

**BY LAWS OF THE CRIMSON CREEK HOMEOWNER'S
ASSOCIATION, INC.
AND
DECLARATION OF COVENANTS AND RESTRICTIONS
CRIMSON CREEK**

KNOW ALL MEN BY THESE PRESENTS, that this Declaration of Covenants and Restrictions made and entered into this 6 day of ~~December 2003~~ ^{January 2004} by Northpointe Communities, LLC., hereinafter referred to as Developer.

WITNESSETH:

WHEREAS, Developer is the owner of the real property described in Article I of this Declaration and desires to create thereon a residential community with permanent parks, playgrounds, open spaces, and other common facilities for the benefit of the said community; and

WHEREAS, Developer desires to provide for the preservation of the values and amenities in said community and for the maintenance of said parks, playgrounds, open spaces, and other common facilities; and, to this end, desires to subject the real property described in Article I together with such additions as may hereinafter be made to the covenants, restrictions, easements, charges, and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Developer has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which should be delegated and assigned the powers of maintaining and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Developer has incorporated under the laws of the State of Georgia a nonprofit corporation, CRIMSON CREEK HOMEOWNERS ASSOCIATION, INC., for the purpose of exercising the function aforesaid;

NOW THEREFORE, the developer declares that the real property described in Article I is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") hereinafter set forth

ARTICLE I

DEFINITIONS

Section 1. “Architectural Control Committee” shall mean and refer to Northpointe Communities, LLC., or such other individuals as Developer may appoint, until all lots in Crimson Creek shall have been fully developed and permanent improvements constructed thereon and sold to permanent residents; at which time such term shall mean and refer to those persons selected annually by the Board in compliance with the declaration of the Association to serve as members of said committee.

Section 2. “Association” shall mean and refer to CRIMSON CREEK HOMEOWNERS ASSOCIATION, INC., its successors and assigns.

Section 3. “Board: shall mean and refer to the Board of Directors of the Association.

Section 4. “Common Area” shall mean all real and personal property now or hereafter owned by the Association for the common use and enjoyment of the Owners.

Section 5. “Common Expenses” shall mean and refer to the actual and estimated expenses of operating the Association, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration and the Bylaws and Articles of Incorporation of the Association.

Section 6. “Declaration” shall mean the covenants, conditions, restrictions and easements and all other provisions herein set forth in this entire document, as may from time to time be amended.

Section 7. “Developer” shall mean and refer to (i) Northpointe Communities, LLC, or (ii) any successor-in-title or any successor-in-interest to Northpointe Communities, LLC to all or any portion of the Property, provided in the instrument of conveyance to any such successor-in-title or interest such successor-in-title is expressly designated as the “Developer” hereunder by the grantor of such conveyance, which grantor shall be the Developer hereunder at the time of such conveyance.

Section 8. “Lot” shall mean and refer to any parcel of land shown upon any recorded subdivision plat of the Property upon which a single-family residence may be constructed.

Section 9. “Owner” shall mean and refer to the recorded owner, whether one or more Persons, of the fee simple title to any Lot which is a part of the Property, but excluding those having such interest merely as security for the performance of any obligation.

Section 10. “Person” shall mean and refer to a natural person, corporation, partnership, association, trust or other legal entity, or any combination thereof.

Section 11. “Plat” shall mean and refer to that certain Final Subdivision Plat for CRIMSON CREEK prepared by SCF Development Services, dated March 5, 2004 ~~2003~~ and recorded in Plat Book 102, Page 154, in the Register’s Office for Gwinnett County, Georgia.

Section 12. “Property” shall mean and refer to that certain real property described in Exhibit A attached hereto and by reference made a part hereof, together with such additional real property as may by subsequent amendment be added to and subjected to this Declaration.

Section 13. “Structure” shall mean and refer to: (i) any thing or object, the placement of which upon any Lot may affect the appearance of such Lot, including by way of illustration an not limitation, any building or part thereof, garage, porch, gazebo, shed, green house or bathhouse, coop, or cage, covered or uncovered patio, swimming pool, tennis court, fence, curbing, paving, wall, tree, shrub, sign, signboard, mailbox, driveway, temporary or permanent living quarters (including any house trailer) or any other temporary or permanent improvement to such Lot; (ii) any excavation, grading, fill ditch, diversion dam or other thing, object or device which affects or alters the natural flow of surface waters from, upon or across any Lot, or which affects or alters the flow of any waters in any natural or artificial creek, stream, wash or drainage channel from, upon or across any Lot; and (iii) any change in grade at any point on a Lot of more than twelve (12) inches, whether or not subsection (ii) of this Section 13 applies to such change.

