



BYLAWS  
Of  
DEERFIELD CREEK HOMEOWNERS' ASSOCIATION, INC.

Article I. NAME

The name of this corporation is DEERFIELD CREEK HOMEOWNERS' ASSOCIATION, INC.

Article II. PURPOSES

The purposes for which the corporation is formed are as follows:

To own, manage, and develop for recreational use, certain areas of green space located in the residential housing development commonly known as Deerfield Creek, in Mecklenburg County, North Carolina;

to collect periodic homeowners' association dues;

to pay expenses in connection with said green space;

to maintain insurance on said green space;

to enforce the restrictive covenants dated June 30, 1997 and filed in book 9142 at pages 501-518, in the Office of the Registrar of Deeds for Mecklenburg County, North Carolina.

to perform such other and further acts as necessary and appropriate to accomplish the foregoing purposes.

Article III. DEFINITIONS

All terms as defined in the Declaration of Covenants, Conditions and Restrictions of Deerfield Creek shall have the same meaning herein except when the context otherwise specifies or requires.

Article IV. RIGHTS AND DUTIES OF THE ASSOCIATION  
AND PROPERTY OWNERS ASSESSMENTS

Section 1. Owner's Easements of Enjoyment: The Declarant and every Owner shall have a right and easement of ingress, egress, and regress over the Common Property and over the roads within the property, to be used in common with others, for the purpose of providing access to Lots owned or dwelling units owned by the owner for himself, his family, agents, licensees and invitees, subject to the provisions of this Declaration.

**Section 2. Annual Assessments:**

- a) The Association shall have the right to establish an annual assessment to be paid by each owner to be used to pay the operating and administrative expenses of the Association, including without limitation, the maintenance, upkeep and repair of all Common Property, and the salaries, administrative office and other expenses necessary or useful to maintain and operate the Association, it being understood (by way of example and without limitation) that the assessment funds shall be usable for such matters concerning Common Property as the following: seeding and re-seeding road rights-of-way and Common Areas; erosion control; repairing of road shoulders; surfacing, patching and resurfacing of road pavement; (until roads are publicly maintained); placement of gravel; and planting and maintenance of shrubs, trees and seasonal flowers; and operation and maintenance of clubhouse and swimming pool.
- b) Commencing January 1, 1997, the annual assessment shall be \$595.00 per each lot payable by the Owner thereof, which annual assessment shall be due and payable on January 1 of each year or at such other time or times as hereinafter provided by the Board of Directors of the Association.
- c) The annual assessment may be increased by the Board of Directors of the Association without a vote of the membership, to an amount not more than ten (10%) percent in excess of the annual assessment for the previous year. A majority vote of each class of voting members of the Association must approve an increase in the yearly assessment if the increase or decrease exceeds the assessment for the previous year by more than ten (10%) percent.
- d) Annual membership dues shall be set by the Board of Directors at the annual meeting each year. Dues shall be mandatory. Unpaid dues shall be a lien against the real property owned by the delinquent member in Deerfield Creek as set forth in the Covenants and Restrictions filed in the office of the Registrar of Deeds for Mecklenburg County North Carolina in Book 9142 at Page 501-518, including all amendments thereto.

**Section 3. Special Assessments:**

- a) in addition to the annual assessment referred to above, a one-time special assessment of \$200.00 shall be payable to the Association for every lot purchased from the Declarant whether by deed or by land sales contract, such assessment to be due and payable upon the sale and closing of a newly constructed home. This assessment shall be used, in part, to defray the costs of the Architectural review as provided for by Article V of the Declaration.
- b) The Association shall have the right, in its sole discretion, to charge back the actual cost to it of removing obstructions against the Owner who directly or through his agents, contractors or invitees caused or permitted the obstruction to be placed in the road right-of-way or other Common Property, and such Owner shall indemnify and save the Association harmless from all liability, claims damages and expense imposed upon the Association, at law or in equity, caused by or resulting from the placement of the obstruction in the road right-of-way or other Common Property. In the event that the Owner responsible for such charge or liability, as foresaid, fails and refuses, after demand by the Association to pay said charge or liability, then the Association shall have a lien against his Lot thereon and may enforce collection of the charge or liability, together with reasonable attorney's fees, by any and all remedies afforded by law or in equity,

including without limitation, the filing of a notice of lien and perfecting the same as by law provided, to the end that such charge or liability shall become a charge against the said lot or dwelling unity.

