

Amended and Restated

## BYLAWS

of

### MORNINGVIEW HOMES ASSOCIATION, INC.

#### ARTICLE I: OFFICES

1.1 *Name.* The name of the corporation is Morningview Homes Association, Inc. It is incorporated under the laws of the State of Kansas as a not-for-profit corporation. This corporation is the homes association referenced in the Declaration (as defined below).

1.2 *Location.* The principal office of the corporation shall be located in Overland Park, Kansas.

#### ARTICLE II: DEFINITIONS

2.1 *Association* shall mean Morningview Homes Association, Inc.

2.2 *District* shall mean all of the property which is now within the jurisdiction of the Association as provided in the Declaration.

2.3 *Public Places* shall have the meaning set forth in the Declaration.

2.4 *Lot* shall mean any lot as shown as a separate lot on any recorded plat of all or part of the District; provided, however, that if an Owner owns all or part of one or more adjacent lots upon which only one residence has been erected, then such adjacent property under common ownership shall constitute only one "Lot."

2.5 *Owner* shall mean the record owner(s) of fee title to any Lot.

2.6 *Declaration* shall mean, collectively, (i) the Morningview Homes Association Declaration recorded as instrument number 510897 in Book 77 at Page 452 in the Office of the Register of Deeds of Johnson County, Kansas, as amended and supplemented, and (ii) the Declaration of Restrictions recorded as instrument number 510896 in Book 77 at Page 445 in the Office of the Register of Deeds of Johnson County, Kansas, as amended and supplemented.

#### ARTICLE III: MEMBERSHIP

3.1 *Membership Generally.* Membership in the Association shall be limited to persons or entities who are the Owners of Lots. Membership may not be separated from ownership of a Lot.

3.2 *Suspension of Membership.* During any period in which a member shall be in default in the payment of any assessment levied by the Association, the voting rights of such member and rights of a member to receive services provided by the Association shall be suspended by the Board of Directors until such assessment has been paid.

#### **ARTICLE IV: VOTING RIGHTS**

Each member shall be entitled to one vote for each Lot for which he or she is the Owner and upon which he or she shall not be delinquent in the payment of any assessment; provided, however, when more than one person is an Owner of a Lot, all such persons shall be members with one total vote for such Lot, which one vote shall be exercised as they, among themselves, shall determine, but in no event shall more than one vote be cast with respect to such Lot. Where a Lot is owned by a corporation, partnership or other entity, such entity shall designate a person who is entitled to vote respecting such Lot and to serve, if elected or appointed, as a director of the Association.

#### **ARTICLE V: BOARD OF DIRECTORS**

5.1 *Number.* The affairs of the Association shall be managed by a Board of Directors composed of nine (9) directors. Each individual elected as a director shall serve for a term of one year and until his or her successor is duly elected and has commenced his or her term of office or until his or her earlier resignation or removal.

5.2 *Qualification.* All directors shall be and remain members in good standing of the Association.

5.3 *Removal.* Any director may be removed from the Board of Directors, with or without cause, by a majority vote of the members of the Association entitled to vote. In the event of death, resignation, or removal of a director, his or her successor shall be selected by the remaining members of the Board of Directors and shall serve for the unexpired term of his or her predecessor.

5.4 *Compensation.* Except as provided below, no director shall receive compensation for the service he or she may render to the Association as a director. However, any director may be reimbursed for his or her reasonable out-of-pocket expenses incurred in the performance of his or her duties and each director who attends during his annual term at least 75% of the total number of meetings of (i) the members and (ii) the Board of Directors shall have his or her annual assessment for such year waived.

#### **ARTICLE VI: MEETING OF DIRECTORS**

6.1 *Annual Meetings.* Annual meetings of the Board of Directors shall be held within 30 days **following the annual meeting** of the members at such place as may be fixed by the Board.

6.2 *Regular Meetings.* Regular meetings of the Board of Directors may be held without notice and shall be held at such place and time as may be fixed from time to time by the Board.

6.3 *Special Meetings.* Special meetings of the Board of Directors shall be held at such place and time as may be specified by and when called by the president of the Association or by any two or more directors.

6.4 *Notice of Special Meetings.* Written or printed notice stating the place, day and hour of a special meeting, and the purpose or purposes for which the meeting is called, shall be delivered to each director not less than five (5) days before the date of the special meeting, either personally or by mail, by or at the direction of the person(s) calling the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the director at his or her address as it appears on the records of the Association, with postage thereon prepaid. Any meeting of the Board of Directors shall be a legal meeting without any notice thereof having been given if all directors shall be present.

6.5 *Quorum.* Unless otherwise required by law, a majority of the total number of directors shall constitute a quorum for the transaction of business and every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board of Directors.

6.6 *Adjournment.* If a quorum shall not be present at any such meeting, the directors present shall have the power successively to adjourn the meeting, without notice other than announcement at the meeting, to a specified date.

6.7 *Meetings by Conference Telephone or Similar Communications Equipment* Members of the Board of Directors, or any committee designated by the Board, may participate in a meeting of the Board or committee by means of conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other.

