

**BY-LAWS OF THE
FOREST GATE HOMEOWNERS' ASSOCIATION, INC.**

**ARTICLE I
PURPOSES AND POWERS**

The Association shall be responsible for the general management of the Property and shall have all of the powers to perform, and shall be responsible to perform, all of the obligations provided in the Amended and Restated Declaration. Further, the Association shall have all powers now or hereafter granted by the General Not For Profit Corporation Act of the State of Illinois, which shall be consistent with the purposes specified herein and in the Amended and Restated Declaration.

**ARTICLE II
OFFICES**

2.01 **Registered Office.** The Association shall have and continuously maintain in this State a Registered Office and a Registered Agent whose office may be identical with such Registered Office. The Association may have other offices within the State of Illinois as the Board of Directors may from time to time determine.

2.02 **Principal Office.** The principal office of the Association shall be initially maintained in Oak Brook, Illinois.

**ARTICLE III
MEMBERS**

3.01 **Members.** Every person or entity who is a record owner of a fee or undivided fee interest in any Cluster Home Lot, which is subjected by (covenants of record to assessments) the Association, shall be a Member of the Association (hereinafter "Member"). The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Cluster Home Lot (or lot which is subject to an assessment by the Association). Ownership of such Cluster Home Lot shall be the sole qualification of membership.

3.02 **Voting Rights.** There shall be one person with respect to each Cluster Home Lot who shall be entitled to vote at any meeting of the Owners. Such Member shall be an Owner of a Cluster Home Lot or may be some person designated by an Owner to act as a proxy on the Owner's behalf in writing to the Board said proxy shall be revocable at any time by actual notice to the Board of the death or judicially declared incompetence of any designator, or by written notice to the Board by the Owner or Owners. Any and all Owners of a Cluster Home Lot, and their designee, if any, may be present at any meeting of the Members, but only the Member of the Cluster Home Lot may vote or take any other action as a Member either in person or by proxy. Each Member shall have one vote per Cluster Home Lot for each director to be elected in

any election and one vote per Cluster Home Lot on each other matter presented to the Members. Voting for directors is non-cumulative. In the event that an Owner is a corporation, partnership, trust or other legal entity other than a natural person or persons, then any director, officer, employee, agent or representative of such corporation, partner of such partnership, individual trustee or beneficiary of such trust, or manager of such legal entity shall be entitled to vote for such entity. The entity shall designate the Member entitled to vote with respect to any Cluster Home Lot owned by such entity. The Association shall have one class of membership only and nothing contained in these Instruments shall permit or allow different classes of membership among the Owners.

3.03 Meetings.

(a) Quorum: Procedure. Meetings of the Members shall be held at the principal office of the Association or at such other place in DuPage County, Illinois, as may be designated by the Board in any notice of a meeting. The presence at any meeting, of twenty percent (20%) of the total votes (in person or by proxy) shall constitute a quorum. Unless otherwise expressly provided herein or in the Amended and Restated Declaration, any action may be taken at any meeting of the Members at which a quorum is present upon the affirmative vote of the Members having a majority of the total votes present at such meeting. Any Member may waive notice of a meeting in writing, or consent to any action of the Association without a meeting.

(b) Annual Meeting. There shall be an annual meeting of the Members during the month of August or as otherwise determined by the Board at a time and place as may be designated by written notice of the Board delivered to the Members not less than ten (10) days or more than thirty (30) days prior to the date fixed for said meeting. The purpose for such meeting is to elect Directors.

(c) Special Meetings. Special meetings of the Members may be called at any time for the purpose of considering matters which, by the terms of the Amended and Restated Declaration or these By-Laws, require the approval of all or some of the Members, or for any other reasonable purposes. Said meetings shall be called by written notice, authorized by a majority of the Board or by the Members having at least twenty percent (20%) of the total votes and delivered not less than ten (10) days or more than thirty (30) days prior to the date fixed for said meeting. The notices shall specify the date, time, and place of the meeting and the matters to be considered.

