

**BY-LAWS  
OF  
LINDEN HEIGHTS TOWNHOME ASSOCIATION**

**TABLE OF CONTENTS**

		<u>Page</u>
<b>Article One</b>	<b>Membership, Offices, Applicability, Definitions .....</b>	<b>1</b>
1.1	Name .....	1
1.2	Status .....	1
1.3	Membership .....	1
1.4	Office .....	1
1.5	Applicability .....	1
1.6	Definitions .....	1
<b>Article Two</b>	<b>Association: Meetings, Quorum, Voting .....</b>	<b>1</b>
2.1	Place of Meetings .....	1
2.2	Annual Meetings .....	2
2.3	Special Meetings .....	2
2.4	Notice of Meetings .....	2
2.5	Waiver of Notice .....	2
2.6	Adjournment of Meetings .....	2
2.7	Voting .....	2
2.8	Majority .....	3
2.9	Quorum .....	4
2.10	Action by Association .....	4
<b>Article Three</b>	<b>Board of Directors: Number, Meetings .....</b>	<b>4</b>
3.1	Governing Body .....	4
3.2	Number of Directors .....	4
3.3	Term of Office of Directors .....	4
3.4	Removal of Directors .....	4
3.5	Vacancies .....	4
3.6	Organization Meetings .....	5
3.7	Regular Meetings .....	5
3.8	Special Meetings .....	5
3.9	Notice; Waiver of Notice .....	5
3.10	Quorum of Board .....	5
3.11	Conduct of Meetings .....	5
3.12	Compensation .....	6
3.13	Open Meetings; Executive Session .....	6
3.14	Consent to Corporate Action .....	6
3.15	Conflict of Interest .....	6

3.16	Code of Ethics .....	6
<b>Article Four</b>	<b>Powers and Duties of the Board .....</b>	<b>6</b>
4.1	Authority .....	6
4.2	Administrative Powers and Duties .....	7
4.3	Notice and Opportunity to be Heard .....	9
4.4	Board Standards .....	9
<b>Article Five</b>	<b>Officers .....</b>	<b>10</b>
5.1	Designation .....	10
5.2	Election, Term of Office and Vacancies .....	10
5.3	Removal and Vacancies .....	10
5.4	Powers and Duties .....	10
5.5	Resignation .....	11
5.6	Agreements, Contracts, Deeds, Leases, Checks .....	11
5.7	Certification .....	11
5.8	Compensation .....	11
<b>Article Six</b>	<b>Insurance: Damage or Destruction .....</b>	<b>11</b>
6.1	Association Insurance .....	11
6.2	Owner Policies.....	12
6.3	Duty to Restore.....	14
6.4	Costs. Insufficient or Surplus Proceeds .....	14
6.5	Plans.....	15
6.6	Replacement of Less Than Entire Property .....	15
6.7	Insurance Proceeds .....	15
6.8	Certificates by the Board .....	16
6.9	Certificates by Attorneys .....	16
<b>Article Seven</b>	<b>Miscellaneous .....</b>	<b>16</b>
7.1	Fiscal Year .....	16
7.2	Parliamentary Rules .....	16
7.3	Conflict of Law .....	16
7.4	Access to Books and Records .....	16
7.5	Notices .....	17
7.6	Amendment .....	17
7.7	Applicability .....	17

**BY-LAWS**  
of  
**LINDEN HEIGHTS TOWNHOME ASSOCIATION**

**ARTICLE ONE**  
**MEMBERSHIP, OFFICES, APPLICABILITY, DEFINITIONS**

**1.1 Name.** The name of the Association shall be Linden Heights Townhome Association ("Association"), which shall be deemed to be the homeowners' association pursuant to the "Restatement of Declaration of Covenants, Conditions and Restrictions for Linden Heights Townhomes" as recorded on \_\_\_\_\_ in Book \_\_\_\_, Page \_\_\_\_ of the records of the City of St. Louis, Missouri.

**1.2 Status.** The Association shall be organized as a Missouri nonprofit corporation under the Missouri Nonprofit Corporation Act, Chapter 355, Mo.Rev.Stat. A different form of organization may be determined by approval of eight percent (80%) of the Members in Good Standing.

