

Clearwater Creek Homes Association, Inc.

BYLAWS

WHEREAS, the Clearwater Creek Homes Association, Inc. (the "Association") was created by the Developer on May 24, 2002, as a not-for-profit corporation duly authorized to conduct business in the State of Kansas for the purposes stated in the Declaration of Restrictions, as the same apply to all lots within the subdivision (the "Declarations"); and

WHEREAS, the Association is to adopt Bylaws for the operation of the business of the Association, including specifically those by-laws required in the Declarations.

NOW, THEREFORE, the members of the Association hereby adopt the following by-laws in furtherance of the orderly business of the Association:

Article I

Purpose and Function of Association

Section 1. Function of Association. The Association shall be charged with the primary enforcement of the Declarations and the care and maintenance of the common areas. In addition, the Association shall endeavor to develop a neighborhood atmosphere within the Subdivision in an effort to further the goals and standards set forth in the Declarations.

Article II

Offices

Section 1. Principal Office. The principal office for the transaction of the business of the Association shall be the residence address of the President of the Association, who shall be charged with maintaining all official records of the Association and providing a current mailing address to all relevant authorities, including but not limited to taxing authorities.

Section 2. Changes in Principal Office. The Board of Directors shall be free to adopt a permanent post office box or other arrangements for maintaining the principal office, so long as notice of the establishment of such alternative arrangements has been provided to the members and all relevant authorities.

Article III Membership

Section 1. Class A Members. Every person, except Developer, who is a record owner of a fee or undivided fee interest in any lot and the occupant of said premises within the Clearwater Creek subdivision, including buyers in possession under contract for deed, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for performance of an obligation. No owner shall have more than one membership of any lot. Ownership of such lot, and occupancy of the premises thereon, shall be the sole qualification for membership.

Section 2. Class B Members. The Developer shall be the sole Class B member of the Association. The Developer shall have four (4) votes for every lot owned by the Developer in the subdivision until such time as seventy percent (70%) of the lots have been sold. At such time, the Developer shall have one (1) vote for every lot owned in the subdivision.

Section 3. Transfer of Memberships. Memberships in the Association shall be nontransferable. There shall be no transfer or alienation by inter vivos or testamentary device or otherwise. Membership is only available to persons qualified for membership as provided herein.

Section 4. Place of Meetings. All annual meetings of members and all other meetings of members shall be held at the principal office of the Association unless another place within or without the State of Kansas is designated either by the Board of Directors pursuant to authority hereinafter granted to said Board, or by the written consent of all members entitled to vote thereat, given either before or after the meeting and filed with the secretary of the Association.

Section 5. Meetings of Members and Other Membership Matters. The annual meetings of the members shall be held on the last Thursday of March, in each year at 6:00 o'clock, p.m. of said day. At such meeting, directors shall be elected, reports of the affairs of the Association shall be considered, and any other business may be transacted which is within the power of the members.

Written notice of each annual meeting shall be given to each member entitled to vote, either personally or by mail or other means of written communication, charges prepaid, addressed to such member at his address appearing on the books of the Association or given by him to the Association for the purpose of notice. All such notices shall be sent to each member entitled thereto not less than ten (10) days nor more than fifty (50) days before each annual meeting, and shall specify the place, the day and the hour of such meeting, and may state such other matters, as required by these by-laws, or as advisable in the discretion of the Board of Directors. If this bylaw as to the time and place of election of directors is changed, such notice shall be given to members at least twenty (20) days prior to such meeting.

Section 6. Special Meetings. Special meetings of the members, for any purpose or purposes whatsoever, may be called at any time by the President or by the Board of Directors, or

by one or more members holding not less than one-fifth of the voting power of the Association. Except in special cases which are time sensitive, notice of such special meetings shall be given in the same manner as for annual meetings of members. Notices of any special meeting shall specify in addition to the place, day and hour of such meeting, the general nature of the business to be transacted.

Section 7. Voting. Each member shall be entitled to vote one vote for each lot in which he or she holds the interest required for membership as described above. When more than one person holds such 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 lot. All decisions made at any meeting at which there is present a quorum as defined below shall be made by a simple majority vote of those lots present, except those decisions that may require a different or larger percentage as required herein or in the Declarations.

