

**BYLAWS OF
THE DWELLINGS AT INDIAN HILLS ASSOCIATION**

ARTICLE I – ORGANIZATION

- 1.1 The Dwellings at Indian Hills Association is The Association. The members shall consist of the Unit Owners in The Dwellings at Indian Hills, as defined by the Declaration of Submission to a Horizontal Property Regime for The Dwellings at Indian Hills (hereinafter referred to as the “Declaration”).
- 1.2 The Owner of each Unit shall be defined as one Owner. The voting rights of such Owner shall be set forth below.
- 1.3 Until all Units have been conveyed by the Developer, or until Developer relinquishes control of the Board, the principal office of the Association shall be 110 W 4th Street, Spencer, IA 51351. Thereafter the president of the Association shall be the person designated to receive service of process for the Association and the principal office of the Association shall be at such suitable place convenient to the Owners as may be designated by the Board. All meetings of the Association shall be held at its principal office unless some other place is stated in the call.
- 1.4 Upon conveyance by Developer of all of the Units to the purchasers thereof, or upon Developer relinquishing control of the Board, whichever occurs first, each Unit shall have one vote and there shall be one voting Member for each Unit Ownership. Such voting Member may be the Owner of the group composed of all the Owners of a Unit Ownership, or may be some person designated by such Owner or Owners to act as proxy on his or their behalf and who need not be an Owner. Such designation shall be made in writing to the Board of the Association, and shall be revocable at any time by actual notice to the Board of the death or judicially declared incompetence of any designator, or by written notice to the Board by the Owner or Owners so designating. Any or all of such Owners may be present at any meeting of the voting Members and (those constituting a group acting unanimously) may vote or take any other action as a voting Member either in person or by proxy.

1.5 Meetings

- A. The presence in person or by proxy at any meeting of the voting Members having a majority of the total votes shall constitute a quorum.
- B. Unless otherwise expressly provided herein, any action may be taken at any meeting of the voting Members upon the affirmative vote of the voting Members having a majority of the total votes present at such meeting.
- C. The first annual meeting of the Association shall be held upon ten (10) days written notice given by the Association that all Units have been conveyed by Developer to the purchasers thereof, or by ten (10) days notice by Developer of his desire to relinquish control of the Board, whichever date occurs first. Thereafter, there shall be an annual meeting of the Members on the first Wednesday of July of each succeeding year at 7:30 P.M. at such reasonable place, or other time (not more than thirty (30) days before or after such date) and place, as may be designated by written notice of the Board delivered to the voting Members not less than ten (10) days prior to the date fixed for said meeting.
- D. Special meetings of the voting Members may be called at any time after all of the Units have been conveyed by Developer to the purchasers thereof, for the purpose of considering matters which by the terms of the Declaration or the Bylaws of the Association, require the approval of all or some of the voting Members, or for any other reasonable purpose. Said meetings shall be called by written notice, authorized by a majority of the Board, or by the voting Members having one half ($\frac{1}{2}$) of the total votes, and delivered not less than five (5) days prior to the date fixed for said meeting. The notices shall specify the date, time and place of the meeting and the matters to be considered.
- E. The voting Members 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 voting members. Any action so approved shall have the same effect as though taken at a meeting of the voting Members.

1.6 Notices of meetings required to be given herein may be delivered either personally or by mail to the persons entitled to vote thereat, addressed to each such person at

the address given by him to the Board for the purpose of service of such notice, or to the Unit of the Owner with respect to which such voting right appertains, if no address has been given to the Board.

1.7 Board of Directors

- A. Except as hereinafter noted in Section 1.7E at each annual meeting, the voting members shall, by a majority of the total votes present at such meeting elect a Board of Directors for the forthcoming year, consisting of not less than two owners, all of whom must reside on the Property.
- B. A quorum shall consist of a majority of the members of the Board. Members of the Board shall serve for a term of one (1) year or until their successors are elected and shall be paid such compensation as may be voted by the Members of the Association.
- C. Vacancies in the Board may be filled by unanimous vote of the remaining members thereof. Except as otherwise provided the Board shall act by majority vote of those present at its meetings when a quorum exists.
- D. Meetings of the Board may be called, held and conducted in accordance with such regulations as the Board may adopt.
- E. Until all of the Units are conveyed by Developer to the purchasers thereof or the Developer shall relinquish control, the Board shall be selected by Developer, except as provided in Paragraph 1.SC of this Article, and Members so selected need not be Unit Owners or residents of the Property. Said Directors shall serve until the first annual meeting of the Members. Provided, however, Developer may in his sole discretion remove any Director so appointed by him and replace such Director with another appointee.
- F. The Board shall elect from among its members a President who shall preside over both its meetings and those of the voting Members, and shall also elect a Secretary and a Treasurer, either of whom may or may not be a member of the Board or qualified to be a Member. The Secretary shall keep the Association records, including the minute book wherein the resolutions shall be recorded. The Treasurer shall keep the financial records.

