

BY-LAWS
OF
BRUSH CREEK PROPERTIES HOMEOWNERS ASSOCIATION, INC.

ARTICLE I
OFFICES

Section 1. Principal Office. The principal office of the Association shall be located at Brush Creek Properties Homeowners Association, Inc., 99 Berry Hill Drive, Sylva, Jackson County, North Carolina.

Section 2. Registered Office. The registered office of the Association required by law to be maintained in the State of North Carolina may be, but need not be, identical with the principal office.

Section 3. Other Offices. The Association may have offices at other places, either within or without the State of North Carolina, as the Board of Directors may designate or as the affairs of the Association may require from time to time.

ARTICLE II
MEMBERS

Section 1. Class. There shall be one class of members, as provided by the Articles.

Section 2. Membership. Membership of this association shall constitute the owners of lots in the Brush Creek Properties Subdivision.

Section 3. Transferability. Membership within the Association shall be an appurtenance to each lot that is subject to assessment within the Development pursuant to the Declaration, and membership shall be transferred with each conveyance of a beneficial interest in each lot. No member may resign or withdraw from membership without conveying his interest in the appurtenant lot.

ARTICLE III
MEETINGS OF MEMBERS

Section 1. Place of Meeting. All meetings of members shall be held at the principal office of the Association, or at any other place, either within or without the State of North Carolina, designated in the notice of the meeting or agreed upon by a majority of the members entitled to vote at the meeting.

Section 2. Annual Meetings. The annual meeting of members shall be held at 10:00 o'clock a.m., on the second Tuesday of each July for the purposes of electing directors of the Association and for the transaction of any other business that may be properly brought before the meeting. If the day fixed for the annual meeting is a legal holiday, the meeting shall be held on the next succeeding business day.

Section 3. Substitute Annual Meeting. If the annual meeting is not held on the day designated by these by-laws, a substitute annual meeting may be called in accordance with the provisions of Section 4 of this Article. A meeting so called shall be designated and treated for all purposes as the annual meeting.

Section 4. Special Meetings. Special meetings of the members may be called at any time by the president, secretary or Board of Directors of the Association, or by any five members having voting rights.

Section 5. Notice of Meetings. Written or printed notice stating the time and place of the meeting shall be delivered not less than ten or more than fifty days before the date of any meeting, either personally or by mail, by or at the direction of

the president, the secretary, or other person calling the meeting, to each member entitled to vote at the meeting. If mailed, the notice shall be deemed to be delivered when deposited in the United States mail, addressed to the member at his address as it appears on the record of members of the Association, with postage prepaid.

In the case of a special meeting, the notice of meeting shall specifically state the purpose or purposes for which the meeting is called; but, in the case of an annual or substitute annual meeting, the notice of meeting need not specifically state the business to be transacted unless a statement is required by the provisions of the North Carolina Non-Profit Corporation Act.

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

Section 6. Voting Lists. At least ten days before each meeting of the members, the secretary of the Association shall prepare an alphabetical list of the members entitled to vote at the meeting or any adjournment thereof, with the address of and number of lots held by each, which list shall be kept on file at the registered office of the Association for a period of ten days prior to the meeting, and shall be subject to inspection by any member at any time during the usual business hours. This list shall also be produced and kept open at the time and place of the meeting and shall be subject to inspection by any member during the whole time of the meeting.

Section 7. Quorum. A majority of the members of the Association entitled to vote, represented in person or by proxy, shall constitute a quorum at a meeting of members, except that at a substitute annual meeting of members the number of shares there represented either in person or by proxy, even though less than a majority, shall constitute a quorum for the purposes of the meeting.

The members present a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum.

In the absence of a quorum at the opening of any meeting of members, the meeting may be adjourned from time to time by a vote of the majority of the members voting on the motion to adjourn; and at any adjourned meeting at which a quorum is present, any business may be transacted that might have been transacted at the original meeting.

Section 8. Proxies. A member may vote either in person or by one or more agents authorized by a written proxy executed by the member or by his duly authorized attorney in fact. A proxy is not valid after the expiration of eleven months from the date of its execution, unless the person executing it specifies therein the length of time that it is to continue in force, or limits its use to a particular meeting, but no proxy shall be valid after ten years from the date of its execution.

Section 9. Voting of Members. Each lot, or subdivided lot, within the Development that is subject to assessment shall be entitled to one vote, and the owner or owners of that lot shall be entitled to cast the vote appurtenant to that lot.

Except in the election of directors as governed by the provisions of Section 3 of Article IV, the vote of a majority of the members voting on any matter at a meeting of members at which a quorum is present shall be the act of the members on that matter, unless the vote of a greater number is required by law or by the articles or by-laws of this Association.