ARTICLE II

ARCHITECTURAL CONTROL COMMITTEE (ACC)

Section 1. Purpose, Powers and Duties of the Architectural Control Committee. The purpose of the Architectural Control Committee is to assure that the installation, construction or alteration of any Structure on any Lot is submitted to the Architectural Control Committee for approval (i) as to whether the proposed installation, construction or alteration is in conformity and harmony of external design and general quality with the existing standards of the neighborhood and with the standards of the development of the Property; and (ii) as to the location of the Structures with respect to topography, finished ground elevation and surrounding Structures. To the extent necessary to carry out such purpose, the Architectural Control Committee shall have all of the powers and duties to do each and everything necessary, suitable, convenient or proper for, or in connection with or incidental to, the accomplishment of such purpose, including, without being limited to, the power and duty to approve or disapprove plans and specifications for any installation, construction or alteration of any Structure of any Lot.

Section 2. Submission of Plans and Specifications. No structure shall be commenced, erected, placed, moved onto or permitted to remain on any Lot, nor shall

any existing Structure upon any Lot be altered in any way which materially changes the exterior appearance of the Structure or Lot, unless plans and specifications therefore shall have been first submitted to and approved in writing by the Architectural Control Committee. Such plans and specifications shall be in such form and shall contain such information as may be reasonably required by the Architectural control Committee, including, without being limited to:

- (a) a site plan;
- (b) floor plans;
- (c) exterior elevations;
- (d) landscape plans;

Section 3. Approval of Builders. Any builder or landscaper, prior to performing any work on any Lot on the Property, must first be approved by the Architectural Control Committee as to financial stability, building or landscaping experience and ability to build or landscape Structures or grounds of the class and type of those which are to be built on the Property. Such approval shall be within the sole discretion of the Architectural Control Committee. No Person shall be approved as a builder or landscaper unless such Person obtains his income primarily from the construction of the type of Structures to be constructed on the Property and otherwise meets the qualifications hereinabove set forth.

Section 4. Approval and Disapproval of Plans and Specifications. (a) The Architectural Control Committee shall have the right to approve or disapprove any plans and specifications submitted to it in its sole and uncontrolled discretion, which approval or disapproval may be based upon any grounds, including purely aesthetic considerations which shall be deemed sufficient. (b) Upon approval by the Architectural Control Committee of any plans and specifications submitted pursuant to this Declaration, a copy of such plans and specification, as approved, shall be deposited for permanent record with the Architectural Control Committee and a copy of such plans and specification bearing such approval, in writing, shall be returned to the applicant submitting the same. Approval of any plans and specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use in connection with other Lots or Structures. Approval of any such plans and specifications relating to any Lot or Structure, however, shall be final as to that Lot or Structure and such approval may not be revoked or rescinded thereafter, provided that there has been adherence to, and compliance with, such plans and specifications, as approved, and any conditions attached to any such approval. (c) Neither Developer nor any member of the Architectural Control Committee shall be responsible or liable in any way for any defects in any work done according to such plans and specifications approved by the Architectural Control Committee. Further, approval of plans and specifications by the Architectural Control Committee shall not be deemed to represent or warrant to any Person the quality, function or operation of the Structure or of any

construction, workmanship, engineering, materials or equipment. Neither developer nor any member of the Architectural Control Committee shall be liable in damages or in any other respect to anyone submitting plans or specification for approval under this Article, or to any Owner, or to any other Person having an interest in any of the Property by reason of mistake in judgment, negligence, misfeasance or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications to the Architectural Control Committee, every Owner of any Lot releases and agrees to hold harmless and to defend developer and any member of the Architectural Control Committee from any such alleged liability, claim and/or damage.

Section 5. Conduct. All Builders and Homeowners shall be held responsible for the acts of their employees, subcontractors, suppliers and other persons or parties involved in construction or alteration of a homesite. In this regard, a Builder or Homeowner shall be responsible for the following:

- (a) Ensuring that the construction site is kept clean and free of debris and waste materials, and that stockpiles of unused materials are kept in a neat and orderly fashion.
- (b) Prohibiting the consumption of alcoholic beverages, illegal drugs or other intoxicants that could hamper the safety or well-being of other personnel on the site or affect the quality of workmanship.
- (c) Assuring that the aforementioned are properly insured, particularly by carrying a policy of workman's compensation insurance and by carrying a policy of general liability insurance of at least \$300,000.00 per person/per incident.
- (d) Assuring that the aforementioned do not commit any violation of the rules and regulations of CRIMSON CREEK.
- (e) Ensuring that all driveways on the construction site are sufficiently graveled, a portable toilet is available and used by the construction workers and any mud or debris caused by the construction are removed from the adjoining roadways as soon as reasonably possible. Further, silt fences shall be installed as required to keep silt, mud, and other debris off the street.