Section 8. Quorum. At a meeting, the presence at the meeting of members or proxies entitled to cast _____ percent (____%) of all the votes of the membership shall constitute a quorum. If the required quorum is not forthcoming at the first called meeting, another meeting may be called, subject to the notice requirements set forth herein and the quorum required on any such subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 9. Proxies. Every person entitled to vote or execute consents shall have the right to do so either in person or by one or more agents authorized by a written proxy executed by such person or his duly authorized agent and filed with the Secretary of the Association; provided that no such proxy shall be valid after the expiration of one (1) year from the date of its execution, unless the person executing it specified therein the length of time for which such proxy is to continue in force; and provided further, that any proxy must specifically authorize the agent to cast the member's vote in a specific manner on a specific issue. No general proxies shall be allowed.

Section 10. Inspection of Corporate Records. The membership ledger, the books of account, and minutes of proceedings of the members and the Board of Directors shall be open to inspection upon the written demand of any member within ten (10) days of such demand during ordinary business hours if for a purpose reasonably related to his interests as a member. A list of members entitled to vote shall be exhibited at any reasonable time and at meetings of the members when required by the demand of any member at least twenty (20) days prior to the meeting. Such inspection may be made in person or by an agent or attorney authorized in writing by a member, and shall include the right to make abstracts. Demand of inspection other than at a members' meeting shall be made in writing upon the President, Secretary or Assistant Secretary.

Section 11. Inspection of Bylaws. The Association shall keep in its principal office, or at the office of the Association's counsel, the original or a copy of these bylaws as amended or otherwise altered to date, certified by the secretary, which shall be open to inspection by the members at all reasonable times during ordinary business hours.

Article IV **Directors**

Section 1. Powers. Subject to the Declarations and the duties of Directors as prescribed by the bylaws, all Association powers shall be exercised by or under the authority of, and the conduct and affairs of the Association shall be controlled by, the Board of Directors. Without prejudice to such general powers, but subject to the same limitations, it is hereby expressly declared that the Directors shall have the following powers, to-wit:

First--To alter, amend or repeal the bylaws of the Association which are not specifically mandated by the Declarations.

Second--To select and remove all the other officers, agents and employees of the Association, prescribe such powers and duties for them as may not be inconsistent with law, or the bylaws, fix their compensation, and require from them security for faithful service.

Third--To conduct, manage, and control the affairs and conduct of the Association, and to make such rules and regulations therefor not inconsistent with the Declarations, law or the bylaws, as they may deem best, including enforcement of the covenants on the Declarations and regulations regarding use of the common area.

Fourth--To change the principal office for the transaction of the conduct of the Association from one location to another as provided in Article I hereof; or to designate any place within or without the State of Kansas for the holding of any members' meeting.

Fifth--To appoint an executive committee and other committees (except committees created by the Declarations which require a vote of Members), and to delegate to such committees any of the powers and authority of the Board in the management of the conduct and affairs of the Association, except the power to adopt, amend or repeal bylaws. Any such committee shall be composed of two or more Directors.

Section 2. Number and Qualification of Directors. The authorized number of Directors of the Association shall be not less than three (3) nor more than eleven (11) until changed by amendment to this bylaw. Directors must be members.

Section 3. Election and Term of Office. The Directors shall be elected at each annual meeting of members, but if any such annual meeting is not held, or the Directors are not elected thereat, the Directors may be elected at a special meeting of members held for that purpose as soon thereafter as convenient. All Directors shall hold office until their respective successors are elected. A Director can be removed from office at any time for good cause, however, by a

majority vote of the members, and he may be removed without cause by a two-thirds vote of the members.

Section 4. Vacancies. Vacancies on the Board of Directors may be filled by a majority of the remaining Directors, although less than a quorum, or by a sole remaining Director. If at any time, by reason of death, resignation, or other cause, the Association should have no Directors in office, then any officer or any member may apply to the District Court for a decree summarily ordering election as provided for by the Kansas Association Code. Each Director so elected shall hold office until his successor is elected at an annual or a special meeting of the members.

A vacancy or vacancies on the Board of Directors shall be deemed to exist in case of the death, resignation or removal of any Director, or if the authorized number of Directors be increased, or if the members fail at any annual or special meeting of voting members at which any Director or Directors are elected to elect the full authorized number of directors to be voted for at the meeting, or if any Director or Directors elected shall refuse to serve.

