

**BYLAWS OF**  
**CROSS CREEK HOMEOWNERS ASSOCIATION OF DELAND,**  
**PHASE TWO, INC.**

(a Florida not-for-profit corporation)

ARTICLE I. IDENTITY

The following Bylaws shall govern the operation of CROSS CREEK HOMEOWNERS ASSOCIATION OF DELAND, PHASE TWO, INC. (hereafter called the Association). The seal of the Association shall bear the words “*Cross Creek Homeowners Association*”, the word “*Florida*”, the words “*Association not-for-profit*” and the year of incorporation, “*1994*”. The address of the Association is 1577 Corner Crossing Road, DeLand, FL 32720, or at such other place as may be designated by the Board of Directors.

ARTICLE II. DEFINITIONS

**Section 1.** “*Association*” shall mean and refer to Cross Creek Homeowners Association, its successors and assigns.

**Section 2.** “*Common Areas*” shall mean and refer to all real property owned by the Association for the common use of the property owners.

**Section 3.** “*Lot*” shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the exception of the common areas.

**Section 4.** “*Articles*” shall mean and refer to the Certificate of Incorporation of the Cross Creek Homeowners Association. In the event of any conflict or discrepancy between these Bylaws and the Articles of Incorporation, the terms and provisions of the Articles of Incorporation shall prevail.

ARTICLE III. MEMBERSHIP AND VOTING PROVISIONS

**Section 1. Membership:** Membership in Association shall be limited to Owners of Lots in the Subdivision. When there is a transfer of Lot ownership, either voluntarily or by operation of law, membership shall automatically become vested in the transferee. If Lot is owned by more than one person, then those owners shall be members eligible to hold office and attend meetings. The vote of a Lot shall be cast only by the “*Voting Member*” agreed to by the owners of the Lot. If a corporation owns a Lot, that corporation must designate one officer or employee of the corporation as its “*Voting Member*”.

**Section 2. Voting:** Each Lot shall be entitled to one vote. If an Owner owns more than one Lot, he shall be entitled to one (1) vote for each Lot owned. The vote of a Lot shall not be divisible. A majority of the Lot Owners’ total votes shall decide any question, unless otherwise

provided by the Declaration, these Bylaws or the Articles of Incorporation.

**Section 3. Quorum:** Unless otherwise provided, thirty percent (30%) of the Lot Owners' total votes, in person or in proxy, shall constitute a quorum for the purpose of conducting a meeting. Any vote conducted at such meeting shall be by majority of those entitled to vote, unless otherwise required by the Declaration, the Articles of Incorporation, these Bylaws or Florida statutes.

**Section 4. Proxies:** Votes of Lot Owners may be cast by proxy, which shall be in writing and shall comply with the requirements of Florida law. Proxies shall only be effective for the specific meeting for which given. In no event shall any proxy be valid for a period longer than ninety (90) days prior to or after the date of the meeting for which it was given. A proxy is revocable at any time at the pleasure of the Lot Owner executing it.

**Section 5. Designation of Voting Member:** The record title to the Lot shall establish the right to vote. If a Lot is owned by more than one (1) person, all of the record owners of the Lot shall designate the person entitled to vote for the Lot. That person shall be identified in a certificate which shall be filed with the Secretary of the Cross Creek Homeowners Association. If a Lot is owned by a corporation, the person entitled to cast the vote of the Lot shall be designated in a certificate, duly signed by the President of the corporation and filed with the Association Secretary. If such certificate is not on file with the Secretary, the vote of the Lot shall not be considered in determining the requirements for a quorum or for any purpose requiring the approval of a person entitled to cast a vote for the Lot. Any certificate filed with the Secretary shall be valid until revoked or until a change in the ownership of the Lot is effected.

#### ARTICLE IV. MEETING OF MEMBERSHIP

**Section 1. Place and Time:** Special or Annual meetings of the Cross Creek Homeowners Association shall be held at such place and time as shall be designated by the Board of Directors and set forth in the notice of the meeting. All meetings shall be open to all Lot Owners. The Annual Meeting of the membership shall be held in December of each year. The members then present shall elect directors and transact such other business as may be properly brought before the meeting.

