

## Bylaws of the Brookdale West Homeowners Association

### Article I Name and Location

The name of this Association is Brookdale West Homeowners Association, hereinafter referred to as the "Association." The principal office of the Association shall be located at the residence of the then current president.

### Article II Definitions

**Section 1.** "Association" shall mean and refer to the Brookdale West Homeowners Association, a Michigan nonprofit corporation, its successors and assigns.

**Section 2.** "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of the fee simple title to a lot, including land contract purchasers, but excluding those having such interest merely as security for the performance of an obligation. When more than one person or entity has an interest in the fee title to a lot, the interest of all such persons collectively shall be that of a single Owner.

**Section 3.** "Common Area" shall mean those areas of land shown on the recorded Plat of the Subdivision (including the improvements thereto) to be owned by the Association for the common use and enjoyment of the Owners. The Common Area is described as follows:

Private Parks No's. 1 through 9, inclusive of Brookdale West Subdivision, according to the Plat thereof, recorded in Liber 164, Pages 30, 31, and 32 of Plats, Oakland County Records.

**Section 4.** "Lot" shall mean and refer to any numbered lot shown on the recorded Plat of Brookdale West Subdivision, excepting therefrom the Common Area.

**Section 5.** "Declaration" shall mean and refer to the Declaration of Restrictions, as recorded in the office of the Oakland County Register of Deeds, State of Michigan at Liber 7485 Pages 792 through 808 as may be amended from time to time.

**Section 6.** "Member" shall mean and refer to those persons entitled to membership in the Association, as provided in these Bylaws.

### Article III Property Rights

**Section 1.** Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every lot, whether or not specifically set forth in the deed of conveyance of said lot, subject to the following provisions:

a. the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

b. the right of the Association to suspend the voting rights and the right to use the recreational facilities by an Owner for any period during which any assessment against the Owner's lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;

c. the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by a majority of the Members. To effect such transfer or dedication, the Association must (a) secure the approval of the City of Rochester Hills, by and through its city council; (b) have a majority of the members sign an instrument agreeing to such transfer or dedication; and (c) record the signed instrument, memorializing the transfer or dedication, with the Oakland County Register of Deeds;

d. The Common Area may be used for recreation, hiking, nature study, picnicking, or other uses for the benefit of its Members, which may be determined by the Association. Recreational facilities, including but not limited to, picnic shelters, grills and fireplaces, playground equipment, and similar items, may be constructed in the Common Area by the Association. Nothing in this paragraph, however, shall be construed to create an obligation to construct any recreational facilities by the Association. All Members of the Association, and guests accompanying said Members, shall have equal access to the Common Area and all facilities located thereon, subject to rules and regulations established by the Association, including, but not limited to the right to place limitations on the number of guests or to prohibit guests at certain prescribed times;

e. additional uses for the Common Area may be established if approved in writing by not less than 51 percent of the Members of the Association entitled to vote and thereafter ratified by the Rochester Hills City Council. No change shall be permitted in the Common Area that would alter the storm water and surface water retention and storage facilities constructed thereon without the express approval of the City of Rochester Hills.

**Section 2.** Delegation of Use. Any Owner may delegate in accordance with the Bylaws, such Owner's right of enjoyment in and to the Common Area and facilities to the Owner's family, tenant(s), or land contract purchasers.

### Article IV Membership and Voting Rights

**Section 1.** Every Owner of a lot in Brookdale West Subdivision shall be a mandatory Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment.

**Section 2.** There shall be one class of Members who shall consist of all Owners (Members).

**Section 3.** Good Standing. A Member in good standing is one whose current annual and special assessments are paid in full and who complies with the provisions of these Bylaws.

**Section 4.** Voting Rights. Owners shall be entitled to one vote for each lot owned. In no event shall more than one vote be cast with respect to any one lot. Only Members in good standing may vote.

## Article V Finances

**Section 1.** Fiscal Year. The fiscal year of this Association shall be from January 1 to December 31.

**Section 2.** Creation of the Lien and Personal Obligation of Assessments. Each Owner of a lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association annual general assessments or charges, and any special assessments as may be established and collected in accordance with these Bylaws. Each annual general assessment and special assessment, together with interest thereon, costs, and reasonable attorneys fees incurred in collection thereof (collectively referred to herein as "Assessments") shall be the personal obligation of the lot Owner at the time such Assessments fell due. The Owner's personal obligation for delinquent Assessments shall not pass to a successor in title, unless expressly assumed by such individuals in writing. The Assessments shall be a charge on the land and, if unpaid shall be a continuing lien on the lot against which such Assessment was made.