**1.3 Membership.** The Members of the Association shall consist of the Lot Owners of the Subdivision in accordance with their allocated voting interests as provided in the Declaration. The membership of each Owner shall terminate when he ceases to be an Owner, and upon the sale, transfer or other disposition of his ownership interest, his membership in the Association shall automatically be transferred to the new Owner succeeding to such ownership interest.

**1.4 Office.** The principal office of the Association shall be located within the Subdivision, or the City of St. Louis, as determined by the Board.

**1.5 Applicability.** The provisions of these By-Laws are applicable to all of the Property subjected to the Declaration.

**1.6 Definitions.** The definition of words and terms contained in the Declaration shall apply to these By-Laws.

**ARTICLE TWO**  
**ASSOCIATION: MEETINGS, QUORUM, VOTING**

**2.1 Place of Meetings.** Meetings of the Association shall be held at the principal office of the Association or to such other convenient location in the City of St. Louis as may be designated by the Board.



**2.2 Annual Meetings.** The annual meeting of the Members shall be held in the month of June or as soon thereafter as reasonably practical. At such meeting, the Directors shall be elected by the Members as provided in Article Three. The Members may transact other business at such meetings as may properly come before them, provided that written notice is given to all Members as provided in Section 2.4.

**2.3 Special Meetings.** Special meetings of the Association may be called by the President, by resolution of a majority of the Board or upon a petition signed by at least twenty percent (20%) of the total votes of the Association. The notice of any special meeting shall state the date, 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.

**2.4 Notice of Meetings.** The Secretary or other officer specified in the By-Laws shall mail or cause to be delivered to each Member, at his Lot address, or by electronic means in accordance with Section 432.200, *et seq.*, RSMo (Missouri Uniform Electronic Transactions Act), a notice of each annual or special meeting of the Association stating the purpose and the time and place where it is to be held. The mailing or delivering of a notice of meeting in the manner provided in this Section shall be considered service of notice. Notices shall be served not less than 14 nor more than 30 days before a meeting.

**2.5 Waiver of Notice.** Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Member may waive notice in writing, either before or after the meeting. Attendance at a meeting by a Member shall be deemed waiver by such member of notice of the time, date, and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting also shall be deemed waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

**2.6 Adjournment of Meetings.** If any meeting of the Association cannot be held because a quorum is not present as provided in Section 2.9 below, the Board shall reschedule the meeting. At the rescheduled meeting, if a quorum of five percent (5%) of Members in Good Standing is present, any business which might have been transacted at the meeting originally called may be transacted.

**2.7 Voting.** The voting rights of the Members shall be as set forth in the Declaration and as follows:

(a) Multiple Members who are record Owners of a Lot shall collectively be entitled to one vote.



(b) If only one of such multiple Members is present at a meeting of the Association, that Member is entitled to cast the vote allocated to that Lot. If more than one of the Members are present, the vote allocated to that Lot may be cast only in accordance with the agreement of a majority in interest of the multiple Members. There is a majority agreement if any one of the Members casts the vote allocated to the Lot without protest being made promptly to the person presiding over the meeting by any of the other Members of the Lot. In the event of such protest, the vote allocated to that Lot shall not be counted.

(c) If an Owner is a corporation, any designated officer of such corporation may act as the Member and cast the vote allocated to such Lot. If an Owner is a partnership, a designated partner of such partnership may act as Member and cast the vote allocated to such Lot. The person presiding over the meeting may require reasonable proof that the person who is voting on behalf of a corporation or partnership is qualified to so vote.

(d) Votes may be cast pursuant to a written proxy specifying the Lot for which it is given, duly executed by the Member as record Owner of said Lot, and filed with the Secretary of the Association prior to the meeting for which it is to be effective. The proxy holder shall be another Member or the managing agent. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast, and in the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid. A "directed proxy" may be used, containing instructions which shall bind the holder as to the casting of the vote. A proxy is void if it is not dated or purports to be revocable without notice. Every proxy shall be revocable and shall automatically cease upon (1) conveyance of any Lot for which it was given, (2) receipt by the Secretary of a written notice of revocation of the proxy or of the death or judicially declared incompetence of a Member who is a natural person, or (3) eleven (11) months from the date of the proxy, unless a shorter period is specified in the proxy.

(e) No vote allocated to a Lot owned by the Association may be cast.

(f) The Lot of any Member who is not in Good Standing is not eligible for voting purposes, and shall not be counted in determining whether a quorum is present at any meeting or calculating the percentage or number of votes required to make a decision or take an action.

