

**BY-LAWS OF THE  
WINDING CREEK ESTATES HOMEOWNERS' ASSOCIATION**

**ARTICLE I  
PURPOSES AND POWERS**

The Association shall be responsible for the general management and supervision of the Common Area and shall have all of the powers to perform, and shall be responsible to perform, all of the obligations provided in the Declaration. Further, the Association shall have all powers now or hereafter granted by the General Not For Profit Corporation Act of the State of Illinois which shall be consistent with the purposes specified herein and in the Declaration of Covenants, Restrictions, Easements, Charges, and Liens for Winding Creek Estates Lots II and III (hereinafter "the Declaration").

**ARTICLE II  
OFFICES**

2.01 **Principal Office.** The Association shall maintain a principal office in DuPage County.

2.02 **Registered Office.** The Association shall have and continuously maintain in this State a Registered Office and a Registered Agent whose office shall be identical with such Registered Office. The Association may have such other offices, either within or outside the State of Illinois, as the Board of Directors may determine or as the affairs of the Association may require.

**ARTICLE III  
MEMBERS**

3.01 **Voting Members.** Every person or entity who is a record owner of a fee or undivided fee interest in any Lot in Winding Creek Estates Lots II and III shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to an assessment by the Association. Ownership of such Lot shall be the sole qualification of membership. Membership shall terminate automatically upon the sale, transfer, or other disposition by a member of his ownership of a lot, and at which time, the new owner shall automatically become a member of the Association. Voting rights with regard to each Member are set forth in Section 3.02 hereof. There shall be no cumulative voting. The Homeowners Association shall have the right to suspend the voting rights of any member for any period during which any assessment levied by the Homeowners Association against the member's lot remains unpaid.

3.02 **Classes of Membership.** The Association shall have two classes of voting

membership:

**Class A.** Class A Members shall be all those Owners as defined in Section 3.01. When more than one person holds such 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. All Members holding any interest in a single Lot shall together be entitled to cast only one vote for the Lot.

### **3.03 Meetings.**

(a) **Place of Meetings.** Meetings of the Members shall be held at the principal place of the Association or at such other place in DuPage County, Illinois as may be designated in any notice of a meeting.

(b) **Notice.** Written or printed notice stating the place, day, and hour of any meeting of the members shall be delivered, either personally, by mail or by electronic mail to the persons entitled to vote there at, addressed to each such person at the last address given by him to the Board for the purpose of service of such notice, or to the home of the owner with respect to which such voting right pertains. If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the Loted States mail addressed to the Member at his address as it appears in the records of the Association, with postage thereon prepaid. Any Member may waive notice of a meeting in writing, or consent to any action of the Association without a meeting. At a special meeting, no business may be transacted other than that specified in the notice. Notice of all meetings shall be sent to all Members annually.

(c) **Quorum.** At any meeting, unless otherwise provided herein or in the Declaration, the presence in person or by proxy of the voting members having a majority of the total votes shall constitute a quorum. At meetings of the Board of Directors, a quorum shall consist of a majority of persons serving on the Board of Directors.

(d) **Annual Meeting.** The annual meeting of the voting members as set by the Board shall occur in the month of February. If the date for the annual meeting of Members is a legal holiday, the meeting will be held at the same hour on the first day succeeding such date which is not a legal holiday.

(e) **Special Meetings.** Special meetings of the Members may be called at any time for the purpose of considering matters which, by the terms of the Declaration or these By-Laws, require the approval of all or some of the members, or for any other reasonable purposes. Said meetings shall be called by written notice, authorized by the Board, President or by the Members having, in the aggregate, not less than twenty-five percent (25%) of the total votes of the Homeowners' Association.

(f) **Proxies.** At any meeting of Members, a Member entitled to vote may either vote in person or by proxy executed in writing or by his duly authorized attorney-in-fact. All proxies must be filed with the secretary. All proxies are revocable and automatically expire upon conveyance by the Member of his or her Lot. No proxy shall be valid after eleven (11) months from the date of its execution.

