



# **DAVID BRENTON'S TEAM**

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## **RE/MAX Select, REALTORS**

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**[www.move2indy.com](http://www.move2indy.com)**

The covenants provided may or may not include any amendments made due to governing agencies (ie: national, state, city, local and neighborhood agencies). Please contact the Recorder's office for the county where the property is located to receive updated information.

**The information is deemed reliable, but not guaranteed.**

**WHISPERING PONDS HOMEOWNERS' ASSOCIATION, INC.**



2094 PELICAN DRIVE ♦ FRANKLIN, IN, 46131

November 15, 2002

To: Whispering Ponds Homeowners

Re: By-laws and Covenants

Attached are current Bylaws and Covenants for our Whispering Ponds Community.

As noted in the copies, they include the original recorded documents and all amendments made and recorded to the current date.

We urge you to keep these documents with other legal papers.  
**When you sell your property be sure to pass the By-laws and Covenants on to the new owner.**

Sincerely,

Board of Directors

**DECLARATION OF COVENANTS, CONDITIONS &  
RESTRICTIONS FOR THE  
WHISPERING PONDS SUBDIVISION**

The attached Covenants are a compilation of the covenants that bind everyone in Whispering Ponds. This compilation includes all amendments that have been made to the original covenants.

This unrecorded compilation is being provided to you as an easy reference guide. Hence, you will not have to review multiple sets of documents each time a question arises regarding the covenants.

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**PLEASE NOTE:** It is NOT intended to be an official replacement for the original documents that are recorded in the Office of the Recorder for Johnson County, Indiana.

Those documents are:

Whispering Ponds, Plat & Declaration of Covenants, Instrument  
#95005878 (Plat Cabinet C, 703 A-B)  
Recorded by Developer on April 18, 1995.

Whispering Ponds, Declaration of Covenants, Instrument  
#95005964 (Book 68, Page 457)  
Recorded by the Developer on April 20, 1995  
(These covenants supplement the covenants set forth in document #95005878)

Whispering Ponds, Amendment to Declaration of Covenants,  
Instrument #2000-013506  
(Amendments approved December 21, 1998, and Recorded by the Association on  
June 14, 2000)

Whispering Ponds, Amendment to Declaration of Covenants,  
Instrument # 2002-012774  
(Amendments approved December 17, 2001, and Recorded by the Association on  
April 12, 2002)

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**DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS  
FOR THE WHISPERING PONDS SUBDIVISION**

This subdivision shall be known and designated as WHISPERING PONDS, an addition to the City of Franklin, County of Johnson, State of Indiana. The subdivision was designed and is intended to be a retirement community for those persons 55 years or older. All streets, alleys, and public open spaces shown and not heretofore dedicated are hereby dedicated to the public.

Invalidation of any one of the foregoing covenants by judgment or court order shall in no way affect any of the other covenants that shall remain in full force and effect.

In order to afford adequate protection to all present and future owners of lots and tracts in this subdivision, the owners adopt and establish the following protective covenants, each and all for the benefit of each and every owner of any lot or lots in the subdivision, binding all the same, now and hereafter, and their grantees, their heirs and personal representatives, and where applicable, their successors and assignees.

**I. THE HOMEOWNERS ASSOCIATION**

- 1) Upon the transfer of ownership of all platted lots, Whispering Ponds, Inc., will cause to be incorporated under the laws of the State of Indiana, a not-for-profit corporation under the name "Whispering Ponds Homeowners Association, Inc.", or a similar name, as such agency for the purpose of ownership and maintenance of all common areas as designated on the recorded plan, to assume the rights and duties of the building committee as specified in the recorded covenants, and administer and enforce said covenants, disbursing the assessments and charges imposed and created hereby and hereunder or by and under any other agreement to which the property may at any time be subject, and promoting the health, safety and welfare of the owners of the property, and all parts thereof and that said Association shall have the power to establish by-laws, duly recorded in the Office of the Recorder, Johnson County, Indiana, establishing procedures and rules for the efficient execution of these recorded covenants. Upon incorporation of "Whispering Ponds Homeowners Association, Inc.", all lot owners are automatically and immediately members of the Corporation.