(g) There shall be no cumulative voting.

**2.8 Majority.** As used in the Governing Documents, the term "Majority" shall mean those votes, Members, or other group as the context may indicate totaling more than fifty percent (50%) of the total eligible number.

**2.9 Quorum.** The presence at the beginning of any duly called meeting, in person or by proxy, of ten percent (10%) of all the Members in Good Standing of the Association shall constitute a quorum at all meetings of the Association.

**2.10 Action by Association.** The Association may make decisions or take action by the affirmative vote of a majority of the Members in Good Standing present at a meeting (in person or by proxy) at which a quorum is present, unless a different percentage is expressly provided by the Governing Documents for specific actions. Any action not required to be taken at a meeting may be taken by mail ballot, or at a meeting called for said purpose, or a combination of these methods.

### **ARTICLE THREE** **BOARD OF DIRECTORS: NUMBER, MEETINGS**

**3.1 Governing Body.** The affairs of the Association shall be governed by a Board of Directors (hereinafter referred to as "Board"). The Directors shall be qualified as provided in the Declaration.

**3.2 Number of Directors.** The Board shall consist of five (5) Directors. The number of Directors may be changed by amendment of these By-Laws, provided that the number shall not be less than three (3).

**3.3 Term of Office of Directors.** Directors shall each have two (2) year terms, which shall be staggered so that the terms of approximately one-half of the Directors shall expire each year, and shall hold office until their respective successors have been elected.

**3.4 Removal of Directors.** Upon petition signed by at least one-third (1/3) of all Members in Good Standing and presented to the Board requesting a vote to remove one (1) or more Directors, with or without cause, the Board shall notify the Members of a special meeting for said purpose. At such meeting, any Director named in the petition may be removed by the affirmative vote of two-thirds (2/3rds) of the Members in Good Standing casting votes at the meeting. In the event any Director is removed under this provision, the remaining Directors shall set a special meeting of the Association, to be held within 30 days following such removal, for the Members to elect a successor to fill each vacancy created by such removal for the remainder of the term.

**3.5 Vacancies.** In the event of the death, disability, or resignation of a Director, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Members in Good Standing may elect a successor for the remainder of the term. Any Director who has three (3) unexcused absences from Board meetings within one (1) year or who is delinquent in the payment of any assessment or installment thereof for more than sixty (60) days may be removed by a majority vote of the Board at a meeting at which a quorum is present, and the Board may appoint a successor to fill the vacancy for the remainder of the term.



**3.6 Organization Meetings.** The first meeting of the Directors following the annual Association meeting shall be held within 10 days thereafter at such time and place as shall be fixed by the Board.

**3.7 Regular Meetings.** Meetings of the Board may be held at such time and place as shall be determined from time to time by the Board. Directors may participate in a meeting of the Board by means of conference telephone or similar communications equipment, by means of which all persons participating in the meeting can hear each other, and participation pursuant to this Section shall constitute presence in person at such meeting.

**3.8 Special Meetings.** Special meetings of the Board shall be held when called by notice by the President or by a majority of the Board specifying the time and place of the meeting and the nature of any special business to be considered.

**3.9 Notice; Waiver of Notice.** Notices of Board meetings shall be given to each Director by personal delivery, mail, email, or by such other means reasonably expected to communicate such notice promptly, shall specify the time and place of the meeting and, in the case of a special meeting, the nature of any special business to be conducted. The transactions of any meeting of the Board shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the Directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes.

**3.10 Quorum of Board.** A majority of the Directors, present at the beginning of any Board meeting, 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.

**3.11 Conduct of Meetings.** The President shall preside over all meetings of the Board, and the Secretary shall keep a minute book of Board meetings, recording all Board resolutions and transactions and proceedings occurring at such meetings. The order of business shall be:

- (a) Calling the roll;
- (b) Proof of notice of meeting and waiver(s) of notice;
- (c) Reading and disposal of any unapproved minutes;
- (d) Reports of officers;
- (e) Reports of committees;
- (f) Election of officers;
- (g) Unfinished business;
- (h) New Business; and
- (i) Adjournment.



