

AMENDED AND RESTATED
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS OF:
WHISPER CREEK NORTH
HOMEOWNERS ASSOCIATION

R2024023890
KAREN A. STUKEL
WILL COUNTY RECORDER
RECORDED ON
05/17/2024 09:42:55 AM
REC FEE: 74.00
IL RENTAL HSNG: 18.00
PAGES: 47
ACH

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**AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS OF WHISPER CREEK NORTH HOMEOWNER'S ASSOCIATION**

THIS AMENDED AND RESTATED DECLARATION is made and entered into this 13th day of March 2024, by **WHISPER CREEK NORTH HOMEOWNERS ASSOCIATION** with the approval of the Board of Directors; and

WHEREAS, the Declaration of Covenants, Conditions and Restrictions of Whisper Creek North Single Family Residences was recorded with the Record of Deeds of Will on January 11, 2008 as document no. R2008005385, against certain parcels of real estate described in Exhibit A; and

WHEREAS, WHISPER CREEK NORTH HOMEOWNERS ASSOCIATION is a not-for-profit homeowners association subject to the General Not-for-Profit Corporation Act (the "Act"); and

WHEREAS, WHISPER CREEK NORTH HOMEOWNERS ASSOCIATION is governed by a Board of Directors ("Board"); and

WHEREAS, Section 1-60 of CICA A authorizes the Board, by vote of two-thirds (2/3) of the members of the Board to amend the Declaration to correct an error or omission in the Declaration or other instrument of the Association or otherwise conform the instruments to the applicable law; and

WHEREAS, the Board for WHISPER CREEK NORTH HOMEOWNERS ASSOCIATION believes that it is in the best interest and welfare of the Association to update the provisions of the Declaration to comply with Act and other applicable statutes; and

WHEREAS, this Amended and Restated Declaration has been approved by a majority of the members of the Board at a meeting called for that purpose;

NOW THEREFORE, the Declaration is hereby amended and restated as follows:

ARTICLE 1: DEFINITIONS

Article 1. Section 1: “Association” shall mean and refer to Whisper Creek North Homeowners Association, its successors and assigns, a corporation to be formed under the General Not-For-Profit Corporation Act of Illinois. Members shall be Owners.

Article 1. Section 2: “Builder” shall mean a purchaser of a Lot and its successors and assigns, whose intention is to construct a single-family dwelling for resale and not his own occupancy.

Article 1. Section 3: “Committee” shall mean and refer to The Architectural Review Committee (ARC).

Article 1. Section 4: “Common Areas (Lots 135-137)” shall mean all real property and improvements whether now constructed, or to be constructed, thereon including entrance medians and all monuments, all water retention and water detention facilities and other improvements as described on the approved final plat of subdivision as recorded on the final plat of subdivision for Whisper Creek in the County of Will as document number R2006106466 on the 28th day of June, 2006, legal title to which is owned by the Village and intended for the use and benefit of all Owners.

Article 1. Section 5: “Declaration” shall mean this instrument together with the exhibits attached and made a part hereof and shall include such amendments, if any, to this instrument as may from time to time be adopted pursuant to the terms hereof. This Declaration may be referred to in any other document as Whisper Creek North Single Family Residences Lots 1-70 Declaration of Covenants, Conditions and Restrictions.

Article 1. Section 6: “Lot” shall mean and refer to a portion of the Subject Property shown on the Plat that is improved or intended to be improved with one single-family residence. The “Lots” are those portions of the Subject Property that are designated on the Plat as Lots 1 through and including 70.

Article 1. Section 7: “Owner” shall mean and refer to the recorded owner of a residential Lot which is a part of the Property. For purposes of this Section, holders of beneficial interest under land trust holding title to any residential Lot which is a part of the Property shall be considered Owner.

Article 1. Section 8: “Subject Property” shall mean and refer to the subject property as more fully described in Exhibit “A”.

Article 1. Section 9: “Village” shall mean the Village of Mokena.

Article 1. Section 10: “Plat” The Plat of Subdivision for Whisper Creek Subdivision recorded in Will County, Illinois, on June 28, 2006, as Document number R2006106466.

ARTICLE 2: SERVITUDE FOR OWNERS

Article 2. Section 1: “Utility Easement” The Lots are subject to utility easements for sanitary sewer, storm sewer, water, gas, electricity, telephone, and any other necessary utilities. Said easements shall be (or may have been) created by and described on the plat of subdivision affecting the property.

Article 2. Section 2: “Title to Outlots: Retention and Detention (Lots 135-137)” Upon acceptance of the public improvements by the Village of Mokena, or upon any other agreed to date between the Association and Village, the Association will convey to the Village fee simple title to the Common Areas and facilities located thereon. The Owners within the Whisper Creek North Homeowners Association shall pay all costs relative to the maintenance and repair of the Common Areas within the Whisper Creek Subdivision which are north of the middle of the bridge.

Article 2. Section 3: “Servitude for Association” There is hereby reserved a general right and servitude for the benefit of the Association, its directors, officer, agents and employees, including but not limited to any manager employed by the Association and any employees of such manager, to enter upon any Lot in the performance of their respective duties. Except in the event of emergencies, this servitude is to be exercised whenever practicable only upon advance notice to the Owner of the Lot directly affected thereby or a member of the Association Board of Directors.

Article 2. Section 4: “Servitude for Declarant and Developer”

DELETED IN ITS ENTIRETY AS DEVELOPER’S RIGHTS HAVE CEASED.

Article 2. Section 5: “Sales and Construction Offices”

DELETED IN ITS ENTIRETY AS DEVELOPER’S RIGHTS HAVE CEASED.

Article 2. Section 6: “Maintenance Servitude” There is hereby reserved for the benefit of the Association, and their respective agents, employees, successors and assigns an alienable, transferable and perpetual right and servitude to enter upon any Lot for the purpose of removing, cutting or pruning underbrush, weeds, stumps or other unsightly growth, mowing of grass and removing trash and debris, so as to maintain a reasonable standard of health, fire safety and appearance within the Property, provided that such servitude is not in violation of any Codes or Ordinances, does not violate terms stated in the Declaration of Covenants, Conditions and Restrictions with regard to such servitude conducted upon any easement and does not impose any duty or obligation upon the Association to perform any such actions.

Article 2. Section 7: “Insurance and Restoration”

- (A) **Insurance.** Prior to the commencement of any work permitted pursuant to this Article 2, the party performing such work shall provide to the Owner or Owners of the Property, or any portion thereof on which such work is to be performed, reasonable evidence of workers compensation and general liability insurance insuring such Owner or Owners and any of its mortgages against claims for death, personal injury and property damage in reasonable coverage and amounts.
- (B) **Restoration.** In the event any party performs any work pursuant to the rights granted under this Article 2, said party shall upon completion thereof restore the Property or any portion thereof upon which such work was performed on a Lot to its condition prior to the commencement of such work. All parties performing such work shall do so in a manner which is least disruptive to the Owners of the Property or portions thereof upon which such work is being performed.

ARTICLE 3: MEMBERSHIP AND VOTING RIGHTS

Article 3. Section 1: “Membership” Every Owner of any Lot in whole or in part, shall automatically be a member of the Association and shall remain one so long as they remain an Owner of Lots or subject hereto. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Upon termination of an Owner’s interest in the Subject Property, such membership shall thereupon automatically terminate and transfer and inure to the new Owner succeeding in interest.

Article 3. Section 2: “Classes of Voting Membership” The Owners shall be the voting members and shall be entitled to vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any one Lot. A majority vote will be required for all matters covered in this Declaration.

ARTICLE 4: COVENANTS FOR PROPERTY ASSESSMENTS

Article 4. Section 1: “Creation of Liens and Personal Obligation for Assessments”

An Owner (except as otherwise specifically provided by the provisions of Article 4, Section 7 hereof), by acceptance of a deed therefore or otherwise, whether or not it shall be so expressed in such deed or other conveyance, hereby covenants and agrees and shall be deemed to covenant and agree to pay to the Association for each Lot owned (or to a management company or other collection agency designated by the Association): (1) assessments or charges to be paid on the first day of January each year (hereinafter called “Operating Assessment”) or in such other installments as the Board of Directors of the Association (hereinafter referred to as “Board”), shall elect and (2) assessments to be paid once at closing and from time to time thereafter as may be determined appropriated by the Association (hereinafter called “Special Assessments”). Special Assessments shall be established and collected by the Association. The Operating and Special Assessments shall be established and collected by the Association.

The Operating and Special Assessments, together with such interest thereon and costs of collection thereof, including, but not limited to reasonable attorneys’ fees, as hereinafter provided, shall also be the continuing personal obligation of the person who was the Owner of such Lot at the time when the said Assessment fell due.

Article 4. Section 2: “Purpose of Assessments”

- (A) **Owners’ Operating Assessments.** The Operating Assessment represents each Owner’s proportionate share of the expenses of maintenance, repair, replacement, administration, and operation of the Common Areas. This includes but is not limited to maintenance and repair to all Common Areas and all related structures and facilities until they are deeded to the Village including, but not limited to, electricity costs, upkeep and replacement of Common Area landscaping; electricity costs for site lighting, truces, insurance, and management fees. Said expenses shall be known as “Operating Expenses.” Operating Assessments will be levied by the Association and used exclusively to promote the health, safety, and welfare of the Owners and for the purposes of the Association as provided by this Declaration. To

the extent, if at all, that any Operating Assessments for any fiscal year are not expended by the Association, any such savings shall be applied by the Association in reduction of its budget and the annual assessments to the Owners for the following year.

- (B) **Reserve Fund.** All Owners shall at the time of closing be assessed for six (6) months of Assessments which sum shall be set aside in the Reserve Fund. Said Reserve Fund shall be drawn on by the Association in the event there is a shortcoming of Operating Assessments to reasonably cover the Operating Expenses or there is a need to finance any unexpected expenses not covered by the Operating Assessments. If such Reserve Fund is depleted or, in the opinion of the Board, significantly reduced, then any supplemental budget, or the next Operating Assessment requirements, shall provide for re-establishment of such Reserve Fund as the Board shall deem reasonably appropriate. Any such assessment for the Reserve Fund shall be levied equally per Lot against each Owner. Any interest of any Owner in and to such Reserve Fund shall automatically transfer and inure to such Owner's successor in interest.
- (C) **Owners' Special Assessments.** Special Assessments shall be collected from all Owners from time to time as the Association may find necessary. The Special Assessment as levied by the Association is only for the purpose of defraying, in whole or in part, any unexpected expenses not covered by the Operating Assessments in that given year.