The members holding at least ten percent (10%) of the lots may call a meeting at any time to fill any vacancy or vacancies not filled by the Directors, or if the Board of Directors filling a vacancy constitutes less than a majority of the whole Board, as constituted immediately prior to any increase in the number of Directors. If the Board of Directors accepts the resignation of a Director rendered to take effect at a future time, the Board or the members shall have power to elect a successor to take office when the resignation is to become effective.

No reduction of the authorized number of Directors shall have the effect of removing any Director prior to the expiration of his term of office.

Section 5. Place of Meeting. Regular and special meetings of the Board of Directors shall be held at any place within or without the State of Kansas which has been designated from time to time by resolution of the Board or by written consent of all members of the Board. In the absence of such designation, all meetings shall be held at the principal office of the Association.

Section 6. Regular Meeting. Immediately following each annual meeting of members, the Board of Directors shall hold a regular meeting for the purpose of organization, election of officers, and the transaction of other business. Notice of such meeting is hereby dispensed with.

Section 7. Other Regular Meetings. Other regular meetings of the Board of Directors shall be held without call at such time as the Board of Directors may from time to time designate in advance of such meetings; provided, however, should said day fall upon a legal holiday, then said meeting shall be held at the same time on the next day thereafter ensuing which is not a legal holiday. Notice of all such regular meetings of the Board of Directors is hereby dispensed with.

Section 8. Special Meetings. Special meetings of the Board of Directors for any purpose or purposes shall be called at any time by the President or, if he is absent or unable or refuses to act, by the Secretary or by any other Director. Notice of such special meetings, unless waived by attendance thereat or by written consent to the holding of the meeting, shall be given by written notice mailed at least ten (10) days before the date of such meeting or be hand delivered or notified electronically at least seven (7) days before the date such meeting is to be held. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail with postage thereon addressed to the director at his residence or usual place of business. If notice be given electronically by hand, such notice shall be deemed to be delivered when the same is delivered.

Section 9. Notice of Adjournment. Notice of the time and place of holding an adjourned meeting need not be given to absent Directors if the time and place be fixed at the meeting adjourned.

Section 10. Waiver of Notice. The transactions of any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though had at a meeting duly held after regular call and notice, if a quorum be present, and if, either before or after the meeting, each of the Directors not present signs a written waiver of notice, or a consent to holding such meeting, or an approval of the minutes thereof. All such waivers, consents or approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

Section 11. Quorum. A majority of the total number of Directors shall be necessary to constitute a quorum for the transaction of business, except to adjourn as hereinafter provided. Every act or decision done or made by a majority of the Directors present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board of Directors, unless a greater number be required by the Declarations, by-laws or by law. The Directors present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Directors to leave less than a quorum.

Section 12. Meetings by Telephone. Members of the Board of Directors of the Association, or any committee designated by such Board, may participate in a meeting of the Board of Directors by means of conference telephone or similar communications equipment, by means of which all persons participating in the meeting can hear one another, and such participation in a meeting shall constitute presence in person at the meeting.

Section 13. Adjournment. A majority of the Directors present may adjourn any Directors' meeting to meet again at a stated day and hour or until the time fixed for the next regular meeting of the Board.

Section 14. Fees and Compensation. Directors shall not receive any stated salary for their services as Directors. Nothing herein contained shall be construed to preclude any Director from serving the Association in any other capacity as an officer, agent, employee, or otherwise, and receiving compensation therefor.

Article V **Officers**

Section 1. Officers. The officers of the Association include a President, a Secretary, and a Treasurer. The Association may also have, at the discretion of the Board of Directors, a Chairman of the Board, one or more Vice-Presidents, one or more Assistant Secretaries and one or more Assistant Treasurers, and such other officers as may be appointed consistent with the provisions of this Article V. Any number of offices may be held by the same person.

Section 2. Election. The officers of the Association, except such officers as may be appointed in accordance with the provisions of Section 3 or Section 5 of this Article IV shall be chosen annually by the Board of Directors, and each shall hold his office until he shall resign or shall be removed or otherwise disqualified to serve, or his successor shall be elected and qualified.