- 2) The Whispering Ponds Homeowners Association shall be ultimately responsible for the care and maintenance of the detention pond and clubhouse lot.

## II. CHARACTER OF DEVELOPMENT & ARCHITECTURAL CONTROL

- 1) Each lot shall be divided into separately designated tracts and each tract shall be conveyed as a separately designated legally described freehold estate, subject to the terms, conditions and provisions in these covenants set forth. The tracts shall be delineated and described as a metes and bounds part of the lot of which it is a part, done at such time as the dwellings are complete enough to establish the relationship of the party wall to the lots perimeter.
- 2) Lots designated in this plat are hereby reserved for attached single-family residential use and will have erected thereon dwellings which shall share a common wall with a similar single-family structure on the lot, such common wall comprising a part of the common tract lines between such tracts. Each wall which is built as a part of the original construction of the houses upon the lots and connects two dwelling units shall constitute a common wall or party wall, and to the extent not inconsistent with the provisions of these restrictions, the general rules of law regarding common walls or party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. Hereafter, the term's common wall and party wall shall be used interchangeably.
- 3) The division wall between any tract described herein and the tract immediately adjoining it shall be a common wall or party wall and the adjoining landowners shall have cross easements in the wall, and the wall shall be used for the joint purposes of the building separated by it.
- 4) Should the common wall or party wall, at any time while in use by both parties as aforesaid, be injured by any cause other than the act or omission of either party, the wall shall be repaired or rebuilt at their joint expense, provided that any sum received from insurance against such injury or destruction shall be first applied to such repair or restoration. Should the common wall be injured by the act or omission of either party, the wall shall be repaired or rebuilt at the expense of the party deemed responsible for the aforesaid act or omission.
- 5) This common wall covenant and the covenants herein contained, shall run with both parcels of land utilizing the common wall, but shall not operate to convey to either party the fee to any part of the land owned or to be acquired by the other part, the creation of rights to a common wall being the sole purpose hereof.
- 6) Any field tile or underground drainage which is encountered in construction or any improvement within this subdivision shall be perpetuated, and all owners of Lots in this subdivision and their successors shall comply with the Indiana Drainage Code of 1965.
- 7) Lots are subject to drainage easements, sewer easements and utility easements, either separately or in any combination of the three, as shown on the plat, which are reserved for the use of lot owners, public utility companies and governmental agencies as follows:
  - (a) **Drainage Easements (D.E.)** are created to provide paths and courses for area and local storm drainage, either overland or in adequate underground conduit, to serve the needs of the subdivision and adjoining ground and/or public drainage system; and it shall be the individual responsibility of each landowner to maintain the drainage across his/her lot. Under no circumstances shall said easement be blocked in any manner by the construction or reconstruction of any improvement, nor shall any grading restrict, in any manner, the water flow.

Said areas are subject to construction or reconstruction to any extent, necessary to obtain adequate drainage at any time by any governmental authority having jurisdiction over drainage or by the developer of the subdivision. Said easements are for the mutual use and benefits of the owners of all lots in the addition and are a servitude upon such land for the benefit of the owners of other land included within Whispering Ponds, upstream or downstream, affected by such use.