ARTICLE III

BOARD OF DIRECTORS

Section 1. Composition. The affairs of the Association shall be governed by the Board. The initial Board shall be composed of five (5) persons. The directors shall be owners of lots or spouses of such owners; provided, however, that no owner and his or her spouse may serve on the Board at the same time. Notwithstanding the above so long as there shall be a Class B member in the Association, the directors need not be owners of lots. The precise number of directors shall be fixed from time to time by resolution of the Board.

Section 2. Term of Office. The Directors shall be elected as provided in Section 7 of this Article. Each director, except in case of death, resignation, retirement,

disqualification or removal, shall serve until the next succeeding annual meeting and thereafter until his successor shall have been elected and qualified.

Section 3. Removal of Directors. At any regular or special meeting of the Association duly called, any one or more of the directors may be removed with or without cause by a majority vote of the members of the Association and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the members shall be given at least ten (10) days' notice of the calling of the meeting and the purpose thereof and shall be given an opportunity to be heard at the meeting.

Section 4. Vacancies. Vacancies in the Board caused by any reason, including the addition of a new director or directors but excluding the removal of a director by vote of the Association, shall be filled by a vote of the majority of the remaining directors, even though less than a quorum, at any meeting of the Board for the remainder of the term of the director being replaced. Said director shall serve until a successor shall be elected at the next annual meeting of the Association to fill the unexpired portion of the term.

Section 5. Compensation. Directors shall not be compensated unless and to the extent the members of the Association authorize at any meeting duly called for that purpose.

Section 6. Nomination. Nomination for election to the Board shall be made by a nominating committee which shall consist of three (3) members appointed by the President to serve from the close of one annual meeting to the close of the succeeding annual meeting. Such appointment shall be announced at the annual meeting. The nominating committee may nominate any number of qualified individuals, but no less than the number of directors to be elected. The nominations shall be made at least twenty-one (21) days prior to the annual meeting and a brief statement about the qualifications of each individual so nominated shall be included with the notice of the annual meeting. Nominations shall also be allowed from the floor at the meeting. Failure to comply with the provision hereof shall in no way invalidate the election of directors so nominated.

Section 7. Elections. Directors to be elected by the members shall be elected from among those nominated, by a majority vote at the annual meeting, a quorum being present.

Section 8. Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined from time to time by the Board, but such meetings shall be held at least once every three months. The Board shall meet within ten (10) days after each annual meeting of members.

Section 9. Special Meetings. Special meetings of the Board may be called by the President on three (3) days notice to each director given by mail, in person, by email, or by telephone, which notice shall state the time, place and purpose of the meeting. Special

meetings of the Board shall be called by the President, Secretary or Treasurer in like manner and on like notice on the written request of at least two (2) directors.

Section 10. Quorum. A quorum of directors shall be deemed present throughout any Board meeting at which a majority of the directors are present at the beginning of such meeting.

Section 11. Conduct of Meetings. The President shall preside over all meetings of the Board and the Secretary shall keep a minute book recording therein all resolutions adopted by the Board and a record of all transactions and proceedings occurring at such meetings. Roberts Rules of Order (latest edition) shall govern the conduct of the meetings of the Board when not in conflict with the Declaration or these By-Laws.

Section 12. Action Without a Meeting. Any action by the Board required or permitted to be taken at any meeting may be taken without a meeting if all of the directors consent in writing to such action. Such written consent or consents shall be filed with the minutes of the Board.

