

**BYLAWS**  
**OF**  
**CREEK WOOD, ORANGE COUNTY,**  
**HOMEOWNERS ASSOCIATION, INC.**

**ARTICLE I**  
**PLAN OF COMMON PROPERTY CONTROL**

Section 1.1.    Lands Affected.    S & H Development, LLC, a NC limited liability corporation, (hereinafter the "Declarant"), is the owner of certain lands located in Orange County, North Carolina, more particularly described in a Declaration of Covenants, Conditions, Easements and Restrictions for Creek Wood Subdivision (hereinafter the "Declaration"), and it has submitted said lands to membership control pursuant to the Declaration recorded in Book \_\_\_\_\_, Page \_\_\_\_\_, Orange County Registry.

Section 1.2.    Name.    The lands on which said Declaration is imposed shall be known as Creek Wood Subdivision (hereinafter referred to as the "Property").

Section 1.3.    Applicability of Bylaws.    All present and future owners, mortgagees, lessees and occupants within the Property, and their agents, servants and employees, and any other persons who may make use of the facilities of the Property in any manner, are subject to these Bylaws and to the Rules and Regulations adopted pursuant hereto, and to any amendments to these Bylaws, Rules and Regulations upon the same being duly adopted.

The acceptance of a deed or conveyance to, or the entering into a lease to, or the act of occupancy of, any Lot (as defined herein) within the Property by any person shall conclusively establish the acceptance and ratification by such person of these Bylaws (and to any Rules and Regulations adopted pursuant hereto), the Articles of Incorporation, and the Declaration as they may be amended from time to time, and shall constitute and evidence an agreement by such persons to comply with those governing documents.

**ARTICLE II**  
**DEFINITIONS**

Section 2.1. "Association" shall mean and refer to the Creek Wood, Orange County, Homeowners Association, Inc., the association of Lot Owners of the Lots at Creek Wood Subdivision.

Section 2.2 "Property" shall mean all of the lands and appurtenances, subjected to the Declaration, which lands are more fully described in said Declaration and all additional property thereto, as may be hereafter brought within the jurisdiction of the Association.

Section 2.3. "Declarant" shall mean S & H Development, LLC, a NC limited liability corporation.

Section 2.4. "Declaration" shall mean that instrument recorded in Book \_\_\_\_\_, Page \_\_\_\_\_, Orange County Registry, as from time to time amended.

Section 2.5. "Board" shall mean the Board of Directors of the Association.

Section 2.6. "Rules and Regulations" shall mean those written actions of the Board, duly adopted, and amendments thereto, interpreting and applying the provisions of the Declaration and these Bylaws and establishing and prescribing the administration, management, use, operation and maintenance of the Common Elements, including but not limited to, the establishment and imposition of fines, fees and penalties for violation of the Declaration, Articles, Bylaws or Rules and Regulations.

Section 2.7. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Property, as such map or maps may be from time to time amended or modified, for detached single-family residential use, all designated for separate ownership and occupancy.

Section 2.8. "Lot Owner" or "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 2.9. "Common Elements" shall be all that area within the Property other than the described Lots, as defined in the Declaration and from time to time hereafter designated by written recorded instrument as Common Elements and owned by the Association for the common use and enjoyment of the Owners.

Section 2.10. "Person" shall mean and refer to any individual, corporation, partnership, association, trustee or other legal entity.

Section 2.11. "Member" means each Owner or Lot Owner having membership in the Association.

### **ARTICLE III** **OFFICES**

Section 3.1. The principal office of the Association shall be located at 104 South Estes Drive, Suite 205, Chapel Hill, North Carolina 27514.

Section 3.2. The registered office of the Association may be, but need not be, identical with the principal office, but shall be located in North Carolina.

### **ARTICLE IV** **ASSOCIATION OF LOT OWNERS**

Section 4.1. Members. The qualification of Members, the manner of their admission to membership and termination of such membership shall be as set forth in the Articles of Incorporation of the Association and the Declaration.

Section 4.2. Annual Meetings. An annual meeting of the Association shall be held for the purpose of electing Members of the Board of Directors and for the transaction of such other business as may be properly brought before the meeting. The annual meeting shall be held at 5:00 p.m. on the 10th of January of each year, unless such day shall be a legal holiday, in which event the meeting shall be held at the same time on the day next following which is not a legal holiday, and the first annual meeting shall be on the 10th day of January in the first year following purchase and recording of the Property in the Developer's name.