Section 3. Subordinate Officers, Etc. The Board of Directors may appoint such other officers as the conduct of the Association may require, each of whom shall have authority and perform such duties as are provided in these bylaws or as the Board of Directors may from time to time specify, and shall hold office until he shall resign or shall be removed or otherwise disqualified to serve.

Section 4. Compensation of Officers. Officers and other employees of the Association may receive such salaries or other compensation as shall be determined by resolution of the Board of Directors, adopted in advance or after the rendering of the services, or by employment contracts entered into by the Board of Directors. The power to establish salaries of officers, other than the President or Chairman of the Board, may be delegated to the President, Chairman of the Board, or a committee.

Section 5. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled in the manner prescribed in these bylaws for regular appointments to such office.

Section 6. Removal and Resignation. Any officer may be removed, either with or without cause, by a majority of the Directors at the time in office, at any regular or special meeting of the Board, or, except in case of an officer chosen by the Board of Directors, by any officer upon whom such power of removal may be conferred by the Board of Directors.

Section 7. Chairman of the Board. The Chairman of the Board, if there be such an officer, shall, if present, preside at all meetings of the Board of Directors, and exercise and perform such other powers and duties as may be from time to time assigned to him by the Board of Directors or prescribed by these bylaws.

Section 8. President. Subject to such supervisory powers, if any, as may be given by the Board of Directors to the Chairman of the Board, if there be such an officer, 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 conduct and officers of the

Association. He shall preside at all meetings of the members and, in the absence of the Chairman of the Board, at all meetings of the Board of Directors. He shall be ex officio a member of all the standing committees, including the executive committee, if any, and shall have the general powers and duties of management usually vested in the office of president of a Association, and shall have such other powers and duties as may be prescribed by the Declarations, the Board of Directors or these bylaws.

Section 9. Vice-President. In the absence or disability of the President, the Vice-President or Vice-Presidents, if there be such an officer or officers, in order of their rank as fixed by the Board of Directors, or if not ranked, the Vice-President designated by the Board of Directors, shall perform all the duties of the President, and when so acting shall have all the powers of, and be subject to all the restrictions upon, the President. The Vice-Presidents shall have such other powers and perform such other duties as from time to time may be prescribed for them respectively by the Board of Directors or these bylaws.

Section 10. Secretary. The Secretary shall keep, or cause to be kept, a book of minutes at the principal office or such other place as the Board of Directors may order, of all meetings of Directors and members, with the time and place of holding, whether regular or special, and if special, how authorized, the notice thereof given, the names of those present at Directors' meetings, the members present or represented at members' meetings and the proceedings thereof.

The Secretary shall keep, or cause to be kept, at the principal office a membership list, showing the names of the members and their addresses.

The Secretary shall give, or cause to be given, notice of all the meetings of the members and of the Board of Directors required by these bylaws or by law to be given, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or these bylaws.

Section 11. Treasurer. The Treasurer shall keep and maintain or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the Association, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital, surplus and shares. The books of account shall at all reasonable times be open to inspection by any Director.

The Treasurer shall deposit all monies and other valuables in the name and to the credit of the Association with such depositories as may be designated by the Board of Directors. He shall disburse the funds of the Association as may be ordered by the Board of Directors, shall render to the President and Directors, whenever they request it, an account of all of his transactions as Treasurer and of the financial condition of the Association, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or these bylaws. He shall be bonded, if required by the Board of Directors.

Article VI
Standing Committees

Section 1. Authority to Create Committees. The Board of Directors shall have the authority to create committees, whenever they believe the same is necessary, to perform functions as delegated by the Board of Directors. The composition of those committees shall be determined by the Board, in its discretion, subject to the requirement that each committee shall be served by no less than two (2) Directors.