Section 10. Informal Action by Members. Any action that may be taken at a meeting of the members may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the persons who would be entitled to vote upon the action at a meeting, and filed with the secretary of the Association to be kept as part of the Association records.

ARTICLE IV BOARD OF DIRECTORS

Section 1. General Powers. The business and affairs of the Association shall be managed by its Board of Directors.

Section 2. Number, term and qualifications. The number of directors constituting the Board of Directors shall be three. Each director shall hold office until his death, resignation, retirement, removal, disqualification, or his successor is qualified. Directors need not be residents of the State of North Carolina or members of the Association.

Section 3. Election of Directors. Except as provided in Section 5 of this Article, the directors shall be elected at the annual meeting of member, and those persons who receive the highest number of votes shall be deemed to have been elected. If any member so demands, the election of directors shall be by ballot.

Section 4. Removal. Any director may be removed at any time with or without cause by a vote of the members holding a majority of the membership entitled to vote at an election of directors.

Section 5. Vacancies. Any vacancy occurring in the Board of Directors may be filled by the affirmative vote of a majority of the remaining directors even though less than a quorum, or by the sole remaining director. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office. Any directorship to be filled by reason of an increase in the authorized number of directors shall be filled only by election at an annual meeting or at a special meeting of members called for that purpose.

Section 6. Chairman of Board. There may be a chairman of the Board of Directors elected by the directors from their number at any meeting of the board. The chairman shall preside at all meetings of the Board of Directors and perform such other duties as may be directed by the board.

Section 7. Compensation. The Board of Directors may not compensate directors for their services as directors, but may provide for the payment of any or all expenses incurred by directors in attending regular and special meetings of the board.

ARTICLE V MEETINGS OF DIRECTORS

Section 1. Regular Meetings. A regular meeting of the board of directors shall be held immediately after, and at the same place as, the annual meeting of members. In addition, the board of directors may provide, by resolution, the time and place, either within or without the State of North Carolina, for the holding of additional regular meetings.

Section 2. Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the president or any two directors. Special meetings may be held either within or without the State of North Carolina, as fixed by the person or persons calling the meeting.

Section 3. Notice of Meeting. Regular meetings of the Board of Directors may be held without notice. The person or persons calling a special meeting of the Board of Directors shall, at least two days before the meeting, give notice thereof by any usual means of communication. The notice need not specify the purpose for

which the meeting is called.

Section 4. Waiver of Notice. Any director may waive notice of any meeting. The attendance by a director at a meeting shall constitute a waiver of notice of the meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

Section 5. Quorum. A majority of the number of directors fixed by these by-laws shall constitute a quorum for the transaction of business at any meeting of the Board of Directors.

Section 6. Manner of Acting. Except as otherwise provided in these by-laws, 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.

Section 7. Presumption of Assent. A director of the Association who is present at a meeting of the Board of Directors at which action on any Association matter is taken shall be presumed to have assented to the action taken unless his contrary vote is recorded or his dissent is otherwise entered in the minutes of the meeting or unless he shall file his written dissent to the action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward his dissent by registered mail to the secretary of the Association immediately after the adjournment of the meeting. The right to dissent shall not apply to a director who voted in favor of the action.

Section 8. Informal Action By Directors. Action taken by a majority of the directors without a meeting is nevertheless 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 9. Committees of the Board. The Board of Directors, by resolution adopted by a majority of the number of directors fixed by these by-laws, may designate one or more directors to constitute an executive committee and other committees, each of which, to the extent authorized by law and provided in the resolution, shall have and may exercise all of the authority of the Board of Directors in the management of the Association. The designation of any committee and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any member thereof, of any responsibility or liability imposed upon it or him by law.

ARTICLE VI OFFICERS

Section 1. Officers of the Association. The officers of the Association shall consist of a president, a secretary, a treasurer and any 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, but no officer may act in more than one capacity where action of two or more officers is required.

Section 2. Election and term. The officers of the Association shall be elected by the Board of Directors and each officer shall hold office until his death, resignation, retirement, removal, disqualification or his successor is elected and qualified.

Section 3. Compensation of officers. Officers of the Association serve without compensation.

Section 4. Removal. Any officer or agent elected or appointed by the Board of Directors may be removed by the board whenever in its judgment the best interests of the corporation will be served thereby; but such removal shall be without prejudice to

the contract rights, if any, of the persons so removed.

Section 5. Bonds. The Board of Directors may by resolution require any officer, agent, or employee of the Association to give bond to the Association, with sufficient sureties, conditioned on the faithful performance of the duties of his respective office or position, and to comply with other conditions as may from time to time be required by the Board of Directors.