(g) **Conduct of Meetings.** The President or designated Board Member shall preside over meetings of the Association Members and Board of Directors, and the Secretary or designated Board Member 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 occurring at the meeting. Meetings shall follow Roberts Rules of Order as practicable.

(h) **Installment Contract Purchases.** In the event of a resale of a home in the Association, the purchaser of such home from a seller other than the Covenantor pursuant to an installment contract for purchase shall, during such times as he or she resides in the home, be counted toward a quorum for purposes of election of members of the Board at any meeting of the Owners called for purposes of electing members of the Board, and shall have the right to vote for the election of members of the Board and to be elected to serve on the Board unless the seller expressly retains in writing any or all of those rights. In no event may the seller and purchaser both be counted toward a quorum, be permitted to vote for a particular office or be elected and serve on the Board. Satisfactory evidence of the installment contract shall be made available to the Association or its agents. For purposes of this subsection, "installment contract" shall have the same meaning as set forth in subsection (e) of Section 1 of the Dwelling Lot Installment Contract Act.

#### ARTICLE IV BOARD OF DIRECTORS

4.01 **Board of Directors.** The affairs of the Association shall be governed by a Board of Directors, each of whom shall have one (1) vote. The Directors shall be Members or spouses of such members, provided, however, that no person and his or her spouse may serve on the Board at the same time. In the case of an Owner which is a corporation, partnership, trust or other legal entity, such entity may designate a natural person in writing to the secretary of the Association as the representative of such corporation, partnership, trust or legal entity and who shall be eligible to serve as a member of the Board. The Board has the authority to act on that which has been approved by at least a majority of the Board.

4.02 **Determination of the Board to be Binding.** All matters of dispute or disagreement with respect to interpretation or application of the provisions of the Declaration or these By-Laws shall be determined by the Board as hereinafter provided, which determination shall be final and binding on the Association and on all Owners subject, however, to the jurisdiction of any applicable court of law.

**4.03 Number of Directors.** At any time there shall be seven (7) members on the Board of Directors.

**4.04 Election of Board Members.** At the annual meeting of the Members, the Board of Directors shall be elected. In all elections for members of the Board of Directors, each Member shall be entitled to a vote on a non-cumulative basis. The candidate receiving the highest number of votes shall be deemed to be elected. At the 2005 Annual Meeting, three (3) of the current Directors shall remain on the Board to serve one (1) year terms, and the remaining four (4) Directors shall be elected for (2) year terms. At the expiration of the initial term of office of each member of the 2005 Board of Directors, a successor shall be elected to serve for a term of two (2) years. Directors may be elected to serve any number of consecutive terms.

**4.05 Removal of Board Members.** Any director elected by the Members may be removed, with or without cause, by an affirmative vote of the Members having at least two-thirds (2/3) of the total votes, in person or proxy, at any special meeting called for the purpose in the manner aforesaid. A successor to fill the unexpired term of a Board member removed may be elected by the Members at the same meeting or any subsequent meeting called for that purpose.

**4.06 Removal of Officers.** An officer of the Board may be removed by the affirmative vote of the Board of Directors.

**4.07 Vacancies in Board.** Vacancies in the Board, other than as a result of removal pursuant to paragraph 4.05 in these By-Laws, shall be filled by the remaining members of the Board or by the Members present at the next annual meeting or at a special meeting of the Members called for such purpose.

**4.08 Compensation.** Members of the Board shall receive no compensation or gifts for their services, unless expressly allowed by the Board at the direction of the Members having sixty-six percent (66%) of the total votes. However, any director may be reimbursed for reasonable expenses incurred in the performance of his duties.

