of the By-Laws of the Association. The names and addresses of the persons who are to act in the capacity of directors until the selection of their successors are:

<u>NAME</u>	<u>ADDRESS</u>
Alex Mitchell	5317 Highgate Drive, #211 Durham, NC 27713
Tyler Morris	410 North Boylan Ave., Ste. 138, Raleigh, NC 27603
Dusty Field	410 North Boylan Ave., Ste. 138, Raleigh, NC 27603

ARTICLE VIII

DISSOLUTION

The Association may be dissolved with the assent given in writing and signed by not less than three-quarters (3/4) of each class of members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate governmental agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes.

ARTICLE IX

DURATION

The corporation shall exist perpetually.

ARTICLE X

AMENDMENTS

Amendment of these Articles shall require the assent of seventy-five percent (75%) of the entire membership; provided that should additional property later be brought within the jurisdiction of this Association, pursuant to the Declaration, it shall not be necessary to amend these Articles to reflect such additional property.

ARTICLE XI

TERMS

The terms used herein shall have those meanings as defined in the Declaration.

ARTICLE XII

EARNINGS

No part of the net earnings of the Association shall inure to the benefit of, or be distributable to, its Directors, Officers or other private persons, except that the Association shall be authorized and empowered to pay reasonable compensation for services rendered and expenses incurred and to make payment and distribution in furtherance of the purposes as set forth herein.

ARTICLE XIII

INDEMNIFICATION

Every Director and every Officer of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by, or imposed upon, him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being, or having been, a Director or Officer of the Association, whether or not he is a Director or Officer at the time such expenses are incurred, except in such cases for liabilities owed as a Lot owner or wherein the Director or Officer is adjudged to have acted in bad faith or have been liable or guilty by reason of willful misconduct in the performance of his duties; provided that, in the event of any claim for reimbursement or indemnification hereunder based upon a settlement by the Director or Officer seeking such reimbursement or indemnification, the indemnification herein shall only apply if the Board of Directors approves such settlement and reimbursement as being in the best interests of the Association. The foregoing right of indemnification shall be in addition to, and not exclusive of, all other rights of indemnification to which such Director or Officer may be entitled by law or otherwise and, specifically, indemnification of Officers and Directors shall be available as set forth in G.S. §55A-8-50 et seq. The Board of Directors by Bylaw provision is authorized to establish further criteria for indemnification of Officers or Directors.

It is also intended that the liability of any Lot Owner arising out of any contracts made by the Board of Directors or out of the aforesaid indemnity in favor of the members of the Board shall be limited to such proportions of the total liability thereunder as his voting interest in the Common Areas bears to the interest of all of the Lot Owners. Every agreement made by the Board or by the manager on behalf of the Association shall provide that the members of the Board of Directors, or the manager, as the case may be, are acting only as agents for the Association, and shall have no personal liability thereunder (except as Lot Owners), and that each Lot Owner's liability thereunder shall be limited to such proportion to the total liability thereunder as its voting interest in the Association bears to the voting interest of all Lot Owners.

Furthermore, notwithstanding the foregoing provision, in the event that Chapter 55A of the General Statutes of North Carolina or any other provision of the North Carolina General Statutes is amended or enacted to permit further limitation or elimination of the personal liability of the Association's Officers or Directors, such liability shall be limited or eliminated to the fullest extent permitted by the applicable law.

This Article shall not affect a charter or bylaw provision or contract or resolution of the Association indemnifying or agreeing to indemnify an Officer or Director against personal liability. Any repeal or modification of this Article shall not adversely affect any limitation hereunder on the personal liability of any Officer or Director with respect to acts or omissions occurring prior to such repeal or modification.

ARTICLE XIV

INCORPORATOR

Name

Address

Alison R. Cayton

3605 Glenwood Avenue, Suite 500
Raleigh, North Carolina 27612

IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of North Carolina, the undersigned, constituting the incorporator of this Association, has executed these Articles of Incorporation this 3rd day of January, 2008.

Alison R. Cayton
Alison R. Cayton INCORPORATOR