Special Assessments in excess of a total of One Thousand Dollars (\$1,000.00) per lot, annually in any assessment year shall require the consent of two-thirds (2/3) of the vote of each class of members who are voting in person or by proxy at a meeting duly called for such purpose. Failure of an Owner to vote shall not constitute consent to such increase. The Owner as of the date of any levy of a Special Assessment shall be personally liable for such Assessment.

Article 4. Section 3: "Computation of Assessments" Payments of assessments shall be in such amounts and at such times as provided below:

- (A) The Operating Assessment shall be \$250.00 per annum per Lot, unless otherwise stated herein.
- (B) On or before each November 1st, the Board shall estimate that total amount necessary to pay the cost of taxes, wages, materials, insurance, services and supplies for maintenance and operation and such other items as provided for herein and in the By-Laws of the Association which will be required during the ensuing calendar year for the rendering of all services, together with a reasonable amount necessary for Reserve Fund for contingencies and replacements, and shall on or before December 1st of each year notify each Owner in writing as to the amount of such estimate with reasonable itemization thereof. The Association shall have the right to reasonably increase the Operating Assessments as may be necessary to properly finance the Operating Expense, as long as said increase is for the benefit of the Owners and the promotion of the health, safety and welfare of the Owners.

All obligations of the Owners hereunder, including but not limited to the Operating Assessment, Special Assessments, or other levies by the Association pursuant to this Declaration or the By-Laws of the Association shall be determined according to the calculations shown as follows: The percentage of the total annual assessment levied by the Association which is payable by each Owner shall be divided by the 70 Lots which comprise this Association. If said estimated cash requirement proves inadequate, for any reason, to defray the Operating Expenses during any given year, then the Board of Directors shall be authorized to adopt a supplemental budget or budgets and shall adjust the assessment accordingly.

The Board of Directors shall serve notice of such further or adjusted assessments on all Owners by a statement in writing, giving the amount and reasons therefore, and such further or adjusted assessment shall become effective with the next maintenance payment. Any increase in the Operating Assessment in excess of seven (7) percent of the approved assessments must be approved by two-thirds (2/3) of each class of members voting in person or by proxy at a meeting duly called for such purposes.

- (C) DELETED IN ITS ENTIRETY AS DEVELOPER'S RIGHTS HAVE CEASED.
- (D) The failure or delay of the Board to prepare or serve the annual or adjusted estimate or the itemized accounting or other document on the Owner shall not constitute a waiver or release in any manner of such Owner's obligation to pay the maintenance cost, necessary reserves or adjusted assessments as herein provided whenever the same shall be determined, and in the absence of any annual estimate of adjusted estimate, the Owner shall continue to pay the maintenance charge at the then existing biannual rate established for the previous period until notice of the next maintenance payment which is due more than thirty (30) days after such annual or adjusted estimate shall have been mailed or delivered.
- (E) The Board shall keep full and correct books of account in chronological order of the receipts and expenditures affecting the Property, specifying and itemizing the maintenance and repair expenses of the Property and any other expenses incurred. Such records shall be available for inspection by any Owner or first mortgagee of record, at such reasonable time or times during normal business hours as may be requested by the Owner or mortgagee.
- (F) No Owner may waive or otherwise escape liability for the Operating or Special Assessments provided for herein.

Article 4. Section 4: "Date of Commencement of Annual Assessments"

An Owner on the first day of January shall be personally liable for the annual Operating Assessment (hereinafter referred to as Due Date). The Association shall, upon demand at any time, furnish a certificate in writing signed by an Officer of the Association setting forth whether the Operating and Special Assessments on a specified Lot have been paid. A reasonable charge may be made by the Board of Directors for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

Article 4. Section 5: “Effect of Nonpayment of Assessments-Remedies of the Association”

Any Assessments which are not paid by Owner when due shall be delinquent. If the Assessment is not paid within thirty (30) days after the Due Date, a late charge of 50% of the monthly assessment per month will be collected for each month following the Due Date in which the Operating Assessments go unpaid, and the Association may proceed in equity to foreclose the assessment lien (which foreclosure shall follow mortgage proceedings then in force and effect and selected by the Association) and/or bring an action at law against the Owners of the Lot and interest costs and reasonable attorney’s fee for any such action(s) shall be added to the amount of such Operating Assessment and judgment.

Article 4. Section 6: “Subordination of the Lien to First Mortgage”

The Lien of any Assessment provided for herein shall be subordinate to the lien of any institutional first mortgage on a Lot recorded prior to the date upon which such Assessment became due, and a decree of foreclosure under such mortgage or any proceeding or conveyance in lieu of foreclosure thereof shall not extinguish the lien of all such Assessments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof.

Article 4. Section 7: “Exempt Property”

The following property subject to this Declaration shall be exempt from the Assessments created herein:

- (A) Lots or any other portions of the Subject Property dedicated to and accepted by a local public authority.
- (B) DELETED IN ITS ENTIRETY AS DEVELOPER’S RIGHTS HAVE CEASED.

Once an exemption is created pursuant to this Article 4, Section 7, it shall continue until such time as a conveyance is made to an Owner, at which time the exemption created hereunder shall cease and said Lot shall be subject to all terms and conditions of this Declaration.

Article 4. Section 8: “Payment to The Whisper Creek Multi-Family Homeowners Association”

On each (15th) day of January, the Board shall receive a bill in the amount of 48% of the previous year’s operating expenses from The Whisper Creek Multi Family Homeowners Association. The operating expenses to be reimbursed shall include all expenses with the exception of any and all costs associated with Common Area Lot numbers 130 and 132, and Common Area Lot number 131 outside of the sign, fence and landscape easement along Regan Road. The Board shall also receive reasonable information to support aforementioned billing. If at any time the current year’s budget exceeds 110% of the previous year’s budget, a meeting shall take place between the Board of Directors of each Homeowners Association and the expenses must be agreed upon. This percentage is based on the (70) Lots which make up the Whisper Creek North Homeowners Association, divided by the 146 home sites of the entire Whisper Creek Subdivision. This fee is to

cover The Whisper Creek North Homeowners Associations portion of the improvements in the Common Areas that benefit the entire subdivision which includes but is not limited to entry monuments, landscaping with the 25 foot landscape easement located on Lot 131, fencing (including that portion within the sign, fence and landscape easement on Lot 133), sprinklers and lighting. Payment shall be made to The Whisper Creek Multi Family Homeowners Association by each (15th) day of February. Non-payment of this Assessment shall be remedied in the same manner as outlined above in Article 4, Section 5.

ARTICLE 5: ARCHITECTURAL REVIEW COMMITTEE

Article 5. Section 1: "Purpose"

The purpose of the Architectural Review Committee ("Committee") is to maintain the high quality and desirability of the Lots 1-70 within the Whisper Creek North Subdivision, to aid in the preservation of its natural beauty and to protect the harmony of the development and value of the area.

Article 5. Section 2: "Committee"

The Association will create the Committee for the purposes of administering the controlling the matters set forth in this Declaration.. No members of the Committee shall be entitled to any salary for serving thereon, but reasonable fees may be paid to any consultants for services rendered to the Committee.

No building, sign, fence, wall, or any other structure or facility shall be erected, placed or permitted to remain upon any Lot, including but not limited to swimming pools, outbuildings, decks, gazebos, etc., nor any change or alteration thereon, including but not limited to tree clearing, change in Lot grade, etc., shall commence, be erected or maintained upon any of the Lots until the required security deposit, applicable application fees, design, drawings, construction plans and specifications showing the nature, kind, shape, height, dimensions, materials, color, elevation, location and grade of the same have been submitted and approved in writing by the Committee, at the Association's direction, shall issue written consent to said Owner giving said Owner permission to connect to the sewer and water systems. Such written permission will be required by the Village prior to issuance of any building permit and/or utility connections.

Article 5. Section 3: "Review Process"

The following application information and fees shall be submitted to the Committee. The information will then be distributed to the various Committee members for their review. The Committee shall have five (5) business days in which to respond. The application for architectural review shall include two copies of each of the following items:

- (A) **Cover Letter:** addressed to the Architectural Committee requesting final approval of house plans, identifying Lot location, number and street address and providing any other pertinent information relevant to assisting the Committee in their review. A sample form is included as (Exhibit "C").

- (B) **Lot Layout Drawing:** shall identify the location and dimensions of the structure, access; front, side and back setbacks from exterior Lot lines; grading contours; driveway location and dimensions and materials; location and dimensions of all utility easements or lines.
- (C) **Exterior Design Working Elevation Drawings:** shall include elevations and complete dimensions of all sides of the proposed structure. Elevations shall be traditional in design. Plans shall be submitted in the size of 8-1/2" X 11".
- (D) **Floor Plan Working Drawings:** shall include all levels of the structure with dimensions.
- (E) **Building Size Calculations:** shall outline building heights, exterior building dimensions of outside walls, total building square footage (see Article 6, Section 2), and dimension and square footage of garage (include number of vehicles accommodated).
- (F) Explanation of exterior color scheme, or samples if required.
- (G) Application Fee shall be in the amount of \$200.00 per application and made payable to the Association.
- (H) The Committee shall not review the plan unless all assessments currently due for the Lot are paid in full.
- (I) The review by Committee is intended to insure compliance with the Declaration of Covenants and Restrictions of the subdivision. In no way does approval by the Committee verify compliance to any local or state building, zoning or engineering codes.

Once final approval of the application information has been granted by the Committee and the applicable reviews completed by other consultants, a letter of approval will be provided to the applicant and the applicant shall make the necessary submittals to The Village of Mokena for their review prior to the issuance of a building permit. Contact the village hall for complete information as to their submittal and time requirements and time frames.

Article 5. Section 4: "Exempt Property"

DELETED IN ITS ENTIRETY AS DEVELOPER'S RIGHTS HAVE CEASED.

