

BY-LAWS

**MILL CREEK ESTATES, PHASE II
HOMEOWNERS ASSOCIATION**

**ARTICLE I
NAME, MEMBERSHIP, APPLICABILITY AND DEFINITIONS**

Section 1. Name. The name of the Association shall be Mill Creek Estates, Phase II Homeowners Association (hereinafter sometimes referred to as the "Association").

Section 2. Membership. The Association shall have two (2) classes of membership. Class "A" and Class "B", as more fully set forth in that certain Declaration of Restrictive Covenants, for Mill Creek Estates, Phase II, Homeowners Association (said Declaration as amended, renewed or extended from time to time, is hereinafter sometimes referred to as "the Declaration"), the terms of which pertaining to membership are specifically incorporated by reference herein.

Section 3. Definitions. The words used in these By-Laws shall have the same meaning as set forth in said Declaration unless the context shall prohibit.

**ARTICLE II
MEETINGS, QUORUM, VOTING, PROXIES**

Section 1. Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Owners of Lots as may be designated by the Board of Directors.

Section 2. Annual Meetings. The Association shall meet annually at least thirty (30) days prior to the close of the fiscal year except the first annual meeting shall be set by the Board as provided in the Declaration, within 180 days after the first to occur of (i) all Lots in all Plats of Phase II having been transferred from the Declarant to Class "A" members.

Section 3. Special Meetings. It shall be the duty of the President to call a special meeting of the Association if so directed by resolution of the Board or upon a petition signed by at least twenty five percent (25%) of the votes of each class of membership. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

Section 4. Notice of Meetings. Written Notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least 10 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 for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 5. Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, equaling one-fourth (1/4) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation. Those present or represented at any meeting of the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 6. Adjourned Meeting. If, at any regular or special meeting of the members of the Association, there shall be less than a quorum present, a majority of those members present and entitled to vote may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called, at which time the quorum requirements shall be one-fifth (1/5) of the votes of each class of membership of the Association and any business which might lawfully have been transacted at the meeting as originally called may be transacted without further notice.

Section 7. Proxies. A vote may be cast in person or by proxy. Proxies may be given to any person and shall be valid only for the particular meeting designated therein and must be filed with the Secretary before the appointed time of the meeting.

Section 8. Voting. A vote of the majority of those present, shall decide any questions brought before the meeting, unless the question is one upon which a different vote is required by the Declaration, the Articles of Incorporation of the Association or these By-Laws.

Section 9. Conduct of Meeting. The President shall preside over all meetings of the Association and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting as well as a record of all transactions concerning there at. Robert's Rules of Order (current edition) shall govern the conduct of all meetings of the Association when not in conflict with the Declaration or By-Laws.

ARTICLE III BOARD OF DIRECTOR, NUMBER, TERM OF OFFICE

Section 1. Governing Body. The affairs of the Association shall be governed by a Board of Directors.

Section 2. Initial Directors. The Initial Directors shall be selected by the Declarant acting in its sole discretion on behalf of all Class "B" members of the Association and shall serve until the first annual meeting of the membership. The Directors selected by the Class "B" members need not be Owners or residents in the Community. The names of the Initial Directors selected by the Class "B" members are set forth in the Articles of Incorporation of the Association.

Section 3. Number of Directors. The number of Directors of the Association shall be fixed by resolution of the Board of Directors but in no event shall the number be less than three or more than seven. It is the express intent to require that there be an uneven number of Directors, either three (3), five (5) or seven (7).

Section 4. Appointed Directors. The Declarant, acting on behalf of all Class "B" members, until the Class "B" membership terminates, or unless Declarant shall earlier surrender such right, shall have the right to appoint three members of the Board, who shall each serve for one year terms and who may be reappointed. Said appointed Board members need not be members of the Association.

Section 5. Election and Term of Office. All members shall have the right to vote on all Directors to be elected. So long as there shall be Class "B" membership outstanding, all Directors shall be elected to serve for a term of one year. At the first annual meeting after the termination of Class "B" membership, seven (7) Directors shall be elected on a staggered term basis. The members shall elect three (3) Directors for a term of one (1) year, two (2) Directors for a term of two (2) years and two (2) Directors for a term of three (3) years; and at each annual meeting thereafter the member shall elect Directors for a term of three (3) years.