**4.09 Election of Officers.** The Board shall elect from among its members, at each annual meeting:

- (a) A President who shall preside over meetings and act as chief executive officer;
- (b) One or more vice-presidents who shall assume the duties of the president if the president is unable to fulfill his duties;
- (c) a Secretary who will keep the minutes of all meetings, and who shall in general perform all the duties incident to the office of Secretary; and
- (d) A Treasurer to keep the financial records and books of account, and such additional officers as the Board shall in its discretion elect.

**4.10 Meetings of Board.** Regular meetings of the Board of Directors shall be held at such time and place as shall be determined from time to time by a majority of the Directors, but at least four (4) such meetings shall be held during each fiscal year with at least one (1) per quarter. Notice of the time and place of the meeting shall be mailed, by regular mail or electronically, or delivered to Directors at least forty-eight (48) hours prior to the meeting; provided, however, notice of a meeting need not be given to any director who has signed a waiver of notice or a written consent to holding of the meeting. Members shall receive written notice mailed or delivered no less than ten (10) and no more than thirty (30) days prior to any meeting of the Board concerning adoption of the proposed annual budget or any increase in the budget or establishment of an assessment.

**4.11 Open Meetings.** All meetings of the Board shall be open to all Members, except for the portion of any meeting held:

(a) To discuss litigation when an action against or on behalf of the Association has been filed or is pending in a court or administrative tribunal, or when the Board finds that such an action is probable or imminent;

(b) To consider information regarding appointment, employment or dismissal of an employee, or

(c) To discuss violations of rules and regulations of the Association or unpaid assessments owed to the Association.

Any vote on these matters shall be taken at a meeting or portion thereof open to any Owner. Members other than directors may not participate in any discussion or deliberation unless permission to speak is requested on his or her behalf by a director. In such a case, the President may limit the time any Member may speak.

**4.12 Execution of Instruments.** All agreements, contracts, leases, deeds, vouchers for payment of expenditures and other such instruments shall be signed by such officer or officers, agent or agents of the Board and in such manner as from time to time shall be determined by written resolution to the Board. In the absence of such determination by the Board, such documents shall be signed by the President and countersigned by the Secretary.

**4.13 Indemnification of Officers and Directors.** The Association shall indemnify the Officers and Directors of the Association to the full extent permitted by the laws of the State of Illinois including any person who, by reason of the fact that he is or was an officer or director of the Association, is made a party or is threatened to be made a party to any kind of litigation, claim, suit, action, or other proceeding of any kind, against expenses (including reasonable attorney's fees), liabilities, judgments, costs, fines, penalties, amounts paid in settlement, and other losses, actually and reasonably incurred by him in connection with the

defense or settlement incurred by him in connection with the defense or settlement thereof, if he acted in good faith and in a manner he reasonably believed to be in the best interests of the Association, and if he had no reasonable cause to believe his conduct was unlawful. No indemnification shall be made with respect to any claim or matter as to which such person shall have been adjudged to be liable for gross negligence or willful misconduct in the performance of his duty to the Association.

**4.14 Indemnification Non-Exclusive.** The indemnification provided hereby shall not be deemed exclusive of any other rights to which those seeking indemnification (whether or not they are officers or directors) may be entitled under any law, agreement, vote of members, or directors or otherwise, and shall continue as to a person who has ceased to be a director or officer and shall inure to the benefit of the heirs, executors, and administrators of the person being so indemnified.

**4.15 Committees.** Committees are hereby authorized to perform such tasks and to serve for such periods as may be designated by a resolution adopted by a majority of the Directors present at a meeting at which a quorum is present. Each committee 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 V**

### **POWERS AND DUTIES OF THE BOARD**

**5.01 General Powers of the Board.** Without limiting the general powers which may be provided by law, the Declaration or these By-laws, the Board shall have the following general powers and duties:

- (a) To elect the officers of the Association as hereinabove provided;**
- (b) To administer the affairs of the Association and the Common Area;**
- (c) to engage the services of a manager or managing agent who shall manage and operate the common area; to formulate policies for the administration, management and operation of the common area.;**
- (d) to adopt rules and regulations governing the administration, management, operation and use of the Common Area, and to amend such rules and regulations from time to time;**
- (e) To provide for the maintenance, repair and replacement of the Common Areas;**
- (f) to provide for the designation, hiring and removal of employees and other personnel, including accountants and legal counsel, and 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 Area and other areas as provided for in the Declaration, and to delegate any such powers to the manager or managing**

agent (and any such employees or other personnel as may be the employees of the managing agent);

- (g) to estimate the amount of the annual budget, and to provide the manner of assessing and collecting from the Owners of such Homes, in the manner as provided by the Declaration, their respective shares of such estimated expenses as hereinafter provided;
- (h) To collect all regular and special assessments; and
- (i) To exercise all other powers and duties vested in or delegated to the Association, and not specifically reserved to the Owners by the Articles of Incorporation, the Declaration or these By-Laws.

**5.02 Capital Additions and Improvements.** The Board's powers hereinabove enumerated shall be limited in that the Board shall have no authority to acquire and pay for out of the maintenance fund any structural alterations, capital additions or capital improvements to the Common Area (other than for purposes of replacing or restoring portions of the Common Area, subject to all the provisions in the Declaration) or to those portions of any structure for which the Association is responsible pursuant to the Declaration, having a total cost in excess of twenty thousand dollars (\$20,000), without in each case the prior approval of the Owners holding one-half (½) the total votes.

**5.03 Accounts and Reports.** The following management standards of performance will be followed unless the Board by resolution specifically determines otherwise:

- (a) Maintain an operating account and a reserve account, the funds in each shall not be commingled;
- (b) Financial reports shall be prepared for the Board at least annually containing:
  - (i) An income statement reflecting all income and expense activity for the preceding period on a cash basis;
  - (ii) A balance sheet as of the last day of the preceding year; and
  - (iii) A delinquency report consisting of all Owners who are delinquent in paying of the assessments at the time of the report and describing the status of any action to collect such installments which remain delinquent.
- (c) An annual report shall be distributed to all Members consisting of at least the following: (1) a balance sheet; (2) an operating (income) statement; and (3) a budget. This annual report shall also include an itemized accounting of Common Expenses actually incurred or paid, together with a tabulation of the amounts collected pursuant to the budget or assessment and showing

next excess or deficit of income over expenses plus reserves.

**5.04 Records of the Association; Availability for Examination**

**(a) The Board shall keep and maintain the following records, or true and complete copies of these records, at the Association's principal office:**

- (1) The Association's Declaration, Bylaws, and Plats of Survey, and all Amendments of these;**
- (2) The Rules and Regulations of the Association, if any;**
- (3) The Articles of Incorporation of the Association and all Amendments to the Articles of Incorporation;**
- (4) Minutes of all meetings of the Association and its Board of Managers for the immediately preceding 7 years;**
- (5) All current policies of insurance of the Association;**
- (6) all contracts, leases, and other agreements then in effect to which the Association is a party or under which the Association or the lot Owners have obligations or liabilities;**
- (7) A current listing of the names, addresses, and weighted vote of all members entitled to vote;**
- (8) ballots and proxies related to ballots for all matters voted on by the members of the Association during the immediately preceding 12 months, including but not limited to the election of members of the Board; and**
- (9) The books and records of account for the Association's current and 10 immediately preceding fiscal years, including but not limited to itemized and detailed records of all receipts and expenditures.**

**(b) Any member of the Association shall have the right to inspect the records described in subdivisions (1), (2), (3), (4), and (5) of subsection (a), in person, at any reasonable time or times, at the Association's principal office or other place in DuPage County as designated by the Board. In order to exercise this right, a member must submit a written request to the Association's Board of Directors or its authorized agent, stating with particularity the records**

sought to be examined.