**Section 2. Notices:** Written notice of each Annual or Special meeting of the Association shall be posted or delivered to each Lot Owner not less than thirty (30) days prior to such meeting and shall include the specific reason for the meeting. The Secretary of the Cross Creek Homeowners Association shall execute an affidavit, to be maintained as part of the Association's records, affirming that a notice was posted in conspicuous places or delivered in accordance with this Section.

**Section 3. Special Meetings:** Special meetings of the membership of the Cross Creek Homeowners Association may be called by the President or by a majority of the Board of Directors or in writing by twenty-five (25%) percent of the Lot Owners entitled to vote. The written request will specify the purpose of the proposed meeting. Business transacted at special meetings shall be confined to the topics set forth in the notice for the meeting.

**Section 4. Adjourned Meeting:** In the event any meeting of the membership of the Cross Creek Homeowners Association cannot be called because a quorum is not present, either in person or by proxy, the meeting may be adjourned from time to time until a quorum is present.

**Section 5 Minutes:** The minutes of all meetings of the membership and of the Board of

Directors shall be kept in a book available for inspection by Lot Owners, or their authorized representatives. The Association shall retain these minutes for a period of not less than seven (7) years or in accordance with Florida law.

## ARTICLE V. DIRECTORS

**Section 1. Number and Qualifications:** Unless otherwise reduced or increased by a vote of the membership, the Cross Creek Homeowners Association shall be governed by a Board of Directors composed of five (5) persons. All Directors shall be members of the Association. The terms of the Directors' service shall be staggered.

**Section 2. Terms and Elections:** Members of the Board shall be elected by the membership in results announced at the Annual Meeting and shall serve terms no more than three (3) years. Ballots containing the names of all candidates to fill vacancies shall be mailed or delivered to all Lot Owners no less than fourteen (14) days prior to the Annual Meeting. The President may appoint an Election Committee that will prepare the ballots, count the votes, and present the results to the Secretary for confirmation and announcement at the Annual Meeting.

**Section 3. Organization:** Within ten (10) days after the Annual Meeting, the Board of Directors will meet at a place and time as shall be set by the Board for an organizational meeting. Members of the Board of Directors will elect officers who will serve at the pleasure of the Board members.

**Section 4. Fiduciary Relationship:** Members of the Board of Directors have a fiduciary relationship with the members of the Association. This imposes obligations of trust and confidence in favor of the Cross Creek Homeowners Association and its members. It requires each Director to act in good faith and in the best interest of the Association.

**Section 5. Indemnification:** When members of the Board of Directors properly execute their duties within the scope of responsibilities assigned to them, they will be indemnified by the Cross Creek Homeowners Association when claims or suits are brought against them for their actions.

**Section 6. Removal of Directors:** Any one or more of the Directors may be removed, with or without cause, by the vote or agreement in writing of a majority of all Lot Owners. A successor may then and there be elected or appointed to fill the vacancy. Recalled Directors are required to turn over all records in his/her possession within seventy-two (72) hours of the recall. If the recall is disputed, the Board of Directors shall, within seventy-two (72) hours file with a court of appropriate jurisdiction in Volusia County, Florida for a petition of binding arbitration pursuant to Florida statutes. All parties shall be bound thereby.

**Section 7. Vacancies:** If any Director position becomes vacant for any reason, a majority of the remaining Directors, even though less than a quorum, shall choose a successor. That person shall hold office for the balance of the unexpired term of the vacant Director.

**Section 8. Quorum:** A majority of Directors present shall constitute a quorum for the transaction of business. The acts of the quorum shall be the acts of the Board of Directors.

**Section 9. Disqualification and Resignation of Directors:** Any Director may resign by sending a written notice of such resignation to the Secretary of the Cross Creek Homeowners Association. The resignation shall take effect upon receipt by the Secretary. The transfer of title of a Lot by a Director shall automatically constitute a resignation. A Director may be removed by the remaining directors if he/she is absent for three (3) consecutive meetings of the Board of

Directors without a reasonable cause.