Section 6. President. The President shall be the principal executive officer of the Association and, subject to the control of the Board of Directors, shall in general supervise and control all of the business and affairs of the Association. He shall, when present, preside at all meetings of the members. He shall sign, with the secretary, an assistant secretary, or any other proper officer of the Association authorized by the Board of Directors, any deeds, promissory notes, mortgages, deeds of trust, bonds, contracts, or other instruments that the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof is expressly delegated by the Board of Directors or by these by-laws to some other officer or agent of the Association, or is required by law to be otherwise signed or executed, and in general he shall perform all duties incident to the office of president and other duties as may be prescribed by the Board of Directors from time to time.

Section 7. Vice-Presidents. In the absence of the president or in the event of his death, inability or refusal to act, the vice-presidents in the order of their length of service as vice-presidents, unless otherwise determined by the Board of Directors, shall perform the duties of the president, and when so acting shall have all the powers of and be subject to all the restrictions upon the president. Any vice-president shall perform any duties as from time to time may be assigned to him by the president or the Board of Directors.

Section 8. Secretary. The secretary shall (a) keep the minutes of the meetings of members, of the Board of Directors and of all executive committees in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these by-laws or as required by law; (c) be custodian of the Association records and of the seal of the Association and see that the seal of the Association is affixed to all documents the execution of which on behalf of the Association under its seal is duly authorized; (d) keep a register of the post office address of each member that shall be furnished to the secretary by the member; (e) keep or cause to be kept in the State of North Carolina at the Association's registered office or principal place of business a record of the members, giving the names and addresses of all members, and prepare or cause to be prepared voting lists prior to each meeting of members as required by law; and (f) in general perform all duties incident to the office of secretary and other duties as from time to time may be assigned to him by the president or by the Board of Directors.

Section 9. Assistant Secretaries. In the absence of the secretary or in the event of his death, inability or refusal to act, the assistant secretaries in the order of their length of service as assistant secretary, unless otherwise determined by the Board of Directors, shall perform the duties of the secretary, and when so acting shall have all the powers of and be subject to all the restrictions upon the secretary. They shall perform other duties as may be assigned to them by the secretary, by the president, or by the Board of Directors.

Section 10. Treasurer. The treasurer shall (a) have charge and custody of and be responsible for all funds and securities of the Association; receive and give receipts for moneys due and payable to the Association from any source whatsoever, and deposit all moneys in the name of the Association in depositories selected in accordance with the provisions of Section 4 of Article VII of these by-laws; (b) prepare, or cause to be prepared, a true

statement of the Association's assets and liabilities as of the close of each fiscal year, all in reasonable detail, which statement shall be made and filed at the Association's registered office or principal place of business in the State of North Carolina within four months after the end of each fiscal year and kept available there for a period of at least ten years; and (c) in general perform all of the duties incident to the office of treasurer and other duties as from time to time may be assigned to him by the president or by the Board of Directors, or by these by-laws.

Section 11. Assistant Treasurers. In the absence of the treasurer or in the event of his death, inability or refusal to act, the assistant treasurers in the order of their length of service as assistant treasurer, unless otherwise determined by the Board of Directors, shall perform the duties of the treasurer and when so acting shall have all the powers of and be subject to all the restrictions upon the treasurer. They shall perform other duties as may be assigned to them by the treasurer, by the president, or by the Board of Directors.

ARTICLE VII
CONTRACTS, LOANS, CHECKS 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 Association, and the authority may be general or confined to specific instances.

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

Section 3. Checks and drafts. All checks, drafts or other orders for the payment of money, issued in the name of the Association, shall be signed by the Officer or Officers, agent or agents, of the Association and in a manner as shall from time to time be determined by resolution of the Board of Directors.

Section 4. Deposits. All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in depositories selected by the Board of Directors.

ARTICLE VIII
ASSESSMENTS

Section 1. Budget. The Board of Directors shall propose a complete operating budget for each succeeding fiscal year which shall be submitted to the members for review, modification, and adoption at each annual members' meeting. The budget as adopted shall specifically state the aggregate annual assessment attributable to each lot and to subdivision of lots and assessable against each lot owner and to each owner of a subdivided lot for the ensuing year. Lots with an "A" suffix designation shall be considered as part of the same numbered lots without an "A" suffix designation and shall not be subject to assessment separate from lots without an "A" suffix designation. For example, for the purpose of assessment, Lot 64 and 64 A shall be considered as a single lot.

Section 2. Deficiencies. During the course of any fiscal year, the Board of Directors may levy supplemental assessments in the appropriate category of assessments if revenue attributable to any assessment shall be less than the actual costs incurred therefore by the Association, or if the Association shall incur any cost or expenses not foreseen in the budget. Payment of these supplemental assessments shall be as prescribed by the Board of Directors.

Section 3. Assessment Collections. Assessments shall be paid to the Association for the purposes expressed in, and pursuant to, Article IV, Section 2 of the Declaration.

