

STATE OF ALABAMA )  
COUNTY OF SHELBY )

REVISED  
10/30/95  
31

DECLARATION OF RESTRICTIVE COVENANTS FOR  
DEER CREEK ESTATES

KNOW ALL MEN BY THESE PRESENTS: That:

WHEREAS, MICHAEL D. WESSON and KATHLEEN R. WESSON (herein collectively the "Developer") has heretofore acquired fee simple title of certain real property situated in Shelby County, Alabama and has subdivided such property into seven (7) tracts (herein "Lots") as described in map survey of Deer Creek Estates, as recorded in Map Book 20, Page 75 in the Probate Office of Shelby County, Alabama (the "Survey"). The real property referred to in the Survey is referred to herein as the "Property"; and

WHEREAS, the Developer desires to develop the Property into a residential estate subdivision to be known as Deer Creek Estates, subject to the restrictions and covenants set forth in this Declaration of Restrictive Covenants for Deer Creek Estates (herein "the Declaration"); and

WHEREAS, the Developer desires to subject each Lot owner as herein defined to membership in Deer Creek Homeowners Association (the "Association").

NOW, THEREFORE, the Developer does, upon recording hereof, declare and make the Property and each of the Lots included in the subdivision of the Property subject to the covenants, conditions, restrictions, uses, limitations and affirmative obligations set forth in this Declaration, and on the Survey all of which are declared to be in furtherance of a plan for the improvement of the

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SHELBY COUNTY JUDGE OF PROBATE  
030 MCD 81.00

Inst # 1995-31518

Property in a desirable and uniform manner, and all of which shall run with the land and shall be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof, and shall be for the benefit of each such owner of property or interest therein, and shall inure to the benefit of and be binding of and be binding upon each successor in interest to the owners thereof.

## **ARTICLE I**

### **Land Use**

1. The Property will be used for residential purposes only and not for any business or trade. Home offices are allowed, however, such allowance is intended only to allow individual work at a residence located on a Lot, but not the conduct of business with the presence of the general public at the Property except for the casual buying, selling, trading, breeding or foaling of horses as hereinafter specifically authorized by Article V paragraph 1.

## **ARTICLE II**

### **Building Requirements**

1. MINIMUM STRUCTURE SIZE PRIMARY DWELLING. No Lot shall contain more than one primary dwelling (the "Dwelling") and no primary Dwelling shall be erected on any Lot which Dwelling contains less than 1700 square feet of living space. Living space is defined as heated/finished area and does not include porches, garages, basements, carports or attics. For the purpose of these restrictions, "Lot" shall mean any "Lot" contained in the map recorded at Map Book 20, Page 75, Office of the Judge of Probate,

Shelby County, Alabama, or any additional Lot(s) resulting from future subdivision as authorized by Article V, Paragraph 10 as hereinafter set out.

2. There shall be no mobile homes, manufactured homes or multi-family dwellings on any Lot.

3. Barns, stables and equipment sheds are specifically authorized.

4. SEPTIC TANKS. All septic tanks must be of an improved type, such tanks together with adequate field lines must be approved and completely acceptable to the Shelby County Health Department. No septic tank or field line shall be constructed unless they comply in all respects with state and local laws and regulations. No sewer or drainage lines shall be constructed or laid which shall empty on or become a nuisance to an adjoining Lot or property line.

### ARTICLE III

#### Roadway

A. ROADWAY. The road (the "Road") accessing the Lots existing on the Property is a private road. The Developer does hereby grant, bargain, sell and convey to each Lot and each Lot shall enjoy as an appurtenance a non-exclusive perpetual easement for vehicular, pedestrian and horseback, ingress, egress and for utilities to benefit only the Lots, which easement shall run with the Land. To have and to hold forever. Each Lot over which the Road runs is hereby subject to such easement. The Road contains a bridge (the "Bridge") and a creek crossing. The easement

established herein shall be twenty-five (25) feet from both sides of the center line of the Road as described on Exhibit "B" attached hereto and incorporated by reference herein and as it physically exists, notwithstanding the physical width of the Road, that is to say, the Road as defined herein is a fifty (50) foot right-of-way. The Road also consists of a fifty (50) foot radius cul-de-sac as located on the easterly end of the Property and as shown on the Survey. All other easements as shown on the Survey are hereby incorporated by reference herein and specifically reserved for the use as set forth on the Survey. This aspect of the Declaration is not subject to termination for any reason. The Developer hereby grants, bargains, sells and conveys the Road to the Association, to have and to hold forever.

B. ROAD MAINTENANCE. .

(i) The Developer shall maintain the Road, the Bridge and the creek crossing for a period of one (1) year from the date of the recording of this Declaration (herein the "Developer Maintenance Period"). The Developer shall seal the Road prior to the expiration of the Developer Maintenance Period and shall provide a letter of credit or other security in favor of the Lot owners other than the Developer in an amount equal to the cost of providing such seal.

(ii) After the Developer Maintenance Period has expired, the Road shall be maintained by the Association, each Lot owner bearing 1/7 of any such expense authorized by the Association. Such percentage shall be changed in the event of future subdivision as



authorized by Article V, Paragraph 10 as hereinafter set out so that the denominator is always the number of Lots within the Property. An affirmative vote of at least a majority of the members of the Association shall be necessary to effectuate any improvement, repair or maintenance of the Road unless such repairs are required by any governmental authority having jurisdiction, in which case such repairs or maintenance required by such authority shall be binding on all of the owners. The provisions of Article III, Paragraph (B)(ii), shall apply to road maintenance so long as the Road is a private road, notwithstanding any earlier termination of these covenants.

C. CONVERSION TO A PUBLIC ROAD.

(i) The Road may be offered for dedication to the appropriate governmental authority as a public road at any time upon the affirmative unanimous vote of all of the owners of the Lots (the "Requisite Vote").

(ii) Upon obtaining the Requisite Vote, all costs of dedication, including any expenses necessary to upgrade the Road, shall be divided equally between the Lot owners. By accepting an instrument granting title to a Lot within the Subdivision (whether legal or equitable, by deed, mortgage or otherwise), any person so obtaining title to a Lot shall be deemed to have granted to any or all of the other owners of Lots, a power of attorney coupled with an interest in order to accomplish an authorized dedication as provided herein.

D. Each Lot owner shall indemnify and hold harmless the

other Lot owners from and against any cause of action, claim or demand caused by any Lot owner's (their invitees or guests) damage to the Roadway.