**Section 10. Meetings:** The Board of Directors may establish a schedule of regular meetings to be held at such time and place as it may designate. All meetings of the Board of Directors shall be open to all Lot Owners. Adequate notice of meetings shall be conspicuously posted at least forty-eight (48) hours in advance, except in emergencies.

**Section 11. Compensation:** The Directors shall serve without fee or compensation, but may be entitled to reimbursement of reasonable expenses, if approved by a majority of the Board of Directors.

## ARTICLE VI. POWERS AND DUTIES OF THE BOARD OF DIRECTORS

**Section 1. Powers:** The Board of Directors shall have the powers necessary for the administration of the affairs of the Cross Creek Homeowners Association and may perform all acts granted to them by the Covenant, the Articles of Incorporation and these Bylaws. These powers shall specifically include, but shall not be limited to, the following:

A. Adopt and publish rules and regulations governing the use of the Common Areas and facilities, and the personal conduct of its members and guests.

B. Suspend the voting rights of a member during any period such member shall be in default in the payment of any assessment levied by the Cross Creek Homeowners Association.

C. Exercise for the Association all powers, duties, and authority vested in or delegated to the Association, and not reserved to the membership by other provisions of these Bylaws and the Articles of Incorporation.

D. Appoint committee chairpersons and grant them the duties the Board deems appropriate.

E. Make assessments, collect said assessments, and use and expend the assessments to carry out the purposes and powers of the Association.

F. Employ, dismiss, control the necessary personnel for the maintenance and operation of the Association, including the right and power to employ attorneys, accountants, contractors, and other professionals as needed.

G. Make and amend regulations regarding the operation and use of the Common Areas.

H. Purchase real property and items of furniture, furnishings, fixtures and equipment for the Association.

I. Establish rules and regulations for the Association and impose and assess fines, penalties or other sanctions for the violations thereof, provided that such fines do not exceed the maximum amount permitted by Florida law, ~~and~~ provided that reasonable notice and an opportunity for a hearing have been given and there is compliance with applicable Florida law.

**Section 2. Duties:** The Board of Directors is responsible for, but not limited by, the following:

A. Maintain records of all its acts and corporate affairs, and present a statement thereof to the members at the Annual Meeting, or at other meetings when such statement is required by at least twenty-five (25) percent of the members.

B. Supervise all committees to determine that assigned duties are properly performed.

C. Fix the amount of the annual assessment against each Lot and notify members at least thirty (30) days in advance of each annual assessment period.

D. Place a lien on any Lot if assessments are not paid within forty-five (45) days after due dates.

E. Foreclose the lien against any Lot for which assessments are not paid within forty-five (45) days after due date and/or bring an action at law against the owner personally obligated to pay the same.

F. Procure and maintain adequate Liability and Hazard Insurance on property owned by the Association.

G. Cause to be bonded all members of the Board of Directors, Treasurer, Secretary, and committee chairpersons having financial responsibilities.

H. Maintain the Common Areas.

I. Insure that all funds in excess of actual expenses be retained and applied against the common expenses for the next fiscal year.

## ARTICLE VII. OFFICERS

**Section 1. Positions:** The principal officers of the Cross Creek Homeowners Association shall be a President, a Vice-President, a Secretary and a Treasurer, who shall be elected by the Board of Directors. The office of Secretary and Treasurer may be combined. The President and Vice-President shall be members of the Board of Directors.

**Section 2. Election:** The officers of the Association shall be elected annually by the Board of Directors at the organizational meeting of each new Board following the annual meeting of the Association.

**Section 3. Appointments:** The Board may appoint such other officers that the affairs of the Association may require. Appointees shall hold office, have authority, and perform duties as the Board determines.

**Section 4. President:** The President shall be the chief executive officer of the Association. The President shall preside at all meetings of the Lot Owners and of the Board of Directors and shall have executive powers and general supervision over the affairs of the Association and other officers. The President shall sign all written contracts to perform all of the duties incident to the office and others that may be delegated from time to time by the Board.

**Section 5. Vice-President:** The Vice-President shall perform all of the duties of an absent President and perform other duties as may be required from time to time by the Board of Directors.