(c) Except as otherwise provided in subsection (e) of this Section, any member of the Association shall have the right to inspect the records described in subdivisions (6), (7), (8), and (9) of subsection (a) of this section, in person, at any reasonable time or times but only for a proper purpose, at the Association's principal office. In order to exercise this right, a member must submit a written request, to the Association's Board of Directors or its authorized agent, stating with particularity the records sought to be examined and a proper purpose for the request.

(d) The actual cost to the association of retrieving and making requested records available for inspection and examination under this Section shall be charged by the Association to the requesting member. If a member requests copies of records requested under this Section, the actual costs to the Association of reproducing the records shall also be charged by the Association to the requesting member.

(e) Notwithstanding the provisions of subsection (c) of this Section, unless otherwise directed by court order, the Association need not make the following records available for inspection by its members:

- (1) Documents relating to appointment, employment, discipline, or dismissal of Association employees;
- (2) Documents relating to actions pending against or on behalf of the Association or its Board of Directors in a court or administrative tribunal;
- (3) Documents relating to actions threatened against, or likely to be asserted on behalf of the Association or its Board of Directors in a court or administrative tribunal;
- (4) Documents relating to common expenses or other charges owed by a member other than the requesting member; and
- (5) Documents provided to the association in connection with the lease, sale, or other transfer of a lot by a member other than the requesting member.

**5.05 Tax Relief.** In connection with the Common Areas, the Board shall have the power to seek relief from or in connection with the assessment or levy of any real property taxes, special assessments and any other special taxes or charges of the State of Illinois or

any political subdivision thereof, or any other lawful taxing or assessing body, which are authorized by law to be assessed and levied on real property and to charge all expenses incurred in connection therewith to the maintenance fund.

**5.06 Rules and Regulations: Management**

(a) **Rules.** The Board may adopt such reasonable rules and regulations as it may deem advisable for the maintenance, conservation and beautification of the Common Areas, and for the health, comfort, safety and general welfare of the Owners and Occupants, including but not limited to the imposition of fines. Written notice of such rules and regulations shall be given to all Owners.

(b) **No Business for Profit.** Nothing hereinabove contained shall be construed to give the Board authority to conduct an active business for profit on behalf of all or any of the Owners.

(c) **Management.** The Board may engage the services of an agent to manage the Property to the extent deemed advisable by the Board.

(d) **Additional Enforcement Rights.** Notwithstanding anything to the contrary herein contained, the Association, acting through the Board of Directors, may elect to enforce any provision of the Declaration, these By-Laws, or the rules and regulations of the Association or by suit at law or in equity to enjoin any violation and/or to recover monetary damages. In any such action, to the maximum extent permissible, the Owner or Occupant responsible for the violation of which the abatement is sought shall pay all costs, including reasonable attorney's fees, actually incurred.

**ARTICLE VI**  
**MISCELLANEOUS**

**6.01 Fiscal Year.** The fiscal year of the Association shall be set by resolution of the Board of Directors. In the absence of such a resolution, the fiscal year shall be the calendar year.

**6.02 Conflicts.** Any conflicts between these By-Laws and Illinois law, the Declaration, or the Articles of Incorporation, shall be resolved in favor of Illinois law, the Declaration, or the Articles of Incorporation, in that order.

**6.03 Covenants and Restrictions to Use and Occupancy.** All Owners shall maintain, occupy, and use their Dwelling Lots and the Common Areas only in accordance with the terms of the Declaration and any rules and regulations adopted by the Board. The Board shall have full authority to enforce all such rules and regulations by taking all actions as

may be necessary.

**6.04 Attorney's Fees.** With respect to any prevailing litigation, claim, suit or any kind of proceeding to enforce or otherwise arising from these by-laws or from the Declaration, the Association shall be entitled to recover the reasonable attorneys' fees and costs incurred in either pursuing or defending its claim.

**6.05 Definition of Terms.** The terms used in these By-Laws shall have the same definition as set forth in the Declaration.

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