Section 4.3. Substitute Annual Meetings. If an annual meeting is not held on the day designated in the Bylaws, a substitute annual meeting may be called in the same manner as a special meeting. A meeting so called shall be designated and treated for all purposes as the annual meeting.

Section 4.4. Special Meetings. Special meetings of the Association may be called at any time by the President, a majority of the Members of the Board of Directors, or by the the Owners of not less than ten percent (10%) of the voting interests as established by the Declaration.

Section 4.5. Place of Meetings. All meetings of the Association shall be held at the Property, or at such other place in the County where the Property is located as shall be designated in the notice of the meeting.

Section 4.6. Notice of Meetings. Written or printed notice stating the place, day and hour of the meeting shall be delivered or mailed by first class mail, postage prepaid, not less than ten (10) nor more than sixty (60) days prior to the date of the meeting by the Secretary to each person entitled to vote at such meeting.

In the case of an annual meeting, substitute annual meeting, or special meeting, the notice of meeting shall state the time and place of the meeting as well as the items on the agenda to be considered, including, but not limited to, the general nature of any proposed amendment to the Declaration or Bylaws, any budget matters, or any proposal to remove an officer or director.

When a meeting is adjourned for thirty (30) days or more, notice of the reconvening of the adjourned meeting shall be given as in the case of an original meeting. When a meeting is adjourned for less than thirty (30) days in any one adjournment, it shall not be necessary to give notice of the reconvening of the adjourned meeting other than by an announcement at the meeting at which the adjournment is effective.

Section 4.7. Quorum; Required Vote for Action. Unless a different percentage is required by the Articles of Incorporation, Declaration or a specific provision of these Bylaws, the presence in person or by proxy at the beginning of any meeting of Members constituting sixty percent (60%) of the total votes entitled to be casts shall constitute a quorum and any action, consistent with the notice of such meeting, may be taken at any meeting

of the Association at which a quorum is present upon the affirmative vote of the Members having a majority of the total votes present at such meeting.

If a quorum is not present at the opening of any meeting, the meeting may be adjourned from time to time by vote of a majority of the voting interests present, either in person or by proxy, and shall be reconvened at the date and time determined at the adjourned meeting, subject to the notice requirements set forth in Section 6 of this Article. The quorum requirement at the next meeting shall be one-half of the quorum requirement applicable to the meeting adjourned for lack of a quorum. This provision shall continue to reduce the quorum by fifty percent (50%) from that required at the previous meeting, as previously reduced, until such time as a quorum is present and business can be conducted.

Section 4.8. Voting Members: Proxies. There shall be one person with respect to each Lot who shall be entitled to vote the voting interest of that Lot at any meeting of the Association, herein referred to as the "voting member". The voting member may be the Owner of a Lot, or an Owner designated by a majority of several Owners of a Lot, or may be some other person designated by such Owner or Owners to act as proxy on his or their behalf and who need not be an Owner. Designation of the voting member or of a proxy shall be made in writing to the Secretary and shall be revocable by actual notice of revocation to the person presiding over the meeting of the association by the Owner or a majority of the Owners. A proxy is void if not written, dated, and signed by an Owner or a majority of the Owners of a Lot, and a proxy shall terminate at the time specified in the proxy or eleven months after its date, whichever is earlier.

Section 4.9. Voting Rights: Multiple Owners. If only one of the multiple Owners of a Lot is present at a meeting of the Association, he is entitled to cast the vote allocated to the Lot. If more than one of the multiple Owners are present, the vote allocated to that Lot may be cast only in accordance with the agreement of a majority in interest of the multiple Owners. Majority agreement is conclusively presumed if any one of the multiple Owners casts the votes allocated to that Lot without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Lot. Fractional voting is prohibited.

Section 4.10. Voting Rights: Cumulative Voting. The vote cast by, or on behalf of, the Owner or Owners of a Lot shall be that voting interest specified in the Articles of Incorporation. In all elections for members of the Board of Directors, no voting member shall be entitled to vote on a cumulative voting basis for the director or directors to be elected, and the candidate or candidates receiving the highest number of votes with respect to the number of offices to be filled shall be deemed elected.