**Section 6. Secretary:** The Secretary shall issue notices of meetings of the Association and the Board of Directors. The Secretary shall attend and keep minutes of all meetings and shall have charge of the Association's books, records and papers except those kept by the Treasurer. The Secretary may or may not be an elected member of the Board.

**Section 7. Treasurer:** The Treasurer shall have custody of the Association's funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Association. The Treasurer shall deposit all monies and other valuable effects in the name of and to the credit of the Association, in such depositories as may be designated from time to time by the Board of Directors.

The Treasurer shall disburse the funds of the Association as may be ordered by the Board

of Directors in accordance with these Bylaws, making proper vouchers for such disbursements. Treasurer shall render to the President and Board of Directors at the regular meetings of the Board, or whenever required, an account of all transactions and of the financial condition of the Association.

The Treasurer shall collect all assessments and shall promptly report the status of collections and of all delinquencies to the Board of Directors.

The Treasurer shall give reliable status reports to potential transferees.

The Treasurer shall prepare a financial statement of the accounts of the Association and report the statement to the Board of Directors and the Association membership at the Annual Meeting. The statement will not require an audit.

The Treasurer may or not be an elected member of the Board of Directors.

**Section 8. Resignation and Removal** Officers may be removed, with or without cause, by the Board of Directors. Officers may resign at any time by giving written notice to the Board. Such resignations shall take effect on the date of receipt of such notice. Acceptance of the resignation shall not be necessary to make it effective.

**Section 9. Vacancy:** Vacancy of offices on the Board of Directors may be filled by appointment by the Board of Directors. Officers appointed to fill vacancies shall serve for the remainder of the term of the replaced officer.

**Section 10. Compensation** Officers shall serve without fee or compensation, but may be entitled to reimbursement of reasonable expenses, if approved by a majority of the Board of Directors.

**Section 11. Fidelity Bonds.** All persons who are authorized to sign checks may be bonded, at the discretion of the Board of Directors. Bond premiums shall be paid by the Association.

**Section 12. Fiscal Year:** The fiscal year for the Association shall begin on the first day of January of each calendar year.

**Section 13. Applications of Payments, Co-mingling of Funds:** All sums collected by the Association may be co-mingled in a single fund, or divided into more than one fund as determined by the Board of Directors. All assessments received shall be first applied to attorneys' fees and costs, if any, then to delinquent payments.

## ARTICLE IX. ASSESSMENTS, BUDGETS

**Section 1. Determination of Assessments:** The Board of Directors of the Cross Creek Homeowners Association shall fix and determine from time to time the sums necessary for the expenses of the Association. Association expenses shall include those necessary for the operation, maintenance, repair or replacement of the Common Areas, costs of carrying out the powers and duties of the Association, all insurance premiums and other costs designated as Common Expenses. The Board of Directors is specifically empowered to make and collect assessments and to lease, maintain, repair and replace the Common Areas. Funds for the payment of the Common Expenses shall be assessed against Lot Owners in equal shares. Special assessments, as may be required by the Board of Directors, shall be levied in the same manner as provided for regular assessments and shall be payable in such time or installments as determined by the Board of Directors.

**Section 2. Budgets:** A copy of the proposed annual budget of Common Expenses shall

be distributed to all Lot Owners not less than thirty (30) days prior to the meeting at which the budget will be considered. The distribution shall include notice of the date, time and place for the meeting at which the budget will be considered.

#### ARTICLE VIII. ADDITIONS AND ALTERATIONS

No Lot Owner may make any alterations, modifications or additions to the Common Areas without the prior written consent of the Board of Directors of the Cross Creek Homeowners Association.

#### ARTICLE X. COMPLIANCE AND DEFAULT

**Section 1. Violations:** In the event of a violation by any Lot Owner, guests, tenants or invitees, the Association, through its Board of Directors, may notify the Lot Owner in writing of the violation via U. S. mail or personal delivery. If such violation shall continue for three (3) days from the date of the notice, the Association will treat the violation as an intentional and material breach. The Association may then, at its option, take the following actions:

- A. An action at law to recover for its damage on behalf of the Association and/or on behalf of the other Lot Owners;
- B. An action in equity to enforce performance on the part of the Lot Owner;
- C. An action in equity for such equitable relief as may be necessary under the circumstances, including injunctive relief;
- D. Imposition of sanctions, including but not limited to restriction, suspension or prohibition of the right to use Common Areas; or
- E. Such other remedies as may be available under Florida law.

