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WILLIAM LEE KING, Henderson COUNTY, NC

## BY-LAWS

BRENDA MORGAN 275 CEDAR SPRINGS DR ZIONVILLE 28790  
OF  
ROCK CREEK HOMEOWNERS' ASSOCIATION, INC.  
HENDERSON COUNTY, NC

REVISED 12/12/15

### ARTICLE I

#### NAME AND LOCATION

The name of the corporation is Rock Creek Homeowners' Association, Inc., hereinafter referred to as the "Association." The principal office of the corporation shall be located at the home of the sitting president. Meetings of members and directors may be held at such places within the State of North Carolina, as may be designated by the Board of Directors.

### ARTICLE II

#### DEFINITIONS

Section 1. The definitions for "Association," "Declarant," "Owner," "Property," "Lot," "Common Property," and "Dwelling Unit," shall be defined as set forth in the Covenants, Restrictions, Easements, Reservations, Terms, and Conditions governing Rock Creek Subdivision as recorded in Book 1073 at pages 270-279, and amended as recorded in Book 1090 at pages 617-628, Book 1093 at pages 616-617, Book 1093 at page 618, Book 1168 at pages 448-451, and Book 1214 at pages 442-443 located at the Office of the Register of Deeds for Henderson County, North Carolina.

Section 2. The definition for "Declaration" is any instrument, however denominated, that creates a planned community and any amendment to those instruments. This and other definitions pertaining to planned communities can be found in NC General Statute, Chapter 47F-1-103.

Section 3. "Member" shall mean and refer to those persons or entities entitled to membership with voting rights as provided in the Declaration and in Article III, Section 1, of these By-Laws.

## ARTICLE III

### MEMBERSHIP AND PROPERTY RIGHTS

Section 1. Membership. Every Owner of a Lot shall be a Member of the Association. Membership shall belong, as by right to, and may not be separated from ownership of any Lot, and may not be assigned.

Section 2. Voting Rights. The Association shall have one (1) class of voting membership. The Members of the Association shall consist exclusively of the owners of all Lots and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person owns an interest in a Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Section 3. Property Rights. Each member shall be entitled to the use and enjoyment of the Common Property as provided in the Declaration.

## ARTICLE IV

### MEETINGS OF MEMBERS

Section 1. Annual Meeting. A regular annual meeting of the Members shall be held each year, at a time and location to be determined by the Board of Directors.

Section 2. Special Meetings. Special meetings of the Members may be called at any time at the request of the President, a majority of the Directors, or by lot owners having twenty percent (20%) of the votes in the association.

Section 3. Notice of Meeting. 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, US mail, or sent by electronic means, including by electronic mail over the Internet, not less than 10 nor more than 60 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, or e-mail address listed on the current Rock Creek HOA Directory. Such notice shall specify the place, day, and hour of the meeting, and the items on the agenda, including the general nature of any proposed amendment to the Declaration or By-Laws, any budget changes, and any proposal to remove a Director or Officer. Waiver by a Member in writing of the notice required herein, signed by the Member before or after such meeting, shall be equivalent to the giving of such notice.

Section 4. Quorum. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, twenty percent (20%) of the total votes allocated to all Members 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 be represented.

**Section 5. Voting.** At all meetings of Members, any action can be authorized by a majority vote of all members attending the meeting, in person or by proxy except amendment of Declarations, which will require affirmative vote in person or by proxy of at least sixty-seven percent (67%) of the total votes allocated in the Association.

**Section 6. 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 by written notice to the Association President or in person at an annual meeting.

## **ARTICLE V**

### **BOARD OF DIRECTORS, SELECTION, TERM OF OFFICE**

**Section 1. General Powers.** The business and affairs of the Association shall be managed by its Board of Directors, except as otherwise expressly provided by law, the Articles of Incorporation, the Declaration, or these By-Laws. All power of the Association shall be vested in the Board of Directors.

**Section 2. Number, Term and Qualifications.** The number of Directors constituting the Board shall be a minimum of three (3). The Directors of the Association shall be elected annually by the Members and each shall hold office for one (1) year unless he or she shall sooner resign, or shall be removed, or otherwise be disqualified to serve. Nothing herein shall be construed to prevent the election of a director to succeed him or herself. Members shall act according to the Standards for Directors of a Nonprofit Corporation set forth in North Carolina G.S. 55A-8-30. At least two (2) of the Directors shall be residents of Rock Creek Subdivision. A maximum of one Director per immediate family is permitted at any given time.

**Section 3. Removal.** Any Director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association. 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 4. Compensation.** No Director shall receive compensation for any service he may render to the Association as a Director. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

**Section 5. 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 VI

### NOMINATION AND ELECTION OF DIRECTORS

**Section 1. Election and Nomination.** Election to the Board of Directors shall be by secret written ballot at the Annual Meeting. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration and Article III of these By-Laws. The person receiving the largest number of votes for each vacancy shall be elected.

**Section 2. Nominations.** Nominations for elections to the Board of Directors shall be made by a Nominating Committee. Nominations for elections to the Board may also be made from the floor at the Annual Meeting. The Nominating Committee shall consist of a Chairman and one or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors at least 60 days prior to each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine but not less than the number of vacancies that are to be filled.

## ARTICLE VII

### MEETINGS OF DIRECTORS

**Section 1. Regular Meetings.** Regular meetings of the Board of Directors shall be held annually, or at such other periodic intervals as may be established by the Board of Directors from time to time, without notice, at such place and hour as may be fixed from time to time by resolution of the Board.