**3.12 Compensation.** No Director shall receive any compensation for acting as such; provided, however, that the Association may approve compensation by the affirmative approval of a majority of the Members in Good Standing at a meeting called for this purpose. A Director shall be entitled to reimbursement for actual and reasonable expenses incurred on behalf of the Association upon Board approval. Nothing herein shall prohibit the Association from compensating a Director, or any entity with which a Director is affiliated, for services or supplies furnished to the Association in a capacity other than as a Director pursuant to a contract or agreement with the Association, provided that such Director's interest was made known to the Board prior to entering into such contract and that such contract was approved by the Board, excluding the participation and vote of the interested Director.

**3.13 Open Meetings; Executive Session.** Except as provided in this Section, all meetings of the Board shall be open to all Members. The Board may designate portions of the meetings for the purpose of participation by the Members. Notwithstanding the foregoing, the President may adjourn any meeting of the Board and reconvene in executive session, and may exclude persons other than the Directors, to discuss confidential matters, such as pending or threatened litigation and personnel matters.

**3.14 Consent to Corporate Action.** If the Directors individually or collectively consent in writing to any action taken or to be taken by the Board, and the number of the Directors constitutes a quorum for such action, such action shall be valid as though it had been authorized at a meeting of the Board. The Secretary shall file such consents with the minutes of the official Board meetings.

**3.15 Conflict of Interest.** Any Director who has a financial interest or other conflict of interest in connection with any transaction or business of the Association shall fully disclose same before the Board votes on such matter, and said Director shall abstain from discussion and voting. The remaining Directors may appoint a disinterested Owner to the Board for the limited purpose of voting upon such matter(s).

**3.16 Code of Ethics.** The Board may adopt a code of ethics for the conduct of Directors and provide for training of Directors.

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

**4.1 Authority.** The Board shall be responsible for the affairs of the Association and shall have all the powers and duties necessary for the administration of the Association's affairs and, as provided by law, may do all acts and things as are not by the NPCA or Declaration exclusively reserved to the Members.

**4.2 Administrative Powers and Duties.** In addition to the powers and duties imposed by the Declaration, these By-Laws or by any resolution of the Association, the Board shall have the following powers and duties, to be carried out in accordance with the Declaration.

(a) To collect assessments as follows:

(1) Assessments and installments thereof, and fines, shall bear interest until paid at the rate of twelve percent (12%) per annum, or any other legal rate (not exceeding eighteen percent (18%)) adopted by resolution of the Board. The interest shall be calculated as simple interest and not be compounded. If payment of any assessment or installment thereof, or any fine, is not received in full and timely manner under paragraph (a)(2) below, the Board shall charge a late fee in the sum of Twenty-Five Dollars (\$25.00) or such other reasonable fee as may be adopted by resolution of the Board.

(2) Assessments shall be due and payable on the first day of each month. If payment is not received within 15 days after the date due, the assessment shall be designated as late and a late charge and interest shall attach. A written notice to the Member shall be provided.

(3) If payment of any assessment has not been received within forty-five (45) days after the date due, a second written notice shall be provided.

(4) If payment of any assessment has not been received within sixty (60) days after the due date, and the delinquent Owner has made no arrangements to pay, the Board may authorize the recordation of a Notice of Lien against the Dwelling and foreclosure of the Association's lien or initiation of a legal action to collect the debt against the Owner, including:

- a. Past due monthly installments.
- b. Special assessment (if any).
- c. Late charges.
- d. Interest on the delinquent assessment.
- e. Accelerate unpaid balance of the annual assessment.
- f. Attorney's fees.
- g. Recording costs.
- h. Other actual expenses incurred.

(5) Part payments on a delinquent account shall be applied in the following order:



- a. Court costs.
- b. Attorney's fees.
- c. Expenses, management fees, administrative costs and other charges incurred by the Board.
- d. All late charges accrued.
- e. All interest charges accrued.
- f. The principal amount of the assessment due.
- g. Other qualifying expenses, if any.
- h. Amount of accelerated assessment.

(6) The Board may waive late fees and interest for good cause.

(7) The Board may adopt Rules and written collection procedures for the efficient and effective collection of unpaid assessments.

(b) To open bank accounts on behalf of the Association and designate the signatories required, to deposit all funds received on behalf of the Association, and to use such funds to operate the Association; provided, that any reserve funds may be deposited in depositories other than banks, in the Board's best judgment. Reserve funds may be accessed only by approval of at least two (2) officers of the Board.

(c) To arrange or contract for and to pay the cost of all services rendered to the Association.