**Section 2. Negligence of Lot Owner:** All Lot Owners shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his own act, neglect or carelessness or by that of any member of his family or his guests, employees, agents or lessees, but only to the extent that such expense is not met by the proceeds of insurance, if any, maintained by the Association. Such liability shall include any increase of insurance rates occasioned by use, misuse, occupancy or abandonment of any Lot. Nothing hereby contained shall be construed so as to modify any waiver by any insurance company of its rights or subrogation. The expense for any maintenance, repair or replacement shall be charged to said Lot Owner as a specific item which shall be a lien against said Lot with the same force and effect as if the charge were a part of the Common Expenses.

**Section 3. Costs and Attorneys' Fees:** In any proceeding arising between a Lot Owner and the Cross Creek Homeowners Association, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be determined by the Court.

**Section 4. No Waiver of Rights:** The failure of the Association or of a Lot Owner to enforce any right, provision, covenant or condition which may be granted by the Declaration, these Bylaws or the Articles of Incorporation shall not constitute a waiver of the right of the Association or Lot Owner to enforce such right, provision, covenant or condition in the future.

**Section 5. Election of Remedies:** All rights, remedies and privileges granted to the Association or Lot Owner shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus

exercising the same from exercising such other and additional rights, remedies or privileges as may be granted at law or in equity.

#### ARTICLE XI. TRANSFER OF LOTS

Lot Owners shall notify the Cross Creek Homeowners Association of any transfer or conveyance of said Lot within ten (10) days of the date of same. Notices sent to the person shown as owner of said Lot shall be binding on any other Owner of that Lot regardless of whether the Association has been notified.

#### ARTICLE XII. AMENDMENTS TO BYLAWS

The Bylaws may be altered, amended, rescinded or modified at any duly called meeting of the Lot Owners, in accordance with the provisions of Article VII of the Articles of Incorporation.

#### ARTICLE XIII. INDEMNIFICATION

The Cross Creek Homeowners Association shall indemnify every Director and every officer, his/her heirs, executors and administrators, against all loss, cost and expense reasonably incurred by him/her with respect to any action, suit or proceedings to which he/she may be made a party by reason of his/her being or having been a Director or officer of the Association. The exception is in matters where he/she shall be liable for or guilty of gross negligence or willful misconduct. These rights shall be in addition to and not exclusive of all other rights to which such Director or officer may be entitled.

#### ARTICLE XIV. LIABILITY SURVIVES TERMINATION OF MEMBERSHIP

The termination of membership in the Cross Creek Homeowners Association shall not relieve or release any former Lot Owner from any liability or obligations incurred under or in any way connected with the Association during the period of such ownership.

#### ARTICLE XV. PARLIAMENTARY RULES

*Roberts Rules of Order* (latest edition) shall govern the conduct of all meetings unless in conflict with Florida law, the Declaration, these Bylaws or the Articles of Incorporation.

#### ARTICLE XVI. RULES AND REGULATIONS

**Section 1.** The Board of Directors may, from time to time, adopt or amend rules and regulations governing the operating, use, maintenance, management and control of the Common Areas and the Association property.

**Section 2.** A copy of the Rules and Regulations adopted from time to time shall be posted in a conspicuous place and copies shall be furnished to each Lot Owner upon request.

**Section 3.** In the event of any conflict between the Rules and Regulations adopted or



amended and these Bylaws, these Bylaws shall prevail.

ARTICLE XVII. TRANSFER FEES

No charge shall be made by the Association in connection with the sale, mortgage, lease, sublease or other transfer of a Lot.

The foregoing Bylaws were adopted as the Bylaws of the Cross Creek Homeowners Association at the meeting of the Board of Directors held October 13, 2009.

Approved October 13, 2009

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President, Cross Creek Homeowners Association

Attest:

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Secretary, Cross Creek Homeowners Association