- (b) **Sewer Easements (S.E.)** are created for the use of the local governmental agency having jurisdiction over the storm and sanitary waste disposal system designated to serve the addition of the purpose of installation and maintenance of sewers that are a part of said system. Each owner of a lot must connect with any public sanitary sewer available.
  - (c) **Utility Easements (U.E.)** are created for the use of public utility companies, not including transportation companies, for the installation, maintenance, repair and replacement of mains, ducts, poles, lines and wires, meters and meter boxes. All such easements include the right of reasonable ingress and egress for the exercise of the rights, including reading of the meters. No structure, including fences, shall be built on any drainage, sewer or utility easement.
  - (d) **Landscape Easements (L.E.)** are created to maintain landscaping.
  - (e) **Walk Easements (W.E.)** are created to maintain walks.
- 8) No building or other structure, including additions, alterations, fences, screens, and walls, shall be erected, placed upon, altered or repainted on any lot in this subdivision until building plans, specifications, plot plans and color schemes are approved as to the conformity and harmony of external design and color schemes with the existing structures within the subdivision, and as to the building with respect to topography and finished ground elevation, by the Board of Directors of Whispering Ponds Homeowners Association, or a designated representative with like authority. The Whispering Ponds Homeowners Association is hereinafter referred to as the Corporation. The plans and specifications of, and location of, all construction shall be in compliance with all applicable regulatory codes, including those relating to building, plumbing, and electrical requirements, and shall also comply to all zoning covenants and restrictions which are applicable to the Real Estate. No fence(s) shall be placed in any front yard. The Board of Directors shall have full authority to approve or disapprove such design and location, or to designate a representative with like authority. Refusal of approval may be based upon any ground, including purely aesthetic grounds, in the sole and absolute discretion of the Board of Directors. If the Board of Directors fails to act upon any plan submitted to it for its approval within a period of forty five (45) days from the submission date of the same, the owner may proceed then with the building according to the plans submitted, without approval. All notifications to applicants shall be in writing, and, in the event that such notification is one of disapproval, it shall specify the reason or reasons.
- 9) Neither the Board of Directors, nor any agent thereof, shall be responsible in any way for any defects in any plans, specifications, or other materials submitted to it, nor for any defects in any work done according thereto.
- 10) The Board of Directors, or its agents, may inspect work being performed to assure compliance with the approved plans and this Declaration.
- 11) All fences, walls, barriers or like structures must be approved in writing by the Board of Directors prior to their construction. No such structure shall exceed six feet (6') in height. No such structure shall be placed closer to the front lot line than the front line of the principal structure.
- 12) Front building lines (B.L.) are hereby established, between which lines and the front property lines, no permanent or other structure, other than drives, shall be erected and maintained. Side and rear building lines are established in accordance with the zoning ordinances applicable to the subdivision

and variances therefrom as may have been granted by the Franklin Plan Commission or Franklin Board of Zoning Appeals.

- 13) No wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the street, shall be placed or permitted to remain on any corner lot within the triangular area formed by the street right-of-way lines and a line connecting points twenty-five (25) feet from the intersection of said street lines or in the case of a rounded property corner, from the intersection of the street lines extended. The same sight line limitations shall apply to any lot within ten (10) feet from the intersection of a street line with the edge of a driveway pavement or alley line. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.
- 14) All residence construction within the subdivision shall have attached garages. All driveways shall be concrete. Before any changes and alterations of structures or driveways may be made, including texturing or colored sealing of driveways, the plans for all changes and alterations must be submitted in writing and receive prior approval of the Board of Directors. All new or replacement mailboxes and mailbox posts in the neighborhood shall be uniform in appearance. The materials, shape, style, color, location and appearance shall be determined by the Board of Directors.
- 15) No private, or semi-private, water supply or sewage disposal system may be located upon any lot in this subdivision which is not in compliance with regulations or procedures as provided by the Indiana State Board of health, or other civil authority having jurisdiction. No septic tank, absorption field or any other method of sewage disposal shall be located or constructed on any lot or lots herein, except as approved by said health authority.
- 16) It shall be the responsibility of the owner of any lot or parcel of land within the plat to comply at all times with the provisions of the drainage plan as approved for this plat by the Plan Commission of the City of Franklin and the Johnson County Drainage Board and the requirements of all drainage permits for the plat issued those agencies.
- 17) Drainage ditches along dedicated roadways and within the right-of-way, or on dedicated easements, are not to be altered, dug out, filled in, tiled or otherwise changed without the written permission of the Franklin Board of Public Works and Safety. Property owners must maintain these ditches as sodded grassways, or other non-eroding surfaces. Water from roofs or parking areas must be contained on the property long enough so that said drainage ditches will not be damaged by such water. Driveways may be constructed over these ditches only when appropriate sized culverts or other approved structures have been permitted by the Board of Public Works and Safety.
- 18) Any property owner altering, changing, damaging or failing to maintain these drainage ditches will be held responsible for such action and will be given ten (10) days notice by certified mail to repair said damage, after which time, if no action is taken, the Board of Public Works and Safety will cause said repairs to be accomplished and the bill for said repairs will be sent to the affected property owner for immediate payment. Failure to pay will result in a lien against the property.
- 19) Any gas or oil storage tanks used in connection with a lot shall be either buried or located in a garage or house, in such a manner that they are completely concealed from public view.
- 20) Unless a delay is caused by strikes, war, court injunction or acts of God, the exterior of any dwelling or structure built upon any lot shall be completed within one (1) year after the date of commencement of the building process, after which time, the Board of Directors may re-enter, take possession of said lot, without notice, sell the same together with improvements; and after