#### ARTICLE IV

##### Pond

A. PRIVATE USE. The pond as shown on attached Exhibit "A" (the "Pond") shall only be used by and benefit Lots 1 and 2 (the "Pond Lots"). No owner of a Pond Lot shall allow guests or invitees the use of the Pond unless such Pond Lot owner is present at the time of such use.

B. OWNERSHIP. It is expressly understood and by accepting a deed or mortgage to a Pond Lot, each such Pond Lot owner or mortgagee recognizes that the ownership of the Pond bed shall be as depicted on Exhibit "A", however, the owners of the Pond Lots shall have the unrestricted use of the entire surface of the Pond for boating, fishing and swimming.

C. RESTRICTIONS.

(i) No boat houses shall be constructed on any Pond Lot.

(ii) Only electric boat motors shall be used on the Pond. No internal combustion boat motors shall be used.

(iii) No owner of a Pond Lot shall make such use of the water in the Pond so as to cause the pool of the Lake to diminish below its natural state.

(iv) Each Pond Lot owner shall carry liability insurance specifically covering casualty and liabilities which may result from the existence or use of the Pond.

(v) The aspects of this Declaration relating to the Pond as set forth in this Article IV are not subject to termination as hereinafter set out.

## ARTICLE V

### Miscellaneous

1. ANIMALS. Horses are allowed. Each Lot owner having horses shall constrain and maintain such horses. Domestic animals (dogs and cats) are allowed. No cows, swine or fowl are allowed (except for naturally existing fowl). No commercial breeding of any animals will be allowed. Notwithstanding the foregoing, this paragraph is not intended to prohibited the casual buying, selling or trading of horses nor the casual breeding or foaling of horses.

2.

A. GRANTEE'S ACCEPTANCE. The grantee of any Lot subject to the coverage of this Declaration, by acceptance of the deed or other instrument conveying an interest in or title to, or the execution of a contract for the purchase thereof, whether from Developer or a subsequent owner of such Lot, shall accept such deed or other contract upon and subject to each and all of these restrictions herein contained and other easements, restrictions and reservations of record.

B. DEER CREEK HOMEOWNERS ASSOCIATION, INC. (the "Association"). By accepting a deed to a Lot, as an appurtenance to such Lot, an owner shall become a member of the Deer Creek Homeowners Association, Inc. and be subject to the Articles of Incorporation and By-Laws of such Association as they exist and are

from time to time amended. Copies of the initial Articles of Incorporation and By-Laws are attached hereto as Exhibits "C" and "D".

3. INDEMNITY FOR DAMAGES. Each and every Lot owner and future Lot owner, in accepting a deed or contract for any Lot subject to this Declaration, agrees to indemnify Developer for any reasonable direct damage (but not consequential damages) caused by such owner; or the contractor, agent, or employees of such owner, to roads, streets, gutters, bridges, creek crossing, walkways or other aspects of public ways, including all surfacing thereon, or to water, drainage or storm sewer lines or sanitary sewer lines owned by Developer, or for which Developer has responsibility, at the time of the damage.

4. SEVERABILITY. Every one of the provisions and restrictions is hereby declared to be independent of, and severable from the rest of the provisions and restrictions and of and from every other one of the provisions and restrictions and of and from every combination of the provisions and restrictions.

5. OWNER. As used herein, "Owner" shall mean the record fee title owner of a Lot within the Subdivision, whether such ownership is by one or more person and/or entity.

6. NO REVERTER. No restriction herein is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.

7. DURATION AND AMENDMENT. The restrictions contained in this Declaration shall run with and bind the Property, shall inure



to the benefit of and shall be enforceable by Developer, and the owner of any Lot included in the Property, their respective legal representatives, heirs, successors and assigns until the 31st day of December, 2015, after which time said restrictions shall be automatically extended for successive periods for 10 years. The termination aspects set forth herein do not apply to the Road and Pond. This Declaration may not be amended in any respect except by the execution of an instrument by all of the Lot owners, which instrument shall be filed for recording among the Land Records of Shelby County, Alabama, or in such other place of recording as may be appropriate at the time of the execution of such instrument. After December 31, 2015, this Declaration may be amended and/or terminated in its entirety (with the exception of the provisions regarding the Road and Pond) by an instrument signed by not less than a majority of the Lot owners, which instrument shall be filed for recording among the Land Records of Shelby County, Alabama, or in such other place of recording as may be appropriate at the time of the execution of such instrument.

8. ENFORCEMENT. In the event of a violation or breach of any of these restrictions or any amendments thereto by any owner of a Lot, or employee, agent, or lessee of such owner, the owner(s) of Lot(s), Developer, their successors and assigns, or any party to whose benefit these restrictions inure shall have the right to proceed at law or in equity to compel compliance with the terms and conditions hereof, to prevent the violation or breach of said restrictions, to sue for and recover damages for any amounts

required to be paid hereunder, or take all such courses of action at the same time, or such other legal remedy it may deem appropriate. No delay or failure on the part of an aggrieved party to initiate an available remedy set forth herein shall be held to be a waiver of that party or of any other party to assert any right available to him upon the recurrence or continuation of said violation or the occurrence of different violations.

Damages shall not be deemed adequate compensation for any breach or violation of any provision hereof, but any person or entity entitled to enforce any provision hereof shall be entitled specifically to relief by way of injunction as well as any other available relief either at law or in equity.

Any party to proceeding who succeeds in enforcing a restriction or enjoining the violation of a restriction against a Lot owner may be awarded a reasonable attorney's fee against such Lot owner.

The Association shall have the right to place a recorded lien on any Lot for the purpose of securing the payment of any amounts owing by a Lot owner under this Declaration and the Association may enforce such lien in the same manner as foreclosure of a mortgage.

9. NO WAIVER. The failure of any party entitled to enforce any of these restrictions herein contained shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to such violation or breach occurring prior or subsequent thereto. Notwithstanding this Article V, Paragraph 9, it is expressly understood that if a patent

violation of these covenants occurs that is known to any person entitled to enforce these covenants and no such party raises a timely objection, that any such violation shall be deemed waived as to such violation.

10. FUTURE SUBDIVISION.

A. Subject to the approval of the appropriate governmental authorities, Developer reserves the unilateral right to further subdivide Lots 4 and 5. Such further subdivision shall be limited to one (1) subdivision per Lot. In such event, Developer, at the sole cost and expense of the Developer, shall cause to be recorded with the Office of the Judge of Probate of Shelby County, Alabama a resurvey of the Survey indicating such division. Any additional Lots resulting from such division shall be subject to these Covenants and Deer Creek Homeowners Association, Inc.


