



BY-LAWS  
OF FOREST CREEK PROPERTY OWNERS  
ASSOCIATION  
AMENDED AND RESTATED  
JANUARY, 2022

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## **ARTICLE I - NAME AND LOCATION**

The name of the corporation is Forest Creek Property Owners Association, Inc., hereinafter referred to as the "Association". The principal office of the Association shall be located at 200 Meyer Farm Drive, Pinehurst, NC 28374, Moore County, North Carolina, but 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. "Association" shall mean and refer to Forest Creek Property Owners Association, Inc., a North Carolina non-profit corporation created pursuant to and existing under the terms of Chapter 55A of the North Carolina General Statutes, the Non-Profit Corporations Act, its successors and assigns.

Section 2. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners.

Section 3. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the Office of the Register of Deeds of Moore County, North Carolina.

Section 4. "First Mortgagee" shall mean and refer to the holder of any Mortgage or Deed of Trust under which the interest of any Owner is encumbered and which Mortgage or Deed of Trust has first and paramount priority subject only to the lien of general or ad valorem taxes and assessments.

Section 5. "Lot" shall mean and refer to any numbered lot or condominium unit so designated upon any recorded subdivision map of the Properties of the Forest Creek Development.

Section 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or Condominium Unit as described in the Declaration which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 7. "Property" or "Properties" shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions and Restrictions, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 8. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration and in Article III of these By-laws.

### **ARTICLE III - MEMBERSHIP AND PROPERTY RIGHTS**

Section 1. Membership. Every Owner of a Lot or Condominium Unit as defined in the Declaration, as amended, shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot or Condominium Unit. The voting rights of the Members shall be as provided by the Declaration.

Section 2. Property Rights. Each Member shall be entitled to the use and enjoyment of the Common Area and the facilities as provided in the Declaration. Any Member may delegate his rights of enjoyment of the Common Area and facilities to the members of his family and as otherwise provided in the Declaration. The rights and privileges of such delegates are subject to restriction and suspension to the same extent as those of the Member.

## ARTICLE IV - MEETING OF MEMBERS

Section 1. Annual Meetings. The annual meeting of the Members shall be held each calendar year on or before the third Saturday of each January as scheduled by the Board of Directors.

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 cast ten percent of the votes of the Association.

Section 3. Remote Meetings. To the degree authorized by the Declaration and North Carolina Law, the Board may direct that annual and special meetings of the Members be conducted remotely through electronic means.

Section 4. Notice of Meetings. 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 ten days and not more than sixty 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 by such electronic measures as allowed by the Declaration, a Member's consent or North Carolina law. Such notice shall specify the place, day and hour of the meeting. Waiver by a Member in writing of the notice required herein, signed by him before or after such meeting, shall be equivalent to the giving of such notice.

- (a) Notice of Annual Meeting. Unless one-third or more of the votes entitled to vote for the election of Directors are present in person or by proxy at the annual meeting, the only matters that may be voted upon are those that have been described in the notice of the annual meeting (NCGS 55A-7-22).
- (b) Notice of Special Meetings. Notice of a special meeting must include a description of the matter(s) for which the meeting is called. Only the matter(s) described in the notice may be acted upon at the meeting (NCGS 55A-7-02(d)).
- (c) Notice of Issues Raised by Members. A Member may ask that an issue be noticed for an annual or special meeting if the person is qualified to call a special meeting and submits the request to the Secretary in writing ten days before the Board must provide notice of the meeting to the Members. (NCGS 55A-7-05(e)).

Section 5. Quorum. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes of the membership shall constitute a quorum for any action except as otherwise provided in 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, and at any reconvened meeting the quorum shall be one half of the prior meeting's quorum requirement.

Section 6. Proxies. At all meetings of the 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 in any event automatically cease upon conveyance by the Member of their Property within Forest Creek.

## **ARTICLE V - BOARD OF DIRECTORS: SELECTION; TERM OF OFFICE**

Section 1. Number. The affairs of this Association shall be managed by a Board of seven directors, who must be Members of the Association in good standing.

