

**Fourth Amendment and Restatement of the By-laws of
Crooked Creek Development Association**

This Fourth Amendment and Restatement to the By-Laws of Crooked Creek Property Owners Association is made on March 15, 2006, by the owners of the lots constituting a majority of the members of the association, which amendments are as follows:

1. First Amendment: Paragraph 1.1 Name and Office is deleted in its entirety and replaced with: **"1.1 Name and Office.** *The name of this Association is "The Crooked Creek Property Owners Association" ("Association"). The Association is an unincorporated Property Owners' Association. The principal office of the Association shall be located in Banner Elk, Avery County, North Carolina. The registered office of the Association, if required by law to be maintained in the State of North Carolina may be, but need not be, identical with the principal office."*

2. Second Amendment: Paragraph 1.4. Membership and Voting Rights. is deleted in its entirety and replaced with: **"1.4 Membership and Voting Rights.** *Members of the Association shall be all property owners who shall be entitled to one vote for each Lot, according to the most recent Survey recorded in the office of the Register of Deeds of Avery County."*

3. Third Amendment: Paragraph 2.2. Annual Meetings is deleted in its entirety and replaced with: **"2.2. Annual Meetings.** *Annual meetings of this Association shall be held during the month of July concurrent with the start of newly elected Board member terms, at such times and place as may be designated by the Board and specified in the notice of each such meeting, for the transaction of such business as may be properly brought before the meeting."*

4. Fourth Amendment: Paragraph 3.2 Number, Term and Qualification. is deleted in its entirety and replaced with: **"3.2. Number, Term and Qualification.** *The number of Directors of this Association shall be the number three (3) or five (5), fixed from time to time upon the affirmative vote of voting members representing a majority of the total vote of the Association. In the year 2006 only, two (2) seats on the Board shall be for a term of one (1) year. The balance of the seats shall be for a term of two (2) years. In the year 2007, the one (1) year terms shall terminate and become two (2) year terms. Any member of the Board of Directors who has served two (2) consecutive terms shall not be re-elected until a period of at least one (1) year has elapsed since the termination of his/her prior term of office. A Board member's term may expire before two years due*

Dorothy Pullease

to death, resignation, retirement, removal, or disqualification. In the event a Board member's term has expired but no successor has been elected or appointed, that Board member can remain in the seat until his or her successor is elected or appointed. If a Board member has three or more consecutive unexcused absences from regular meetings of the Board, the Board may, but is not required to, declare the seat of that Board member vacant. If a lot has more than one owner, only one of said owners shall serve as a Board member at any given time. In the event a property owner has individually deeded lot(s), but has a spousal, or cohabitated relationship, only one Owner of that entity shall be eligible to serve as a member of the Board at any given time. In the event an Owner is a corporation, partnership, trust or other legal entity other than a natural person or persons, one (1) beneficiary of such trust or one (1) manager of such other legal entity shall be eligible to serve as a member of the Board at any given time”.

5. **Fifth Amendment:** Paragraph 3.3 is deleted in its entirety and replaced with:

“ 3.3 Election of Directors. *Directors shall be elected to fill seats that are to become vacant in any year by written secret ballot prior to May 15th. Nominations shall be solicited. The information sheets filled out by the candidates shall be mailed to every property owner entitled to vote, along with ballot(s), in sufficient time for the results to be tabulated and for the newly elected Board members to attend at least one (1) working session with the current Board of Directors prior to the annual meeting. Depending on the number of nominations received for the number of seats available, the election shall be either competitive or noncompetitive.*

3.3.1. *If the nominations received are at least one greater than the number of vacancies to be filled, a competitive ballot shall be used. Candidates' names shall be listed, and property owners may vote for up to and including the number of vacancies on the Board. Candidates receiving the most votes shall be elected. In the event of a tie vote, the names of the candidates involved in the tie shall be placed in a container and the winner (s) shall be drawn to fill the vacant seat(s).*

3.3.2. *If nominations received do not exceed the number of vacancies to be filled, a non-competitive ballot shall be used. Candidates' names shall be listed, and property owners shall vote either “yes” or “no” for each candidate. Any candidate receiving more than 60% “no” votes shall not serve on the Board.*

3.3.3. *Property owners shall receive separate ballots for each lot owned. To ensure a secret election, a two (2) envelope return system shall be required. A completed ballot shall be sealed in a plain envelope. The plain envelope shall be returned in an outer envelope which shall be identified with a lot number and shall require the Lot owner's signature to be considered a legal ballot. The sealed ballot envelopes shall be turned over to a Counting Committee. This committee shall consist of three (3) property owners who have been appointed by the Board, but are independent of that Board. After tabulating, the results shall be reported to the Board and the ballots shall be sealed.*