Section 4.11. Waiver of Notice. Any Lot Owner, at any time, may waive notice of any meeting of the Association in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Lot Owner at any meeting of the Association shall constitute a waiver of notice by him of the time and place thereof except where a Lot Owner attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all the voting members are present at any meeting of the Association, no notice shall be required, and any business may be transacted at such meeting.

Section 4.12. Informal Action by Lot Owners. Any action which may be taken at a meeting 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 persons who would be entitled to vote upon such an action at a meeting and filed with the Secretary of the Association to be kept in the Association minute book.

## **ARTICLE V** **BOARD OF DIRECTORS**

Section 5.1. General Powers. The business shall be managed and directed by the Board of Directors of the Association or by such committee as the Board may establish pursuant to these Bylaws. If any of the authority of the Board of Directors is vested in any committee, one member of each such committee shall be a Board member.

Section 5.2. Initial Board. There shall be an initial Board of three directors, appointed by the Declarant, who shall serve until their successors are elected and qualified as herein provided.

Section 5.3. Election of Directors. Except for the appointed directors provided for in Section 2 of this Article, and as otherwise provided in Section 5 of this Article, at least three directors shall be elected by the

Members at the annual meeting of the Association. Those candidates who receive the highest number of votes shall be elected. At least a majority of the directors shall be Lot Owners.

Section 5.4.     Removal. Except for the initial directors or their successors appointed by the Declarant, any elected director may be removed from office, with or without cause, by the affirmative vote of at least two-thirds (2/3) of the voting interests of Lot Owners present and entitled to vote at a special meeting called for that purpose. If any directors are so removed, new directors may be elected at the same meeting. So long as Class B membership and voting rights thereto exists for the Declarant's benefit, members of the initial Board of Directors shall only be elected and removed from time to time by the Declarant.

Section 5.5.     Vacancies. An elective vacancy occurring on the Board of Directors may be filled by a majority of the remaining directors, though less than a quorum, or by the sole remaining director. A director so elected to fill a vacancy shall serve until the next annual meeting of Members of the Association.

Section 5.6.     Compensation. The Board of Directors shall receive reimbursement for reasonable expenses incurred, but shall receive no compensation for their services.

Section 5.7.     Powers. The Board of Directors shall have the powers necessary for the administration of the affairs of the Association as specified by law, the Declaration or these Bylaws, and may do all such acts and things, except such acts as by law, by the Declaration, or these Bylaws may not be delegated to the Board of Directors.

Section 5.8.     Duties. It shall be the duty of the Board of Directors to:

- (a)     Administer, operate, maintain and repair the Common Elements.
- (b)     Determine the Common Expenses arising from the costs of administration, operation, care, upkeep, maintenance, repair and construction of the Common Elements, including, without limitations, reserves for repair, reconstruction or replacement.
- (c)     Fix and assess in the manner provided by law and in the Declaration, the proportionate part of the Common Expenses of each Lot Owner within the Property.

(d) Collect and enforce the collection of Common Expenses in the manner provided by law and in the Declaration, including, but not limited to legal proceedings for the enforcement of liens, and provide written evidence of payment upon request therefore.

(e) Employ, supervise and dismiss personnel, managers or independent contractors necessary for the maintenance and operation of the Common Elements.

(f) Adopt, amend, publish and enforce reasonable Rules and Regulations that it deems advisable and necessary for the proper administration, operation, maintenance, conservation, and beautification of the Property and for the health, comfort, safety and general welfare of the Owners and occupants of the Lots. Copies of the published Rules and Regulations and amendments thereto shall be given to all of the Owners and occupants and the Association and Property shall be administered, operated and maintained in conformity with such rules and regulations.

(g) Designate depositories for Association funds and the officers, agents and/or employees having the authority to deposit and withdraw such funds; and, in its discretion, to require such officers, agents or employees to be bonded in such amounts as it deems necessary.

(h) Sign all mortgages, deeds of trust, agreements, contracts, vouchers for payment of expenditure, deeds and other instruments in such manner as from time to time shall be determined by written resolution of the Board. In the absence of such determination by the Board, such documents shall be signed by the President and the Secretary.

(i) Procure and maintain adequate insurance of such nature and in such amounts as is provided in the Declaration, and such other insurance as the Board may deem necessary or appropriate, including, without limitation hazard insurance, liability insurance and officers and directors liability coverage.