Section 2. Term of Office. Directors shall be elected in accordance with Article VI, and shall serve terms of three years or until their successor is elected (or such Directors are reelected as the case may be), which ever first occurs. Directors are elected on a staggered basis such that in any year, no more than three directors shall be elected. No Director shall be eligible to serve more than two consecutive three-year terms and must be re-nominated by the Nominating Committee to serve the second term. In the event a Director is appointed to fill a vacancy on the Board pursuant to Article V, Section 3, that appointment shall not preclude that Director from serving two subsequent consecutive three-year terms. A Director who has served two consecutive three-year terms shall not be eligible for re-election until six years after the expiration of his last term in office.

Section 3. Removal; Appointment. 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. 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. Electronic communications shall satisfy this requirement. 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; APPOINTMENT OF ARCHITECTURAL REVIEW COMMITTEE**

Section I: Nominating Process. Nomination for election to the Board of Directors may be made by a Nominating Committee or by petition.

- (a) NC Nomination. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more Members of the Association who are not then serving as Directors. The Nominating Committee shall be appointed by the Board of Directors by October 15, and serve until the close of the annual meeting. The Nominating Committee shall make only as many nominations for election to the Board as there are vacancies to be filled. The Nominating Committee shall post its nominations on the Club's website on or before December 1, including brief biographies and photographs of the nominees and, should the nominees desire, a one-page statement of their interest in serving.
- (b) Nomination by Written Petition. Not later than December 15, an additional candidate or candidates may be nominated for Director by written petition signed by at least twenty-five Members in good standing filed with the Secretary. Such petition(s) shall include a brief biography, a photograph and, if the nominee desires, a one-page statement of interest in serving.

Section 2. Conducting Elections. Elections may be contested or non-contested.

- (a) Non-Contested Elections. If no valid petition for an additional nominee has been filed, the NC's nominees shall without any further action be deemed elected as Directors as of the date of the annual meeting.
- (b) Contested Election. If one or more valid petitions for additional nominees have been filed, the election shall be conducted by secret written ballot. In such election, the Members may cast one vote for each Lot owned in respect to each vacancy. Cumulative voting is not permitted. The persons receiving the highest number of votes shall be elected to the open positions. Ballots will be sent out by first class mail not later than December 20, and shall be hand delivered to the Club Office or post-marked not later than January 5. The ballot will: (a) set forth in alphabetical order the names of the nominees; (b) state whether they were nominated by the Nominating Committee or by petition; (c) provide the brief biographies and photographs of each nominee; (d) include any statements prepared by the nominees, and; (e) state that ballots must be hand-delivered to the Club Office or post-marked by not later than January 5. The votes will be tallied by a committee of three electors appointed by the Board and the results reported by the Board at the Annual Meeting. If permitted by the CC&R's and North Carolina Law, the foregoing process may be conducted by secret electronic ballots administered by a third-party administrator.

Section 3. Appointment of Architectural Review Committee. The Board of Directors shall appoint at least three but as many persons as it shall in its discretion determine are needed to the

Architectural Review Committee to serve at the Board's pleasure. Such persons may be made from among Members or non-members; provided, however, no more than one person who is also a Member of the Board of Directors may serve on the Architectural Review Committee at any time. The Board Member of the Architectural Review Committee shall serve as its Chair.

Section 4. Vacancies. A vacancy in the Board of Directors may be filled by appointment by the Board. The Director appointed to such vacancy shall serve the remainder of the term of the Director he replaces.

## ARTICLE VII - MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held 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 and on the next day which is not a legal holiday; provided, however, that if the Board shall agree to meeting on such legal holiday any action taken by it shall be valid and binding.

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 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 done or decision 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 Area and facilities located thereon, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;
- (b) enter into contracts, leases and other written agreements on behalf of the Association and its Members in furtherance of the Association's function;
- (c) suspend the voting rights and right to use of the Common Areas of a Member and the Member's family and guests 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 days, for the infraction of published rules and regulations;
- (d) 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 or the Declaration;
- (e) declare the office of a member of the Board of Directors to be vacant in the event such Director shall be absent from three consecutive regular meetings of the Board of Directors;
- (f) employ a manager, an independent contractor, or such other employees, as they deem necessary, and to prescribe their duties; and
- (g) employ attorneys to represent the Association when deemed necessary.