payment of liens and expenses, pay the balance of the sale proceeds to the owner of said lot at the time of sale.

### **III. PROPERTY RESTRICTIONS**

- 1) No hotel building, boarding house, mercantile or factory building or buildings of any kind for commercial use shall be erected or maintained on any lot in this subdivision.
- 2) No trailers, shacks, sheds, barns, storage buildings or outbuildings of any kind shall be erected or situated on any lot herein, except that for use by the builder during the construction of a proper structure.
- 3) No large machinery or equipment shall be permitted to be kept or stored on any Lot except within the dwelling.
- 4) No construction, significant earth-moving, or excavation work of any nature may be conducted on any Lot.
- 5) No farm animals, fowls or domestic animals for commercial purposes shall be kept or permitted on any lot or lots in this subdivision.
- 6) No noxious, unlawful or otherwise offensive activity shall be carried out on any lot in this subdivision, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. This provision may be construed to prohibit extremely audible music or activities.
- 7) The repair or storage of inoperative motor vehicles, or material alteration of motor vehicles shall not be permitted on any lot unless entirely within a garage permitted to be constructed by these covenants.
- 8) No school, preschool, day-care facility, church or similar institution of any kind shall be maintained, conducted or operated upon any lot.
- 9) No exterior lighting shall be directed outside the boundaries of any lot, nor shall any lighting be used which constitutes more than normal convenience lighting unless the same is approved by the Board of Directors.
- 10) All Lots shall upon their initial development and thereafter have yard lights. The style, type and location shall be determined by the Board of Directors. Owners shall be prohibited from removing the yard lights.
- 11) All laundry shall be dried on a special drying apparatus in the form of a folding rack or umbrella which shall be placed at the rear of each lot. Clotheslines shall not be strung or hung between trees and/or shrubbery on any lot.
- 12) No signs or advertisement of any nature, except real estate "for sale" signs no larger than 3' x 3' or home security signs, shall be displayed in public view on any lot, right of way or any part of the subdivision, unless previously approved in writing by the Board of Directors.