Section 13. Powers and Duties. The Board shall exercise for the Association all powers, duties and authority vested therein by the Declaration of these By-Laws, except for such powers, duties and authority reserved thereby to the members of the Association or the Developer. The Board shall have the following powers and duties:

- (a) To elect and remove the officers of the Association as hereinafter provided;
- (b) To administer the affairs of the Association;
- (c) To engage the services of an agent (hereinafter sometimes referred to as the "Managing Agent") to maintain, repair, replace, administer and operate the Common Area or any part thereof for all of the lot owners, upon such terms and for such compensation as the Board may approve, including a Managing Agent which is affiliated with one or more directors, or the Developer, or both;
- (d) To administer, manage and operate the Common Area and recreational facilities located thereon, and to formulate policies therefor;
- (e) To adopt rules and regulations, with written notice thereof to all lot owners, governing the details of the administration, management, operation and use of the Common Area and any recreational facilities located thereon, and to amend such rules and regulations from time to time;
- (f) To provide for the operation, care, upkeep, maintenance, repair, replacement and improvement of the Common Area and any recreational facilities located thereon and payments therefor, and to approve payment vouchers or to delegate such approval to the officers of the Association or the Managing Agent;

- (g) To have access to each lot from time to time as may be necessary for the maintenance, repair or replacement of the Common Area therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the Common Area or to one or more other lots;
- (h) To obtain adequate and appropriate kinds of insurance;
- (i) To engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Common Areas, and to delegate any such powers to a Managing Agent (and any employees or agents of a Managing Agent);
- (j) To appoint committees and to delegate to such committees the Board's authority to carry out certain duties of the Board;
- (k) To determine the fiscal year of the Association and to change said fiscal year from time to time as the Board deems advisable;
- (l) To estimate the amount of, prepare, adopt and distribute the budget for the Association not less frequently than annually, to provide the manner of assessing, levying on and collecting from the lot owners the annual and special assessments, and to levy fines against one or more occupants in accordance with the Declaration;
- (m) To keep detailed, accurate records of the receipts and expenditures affecting the use and operation of the Common Area and any recreational facilities located thereon;
- (n) To enter into agreements or arrangements for premises suitable for use as apartments for maintenance or management personnel, upon such terms as the Board may approve;
- (o) To bid and purchase, for and on behalf of the Association, any lot, or interest therein, at a sale pursuant to a mortgage foreclosure, a foreclosure of the lien for annual assessments, special assessments or both, or any order or direction of a court, or at any other involuntary sale, upon the affirmative vote of not less than 75% of the votes of lot owners at a meeting duly called for that purpose, provided that the lot owners shall set forth a maximum price that the Board or its duly authorized agent may bid and pay for such lot or interest therein;
- (p) To make such mortgage arrangements and special assessments proportionately among the respective lot owners, and other such financing arrangements, as the Board may deem desirable, in order to close and consummate the purchase or lease of a lot, or interest therein, by the Association; provided, however, that no such financing arrangement shall be secured by an encumbrance on any interest in the Property other than the lot, or interest therein, to be purchased or lease;

- (q) To act in a representative capacity in relation to matters involving the Common Area or more than one lot, on behalf of the lots owners, as their interests may appear;
- (r) To enforce by legal means the provisions of the declaration and these By-Laws with respect to the Property;
- (s) To renew, extend or compromise indebtedness owed to or by the Association;
- (t) Unless otherwise provided herein or in the Declaration, to comply with the instructions of a majority of the lot owners as expressed in a resolution duly adopted at any annual or special meeting of the Association; and
- (u) The Association shall (i) have all powers permitted to be exercised by a nonprofit corporation and (ii) have and exercise all powers necessary or convenient to effect any or all of the purposes for which the Association is organized, and to do every other act not inconsistent with law which may be appropriate to promote and attain the purposes set forth in the Declaration and these By-Laws.

Section 14. Nondelegation. Nothing in this Article or elsewhere in these By-Laws shall be considered to grant to the Board, the Association or to the officers of the Association any powers or duties which, by law, have been delegated to the lot owners.

ARTICLE IV

OFFICERS

Section 1. Designation. At each regular annual meeting of the Association, after the lot owners elect the Board, the directors present at said meeting shall elect the following officers of the Association by a majority vote:

- (a) A President who shall be a director and who shall preside over the meetings of the Board and of the lot owners, and who shall be the chief executive officer of the Association;
- (b) A Secretary, who shall keep the minutes of all meetings of the Board and of the lot owners and shall be designated as the officer to mail and receive all notices served by or upon the Board or the Association and execute amendments to the Declaration and these By-Laws, and shall, in general, perform all the duties incidental to the office of Secretary, and may be a representative of the Managing Agent;
- (c) A Treasurer, who shall be responsible for financial records and books are kept and reported; provided, however, that the duties of the Treasurer may be performed by an employee or independent contractor retained by the Board; and
- (d) Such additional officers as the Board shall see fit to elect.

Any two or more offices may be held by the same person, except the offices of President and Secretary.