(j) Appoint such committees as are provided for in these Bylaws and the Declaration or as otherwise deem appropriate by the Board, including, but not limited to, an Architectural Committee.

(k) Exercise their powers in good faith and do and perform such other matters and things not expressly prohibited by law, the Declaration, or these Bylaws as are necessary and appropriate to the proper administration, operation and maintenance of the Association.

(l) Prepare an annual budget in which there shall be established the assessments of each Lot Owner for the Common Expenses. A summary of the proposed budget shall be provided to all of the Lot Owners within thirty (30) days after adoption of the proposed budget, and the budget shall be ratified at a meeting of the Lot Owners, all in conformance with N.C.G.S. § 47F-3-103(c).

(m) Pay all taxes, charges and assessments which are or may become liens against any part of the Common Elements, and assess the same against the Members and their respective Lots.

(n) To enforce by legal means or proceeding the provisions of the Articles of Incorporation, the Bylaws, the Declaration and the Rules and Regulations promulgated hereunder.

(o) To establish fines and penalties for late payment of assessments and for violations of the Declaration, Bylaws and the Rules and Regulations, and to provide for the suspension of voting rights of any Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association and to suspend such voting rights and other privileges for a period not to exceed sixty (60) days after notice and hearing for other infractions.

(p) To impose reasonable charges for services especially provided to one or more Lot Owners which charges or costs should not otherwise be a Common Expense.

(q) To institute, defend or intervene on behalf of the Association in litigation or administrative procedures affecting the Property.

(r) To cause additional improvements to be made to the Common Elements.

(s) To exercise all other duties to which similar organizations have the power to perform and as by law provided.

Section 5.9. Persons Who May Serve. Except for the initial Board of Directors or their successors appointed by Declarant, every elected member of the Board shall be a Lot Owner unless the Owner is a corporation, limited liability company, partnership, trust or other legal entity other than a natural person or persons, in which event any officer, director, agent or employee of such corporation, partner of such partnership, member or manager of such limited liability company, beneficiary or trustee of such trust, or manager of such other legal entity, shall be eligible to serve as a member of the Board. Members of the initial Board or their successors who are appointed by the Declarant may, but are not required to be, Lot Owners.

Section 5.10. Liability of the Board. The members of the Board of Directors shall not be liable to the Lot Owners for any mistake of judgment, negligence or otherwise except for their own individual willful misconduct or bad faith. The Association shall indemnify and hold harmless each of the members of the Board against all contractual liability to others arising out of contracts made by the Board on behalf of the Association unless any such contracts shall have been made in bad faith or contrary to the provisions of the Declaration or these Bylaws. It is intended that the members of the Board of Directors shall have no personal liability with respect to any contract made by them on behalf of the Association, except to the extent of their liability as Lot Owners. 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 Elements bears to the interest of all the Lot Owners. Every agreement made by the Board shall provide that the members of the Board of Directors 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.

## ARTICLE VI MEETING OF DIRECTORS

Section 6.1. Organizational Meeting. The initial organizational meeting of Board of Directors shall be held within 30 days from the date of the conveyance of the Common Elements by the Declarant to the

Association. Notice to the Directors as provided herein shall be necessary in order to legally constitute such meeting, provided that a quorum shall be present.

Section 6.2. Regular Meetings. A regular meeting of the Board shall be held immediately after and at the same place as the annual meeting or substitute annual meeting of the Association. The Board may provide by adoption of an appropriate resolution for the time and place within the County in which the Property is located, for other regular meetings of the Board.

Section 6.3. Special Meetings. Special meetings of the Board may be called by or at the request of the President or by any two Directors. Such meetings may be held at any place within the County in which the Property is located.

Section 6.4. Notice of Meetings. Regular meetings of the Board of Directors may be held without notice. The person or persons calling a special meeting of the Board shall give actual notice, oral or written, to all Directors of the time, place and purpose of such meeting at least two days prior thereto.

Section 6.5. Waiver of Notice. Any member of the Board of Directors may give written waiver of notice at any time of any meeting of the Board, and such waiver shall be deemed equivalent to the giving of such notice. If all of the members of the Board are present at any meeting thereof, no notice shall be required, and any business may be transacted at such meeting.