(d) To keep books with detailed accounts of the receipts and expenditures affecting the Association and its administration. All books and records shall be kept in accordance with generally accepted accounting principles and practices. All records shall be preserved for the period of time required by applicable law or regulation. A review of the accounts of the Association shall be made annually in such manner as the Board may decide; provided, however, after having received the Board's review at the annual meeting, the Members, by resolution, may require that the accounts of the Association be audited as a Common Expense by a certified public accountant.

(e) To permit utility and service providers to use the Common Ground reasonably necessary for services to the Property and individual Lots and Dwellings.

(f) To conduct any transaction or communication by electronic means if permitted by and in accordance with Section 432.200, *et seq.*, RSMo (Missouri Uniform Electronic Transactions Act).

(g) To establish committees, and to appoint chairs and members thereof, to perform such tasks and to serve for such periods as may be designated by a resolution which shall set forth the committee's duties, powers and duration. Each committee shall operate in accordance with the terms of the Board resolution and with rules adopted by the Board.



(h) To employ a management agent to perform such duties and services as the Board shall authorize, but the Board may not delegate the approval of budgets and assessments; adoption, amendment or termination of Rules; opening bank accounts or designation of signatories; access to reserve funds; or enforcement by legal means of any provision of the Governing Documents.

(i) To arrange for and pay the cost of such accounting, legal or other professional services as may be required or necessary to the operation of the Association.

**4.3 Notice and Opportunity to be Heard.** The Association shall have the power, as provided in the Declaration, to impose penalties for any violation of the Governing Documents. Where notice and opportunity to be heard are required by the Declaration, the Board shall comply with the following procedures prior to imposition of penalties:

(a) **Notice.** The Board or its delegate shall serve the alleged violator with written notice describing (1) the nature of the alleged violation, (2) the proposed sanction to be imposed, (3) a period of not less than ten (10) days within which the alleged violator may present a written request for a hearing to the Board, and (4) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within ten (10) days of the notice. If a timely request for a hearing is not made, the sanction stated in the notice shall be imposed; provided the Board may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the ten (10) day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions of the Governing Documents by any Person.

(b) **Hearing.** If a hearing is requested within the allotted ten (10) day period, the hearing shall be held before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, Director or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or his or her representative appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

**4.4 Board Standards.** The Board shall be guided by the following standards:

(a) **Business.** While conducting the Association's business affairs, the Board shall be protected by the business judgment rule. The business judgment rule protects a Director from personal liability so long as the party claiming liability does not prove that the Director failed to (1) act within his or her authority, (2) serve in a manner the Director believes to be in the best interests of the Association and its Members, (3) serve in

good faith, or (4) act with such care as an ordinarily prudent person in a like position would use under similar circumstances.

(b) **Governance.** In fulfilling its governance responsibilities, the Board's decisions and actions shall be governed and tested by the rule of reasonableness. The Board shall exercise its power in a fair and nondiscriminatory manner and shall adhere to the procedures established in the Declaration.

(c) **Operations.** Operational standards of the Board and any committee appointed by the Board shall be the requirements set forth in the Declaration or the minimum standards which the Board may establish. Operational standards may evolve as the needs and demands of the community and the Association change over time.

## **ARTICLE FIVE** **OFFICERS**

**5.1 Designation.** The officers of the Association shall be a President, Secretary, and Treasurer, all of whom shall be elected by the Board. The Board may elect such other officers, including a Vice-President, one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed from time to time by the Board. Any two or more offices may be held by the same person, excepting the offices of President and Secretary. The President, Vice President (if any), Secretary and Treasurer shall be elected from among the Directors.

**5.2 Election, Term of Office and Vacancies.** The officers of the Association shall be elected annually by the Board at the first meeting of the Board following each annual election.

**5.3 Removal and Vacancies.** The Board may remove any officer whenever in its judgment the best interests of the Association will be served, and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise, for the unexpired portion of the term.

**5.4 Powers and Duties.** The officers of the Board shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may from time to time be specifically conferred or imposed by the Board. The President shall be the chief executive officer of the Association. The Secretary shall keep all official records and minutes of the Board and Association and provide all required notices. The Treasurer shall maintain all financial records and prepare the budget with the assistance of the management agent.



**5.5 Resignation.** Any officer may resign at any time by giving written notice to the President or Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, acceptance of such resignation shall not be necessary to make it effective.