Section 2. Powers. The respective officers shall have the general powers usually vested in such officers; provided that the Board may delegate any specific powers to any other officer or impose such limitations or restrictions upon the powers of any officer as the Board may see fit.

Section 3. Term of Office. Each officer shall hold office for the term of one year and until his successor shall have been appointed or elected and qualified.

Section 4. Vacancies. Vacancies in any office shall be filled by the Board by a majority vote at a special meeting of said Board. Any officer so elected by the Board to fill a vacancy shall hold office for a term equal to the unexpired term of the officer he succeeds.

Section 5. Compensation. The officers shall receive no compensation for their services as officers, unless expressly provided for in a resolution duly adopted by the lot owners at a meeting duly called for that purpose.

ARTICLE V

MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot which is subject to this Declaration shall be a mandatory member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to this Declaration and shall pass automatically to an Owner's successor-in-title to the Lot.

Section 2. Voting Rights. The Association shall have two classes of voting membership:

Class A. Initially, the Class A members shall be all Owners, with the exception of the Developer, and shall be entitled to one vote for each Lot owned. When more than one Person holds an interest in any Lot, all such Persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member shall be the Developer and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A

membership on the happening of any of the following events.

- (a) When the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership; or
- (b) Seven (7) years from the date this Declaration is filed of record in the Register's Office for Gwinnett County, Georgia; or
- (c) When, in its discretion, the Developer so determines.

Section 3. Initiation Fee. Every Person who purchases a Lot in CRIMSON CREEK for use as a permanent personal residence shall pay to the Association an initiation fee of \$1,000.00 at the time of purchase of the Lot; provided, however, said initiation fee shall be due only from the Person who first purchases the Lot for use as a permanent residence.

ARTICLE VI

PROPERTY RIGHTS

Section 1. Member's Easement of Enjoyment. Subject to the provisions herein, every member of the Association shall have a right and easement of use and enjoyment in and to the Common Area without limitation, the right of pedestrian, but not vehicular, access, ingress and egress to and from his Lot over those portions of the Common Areas from time to time designated for such purposes and the right of use of such recreational facilities as may be erected and maintained by the Association for such purposes from time to time, which right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following:

- (a) The right of the Association to adopt and publish rules and regulations governing the use of the Common Area.
- (b) The right of the Association to borrow money for the purpose of improving the Common Area or any portion thereof, or constructing, repairing or improving any facilities located or to be located thereon and, upon the assent of two thirds of the Class A members and the Class B member, if any, to give as security a mortgage, however, shall be subject and subordinate to all rights, interest, easements and privileges herein reserved or established for the benefit of Developer, any Owner, or the holder of any mortgage, irrespective of when executed, given by Developer of any Owner.
- (c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members, agreeing to such dedication or transfer, has been recorded.
- (d) The easements reserved in Article IX of this Declaration.

ARTICLE VII

COVENANT FOR MAINTENANCE AND CAPITAL IMPROVEMENT ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of a Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments which may or shall be levied by the Association, and (2) special assessments, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest thereon and costs of collection thereof, as hereinafter provided including reasonable attorney's fees, shall be a charge and continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest thereon and cost of collection thereof, including reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessment shall not pass to his successors-in-title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for promoting the health, safety, pleasure and welfare of the Owners of the Lots and the costs and expenses incident to the operation of the Association, including, without limitation, the maintenance and repair of the Common Areas and improvements thereon, if any, the maintenance of services furnished by the Association, the purchase of insurance by the Association, the repair and replacement of improvements on the Common Areas, payment of all taxes, insurance premiums and all costs and expenses incidental to the operation and administration of the Association, and establishment and maintenance of a reasonable reserve fund or funds.

Section 3. Computation of Annual Assessments. If the Association incurs ongoing Common Expenses, it shall be the duty of the Board at least thirty (30) days prior to the Association's annual meeting to prepare a budget covering the estimated Common Expenses of operating the Association for the coming year, such budget shall include a capital contribution or reserve account in accordance with the capital needs of the Association. The budget and the proposed annual assessments to be levied against each Lot shall be delivered to each Owner no later than ten (10) days prior to such annual meeting. The annual assessments shall be equally divided among the Lots so that the annual assessments shall be the same to each Lot. The budget and the annual assessments shall become effective unless disapproved at the annual meeting by either (i) Developer, so long as there is a Class B member; or (ii) a vote of a majority of the Owners voting in person or by proxy at such meeting. In the event the proposed budget is not approved or the Board fails for any reason to determine the budget for the succeeding year, then until a budget has been determined as provided herein, the budget and annual assessments in effect for the then current year shall continue for the

succeeding year. If any budget at any time proves inadequate for any reason, the Board may call a meeting of the Association for the approval of a special assessment.