**Section 3.** Purpose of Assessments. Assessments shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the Owners of lots in the Subdivision and, in particular, for the operation, maintenance, management and improvements of the Subdivision entrance and walks and of the Common Area and storm water retention facilities thereon, including but not limited to, the payment of taxes and insurance, maintenance, repair and replacement of improvements thereon, and additions thereto, and for the cost of labor, equipment, materials, management, and supervision for an in connection with the Common Areas and the Association itself.

**Section 4.** The annual assessment shall be set by the Board of Directors of the Association, and may be increased each year not more than 8 percent above the assessment of the previous year without a vote of two-thirds of the membership, in person or by proxy, at a meeting duly called for that purpose.

**Section 5.** Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any

assessment year, a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any improvement upon the Common Area including fixtures and personal property, provided that any such assessment shall have the assent of two-thirds of the votes of Members in good standing, in person or by proxy, at a meeting duly called for this purpose.

**Section 6.** Notice and Quorum for Actions Authorized Under Section 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all Members not less than 10 days nor more than 30 days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast 60 percent of all votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half of the required quorum at the preceding meeting. No subsequent meeting shall be held more than 60 days following the preceding meeting.

**Section 7.** Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all lots and may be collected on a monthly or an annual basis as reasonably determined by the Association.

**Section 8.** Due Dates. The Board of Directors shall fix the amount of the annual assessment against each lot at least 30 days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. Dues are payable annually within 30 days after the billing date. Dues bills shall be mailed not before May 1 nor later than May 31 of each year.

**Section 9.** Certificate of Payment. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

**Section 10.** Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within 30 days after the due date shall bear interest from the due date at the rate of 8 percent per annum. The Association may bring an action at law against the Owner personally obligated to pay same, foreclose the lien against the property, or pursue any other remedy provided by law or in equity. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his lot.

**Section 11.** Exempt Property. All Common Area and all other property exempt from taxation by state or local governments and dedicated for public use shall be exempt

from the assessments, charges, and liens provided for herein.

**Section 12. Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not affect the assessment lien. The sale or transfer of any lot pursuant to mortgage foreclosure proceedings or a judgment of foreclosure, shall extinguish the lien of such assessments as to payments that became due prior to such foreclosure sale but shall not relieve such lot from liability for any future assessments thereafter becoming due or from the lien thereafter created.

**Section 13. Storm Water Retention Basins.** The Association shall be responsible for the maintenance of the storm water retention basin(s) located in the Common Area, and the cost thereof, as hereinafter more fully set forth:

a. The storm water retention basin(s) shall be used for no purpose other than retention of surface water until such time as the City may determine and signify by written notice to the Association or its successors that there is no further need for such facility. Notwithstanding this requirement, the Association may use water from the basin(s) for purposes of irrigation;

b. Maintenance of the retention basin(s) shall include keeping the bottom of the retention basin(s) free from silt and debris, removing harmful algae, maintaining a steel grating across the pond's inlets and/or outlets, the control of erosion, and such other maintenance as is reasonable and necessary to the intended functioning of the basin(s).

## Article VI Meetings of Members

**Section 1. Annual Meetings.** The annual meeting of the Association shall be held on the first Tuesday in May. The time of the meeting shall be set by the Board of Directors. Should circumstances prevent the meeting being held on that day, it shall be rescheduled and held within 15 days of the originally scheduled date.

**Section 2. Special Meetings.** Special meetings of the Members may be called at any time by the president or by vote of the Board of Directors, or upon written request of 50 percent of the Members in good standing.

**Section 3. Notice of Meetings.** Written notice of each meeting of the Members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least 15 days before such meeting, to each Member in good standing. Such notice shall specify the place, day, and hour of the meeting, and in the case of a special meeting, the purpose of the meeting.