c) If the Association, in its sole discretion, determines that any Lot has become unsightly due to grass or weeds being left unmowed, or due to debris of any nature having accumulated on the Lot, then the Association shall have the right from time to time to enter the said lot, for the purpose of mowing the grass or removing the debris. At least ten (10) days prior to entering a Lot for said purpose, the Association shall advise the Owner by letter, sent to his last-known address, of the action to be taken if the Owner does not remedy the problem within the said ten (10) day period.

d) The Association shall have the right, in its sole discretion, to pay from the above-described assessments, such costs as are reasonably necessary to allow it to cut the grass, weeds and underbrush and to remove debris and to charge the Owner of the Lot with the actual cost of the Association of such cutting and/or removal. In the event that such Owner fails or refuses, after demand by the Association, to pay such cost, then the Association shall have a lien against said Lot for such cost and may enforce collection of said cost, together with reasonable attorney's fees by any and all remedies afforded by law or in equity, including, without limitation, the filing of a notice of lien and perfecting the same as by law provided, to the end that such unpaid cost and said associated collection expenses shall be a charge against said lot. Additionally, use of the Association's club facilities (pools, tennis courts, etc.) shall be prohibited until such outstanding expenses are paid.

**Section 4. Duty to Make Repairs:** Until accepted for maintenance by governmental authority, the obligation for the repairs and maintenance of the roads as shown on the aforesaid plat or any other Common Property shall be the responsibility of the Association, with the Owner of each Lot, except as assessments shall be the personal obligation of the Owner of each Lot.

The decision to expend Association funds to repair and maintain the roads or other Common Property shall be made by a majority of the Board of Directors of the Association. By such vote, the Board may delegate such authority to any committee of the Board. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use or abandonment of his Lot.

Notwithstanding the foregoing, each owner of a Lot shall be solely responsible for any repairs to a road right-of-way or other Common Property caused by the negligent act or acts of said owners, his or her invitees, agents, licensees, or guest. For these purposes, it shall be a negligent act for any building material to be unloaded on any road or road right-of-way.

**Section 5. Interest on Unpaid Assessments:** Any assessment not paid within thirty (30) days after the due date shall bear interest at a rate per annum as shall be determined by the Board of Directors of the Association, which rate shall not exceed the highest rate of interest allowed by law.

Section 6. Lien for Unpaid Assessments: In the event that the Owner of any Lot fails and refuses, after demand by the Association, to pay any annual or special assessment, then the Association shall have a lien against said Lot and may enforce collection of said assessment, together with reasonable attorney's fees, by any and all remedies afforded by law or in equity, including, without limitation, the filing of a notice of lien and perfecting the same as by law provided, to the end that such unpaid assessment shall be a charge against the said Lot. Additionally, use of the Association's club facilities (pool, tennis court, etc.) shall be prohibited until such outstanding expenses are paid.

Section 7. Other Association Programs and Benefits: Additionally, the Association shall provide such other programs and benefits for the Owners approved by a majority vote of a quorum of each class of members present in person or by proxy at a meeting duly called for such purpose at which a quorum was present and acting throughout.

The Declarant and builders shall have no obligation for any assessment or other costs or expenses with regard to any Lot owned by it or with respect to assessments accrued as to any Lots to which Declarant or builders obtain title, either due to purchase, breach of sales contracts, deeds in lieu of foreclosure or by foreclosure.