3.04 Notices of Meeting. Notices of meetings required to be given herein may be delivered either personally or by mail to the persons entitled to vote thereat, addressed to each such person at the address given by the person to the Board for the purpose of service of such notice, or to the Owner with respect to which such voting right appertains, if no address has been given to the Board. The notices required herein shall state the specific purpose and the nature of the business for which the meeting is called. At any meeting, no business may be transacted other than that specified in the notice.

3.05 Proxies. At any meeting of Members, a Member entitled to vote may either vote

in person or by proxy executed in writing by the Member or by his 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.

ARTICLE IV

BOARD OF DIRECTORS

4.01 **Board of Directors.** The direction and administration of the Association and the Property in accordance with the provisions of the Amended and Restated Declaration shall be vested in the Board of Directors, consisting from three (3) to five (5) Members, who shall be elected in the manner hereinafter provided. The Board may from time to time, without amending these By-Laws or the Amended and Restated Declaration, increase or decrease the number of Board members by resolution at any annual meeting or special meeting, provided that such number shall not be less than three (3) nor more than five (5). Each member of the Board must be an Owner residing in a Residence; provided, however, that in the event an Owner is a corporation, partnership, trust or other legal entity other than a natural person or persons, then any director, officer, employee, agent or representative of such corporation, partner of such partnership, individual trustee or beneficiary of such trust, or manager of such legal entity, shall be eligible to serve as a member of the Board provided that such individual resides in a Residence.

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

4.03 **Terms.** At the first annual meeting after these By-Laws are recorded, the two (2) persons receiving the highest number of votes shall be elected to a term of two (2) years each, and the three (3) persons receiving the next highest votes shall be elected to a term of one (1) year each. Upon the expiration of the terms of office of the Board members so elected, and at each annual meeting thereafter, successors shall be elected for a term of two (2) years each.

4.04 **Compensation.** Members of the Board shall receive no compensation for their services. However, any director may be reimbursed for reasonable expenses incurred in the performance of his duties.

4.05 **Vacancies in Board.** Vacancies in the Board, including vacancies due to any increase in the number of persons on the Board, shall be filled by the Board.

4.06 **Election of Officers.** The Board shall elect from among its members a President, Secretary and Treasurer. The President shall preside over both its meetings and those of the Members, and shall be the chief executive officer of the Board and the Association. The Secretary shall keep the minutes of all meetings of the Members and of the Board and shall perform all the duties incident to the office of Secretary. The Treasurer shall keep the financial

records and books of the Association, pay additional officers as may be elected as the Board deems necessary. All officers shall be elected at each annual meeting of the Board.

4.07 **Removal of Board Members.** Any Board member may be removed from office by affirmative vote of the Members having at least two-thirds (2/3) of the total votes at any special meeting called for the purpose in the manner aforesaid. A successor to fill the unexpired term of a Board member removed may be filled by the Board or elected by the Members at the same meeting or any subsequent meeting called for that purpose.

4.08 **Meetings of Board.** The Board shall meet at least four (4) times a year, including the annual meeting. Special meetings of the Board shall be held upon a call by the President or by a majority of the Board on not less than forty eight (48) hours notice in writing to each Board member, delivered personally or by mail, facsimile, electronic mail, or telegram. Any Board member may in writing waive notice of a meeting, or consent to the holding of a meeting without notice, or consent to any action of the Board without a meeting. A majority of the number of Board members shall constitute a quorum for the transaction of business. Unless otherwise expressly provided herein, any action may be taken by the Board upon the affirmative vote of those present at its meetings when a quorum is present. Meetings of the Board of the Association shall be open to all Members subject to the authority of the Board of the Association, except for the portion of any meeting held:

- (a) to discuss litigation when an action against or on behalf of the Association has been filed and is pending in a court or administrative tribunal, or when the Board of the Association finds that such an action is probable or imminent.
- (b) to consider information regarding appointment, employment or dismissal of an employee; or
- (c) to discuss violations of the Association's governing documents or unpaid assessments, fees, or fines owed to the Association.