Section 6. Removal of Directors. Except for members of the Board appointed buy the Class "B" members, Directors may be removed with or without cause by majority vote of the members of the Association at any duly called regular or special meeting. In such event a successor may then and there be elected to fill the vacancy thus created. Any Director whose removal has been proposed shall be given at least ten (10) days written notice of the calling of the meeting and the purpose thereof and shall be given an opportunity to be heard at the meeting. In the event of death or resignation of a Director who was elected by the membership, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 7. 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 8. Action Taken Without a Meeting. The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

ARTICLE IV NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors except with respect to Directors appointed by the Class "B" members, shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two (2) or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations are to be made from among members.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE V. MEETINGS OF DIRECTORS

Section 1. Regular Meeting. The Board of Directors shall meet annually within ten (10) days after the annual meeting of members and in addition to the annual meeting shall meet at regular meetings established as to time and place by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two Directors, after not less than three (3) days notice to each Director.

Section 3. Quorum of Board of Directors. At all meetings of the Board of Directors unless otherwise specified in the Declaration, a majority of the Directors shall constitute a quorum for the transaction of business, and the votes of a majority of the Directors present at a meeting at which a quorum is present shall constitute the decision of the Board. If at any meeting of the Board there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

Section 4. Compensation. No Director shall receive compensation from the Association 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. Waiver of Notice. Any requirements of notice to a Director provided under this Article V may be waived by the Director entitled thereto by written waiver of such notice signed by the Director and filed with the secretary of the Association.

ARTICLE VI POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Conduct of Meetings. The President shall preside over all meetings of the Board of Directors 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. Robert's Rules of Order (current edition) shall govern the conduct of the meetings of the Board when not in conflict with the Declaration or these By-Laws.

Section 2. Powers. The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the

Associations' affairs and as provided by law, and may do all acts and things as are necessary by the Declaration, Articles, or these By-Laws directed to be done and exercised exclusively by the members. The Board shall have the power to adopt rules and regulations which it deems necessary and to impose sanctions for violation thereof, including, without limitation, reasonable monetary fines which may be collected as provided in the Declaration for Assessments.

Upon termination of the Class "B" membership, the Declarant or assigns shall have a veto power over all actions of the Board as is more fully provided below. This power shall expire when the Declarant or assigns shall no longer have an interest in any portion of the property. This veto power shall be exercisable only by Declarant, its successors, and assigns. The veto shall be as follows:

No action authorized by the Board of Directors shall become effective, nor shall any action, policy or program be implemented until and unless:

(a) Declarant shall have been given written notice of all meetings by certified mail, return receipt requested or by personal delivery, at the address it has registered with the Secretary of the Association, as it may change from time to time, which notice complies with Article V, Sections 1 and 2 of the By-Laws as to regular and special meetings of the Directors, and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth in reasonable particularity the agenda to be followed at said meeting; and

(b) Declarant shall be given the opportunity, at any such meeting if Declarant so desires to join in, or to have its representatives or agents join in, discussion from the floor of any prospective action, policy, or program to be implemented by the Board. Declarant and its representatives or agents shall make its concerns, thoughts, and suggestions known to the members of the Association and/or the Board. Except with the written consent of the Declarant or its representatives, the first vote taken subsequent to such discussion as to such prospective actions shall not take place less than ten (10) days subsequent to the date of the meeting in which the prospective action, policy, or program was first discussed. The time of the subsequent meeting shall be fixed at the first meeting, and such subsequent meeting shall be considered to be a continuation of the original meeting. At such meeting, Declarant shall have, and is hereby granted, a veto power over any such action, policy or program authorized by the Board of Directors and to be taken by said Board, the Association, or any individual member of the Association if Board approval is necessary for said member's action. Said veto may be exercised by Declarant, its representatives, or agents in the subsequent meeting held pursuant to the terms and provisions hereof.

(c) Provided, however, that if Declarant does not exercise said veto, then the Board, the Association, or the individual members seeking approval of such action or to whose benefit such action accrues shall,

within a reasonable time period, in any event not to exceed one hundred twenty (120) days, take such action or commence to take such action as to implement or effectuate said approval by the Board; and if such action is not taken or commenced within said one hundred twenty (120) days, the provisions of this Article shall once again become effective, and Declarant's veto power as to said action will once again become effective. Any veto power arising pursuant to this Subsection (c) shall not extend to the requiring of any action or counter-action on behalf of the Board or Association.

Section 3. Action Without a Formal Meeting. Any action to be taken at a meeting of the Directors or any action that may be taken at a meeting of the Directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Directors.