ARTICLE 6: ARCHITECTURAL STANDARDS

Article 6. Section 1: "Exterior Architectural Design" The architectural style of all residential structures constructed upon any Lot shall be of a traditional style in exterior design (i.e. Georgian, Colonial, Victorian, French Country and Country). Contemporary or Modern designs are not desirable. It is recommended to have a preliminary review of any questionable plans. Sketch plans for these styles are subject to preliminary review.

Article 6. Section 2: "Calculation of Allowable Floor Area"

The allowable floor area shall be calculated as follows:

- (A) Minimum Floor Area Calculations.

WHISPER CREEK- SINGLE FAMILY LOTS 1-70

Minimum floor area shall be defined and calculated as habitable space excluding basements and garages. No dwelling shall be erected or maintained on the Property unless the floor area of the residential dwelling is at least 2,500 square feet for a Ranch (one story) and 2,800 square feet for two-story, all multi-level floor plans shall also have a minimum floor area of 1,400 square feet on the first floor. Each dwelling shall consist of a minimum of three bedrooms, with at least two full baths and at least a partial basement.

Article 6. Section 3: “Exterior Wall Area Materials”

- (A) First Floor: The first floor of all residences must be all face brick or stone on all 4 sides except as hereafter stated. Dryvit, cedar siding or cement board may be permitted subject to approval of the Committee, and the Village.
- (B) Second Floor: Second Floor exterior wall areas may be constructed of cedar, dryvit, cement board siding or face brick. Aluminum soffits and gutters will be allowed.
- (C) Masonry: Use of masonry on the exterior wall area must be constructed of stone, cultured stone or brick or other acceptable masonry materials, which comply with the Village of Mokena Code.
- (D) Siding: No aluminum siding shall be permitted. All siding must be cedar, dryvit or cement siding. Aluminum fascia and soffits will be permitted.

Article 6. Section 4: “Roof Material”

Roofs may only be constructed of architectural grade (i.e. Oak Ridge II, Timberline, Hallmark, etc.) shingles or other as approved by the architectural committee.

Article 6. Section 5: “Roof Pitch”

The minimum roof pitch of each house is as follows:

- (A) One Story House- 6/12
- (B) Two or More Stories- 6/12

However, roof pitch may be less than those prescribed if in the sole and absolute discretion of the Committee a lower pitch enhances the architectural and aesthetic integrity of the house.

Article 6. Section 6: “Skylights”

All skylights or like structures shall be placed in such a way that they are not visible from the street in front of the house. At no time shall skylights or like structures be placed on the front roof line.

Article 6. Section 7: “Windows”

Windows on the front elevation of all houses shall be placed in a symmetrical pattern and shall be at least 54 inches in height on the first floor and 42 inches in height on the second floor or balanced in a traditional style. Windows and patio/sliding doors used for each dwelling shall be of the wood or wood clad type.

Article 6. Section 8: “Garages”

All houses shall have attached garages of a minimum three car capacity and the doors shall face the side or the front of the Lot unless otherwise approved by the Committee. All front loaded three car garages must have a break in the roof line by stepping one stall back a minimum of one foot.

Article 6. Section 9: “Chimneys”

Chimneys located on exterior walls must be of dryvit, face brick or natural stone. Chimneys which are not located on exterior walls shall be encased in a decorative enclosure in conformity with the architectural style of the house.

Article 6. Section 10: “Plumbing and Heating Stacks”

All stacks, including but not limited to, plumbing, heating and ventilation stacks shall be located on the rear portion of the roof. Furnace exhausts located on sidewalls must be located on the rear of any dwelling. All other vents or exhausts may not be located on the front of the Dwelling.

Article 6. Section 11: “Monotony Clause”

Approval shall be withheld of the design, exterior and interior size, exterior shape and materials or color scheme of the proposed building is not in harmony with adjacent building in no event shall a particular front elevation be duplicated within two hundred forty (240) feet adjoining on a common line. A different elevation would incorporate a significant change i.e. a gable roof would be modified to a hip roof. Brick color shall be varied. Samples may be required to be submitted if similar colors are within 240 feet.

Article 6. Section 12: “Exempt Property”

DELETED IN ITS ENTIRETY AS DEVELOPER’S RIGHTS HAVE CEASED.

ARTICLE 7: SITE DEVELOPMENT RESTRICTIONS

Article 7. Section 1: “Mailboxes”

Each house shall have a designated mailbox located within the parkways. All Lots in the Subdivision shall have the same mailbox, address plaque and post (per Exhibit “D”) which shall be selected by the Board and paid for and installed by the Lot Owner. All mailboxes and posts shall be black in color and can be purchased from T.K. Industries, 10040 Lancaster, Mokena, Illinois 60448, (708)535-1900. All other mailboxes are prohibited. In the event the selected mailbox is no longer manufactured a substitute will be selected by the Board.

Article 7. Section 2: “Site Lighting”

Each house shall be allowed site lighting. Such lighting must be done in contained moderation and in accordance with all applicable ordinances of the Village.

Article 7. Section 3: “Swimming Pools”

These structures will require a special building permit from the Village and be approved by the Architectural Committee. No above ground pools will be permitted. Swimming Pools cannot be located within a front or side yard, but can be located in the rear yard area provided they are not visible from the street.

Article 7. Section 4: “Fences”

Fencing shall be 5’ in height and constructed of wrought iron or equivalent material (see Exhibit “E”) in the color of black, bronze or white and may not extend into the side yard or front yard of the Lot and when applicable, subject to the Ordinances of the Village of Mokena. Solid fences will not be allowed.

Swimming pools and dog runs must be visually screened from view of any adjoining properties within the development, with plantings on the outside of the fence. Said plans are subject to review and approval by the Committee and must be in accordance with all applicable Village Ordinances.

Article 7. Section 5: “Signs”

No permanent signs of any kind shall be displayed on any residential Lot. Signs which advertise the construction or sales of any Lot shall be allowed only during the time of construction conducted by that particular builder or for the sale of said Lot. All such signs must be presented to the Village of Mokena and be in compliance with the applicable ordinances of the Village of Mokena. All signs shall be kept in good condition, remain upright and be placed in the center of the Lot. Bent or mangled signs will be removed from the site. Only one sign per Lot may be installed.

No more than one such sign shall be allowed on a Lot at one time. All signs must be removed within fifteen (15) days from the date of builder closing. All signs on any Lot must be properly maintained. Such maintenance includes but is not limited to being kept clean of major dirt build-up, kept in a sightly state, kept painted, and kept firmly installed and upright at all times. The Association will give notice to any Lot Owner violating this Section. Said Lot Owner has seven (7) days in which to correct such violation. If said violation is not corrected, the Association has the right to enter onto any Lot to reinstall or remove any signs found in violation at the Lot Owner’s expense.

Article 7. Section 6: “Temporary Structures”

No structure except as otherwise herein provided of a temporary character, including, without limiting the generality thereof, trailer, tent, shed, garage, barn, or other outbuilding, shall be erected or placed on any Lot at any time or for any period of time.

Article 7. Section 7: “Detached Buildings”

No detached accessory buildings, including but not limited to detached garages and storage buildings, shall be erected, placed, or constructed upon any Lot. This section shall not apply to accessory buildings for swimming pools, which may be located only in the rear yard requirements and subject to approval by the Committee as established in these declarations.

Article 7. Section 8: “Landscaping”

All sod must be completed within ninety (90) days of the substantial exterior completion of the house under construction defined as the completion of all brick, siding and flatwork, weather permitting. Foundation plantings must be completed within 150 days of the exterior completion of the house. To the extent that any Owner shall fail to perform the maintenance of his own Lot(s) at reasonable times and in a reasonable manner, the Association may but shall not be required to perform such maintenance, repair or upkeep and in such event, the cost thereof shall be added to such Owner’s annual assessments and such amount shall be immediately due and payable and the Association shall have such rights and remedies with respect to annual assessments.

Article 7. Section 9: “Basketball Backboards”

Basketball backboards attached to the residence are prohibited. See-through basketball backboards on a fixed or moveable post shall be permitted.

Article 7. Section 10: “Driveways”

Access driveways, garages, and other paved areas for vehicular use on a Lot shall have a wearing surface of concrete, brick pavers or other equivalent thereof upon completion. Stamped concrete or similar materials may be allowed only after submittal and approval by the Architectural Review Committee. Any request for stamped concrete must be in earth tone colors.

Article 7. Section 11: “Parkway Trees and Sod”

Each home site shall have at least two trees of a hardwood variety (in diameter and size as required by the Village of Mokena, with a minimum of two and one-half inches (2 ½ in diameter)), planted in the parkway, per Village approved landscape plan.

THE INSTALLATION AND MAINTENANCE OF PARKWAY TREES IS THE RESPONSIBILITY OF EACH INDIVIDUAL BUILDER UPON COMPLETION OF THE RESIDENCE. THE PARKWAY TREES MUST BE IN GOOD CONDITION AT THE TIME OF VILLAGE ACCEPTANCE. Parkway trees are required to be planted by the builder per approved landscape plan.

Owner/Builder shall comply with Village of Mokena ordinances regarding tree planting.

Trees, shrubbery, and other vegetation shall not be situated so as to obstruct the field of vision at vehicular intersections.

Front and side yards must be landscaped and grassed with sod. Rear yards may be seeded.

Article 7. Section 12: “Conservation Easements”

The Association shall provide conservation easements as shown on “Exhibit B” (Final Plat of PUD) to preserve the open space and to preserve trees located in the rear of many Lots, with said conservation easements to include open space. Conservation easements shall be shown on the Preliminary and Final Plats adjacent to all adjoining properties, and Village shall have authority to enforce the provisions identified in this Agreement and all Conservation Easements. Said grant of easement shall be subject to approval of the Village Attorney.

The Association shall provide conservation easements to protect trees and provide permanent markers to denote the boundaries of the conservation easements. The Association shall provide adequate tree preservation measures, such as snow fencing, during construction, such that trees will not be killed, damaged, or removed without the prior approval of the Village Engineer.