Section 6.6. Quorum. A majority of the number of Directors fixed by these Bylaws shall be required for and shall constitute a quorum for the transaction of business at any meeting of the Board of Directors.

Section 6.7. Manner of acting. Except as otherwise provided in this section, the act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

A vote of a majority of the number of Directors fixed by the Bylaws shall be required to adopt a resolution constituting an executive committee.

Section 6.8. Organization. Each meeting of the Board of Directors shall be presided over by the President and in the absence of the President, by the Vice President, and in the absence of the Vice President, by

any person selected to preside by vote of the majority of the Directors present. The Secretary, or in his or her absence, an Assistant Secretary, or in the absence of both the Secretary and the Assistant Secretary, any person designated by the presiding officer of the meeting shall act as Secretary of the meeting.

Section 6.9. Informal Action of Directors. Any action taken by the Directors without a meeting shall constitute Board action if written consent to the action in question is signed by all the Directors and filed with the minutes of the proceedings of the Board, whether done before or after the action is taken.

Section 6.10. Minutes. The Board, and all committees to which the Board shall have delegated any of its authority, shall keep minutes of all of the proceedings of the Board and the committees.

Section 6.11. Fidelity Bonds. The Board of Directors may at any time in its absolute discretion require any officer or employee of the Association handling or responsible for Association funds to be covered by an adequate fidelity bond. The premiums on such bond shall constitute a Common Expense.

## ARTICLE VII OFFICERS

Section 7.1. Designation. The principal officers of the Association shall be a president, a secretary, a treasurer and such vice presidents, assistant secretaries, assistant treasurers and other officers as the Board of Directors may from time to time elect. Any two or more offices may be held by the same person, except that the office of President and Secretary may not be held by the same person.

Section 7.2. Election and Term. All officers of the Association shall be elected by the Board of Directors, and such elections may be held at the regular annual meeting of the Board; provided, however, that prior to the first annual meeting, the Declarants shall appoint the officers from among the initial Board.

Each officer shall hold office for a period of one (1) year or until his death, resignation, retirement, removal, disqualification or his successor is elected and qualified.

Section 7.3. Removal. Any officer or agent elected or appointed by the Board of Directors may be removed by the Board with or without cause. Such removal, however, shall be without prejudice to the contract rights, if any, of the person so removed.

Section 7.4.     Compensation. No officer shall receive any compensation from the Association for acting as such, but the Board may reimburse any officer for any direct expenses incurred by him in the performance of his duties as such officer and such reimbursement shall be a Common Expense.

Section 7.5.     President. 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 Property. The President shall, when present, preside at all meetings of the Board and of the Association, and, in general, shall perform all duties incident to the office of the President and such other duties as may be prescribed from time to time by the Board. The President shall prepare, execute (with the Secretary), certify, and record amendments to the Declaration on behalf of the Association.

Section 7.6.     Vice President. The Vice President, and if there be more than one, the Vice Presidents shall, in the absence or disability of the President, have the powers and perform the duties of said office. In addition, each Vice President shall perform such other duties and have such other powers as shall be prescribed by the President.

Section 7.7.     Secretary. The Secretary shall keep accurate records of the acts and proceedings of all meetings of the Association and of the Board. The Secretary shall give, or cause to be given, all notices required by law and these Bylaws, and the Secretary shall have general charge of the minute books and records of both the Association and the Board. The Secretary shall sign such instruments as may require his signature, and, in general, shall perform all duties incident to the office of Secretary and such other duties as may be assigned to him from time to time by the President or by the Board of Directors.

Section 7.8.     Treasurer. The Treasurer shall have custody of all Association funds and securities and shall receive, deposit or disburse the same under the direction of the Board of Directors. He shall keep full and accurate records of the finances of the Association in books specially provided for that purpose. He shall cause a true statement to be prepared as of the close of each fiscal year setting forth, in reasonable detail, the assets and liabilities of the Association, the changes in surplus for such fiscal year, and the result of the operations of the

Association. The statement shall be filed and kept available for inspection by any Lot Owner for a period of three (3) years and the Treasurer shall mail or otherwise deliver a copy of the latest statement to each Lot Owner and member of the Board of Directors annually on or before 30 days prior to the annual meeting of the Association covering the preceding calendar year. The Treasurer shall also prepare and file all reports and returns required by Federal, State or local laws, and shall generally perform all other duties as may be assigned to him from time to time by the President or the Board of Directors.