Any vote on these matters shall be taken at a meeting or portion thereof open to any Owner. In addition, the Board can meet in an executive session, as it deems necessary. Such sessions are not open to any Owner.

Any Owner may record the proceedings at meetings required to be open by the By-Laws by tape, film or other means. The Board may prescribe reasonable Rules and Regulations to govern the right to make such recordings. Notice of meetings shall be mailed at least five (5) days prior thereto or delivered at least 48 hours prior thereto, unless a written waiver of such notice is signed by the persons entitled to notice before the meeting is convened. Copies of notices of meetings of the Board of the Association shall be posted in conspicuous places on the Property at least 48 hours prior to the meeting of the Board of the Association, and such posting shall constitute notice to all Owners. The Board of the Association may designate one or more locations in the proximity of these Cluster Homes where the notices of meetings shall be posted.

4.09 **Execution of Instruments.** All agreements, contracts, deeds, leases, vouchers for payment of expenditures, and other instruments shall be signed by such officer or officers,

agent or agents of the Board and in such manner as from time to time shall be determined by written resolution to the Board. In the absence of such determination by the Board, such documents shall be signed by the President and countersigned by the Secretary.

ARTICLE V

POWERS OF THE BOARD

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

- (a) to elect the officers of the Association as hereinabove provided;
- (b) to adopt administrative Rules and Regulations governing the administration, management, operation and use of any property within the Association, and to amend such rules and regulations from time to time;
- (c) to provide for the operation, care, upkeep, maintenance, improvement, repair and replacement as required per the terms of the Amended and Restated Declaration and payments therefore, and to approve payment vouchers or to delegate such approval to the officers or the manager or managing agent;
- (d) to provide for the designation, hiring and removal of employees and other personnel, including accountants and legal counsel, and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Common Area and other areas as provided for in the Amended and Restated Declaration, and to delegate any such powers to the manager or managing agent (and any such employees or other personnel as may be the employees of the managing agent);
- (e) to prepare, adopt and distribute the annual budget as well as estimate the amount of the annual budget, and to provide the manner of assessing and collecting from the Owners of such Cluster Home Lots, in the manner as provided by the Amended and Restated Declaration, their respective shares of such estimated expenses, as hereinafter provided;
- (f) to levy and collect assessments;
- (g) to obtain adequate and appropriate kinds of insurance, as required under the Amended and Restated Declaration or as determined by the Board;
- (h) to own, convey, encumber, lease and otherwise deal with Cluster Homes conveyed to or purchased by it;
- (i) to keep detailed, accurate records of the receipts and expenditures affecting the

use and operation of the property;

- (j) to access each Cluster Home Lot from time to time as may be necessary for the maintenance, repair or replacement thereof or to any Common Area accessible therefrom or for making emergency repairs therein necessary to prevent damage to the Common Area or to another Cluster Home or Homes;
- (k) to pay for water, waste removal, other operating expenses, electricity, telephone and other necessary utility service for the Common Area;
- (l) to pay for all costs incurred to meet the Association's duty and obligations per the Amended and Restated Declaration;
- (m) to pay for any other materials, supplies, furniture, labor, services, maintenance, repairs, (structural alterations or assessments) which the Board is required to secure or pay for pursuant to the terms of the Amended and Restated Declaration or Bylaws or which in its opinion shall be necessary or proper for the maintenance and operation of the Common Area;
- (n) to pay any amount necessary to discharge any mechanic's lien or other encumbrance against the entire Common Area or part thereof which may in the opinion of the Board constitute a lien against the Common Areas, rather than merely against the interest therein of particular Owners;
- (o) to maintain all non-dedicated sanitary sewers, water lines and the Storm Water Management System;
- (p) to maintain and repair any Cluster Home if such maintenance or repair is necessary, in the discretion of the Board to protect the Common Area and an Owner that has failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair is mailed or delivered by the Board to said Owner, except in the case of an emergency, as determined by the Board, provided that the Board shall levy a special assessment against such Owner for the cost of said maintenance or repair;
- (q) to enter, upon reasonable notice, upon any Cluster Home Lot when necessary in connection with any maintenance or construction for which the Board is responsible. Such entry shall be by the Board or its agent and shall be made with as little inconvenience to the Owner as practicable, and any damage caused thereby shall be repaired by the Board as a maintenance expense;
- (r) to enter into all agreements, contracts, deeds, leases, vouchers for expenditures, not inconsistent herewith, as it may deem advisable for the maintenance, administration, management, operation, use, conservation and beautification of the Property, and for the health, comfort, safety and general welfare of the