Conditions: No permanent structures, impervious surfaces, fences, sheds, other accessory structures, or fill are to be placed in these easements. No changes of grade will be permitted within the Conservation Easements without the permissions of the Village Engineer. Property owners shall maintain all easements free of obstructions. The Village of Mokena shall have the right to access the Conservation Easement for emergency maintenance or any other practical purposes.

Penalties: Any person found to be in violation of the above noted conditions of this Article 7, Section 12 shall be subject to a fine pursuant to Village Code for each offense and any other remedy available at law or at equity. Each day any violation exists shall constitute a separate offense.

Representation on Plats: The above noted Conservation Easement shall be clearly illustrated along with the language pertaining to conditions and penalties, noted in this Exhibit on both the Final Plat(s) of Subdivision for each phase as well as individual plats of survey for each Lot. It shall be further noted on the Final Plat that the Conservation Easement be indicated on individual plats of surveys for individual Lots.

Covenants: The Covenants for the subject property shall include the language regarding the conditions and penalties as noted in this subsection. These covenants shall be recorded against all Lots within this subdivision.

Article 7. Section 13: "Reports from Arborist"

DELETED IN ITS ENTIRETY AS DEVELOPER'S RIGHTS HAVE CEASED.

ARTICLE 8: COMMUNITY CONTROL

Article 8. Section 1: "Nuisances"

No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Article 8. Section 2: "Development Activity"

Notwithstanding any other provision herein, any Owner shall be entitled to conduct on the Property all activities normally associated with and convenient to the development of the Property and construction and sale of single-family residential units.

Article 8. Section 3: "Parking or Keeping of Vehicles"

No vehicles are to be parked on any part of any Lot, except upon driveways or within attached garages and no campers, boats, trailers, jet ski, snow mobiles, recreational vehicles and commercial vehicles and accessories may be kept on any Lot unless the same are fully enclosed within the garage located on such Lot.

Article 8. Section 4: “Garbage and Refuse Disposal”

No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept except in sanitary containers. All other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition, and there must be a dumpster on site once construction begins.

Article 8. Section 5: “Manufacturing”

No part of the Property, or any Lot, and no building erected or maintained on any part of the Property shall be used for manufacturing, industrial or business purposes.

Article 8. Section 6: “Utilities”

All electric service, telephone service and other utilities shall be supplied by underground service and no poles shall be permitted.

Article 8. Section 7: “Miscellaneous Controls”

When applicable all Village Ordinances shall be complied with and approval shall be obtained prior to installation of any of the following on any Lot unless expressly prohibited or restricted herein:

- (A) Flagpoles greater than 25’ in height are prohibited.
- (B) Trees, shrubs, and other vegetation may not be planted on corner Lots in a manner which will obstruct the vision of a vehicle.
- (C) Awnings or canopies may not project more than three feet from the building and may only be placed in the rear yard.
- (D) Open air laundry facilities are prohibited.
- (E) Exterior television and radio antennas and satellite disks larger than 18” in diameter are prohibited.
- (F) Above ground swimming pools are prohibited.
- (G) Dog runs are to be screened from visual observation along any interior street and are restricted to comply with all Village Ordinances, but shall not exceed 10’ x 15’ in size.
- (H) There shall be no alteration or removal of natural existing boundary hedgerows, shrubs, trees, or other vegetation within any conservation easements without written consent from the Village of Mokena.

ARTICLE 9: VARIATION AND DEPARTURES

The Association hereby reserves the absolute unqualified right to enter into agreements with the Owner or Owners of any Lot or Lots, without the consent of the Owner or Owners of other Lot or Lots, to depart from vary any and all of the covenants set forth above, provided there are practical difficulties or particular hardships or other good and sufficient reasons by the Owner making the request; and any such departure or variation, which shall be manifested by an agreement in writing, shall not constitute a waiver of any such covenant as to the other Lots in the Subdivision, provided that any such departure or variation shall not result in harm or diminution in value of the Subdivision as a whole.

ARTICLE 10: EXTERIOR MAINTENANCE

Article 10. Section 1: "Drainage"

Owner shall at all times maintain the elevations, contours and drainage patterns which have been established by the Village and by the original developer's civil engineering plans, or which occur naturally, unless variations or modifications are specifically permitted by the Village.

To the extent, if at all, that any Owner shall alter the elevations, contours or drainage patterns, whether the Lot is vacant or improved, the Association may, but shall not be required to correct said elevations, contours and drainage patters; and in such event, the cost thereof shall be added to such Owner's Assessment (at the rate of three (3) times the actual cost incurred) and such amount shall be immediately due and payable and the Association shall have such rights and remedies with respect to collections of them as are herein provided for Operating Assessments.

Article 10. Section 2: "Maintenance of Lots"

The exterior surfaces of all structures located on any Lot shall be kept in good repair and shall be cleaned and painted as required to avoid any unsightly appearance. Vacant Lots must be kept mowed from May through September of each year so that the weeds are never more than twelve inches in height. Owners of such vacant Lots must also keep them free of debris and other unsightly clutter. All vacant Lots must be graded to prevent ponding of water. It is the responsibility of the Owner to properly maintain all public utilities within their property, to include but not limited to: water services, B-Boxes, sanitary services, storm sewers, curbs, etc. It is also the responsibility of the Owner to repair and replace all erosion control protection.

The Lot Owner shall remove excess clay Lots at the time the foundation is backfilled. Black dirt shall be spread upon the Lot at the time of backfill. Prior to excavation erosion control protection shall be installed and maintained if necessary. Owner shall keep Lots, including the construction area and all setback and Conservancy Easement Areas, free of all debris including but not limited to sand, gravel, dirt, and all other construction debris. The builder shall be required to keep the entire site clean at all times. Debris or materials which drift or are windblown onto the roadway or adjacent Lots shall be collected by the builder and removed from the site.

Earth, mud or other materials that are windblown or washed onto the roadway or adjacent Lots shall be immediately cleaned up, and the silt fence repaired, or the base of such fence re-buried so as to prevent further such occurrences. The builder and the Owner shall be jointly and severally

responsible for payment to the Association (at the rate of three (3) times the actual cost incurred) the cost of power rodding or repairing any storm sewers which shall become clogged in large part due to run-off from any Lot as a result of an improperly installed or maintained silt fence.

The builder is required to provide dumpsters and portable toilet facilities at the site. All debris and refuse shall be deposited into the dumpster. Debris is not to be allowed to accumulate on the site. The dumpster shall not be allowed to fill to the point of overflowing. Portable toilet facilities shall be serviced regularly to be maintained in a sanitary condition and shall not be removed from the site until plumbing installed within the home shall be operable. If the Owner/Builder has multiple Lots there shall be at least one (1) portable toilet facility for each three (3) homes under construction.

Construction workers are prohibited from eating meals anywhere except on the site at which they are employed. All food debris must be deposited into the dumpster.

Material that may spill or fall from vehicles (whether they are delivery, equipment, or construction personnel vehicles) on any roadway, shall immediately be removed and the road cleaned.

The burning of construction debris or of removed landscape material is prohibited.

Any cleanup work or maintenance required within this Section 10, which is necessitated by the builder's failure to maintain the site and/or roadways clean, may be performed by the Association's personnel or contractors, after proper notice, at the builder's expense (at the rate of three (3) times the actual cost incurred).

All excess excavation spoils and debris not removed by the builder may, in the discretion of the Board, be removed by such contractors or agents hired by the Association. The Owner shall be billed for the cost of such services (or such amount deducted from the Owner's performance deposit) at the rate of three (3) times the actual cost incurred.

Construction machinery and materials of any kind shall be placed on a Lot only on an as needed basis (i.e., no storage of lumber, stones, crates, sand, cement mixers, etc., for an extended period of time on a Lot). Building materials and lumber must be stacked NEATLY and placed in ORDERLY "SQUARED OFF" patterns on a Lot. All items must be used in a timely manner and be removed immediately on completion of the work.

Part of and in addition to the maintenance requirements stated herein all contractors are to follow and agree to the Notice to Contractors attached hereto as (Exhibit "F").

If the Owner fails to comply with these provisions, the Association may order the necessary facilities and place a lien on the Lot at the rate of three (3) times the actual cost incurred.

Article 10. Section 3: "Construction"

Any and all construction on Lots once commenced shall be diligently pursued and shall not remain in partly finished condition for more than nine (9) months from the date permits are issued. The Owner of any Lots upon which improvements are being constructed shall take the necessary measures to keep public streets being utilized by such Owner in connection with said construction

free from any dirt, mud, garbage, trash, or other debris, as well as the real estate of such Owner free from any garbage, trash, or other debris which might be occasioned by such construction and/or improvements, and shall keep a dumpster on site during construction.

Owner must keep curbs clean, and maintain all erosion control protection and storm water management items installed on the lots.

All access driveways, garages, and other paved areas for vehicular use on a Lot shall have a base of 5 inches of compacted gravel, crushed stone or other approved base material, in place before carpentry work begins.

Article 10. Section 4: “Maintenance Deposit”

DELETED IN ITS ENTIRETY AS DEVELOPER’S RIGHTS HAVE CEASED.

Article 10. Section 5: “Exempt Property”

DELETED IN ITS ENTIRETY AS DEVELOPER’S RIGHTS HAVE CEASED.

ARTICLE 11: LOT IMPROVEMENTS

DELETED IN ITS ENTIRETY AS DEVELOPER’S RIGHTS HAVE CEASED.

ARTICLE 12: GENERAL PROVISIONS

Article 12. Section 1: “Insurance”

The Board shall have the authority to and may obtain comprehensive liability insurance in such limits as it shall deem desirable, and workmen’s compensation insurance and other liability insurance as it may deem desirable, insuring the Association, Board, manager, managing agent. The premiums for all insurance purchased pursuant to the provisions of this Section shall be paid at least thirty (30) days prior to the expiration date of any policy. Except as hereinabove provided, each Owner shall be responsible for obtaining fire and casualty and other types of insurance as such Owner shall deem necessary on his own Lot and the contents of his own Lot, and his additions and improvements thereto, as well as his personal liability.