- G. Any Board member may be removed from office by affirmative vote of the voting Members having at least a majority of the total votes, at any special meeting called for that purpose and a successor to fill the unexpired term of a Board member removed may be elected by majority vote of the voting Members at the same meeting or any subsequent meeting called for that purpose.
- H. The Directors from time to time constituting the Board shall not be liable to the Members for any mistake of judgment or for any acts made in good faith, or omissions to act omitted in good faith as such Directors.
- I. The Board may suspend the voting rights and right to use of Common Elements and facilities of a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing for a period not to exceed sixty (60) days for infraction of published rules and regulations. Such suspension shall not prohibit the ingress and egress of a Member to his Unit.
- J. The Board 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 Board members. Any action so approved shall have the same effect as though taken at a meeting of the Board.

ARTICLE II – GENERAL POWERS

- 2.1 The Association for the benefit of all the Owners, through its Board, shall have the power to acquire, and shall pay for out of the maintenance fund hereinafter provided, the following:
 - A. Waste removal and yard maintenance for the Common Elements.
 - B. A policy or policies of fire insurance, with extended coverage, vandalism and malicious mischief endorsements, for the full insurable replacement cost of all improvements on the Property, including the Units and all personal property included within the Property, except such personal property as may be owned by the Owners, and such other insurance policies as shall afford coverage against such

other risks as from time to time customarily shall be covered with respect to buildings similar in construction and use. Such insurance shall be in a form and amount satisfactory to the first mortgagee of each Unit. Such insurance shall be written for the benefit of the then Association, the Owners, and the respective mortgagees as their interest may appear and shall provide for the issuance of certificates and mortgage endorsements to the holders of mortgages on the Units. Such insurance policies shall provide that the insurer waives its rights of subrogation as to any claims against the Owners, the Association and their respective employees, servants, agents and guests and shall provide that all proceeds payable as a result of casualty losses shall be paid to the Association and shall be held and disbursed by the Association as defined in the Declaration. Each Owner may obtain insurance, at his own expense, affording coverage against loss of his personal property and against personal liability, but all such insurance shall contain the same waiver of subrogation as set forth above. All original policies of casualty insurance purchased by the Association shall be delivered into the possession of the Association. The Association shall upon request certify to any Owner, to any prospective purchaser of a Unit and to any mortgagee or prospective mortgagee of a Unit, a complete statement as to the insurance policies held by it showing the identity of the policies, the expiration dates thereof, and the amount and type of insurance. A uniform fee approved by the Association may be charged by the Association for each such certificate furnished.

C. A policy or policies insuring the Association, the members of the Board and the Owners against any liability to the public or to the Owners (of Units and of the Common Elements, and their invitees or tenants) incident to the ownership and/or use of the Common Elements and Units, the liability under which insurance shall not be less than Three Hundred Thousand (\$300,000.) Dollars for any one person or One Million (\$1,000,000.) Dollars for any one accident.

D. Workmen's compensation insurance to the extent necessary to comply with any applicable laws.

E. The services of any person or firm employed by the Association.

F. Landscaping, gardening, snow removal, painting, cleaning, tuckpointing, maintenance, decorating, repair and replacement of the Common Elements (but not including the interior surfaces of any of the Units, which the Owner shall paint, clean, decorate, maintain and repair and may remodel or alter) and such furnishing and equipment for the Common Elements as the Association shall determine are necessary and proper, and the Association shall have the exclusive right and duty to acquire the same for the Common Elements.