#### Article V. MEMBERSHIP, VOTING RIGHTS, OFFICERS AND MEETINGS

Section 1. Membership: Every Owner of a Lot which is subject to this Declaration, shall be a member of the Association. Membership is appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. As Declarant develops additional phases in Deerfield Creek, the owners of those Lots shall be members of the Association. The Declarant shall also be a member so long as it owns property within this expandable Subdivision.

Section 2. Class Membership Voting: The Association shall have two (2) classes of membership:

a) Class A Members shall be all Lot Owners with the exception of Declarant, and shall be entitled to one vote for each Lot owned. When more than one (1) person owns an interest in a Lot all such persons shall be members but the vote for such Lot shall be exercised as they, among themselves, shall determine in writing, which writing shall be filed with the Secretary of the meeting prior to voting, but in no event shall more than one vote be cast with respect to any Lot.

b) Class B members shall be entitled to vote ten (10) votes for each Lot owned. Class B membership shall consist of the Declarant, until the happening of either of the following events, whichever occurs earlier:

All of the Lots in the Subdivision are sold by the Declarant to other parties; or

2. At such time as Declarant voluntarily relinquishes majority control of the Association by a duly recorded instrument.

Upon the happening of the earlier of either of the two above-described events, Class B membership (described hereinafter) shall cease and terminate and shall be converted to Class A membership.

Section 3. Board of Directors: There shall be five (5) members of the Board of Directors of the Association who shall serve until such time as their successors are duly elected and agree to serve. The Directors shall have annual meetings and such other meetings as may be called at the request of the President of the Association or by any two (2) directors. So long as the Declarant, or its successors or assigns, is the Class B member, it shall select the Board, provided it must select (2) of the members from the Lot Owners other than the Declarant.

a) The Board of Directors shall be elected from and by the general membership at the annual meeting of the corporation.

b) The Board shall only act in the name of the corporation when it shall be regularly convened by its President after due notice to all the Directors, and shall have passed a resolution regarding the particular matter.

c) A majority of the members of the Board shall constitute a quorum.

d) Each Director shall have one vote and voting may not be done by proxy.

e) The Board of Directors shall hold regular meetings at least once every six (6) months. Notice shall be sent by mail to all Board members not less than five (5) nor more than ten (10) days prior to such meetings.

f) The Board may make such rules and regulations covering its meeting as it may determine necessary.

g) Whenever a vacancy shall occur on the Board of Directors it shall be filled without undue delay, until the next annual meeting, by a majority vote of the remaining Board members.

h) A Director may be removed by a majority vote of those present on the Board when he misses three consecutive meetings without good cause. A Director shall be notified by mail of the Board's intention to hold a removal hearing prior to the meeting.

i) Special meetings of the Board of Directors may be called by the President and must be called at the request of three Board of Directors members, such request to be made in writing at least two days before the requested scheduled date to the Secretary of the Board.

Section 4. Suspension of Voting Rights: The Association shall have the right to:

a) Suspend the voting rights (if any) of an Owner for any period during which assessment on his Lot remains unpaid and enforce collection of the same; and

b) Suspend the voting rights (if any) of each Owner who is a contract buyer for any period of time during which payments to the Declarant pursuant to terms of said contract are delinquent

during which period of time the Declarant will succeed to the voting rights of said contract buyer.

Section 5. The Board of Directors may suspend the voting rights of a member for willful failure to comply with the Bylaws or the requirements of membership; such individuals shall have an opportunity for hearing before the Board of Directors.

#### Article VI. GEOGRAPHIC LIMITS

The area in which the corporation will operate shall be the tracts as set out on the Maps recorded in Map Book 28 at Pages 223-226, in the office of the Registrar of Deeds for Mecklenburg County, NC, as well as any additions thereto as from time to time the developer may make.

#### Article VII. COMPENSATION

The Board of Directors will not be compensated for their services but may be reimbursed for any or all expenses incurred by directors in attending regular and special meetings of the Board, and may be compensated for services, other than services as director, actually rendered to the organization.