Section 7.9. Assistant Secretaries and Treasurers. The Assistant Secretaries and Assistant Treasurers, if any, shall, in the absence or disability of the Secretary or the Treasurer, respectively, have all the powers and perform all of the duties of those officers, and they shall, in general, perform all of the duties as shall be assigned to them by the Secretary or Treasurer, respectively, or by the President or Board of Directors.

#### **ARTICLE VIII** **OPERATION OF THE PROPERTY**

Section 8.1. Determination of Common Expenses and Fixing of Common Expense. The Board of Directors, from time to time, and at least annually, shall prepare a budget for the Common Elements, determine the amount of the "Common Expenses" (as defined in the Declaration) payable by the Lot Owners to meet the expenses of the Common Elements, and shall allocate and assess the Common Expenses among the Lot Owners thereof as set forth in the Declaration. The Common Expenses assessed to each Lot shall be a lien on that Lot. The Common Expenses of the Common Elements shall include, among other things, and without limitation, the administrative expenses of the Association, maintenance, repair and replacement costs of the Common Elements, utilities costs and the costs of all premiums for insurance obtained pursuant to the provisions of the Declaration. The budget of the Association in the discretion of the Board may include, without limitation, amounts for: funding deficits for any prior year; a reserve for working capital; a reserve for maintenance and replacement; and a general operating reserve.

Section 8.2. Payment of Common Expenses. All Lot Owners shall be obligated to pay the Common Expenses assessed by the Board of Directors pursuant to the provisions of Section 1 of this Article at such time or times as the Board shall determine.

No Lot Owner shall be liable for the payment of any part of the Common Expenses assessed against his Lot subsequent to a consummated sale, transfer or other conveyance by him (made in accordance with the provisions of the Declaration and applicable restrictions of record) of such Lot. A purchaser of a Lot shall be jointly and severally liable with the seller for the payment of the Common Expenses assessed against such Lot prior to the acquisition by the purchaser of such Lot, without prejudice to the purchaser's right to recover from the seller the amounts paid by the purchaser therefore. Provided, that a first-lien mortgagee or other purchaser of a Lot at a foreclosure sale of such Lot shall not be liable for, and such Lot shall not be subject to, a lien for the payment of Common Expenses assessed prior to such foreclosure sale, and such unpaid Common Expenses shall be deemed to be Common Expenses collectible from all of the Lot Owners, including such purchaser, his successors and assigns.

Section 8.3. Collection of Assessments. The Board of Directors shall assess Common Expenses against the Lot Owners from time to time and at least annually and shall take prompt action to collect any Common Expenses due from any Lot Owner which remains unpaid for more than thirty (30) days from the due date of the payment thereof. In the event of an increase in such Common Expenses, the Board of Directors shall advise each Lot Owner, in writing, of such increased assessment at least one month prior to the date of which the first increased payment is due.

Section 8.4. Default in Payment of Common Expenses. In the event of default by any Lot Owner in paying the Board of Directors the Common Expenses as determined by the Board, such Lot Owner shall be obligated to pay interest at the highest rate permitted by law but not to exceed twelve percent (12%) per annum on such Common Expenses from the due date thereof, together with a penalty established by the Board for nonpayment and with all expenses, including reasonable attorney's fees incurred by the Board in any proceeding

brought to collect such unpaid Common Expenses. The Board shall have the right and duty to attempt to recover such Common Expenses, together with penalties and the interest thereon and the expenses of the proceeding, including reasonable attorneys' fees in any action to recover the same brought against such Lot Owner, or by foreclosure of the lien on such Lot.

Default in payment of the Common Expenses assessed against any Lot shall occur thirty (30) days after the due date thereof, if not then paid.

Section 8.5. Foreclosure of Liens for Unpaid Common Expenses. The Board may bring a suit to foreclosure on a lien for unpaid assessments. A suit to recover money judgment for unpaid Common Expenses may be maintainable without foreclosing or waiving the lien securing the same.

Section 8.6. Statement of Common Expenses. The Board of Directors shall promptly provide any Lot Owner, its grantee to contract purchaser making written request therefore, a written statement of all unpaid Common Expenses due from such Lot Owner.