- 13) All television or other antennas shall be affixed to improvements located on the respective lot involved. No freestanding antennas or freestanding satellite dishes for any purpose shall be permitted unless approved by the Board of Directors, or its designated representative.
- 14) Owners shall not dump any trash, waste, refuse or other objectionable matter upon any lot, easement or common area within the properties. All trash, garbage and refuse stored on any lot shall be stored in covered receptacles that are not visible from the street except on collection day. Owners must provide approved receptacles for garbage and trash. There shall be no burning of trash and no open fires, except fires in an approved grill or fire ring. All open fires are prohibited unless written approval is obtained from the Board of Directors.
- 15) No campers, motor homes, trucks (except pick-up trucks), recreational vehicles, trailers, boats or any similar equipment shall be stored or parked on any lot in open public view.
- 16) Lot owners shall not permit the growth of weeds and voluntary trees and bushes, and shall keep their lots reasonably clear from unsightly growth at all times. Failure to comply shall warrant the Board of Directors to cut weeds and clear the lot of such growth at the expense of the lot owner and the Board of Directors shall have a lien against said real estate for the expense thereof.
- 17) No homes or units in the development sold or transferred in title subsequent to the recording date of this amendment shall be rented or leased to any party. (Recording Date is April 12, 2002)

#### **IV. ASSESSMENTS**

- 1) It is expressly understood that the Board of Directors may make assessments to cover any costs incurred in enforcing these covenants or in undertaking any maintenance or other activity which is a responsibility of a lot owner, but which such lot owner has not undertaken as required hereunder. Any such assessment shall be assessed only against those lot owners whose failure to comply with the requirements of these covenants has necessitated the action to enforce these covenants or the undertaking of the maintenance or other activity.
- 2) Each owner of a lot, by acceptance of a deed thereto, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay assessments as the same become due in a manner herein provided. All such assessments, together with the interest thereon and costs of collection thereof as herein provided, shall be a charge on the land and shall be a continuing lien upon the lot against which each such assessment is made until paid in full. Such assessments shall also be the personal obligation of the owner of the lot at the time when the assessment became due and payable. Any assessment not paid within thirty (30) days after the date the same became due and payable shall bear interest from the due date at a percentage rate not greater than twelve percent (12%) per annum. The Board of Directors, or any member thereof, shall be entitled to institute in any court of competent jurisdiction such procedures, at law or in equity, by foreclosure or otherwise, to collect the delinquent assessment, plus any expenses or costs, including attorney fees, incurred by the Board of Directors, or such member, in collecting the same. If the Board of Directors has provided for collection of any assessment in installments, upon default in the payment of any one or more installments, the Board of Directors may accelerate payment and declare the entire balance of said assessment due and payable in full. No owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of his lot or otherwise. The lien of the assessments provided for herein shall be subordinate to the lien of any recorded first mortgage covering such lot and to any valid tax or special assessment lien on such lot in favor of any governmental taxing or assessing authority. Sale or transfer of any lot pursuant to mortgage foreclosure, 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 of from the lien thereof. The Board of Directors shall, upon demand, at any time, furnish a certificate in writing, signed by a member of the Board of Directors, that the assessments on a lot have been paid, or that certain assessments remain unpaid, as the case may be. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid. Any easement granted herein or any property shown on the within easement granted herein or any property shown on the within plat as dedicated and intended for acceptance by the local public authority and devoted for public use shall be exempt from the assessments, charge and lien created herein.

#### **V. MISCELLANEOUS**

- 1) In the event of a dispute or controversy as to any matter within or arising out of these covenants, such dispute or controversy shall be submitted to the arbitration of the Board of Directors, and the arbitration of such matters shall be an express condition precedent to any legal or equitable action or proceeding of any nature whatsoever.
- 2) If the parties hereto, or any of them, or their heirs or assignees shall violate or attempt to violate any of these covenants, restrictions, provisions or conditions herein, it shall be lawful for any other person owning any real property situated in the subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate such covenant, and either to prevent him or them from doing so, or to recover damage or other dues for such violation.
- 3) The right of enforcement of each of the foregoing restrictions by injunction, together with the right to cause the removal by due process of law of structures erected or maintained in violation thereof, is reserved to the Board of Directors and the owners of the lots in the subdivision, their heirs and personal representatives, their successors or assignees, who are entitled to such relief without being required to show any damage of any kind to the Board of Directors or to any other owner or owners. The right of enforcement of the covenants is hereby also granted to the Plan Commission of the City of Franklin, its successors or assignees.
- 4) The foregoing restrictions may be amended at any time by the owners of at least two-thirds (2/3rds) of the lots subject to such restrictions. Each such amendment must be evidenced by a written instrument, signed and acknowledged by the owner or owners concurring therein, setting forth facts sufficient to indicate compliance with this paragraph and recorded in the Johnson County Recorder's Office. Except as the same may be amended from time to time, the foregoing covenants will be in full force and effect until January 1, 2024, at which time they will be automatically extended for successive periods of ten (10) years, unless by a vote of the majority of the then owners it is agreed that these covenants shall terminate in whole or in part.
- 5) Invalidation of any of these covenants and restrictions or any part thereof by judgment or court order shall not affect or render the remainder of said covenants and restrictions invalid or inoperative.