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 of the annual meeting of the Members, or at any special meeting when such statement is requested in writing by one-tenth of the 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, which will be the same amount for each Unimproved Lot and although a larger amount, the same larger amount for each improved Lot and each Condominium Unit subject to assessment, at least thirty days in advance of each annual assessment period;
  - (2) send written notice of each assessment to every Owner subject thereto at least thirty days in advance of each annual assessment period, and;
  - (3) foreclose the lien against any Property for which assessments are not paid within thirty 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 payment;
- (e) procure and maintain adequate liability insurance covering the Association, its Directors, Officers, agents and employees and to procure and maintain fire and extended coverage on insurable Property owned by the Association on a current replacement cost basis in an amount not less than one hundred percent of the insurable value, and to make payment of delinquent fire insurance premiums and enforce repayment of same as more particularly provided in the Declaration of Covenants, Conditions and Restrictions.
- (f) cause all Officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;
- (g) cause the Common Area, as defined in the Declaration, to be maintained.

## ARTICLE IX - OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The Officers of this Association shall be a President, a Secretary, and a Treasurer, who shall at all times be members of the Board of Directors, and such other offices as the Board may from time to time by resolution create.

Section 2. Selection 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.

Section 3. Term. The Officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year or until their successor is elected, whichever first occurs, 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 by the Board with or without cause. 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, 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 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 persons 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 annual meeting and any special meeting of the Members; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments, and; may sign checks or promissory notes of the Association.

### Secretary

- (b) 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; sign promissory notes of the Association; serve notice 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. The Secretary shall also 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.

### Treasurer

- (c) The Treasurer shall: deposit all funds received by the Association in the appropriate bank accounts or other depositories selected by the Board, or invest them in short-term government securities or money market instruments approved by the Board, and; shall disburse such funds as directed by resolution of the Board of Directors. Additionally, the Treasurer: may sign all checks of the Association; shall keep proper books of account; shall cause an audit of the Association's book to be made by a public accountant every three years at a minimum; and shall prepare an annual budget and a statement of income and expenditures to be presented to the Members at its regular annual meeting, and deliver a copy of each to the Members.

## **ARTICLE X - COMMITTEES**

The Board of Directors shall appoint a Nominating Committee, as provided in these By-laws, and the Architectural Review Committee. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

## **ARTICLE XI - 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 First Mortgagee of any Lot and Condominium Owner, The Declarant and any other Member. The Declaration and By-laws of the Association shall be available for inspection by all such persons or entities at the principal office of the Association at the actual cost required for the inspection, if any, and where copies may be purchased at a reasonable cost.

## **ARTICLE XII - AMENDMENTS**

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 persons or by proxy, or by a majority of a quorum though written ballot.

### **ARTICLE XIII - CONFLICTS**

In the case of any conflict between the Declaration and these By-laws, the Declaration shall control.

## **ARTICLE XIV - DISCRIMINATION**

Harassment and discrimination in any form, whether based on race, color, age, sex, religion, national origin, ancestry, marital status, family status, political belief, sexual orientation, disability, medical condition or any other legally protected characteristic will not be tolerated and can lead to disciplinary action. Harassment and discrimination are illegal under federal and state law, and the Association condemns and prohibits them against any Member, employee or guest. The Association will use all reasonable efforts to maintain an atmosphere attractive to Members, employees and guests in which they may work and use the Association's Common Area and facilities without being subjected to unlawful, objectionable or morally offensive behavior. Any person who witnesses harassing or discriminatory conduct should immediately report it to any Board member, Officer, or the General Manager without fear of reprisal. The Association will investigate it and take appropriate action.

**ARTICLE XV - MISCELLANEOUS**

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year.

Effective: \_\_\_\_\_

By: \_\_\_\_\_  
[Name], Board of Directors Secretary