**Section 4. Quorum.** The presence at the meeting of Members entitled to cast, or of proxies entitled to cast,

one-tenth of the votes shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration of Restrictions, or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

**Section 5. Proxies.** At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his lot.

## Article VII Board of Directors

**Section 1. Board of Directors.** The affairs of this Association shall be managed by a Board of not less than 4, but not more than 15 Directors who are Members in good standing of the Association.

**Section 2. Term of Office.**

a. Directors shall be elected for a term of one year commencing with the annual meeting of the Board of Directors. Election shall be held in conjunction with the annual membership meeting;

b. A Director shall hold office for the term for which elected, until a successor is elected and qualified, or until the Director resigns or is removed from office;

c. The officers and Directors shall assume office at the beginning of the fiscal year.

**Section 3. Removal.**

a. Any Director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association entitled to vote;

b. The Board of Directors may remove any officer or agent for cause or breach of duties under these Bylaws.

**Section 4. Vacancies.** Vacancies in the Board of Directors caused by death, resignation, or removal of a Director shall be filled by appointment by and upon the vote of a majority of the remaining Directors, and such Director or Directors, so appointed, shall serve for the unexpired term of the predecessor.

**Section 5. Compensation.** No Director shall receive compensation for any service rendered to the Association. However, any Director may be reimbursed for actual expenses incurred in the performance of duties.

## Article VIII Meetings of Directors

**Section 1. Meetings.** Meetings of the Board of Directors may be called at any time by the president or the secretary or by a majority of the Board of Directors. The

Directors shall be notified in writing of the time, place, and purpose of all meetings of the Board at least three days prior to the date scheduled for said meeting with the exception of the annual meeting of the Board of Directors. Attendance of a Director at a meeting constitutes a waiver of notice of said meeting, except where the Director attends the meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

**Section 2. Annual Meeting of the Board of Directors.** The annual meeting of the Board of Directors shall be held no more than 10 days following the annual membership meeting. Such meeting shall be convened to elect officers for the coming year, and shall include both incoming and outgoing Directors, but only incoming Directors shall vote for the officers of the Association.

**Section 3. Quorum.** A majority of the members of the Board constitutes a quorum for the transaction of business. The vote of the majority of members present at a meeting at which a quorum is present constitutes the action of the Board.

**Section 4. Action Without a Meeting.** Any action that might be taken at a meeting of the Board may be taken without a meeting if, before or after the said action, all members of the Board consent thereto in writing. The written consents shall be filed with the Minutes of the proceedings of the Board. The consent has the same effect as a vote of the Board for all purposes.

#### **Article IX Powers and Duties of the Board of Directors**

**Section 1. Powers.** In addition to any and all powers conferred by Statute, the Board of Directors shall have the power to do the following:

a. Adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;

b. Suspend the voting rights and right to use of the recreational facilities of a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days, for infraction of the published rules and regulations;

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

d. Declare the office of a member of the Board of Directors to be vacant in the event such member shall be

absent from 3 consecutive scheduled meetings of the Board of Directors;

e. Employ a manager, an independent contractor, professional maintenance contractors, or such other employees as they deem necessary, and prescribe their duties;

f. Delegate to the appropriate officers the carrying out of its policies and directives;

g. Insure the Association for liability as relates to the Common Area and for acts and omissions.

h. Appoint such committees as it may deem necessary or appropriate in carrying out the purposes of the Association.

**Section 2. Duties.** It shall be the duty of the Board of Directors to do the following:

a. Fix the amount of the annual assessment against each lot at least 30 days in advance of each annual assessment period;

b. Send written notice of each assessment to every Owner subject thereto between May 1 and May 31;

c. Foreclose a lien against any property for which assessments are not paid within 30 days after due or to bring an action at law against the Owner personally obligated to pay the same;

d. Issue, or cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid;

e. Procure and maintain adequate liability and hazard insurance on property owned by the Association;

f. Cause the Common Area to be improved, maintained, and preserved, as is more fully defined in the Declaration of Restrictions;

g. Exercise for the Association all powers, duties, and authority vested in or delegated to the Association.

#### **Article X Officers and Duties**

**Section 1.** The officers of the Association shall be a president, one or more vice presidents, a secretary, and a treasurer. Officers shall serve for one year or until their successors are chosen. The Board may also appoint such other officers or agents as necessary for the transaction of the business of the Association.