Article 12. Section 2: “Management”

The Association, through its Board shall have the power to employ a manager (managing agent), an independent contractor, or such other employees as it deems necessary, and to prescribe their duties and fix their compensation, and/or enter into a contract with a management company which contract shall be for a period of not more than one (1) year, renewable by agreement of the parties for successive period of not more than one (1) year each, and shall provide for the Association’s right to cancel said agreement for cause upon the Association written thirty (30) day notice to the management company of its intent to do so. The Board will be elected by the members and will consist of three Owners in Whisper Creek North Single Family Residences Lots 1-70. The Board will be elected at a meeting called with 30 days advance notice. The three persons receiving the highest number of votes, in person or by proxy will be elected for a term of three (3) years. Board members may succeed themselves.

Article 12. Section 3: "Remedies"

In the event of a default by any Owner under the provisions of the Declaration, By-Law or rules and regulations of the Association, the Board shall have each and all the rights and remedies which may be provided for in this Declaration, the By-Laws and said rules and regulations and those which may be available at law or in equity, and may prosecute any action or other proceedings against such defaulting Owner and/or others for enforcement of any lien, statutory or otherwise, including foreclosure of such lien and the appointment of a receiver for the Lot and ownership interest of such Owner, or for damages or injunction, or specific performance, or for judgment for payment of money and collection thereof, or for any combination of remedies, or for any other relief. No remedies herein provided or available at law or in equity shall be deemed exclusive of any other remedy.

All expenses of the Association in connection with any such actions or proceedings, including court cost and attorney's fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the maximum rate permitted by law, from the due date until paid, shall be charged to and assessed against such defaulting Owner and shall be added to and deemed part of his respective share of the Operating Expenses (to the same extent as the lien provided herein for unpaid assessments), upon the Lot and upon all of his additions and improvements thereto, and upon all of his personal property upon the Lot. Any and all of such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Association or the Board. All the provisions of this instrument and those in the Articles of Incorporation and By-Laws of the Association are mutually enforceable by and among the members of the Association. Any member who feels that a provision is being violated may petition the Association to investigate the situation. Should the Association determine that this allegation is true and that corrective action should be taken, the Association shall take whatever action is necessary to end the violation. Should the Association deem the allegation of violation within thirty (30) days of notice, then the complaining member can prosecute his claim in whatever legal manner is best suited to the situation. The Association shall have the right, but not the obligation, to enforce any and all provisions of this Declaration inuring to its benefit by any appropriate action in law or in equity, and shall be entitled to recover therein all expenses incurred including court costs and reasonable attorney fees.

Whenever there shall have been built (or whenever there is being built) on any Lot any Improvement or other act or inaction which is and remains in violation of the covenants above set forth, or any of them, for a minimum period of three (3) days after delivery of written notice thereof to the Owner of any such Lot, then the Association shall have, in addition to the foregoing rights, the right to enter upon the property where such violation exists and summarily to abate or remove it at the expense of the Owner, at a rate three (3) times the actual cost and such entry and abatement or removal shall not be deemed a trespass. In addition, the Association may assess fines up to \$500.00 against any Owner for the breach of the covenants and obligations set forth above. Each day a violation exists shall be considered a separate offense. In no event shall the failure of the Association or the Owners to enforce any of the covenants or obligations herein provided due to a particular violation be deemed to be waiver of the right to do so respecting any such violation or any subsequent violation.

Article 12. Section 4: “Land Trusts”

In the event title to any Lot should be conveyed to a land title holding trust, under which all powers of management, operation and control of the premises remain vested in the Trust beneficiary or beneficiaries, then the trust estate under such trust, and the beneficiaries thereunder, from time to time, shall be liable for payment of any obligation, lien or indebtedness chargeable or created under this Declaration against such Lot. No claim shall be made against any such title holding trustee personally for payment of any claim, lien, or obligation hereby created, and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against any such lien or obligation, but the amount thereof shall continue to be a charge or lien upon the premises notwithstanding any transfers of beneficial interest in the title to such real estate. Nothing in this Section shall be deemed to alter or diminish the rights or remedies of the Association under Article 4, Section 5 relating to the failure to pay maintenance assessments as such rights or remedies apply to the trust estate under such trust and the beneficiaries thereunder.

Article 12. Section 5: “Amendments”

The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive period often (10) years, unless seventy-five percent (75%) of the votes outstanding shall have been voted to terminate the covenants and restrictions of this Declaration upon the expiration of the initial twenty-year period or any extension thereof, which termination shall be written instrument signed by seventy-five percent (75%) of the Owners and the Village and properly recorded in Will County, Illinois. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than fifty percent (50%) of the Owners, and thereafter by an instrument signed by not less than fifty percent (50%) of the Owners. Any amendment must be recorded.

Article 12, Section 6: “Notices”

Notices provided for in the Declaration or By-Laws shall be in writing and shall be addressed to the Association or to any Owner at their respective addresses. Notices addressed as above shall be deemed delivered when mailed by United States registered or certified mail, return receipt requested, or when delivered in person with written acknowledgment of the receipt thereof. Notices to the Association should be sent to: Whisper Creek North Homeowners Association, PO Box 351, Mokena, Illinois 60448.

Article 12. Section 7: “Severability”

Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Article 12. Section 8: “Rights and Obligation”

The provisions of this Declaration and the By-Laws and the rights and obligations established thereby shall be deemed to be covenants running with the land and shall inure to the benefit of, and be binding upon, each and all of the Owners and their respective heirs, representatives successors, assigns, purchasers, grantees and mortgages.

By the recording or the acceptance of a deed conveying a Lot or any interest therein, or any ownership interest in the Lot whatsoever, the person to whom such Lot or interest is conveyed shall be deemed to accept and agree to be bound by and subject to all of the provisions of this Declaration and the By-Laws, whether or not mention thereof is made in said deed.

Article 12. Section 9: “Notice of Sale”

Owner shall notify the Association of any transfer of ownership. Such notice shall be in writing and include the names of the new Owner and proof of delivery of Declaration of Covenants and Restrictions. (See attached Exhibit “G”).

Article 12. Section 10: “Headlines”

The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration. All personal pronouns used in this Declaration, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa.

Title of Articles and Sections are for convenience only, and neither limit nor amplify the provisions of the Declaration unless specified reference is made to such Articles, Section or subdivisions of another document or instrument.

Article 12. Section 11: “Conflicts”

In the event of any conflict between this Declaration and the By-Laws or Articles of Incorporation, the Declaration shall control. In the event of a conflict between the terms and conditions of these covenants and restrictions and those of the building codes of the Village of Mokena, the more stringent shall prevail, unless addressed by the applicable Annexation Agreement.

Article 12. Section 12: “Perpetuities and Restraints on Alienation”

If any option, privileges, covenants or rights created by this Declaration would otherwise be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision; (b) the rule restricting restraints on alienation; or (c) any other statutory or common law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the death of the now living lawful descendants of Rod Blagojevich, Governor of the State of Illinois and George W. Bush, President of the United States of America.

Article 12. Section 13: “American or Military Flag.”

- (A) Notwithstanding any provision in the Declaration, Covenants, By-Laws, rules, regulations, or other instruments or any construction of any of those instruments by the Board, the Association may not prohibit the outdoor display of the American flag or a military flag, or both, by an Owner on the Owner’s property if the American flag is displayed in a manner consistent with Sections 4 through 10 of Chapter 1 of Title 4 of the United States Code and a military flag is displayed in accordance with any reasonable rules and regulations adopted by the Association. The Association may adopt reasonable rules and regulations, consistent with

Sections 4 through 10 of Chapter 1 of Title 4 of the United States Code, regarding the placement and manner of display of the American flag and the Association may adopt reasonable rules and regulations regarding the placement and manner of display of a military flag. The Association may not prohibit the installation of a flagpole for the display of the American flag or a military flag, or both, but the Association may adopt reasonable rules and regulations regarding the location and size of flagpoles.

(B) As used in this Section:

“American flag” means the flag of the United States (as defined in Section 1 of Chapter 1 of Title 4 of the United States Code and the Executive Orders entered in connection with that Section) made of fabric, cloth, or paper displayed from a staff or flagpole or in a window, but "American flag" does not include a depiction or emblem of the American flag made of lights, paint, roofing, siding, paving materials, flora, or balloons, or any other similar building, landscaping, or decorative component.

"Military flag" means a flag of any branch of the United States armed forces or the Illinois National Guard made of fabric, cloth, or paper displayed from a staff or flagpole or in a window, but "military flag" does not include a depiction or emblem of a military flag made of lights, paint, roofing, siding, paving materials, flora, or balloons, or any other similar building, landscaping, or decorative component.

ARTICLE 13: NOTICE OF DECLARATION

Each Lot Owner who owns a Lot for the purpose of constructing and selling a residence on the Lot shall provide a copy of this Declaration to a prospective Purchaser at the time of or before a contract is signed with a prospective Purchaser and shall receive a receipt and acknowledgement thereof satisfying the form attached as Exhibit G.

ARTICLE 14: DISCLOSURE

Each Seller of a Lot shall disclose to the Purchaser the following:

Article 14. Section 1: “Subdivision Zoning”

Village of Mokena P.U.D. with R-3, R-4 single family residential and R-6 multiple family residential.

Article 14. Section 2: Contiguous Zoning:

North - Will County R-2 single family residential

East- Village of Mokena R-3 single-family residential and R-6 multiple family residential

South- Will County R-2 single family residential

West- Will County A-1 agricultural.

Article 14. Section 3 “Homeowners Association”

An Association will be established and dues will be collected to maintain Common Areas.

Article 14. Section 4 “Mokena Park District Land Dedication”

Lot 133, located on the land north of Regan Road, south of Palmira Court and east of Whisper Creek Drive will be dedicated to the Mokena Park District.

Article 14. Section 5 : “Expedition of Disclosure”

Owner has received a copy of the Annexation Agreement and the Declaration of Covenants, Conditions & Restrictions of Whisper Creek. Owner has read and agrees to comply with all of the requirements.

Owner understands that the Village of Mokena will require proof that this disclosure was signed and a copy of the Annexation Agreement was provided to future resident as a condition of receiving building permit. If a model or speculative home is being built, proof will be required prior to issuance of Certificate of Occupancy. In the event of any conflict between the terms of this Declaration and the Annexation Agreement, the Annexation Agreement shall supersede the Declaration.