3.3.4. *Candidates who are not elected to the Board shall not be eligible to be selected to fill a vacancy occurring on the Board during the term for which the candidate was seeking election. “*

6. **Sixth Amendment:** In paragraph 3.5. *Vacancies*, the words “be filled only by election at an annual meeting or a special meeting of this association called for that purpose” are deleted and replaced with “*shall only be filled by written mail-in ballot.*”

7. **Seventh Amendment :** Paragraph 4.1. *Regular Meetings*, is deleted in its entirety and replaced with: “**4.1. Regular Meetings.** *A regular meeting of the Board shall be held immediately after, and at the same place as the Annual Meeting or substitute annual meeting of this Association. In addition to the Annual Meeting, two open Board meetings shall be required, one during the month of September or October and one between January and April. Property owners shall be notified of such meetings. In June an executive Board meeting shall be held with the newly elected and existing Board members. In addition, the Board shall provide by resolution the time and place either within or without the State of North Carolina, for the holding of a regular meeting of the Board. A regular meeting of the Board may be held via teleconference or videoconference.*”

8. **Eighth Amendment:** Paragraph 6.1 *Membership*, is deleted in its entirety and replaced with: “**6.1 Membership.** *There is established a Design Review Committee which shall be responsible for the establishment and administration of Design Review Guidelines to carry out the purposes and intent of the Declaration. The Committee shall be composed of five (5) persons, who must be property owners. All of the members of the Committee shall be appointed, removed, and replaced by the Board of Directors in its sole discretion. No member of the Crooked Creek Board of Directors shall be a member of the Design Review Committee*”

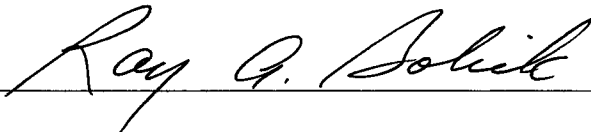
9. **Ninth Amendment :** In paragraph 6.2.3. a comma is inserted between the words “parties” and “subject” for more clarity. Places a period after “appeal”. Eliminates “as provided in the By-laws.”

10. **Tenth Amendment:** 6.2.4 is added to read:

6.2.4. **Appeal.** *Decisions of the Design Review Committee may be appealed to the Crooked Creek Board of Directors. The request for an appeal hearing shall be made in writing within 15 days of receiving the decision/disapproval from the Design Review Committee. The Board of Directors shall hold said appeal hearing within 30 days of receipt of the written appeal request. Decisions of the Board shall be binding.*

11. **Eleventh Amendment:** Paragraph 6.3.1. *Term*, is deleted in its entirety and replaced with: “**6.3.1. Term.** *The term of office of each member of the Committee, subject to Paragraph 6.1, shall be one year, commencing in August, and continuing until a successor shall have been appointed. Each member of the Committee shall serve no more than two (2) consecutive terms. After one (1) year off, an individual may again be appointed to serve as a member of the Design Review Committee. Should a Committee member die, retire, become incapacitated, or in the event of a temporary absence of a member, a successor may be appointed as provided in paragraph 6.1.*”

IN WITNESS WHEREOF, the Board of Directors of Crooked Creek Development Association, acting on behalf of the majority of the owners of lots in Crooked Creek, have caused these amendments to be adopted the day and year first above written.



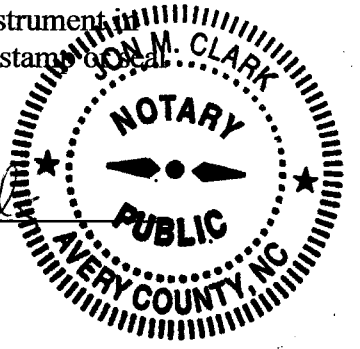
Vice - President of the Crooked Creek Board of Directors

State of North Carolina – County of Avery

I, the undersigned Notary Public of the county and state aforesaid, certify that **Allen Bolick** personally came before me and acknowledged that he is the Vice President of the Crooked Creek Board of Directors and that he signed the foregoing instrument in its name and on its behalf as its act and deed. Witness my hand and Notarial stamp of seal this 6th day of April, 2006.

Commission Expires: JANUARY 16TH, 2011

John M. Clark
Notary Public



I, **Dorothy Pullease**, do hereby certify that I am the duly elected Secretary of the Crooked Creek Development Association and that the foregoing Fourth Amendment and Restatement of the By-Laws of the Crooked Creek Development Association was approved by a majority of the owners of lots in Crooked Creek, and was so certified at a meeting of the Board of Directors on March 25, 2006.

In Witness Whereof, I have hereunto subscribed my name this 6 day of April, 2006.

Dorothy Pullease
Secretary to the Board