6.8 *Action Taken Without a Meeting.* Any action required or permitted to be taken at any meeting of the Board of Directors or any committee of the Board of Directors may be taken without a meeting if written consent to the action is signed by all members of the Board of Directors or of such committee, as the case may be, and such written consent is filed with the minutes of proceedings of the Board or committee.

## **ARTICLE VII: NOMINATION AND ELECTION OF DIRECTORS**

7.1 *Nomination.* Nomination for election to the Board of Directors may be made at the regular meeting of the members next preceding the annual meeting of the members or from the floor at the annual meeting of the members.

7.2 *Election.* Election to the Board of Directors shall be by written ballot. At any such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of Article IV hereof. The persons receiving the largest number of votes shall be elected. Cumulative voting shall not be permitted.

7.3 *Commencement of Term of Office.* A director shall not have accepted any of the powers or responsibilities of a director until the time he or she accepts the office of director either by a

written acceptance or by participating in the affairs of the Association at a meeting of the Board of Directors.

## **ARTICLE VIII: POWERS OF THE BOARD OF DIRECTORS**

The Board of Directors shall have the power to:

8.1 *Scope.* Exercise for the Association all powers, duties, and authority vested in or delegated to the Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation or the Declaration.

8.2 *Rules and Regulations.* Adopt and publish rules and regulations.

8.3 *Employment.* Employ (and contract with for such periods of time and on such terms as may be deemed appropriate) agents, independent contractors, managers, and employees, and to prescribe their duties and responsibilities.

8.4 *Records and Reports.* Cause to be kept a complete record of all its acts and of the corporate affairs of the Association and to present reports thereof to the members.

8.5 *Supervision.* Supervise all officers, agents, and employees of the Association, and see that their duties are properly performed.

8.6 *Assessments.* As more fully provided in the Declaration, provide for the levying of assessments against the Lots and to take all actions necessary or appropriate to collect the same.

8.7 *Certificates Issue,* or cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not an assessment has been paid. A reasonable charge may be made by the Association for the issuance of these certificates.

8.8 *Insurance.* Procure and maintain public liability insurance, fire and extended coverage hazard insurance, and other insurance on any property owned or maintained by the Association and maintain officers' and directors' liability insurance, all as may be deemed appropriate.

8.9 *Bonding.* Cause officers or employees having fiscal responsibility to be bonded, as may be deemed appropriate.

8.10 *Maintenance.* Cause the Public Places to be maintained.

8.11 *Thash.* To contract for regular trash pick-up services for all residences in the District.

8.12 *Committees.* Appoint one or more committees. Any such committee shall be composed of at least one (1) director and any other individuals as the Board of Directors shall designate. Not all members of a committee need be directors unless otherwise provided in the Declaration, Articles of Incorporation or by law. A quorum of any committee so designated by the Board of Directors shall be any number of the members designated by the Board of Directors, but that quorum shall

not consist of less than one-half (1/2) of the total number of members appointed to such committee. The Board may designate one (1) or more individuals as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee.

**8.13 Performance.** Perform all acts and do all things required or permitted to be done by the Association by the Declaration or otherwise; and perform all acts and do all things permitted or required of a Board of Directors of a not-for-profit corporation under the laws of the State of Kansas.

## **ARTICLE IX: MEETINGS OF MEMBERS**

**9.1 Annual Meetings.** The annual meeting of the members of the Association shall be held in December of each year, at such place and time as may be fixed by the Board of Directors. At the annual meeting, directors shall be elected, reports of the affairs of the Association shall be considered, assessment levels shall be approved or established, if necessary, and any other business within the powers of the membership may be transacted.

**9.2 Regular and Special Meetings.** In addition to the annual meeting, there shall be at least three (3) regular meetings of the members each year. Regular and special meetings of the members may be called at any time by the president or by a majority of the Board of Directors, or upon written request of members holding at least 20 votes.

**9.3 Place and Notice of Meetings.** AIA meetings of the members shall be held in Overland Park, Kansas, at such place relatively near the District as may be designated in the notice of the meeting. Written notice of each meeting of the members shall be given by, or at the direction of, the person(s) duly calling the meeting, by mailing a copy of such notice, postage prepaid, not less than ten (10) days nor more than forty (40) days prior to such meeting to each member (or in the case of multiple members for a Lot, at least one of such members) entitled to vote thereat, addressed to the member's address last appearing on the books of the Association. Such notice shall specify the place, day, and hour of the meeting, and, in the case of a special meeting, the purpose(s) of the meeting. Such notice shall be deemed to be delivered when it is deposited in the United States mail with postage thereon so addressed to the member.

**9.4 Quorum.** The presence at a meeting, in person or by proxy, of members entitled to cast at least ten (10) of the total votes of the membership shall constitute a quorum for any action. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be obtained. Except as otherwise provided in these Bylaws, the Declaration or the Articles of Incorporation or by law, a majority vote of those present at a meeting at which a quorum is present shall be necessary to transact any business entitled to be transacted by the members.