G. Cleaning and washing the exterior of the windows in the Units. For that purpose, each Unit owner gives to the Association or its agents an easement to enter any area used by him or her for the purpose of cleaning or maintaining the exterior of windows. The interior of all windows shall be cleaned and maintained by the Unit Owner. Each Unit Owner shall be liable for all breakage of windows not covered by insurance maintained by the Association. Unit Owners shall be liable for any breakage of storm or screen doors resulting from wind or storm damage or other cause.

H. Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance or assessments which the Association is required to secure or pay for pursuant to the terms of these restrictions or by law or which in its opinion shall be necessary or proper for the maintenance and operation of the Property as a first class residential area or for the enforcement of these restrictions and the restrictions in the Declaration.

I. Any amount necessary to discharge any mechanic's lien or other encumbrance levied against the entire Property or any part thereof which may in the opinion of the Association constitute a lien against the Property or against the Common Elements, rather than merely against the interests therein of particular Owners may be satisfied by the Association. Where one or more Owners are responsible for the existence of such lien, they shall be liable for the cost of discharging it and any costs incurred whatsoever by the Association by reason of said lien or liens shall be allocated fairly among such Owners upon the sole judgment of the Board and shall be specially assessed to such Owners.

- J. Maintenance and repair of any Unit if such maintenance or repair is necessary, in the discretion of the Association, to protect the Common Elements, or any other portion of the Building Complex, and the Owner or Owners of said Unit have failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair delivered by the Association to said Owner or Owners, provided that the Association shall levy a special assessment against such Unit Owner for the cost of said maintenance or repair.
- 2.2 The Association or its agents may enter any Unit when necessary in connection with any maintenance or construction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Owners as practicable, and any damage caused thereby shall be repaired by the Association at the expense of the maintenance fund.
- 2.3 The Association shall have no authority to acquire and pay for out of the maintenance fund any capital addition or improvement (other than for purposes of replacing or restoring portions of the Common Elements and the Units, subject to all the provisions of the Declaration) having a total cost in excess of One Thousand (\$1,000) Dollars, nor shall the Association authorize any structural alterations, capital additions to, or capital improvements of the Common Elements requiring an expenditure in excess of One Thousand (\$1,000) Dollars, not covered by insurance, without in each case obtaining the prior approval of the voting Members holding a majority of the total votes.
- 2.4 The Association, by vote of the voting Members having a majority of the total votes, may adopt such reasonable rules and regulations as it may deem advisable for the maintenance, conservation and beautification of the Property, and for the health, comfort, safety and general welfare of the Owners and occupants of the Property. Written notice of such rules and regulations shall be given to all Owners and occupants and the Property shall at all times be maintained subject to such rules and regulations.
- 2.5 The Association may employ a management agent at a compensation established by the Board of Directors to perform such duties.

ARTICLE III – ASSESSMENTS; ESTIMATED CASH REQUIREMENT

3.1 Assessments

A. The cost of maintaining the Common Elements shall be equitably prorated between the Unit Owners.

B. Each Unit buyer shall be liable for proportionate share of the cost of maintaining the Common Elements from the date of the conveyance of a Unit to him or her which shall be payable monthly. Such cost shall be a proportionate share of the actual costs as determined by the Board of the Association and shall continue until a permanent budget is arranged as hereinafter provided.

C. The provisions of this Article III relating to assessments, payment of assessments and liens arising therefrom shall be inapplicable as to any party who or which by reason of foreclosure of a first mortgage or voluntary conveyance in lieu of foreclosure of a first mortgage shall become a Unit Owner (or unit buyer within the purview of the said Article III).

3.2 After the holding of the first annual meeting as provided for in paragraph 1.5 of Article I of these Bylaws the following procedures shall govern:

A. Each year on or before December 1st, the Board shall estimate the total amount necessary to pay the cost of wages, materials, insurance, services and supplies which will be required during the ensuing calendar year for the rendering of all services, together with a reasonable amount considered by the Board to be necessary for a reserve for contingencies and capital replacements, and shall on or before December 15th notify each Owner in writing as to the amount of such estimate, with reasonable itemization thereof. On or before January 1st of the ensuing year, and the 1st of each and every month of said year, each Owner shall be obligated to pay to the Association, or as it may direct, one-twelfth (1/12th) of the assessment made pursuant to this paragraph. The portion of each such monthly assessment payment attributable to reserves shall be deemed a contribution by the Owner to the capital of the Association. A reasonable late charge (not exceeding \$1.00 per day) may be added to such assessments by action of the Board after the fifth (5th) day of each month in which said assessment is due. On or before January 31st of each

calendar year, the Association shall supply to all Owners an itemized accounting of the maintenance expenses for the preceding calendar year actually incurred and paid together with a tabulation of the amounts collected pursuant to the estimates provided, and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited to the next monthly installments due from each Unit Owner under the current year's estimate in proportion to his assessment for the preceding year, until exhausted, and any net shortage shall be added in like proportion to the installments due from each Unit Owner in the succeeding six months after rendering of the accounting.