No compensation, loan or other payment shall be paid or made to any officer, director, executive committee member, or substantial contributor to it, except as a reasonable compensation or allowance for authorized expenditures incurred on behalf of its corporation; and no part of the assets or net earnings, current or accumulated, of this corporation shall ever be distributed to or divided among any such person or private individual (pursuant to the prohibition contained in Section 501 (c) (3) of the Internal Revenue Code). Compensation can be paid; however, in the form of salary actually earned for services performed as an employee of the corporation and authorized by the Board even if said employee holds a position as officer, director, executive committee member or substantial contributor. The one proposed to receive said compensation shall be disqualified to vote on such a proposal.

#### Article VIII. OFFICERS

Section 1. President. The President shall be the chief executive officer of the corporation. He shall perform all the duties incident to the office of President and such other duties as may be ordered by the Board of Directors. He shall be an *ex-officio* member of all committees except the nominating committee. In addition, he has the following responsibilities:

- a) to present at each annual meeting an annual report of the operation of the corporation;
- b) to sign checks, up to an amount to be established by the Board of Directors

Section 2. Vice President. The Vice President shall also be responsible for any assignments delegated by the Board of Directors. The Vice President shall assist the President. In the absence of the President, the Vice President shall take over executive authority.

Section 3. Secretary. The Secretary shall:

- a) keep the minutes and records of the corporation;
- b) file any certificates required by law;
- c) serve all notices to members of the corporation;
- d) be official custodian of the records and seal of the corporation;
- e) submit to the Board of Directors and the general membership all communication addressed to him as Secretary of the corporation.
- f) attend to all corporate correspondence and exercise all duties incident to the office of Secretary.

Section 4. Treasurer. The Treasurer shall:

- a) be responsible for all monies belonging to the corporation;
- b) maintain in the checking account a reasonable amount as determined by the Board of Directors;
- c) deposit the balance in a savings account;
- d) sign checks;
- e) render a written account of the finances of the corporation which shall be included in the minutes of the Board of Director's meetings;
- f) exercise any other duties incident to the office of Treasurer.

Section 5. Checks of the corporation may be signed by the Executive Director, as well as the President and the Treasurer. The officers authorized to sign checks shall be bonded.

## Article IX. CONTRACTS, LOANS AND DEPOSITS

Section 1. Contracts. The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the organization, and such authority may be general or confined to specific instances.

Section 2. Loans. No loan shall be contracted on behalf of the organization and no evidence of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

Section 3. Deposits. All funds of the organization not otherwise employed shall be deposited from time to time to the credit of the organization in such depositories as the Board of Directors may select.

#### Article X. STAFF

The staff shall consist of an Executive Director and such other positions as the Board of Directors shall deem necessary.

Section 1. The Executive Director may serve as the Secretary of the corporation if so designated by the Board. He shall not have a vote on the Board of Directors. Additional responsibilities of the Executive Director are as follows:

- a) to see that all books, records and certificates, as required by law, are properly kept or filed.
- b) to coordinate and supervise all projects undertaken by the corporation.
- c) to provide Board members with a monthly report of projects and activities of the corporation.

Section 2. In lieu of hired staff, the Board of Directors may contract with a management company to fulfill the duties of the staff. Any contract with a management company shall not exceed one year in duration.

#### Article XI. MEETINGS

Section 1. The annual meeting of the corporation shall be held in the month of April each year; the date, place and hour to be designated by the Board of Directors. Notice of this meeting or any other general membership meetings signed by the Secretary, shall be advertised by public media, flyers and other appropriate means to every member in good standing at least five (5) days but not more than twenty (20) days prior to the annual meeting.

Section 2. A quorum at any membership meeting shall be twenty percent of the voting members, but a lesser number may adjourn the meeting for not more than three weeks from the scheduled date of the meeting.

Section 3. Special meetings of the membership may be called by the President or must be called at the request of three Board of Directors members or ten general members, such request to be made in writing at least fifteen days before the requested scheduled date to the Secretary of the Board.