**5.6 Agreements, Contracts, Deeds, Leases, Checks.** All agreements, contracts, deeds, leases, and other instruments of the Association approved by the Board shall be executed by the President or, in the absence of the President, any officer or such other person or person as may be designated by resolution of the Board. Checks shall be signed by the Treasurer and/or such other officer(s) designated by resolution of the Board. In the event of an emergency, the President shall have such authority as reasonably necessary under the circumstances to act on behalf of the Association.

**5.7 Certification.** The President, Secretary and Treasurer, in said order, shall be authorized to prepare, execute and record amendments to the Declaration and other instruments on behalf of the Association, and the Secretary shall be authorized to certify any instrument or document requiring certification.

**5.8 Compensation.** Compensation of officers shall be subject to the same limitations as compensation of Directors under Section 3.12 of these By-Laws.

## **ARTICLE SIX**

### **INSURANCE; DAMAGE OR DESTRUCTION**

**6.1 Association Insurance.** The Association shall, to the extent reasonably available and as a Common Expense, obtain and maintain insurance as follows:

(a) **Liability Insurance.** Liability insurance shall be provided in an amount determined by the Board but in no event less than \$1,000,000.00 for a single claim and \$1,000,000.00 aggregate in a single year, covering all occurrences commonly insured against for death, bodily injury, property damage and personal injury arising out of or in connection with the use, ownership or maintenance of the Common Ground, and the activities of the Association. Insurance policies carried pursuant to this Section shall provide that:

(1) Each Owner is an additional insured under the policy with respect to liability arising out of the interest of the Owner in the Common Ground or membership in the Association.

(2) The insurer waives the right to subrogation under the policy against an Owner or persons in his household (excepting tenants not related to the Owner).



(3) An act or omission by an Owner, unless acting within the scope of the Owner's authority on behalf of the Association, will not void the policy or be a condition to recovery under the policy.

(4) If, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

(5) The insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association.

(b) Fidelity Bond. A blanket fidelity bond or insurance is required for anyone who either handles or is responsible for funds held or administered by the Association, including the managing agent (if any), whether or not he receives compensation for his services. The bond or insurance shall name the Association as obligee and it shall cover the maximum funds that will be in the custody of the Association or the manager at any time while the bond or insurance is in force in the sum of reserves plus at least (i) the annual assessment or (ii) if payable in monthly installments, the sum of at least three (3) months' assessments.

(c) Directors' and Officers' Liability Insurance. The Association shall obtain and maintain directors' and officers' liability insurance covering current and former Directors, Officers and committee members of the Association, and the managing agent (if any), for claims of monetary damage and non-monetary relief, fair housing, and such other coverages as the Board shall deem reasonable, for administrative, judicial and alternative dispute resolution proceedings, in such limits as the Board may determine.

(d) Common Ground: Property and Casualty Insurance. The Association shall obtain and maintain a policy of insurance for the full insurable replacement cost, protecting any improvements on the Common Ground against perils, as broadly as reasonably available, including earthquake, under coverage known as 'special form' or 'special causes of loss.'

(e) Other Insurance. The Association may carry other insurance which the Board considers appropriate to protect the Association and the Owners' interests in the Property.

## **6.2 Owner Policies.**

(a) Property Insurance. Each Owner, at his sole expense, is responsible to obtain and maintain insurance for the full insurable replacement cost of his Dwelling. The insurance shall afford protection against perils, as broadly as reasonably available, including earthquake, under coverage known as "special form" or "special causes of loss." Each Owner is responsible to comply with the following conditions:

(1) Each policy shall name the Association as an insured or additional insured,

(2) Upon request by the Board, the Owner shall furnish a copy of his certificate of insurance and a copy of each policy,

(3) To the extent reasonably available, each policy shall provide that the insurer waives any right of subrogation against the Association, Board, employees, agents or contractors of the Association, and the Owners and residents of the other Dwellings,

(4) Each policy shall provide that it shall not be cancelled, terminated or amended without at least thirty (30) days prior written notice to the Association,

(5) The proceeds under the policy shall be paid to the Association for restoration and reconstruction of any portion of the Dwelling for which the Association is responsible to maintain, repair and replace under the Declaration,

(6) Subject to Sections 6.3 and 6.5, each Owner is responsible to apply the insurance proceeds promptly to restore and reconstruct the Dwelling in accordance with original plans and specifications. If the proceeds are insufficient, the Owner shall complete the restoration and reconstruction at his sole expense.