B. Any owner of any Lot within the Property except for Lot 1 shall be entitled to further subdivide one (1) time any such Lot subject to the approval of the appropriate governmental authorities. All cost and expenses associated with such further subdivision shall be borne by the Lot owner performing such subdivision. After such subdivision, the resulting Lots may not be further subdivided. Any Lot(s) resulting from such subdivision shall be subject to these Covenants and Deer Creek Homeowners Association, Inc.


11. Union State Bank, by executing this document, indicates its express consent to be bound by the terms of this Declaration and further expressly acknowledges that its mortgage, as it appears

in Instrument #1995-11493, in the Office of the Judge of Probate, Shelby County, Alabama, is expressly subservient to and subject to the easement grant as set forth in Article III, Paragraph A above and expressly acknowledges that any foreclosure of its mortgage shall not in any way disturb such easement as it appears as an appurtenance to the Lots, that is to say that anyone acquiring title to a lot (including Union State Bank) through a foreclosure of the Union State Bank mortgage as referred to herein shall take such title to such Lot subject to the said easement. This Paragraph 10 shall be binding on Union State Bank, its successors and assigns.

12. By executing this document, Michael D. Wesson, as the incorporator of Deer Creek Homeowners Association, Inc., hereby binds such Association to the terms and conditions set forth in this Declaration.

IN WITNESS WHEREOF, the undersigned as the owner of the Property, has caused this Declaration to be executed as of the 1st day of NOVEMBER, 1995.

  
Michael D. Wesson

  
Kathleen R. Wesson

UNION STATE BANK

By:  
Its:

  
Exec. V.P.

DEER CREEK HOMEOWNERS  
ASSOCIATION, INC.

By:

  
Michael D. Wesson  
Its: Incorporator



STATE OF ALABAMA )

COUNTY OF Jefferson )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that MICHAEL D. WESSON and KATHLEEN R. WESSON, whose names are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day, that being informed of the contents of the foregoing instrument they executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 1 day of November, 1995.

  
Notary Public  
My Commission Expires: 3-1-98

STATE OF ALABAMA )

COUNTY OF \_\_\_\_\_ )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that \_\_\_\_\_, whose name as \_\_\_\_\_ of UNION STATE BANK, a state banking institution, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he/she, as such officer and with full authority, executed the same voluntarily for and as the act of said state banking institution on the day the same bears date.

Given under my hand and seal this 1<sup>st</sup> day of November, 1995.

  
Notary Public  
My Commission Expires: \_\_\_\_\_

MY COMMISSION EXPIRES 10-5-96

STATE OF ALABAMA )

COUNTY OF Jefferson )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that MICHAEL D. WESSON, whose name as incorporator of DEER CREEK HOMEOWNERS ASSOCIATION, INC., a corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and seal this 1 day of November, 1995.

[Signature]  
Notary Public  
My Commission Expires: 3-1-98

## DEER CREEK ESTATES

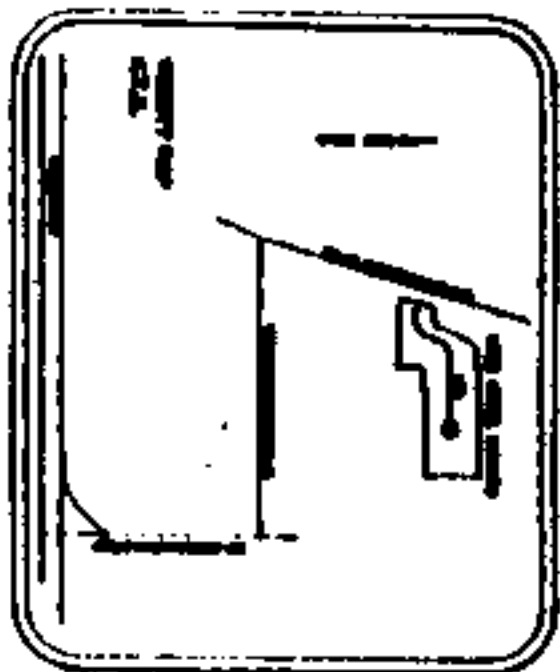
A single Family Private Sewerage Substation attached to the north 1/2 of Section 18, Township 29 north, Range 2 west, Shoshone County, Idaho.



\_\_\_\_\_

**SCALE 1 - 100**

SHELBY COUNTY HIGHWAY NO. 35 (80' R.O.V.)



PSNO

HIGH HAMPTON

# EXHIBIT 'B'

A parcel of land lying in the N.W. 1/4 of the S.E. 1/4 and the N.E. 1/4 of the S.W. 1/4 of section 18, Township 20 south, Range 2 west in Shelby County, Alabama.

Commence at the S.W. corner of the N.W. 1/4 of the N.E. 1/4 of Section 18, Township 20 south, Range 2 west; thence S00deg-17'33"E along west line of said 1/4-1/4 section for a distance of 1331.68 feet; thence N89deg-28'02"E for a distance of 856.17 feet; thence S48deg-20'08"W for a distance of 242.49 feet; thence S0deg-00'00"W for a distance of 73.79 feet; thence S28deg-19'49"E for a distance of 99.41 feet to the center of a cul-de-sac with a 50 feet radius, said point being the **POINT OF BEGINNING** of the centerline of proposed Deer Crest Circle (50 feet R.O.W.), said right-of-way lying 25 feet to both sides of and parallel to said centerline; thence S88deg-12'26"W along said centerline for a distance of 535.23 feet to the beginning of a curve to the left, having a central angle of 25deg-52'07" and a radius of 298.18 feet; thence along the arc of said curve and along said centerline for a distance of 134.63 feet to the end of said curve and beginning of a curve to the right, having a central angle of 21deg-36'35" and a radius of 350.00 feet; thence along the arc of said curve and said centerline of a distance of 132.01 feet to the end of said curve; thence S83deg-56'54"W along said centerline for a distance of 177.00 feet to the beginning of a curve to the left, having a central angle of 39deg-51'48" and a radius of 350.00 feet; thence along the arc of said curve and said centerline a distance of 243.51 feet to the end of said curve; thence S44deg-05'06"W along said centerline for a distance of 111.80 feet to the beginning of a curve to the right, having a central angle of 23deg-55'56" and a radius of 102.61 feet; thence along the arc of said curve and along said centerline for a distance of 42.86 feet to the end of said curve; thence S68deg-01'08"W along said centerline for a distance of 17.60 to the beginning of a curve to the right, having a central angle 33deg-02'33" and a radius of 500.00 feet; thence along the arc of said curve and said centerline for a distance of 288.79 feet to a point on the southeasterly right-of-way of Shelby County Highway number 35 (80 foot R.O.W.), also the end of said centerline.