Section 4. Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, special assessments applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of at least two thirds (2/3) of the Class A members and the Class B member, if any, voting in person or by proxy at a meeting duly called for such purpose. Special assessments may also be levied by the Association if for any reason the annual assessments prove inadequate to defray the expenses of the Association in fulfilling its duties and obligations hereunder, subject to the consent of the members as set forth above.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 above shall be sent to all members not less than ten (10) days nor more than thirty (30) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty percent (50%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Rate of Assessment. Annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a quarterly basis.

Section 7. Date of Commencement of Annual Assessment; Due Dates. The first annual assessment shall become due and payable on the first day of the month following the lapse of thirty (30) days from the date of the sale of the first lot in CRIMSON CREEK. Thereafter as each person or entity becomes a member such new members' assessment for the current year shall be a pro-rata part of the annual assessment and shall be due on the first day of the month following the date such person or entity becomes a member of the Association. Upon a person or entity's ceasing to be a Member of the Association, such Member shall not be entitled to any refund of his annual assessment. The Developer shall not be responsible for assessments on Lots which do not have a residence constructed thereon.

Section 8. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment which is not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the greater of the maximum legal rate or twelve per centum per annum. In such case, the Association may accelerate, at its option, the entire unpaid balance of the assessment and may bring an action at law against the Owner personally obligated to

pay the same, or foreclose the lien against such Owner's Lot, and interest, costs and reasonable attorney's fees or any such action shall be added to the amount of such assessment. Each such Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the Association, or its 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 the liens against real property, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage foreclosure on real property, and such Owner hereby expressly grants to the Association a power of sale in connection with the foreclosure of said lien. The lien provided for in this Section shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid for the interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas, abandonment of his Lot or by renunciation of membership in the Association. An Owner may give to the Association, nevertheless, subject to acceptance thereof by the Association, a deed in lieu of foreclosure.

Section 9. Subordination of the lien to First Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage, first purchase money security deed, or security deed representing a first lien on said property. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure of a first mortgage or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from Liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein: (a) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; (b) all Common Area; (c) all properties exempted from taxation by state or local governments upon the terms and to the extent of such legal exemption. Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens.

ARTICLE VIII

MAINTENANCE

Section 1. Associations' Responsibility. Except as otherwise provided for herein, the Association shall maintain and keep in good repair all portions of the Common Areas and improvements thereon, if any. The Association's responsibility with respect to the Common Areas shall be deemed to include the maintenance, repair and replacement of (i) all roads, driveways, walks, parking areas and buildings and other improvements, if any, situated within the Common Areas: (ii) such utility lines, pipes, plumbing, wires,

conduits and systems which are a part of the Common Areas; (iii) all lawns, trees, shrubs, hedges, grass and other landscaping situated within or upon the Common Areas and (iv) all lawns, trees, shrubs, hedges, grass and other landscaping situated within the front and side yards of each individual lot.

Section 2. Owner's Responsibilities. Each Owner of a Lot, whether vacant or occupied, shall keep and maintain all lawns, trees, shrubs, hedges, grass, and other landscaping situated within the rear yard of his Lot and the exterior on any and all improvements located thereon in a neat, attractive and safe condition. Such maintenance shall include, but shall not be limited to painting, repairing, replacing and care for roofs, gutters, down spouts, building surfaces, trees, shrubs, grass, walks and other exterior improvements. Should any Owner of a Lot fail to maintain his Lot or the improvements thereon as set forth hereinable, the Architectural Control Committee, its agents and representatives, may, after thirty (30) days written notice to the Owner of such Lot, enter upon his Lot for the purpose of mowing, removing, clearing, cutting and pruning underbrush, weeds, or other unsightly growth, for removing garbage or trash, or for performing such exterior maintenance as the Architectural Control Committee, in the exercise of its sole discretion, deems necessary or advisable. Such Owner shall be personally liable to the Architectural Control Committee for the direct and indirect cost of such maintenance, which costs shall be added to and become part of the assessment to which such Owner and his Lot are subject. Although notice given as herein provided shall be sufficient to give the Architectural Control Committee, its agents and representatives, the right to enter upon such Lot and perform such maintenance, entry for such purpose shall be only between the hours of 8:00 a.m. and 5:00 p.m. on any day except Sunday. The provisions hereof shall not be construed, however, as an obligation on the part of the Architectural Control Committee to mow, clear, cut or prune any Lot; to provide garbage or trash removal service, or to perform such exterior maintenance.