Owners and Occupants of the Property;

- (s) to impose a monetary fine against any Owner for violating any provision or restriction within the Association's governing document.
- (t) to engage the services of any agent to manage the Property to the extent deemed advisable by the Board;
- (u) to seek relief from or in connection with the assessments or levy of any real property taxes, special assessments and any other special taxes or charges of the State of Illinois or any political subdivision thereof, or any other lawful taxing or assessing body, which are authorized by law to be assessed and levied on real property and to charge and collect all expenses incurred in connection therewith as operating expenses;
- (v) to obtain a blanket fidelity bond in a reasonable amount for anyone who handles, or is responsible for funds held or administered by the Association. Any management agent that handles funds for the Association shall be covered by its own fidelity bond;
- (w) to provide notice to each Owner in the same manner as is provided for membership meetings, of any meeting of the Board of Directors concerning the adoption of the proposed annual budget or any increase, or establishment of an assessment. If any adopted budget requires assessment against the Owner in any fiscal or calendar year exceeding 120% of the assessments for the preceding year, the Board of Directors, upon written petition by Owners with twenty (20%) of the votes of the Association filed within 14 days of the board action, shall call a meeting of the Owners within 30 days of the date of filing of the petition to consider the budget; that unless a majority of the votes of the Owners are cast at the meeting to reject the budget, it is ratified, whether or not a quorum is present, that in determining whether assessments exceed 120% of similar assessments in prior years, any authorized provisions for reasonable reserves for repair or replacement of the Common Area, and anticipated expenses by the Association which are not anticipated to be incurred on a regular basis, shall be excluded from the computation.
- (x) to exercise all other powers and duties vested in or delegated to the Association, and not specifically reserved to the Owners by the Articles of Incorporation, the Amended and Restated Declaration or these By-Laws.

Nothing herein above contained shall be construed to give the Board, Association or Owners authority to conduct an active business for profit on behalf of all Owners or any of them.

5.02 **Capital Additions and Improvements.** The Board's powers hereinabove enumerated shall be limited in that the Board shall have no authority to acquire and pay for out

of the maintenance fund any structural alterations, capital additions or capital improvements to the Common Area (other than for purposes of replacing or restoring portions of the Common Area, subject to all the provisions of the Amended and Restated Declaration), having a total cost in excess of Thirty Thousand Dollars (\$30,000.00), without, in each case, obtaining the prior approval of the Members holding at least two-thirds (2/3) of the total votes.

ARTICLE VI

ASSESSMENTS AND MAINTENANCE FUND

6.01 **Estimated Annual Budget and Assessments.** Each year on or before November 1st, the Board shall estimate the total amount necessary to pay the cost of all taxes, maintenance and operating expenses for the ensuing calendar year for the rendering of all services, together with a reasonable amount considered by the Board to be necessary for a reserve for contingencies and replacements. On or before November 1st of each calendar year the Board shall supply to all Owners an itemized accounting of taxes, maintenance and operating expenses for the preceding year actually incurred and paid, together with a tabulation of the amounts collected pursuant to assessment of the Owners. Any amount accumulated in excess of the amount required for actual expenses may be adjusted by the Board in the subsequent year's assessment calculation. Any net shortage shall be adjusted in the subsequent year's assessment calculation.