**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 Directors, after not less than three (3) day's 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 VIII

### POWERS AND DUTIES OF THE BOARD OF DIRECTORS

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

(a) Adopt and publish rules and regulations governing the use of the Common Property, and the personal conduct of the Members, and their guests thereon;

(b) Suspend the voting rights and any other rights (except rights of access to lots) of a Member during any period in which such Member shall be in default in the payment of any assessment, dues, or charge levied by the Association. Such rights may also be suspended, after

notice and hearing, for a period not to exceed 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;
- (e) Employ a manager, an independent contractor, or such other employees as they deem necessary, to accomplish their duties;
- (f) Employ attorneys to represent the Association when deemed necessary;
- (g) Appoint Members to committees to carry out functions of the Association, as necessary;
- (h) After notice to the Owner and a reasonable opportunity to be heard and in accordance with North Carolina G.S. 47F-3-107.1 of the Planned Community Act, assess reasonable fines against a Member for violations of the Declaration, these By-Laws, the Articles of Incorporation, or the Association's published Rules and Regulations by such Member, or such Member's family, guests, invitees, and lessees in an amount not to exceed \$100.00 for each violation, and without further hearing, for each day more than five (5) days after the decision that the violation occurs. Such fines shall be deemed to be assessments secured by liens pursuant to Section 47F-3-107.1 of the Planned Community Act.

**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 any special meeting when such statement is requested in writing by one-fourth (1/4) of the Members;
- (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 30 days in advance of each annual assessment period;
  - (2) Send written notice of each assessment to every Owner subject thereto at least 30 days in advance of each annual assessment period;
  - (3) Using their discretion, file a lien and foreclose the lien against any property for which assessments are not paid within 12 months 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 member, 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 payment;

(e) Procure and maintain adequate liability insurance covering the Association, its Directors, Officers, agents, and employees, and to procure and maintain adequate hazard insurance on any real and personal property owned by the Association;

(f) Cause all Officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) Cause the Common Property to be maintained.

**Section 3. Personal Liability.** Personal liability for all Directors for monetary damages arising out of an action or actions, whether by or in the right of the corporation, or otherwise for breach of any duty as a Director, is eliminated except respect to acts, omissions, liabilities, and/or transactions described and defined in North Carolina General Statutes 55A-2-02(b) (4) (i), (ii), (iii), and (iv). Every person who is or shall be or shall have been a member of the Board of Directors or Officer of the Association, and his or her personal representative, shall be indemnified by the Association against all costs and expenses reasonably incurred by or imposed on him or her in connection with or resulting from any action, suit, or proceeding to which he or she may be made a party by reason of his or her being or having been a member of the Board of Directors or Officer of the Association or any subsidiary or affiliate thereof, except in relation to such matters as to which he or she shall finally be adjudicated in such action, suit, or proceeding to have acted in bad faith or to have been liable by reason of willful misconduct in the performance of his or her duty as such member of the Board of Directors or Officer. For purposes of this provision, "costs and expenses," shall include, without limiting the generality thereof, attorney's fees, damages, and reasonable amounts paid in settlement. Nothing contained in these By-Laws shall be deemed to eliminate or reduce the protection from personal liability granted to members of the Board of Directors by the North Carolina G.S. 55A, Nonprofit Corporation Act or by the Articles of Incorporation of the Association.

## **ARTICLE IX**

### **OFFICERS AND THEIR DUTIES**

**Section 1. Enumeration of Officers.** The Officers of this Association shall be a President and Vice-President, who shall at all times be a member of the Board of Directors, a Secretary and a Treasurer who need not be members of the Board of Directors, and such other Officers as the Board may from time to time appoint.

**Section 2. Election of Officers.** The election of Officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members. The appointment or removal of any Officer or Officers of the Association shall be made by the Board of Directors.

**Section 3. Term.** The Officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year unless he or she shall sooner resign, or shall be removed, or otherwise be disqualified to serve. Nothing herein, except the provisions of Article IX, Section 1 above, shall be construed to prevent the election of an Officer to succeed him or herself.

**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 and 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 or she replaced.

**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 and the Homeowners' Association Annual Meeting; 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 promissory notes.

**Vice-President**

(b) The Vice-President shall act in the place and stead of the President in the event of his absence, disability, 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 pages requiring said seal; serve notice of meetings of the Board and 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 such funds as directed by resolution of the Board of Directors; shall authorize payment of all checks and co-sign promissory notes of the Association; keep proper books of account; and shall prepare an annual budget and statement of income and expenditures to be presented to the membership at its Annual Meeting and deliver a copy of each to the Members.

**Section 9. Checks.** Checks of the Association may be signed by the President or the Treasurer.

**ARTICLE X**

**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 XI**

**CORPORATE SEAL**

The Association shall have a seal in circular form having within its circumference the words: Rock Creek Homeowners' Association, Inc, North Carolina.

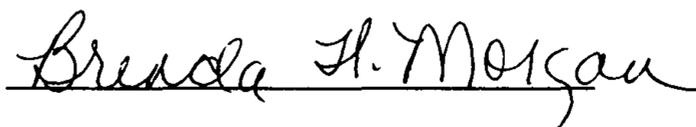
Certification

I, the undersigned, do hereby certify:

That I am the duly elected secretary of the Rock Creek Homeowners' Association, Inc., a North Carolina corporation, and

That the foregoing By-Laws constitute By-Laws of the Association and were duly adopted at a meeting of the Members held on the 12th day of December, 2015.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of the Association this 28th day of December, 2015.



Brenda H. Morgan  
Secretary

Sworn to and subscribed before me, in my presence this 28<sup>th</sup> day of December 2015. A North Carolina Notary Public, in and for the State at Large JONAH D. ISSERMAN, Notary Public.

My Commission Expires May 22, 2019.