ARTICLE IX

EASEMENTS

Section 1. Utility Easements. There is hereby created in favor of the Association an easement upon, across, over, through and under all of the Common Area for ingress, egress, installation, replacement, repair and maintenance of all utility and service lines and systems, including but not limited to, water, sewer, gas, telephone, electricity, cable television, cable or communication lines and systems. An easement is further granted to the Association, its officer, agents, employees and any management company retained by the Association, to enter in or to perform the duties of maintenance and repair of the Common Area and the Lots, as provided for herein. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Property except as initially programmed and approved by the Developer or thereafter approved by Developer of the Board. Should any utility furnishing a service covered by the general easement herein provided request a specific easement be a separate recordable document, Developer or the Association shall

have the right to grant such easement on the Common Area without conflicting with the terms hereof.

Section 2. Easements for Developer. Developer hereby reserves for itself, its successors and assigns, the following easements and rights-of-way in, on, over, under and through any part of the Property owned by Developer and the Common Areas for so long as Developer owns any Lot primarily for the purpose of sale:

- (a) For the erection, installation, construction and maintenance of wires, lines and conduits, and necessary or proper attachments in connection with the transmission of electricity, gas, water, telephone, community antenna, television cables and other utilities;
- (b) For the construction of improvements on the Lots;
- (c) For the installation, construction and maintenance of storm-water drains, public and private sewers, and for any other public or quasi-public utility facility;
- (d) For the use of the Common Area and any sales offices, model units and parking spaces in connection with its efforts to market Lots; and
- (e) For the maintenance of such other facilities and equipment as in the sole discretion of Developer may be reasonably required, convenient or incidental to the completion, improvement and sale of Lots.

Section 3. Easements for Association. There shall be a general right and easement for the benefit of the Association, its directors, officers, agents and employees, including any management company retained by the Association, to enter upon the Common Area and the Lots to perform their respective duties.

ARTICLE X

GENERAL COVENANTS AND RESTRICTIONS

- (a) The covenants and restrictions attached to these Bylaws as Exhibit B and recorded in Deed Book 102, page 154 Gwinnett County, Georgia records shall apply to all Lots in Crimson Creek and to all Structures erected or placed thereon. These restrictions are covenants running with the land. All purchasers of lots in Crimson Creek, for themselves, their heirs and assigns, by the purchase of said lots agree to be bound by the covenants contained herein and these covenants may be enforced by the owner of any lot in the subdivision and shall remain in force and effect until repealed by the lot owners in accordance with the terms of these covenants and the Bylaws of the Crimson Creek Homeowners Association.

(b)

ARTICLE XI

INSURANCE

The Board, or its duly authorized agent, shall obtain such insurance policies upon the Common Area as the Board deems necessary or desirable in its sole discretion. The named insured on all policies of insurance shall be the Association.

ARTICLE XII

GENERAL PROVISIONS

Section 1. Enforcement. (a) The Association, the Architectural Control Committee, or any Owner, shall have the right to enforce, by and proceeding at law or in equity, all restrictions, conditions, covenants, reservations, easements, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association, the Architectural Control Committee or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. (b) The Architectural Control Committee shall have the right of abatement in all cases where an Owner of a Lot shall fail to take reasonable steps to remedy a violation or breach of any restriction contained in this Declaration within twenty (20) days after the certified mailing of written notice of such violation or breach. The right of abatement means the right of the Architectural Control Committee, through its agents and employees, to enter at all reasonable times upon any Lot or Structure as to which a violation or breach exists, and to take such action or actions specified in the notice to have Owner to abate, extinguish, remove or repair such violation or breach, all without being deemed to have committed a trespass or wrongful act by reason of such entry and such actions. Further, the Architectural Control Committee, the Association, the Developer or any Owner may: (1) prosecute proceeding at law for the recovery of damages against those violating or attempting to violate the declaration of covenants or restrictions, for the purpose of preventing or enjoining all of any such violations or attempted violations, and/or to have any such violation removed from the lot or cured. (c) The remedies contained in this section shall be construed as cumulative of all other remedies now or hereafter provided by law. If the Association, the Architectural Control Committee, the Board or any other person or persons owning a lot shall successfully prosecute in law or equity an action pursuant to this or any other enforcement section of these covenants and restrictions herein.