B. The Association shall build up and maintain a reasonable reserve for contingencies and replacements. Extraordinary expenditures not originally included in the annual estimate which may become necessary during the year, shall be charged first against such reserve. If said "estimated cash requirement" proves inadequate for any reason, including non-payment of any Owner's assessment, the Association may at any time levy a further assessment, which shall be assessed to the Owners according to the formula set forth in preceding paragraph 3.2A. The Association shall serve notice of such further assessment on all Owners by a statement in writing giving the amount and reasons therefor, and such further assessment shall become effective with the monthly maintenance payment which is due more than ten (10) days after the delivery or mailing of such notice of further assessment. All Owners shall be obligated to pay the adjusted monthly assessment. The reserve fund shall be the property of the Association and no part thereof shall be refunded to any Member.

C. When the first Board takes office hereunder, the Association shall determine the "estimated cash requirement", as hereinabove defined, for the period commencing thirty (30) days thereafter and ending on December 31 of the same calendar year. Assessments shall be levied against the Owners during said period as provided in paragraph 3.2A of this Article.

D. The failure or delay of the Board or the Association to prepare or serve the annual or adjusted estimate on the Owner shall not constitute a waiver or release in any manner of such Owner's obligation to pay the assessment as herein provided, whenever the same shall be determined, and in the absence of any annual estimate or adjusted

estimate, the Owner shall continue to pay the assessment at the then existing monthly rate established for the previous period until the assessment which is due more than ten (10) days after such annual or adjusted estimate shall have been mailed or delivered.

E. The Association shall keep full and correct books of account and the same shall be open for inspection by any Owner or any representative of an Owner duly authorized in writing, at such reasonable time or times during normal business hours as may be requested by the Owner.

F. All funds collected hereunder shall be held and expended by the Association for purposes designated herein.

G. If an Owner is in default in the payment of any assessment for thirty (30) days, the Association may at its option accelerate all monthly payments for the balance of the budget period and may bring suit for and on behalf of itself and as representative of all Owners, to enforce collection thereof or to foreclose the lien therefor as hereinafter provided; and there shall be added to the amount due the costs of said suit, together with legal interest at the rate provided by law on open accounts and reasonable attorneys' fees to be fixed by the Court. The amount of any delinquent and unpaid charges or assessments, interest, costs and fees as above provided shall be and become a lien or charge against the Unit Ownership of the Owner involved when payable and may be foreclosed as in the case of foreclosure of liens against real estate. Said lien shall take effect and be in force from and after the time of filing a notice of such lien of record in the office of the Recorder of Dickinson County, Iowa, and not before, as to all creditors and subsequent purchasers without actual notice. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Elements or abandonment of any Unit. Amendments to this paragraph 3.2G shall only be effective upon written consent of members having a majority of the votes and their mortgagees.

H. If an Owner is in default in the payment of any assessment for thirty (30) days, the Association shall thereupon give written notice of such default to the first mortgagee, if any, of such defaulting owner.

ARTICLE IV – AMENDMENTS AND MISCELLANEOUS

- 4.1 Except as otherwise provided herein any of these Bylaws except Section 1.4 of Article I hereof may be amended only upon the affirmative vote of a majority of the Members entitled to vote at any regular or special meeting of the Members, provided that notice of the proposed amendment is given to all Members in writing at least ten (10) days prior to such meeting. Section 1.4 of Article I hereof may not be amended except by unanimous consent of all Unit Owners.
- 4.2 All terms used in these Bylaws shall have the same meaning as those defined in the Declaration.

ARTICLE V – COMPLIANCE

These Bylaws are set forth to comply with the requirements of the Iowa Horizontal Property Act, Chapter 499B, Code of Iowa. In case any of these Bylaws conflict with the provisions of that statute, it is hereby agreed and accepted that the provisions of the statute will control.