ARTICLES OF INCORPORATION  
OF  
DEER CREEK HOMEOWNERS ASSOCIATION, INC.  
A NON-PROFIT CORPORATION

TO THE HONORABLE JUDGE OF PROBATE OF SHELBY COUNTY, ALABAMA:

We, the undersigned, each of whom is over the age of nineteen years, desiring to organize a non-profit corporation under the provisions of the Alabama Non-Profit Corporation Act (Code of Alabama, 1975, Section 10-3A-1 et seq.), hereby sign, verify and file these Articles of Incorporation and certify as follows:

1. NAME: The name of the corporation is:

Deer Creek Homeowners Association, Inc.

2. DURATION: The period of duration of the corporation shall be perpetual.

3. PURPOSE: The terms used herein shall have the meaning attributed to them in the Declaration of Restrictive Covenants for Deer Creek Estates (the "Covenants"). The specific purposes for which the corporation is organized are to provide for the maintenance, operation, management and repair of the roadway, bridge and creek crossing within that development known as Deer Creek Estates and to implement and carry out the provisions of the Covenants.

Notwithstanding any other provision of the Articles, the corporation is not organized for private pecuniary profit, nor shall it have any power to issue certificates of stock or declare dividends, and no part of its net earnings, if any, shall inure to the benefit of any member, director, or individual. The corporation shall not enter into any transaction, carry on any activity, or engage in any business for pecuniary profit.

In connection with the purpose of the corporation described above, the corporation may:

- (a) Exercise all of the powers and privileges and perform all of the duties and obligations of an association of Lot owners as set forth in the Covenants, recorded in the Office of the Judge of Probate of Shelby County, Alabama in Instrument #1995-31518, as the same may be amended from time to time as therein provided, said Covenants being incorporated herein as if herein set forth at large and at length.

- (b) Fix, levy, collect and enforce payment by any lawful means of all charges or assessments pursuant to the terms of the Covenants; pay all expenses in connection therewith and all office or other expenses incident to the conduct of the business of the

corporation, and to collect, hold, invest and expend all funds paid to the corporation as agent of and for the Lot Owners.

(c) Maintain the roadway, bridge and creek crossing and all improvements located thereon, make payments of taxes, insurance, repairs, and any other expenses necessary to the maintenance of said property, and pay operating expenses of every kind and character whatsoever, and any other desirable improvements from time to time as this corporation shall deem best.

(d) Enforce the covenants and restrictions contained in the Covenants, and make, establish and enforce reasonable rules and regulations governing the administration, management and use of the common areas and facilities.

(e) Purchase, acquire, hold, improve, sell, convey, assign, exchange, release, mortgage, encumber, lease, hire and deal in real and personal property of every kind and character.

(f) Apply for, purchase, or acquire by assignment, transfer or otherwise, and hold, mortgage or otherwise pledge, and sell, exchange, transfer, and deal in any license, power, authority, concession, right or privilege which any non-profit corporation may make or grant.

(g) Enter into, make and perform contracts of every kind for any lawful purpose without limit as to amount, with any person, firm, association, corporation, municipality, county, state, territory, government, governmental subdivision or body politic.

(h) Solicit and receive funds and other property, real, personal, and mixed, and interests therein, by gift, transfer, devise, or bequest, and invest, hold, manage, administer, expend and apply such funds and property subject to such conditions and limitations, if any, as may be expressed in any instrument evidencing such gift, transfer, devise or bequest.

(i) Exercise all of the powers vested in non-profit corporations by the Constitution and laws of the State of Alabama, including, without limitation, the Alabama Non-Profit Corporation Act, Code of Alabama, 1975, Section 10-3A-1, et seq.

The foregoing clauses, and each phrase thereof, shall be construed as objects and purposes of this corporation in addition to those powers specifically conferred upon the corporation by law, and it is hereby expressly provided that the foregoing specific enumeration of purposes and powers shall not be held to limit or restrict in any manner the powers of the corporation otherwise granted by law. Nothing herein contained, however, shall be construed as authorizing this corporation to carry on any business for profit.

4. MEMBERS: The corporation shall have one class of members. Every person or entity who is a record owner of a fee simple title to any Lot in Deer Creek Estates, as defined in the Covenants, shall be a member.

5. BOARD OF DIRECTORS:

(a) Control and Management of the Corporation: The control and management of the corporation and its property and affairs shall be vested in the Board of Directors.

(b) Initial Directors: The Board of Directors shall initially be composed of three (3) Directors. The names and addresses of the persons who are to serve as the initial Directors are as follows:

<u>NAME</u>	<u>ADDRESS</u>
Michael D. Wesson	<u>4912 Indian Valley Road</u> <u>Birmingham AL 35244</u>
Kathleen R. Wesson	<u>4912 Indian Valley Road</u> <u>Birmingham, AL 35244</u>
J. Scott Boudreaux	<u>604 38<sup>TH</sup> ST. S.</u> <u>BIRMINGHAM, AL.</u> <u>35222</u>

(c) Election: Directors shall be elected at the annual meeting of the members of the Association by majority vote of the members.

(d) Action by Consent: Any action required or permitted to be taken at any meeting of the Board of Directors of the corporation or of any committee thereof may be taken without a meeting, if a consent in writing setting forth the action so taken is signed by all members of the Board of Directors or members of such committee. Such consent shall have the same force and effect as a unanimous vote of the Board of Directors or such committee.

(e) By-Laws: The provisions for the internal regulation and management of the affairs of the corporation shall be set forth in the By-Laws. The Board of Directors shall have the power to alter, amend or repeal the By-Laws, or adopt new By-Laws, in any manner not inconsistent with these Articles of Incorporation or applicable laws of the State of Alabama.

6. INITIAL REGISTERED AGENT AND OFFICE: The address of the initial registered office of the corporation is 4912 INDIAN VALLEY ROAD BIRMINGHAM, AL. 35244.



The name of the registered agent at such address is Michael D. Wesson.

7. OFFICERS: The officers of the corporation shall consist of a President, a Secretary, a Treasurer, and such other officers and assistant officers as may be deemed necessary, each of whom shall be elected or appointed at such time, in such manner and for such terms as may be prescribed in the By-Laws.

8. NON-STOCK AND NON-PROFIT STATUS:

(a) This corporation shall have no capital stock, is not organized for profit, and does not contemplate pecuniary gain or profit to the members, individuals, officers or directors thereof. No part of the earnings of the corporation shall inure to the benefit of any member, individual, officer, or director. The corporation does not contemplate the distribution of gains, profits, or dividends to any member, individual, officer or director thereof, and is organized solely for non-profit purposes.