Section 2. Severability. If any provision of the Declaration, or any paragraph, subparagraph, article, section, sentence, clause, phrase, word or the application thereof in any circumstance, is held invalid, the validity of the remainder of this Declaration and the application of any such provision, paragraph, subparagraph, article, section, sentence, clause, phrase or word in any other circumstances shall not be affected thereby and the

remainder of this Declaration shall be construed as if such invalid part was never included therein.

Section 3. Headings. The headings of articles and sections in this Declaration are for convenience of reference only and shall not in any way limit or define the content or substance of such articles and sections.

Section 4. Duration. The covenants and restrictions of this Declaration shall run with and bind the land for a period of twenty (20) years from the date of this Declaration is recorded, at the end of which period such covenants and restrictions shall be automatically extended for the successive periods often ten (10) years each, unless at least two-thirds (2/3) of the Owners at the time of the expiration of the initial period, or of any extension period, shall sign an instrument in which said covenants and restrictions are modified in whole or in part, which instrument is filed of record in the appropriate county.

Section 5. Rights and Obligations. Each grantee of the Developer, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration. All rights, benefits and privileges of every character hereby imposed shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in the Property or any portion thereof, and shall inure to the benefit of such grantee in like manner as though the provisions of this Declaration were recited and stipulated a lengthy in each and every deed of conveyance or contract for conveyance.

Section 6. Notices. Notices provided for in this Declaration shall be in writing and shall be addressed to any Owner at his Lot or at such other address as hereinafter provided. Notices to the Developer shall be in writing and shall be addressed to Northpointe Communities, LLC, 3274 Pate Road, Snellville, Georgia 30078, or at such different address as disclosed in a written notice of change of address furnished to all Owners. Any Owner may designate a different address for notices to him by giving written notice to the Developer. All notices to Owners and Developer shall be deemed delivered upon mailing by United States registered or certified mail, return receipt requested, or when delivered in person.

Section 7. Construction. The owner of any lot shall be required to commence construction on said lot within twelve (12) months after the lot is purchased from the Developer, and shall complete construction in compliance with approved plans and pass final inspection of the Architectural Control Committee within twelve (12) months of the time that the Architectural Control Committee granted approval of said plans. In the event that construction does not commence within twelve (12) months following original lot purchase from the Developer, the owner must offer the lot for sale to the Developer at ninety percent (90%) of the original price of the lot. The Developer shall have thirty (30) days to exercise this purchase option. This section is solely at the discretion of the developer to enforce or waive.

Section 8. Waiver and Modification. (a) Developer hereby reserves the right in its absolute discretion at any time to annul, waive, change or modify any of the restricting conditions or covenants contained herein as to any part of CRIMSON CREEK Subdivision then owned by Developer and with the consent of the owner as to any other land in said subdivision, and shall have further the right before a sale to change the size of or locate or relocate any of the lots, parcels, streets, or roads shown on any of the plats of CRIMSON CREEK. Further, the Developer may amend these covenants and restrictions for the purpose of curing any ambiguity or inconsistency between the provisions contained herein. (b) Declaration. Further, this Declaration may be amended at any time and from time to time by an agreement signed by at least seventy-five percent (75%) of the Owners of Lots; provided, however, such amendment by the Owners shall not be effective unless also signed by Developer, if Developer is the owner of any real property then subject to this Declaration. Any such amendment shall not become effective until the instrument evidencing such change has been filed of record. Every purchaser of grantee of any interest in any real property made subject to this Declaration, by acceptance of a deed or other conveyance thereof, thereby agrees that this Declaration may be amended as provided in this Section.

Section 9. Assignment or Transfer. Any or all of the rights and powers, titles, easements and estates reserved or given to Developer in this Declaration may be assigned to any one or more corporations or assigns which will agree to assume said rights, powers, duties, and obligations and carry out and perform the same. Any such assignment or transfer shall be made by appropriate instrument in writing in which the assignee or transferee shall join for the purpose of evidencing its acceptance of such rights and powers and be subject to the same obligations and duties as are herein given to and assumed by Developer and Developer shall thereupon be release therefrom.

IN WITNESS WHEREOF, Northpointe Communities, LLC, has caused this instrument to be executed and its name to be signed by its operating partner and attested by a notary pursuant to authority of its Board of Directors this 2nd day of July, 2001.

Northpointe Communities, LLC

By: _____

Operating Partner