Section 8.7. Maintenance and Repair.

(a) Maintenance of Lots. All maintenance and repairs to any Lot, ordinary or extraordinary, shall be made by the Owner of such Lot.

(b) Maintenance of Common Elements. All maintenance, repairs and replacements to the Common Elements, (unless necessitated by the negligence, misuse or neglect of a Lot Owner, his guests, lessees, employees, servants or invitees, in which case such expense shall be charged to such Lot Owners), shall be made by the Board and shall be charged to all Lot Owners as a Common Expense of the Property.

Section 8.8. Use of Common Elements. The Common Elements shall be used only for the purpose for which they are intended in furnishing facilities for the enjoyment of the Lots.

Section 8.9. Rules of Conduct. Rules and Regulations concerning the use of the Common Elements may be promulgated and amended by the Board. Copies of such Rules and Regulations shall be furnished by the

Board to each Lot Owner, and all amendments and new Rules and Regulations shall be furnished to Lot Owners prior to the time that amendment or new rule or regulation becomes effective.

Section 8.10. Utility Charges. All charges for utilities used in connection with the maintenance and use of the Common Elements shall be a Common Expense.

### **ARTICLE IX** **RECORDS AND AUDITS**

The Board of Directors shall keep detailed records of actions of the Board minutes of the meetings of the Board of Directors, minutes of the meetings of the Association, and financial records and books of accounts, including a chronological listing of receipts and expenditures, which, among other things, shall contain the amount of each assessment of the Common Expenses against each Lot, the date when due, and amounts paid thereon, and the balance remaining unpaid, and including maintenance and repair expenses of the Common Elements and any other expenses incurred. The financial record and books of account shall be available for examination by any Lot Owner or his duly authorized agent or attorney at convenient hours on working days by prior arrangement with the Board. An audit of all receipts and expenditures of the Association and Property shall be rendered by the Board to all Lot Owners on or before the 90th day following the close of each fiscal year, covering the preceding year. All books and records shall be kept in accordance with generally accepted accounting principles. A copy of the audit shall be furnished to all mortgagees of Lots who have requested the same.

### **ARTICLE X** **OPERATION PRIOR TO INITIAL MEETING OF BOARD**

Prior to the first meeting of the initial Board of Directors, all functions of the Association and of the Board of Directors as herein set forth shall be performed and carried out by the Declarant.

**ARTICLE XI**  
**AMENDMENT OF BYLAWS**

Section 11.1. Amendment by Owners. Except as provided in Section 11.2 below, these Bylaws may be amended only by the affirmative vote of the voting members having at least seventy-five percent (75%) of the aggregate voting interests, cast in person or by proxy at a meeting duly held in accordance with the provisions of the Bylaws. Such amendment shall be executed in the name of the Association.

Section 11.2. Amendment by the Board. The Board of Directors may amend these Bylaws without the consent of the Owners:

- (a) To correct any obvious error or inconsistency in drafting, typing or reproduction; and
- (b) To conform to the requirements of any law or governmental agency having legal jurisdiction over the Property or to qualify the Property or any Lots therein for mortgage or improvement loans made or insured by a governmental agency, Federal National Mortgage Association or Government regulations of any corporation or agency regarding purchase of mortgage interests in Lots by such agency.

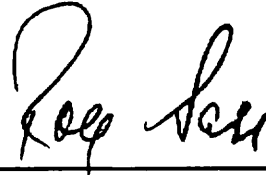
No amendments made pursuant to this Section 11.2 shall be effective until duly recorded in the Office of the Register of Deeds of the county in which the Property is located.

**ARTICLE XII**  
**CONFLICTS**

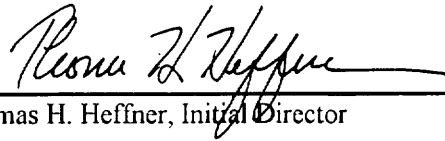
In case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

ADOPTION

We, the undersigned, being all of the initial Directors as set forth in the Articles of Incorporation of Creek Wood, Orange County, Homeowners Association, Inc., do hereby adopt these Bylaws on this the 23rd day of September, 1999.



\_\_\_\_\_  
Rolf Sass, Initial Director



\_\_\_\_\_  
Thomas H. Heffner, Initial Director