(7) In the event a Dwelling is damaged by an insurable peril but the Owner fails or refuses to make a claim under his insurance or his insurer denies the claim, and the Owner fails or refuses to restore or reconstruct the Dwelling, the Association may (but is not obligated to) restore and reconstruct all damaged exterior portions of the Dwelling and assess all costs incurred against the Lot,

(8) In the event the Owner fails to obtain insurance as required under this Section 6.2, or for any reason the Association does not receive the proceeds from the Owner's insurance or such proceeds are insufficient for restoration and reconstruction, the Association may (but is not obligated to) complete the restoration and reconstruction of all exterior portions of the Dwelling and to assess all costs incurred against the Lot,

(9) Any assessment made under this Section 6.2 shall be enforced under the same authority and in the same manner as delinquent assessments under Article IX of the Declaration, and



(10) Notwithstanding the provisions of this Section 6.2, however, the Board may procure and maintain property insurance for the Dwellings as a Common Expense upon amendment of these By-Laws.

The Owner shall be solely responsible to determine the value and procure the required coverages of the insurance on his Dwelling. If an Owner fails to maintain a policy of insurance protecting his Dwelling, or fails to obtain adequate coverage, the Owner shall be deemed to be self insured in the event of insufficient insurance proceeds to restore or reconstruct his Dwelling and shall be personally liable for all costs thereof. In no event shall the Association be responsible for an Owner's failure to obtain insurance or to obtain adequate insurance, or for an Owner's failure to satisfy any requirement set forth in this Section 6.2.

(b) **Liability Insurance.** Each Owner is responsible to maintain liability insurance for his premises and such other insurance for his own benefit and to protect his interests, in his sole discretion.

**6.3 Duty to Restore.** Any portion of the Property for which the Association is responsible to maintain, repair and replace under the Declaration, that is damaged or destroyed must be repaired or replaced promptly by the Association unless:

(a) the Community is terminated as provided in Section 16.2 of the Declaration and the Declaration released from the records of the City of St. Louis by approval of 80% of all the Members in Good Standing;

(b) repair or replacement would be illegal under a state statute or municipal ordinance governing health or safety; or

(c) 80% of the Members in Good Standing approve a resolution not to rebuild.

In the event of termination of the Community, the insurance proceeds of each Owner policy under Section 6.2 shall first be applied to removal of all debris, and the balance of the proceeds shall be distributed to the Owners.

**6.4 Costs. Insufficient or Surplus Proceeds.**

(a) The cost of restoration or reconstruction of improvements on the Common Ground in excess of the Association's insurance proceeds shall be a Common Expense. The cost of restoration or reconstruction of a Dwelling in excess of an Owner's insurance proceeds shall be the Owner's sole responsibility. In the event the Association provides the restoration or reconstruction under Section 6.2(a)(7) and (8), the costs shall be assessed exclusively to that Lot.



(b) Any surplus insurance proceeds involving the Common Ground shall be allocated to the Association. Any surplus insurance proceeds attributable to a Dwelling shall be payable to the Owner of that Lot.

**6.5 Plans.** The Dwellings and other improvements on each Lot shall be restored and reconstructed in accordance with either the original plans and specifications or other plans and specifications which have been approved by the Board and a majority of all affected Owners. In the event at least a majority of all the Dwellings require restoration and reconstruction, other plans and specifications may be approved by the Board and a majority of all the Owners.

**6.6 Replacement of Less Than Entire Property.**

(a) The insurance proceeds attributable to damaged improvements for which the Association is responsible to maintain, repair and replace under the Declaration shall be used to restore the damaged area to a condition compatible with the remainder of the Property.

(b) Except to the extent that other persons will be distributees,

(1) The insurance proceeds attributable to a Dwelling shall be paid to the Owner and applied to restore or reconstruct the Dwelling; provided, however, upon request by an Owner, the Association may agree not to restore or reconstruct the Dwelling by approval of 80% of all the Members in Good Standing (excluding any Owner whose Dwelling would not be rebuilt). In the event at least a majority of all the Dwellings have been substantially damaged or destroyed, the Association may agree to terminate the Subdivision by approval of 80% of all the Members in Good Standing; and

(2) The remainder of the proceeds, if any, shall be distributed to each Owner or lien holder, as their interests may appear;

(c) If the Members in Good Standing vote not to rebuild a Dwelling, the interests of the Lot are reallocated as if the Dwelling had been condemned, and the Association, acting through the Board, promptly shall prepare, execute and record an amendment to the Declaration and/or plat reflecting the reallocations.