**WHISPERING PONDS HOMEOWNER'S ASSOCIATION, INC.**  
**BY-LAW HISTORY**

- 1). ORIGINAL BY-LAWS ISSUED BY DEVELOPER 1995
- 2). MEMBERSHIP MEETING MARCH 16, 1998  
(ESTABLISHED STAGGERED TERMS FOR DIRECTORS)
- 3). MEMBERSHIP MEETING APRIL 18, 1998  
(SET ANNUAL MEETING TO 3RD MONDAY IN JUNE)
- 4). MEMBERSHIP MEETING JUNE 15, 1998  
(ESTABLISHED OFFICE LOCATION AS 2094 PELICAN DRIVE)  
(LOT OWNERS ARE AUTOMATICALLY AND IMMEDIATELY MEMBERS OF  
OF CORPORATION)  
(EACH MEMBERSHIP(LOT) ENTITLED TO (ONE) 1 VOTE)  
(OFFICERS SET AS PRESIDENT, VICE PRESIDENT, SECRETARY, TREASURER  
AND BUILDING AND GROUNDS DIRECTOR)  
(DUTIES OF OFFICERS DEFINED)  
(SET NUMBER OF DIRECTORS TO 5 WITH 3 ELECTED IN EVEN YEARS  
AND 2 ELECTED IN ODD YEARS)
- 5). MEMBERSHIP MEETING JULY 17, 2001  
(SET NUMBER OF DIRECTORS TO 7 WITH 4 DIRECTORS ELECTED IN ODD  
YEARS AND 3 ELECTED IN EVEN YEARS)  
(DIRECTORS NOT SELECTED AS OFFICERS WILL HAVE DUTIES ASSIGNED  
BY BOARD OF DIRECTORS)

**BYLAWS OF  
WHISPERING PONDS HOMEOWNERS ASSOCIATION, INC.**

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**ARTICLE I. OFFICES**

The principal office of the Corporation in the State of Indiana shall be located at 2094 Pelican Drive, Franklin, IN 46131, State of Indiana. The Corporation may have such other offices, either within or without the State of Indiana as the Board of Directors may designate or as the business of the Corporation may require from time to time.

**ARTICLE II. MEMBERS**

**Section 1. Membership.** Upon incorporation of "Whispering Ponds Homeowners Association, Inc.", all lot owners are automatically and immediately members of the corporation and shall be issued a membership certificate.

**Section 2. Annual Meeting.** The annual meeting of the members shall be held on the third Monday in June in each year, at the hour of 7:00 p.m. for the purpose of electing Directors and for the transaction of such other business as may come before the meeting. If the day fixed for the annual meeting shall be a legal holiday in the State of Indiana, such meeting shall be held on the next succeeding business day. If the election of Directors shall not be held on the day designated herein for any annual meeting of the members, or at any adjournment thereof, the Board of Directors shall cause the election to be held at a special meeting of the members as soon thereafter as conveniently may be.

**Section 3. Special Meetings.** Special meetings of the members, for any purpose or purposes, unless otherwise prescribed by statute, may be called by the President or by the Board of Directors and shall be called by the President at the request of the holders of not less than 51 percent of all the outstanding shares of the Corporation entitled to vote at the meeting.