The annual budget shall set forth with particularity all anticipated expenses by category as well as all anticipated income. The budget shall also set forth each Owner's proposed Common Expense and Residence Expense assessment, which shall be set on a uniform rate for all Cluster Home Lots. Each Owner shall receive at least thirty (30) days prior to the adoption thereof by the Board, a copy of the proposed annual budget. Each Owner shall receive notice in the same manner as is provided in the Amended and Restated Declaration for membership meetings, of any meeting of the Board of Directors concerning the adoption of the proposed annual budget or any increase, or establishment or an assessment; unless a written waiver of such notice is signed by the person or persons entitled to such notice before the meeting is convened. Each Owner, jointly and severally, shall be personally liable for and obligated to pay to the Association the assessment against his Cluster Home Lot made pursuant to this Section.

6.02 **Reserves for Contingencies.** The Board may establish and maintain reserves for contingencies and replacements. If the estimated cash reserve is inadequate for any reason, including nonpayment of any assessment, the Board has the right to levy an additional assessment to cure the deficiency. The Association shall serve notice of such additional assessment on the Owners by a statement in writing giving the amount and reason therefore, and such additional assessment shall be paid as directed by the Association. Each Owner, jointly and severally, shall be personally liable for and obligated to pay his respective adjusted annual assessment.

6.03 **Failure to Prepare Estimates.** The failure or delay of the Board to prepare or

serve the annual or adjusted estimate on the Owner, shall not constitute a waiver or release in any manner of such Owner's obligation to pay the maintenance costs and necessary reserves, as herein provided, whenever the same shall be determined, and in the absence of any annual estimate or adjusted estimate, the Owner shall continue to pay the assessment at the then existing rate established for the previous period until the next maintenance payment which is due not more than ten (10) days after such new annual or an adjusted estimate shall have been mailed or delivered.

6.04 **Books and Records.** The Board shall keep full and correct books as required in the Amended and Restated Declaration. Such records shall be available for inspection by any Owner, per the terms of the Amended and Restated Declaration.

6.05 **Use of Funds.** All funds collected hereunder shall be held and expended for the purpose designated herein and (except for such special reserve assessments as may be levied hereunder against less than all the Owners and for such assessments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the benefit, use and account of all the Owners.

6.06 **Insurance.** Any insurance premiums assessed on the basis of reflecting increased charges for coverage on certain Residences shall be assessed to such Owner.

6.07 **Assessments.** In addition to the default remedies for failure to pay assessments contained in the Amended and Restated Declaration, the Board may also bring an action for possession of such Cluster Home Lot against an Owner in default in the payment of assessments for more than thirty (30) days, utilizing the provisions of 735 ILCS 5/9-101 et seq. If such action is commenced by the Board, all costs, including late fees, interest, management fees related to the management company's efforts to collect the common expenses and attorney's fees shall be recoverable against the defaulting Owner.

6.08 **Non-use.** No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of Common Area or abandonment of his or her Residence.

ARTICLE VII

COVENANTS AND RESTRICTIONS AS TO USE AND OCCUPANCY

All Owners shall maintain, occupy and use their Residences and the Common Area only in accordance with the terms of the Amended and Restated Declaration and any additional Rules and Regulations adopted by the Board.

The Board shall have full authority to enforce all such Rules and Regulations by taking all action as may be necessary.

ARTICLE VIII
AMENDMENTS

These By-Laws may be adopted, changed, amended, modified or repealed upon the affirmative vote of at least a majority of the Board.

ARTICLE IX
DEFINITION OF TERMS

The terms having initial capitalization used in these By-Laws and not otherwise defined shall have the same definition as set forth in the Amended and Restated Declaration.