**Section 2. President.** The President shall be the chief executive officer of the Association, and in the recess of the Board of Directors shall have the general control and management of its business and affairs, subject, however, to the right of the Board of Directors to delegate any specific power except such as may be by statute exclusively conferred upon the President, to any other officer or officers of the Association. The President shall

preside at all meetings of the Directors and all meetings of the Members.

**Section 3. Vice-President.** In case the office of President shall become vacant by death, resignation, or otherwise, or in case of the President's absence or disability to discharge the duties of the office, such duties shall, for the time being, devolve upon the Vice-President, who shall do and perform such other acts as the Board of Directors may, from time to time, authorize.

**Section 4. Treasurer.** The Treasurer shall perform the following duties:

- a. Maintain custody and keep account of all money, funds, and property of the Association, unless otherwise determined by the Board of Directors;
- b. Render such accounts and present such statements to the Directors and President as may be required;
- c. Deposit all funds of the Association in such bank or banks as the Board of Directors may designate;
- d. Keep bank accounts in the name of the Association, and exhibit Association books and accounts, at all reasonable times, to any Director of the Association upon request;
- e. Pay out money as the affairs of the Association require upon the order of a properly constituted officer or officers of the Association, taking proper vouchers therefor; provided, however, that the Board of Directors shall have power by resolution to delegate any of the duties of the Treasurer to other officers, and to provide by what officers, if any, all bills, notes, checks, vouchers, orders, or other instruments shall be countersigned;
- f. Keep current records of the names and addresses of the Members;
- g. Perform such other duties as may be delegated by the Board of Directors.

**Section 5. Secretary.** The Secretary of the Association perform the following duties:

- a. Keep the minutes of all the meetings of the Members and Board of Directors in books provided for that purpose;
- b. Attend to the giving and receiving of all notices of the Association to the Members;
- c. Maintain the books and papers as the Board of Directors may direct, all of which, shall, at all reasonable times, be open to the examination of any Director upon request;
- d. Perform such other duties as may be delegated by the Board of Directors.

**Section 6. Contracts Signed by Officers.** Any of the above elected officers may sign any contracts of the

Association unless otherwise provided by the Board of Directors.

**Section 7.** The Board of Directors may secure the fidelity of any or all such officers by bond or otherwise.

## Article XI Proxies

**Section 1.** At all meetings of Members, each Member entitled to vote may vote in person or by proxy.

**Section 2.** All proxies shall be in writing and filed with the Secretary. No proxy shall extend beyond a period of eleven (11) months, and every proxy shall automatically cease upon sale by the Member of his lot.

## Article XII Corporate Seal

No seal shall be required to be adopted as the corporate seal of this Association for the regular conduct of its business. In the event a seal should be required for any transaction, then any blank corporate seal may be utilized as the seal for this Association.

## Article XIII Parliamentary Authority

The current edition of *Robert's Rules of Order* shall govern this Association in all cases not provided for in these Bylaws or in specific rules adopted by the Association.

## Article XIV Amendments

**Section 1.** These Bylaws may be amended, at a regular or special meeting of the Members, by a vote of two thirds of Members present, either in person or by proxy, and entitled to vote, provided that any matter stated herein to be or that is in fact governed by the Declaration of Restrictions and recorded, may not be amended except as provided in such Declaration of Restrictions.

**Section 2.** In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in case of any conflict between the Declaration of Restrictions and these Bylaws, the Declaration of Restrictions shall control.

## Article XV Indemnity

To the full extent permitted by law, the Association shall indemnify and defend each person made or threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal administrative, or investigative, and whether formal or informal, other than an action by or in the right of the Association, by reason of the fact that the person is or was a director, officer, employee, nondirector volunteer, or agent of the Association or is or was serving at the request of the Association as a director, officer, partner,

trustee, employee, or nondirector volunteer against expenses including attorney's fees, judgments, penalties, fines, and amounts paid in settlement actually and reasonably incurred by the person in connection with the action, suit, or proceeding if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the Association or its members, and with respect to any criminal action or proceeding, if the person had no reasonable cause to believe that conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent shall not of itself create a presumption that the person did not act in good faith and in a manner that the person reasonably believed to be in or not opposed to the best interests of the Association or its members, and with respect to any criminal action or proceeding, had reasonable cause to believe that the conduct was unlawful.