**Section 4. Place of Meeting.** The Board of Directors may designate any place, either within or without the State of Indiana unless otherwise prescribed by statute, as the place of annual meeting or for any special meeting called by the Board of Directors. A waiver of notice signed by all members entitled to vote at a meeting may designate any place, either within or without the State of Indiana, unless otherwise prescribed by statute, as the place for the holding of such meeting. If no designation is made, or if a special meeting be otherwise called, the place of meeting shall be the principal office of the Corporation in the State of Indiana.

**Section 5. Notice of Meeting.** Written notice stating the place, day and hour of the meeting and, in case of special meeting, the purpose or purposes for which the meeting is called, shall, unless otherwise prescribed by statute, be delivered no less than 10 nor more than 21 days before the date of the meeting, either personally or by mail, by or at the direction of the President, or the Secretary, or the persons calling the meeting, to each member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United State mail, addressed to the member at his address as it appears on the stock transfer books of the Corporation, with postage thereon prepaid.

**Section 6. Quorum.** A majority of the members of the Corporation entitled to vote, represented in person or by proxy shall constitute a quorum at a meeting of members. If less than a majority of the members are represented at a meeting a majority of the members so represented may adjourn the meeting from time to time without further notice. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally noticed. The act of the majority of members present, in person or by proxy, at a meeting at which a quorum is present shall be the act of the membership.

**Section 7. Proxies.** At all meetings of members, a member may vote in person or by proxy executed in writing by member or by his duly authorized attorney in fact. Such proxy shall be filed with the Secretary of the Corporation before or at the time of the meeting. No proxy shall be valid after 3 months from the date of its execution, unless otherwise provided in the proxy.

**Section 8. Voting of Members.** Each membership certificate shall be entitled to one vote upon each matter submitted to a vote at every meeting of the members.

### ARTICLE III. BOARD OF DIRECTORS

**Section 1. General Powers.** The business and affairs of the Corporation shall be managed by its Board of Directors.

**Section 2. Number, Tenure and Qualifications.** The number of Directors of the Corporation shall be at least seven (7). Three (3) directors shall be elected on even years and four (4) directors shall be elected on odd years. Term of office shall be two (2) years. Directors shall hold office until their successor shall have been elected and qualified.

**Section 3. Regular Meetings.** A regular meeting of the Board of Directors shall be held without other notice than this ByLaw, immediately after, and at the same place as, the annual meeting of members. The Board of Directors may provide, by resolution, the time and place for the holding of additional regular meetings without other notice than such resolution.

**Section 4. Special Meetings.** Special meetings of the Board of Directors may be called by or at the request of the President or any two (2) Directors. The person or persons authorized to call special meetings of the Board of Directors may fix the place for holding any special meeting of the Board of Directors called by them.

**Section 5. Notice of Special Meetings.** Notice of any special meeting shall be given at least one (1) day previously thereto by written notice delivered personally or mailed to each Director at his business address or by telegram. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage thereon prepaid. If notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. Any Director may waive notice of any meeting. The attendance of a Director at a meeting shall constitute a waiver of notice of such meeting except where a Director attends meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

**Section 6. Quorum.** A majority of the number of Directors fixed by Section 2 of this Article III shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, but if less than such a majority is present at a meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice.

**Section 7. Manner of Acting.** The act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

**Section 8. Action Without a Meeting.** Any action that may be taken by the Board of Directors at a meeting may be taken without a meeting if a consent in writing, setting forth the action so to be taken, shall be signed before such action by all of the Directors

**Section 9. Vacancies.** Any vacancy occurring in the Board of Directors may be filled by the affirmative vote of a majority of the remaining Directors though less than a quorum of the Board of Directors, unless otherwise provided by law. A Director elected to fill a vacancy shall be elected for the unexpired term of his/her predecessor in office. Any directorship to be filled by reason of an increase in the number of Directors may be filled by election by the Board of Directors for a term of office continuing only until the next election of Directors by the members.

