

**BY-LAWS  
OF  
DEERFIELD CREEK HOA, INC.**

**ARTICLE I**

**NAME AND LOCATION**

The name of the corporation is Deerfield Creek HOA, Inc., (hereinafter referred to as the "Association"). The initial principal office of the corporation shall be located at P.O. Box 2514, Kennesaw, Georgia 30144, but meetings of members and directors of the Association may be held at such places within the State of Georgia, County of Cobb as may be designated by the Board of Directors. The principal office may be changed by a vote of the Board of Directors.

**ARTICLE II**

**DEFINITIONS**

The words used in these By-Laws shall have the same meaning as set forth in the Declaration of Protective Covenants for Deerfield Creek Subdivision (the "Declaration") unless the context shall prohibit.

**ARTICLE III**

**MEETING OF MEMBERS**

Section 1. Annual Meetings. The first annual meeting of the members shall be held within one year from the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be set by the Board of Directors so as to occur no later than sixty (60) days after the close of the Association's fiscal year.

Section 2. Special Meetings. Special meetings of the members may be called at any time by the President or by the Board of Directors, or upon written request of the members who are entitled to vote one-fourth (1/4) of all of the votes of the Class A membership.

Section 3. Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, one-tenth (1/10th) of the votes of each class of membership shall constitute a quorum

for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or represented.

Section 5. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Lot.

#### ARTICLE IV

#### BOARD OF DIRECTORS: SELECTION: TERM OF OFFICE

Section 1. Governing Body: Composition. The affairs of this Association shall be managed by a Board of Directors. Except as provided in Section 2 of this Article, the directors must reside in Cobb County and shall be members or spouses of such members; provided, however, no person and his or her spouse may serve on the Board at the same time.

Section 2. Directors Appointed by Declarant. The Declarant shall have the right to appoint or remove any member or members of the Board of Directors or any officer or officers of the Association until such time as Declarant surrenders, in writing, its authority to appoint and remove directors and officers of the Association. The directors selected by the Declarant need not be Owners or residents in Deerfield Creek Subdivision.

Section 3. Number of Directors. Except during the period in which the Declarant has the right to appoint the directors of the Association under Section 2 of this Article, the Board shall consist of three (3) members.

Section 4. Nomination of Directors. Elected directors shall be nominated from the floor and may also be nominated by a nominating committee, if such a committee is established by the Board. All candidates shall have a reasonable opportunity to communicate their qualification to the members and to solicit votes.

Section 5. Election and Term of Office. Owner-elected directors shall be elected and hold office as follows:

(a) After the Declarant's right to appoint directors and officers terminates, the Association shall call a special meeting to be held at which Owners shall elect three (3) directors.

(b) At annual meetings of the membership thereafter, directors shall be elected by secret ballot. All eligible members of the Association shall vote on all directors to be elected, and the candidate(s) receiving the most votes shall be elected. Cumulative voting is not permitted.

Initially, the term of one (1) director shall be fixed at one (1) year, the term of one (1) director shall be fixed at two (2) years, and the term of one (1) director shall be fixed at three (3) years. At the expiration of the initial term of office of each respective Owner-elected member of the Board of Directors, a successor shall be elected to serve for a term of two (2) years. The members of the Board of Directors shall hold office until their respective successors shall have been elected by the Association.

Section 6. Removal. Any Director may be removed from the Board, with or without cause, by a majority vote of the members of the Association a special meeting called for that purpose. In the event of death, resignation or removal of a Director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 7. Compensation. No Director shall receive compensation for any service he may render to the Association. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 8. Vacancies. A vacancy in any director seat may be filled by appointment by the Board. The director appointed to such vacancy shall serve for the remainder of the term of the director he replaces.

Section 9. Action Taken Without a Meeting. The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

## ARTICLE V

### MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held monthly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special Meetings of the Board of Directors shall be held when called by the President of the Association, or by any two (2) Directors, after not less than three (3) days notice to each Director.