(b) Nothing herein shall authorize the corporation, directly or indirectly, to engage in or include among its purposes, any activities proscribed by the Alabama Non-Profit Corporation Act (Code of Alabama, 1975, Section 10-3A-1 et seq.).

9. DISSOLUTION OF CORPORATION: Should the corporation be dissolved at any time by voluntary or involuntary action, its assets remaining after payment of, or provision for payment of, all debts and liabilities of the corporation shall be distributed to such members or persons as may be specified in a plan of distribution adopted in accordance with Code of Alabama, 1975, Section 10-3A-142.

10. NO PERSONAL LIABILITY: No individual, member, director or officer of the corporation shall be personally liable for the debts or obligations of the corporation.

11. INCORPORATOR: The name and address of the incorporator is as follows:

NAME  
Michael D. Wesson

ADDRESS  
4912 Indian Valley Road  
Birmingham, AL 35244

IN WITNESS WHEREOF, the undersigned incorporator has hereunto subscribed his name to these Articles of Incorporation this 1 day of NOVEMBER, 1995.



  
Michael D. Wesson

STATE OF ALABAMA )

COUNTY OF Jefferson )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that MICHAEL D. WESSON, whose name as incorporator of DEER CREEK HOMEOWNERS ASSOCIATION, INC., a corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such incorporator and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and seal this 1 day of NOVEMBER, 1995.

  
Notary Public  
My Commission Expires: 3-1-98

**BY-LAWS  
OF  
DEER CREEK HOMEOWNERS ASSOCIATION, INC.**

**A Corporation Not for Profit  
Under the Laws of the State of Alabama**

These By-Laws of DEER CREEK HOMEOWNERS ASSOCIATION, INC. (hereinafter called the "Association" or the "Corporation") adopted by the undersigned directors effective as of the 1 day of NOVEMBER, 1995.

WHEREAS, the Deer Creek Estates Subdivision was created by Record Map filed in the Office of the Judge of Probate of Shelby County, Alabama, in Map Book 20, Page 75; and

WHEREAS, the Articles of Incorporation of the Association were filed in the Office of the Judge of Probate of Shelby County, Alabama, in Instrument # 1995-31517 on the 1 day of NOVEMBER, 1995, creating a corporation not for profit, incorporated under the laws of the State of Alabama, organized for the purpose of providing for the maintenance, operations, management and repair of the Road, Bridge and creek crossing (sometimes herein the "Common Facilities") within that certain development known as the Deer Creek Estates.

NOW, THEREFORE, the undersigned members of the Board of Directors of the Association, being so named in said Articles of Incorporation, hereby adopt the By-Laws of the Association as follows:

**ARTICLE I**

**ASSOCIATION**

**1.1 Office:** The office of the Association shall be at any home located on a Lot included in Deer Creek Estates, provided such home is owned by a then current member of the Board of Directors, and further provided that such owner is willing to make his (her) home available for such meeting, or such other place as shall be selected by a majority of the Board.

**1.2 Fiscal Year:** The fiscal year of the Association shall be the calendar year.

**1.3 Terms:** All terms used herein shall have the same meaning attributed to them in the Declaration of Restrictive Covenants for Deer Creek Estates.

## ARTICLE II

### 2.1 Annual Meetings:

(a) The regular annual members meeting shall be held at the office of the Association at 6:00 PM, on the third Tuesday in November of each year, for the purpose of electing the Board of Directors and of transacting any other business authorized to transacted by the members.

(b) The time of holding the annual meeting of members may be changed at any time prior to fifteen (15) days before the regular day for holding such meeting by a resolution duly adopted by the Board of Directors or by the members, provided that notice of such change be mailed to each member of record, at such address as appears upon the records of the Association, not less than ten (10) days before the holding of such meeting; and further provided that each annual meeting of members shall be held within one (1) month of the date on which it should regularly have been held but for such change.

2.2 Special Meetings: Special members meeting shall be held whenever called by the President or Vice-President or by a majority of the Board of Directors, and must be called by such officers upon receipt of a written request from members entitled to cast forty percent (40%) of the votes in the Association.

### 2.3 Notice of Meetings:

(a) Notice of all members meetings, stating the time and place and the objects for which the meeting is called, shall be given by the Secretary unless waived in writing. Such notice shall be in writing to each member at his address as it appears on the books of the Association and shall be mailed not less than ten (10) days, nor more than fifty (50) days prior to the date of the meeting. Proof of such mailing shall be given by the affidavit of the Secretary.

(b) Whenever any notice is required to be given to any member by law or under the provisions of the Articles of Incorporation or By-Laws of the Association, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

2.4 Place of Meeting: All meetings of the members of the Association shall be held at the office of the Association or such other place in Shelby County, Alabama as may be stated in the notice of the meeting.



## **2.5 Voting:**

(a) Every Owner of a Lot shall be a member of the Association, and one vote shall be allocated for each Lot owned.

(b) If a Lot is owned by more than one person, the Owner is entitled to cast the vote appurtenant to said Lot shall be designated by the Owners of a majority interest in the Lot. A voting member must be designated as the person entitled to cast the vote for all such owners of that Lot by a statement filed with the Secretary of the Association, in writing, signed under oath by the owners of a majority interest in the Lot. The designation may be revoked and a substitute voting member designated at any time at least five (5) days prior to any meeting. If a designation of a voting member is not filed with the Secretary at least five (5) days prior to any meeting, no vote shall be cast at such a meeting by or for said Lot Owner(s).

(c) All members shall be entitled to participate in any meeting of the Association but only voting members shall have the right to vote on any matter brought before such meeting.

**2.6 Quorum for Meeting of Members:** A quorum at members meetings shall consist of persons entitled to cast a majority of the votes of the entire membership.

**2.7 Proxies:** At any meeting of the members of the Association, the voting members shall be entitled to vote in person or by proxy; provided, however, that no proxy shall be valid unless it is filed with the Secretary at least three (3) days prior to a meeting, nor shall any proxy be valid unless it is granted to a person who is an Owner. No person may cast more than one proxy vote. No proxy vote may be cast on behalf of a voting member who is present and in person at a meeting.

**2.8 Vote Required to Transact Business:** When a quorum is present at any meeting, a majority of the voting members present in person or represented by proxy, shall decide any questions brought before the meeting, unless the question is one upon which, by express provision of the statutes, the Declaration of Restrictive Covenants, or these By-Laws, a different number is required, in which case the express provision shall govern the decision in questions.