Article 14. Section 6: “Conservation Easements”

There are various conservation easements throughout the subdivision. These conservation easements are addressed in the covenants, on the individual plats, on the final plat and in the annexation agreement. It is the responsibility of all Owners to read and understand the language on the conservation easement and follow them as written.

The Association shall provide conservation easements as shown on “Exhibit B” (Final Plat of PUD) to preserve the open space and to preserve trees located in the rear of many Lots, with said conservation easements to include open space. Conservation easements shall be shown on the Preliminary and Final Plats adjacent to all adjoining properties, and Village shall have authority to enforce the provisions identified in this Agreement and all Conservation Easements. Said grant of easement shall be subject to approval of the Village Attorney.

The Association shall provide conservation easements to protect trees and provide permanent markers to denote the boundaries of the conservation easements. The Association shall provide adequate tree preservation measures, such as snow fencing, during construction, such that trees will not be killed, damaged, or removed without the prior approval of the Village Engineer.

Conditions: No permanent structures, impervious surfaces, fences, sheds, other accessory structures or fill are to be placed in these easements. No changes of grade will be permitted within the Conservation Easements without the permission of the Village Engineer. Property Owners shall maintain all easements free of obstructions. The Village of Mokena shall have the right to access the Conservation Easement for emergency maintenance or any other practical purposes.

Penalties: Any person found to be in violation of the above noted provisions of conditions shall be subject to a fine pursuant to Village Code for each offense and any other remedy available at law or at equity. Each day any violation exists shall constitute a separate offense.

Representation on Plats: The above-noted Conservation Easement shall be clearly illustrated along with the language pertaining to conditions and penalties, noted in this Exhibit on both the Final Plat(s) of Subdivision for each phase as well as individual plats of survey for each Lot. It shall be further noted on the Final Plat that the Conservation Easement be indicated on individual plats of surveys for individual Lots.

Covenants: The Covenants for the subject property shall include the language regarding the conditions and penalties as noted in this subsection. These covenants shall be recorded against all Lots within this subdivision.

Article 14. Section 7: “Reports from Arborist”

DELETED IN ITS ENTIRETY AS DEVELOPER’S RIGHTS HAVE CEASED.

Article 14. Section 8: “Tree Removal”

Tree removal within the conservation easements and within the right-of-way south of the centerline of Regan Road shall be subject to approval by the Village prior to the removal of any tree. Failure to obtain approval from the Village prior to the removal of or damage to a preserved tree within the conservation easements and within the right-of-way south of the centerline of Regan Road shall result in the replacement of the killed or damaged tree at a one-inch to one-inch ratio. Replacement of trees approved for removal by the Village shall be replaced at a one-tree to one-tree ratio except that dead trees and certain “undesirable” trees need not be replaced at the sole discretion of Village.

Article 14. Section 9: “Hartz Lots”

DELETED IN ITS ENTIRETY AS DEVELOPER’S RIGHTS HAVE CEASED.

Article 14. Section 10: “School Districts”

Lots 1-70 of the Whisper Creek Subdivision are located in Mokena Elementary School District #159 and New Lenox High School District# 122.

Purchaser acknowledges receipt of this disclosure and knowingly agrees to accept the property subject to all of the terms and conditions set forth herein. Acceptance by one Owner shall be binding on all Owners.

SPACE LEFT INTENTIONALLY BLANK –SEE NEXT PAGE FOR SIGNATURES

NOW THEREFORE we, the undersigned members of the Board of Directors of WHISPER CREEK NORTH HOMEOWNERS ASSOCIATION consent to the Amended and Restated Declaration aforementioned.

Greg Goode, Director

Jean L. Bingham, Director

BEING THE MEMBERS OF
THE BOARD OF DIRECTORS

STATE OF ILLINOIS)
) SS
COUNTY OF WILL)

I, Greg Goode, do hereby certify that I am the duly qualified and acting Secretary of WHISPER CREEK NORTH HOMEOWNERS ASSOCIATION, an Illinois not-for-profit corporation, and as such am the keeper of the records and files of the Association. I certify that a majority of the Board of Directors have approved the Amended and Restated Declaration.

IN WITNESS WHEREOF, I hereunto affix my hand and seal on this the 13th day of March, 2024.

Greg Goode
Secretary

SUBSCRIBED and SWORN to before me

this 13th day of March, 2024.

Elizabeth Galeros



EXHIBIT A: LEGAL DESCRIPTION

EXHIBIT B: PLAT OF SUBDIVISION

EXHIBIT C: ARCHITECTURAL REVIEW FORM

EXHIBIT D: MAILBOXES

EXHIBIT E: FENCES

EXHIBIT F: NOTICE TO CONTRACTORS

EXHIBIT G: TRANSFER OF OWNERS LETTER

EXHIBIT H: BY-LAWS

EXHIBIT A - LEGAL DESCRIPTION

LOTS 1 THROUGH 70 AS SHOWN ON THE FINAL PLAT OF SUBDIVISION OF THE WHISPER CREEK SUBDIVISION RECORDED ON JUNE 28, 2006 AS DOCUMENT NUMBER R2006106466 IN WILL COUNTY, ILLINOIS BEING A SUBDIVISION IN PART OF THE SOUTHWEST QUARTER OF SECTION 1 AND THE NORTHWEST QUARTER OF SECTION 12, ALL IN TOWNSHIP 35 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN IN WILL COUNTY, ILLINOIS.\

LOT #	ADDRESS	REAL ESTATE PIN#
1	18931 DELRAY CT, MOKENA, IL 60448	15-08-01-304-079-0000
2	18921 DELRAY CT, MOKENA, IL 60448	15-08-01-304-078-0000
3	18911 DELRAY CT MOKENA, IL 60448	15-08-01-304-077-0000
4	18910 DELRAY CT MOKENA, IL 60448	15-08-01-304-076-0000
5	18920 DELRAY CT MOKENA, IL 60448	15-08-01-304-075-0000
6	18930 DELRAY CT MOKENA, IL 60448	15-08-01-304-074-0000
7	12440 ALPINE RIDGE DRIVE MOKENA, IL 60448	15-08-01-304-073-0000
8	12450 ALPINE RIDGE DRIVE MOKENA, IL 60448	15-08-01-304-072-0000
9	12500 ALPINE RIDGE DRIVE MOKENA, IL 60448	15-08-01-304-071-0000
10	12510 ALPINE RIDGE DRIVE MOKENA, IL 60448	15-08-01-304-070-0000
11	12520 ALPINE RIDGE DRIVE MOKENA, IL 60448	15-08-01-304-069-0000
12	12530 ALPINE RIDGE DRIVE MOKENA, IL 60448	15-08-01-304-068-0000
13	12540 ALPINE RIDGE DRIVE MOKENA, IL 60448	15-08-01-304-067-0000
14	18902 LANSBROOK MOKENA, IL 60448	15-08-01-304-049-0000
15	18912 LANSBROOK MOKENA, IL 60448	15-08-01-304-050-0000
16	18922 LANSBROOK MOKENA, IL 60448	15-08-01-304-051-0000
17	12550 WHISPER CREEK WAY MOKENA, IL 60448	15-08-01-304-055-0000
18	12610 WHISPER CREEK WAY MOKENA, IL 60448	15-08-01-304-054-0000
19	12620 WHISPER CREEK WAY MOKENA, IL 60448	15-08-01-304-053-0000
20	12630 WHISPER CREEK WAY MOKENA, IL 60448	15-08-01-304-052-0000
21	12631 WHISPER CREEK WAY MOKENA, IL 60448	15-08-01-304-056-0000
22	12621 WHISPER CREEK WAY MOKENA, IL 60448	15-08-01-304-057-0000
23	12611 WHISPER CREEK WAY MOKENA, IL 60448	15-08-01-304-058-0000
24	12601 WHISPER CREEK WAY MOKENA, IL 60448	15-08-01-304-059-0000
25	12551 WHISPER CREEK WAY MOKENA, IL 60448	15-08-01-304-060-0000
26	12541 WHISPER CREEK WAY MOKENA, IL 60448	15-08-01-304-061-0000
27	12531 WHISPER CREEK WAY MOKENA, IL 60448	15-08-01-304-062-0000
28	12521 WHISPER CREEK WAY MOKENA, IL 60448	15-08-01-304-063-0000
29	12511 WHISPER CREEK WAY MOKENA, IL 60448	15-08-01-304-064-0000
30	19040 WHISPER CREEK WAY MOKENA, IL 60448	15-08-01-304-065-0000
31	19050 WHISPER CREEK WAY MOKENA, IL 60448	15-08-01-304-066-0000