Section 4. Collection of Delinquent Accounts. The Board of Directors shall be empowered to enforce the collection of all assessments pursuant to Article IV, Section 2 of the Declaration. The Board of Directors may direct the officers, agents, and attorneys of the Association to pursue in the Association's name those remedies available to it.

Section 5. Segregation of Accounts. The Board of Directors may direct that the establishment of Separate bank accounts (or accounts with independent trustees) as it may deem desirable to segregate operating revenue receipts from capital contributions and for funds received for repairs or maintenance services for the Development which shall be incurred in future fiscal years.

Section 6. Initiation Fee. An initiation fee of \$50.00 per lot shall be assessed to each owner immediately upon his acquiring ownership of a lot, or of a subdivided portion of a lot. The initiation fee shall not pertain to lots with an "A" suffix.

ARTICLE IX GENERAL PROVISIONS

Section 1. Seal. The corporate seal of the Association shall consist of two concentric circles between which is the name of the association and in the center of which is inscribed SEAL; and the seal, as impressed on the margin hereby adopted as the seal of the Association.

Section 2. Waiver of Notice. Whenever any notice is required to be given to any member or director by law, by the articles or by these by-laws, a waiver thereof in writing signed by the person or persons entitled to the notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

Section 3. Indemnification. Any person who at any time serves or has served as a director, officer, employee or agent of the Association, or in that capacity at the request of the Association for any other corporation, partnership, joint venture, trust or other enterprise, shall have a right to be indemnified by the Association to the fullest extent permitted by law against (a) reasonable expenses, including attorney's fees, actually and necessarily incurred by 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 Association seeking to hold him liable by reason of the fact that he is or was acting in that capacity, and (b) reasonable payments made by him in satisfaction of any judgment, money decree, fine, penalty or settlement for which he may have become liable in any action, suit or proceeding.

The Board of Directors of the Association shall take all such action as may be necessary and appropriate to authorize the Association to pay the indemnification required by this by-law, including without limitation, to the extent needed, making good faith evaluation of the manner in which the claimant for indemnity acted and of the reasonable amount of indemnity due him and giving notice to, and obtaining approval by, the members of the Association.

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

Section 5. Fiscal Year. The fiscal year of the Association shall be fixed by the Board of Directors.

Section 6. Amendments. Except as otherwise provided herein, these by-laws may be amended or repealed and new by-laws may be adopted by the affirmative vote of a majority of the directors then holding office at any regular or special meeting of the Board of Directors.

The Board of Directors shall have no power to adopt a by-law (1) prescribing quorum or voting requirements for action by members or directors different from those prescribed by law; (2) increasing or decreasing the number of directors; or (3) classifying and staggering the election of directors.

No by-law adopted or amended by the shareholders shall be amended or repealed by the Board of Directors, except to the extent that the by-law expressly authorize its amendment or repeal by the Board of Directors.

ARTICLE X
NET EARNINGS

Section 1. No part of the net earnings of the organization shall inure to the benefit of its members, directors, officers, or other persons except that the organization shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the exempt purposes of the organization.

ARTICLE XI

Section 1. In the event of dissolution, the residual assets will be turned over to one or more organizations with similar purposes which are exempt as organizations described in Section 501 (c) (3) of the Internal Revenue Code of 1986.

Adopted this the 12th day of March, 1998.

(CORPORATE SEAL)

BRUSH CREEK PROPERTIES HOMEOWNERS ASSOCIATION, INC.

BY Richard Williams
PRESIDENT

ATTEST:

Anne E. Williams
ANNE E. WILLIAMS, Secretary

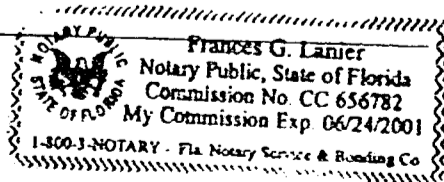
STATE OF FLORIDA
COUNTY OF PASCO

I, Frances G. Lanier, a Notary Public of the aforesaid County and State, do hereby certify that ANNE E. WILLIAMS personally came before me this day and acknowledged that she is Secretary of BRUSH CREEK PROPERTIES HOMEOWNERS ASSOCIATION, INC., a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by her as its Secretary.

WITNESS my hand and Notarial Seal, this the 12th day of March, 1998.

Frances G. Lanier
Notary Public

My Commission Expires:



NORTH CAROLINA
SWAIN COUNTY

The foregoing certificate(s) of Francis G Lamer,
Notary(ies) Public, is/are certified to be correct. This
instrument was presented for registration and recorded in this
office in Book 214 at page 707.

This the 27 day of May, 1998, at 4:18²⁴ o'clock
42 .M.

Ahana W. Kirkland, asst.
REGISTER OF DEEDS

FILED in SWAIN County,
on May 27 1998 at 04:18:24.PM
Genevieve Lindsay
Register of Deeds