**2.9 Reservation by Declarant:** Until the Declarant has conveyed six (6) of the seven (7) Lots as shown on the Record Map within the Subdivision, the Board of Directors shall be comprised of members selected by the Declarant. Provided, however, that Declarant, at its option, may elect to turn control over to the Lot Owners at an earlier date.



**2.10 Interest of Members:** No member of the Corporation shall have any right, title or interest in or to the whole or any part of the property or assets of the Corporation, and no member shall be entitled to either the whole or any part thereof in the event of the termination of his membership in the Corporation; provided, however, that in the event the Corporation is dissolved, the property and assets of the Corporation shall be distributed to the members in good standing in the proportion of each member's contribution in Corporation dues for the twelve (12) month period preceding the adoption of a resolution of dissolution and shall be used by such members solely for the not-for-profit purposes set forth in Paragraph 3 of the Corporation's Articles of Incorporation.

### **ARTICLE III**

#### **BOARD OF DIRECTORS**

**3.1 Membership:** The affairs of the Association shall be conducted by a Board of Directors which shall consist of such number, but not less than three (3) nor more than five (5), as shall from time to time be determined and fixed by a majority vote at any annual meeting of the members. Except as provided in Section 3.2(c) herein, each director shall be a voting member of the Association.

**3.2 Election of Directors:** Election of directors shall be conducted in the following manner:

(a) Directors shall be elected at the annual meeting of the members of the Association.

(b) The election shall be by secret ballot unless dispensed with by unanimous consent. The nominees receiving the greatest number of votes cast shall be elected to the Board.

(c) Until the Declarant has conveyed six (6) of the seven (7) Lots as shown on the Record Map within the Subdivision, all directors shall be designated by Declarant and need not be Owners. Note: See exception - paragraph 2.9 above.

**3.3 Term:** The term of each director's services shall extend until the next annual meeting of the members and thereafter until his successor is duly elected and qualified or until he is removed in the manner herein provided.

**3.4 Removal:** Directors may be removed for cause by an affirmative vote of seventy percent (70%) of the members of the Association. Except as provided in Section 3.2(c), no director shall continue to serve on the Board, if during his term of office, his membership in the Association shall be terminated for any reason whatsoever.

### **3.5 Vacancy and Replacement:**

(a) If the office of any director becomes vacant by reason of death, resignation, retirement or disqualification from office, a majority of the remaining directors, though less than a quorum, at a special meeting of directors duly called for this purpose, shall choose a successor or successors who shall hold office for the unexpired term in respect to which such vacancy occurred.

(b) The vacancy created by the removal of a director by the voting members shall be filled at the same meeting by the members of the Association in the same manner as was provided for the election of directors.

**3.6 Powers and Duties of Board of Directors:** All of the powers and duties of the Association under the Declaration of Restrictive Covenants, the Articles, and the By-Laws shall be exercised by the Board of Directors, or its delegates, subject only to approval by Owners and institutional mortgagees when such approval is specifically required. The powers and duties of the directors shall include, without limitation, the following:

(a) To make and collect assessments against members to pay the Common Expenses, and other expenses incurred by the Association, including the power to make and assess members for capital improvements and replacements and to render or cause to be rendered statements, when required or useful, for any assessments which remain unpaid by any Owner.

(b) To maintain, repair, replace and operate the Association property and to purchase any necessary property, equipment or tools required for such maintenance, repair and replacement.

(c) To elect the officers of the Association and otherwise to exercise the powers regarding Officers of the Association as set forth in these By-Laws.

(d) To determine who shall be authorized to make and sign all instruments on behalf of the Association and the Board.

(e) To employ management agents or managers, at such compensation and upon such conditions as may be established by the Board, to perform such duties and services as the Board shall authorize, including, without limitation, the duties listed in this section; provided, however, any such agreements shall contain a provision that the duties so conferred upon any managing agent or manager by the Board of Directors may at any time be revoked, modified or amplified by the majority of the directors or owners in a duly constituted meeting.

(f) To designate and to hire personnel necessary for the maintenance, repair and replacement of the Common Facilities.

(g) To insure and keep insured the Association property.

(h) To procure such fidelity bonds as the Board deems advisable covering officers and employees of the Association who handle the Association's funds or personal property and to procure director's and officer's liability insurance if the Board deems it advisable. The premiums of such bonds and insurance shall be paid by the association as Common Expenses.

(i) To maintain actions, and to settle causes of action, on behalf of the owners with reference to the Common Facilities, all as the Board deems advisable.

(j) To determine policies and to adopt administrative rules and regulations governing the details of the operation and use of the Subdivision, including the Common Facilities, and to amend such administrative rules and regulations from time to time as the Board deems advisable.

(k) To make an annual statement of the business and condition of the Association for presentation at the annual meeting of members.

(l) To enjoin or seek damages from Owners for violation of these By-Laws and the terms and conditions of the Declaration.

(m) To make contracts and incur liabilities in connection with the exercise of any of the powers and duties of the Board and to use the proceeds of assessments in the exercise of its powers and duties.

**3.7 Compensation:** The directors shall not be entitled to any compensation for service as directors.

#### ARTICLE IV

##### DIRECTORS MEETINGS

**4.1 Organizational Meetings:** The first meeting of each new Board elected by the members shall be held immediately upon adjournment of the meeting at which they are elected, or at such place and time as soon thereafter as practicable as shall be fixed by the Directors at the meeting of members at which they were elected, and no further notice of the organization meeting shall be necessary provided a quorum of the newly elected directors were present at such members meeting.

**4.2 Regular Meetings:** Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of the directors. Notice of regular meetings shall be given to each director, personally or by mail, telephone or telegraph, at least three (3) days prior to the day named for



such meeting.

**4.3 Special Meetings:** Special meetings of the Board may be called by the President on five (5) days notice to each director. Special meetings shall be called by the President or Secretary in like manner and on like notice upon the written request of three (3) directors.

**4.4 Waiver of Notice:** No notice of a Board meeting shall be required if the directors meet by unanimous written consent. The directors, may, by resolution duly adopted, establish regular monthly, quarter-annual r semi-annual meetings. If such resolution is adopted, no notice of such regular meetings of the Board shall be required. Any required notice may be waived in writing signed by the person or persons entitled to such notice whether before or after the time stated therein.

**4.5 Quorum:** A quorum at a directors meeting shall consist of a majority of the entire Board. The acts approved by a majority of those present at a meeting in which a quorum is present shall constitute the act of the Board, except when approval by a greater number of directors is required by statute or by the Declaration, Articles or these By-Laws.