Section 4. No other business but that specified in the notice may be transacted at a special meeting.

Section 5. All questions of parliamentary procedure shall be settled by *Robert's Rules of Order Revised*, when they are not inconsistent with these Bylaws.

Section 6. Any member may attend a Board of Directors meeting.

## Article XII. VOTING

Section 1. At all meetings of the membership, voting shall be by voice unless otherwise requested for election of the Board of Directors, ballots shall be provided by the Association.

Section 2. At all votes by ballot the chairman shall appoint a committee of three inspectors of election who shall certify in writing the results and a certified copy thereof shall be attached to the minutes of that meeting.

Section 3. No inspector of election may be a candidate for office or have made or seconded the motion to be voted on.

## Article XIII. COMMITTEES

Section 1 There shall be following standing committees:

- a) Community Development
- b) Finance
- c) Nominating

Section 2. The Board of Directors may create other standing and special committees as necessary.

Section 3. All members shall be eligible to serve on committees.

Section 4. All Board of Directors shall appoint the chairman of each committee.

Section 5. The President shall be an *ex-officio* member of all committees except the nominating committee.

## Article XIV. FISCAL YEAR

The fiscal year of the corporation shall be the calendar year.

## Article XV. SEAL

The seal of the corporation shall be in such form as the Board of Directors shall determine.

## Article XVI. AMENDMENTS

These Bylaws may be altered, amended, repealed or added to by unanimous vote of those present at the Board of Directors meeting or by two-thirds vote of those present at the Board of Directors meeting when prior notice of such proposed change has been given. This notice must consist of a copy of the proposed change to be mailed not less than ten days nor more than twenty days prior to the Board meeting.

## Article XVII. INDEMNIFICATION

Any person who at any time serves or has served as a director, officer, employee or agent of the organization, or in such capacity at the request of the organization for any other organization, partnership, joint venture, trust or other enterprise, shall have a right to be indemnified by the organization to the fullest extent permitted by law against (a) reasonable expenses, including attorneys' fees, actually and necessarily incurred by her or him in connection with any threatened, pending or completed action, suit or proceedings, whether civil, criminal, administrative or investigative, and whether or not brought by or on behalf of the organization, seeking to hold him or her liable by reason of the fact that he or she is or was acting in such capacity and (b) reasonable payments made by her or him in satisfaction of any judgment, money decree, fine penalty or settlement for which he or she may have become liable in any such actions, suite or proceeding, whether civil, criminal, administrative or investigative, and whether or not brought by or on behalf of the organization, seeking to hold him liable by reason of the fact that he or she is or was acting in such capacity, and (c) reasonable payments made by him or her in satisfaction of any judgment, money decree, fine, penalty or settlement for which he or she may have become liable in any such actions, suit or proceeding.

The Board of Directors of the organization shall take such action as may be necessary and appropriate to authorize the organization to pay the indemnification required by this By-Law, including without limitation, to the extent needed, making a good faith evaluation of the manner in which the claimant for indemnity acted and of the reasonable amount of indemnity due him or her.

Any person who at any time after the adoption of this bylaw serves or has served in any of the aforesaid capacities for or on behalf of the organization shall be deemed to be doing or to have done so in reliance upon and as consideration for, the right of indemnification provided herein. Such right shall inure to the benefit of the legal representatives of any such person and shall not be exclusive of any other rights to which such person may be entitled apart from the provision of this Bylaw.

## Article XVIII. DISPOSITION OF ASSETS UPON DISSOLUTION

In the event of the dissolution of this corporation, to the extent allowed under applicable law, all the assets of the corporation shall be distributed to another organization which has qualified for exemption from taxation under § 501 (c) (3) and progeny, of the Internal Revenue Code. In the event that for any reason upon the dissolution of the corporation the Board of Directors of the corporation shall fail to act in the manner herein provided within a reasonable time, the senior judge of Mecklenburg County shall make such distribution as is herein provided upon the application of one or more persons having a real interest in the corporation or its assets.