Section 3. Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

**ARTICLE VI**

**POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

Section 1. Powers. The Board of Directors shall have the power to:

- (a) adopt and publish rules and regulations governing the use of the Common Area as said term is defined in the Declaration, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;
- (b) suspend the voting rights and right to use of any recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations;
- (c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;
- (d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and
- (e) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

Section 2. Duties. It shall be the duty of the Board of Directors to:

- (a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Class A members who are entitled to vote;
- (b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;
- (c) as more fully provided in the Declaration, to:
  - (1) fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period;
  - (2) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

(3) foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same;

(d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payments;

(e) procure and maintain adequate liability and hazard insurance on property owned by the Association;

(f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and

(g) cause the Common Area as said term is defined in the Declaration and any other areas located within the Properties which are the maintenance responsibility of the Association to be maintained.

**ARTICLE VII**

**OFFICERS AND THEIR DUTIES**

Section 1. Enumeration of Officers. Except during the period in which the Declarant has the right to appoint the officers of the Association under Article IV, Section 2, of these By-Laws, the officers of this Association shall be a President and Vice-President, who shall at all times be members of the Board of Directors, a Secretary, a Treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. Except during the period in which the Declarant has the right to appoint the officers of the Association under Article IV, Section 2, of these By-laws, the election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

President

(a) The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

Vice-President

(b) The Vice-President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

Secretary

(c) The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notices of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

Treasurer

(d) The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association and keep proper books of account.

**ARTICLE VIII  
COMMITTEES**

The Association shall appoint an Architectural Control Committee, as provided in the Declaration, and a Nominating Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose. Notwithstanding any provision to the contrary herein, Declarant shall have the right to appoint the Architectural Control Committee until such time as Declarant relinquishes its right to appoint same in accordance with the Declaration.

**ARTICLE IX  
BOOKS AND RECORDS**

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

**ARTICLE X  
CORPORATE SEAL**

The Association shall have a seal in circular form having within its circumference the words: Deerfield Creek HOA, Inc.

**ARTICLE XI  
AMENDMENTS**

Section 1. These By-Laws may be amended, at a regular or special meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy, except that the Federal Housing Administration or the Veterans Administration shall have the right to veto amendments while there is a Class B membership. Notwithstanding the foregoing, for so long as Declarant has the right to appoint the officers and directors of the Association as provided herein, such amendment shall have the approval of Declarant.

Section 2. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

**ARTICLE XII**

**MISCELLANEOUS**

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December every year, except that the first fiscal year shall begin on the date of incorporation.



**CERTIFICATION**

I, the undersigned, do hereby certify:

That I am the Incorporator of Deerfield Creek HOA, Inc., a Georgia corporation, and

That the foregoing By-Laws constitute the original By-Laws of said Association, and have been duly adopted.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association, this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

\_\_\_\_\_  
SUSAN S. STUART

**MINUTES OF THE ORGANIZATIONAL MEETING  
OF THE INCORPORATOR OF  
DEERFIELD CREEK HOA, INC.**

The undersigned, being the Incorporator of Deerfield Creek HOA, Inc., a Georgia non-profit corporation (the "Corporation"), pursuant to Section 14-3-205 of the Georgia Nonprofit Corporation Code, as amended, adopt the following resolutions on behalf of Deerfield Creek HOA, Inc.

**RESOLVED**, that the Articles of Incorporation and By-Laws of the Corporation are accepted and adopted as the Articles of Incorporation and By-Laws of Deerfield Creek HOA, Inc. Copies of those documents and the Certificate of Incorporation of the Secretary of State may be found in the minute book of the Corporation;

**BE IT FURTHER RESOLVED**, that the Corporation's initial fiscal year shall commence on March 14, 2001, and end on December 31, 2001. Thereafter, the fiscal year shall commence on January 1 and end on the next following December 31 of each year;

**BE IT FURTHER RESOLVED**, that Ryan Schultz is the sole director of Deerfield Creek HOA, Inc.

**BE IT FURTHER RESOLVED**, that the following individual is elected to serve in the corporate office(s) designated opposite his name for one (1) year and until his successor is duly elected and qualifies:

Ryan Schultz

President/Vice President,  
Secretary/Treasurer

**BE IT FURTHER RESOLVED**, that the seal affixed to this Consent is adopted as the official seal of the Corporation;

**BE IT FURTHER RESOLVED**, that all such resolutions which may be required by banks hereafter selected by the Corporation dealing with the designation of such banks as depositories be and hereby are adopted as resolutions of the Board of Directors; and the Secretary of the Corporation may hereafter attest to and execute such bank resolutions and/or forms without additional action of the Board of Directors;

**BE IT FURTHER RESOLVED**, that the appropriate officers of the Corporation are authorized to take such actions and, in general, execute such documents, instruments or consents and make such filings with appropriate government agencies on behalf of the Corporation as may be necessary to effectuate these resolutions.

DATED as of the \_\_\_\_\_ day of \_\_\_\_\_, 2001.

\_\_\_\_\_  
Susan S. Stuart, Incorporator

**ARTICLES OF INCORPORATION  
OF  
DEERFIELD CREEK HOA, INC.**

In compliance with the requirements of Georgia Law, the undersigned has this day voluntarily associated a corporation not for profit, which is hereby organized pursuant to the Georgia Non-Profit Corporation Code, and do hereby certify:

**ARTICLE I**

The name of the Corporation is Deerfield Creek HOA, Inc., (hereinafter called the "Association").

**ARTICLE II**

The initial principal office and mailing address of the Association is located at P. O. Box 2514, Kennesaw, Georgia 30144, said address being located in Cobb County,

**ARTICLE III**

Susan S. Stuart, whose address is 192 Anderson Street, Marietta, Cobb County, Georgia 30060, is hereby appointed the initial registered agent of this Association.

**ARTICLE IV**

**PURPOSE AND POWERS OF THE ASSOCIATION**

This Association does not contemplate pecuniary gain or profit to the members thereof, and the specific purposes for which it is formed are to provide for maintenance, preservation and architectural control of the Lots and Common Area within that certain tract of property described in the Declaration of Protective Covenants for Deerfield Creek Subdivision (the "Declaration") as the same is recorded or will be recorded in the Superior Court Records, Cobb County, Georgia, and to promote the health, safety and welfare of the residents within the above

described property and any additions thereto as may hereafter be brought within the jurisdiction of this Association for this purpose to:

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

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

(c) upon the assent of two-thirds ( $\frac{2}{3}$ ) of each class of members, acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;

(d) borrow money, and with the assent of two-thirds ( $\frac{2}{3}$ ) of each class of members, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(e) dedicate, sell or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument

has been signed by two-thirds (2/3) of each class of members, agreeing to such dedication, sale or transfer;

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

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

#### ARTICLE V

#### MEMBERSHIP

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

#### ARTICLE VI

#### VOTING RIGHTS

The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds

an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant (as defined in the Declaration), and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership as set forth in the Declaration.

#### ARTICLE VII

#### DISSOLUTION

The Association may be dissolved with the assent given in writing and signed by not less than two-thirds (2/3) of each class of members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.

#### ARTICLE VIII

#### DURATION

The corporation shall exist perpetually.

**ARTICLE IX**

**AMENDMENTS**

Amendment of these Articles shall require the assent of seventy-five percent (75%) of the entire membership.

**ARTICLE X**

**FHA/VA APPROVAL**

As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties, mergers and consolidations, mortgaging of Common Area, dedication of Common Area, dissolution and amendment of these Articles.

**ARTICLE XI**

**INCORPORATOR**

The name and address of the incorporator is:

Susan S. Stuart  
MOORE INGRAM JOHNSON & STEELE, LLP  
192 Anderson Street  
Marietta, Georgia 30060

**IN WITNESS WHEREOF**, for the purpose of forming this corporation under the laws of the State of Georgia, the undersigned, constituting the incorporator of this Association, has executed these Articles of Incorporation this 14<sup>th</sup> day of March, 2001.

\_\_\_\_\_  
SUSAN S. STUART  
Incorporator