**9.5 Proxies.** At all meetings of members, each member may vote in person or by proxy. MA proxies shall be in writing and filed with the secretary of the Association before the start of the meeting. Every proxy shall be revocable and shall automatically cease to be effective, if not

sooner terminated by its terms or revoked, upon the expiration of six (6) months from the date of its issuance or upon conveyance by the member of his or her Lot, whichever event shall occur first.

## **ARTICLE X: OFFICERS AND THEIR DUTIES**

10.1 *Enumeration of Offices.* The officers of the Association **shall be a president, a vice president, a secretary and a treasurer**, who shall at all times be members of the Board of Directors, and such other officers as the Board of Directors may from time to time elect.

10.2 *Election of Officers.* At the annual meeting of the members, the members may conduct an advisory vote as to the election of officers simultaneously with the election of the Board of Directors. At each annual meeting of the Board of Directors, the newly elected Board shall confirm such election of officers or otherwise elect a set of officers, but in either event such officers shall serve at the pleasure of the Board until the next annual meeting of the Board and until their successors are duly elected and qualified, or until their earlier resignation or removal.

An officer shall be deemed qualified when he or she enters upon the duties of the office to which he or she has been elected or appointed and furnishes any bond required by the Board of Directors. The Board of Directors may also require of such person his or her written acceptance and promise faithfully to discharge the duties of such office.

10.3 *Special Appointments.* The Board of Directors may appoint such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties consistent with these Bylaws as the Board may, from time to time, determine.

10.4 *Resignation and Removal.* Any officer may be removed from office by the Board of Directors whenever, in the Board's judgment, the best interests of the Association will be served thereby. Any officer may resign at any time by giving written notice to the Board through the president or the secretary. Such resignation shall take effect on the date of receipt of such notice by the Board or at any later date specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

10.5 *Vacancies.* A vacancy in any office may be filled by the Board of Directors at any time. The officer elected to such vacancy shall serve for the remainder of the term of the officer he or she replaces.

10.6 *Multiple Offices.* No officer may hold more than one (1) office.

10.7 *Duties.* The duties of the officers are as follows:

**President.** The president shall be the chief executive officer of the Association and shall, subject to the control of the Board of Directors, have general supervision, direction and control of the affairs and officers of the Association. He or she shall preside at all meetings of the membership and at all meetings of the Board of Directors. He or she shall be ex officio a member of all

standing committees and shall have the general powers and duties of management usually vested in the office of president and shall have such other powers and duties as may be prescribed by the Board of Directors or these Bylaws.

***Vice President.*** The vice president shall act in the place and stead of the president in the event of his or her absence, inability or refusal to act, and shall exercise and discharge such other duties and have such other powers as may be prescribed by the Board of Directors.

***Secretary.*** The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the members, shall keep the corporate seal, if any, of the Association and affix it on all papers required to have the seal affixed thereto, shall serve notice of meetings of the Board and of the members, shall keep appropriate current records showing the members of the Association, together with their addresses, and shall perform such other duties, and have such other powers as may be prescribed by the Board.

***Treasurer*** The treasurer shall have responsibility for the safekeeping of the funds of the Association, shall keep or cause to be kept full and accurate accounts of receipts and disbursements of the Association and such other books of account and accounting records as may be appropriate, and shall perform such other duties and have such other powers as may be prescribed by the Board of Directors. The books of account and accounting records shall at all reasonable times be open to inspection by any director.

10.8 ***Compensation.*** Officers of the Association shall not receive any compensation or salary for their services as such, except as provided in ARTICLE V, 5.4.

## **ARTICLE XI: BOOKS AND RECORDS**

The books and records of the Association shall, at all times during reasonable hours and upon reasonable notice, be subject to inspection by any member for proper purposes. The Declaration, Articles of Incorporation and Bylaws of the Association shall also be available during reasonable hours for inspection by any member.

## **ARTICLE XII: GENERAL PROVISIONS**

12.1 ***Depositories and Checks.*** The moneys of the Association shall be deposited in such banks or financial institutions and shall be drawn out by checks signed in such manner as may be provided by resolution adopted by the Board of Directors from time to time.

12.2 ***Certain Loans Prohibited.*** The Association shall not make any loan to any officer or director of the Association.

12.3 ***Absence of Personal Liability.*** The directors, officers, and members of the Association shall not be individually or personally liable for the debts, liabilities, or obligations of the Association.

12.4 *Indemnification.* The Association shall indemnify and advance expenses to each person who is or was an officer or director of the Association or a member of a committee to the full extent permitted by the laws of the State of Kansas from time to time.

### **ARTICLE XIII: AMENDMENT**

These Bylaws may from time to time be altered, amended, or repealed, or new Bylaws may be adopted, only by a two-thirds (2/3) vote of the members of the Association present at a meeting at which a quorum is present.

### **ARTICLE XIV: PARLIAMENTARY AUTHORITY**

The rules of the latest edition of *Robert's Rules of Order* shall govern the conduct of the meetings of the members of the Association.

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The undersigned secretary of Morningview Homes Association, Inc., a Kansas not-for-profit corporation, hereby certifies that the foregoing amended and restated Bylaws are the Bylaws of said corporation adopted by the members at a meeting held on December , 1993.

Dated: December, 1993

**Secretary**

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