**Section 10. Presumption of Assent.** A Director of the Corporation who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting.

#### **ARTICLE IV. OFFICERS**

**Section 1. Number.** The officers of the Corporation shall be a President, Vice President, Secretary, Treasurer, and Building and Grounds Director, each of whom shall be elected by the Board of Directors.

**Section 2. Election and Term of Office.** The officers of the Corporation to be elected by the Board of Directors shall be elected annually by the Board of Directors at the first meeting of the Board of Directors held after each annual meeting of the members. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Board members not elected as officers shall be assigned duties by the Board of Directors. Each officer shall hold office until his/her successor shall have been duly elected and shall have qualified until his death or until he shall resign or shall have been removed in the manner hereinafter provided. Board of Directors members shall serve no more than two (2) successive two (2) year terms.

**Section 3. Removal.** Any officer or agent may be removed by the Board of Directors whenever in its judgment, the best interests of the Corporation will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

**Section 4. Vacancies.** A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors for the unexpired portion of the term.

**Section 5. President.** The President shall be the principal executive officer of the corporation and, subject to the control of the Board of Directors, shall in general supervise all the business and affairs of the corporation. He shall, when present, preside at all meetings of the members and of the Board of Directors.

**Section 6. Vice President.** In the absence of the President, or in the event of his death, inability or refusal to act, the Vice President shall perform the duties of the President and when so acting, shall have all the powers of and be subject to, all the restrictions upon the President. The Vice President shall perform such other duties as from time to time may be assigned to him/her by the President or by the Board of Directors.

**Section 7. Secretary.** The Secretary shall: (a) keep the minutes of the proceedings of the members and the Board of Directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these ByLaws or as required by law; (c) be custodian of the corporate, except financial, records; (d) in general, perform all duties incident to the office of Secretary and such other duties as may be assigned by the President or by the Board of Directors.

**Section 8. Treasurer.** The Treasurer shall: (a) have oversight of all cash and bank accounts of the Corporation; (b) have oversight of the collection and deposit of member assessments and for writing checks from bank accounts covering expenses and charges to the Corporation; (c) be custodian of all financial records; and (d) in general, perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned by the President or by the Board of Directors.

**Section 9. Building and Grounds Director.** The Building and Grounds Director shall serve as chairperson of the Building and Grounds Committee; is the contact person for all building changes in accordance with the Covenants; negotiates and recommends approval to the Board of Directors, all contracts, e.g. lawn mowing, snow removal, etc.

## ARTICLE V. CONTRACTS, LOANS, CHECKS AND DEPOSITS

**Section 1. Contracts.** The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation and such authority may be general or confined to specific instances.

**Section 2. Loans.** No loans shall be contracted on behalf of the Corporation and no evidence of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

**Section 3. Checks, Drafts, Etc.** All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation shall be signed by such officer or officers, agent or agents of the Corporation and in such manner as shall from time to time be determined by resolution of the Board of Directors.

**Section 4. Deposits.** All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such banks, trust companies or other depositories as the Board of Directors may elect.

#### **ARTICLE VI. FISCAL YEAR.**

The fiscal year of the Corporation shall begin on the 1st day of January and end on the 31st day of December in each year.

#### **ARTICLE VII. WAIVER OF NOTICE**

Unless otherwise provided by law, whenever any notice is required to be given to any shareholder or director of the Corporation under the provisions of these ByLaws, or under the provisions of the Articles of Incorporation, or under the provisions of the Business Corporation Act, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice..

#### **ARTICLE VIII. AMENDMENTS**

The ByLaws may be altered, amended or repealed and new ByLaws may be adopted upon the recommendation of the Board of Directors and approved by an affirmative vote of a majority of members in attendance, in person or by proxy, at a regular or special meeting of members..