32	12510 WHISPER CREEK WAY MOKENA, IL 60448	15-08-01-305-008-0000
33	12520 WHISPER CREEK WAY MOKENA, IL 60448	15-08-01-305-007-0000
34	12530 WHISPER CREEK WAY MOKENA, IL 60448	15-08-01-305-006-0000
35	12540 WHISPER CREEK WAY MOKENA, IL 60448	15-08-01-305-005-0000
36	18945 LANSBROOK MOKENA, IL 60448	15-08-01-305-004-0000
37	18935 LANSBROOK MOKENA, IL 60448	15-08-01-305-003-0000
38	18925 LANSBROOK MOKENA, IL 60448	15-08-01-305-002-0000
39	18920 WEDGEWOOD CT MOKENA, IL 60448	15-08-01-305-009-0000
40	18930 WEDGEWOOD CT MOKENA, IL 60448	15-08-01-305-010-0000
41	18940 WEDGEWOOD CT MOKENA, IL 60448	15-08-01-305-011-0000
42	18950 WEDGEWOOD CT MOKENA, IL 60448	15-08-01-305-012-0000
43	18951 WEDGEWOOD CT MOKENA, IL 60448	15-08-01-305-013-0000
44	18941 WEDGEWOOD CT MOKENA, IL 60448	15-08-01-305-014-0000
45	18931 WEDGEWOOD CT MOKENA, IL 60448	15-08-01-305-015-0000
46	18921 WEDGEWOOD CT MOKENA, IL 60448	15-08-01-305-016-0000
47	12441 ALPINE RIDGE DRIVE MOKENA, IL 60448	15-08-01-305-017-0000
48	12431 ALPINE RIDGE DRIVE MOKENA, IL 60448	15-08-01-305-018-0000
49	12421 ALPINE RIDGE DRIVE MOKENA, IL 60448	15-08-01-305-019-0000
50	19000 HILLCREST DR MOKENA, IL 60448	15-08-01-305-020-0000
51	19010 HILLCREST DR MOKENA, IL 60448	15-08-01-305-021-0000
52	19020 HILLCREST DR MOKENA, IL 60448	15-08-01-305-022-0000
53	19030 HILLCREST DR MOKENA, IL 60448	15-08-01-305-023-0000
54	12430 HILLCREST DR MOKENA, IL 60448	15-08-01-305-024-0000
55	12440 HILLCREST DR MOKENA, IL 60448	15-08-01-305-025-0000
56	12450 HILLCREST DR MOKENA, IL 60448	15-08-01-305-026-0000
57	12500 HILLCREST DR MOKENA, IL 60448	15-08-01-305-027-0000
58	19053 WHISPER CREEK WAY MOKENA, IL 60448	15-08-01-306-009-0000
59	12451 HILLCREST DR MOKENA, IL 60448	15-08-01-306-010-0000
60	12441 HILLCREST DR MOKENA, IL 60448	15-08-01-306-011-0000
61	12431 HILLCREST DR MOKENA, IL 60448	15-08-01-306-012-0000
62	12421 HILLCREST DR MOKENA, IL 60448	15-08-01-306-013-0000
63	12411 HILLCREST DR MOKENA, IL 60448	15-08-01-306-008-0000
64	19051 HILLCREST DR MOKENA, IL 60448	15-08-01-306-007-0000
65	19041 HILLCREST DR MOKENA, IL 60448	15-08-01-306-006-0000
66	19031 HILLCREST DR MOKENA, IL 60448	15-08-01-306-005-0000
67	19021 HILLCREST DR MOKENA, IL 60448	15-08-01-306-004-0000
68	19011 HILLCREST DR MOKENA, IL 60448	15-08-01-306-003-0000
69	19001 HILLCREST DR MOKENA, IL 60448	15-08-01-306-002-0000
70	18951 HILLCREST DR MOKENA, IL 60448	15-08-01-306-001-0000

EXHIBIT B - PLAT OF SUBDIVISION

Omitted due to size –see original Declaration

EXHIBIT C- ARCHITECTURAL REVIEW FORM

(REVISED 5/7/2021)

DATE _____

BUILDER / OWNER _____ LOT# _____

ADDRESS _____

ARCHITECT _____ PLAN# _____

BRICK NAME _____

MORTAR COLOR _____

ROOF COLOR _____

WINDOW COLOR _____

SIDING COLOR _____

FENCE _____ DIAGRAM ATTACHED _____

BUILDING MODIFICATION DESCRIPTION _____

APPROVED _____

WHISPER CREEK NORTH HOA

DATE _____

BUILDING & BUILDING MODIFICATIONS HOA APPROVAL EXPIRES IN FOUR (4) MONTHS. (EXCAVATION MUST BEGIN WITHIN FOUR MONTHS OF APPROVAL.)

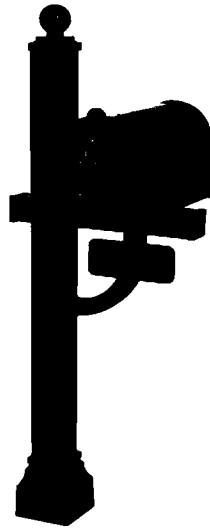
FENCE HOA APPROVAL EXPIRES IN TWELVE (12) MONTHS.

IF HOA APPROVALS EXPIRE, HOMEOWNER WILL BE REQUIRED TO RE-SUBMIT AND REMIT REVIEW FEE FOR HOA REVIEW & APPROVAL.

(OFFICE USE ONLY)

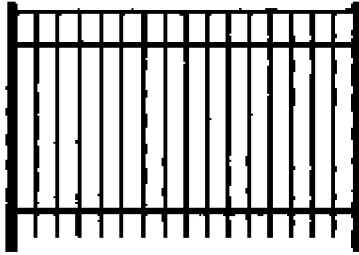
_____ LOT LAYOUT	_____ LANDSCAPE PLANS	_____ ASSESSMENTS PAID
_____ PLANS	_____ EXTERIOR COLORS	_____ FEE(s)

EXHIBIT D – MAILBOXES



Gaines—Eagle Keystone series Custom Mailbox Set (Black/Antique Bronze)

EXHIBIT E – FENCES



Sample Fence - Exclusive Style

EXHIBIT F - NOTICE TO CONTRACTORS

NOTICE TO CONTRACTORS

- ALL CONCRETE WASHOUTS—ONLY ON LOT POURED
- ALL MUD-DIRT-DEBRIS ON ROADS—YOU CLEAN IMMEDIATELY
 - ALL LOTS TO BE CLEANED PRIOR TO LEAVING—EVERYDAY
- ALL GARBAGE-PAPER-DEBRIS ON ADJACENT LOTS—CLEANED DAILY
 - ALL NON RUBBER TIRE VEHICLES—MUST USE PROPER CURB PROTECTION
 - 15 MPH MANDATORY

FAILURE TO COMPLY COULD RESULT IN A STOP WORK ORDER
FAILURE TO COMPLY IS SUBJECT UP TO A \$500.00 PER DAY FINE

EXHIBIT G - TRANSFER OF OWNERSHIP

(REVISED 6/19/2023)

NOTICE OF TRANSFER OF OWNERSHIP

Date: _____ Lot #: _____

Purchaser: #1 _____ #2 _____

Address: _____

MOKENA, IL 60448 _____

Telephone: #1 _____ #2 _____

Email: #1 _____ #2 _____

DECLARATION: Seller has delivered to Purchaser and Purchaser acknowledges receipt of the Declaration of Covenants, Conditions and Restrictions (The Declaration). Purchaser agrees to comply with the terms thereof including but not limited to, those provisions relating to architectural review authority of Seller, The Architectural Review Committee (The ARC), or the Homeowner's Association; and those provisions relating to payment of assessments to the Homeowner's Association for maintenance and repair of common areas in the Subdivision pursuant to the formula set forth in the Declaration, and for other specified purposes. Purchaser acknowledges that compliance with the terms of such Declaration will be mandatory and not voluntary.

Purchaser(s)

Date

VISIT WWW.WHISPERCREEKNORTHHOA.COM FOR ASSOCIATION DOCUMENTS.

- ☐ CHECK TO GIVE PERMISSION TO INCLUDE NAME, ADDRESS, TELEPHONE NUMBER AND EMAIL IN WHISPER CREEK NORTH RESIDENT DIRECTORY.

PLEASE RETURN DOCUMENT TO WHISPER CREEK NORTH HOMEOWNERS ASSOCIATION P. O. BOX 351, MOKENA, IL 60448 OR EMAIL TO DIRECTOR@WHISPERCREEKNORTHHOA.COM

EXHIBIT H
BY-LAWS OF
WHISPER CREEK NORTH HOMEOWNERS ASSOCIATION

ARTICLE I
NAME OF CORPORATION

The name of this corporation is the Whisper Creek North Homeowners Association.

ARTICLE II
OFFICE

2.01 REGISTERED OFFICE. The Association shall have and continuously maintain in this state a registered office and a registered agent whose office is identical with such registered office, and may have other offices within or without the State of Illinois as the Board may from time to time determine.

ARTICLE III
MEETINGS OF MEMBERS

3.01 ANNUAL MEETINGS. There shall be an annual meeting of the Members on a date and time designated by the Board. Failure to hold the annual meeting at the designated time shall not work as a forfeiture or dissolution of the Association nor affect the validity of the action to be taken. If an annual meeting has not been held within the earlier of six (6) months after the end of the Association's fiscal year or fifteen (15) months after its last annual meeting and if, after a request in writing directed to the president of the Association, a notice of meeting is not delivered to the Members within sixty (60) days of such request, then any Member entitled to vote at an annual meeting may apply to the circuit court of the county in which the registered office or principal place of business of the Association is located for an order directing that the meeting be held and fixing the time and place of the meeting. The court may issue such additional orders as may be necessary or appropriate for the holding of the meeting.

3.02 SPECIAL MEETINGS. Special meetings of the Members may be called by the president or by the Board of Directors. A special meeting of Members entitled to vote may also be called by such Members having one-twentieth (1/12) of the votes entitled to be cast at such meeting.

3.03 PLACE OF MEETINGS. Meetings of the Members may be held as provided in a resolution of the Board. Members may participate in and act at any meeting through the use of a conference telephone or interactive technology, including but not limited to electronic transmission, Internet usage, or remote communication, by means of which all persons participating in the meeting can communicate with each other. Participation in such meeting shall constitute attendance and presence in person at the meeting of the person or persons so participating.

3.04 NOTICE OF MEMBERSHIP MEETINGS. Written notice stating the place, day, and hour of the meeting and, in the case of a special meeting, the purpose or purposes

for which the meeting is called, shall be delivered not less than five (5) nor more than sixty (60) days before the date of the meeting, or in the case of a removal of one or more Directors, a merger, consolidation, dissolution or sale, lease or exchange of assets not less than twenty (20) nor more than sixty (60) days before the date of the meeting, by or at the direction of the president, or the secretary, or the officer or persons calling the meeting, to each Member of record entitled to vote at such meeting. Whenever any notice whatever is required to be given under the provisions of the Act or By-Laws, a waiver thereof in writing signed by the Member or Members entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Attendance at any meeting shall constitute waiver of notice thereof unless the member at the meeting objects to the holding of the meeting because proper notice was not given.