Section 17. Common or Interested Directors. Each member of the Board shall exercise his or her powers and duties in good faith and with a view to the interests of the Association. No contract or other transaction between the Association and any of its Directors, or between the Association and any corporation, firm, or Association (including the Declarant) in which any of the Directors of the Association are directors or officers or are pecuniarily or otherwise interested, is either void or voidable because any such Director is present at the meeting of the Board of Directors or any committee thereof which authorizes or approves the contract or transaction, or because his vote is counted for such purpose, if any of the conditions specified in any of the following subparagraphs exist:

(a) The fact of the common directorate or interest is disclosed or known to the Board or a majority thereof are noted in the minutes, and the Board of Directors authorizes, approves, or ratifies such contract or transaction in good faith by a vote sufficient for the purpose; or

(b) The fact that the common directorate or interest is disclosed or known to at least a majority of the members of the Association and the members approve or ratify the contract or transaction in good faith by a vote sufficient for the purpose; or

(c) The contract or transaction is commercially reasonable to the Association at the time it is authorized, ratified, approved, or executed.

Any common or interested Director may be counted in determining presence of a quorum at any meeting of the Board or committee thereof which authorizes, approves, or ratifies any contract or transaction, but shall not vote on the specific issue or issues in which he or she has a common interest in the outcome.

ARTICLE VII OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The officers of this Association shall be a

president and vice-president, who shall at all times be members of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 3. Special Appointment. 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 4. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign, at any time 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 therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 5. Vacancies. A vacancy in any office may be filled by appointment of the Board. The Officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 6. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 7. Duties. The duties of the offices are as follows:

(a) **President.** The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out.

(b) **Vice-President.** The vice-president shall 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 out.

(c) **Secretary.** 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; service 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.

(d) **Treasurer.** The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; keep proper

books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

ARTICLE X COMMITTEES

Committees to perform such tasks and to serve for such periods as may be designated by resolution adopted by a majority of the Directors present at a meeting at which a quorum is present are hereby authorized. Sub-committees shall perform such duties and have such powers as may be provided in the resolution. Each committee shall be composed as required by law and shall operate in accordance with the terms of the resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors.

ARTICLE XI INDEMNIFICATION PROVISIONS

In addition to any other right or remedy to which the persons hereinafter described may be entitled, under the Articles of Incorporation, By-Laws, Declaration, any other Agreement, or by vote of the members or otherwise, the Association shall, and by those present does indemnify any Director or officer of the Association or former director or officer of the Association, who was or is party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that he is or was a director or officer of the Association against expenses (including attorneys fees), judgment, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith or in a manner he reasonably believed to be in or not opposed to the best interest of the Association, and with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plead of nolo contendere or its equivalent; shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

ARTICLE XII MISCELLANEOUS

Section 1. Fiscal Year. The initial fiscal year of the Association shall be set by resolution of the Board of Directors.

Section 2. Parliamentary Rules. Robert's Rules of Order (current edition) shall govern the conduct of Association proceedings when not in conflict with Illinois law, the Articles of Incorporation, the Declaration, or these By-Laws.

Section 3. Conflicts. If there are conflicts or inconsistencies between the provisions of Illinois law, the Articles of Incorporation, the Declaration, and these By-Laws, the provisions

of Illinois law, the Declaration or the Articles of Incorporation (in that order) shall prevail.

Section 4. Books and Records. The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

Section 5. Corporate Seal. The Board of Directors shall provide a suitable corporate seal containing the name of the Association or other appropriate statements, as the Board of Directors shall determine.

Section 6. Execution of Association Documents. With the prior authorization of the Board of Directors, all notes, contracts and other documents shall be executed on behalf of the Association by either the President or the Vice-President, and all checks and other drafts shall be executed on behalf of the Association by such officers, agents or other persons as are from time to time by the Board of Directors authorized so to do.

Section 7. Amendments. These By-Laws may be amended by the members of the Association at any regular or special meeting duly called for the purpose by the affirmative vote of a majority of the votes which the Class "A" members of the Association in attendance in person or by proxy, are entitled to cast and by the Class "B" membership shall exist and with the written consent of Declarant thereafter. Notwithstanding the foregoing, those provisions of these By-Laws which are governed by said Declaration or by Illinois law may not be amended, repealed or altered except as provided in said Declaration or by Illinois law may not be amended, repealed or altered except as provided in said Declaration or by applicable law. Provided further, that written notice of any meeting called for the purpose of amending these By-Laws shall be sent to the holders of any and all first mortgages affecting any of the Lots, not less than thirty (30) days in advance of the meeting, setting forth the purpose of the meeting.

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