**4.6 Adjourned Meetings:** If at any meeting of the Board there is less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting any business that might have been transacted at the meeting as originally called, may be transacted without further notice.

**4.7 Joinder in Meeting by Approval of Minutes:** The joinder of a director in any action taken at a meeting in which such director is absent shall be evidenced by affixing his signature to the minutes of that meeting, and the same shall constitute the presence of such director for the purpose of determining a quorum.

**4.8 Presiding Officer:** The presiding officer of a directors meeting shall be chairman of the Board, if such an officer has been elected, otherwise, the President of the association shall preside. In the absence of the presiding officer, the directors present shall designate one of their number to preside.

## **ARTICLE V**

### **OFFICERS**

**5.1 Officers:** The executive officers of the Association shall be a President, Vice-President and Secretary/Treasurer, each of whom shall be elected at the annual meeting of the Board of Directors. Any two (2) or more of said offices may be held by one person except that the President shall not also be the

Secretary/Treasurer of the Association. The Board may appoint such other officers and agents that it may deem necessary, who shall hold office at the pleasure of the Board and have such authority and perform such duties as from time to time may be prescribed by said Board.

**5.2 Qualifications:** No person shall be entitled to hold office except an Owner; provided, however, that officers need not be Owners prior to the sale of six (6) of the seven (7) Lots as shown on the Record Map within the Subdivision. No officer except the President need be a member of the board.

**5.3 Term:** The officers of the Association shall hold office until their successors are chosen and qualify in their stead. Any officer elected or appointed by the board may be removed at any time by the affirmative vote of fifty-seven percent (57%) of the voting members present at any meeting of the members of the Association.

**5.4 The President:** The President shall be the chief executive officer of the Association; he shall preside at all meetings of the members and directors; shall appoint any necessary committees from among the members; shall be an ex-officio member of all standing committees; shall have general management of the business of the Association, and shall see that all orders and resolutions of the Board are carried into effect.

**5.5 The Secretary:**

(a) The Secretary shall keep the minutes of the members meetings and of the Board of Directors meetings in one or more books provided for that purpose. Resolutions shall be maintained in one such minute book.

(b) The Secretary shall see that all notices are duly given in accordance with the provisions of these By-Laws or as required by law.

(c) The Secretary shall be custodian of the corporate records, except those of the Treasurer, and of the seal of the Corporation, and shall affix the seal to instruments requiring it when duly signed.

(d) The Secretary shall keep a register of the post office address of each member, which shall be furnished to the Secretary by such member.

(e) In general, the Secretary shall perform all duties incident to the office of the Secretary and such other duties as may be assigned to him by the President or by the Board of Directors. NOTE: It is intended that one person serve as both Secretary and Treasurer.



#### **5.7 The Treasurer:**

(a) The Treasurer shall keep full and accurate accounts of all financial records of the Association including receipts and disbursements in books belonging to the Association, and 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 by the Board or these By-Laws. The Treasurer shall keep a detailed, accurate account for each Lot, setting forth any shares of Common Expenses or other charges due, the due dates thereof, the preset balance due, and any interest in Common Surplus; and he shall perform all other duties incident to the Office of Treasurer. The records, books of account, and the vouchers authorizing payments, shall be available for examination by members of the Association at reasonable times.

(b) The Treasurer shall disburse funds of the Association as ordered by the Board, taking proper vouchers for such disbursements, and shall render to the President and directors at the regular meetings of the Board, an account of all his transactions as Treasurer, and of the financial condition of the Corporation.

**5.8 Vacancies:** If any office becomes vacant by reason of death, resignation, disqualification or otherwise, the remaining directors, by a majority vote, may chose a successor or successors who shall hold such office for the unexpired term.

**5.9 Resignations:** Any officer may resign his office at any time. Such resignation shall be made in writing, and shall take effect at the time of its receipt by the Association, unless some time is fixed in the resignation, in which case, then the resignation shall take effect on such date. The acceptance of a resignation shall not be required to make it effective.

**5.10 Compensation:** The officers of the Association shall receive no compensation as officers. NOTE: It is intended that one person serve as both Secretary and Treasurer.

### **ARTICLE VI**

#### **FISCAL MANAGEMENT**

##### **6.1 Accounts:**

(a) All funds to be expended during the year for the maintenance of the Common Facilities and the operation of the Association shall be held in a current expense account. Any balance in this fund at the end of each year may be used to pay Common Expenses incurred in any successive year or may be placed in a reserved fund account.

(b) All funds to be expended for replacement, acquisition, and repair of capital improvements which are a part of the Common Facilities and for working capital of the Association shall be held in a reserve fund account.

(c) The proportionate interest of each Owner if any such account or Fund cannot be withdrawn or separately assigned but shall be deemed to be transferred with such Lot, even though not expressly mentioned or described in the conveyance thereof. In case the Association shall be terminated, any part of any such account or fund remaining after full payment of all Common Expenses of the Association shall be distributed in accordance with Section 2.10 hereto.

**6.2 Budget:** The Board of Directors shall adopt a projected operating budget for each calendar year which shall include the estimated contributions to the funds necessary to repair or replace capital improvements. Within thirty (30) days after adoption of any proposed budget for the Association, the Board shall provide a copy of the budget to all the Owners, and shall set a date for a meeting of the Owners to consider ratification of the budget not less than fourteen (14) nor more than thirty (30) days after delivery or mailing of the budget to the Owners. Unless at that meeting a majority of all the Owners present, in person or by proxy, reject the budget, the budget will be ratified, whether or not a quorum is present. In the event the budget is rejected, the periodic budget last ratified by the Owners shall be continued until such time as the Owners ratify a subsequent budget proposed by the Board.

**6.2 Assessments:** Assessments against individual Owners for their shares of the items of the budget shall be made for the calendar year annually in advance on or before December 20 preceding the year for which the assessments are made. The budget and assessments therefor may be amended at any time by the Board of Directors. The unpaid assessment for the remaining portion of the calendar year for which the amended assessment is made shall be due on the first day of the month next succeeding the month in which such amended assessment is made or as otherwise provided by the Board. The Board shall have the power to levy special assessments for unanticipated expenditures.

**6.4 Effect of Nonpayment of Assessments; Remedies of the Association:** All assessments shall be due on or before the first day of each month or as may be otherwise provided in the notice to each Owner from the Association. If any assessment, regular or special, is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at six (6) percentage points above the annual prime rate as established by AmSouth Bank, N.A. the same to float and fluctuate with annual prime rate. (Example: In the event the AmSouth Bank, N.A. prime rate is 7% per annum, the assessment shall bear interest



at 13% per annum; the rate shall increase or decrease as the AmSouth Bank, N.A. prime rate increases or decreases, but is to be six (6) percentage points in excess of the prime rate.) If the interest rate chargeable hereunder shall exceed the maximum rate of interest allowed under applicable law, then the interest charged shall be the same as the maximum allowed to be charged under the laws of the State of Alabama.