3.05 INFORMAL ACTION BY MEMBERS ENTITLED TO VOTE.

(a) Unless otherwise provided in the Articles of Incorporation or the By-Laws, any action required by the Act to be taken at any annual or special meeting of the Members, or any other action which may be taken at a meeting of the Members, may be taken by ballot without a meeting in writing by mail, e-mail, or any other electronic means pursuant to which the Member thereon are given the opportunity to vote for or against the proposed action, and the action receives approval by a majority of the Members casting votes, or such larger number as may be required by the Act, the Articles of Incorporation, or the By-Laws provided that the number of Members casting votes would constitute a quorum if such action had been taken at a meeting. Voting must remain open for not less than five (5) days from the date the ballot is delivered; provided, however, in the case of a removal of one or more Members of the Board, a merger, consolidation, dissolution or sale, lease or exchange of assets, the voting must remain open for not less than twenty (20) days from the date the ballot is delivered.

(b) Such informal action by Members shall become effective only if, at least five (5) days prior to the effective date of such informal action, a notice in writing of the proposed action is delivered to all of the Members with respect to the subject matter thereof.

(c) In the event that the action which is approved is such as would have required the filing of a certificate under any Section other than Section 107.10 of the Act if such action had been voted on by the Members at a meeting thereof, the certificate filed under such other Section shall state, in lieu of any statement required by such Section concerning any vote of Members, that an informal vote has been conducted in accordance with the provisions of Section 107.10 of the Act and that written notice has been delivered as provided in Section 107.10.

(d) In addition, unless otherwise provided in the Articles of Incorporation or the By-Laws, any action required by the Act to be taken at any annual or special meeting of the Members, or any other action which may be taken at a meeting of Members entitled to vote, may also be taken without a meeting and without a vote if a consent in writing, setting forth the action so taken, shall be approved by all the Members with respect to the subject matter thereof.

3.06 FIXING RECORD DATE FOR VOTING. For the purpose of determining Members entitled to notice of or to vote at any meeting of Members, or in order to make a determination of Members for any other proper purpose, the Board may fix in advance a date as

the record date for any such determination of Members, such date in any case to be not more than sixty (60) days and, for a meeting of Members, not less than five (5) days, or in the case of a merger, consolidation, dissolution or sale, lease or exchange of assets, not less than twenty (20) days, immediately preceding such meeting. If no record date is fixed for the determination of Members entitled to notice of or to vote at a meeting of Members, the date on which notice of the meeting is delivered shall be the record date for such determination of Members. When a determination of Members entitled to vote at any meeting of Members has been made as provided in this Section, such determination shall apply to any adjournment thereof.

3.07 INSPECTORS. At any meeting of the Members, the president may, or upon the request of any Members shall, appoint one or more persons as inspectors for such meeting. Such inspectors shall ascertain and report the number of votes represented at the meeting based upon their determination of the validity and effect of proxies; count all votes and report the results; and do such other acts as are proper to conduct the election and voting with impartiality and fairness to all the Members. Each report of an inspector shall be in writing and signed by him or her or by a majority of them if there be more than one inspector acting at such meeting. If there is more than one inspector, the report of a majority shall be the report of the inspectors. The report of the inspector or inspectors on the number of votes represented at the meeting and the results of the voting shall be prima facie evidence thereof.

3.08 PROXIES. A Member entitled to vote may vote in person or by proxy executed in writing by the Member or by that Member's duly authorized attorney-in-fact. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy. The election of Directors, Officers, or representatives by Members may be conducted by mail, e-mail, or any other electronic means as set forth in subsection (a) of Section 107.10 of the Act.

3.09 QUORUM. Members holding one-tenth (1/10) of the votes entitled to be cast on a matter, represented in person or by proxy, shall constitute a quorum for consideration of such matter at a meeting of Members. If a quorum is present, the affirmative vote of a majority of the votes present and voted, either in person or by proxy, shall be the act of the Members, unless the vote of a greater number or voting by classes is required by the Act, the Articles of Incorporation or the By-Laws.

3.10 VOTING AGREEMENTS. Members entitled to vote may provide for the casting of their votes by signing an agreement for that purpose. A voting agreement created under this Section is specifically enforceable in accordance with the principles of equity.

ARTICLE IV

BOARD OF DIRECTORS

4.01 IN GENERAL. The affairs of the Association shall be managed by or under the direction of the Board, which shall consist of three (3) persons who shall serve for a term of three (3) years. The term of at least 1/3 of the Board shall expire annually. No Director may act by proxy on any matter.

4.02 TERM OF OFFICE. The terms of all Directors shall expire at the next meeting for the election of Directors. The term of a Director elected to fill a vacancy expires at the next annual meeting of the Members entitled to vote at which his or her predecessor's term would have expired or in accordance with Section 108.30 of the Act. Board Members may succeed themselves in office. Despite the expiration of a Director's term, he or she continues to serve until the next meeting of Members or Directors entitled to vote on Directors at which Directors are elected.

4.03 COMPENSATION. Unless otherwise provided in the Articles of Incorporation, by the affirmative vote of a majority of the Directors then in office, the Board shall have authority to establish reasonable compensation of all Directors for services to the Association as Directors, officers or otherwise, notwithstanding the provisions of Section 108.60 of the Act.

4.04 REMOVAL, RESIGNATION, AND VACANCIES.

(a) One or more of the Directors may be removed, with or without cause. A Director may be removed by the affirmative vote of two-thirds (2/3) of the votes present and voted, either in person or by proxy. No Director shall be removed at a meeting of Members entitled to vote unless written notice of such meeting is delivered to all Members entitled to vote on removal of Directors. Such notice shall state that a purpose of the meeting is to vote upon the removal of one or more Directors named in the notice. Only the named Director or Directors may be removed at such meeting. This provision shall not preclude the Circuit Court from removing a Director from office in a proceeding commenced either by the Association or by Members entitled to vote holding at least 10 percent (10%) of the outstanding votes of any class if the court finds (1) the Director is engaged in fraudulent or dishonest conduct or has grossly abused his or her position to the detriment of the Association, and (2) removal is in the best interest of the Association. If the court removes a Director, it may bar the Director from reelection for a period prescribed by the court. If such a proceeding is commenced by a Member entitled to vote, such Member shall make the Association a party defendant.

(b) A Director may resign at any time by written notice delivered to the Board. A resignation is effective when the notice is delivered unless the notice specifies a future date. The pending vacancy may be filled before the effective date, but the successor shall not take office until the effective date.

(c) Any vacancy occurring in the Board and any directorship to be filled by reason of an increase in the number of Directors may be filled by the Board. A director elected or appointed, as the case may be, to fill a vacancy shall be elected or appointed for the unexpired term of his or her predecessor in office.

(d) Any officer or agent may be removed by the Board or other persons authorized to elect or appoint such officer or agent 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 any contract rights.

4.05 QUORUM. A majority of the Directors then in office shall constitute a quorum; provided, that in no event shall a quorum consist of less than one-third (1/3) of the Directors then in office. 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. Directors or nondirector committee Members may participate in and act at any meeting of such Board or committee through the use of a conference telephone or other communications equipment by means of which all persons participating in the meeting can communicate with each other. Participation in such meeting shall constitute attendance and presence in person at the meeting of the person or persons so participating.

4.06 OPEN MEETINGS. Meetings of the Board shall be open to any Member, except for the portion of any meeting held (i) to discuss litigation when an action against or on behalf of the Association has been filed and is pending in a court or administrative tribunal, or when the Board finds that such an action is probable or imminent, (ii) to consider information regarding appointment, employment or dismissal of an employee, or (iii) to discuss violations of rules and regulations of the Association. Any Member may record by tape, film or other means the proceedings at such meetings or portions thereof required to be open by this Section. The Board may prescribe reasonable rules and regulations to govern the right to make such recordings. Notice of such meetings shall be mailed or delivered at least 48 hours prior thereto, unless a written waiver of such notice is signed by the person or persons entitled to such notice pursuant to the Articles of Incorporation, By-Laws, other instrument before the meeting is convened. Copies of notices of meetings of the Board shall be posted in conspicuous places at least 48 hours prior to the meeting of the Board. For purposes of this Section, "meeting of the Board" means any gathering of a quorum of the Members of the Board held for the purpose of discussing business of the Association.

4.07 NOTICE OF MEETINGS OF THE BOARD. Meetings of the Board shall be held upon such notice as the By-Laws may prescribe. Attendance of a Director at any meeting shall constitute a waiver of notice of such meeting except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Unless provided otherwise in the Articles of Incorporation or the By-Laws, neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board need be specified in the notice or waiver of notice of such meeting, except that no special meeting of Directors may remove a Director under Section 108.35(b) of the Act unless written notice of the proposed removal is delivered to all Directors at least twenty (20) days prior to such meeting.

4.08 INFORMAL ACTION BY DIRECTORS. Any action required by the Act to be taken at a meeting of the Board, or any other action which may be taken at a meeting of the Board or a committee thereof, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be approved in writing by all of the Directors and all of any nondirector committee Members entitled to vote with respect to the subject matter thereof, or by all the Members of such committee, as the case may be. The consent shall be evidenced by one or more written approvals, each of which sets forth the action taken and provides a written record of approval. All the approvals evidencing the consent shall be delivered to the secretary to be filed in the Association's records. The action taken shall be effective when all the Directors or the committee Members, as the case may be, have approved the consent unless the consent specifies a different effective date. Any such consent approved in writing by all the Directors or all the committee Members, as the case may be, shall have the same effect as a unanimous vote and may be stated as such in any document filed with the Secretary of State under the Act.

4.09 OFFICERS. The officers of the Association shall be a President, Secretary, and a Treasurer. The officers shall be elected annually by the Board at a Board meeting.

ARTICLE V

BOOKS AND RECORDS

The Association shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its Members, the Board, and committees having any of the authority of the Board; and shall keep at its registered office or principal office a record giving the names and addresses of its Members entitled to vote. Any voting Member shall have the right to examine, in person or by agent, at any reasonable time or times, the Association's books and records of account and minutes, and to make extracts therefrom, but only for a proper purpose. In order to exercise this right, a voting Member must make written demand upon the Association, stating with particularity the records sought to be examined and the purpose therefor. If the Association refuses examination, the voting Member may file suit in the circuit court of the county in which either the registered agent or principal office of the Association is located to compel by mandamus or otherwise such examination as may be proper. If a voting Member seeks to examine books or records of account the burden of proof is upon the voting Member to establish a proper purpose. If the purpose is to examine minutes, the burden of proof is upon the Association to establish that the voting Member does not have a proper purpose.

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