**6.7 Insurance Proceeds.** The Insurance Trustee, or if there is no Insurance Trustee, then the Board, shall hold any insurance proceeds paid to the Association in trust for the Association, Owners and lien holders as their interests may appear. The proceeds shall be disbursed first for the restoration or reconstruction of the damaged portions of the Property for which the Association is responsible. The Owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the Property has been completely restored or reconstruction as provided in Section 6.4(b), or the Community is terminated as provided in Section 6.3(a).

**6.8 Certificates by the Board.** The Insurance Trustee, if any, may rely on the following certifications in writing made by the Board:

(a) Whether or not damaged or destroyed property is to be restored or reconstructed;

(b) The amount or amounts to be paid for restoration or reconstruction and the names and addresses of the parties to whom such amounts are to be paid.

**6.9 Certificates by Attorneys.** Title insurance companies or if payments are to be made to Owners or mortgagees, the Board, and the Insurance Trustee, if any, shall obtain and may rely on a title insurance company or attorney's certificate of title or a title insurance policy based on a search of the Records of the City of St. Louis, Missouri from the date of recording of the Declaration stating the names of the Owners and the Mortgagees.

## **ARTICLE SEVEN MISCELLANEOUS**

**7.1 Fiscal Year.** The fiscal year of the Association shall be a calendar year unless otherwise set by resolution of the Board.

**7.2 Parliamentary Rules.** The Board may adopt parliamentary rules and procedures to govern the conduct of Association proceedings, provided that they are not in conflict with Missouri law or the Governing Documents.

**7.3 Conflict of Law.** In the event of conflict between the NPCA and other Missouri law, Articles of Incorporation, Declaration and these By-Laws, the provisions of the Declaration shall control unless expressly prohibited by the NPCA; otherwise the NPCA shall control, and then the Declaration, the Articles of Incorporation, and the By-Laws (in that order) shall control.

**7.4 Access to Books and Records.**

(a) The membership register, books of account, and minutes of meetings of the Members, the Board, and committees shall be made available for inspection and copying by any Member of the Association or by his or her duly appointed representative at any reasonable time and for a purpose reasonably related to his or her interest as a Member at the office of the Association or at such other place as the Board shall prescribe.



(b) Rules for Inspection. The Board shall establish reasonable rules with respect to notice to be given to the custodian of the records by the Member desiring to make the inspection, and payment of the cost of reproducing copies of documents requested by a Member.

(c) Every Director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a Director includes the right to make extracts and copies of documents at the expense of the Association.

**7.5 Notices.** Unless otherwise provided in the Governing Documents, all notices, demands, bills, statements, or other communications required by the Governing Documents shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by first class U.S. mail, postage prepaid, or served by electronic means in accordance with Section 432.200, *et seq.*, RSMo. (Missouri Uniform Electronic Transactions Act):

(a) to a Member, at the address which the member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Lot or Dwelling of such Member; or

(b) to the Association, the Board, or the Managing Agent, at the principal office of the Association or the Managing Agent, if any, or at such other address as shall be designated by the notice in writing to the owners pursuant to this Section.

**7.6 Amendment.** These By-Laws may be amended only as provided in the Declaration.

**7.7 Applicability.** These By-Laws shall be effective upon adoption by a majority of the Members.

#### **CERTIFICATION**

We, the undersigned, being the President and Secretary of the Board of Directors of Linden Heights Townhome Association, a Missouri nonprofit corporation, do hereby certify that the foregoing By-Laws constitute the By-Laws of said Association, as duly adopted by a majority of all the Members in Good Standing of the Association.

IN WITNESS WHEREOF, we have hereunto subscribed our names this 10<sup>TH</sup> day  
of February, 2008.

LINDEN HEIGHTS TOWNHOME ASSOCIATION,  
a Missouri nonprofit corporation

By: Gerald Grant  
Its President

[No Seal]

Attest:

Joan Huelsmann  
Secretary / Business Manager