If an Owner defaults in his obligation to pay an assessment, the Association shall have the right to declare the entire assessment for the year to be due and payable in full, together with costs and attorney's fees as provided herein, and may either: (a) bring an action at law against the Owner personally obligated to pay the same; or (b) foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. Each Owner, by acceptance of a deed to a Lot, hereby expressly vests in the Board of Directors of the Association or their agents the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or deed of trust lien on real property, and such Owner hereby expressly grants to the Association a power of sale in connection with said lien.

The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other Owners. The Association may sell the Lot subject to such assessment to the highest bidder at public auction in front of the Shelby County Courthouse by auctioneer after first having given notice of the time, place and terms of sale, together with a description of the property to be sold, by publication once a week for four (4) successive weeks prior to said sale in a newspaper of general circulation published in Shelby County, Alabama, and upon payment of the purchase money, the auctioneer conducting said sale for the Association is authorized to execute to the purchaser a deed of the property to be sold. The Association, acting on behalf of the Lot Owners, shall have the power to bid at a foreclosure sale and to acquire and hold, lease, mortgage, and convey the Lot foreclosed. In the event an Owner becomes more than thirty (30) days in arrears in payment of any installment of his assessment, then the entire annual assessment may become due and payable immediately at the discretion of the Board of Directors of the Association.

**6.5 Subordination of the Lien to Mortgages:** The lien for the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure, or any proceeding in lieu thereof, shall extinguish the lien of such assessments upon such Lot which became due prior to such sale or transfer.

Notwithstanding the foregoing, the Owner of such Lot at the time the assessment came due shall continue to be personally liable for said assessment.

**6.6 Deposits:** The funds of the Association will be deposited in such banks or savings and loan associations as shall be designated from time to time by the Board of Directors. Withdrawals of funds from such accounts shall be only by checks signed by such persons as authorized by the Board.

## ARTICLE VII

### OBLIGATIONS OF THE OWNERS

**7.1 Assessments:** Every Owner of any Lot shall contribute toward the expense of administration of the Subdivision, as provided in the Declaration and in these By-Laws.

**7.2 Maintenance and Repair:**

(a) Every Owner must perform promptly all maintenance and repair work to his Lot and the Structures thereof which, if omitted, would affect the Subdivision in its entirety or in a part belonging to other Owners; each Owner is expressly responsible for the damages and liabilities that his failure to do such maintenance and repair may engender unless such damage is covered by insurance.

(b) All the repairs of internal or appurtenant installations of the Lot such as water, light, power, air conditioning, heat, sewage, telephones, sanitary installations, doors, windows, lamps, and all other accessories belonging to the Lot, shall be maintained at the Owner's expense.

(c) An Owner shall reimburse the Association for any expenditures incurred in repairing or replacing any Common Facilities or damaged through his fault, unless such damage is covered by insurance.

**7.3 Use of Lots:** Every Owner shall comply strictly with the provisions of the Declaration, these By-Laws and the Rules promulgated under Section 3.6(j) hereto. In the event of the failure of any Owner to comply with the same, the association may sue to recover sums due, damages, and seek injunctive relief, and for its costs and expenses in connection therewith, including reasonable attorney's fees.

**7.4 Right of Entry:** The Association, its officers, agents, employees, successors and assigns, and any other person so authorized by the Board of Directors, shall have the right to enter each Lot in case of any emergency originating in or threatening such Lot, whether or not the owner or occupant is present at the time. Every Owner and occupant, when so required, shall permit



other Owners, or their representatives, to enter his or her Lot at reasonable times for the purpose of performing authorized installations, alterations, or repairs to the Common Facilities therein for central services, provided that requests for entry are made in advance.

**7.5 Title:** Every Owner shall promptly cause to be duly recorded in the Office of the Judge of Probate of Shelby County, Alabama, the deed or other conveyance to him of his title thereto and file such evidence of his title with the Association, and the Secretary shall maintain such information in the record of ownership of the Association.

**7.6 Mortgages:** Any mortgagee of a Lot may file a copy of its mortgage with the Association, and the Secretary shall maintain such information in the record of ownership of the Association. After the filing of the mortgage, the Association shall be required to notify the mortgagee of any Owner who is in default on the expenses for the administration of the Subdivision and the mortgagee at its option may pay the delinquent expenses; and the holder of every such mortgage requesting the same shall be entitled to written notification from the Association of any default by the mortgagor of such Lot in the performance of such mortgagor's obligations under the Subdivision documents which is not cured within thirty (30) days.

## ARTICLE VIII

### MISCELLANEOUS

**8.1 Parliamentary Rules:** Roberts Rules of Order (latest edition) shall govern the conduct of Association meetings when not in conflict with the Declaration or these By-Laws.

#### **8.2 Exculpation of Directors:**

(a) No director shall be liable to any one for any acts in behalf of the Corporation of any omissions with respect to the Corporation committed by such director, except for his own willful misconduct.

(b) No director shall be liable to any one for any act of neglect or default on the part of any one or more of the other directors.

(c) The Association shall indemnify and hold each director harmless from each and every act of such director, acting in good faith on behalf of the corporation.

**8.3 Amendments:** These By-Laws may be amended in any respect not inconsistent with provisions of law, the Declaration or the Articles of Incorporation, as follows:

(a) Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered.

(b) An amendment shall be approved so long as there is a quorum and all members of the Association in attendance affirmatively vote for such amendment. Members not present in person or by proxy at the meeting considering the amendment may express approval or disapproval in writing, provided such writing is delivered to the Secretary at or prior to the meeting.

(c) No amendment shall discriminate against any Owner and no amendment shall change the Owner's liability for Common Expenses or any other charges or costs, unless the Owners of all the Lots so affected, including first mortgagees, shall consent thereto in writing.

(d) A copy of each amendment shall be certified by the President and Secretary of the Association as having been duly adopted and shall be effective when recorded in the Probate Court Records of Shelby County, Alabama.

The foregoing were adopted as the By-Laws of the Deer Creek Homeowners Association, Inc. at the first meeting of the Board of Directors on the 1 day of NOVEMBER, 1995.

  
Michael D. Wesson

  
Kathleen R. Wesson

  
J. Scott Boudreaux

Inst # 1995-31518

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