Section 2. Review Committee. The Review Committee shall be elected by members of the Association at the annual meeting. The Review Committee shall be comprised of three (3) members and shall be governed by the provisions of the Declarations and these bylaws, and any other rules and regulations which it may choose to enact. The purpose and function of the Review Committee is to ensure the best use and most appropriate development and improvement of the lands located within the Subdivision; to protect the lot owners against such improper use of surrounding lots as will depreciate the value of their property; to preserve, insofar as practicable, the natural beauty of and provide for proper landscaping of the Subdivision; to guard against the erection thereon of poorly designed and proportioned structures and structures built of improper or unsuitable materials; to encourage and secure the erection of attractive homes thereon with appropriate locations thereof on the lots; to secure and maintain proper setbacks from streets and adequate free spaces between structures; and in general to provide for a high quality and aesthetically pleasing types of improvements to the Subdivision, and thereby to enhance the value of investments made by lot owners within the Subdivision. The Review Committee is specifically charged with plan review and approval as outlined in Section 8 of the Declarations and interpretation and enforcement of the specific Development, Use and Building Standards established pursuant to Section 9 of the Declarations.

Article VII
Miscellaneous

Section 1. Assessments. The assessments to be collected by the Association are described in the Declarations. The annual assessment must be approved by a majority of those members present at a properly called meeting of members of the Association, and shall not exceed the amount of \$50.00 per lot annually, unless approved by 75% of the members at a meeting duly called in accordance with the bylaws. Special assessments must also be approved by a majority vote of the members present at a meeting of members called for that purpose. All other rights, remedies and obligations regarding assessments are described in the Declarations and may not be amended by bylaw, but shall be subject only to amendment as provided in the Declarations.

Section 2. Use of Roberts Rules of Order. The most current revision of Roberts Rules of Order shall be used for the conduct of all members' and directors' meetings except as otherwise provided hereunder or in the Declarations.

Section 3. Indemnification of Directors and Officers. When a person is sued, either alone or with others, because he is or was a Director or officer of the Association, or of another Association serving at the request of this Association, in any proceeding arising out of his alleged misfeasance or nonfeasance in the performance of his duties or out of any alleged wrongful act against the Association or by the Association, he shall be indemnified for his reasonable expenses, including attorneys' fees incurred in the defense of the proceeding, if both of the following conditions exist:

- (a) The person sued is successful in whole or in part, or the proceeding against him is settled with the approval of the court.
- (b) The court finds that his conduct fairly and equitably merits such indemnity.

The amount of such indemnity which may be assessed against the Association, its receiver, or its trustee, by the court in the same or in a separate proceeding shall be so much of the expenses, including attorneys' fees incurred in the defense of the proceeding, as the court determines and finds to be reasonable. Application for such indemnity may be made either by the person sued or by the attorney or other person rendering services to him in connection with the defense, and the court may order the fees and expenses to be paid directly to the attorney or other person, although he is not a party to the proceeding. Notice of the application for such indemnity shall be served upon the Association, its receiver, or its trustee, and upon the plaintiff and other parties to the proceeding. The court may order notice to be given also to the members in the manner provided in Article III, in such form as the court directs.

Section 4. Checks, Drafts, Etc. All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness, issued in the name of or payable to the Association, shall be signed or endorsed by such person or persons and in such manner as, from time to time, shall be determined by resolution of the Board of Directors.

Section 5. Annual Report. No annual report to members shall be required, but the Board of Directors may cause to be sent to the members reports in such form and at such times as may be deemed appropriate by the Board of Directors.

Section 6. Contracts, Deeds, Etc., How Executed. The Board of Directors, except as in these bylaws otherwise provided, may authorize any officer or officers, agent or agents, to enter into any contract or execute any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances; and unless so authorized by the Board of Directors, no officer, agent or employee shall have any power or authority to bind the Association by any contract or engagement or to pledge its credit or to render it liable for any purpose in any amount, provided, however, that any deeds or other instruments conveying lands or any interest therein shall be executed on behalf of the Association by the President or Vice-President, if there be one, or by any agent or attorney so authorized under letter of attorney or other written power which was executed on behalf of the Association by the President or Vice-President.

Section 7. Fiscal Year. The Board of Directors shall have the power to fix and from time to time change the fiscal year of the Association. In the absence of action by the Board of Directors, however, the fiscal year of the Association shall end each year on the date which the Association treated as the close of its first fiscal year, until such time, if any, as the fiscal year shall be changed by the Board of Directors.

Article VIII **Amendments**

Section 1. Power of Directors. New bylaws may be adopted or these bylaws may be amended or repealed by a majority vote of the Board of Directors at any regular or special meeting thereof; provided, however, the bylaws may not conflict with or remove rights and obligations memorialized in the Declarations unless a proper amendment to the Declarations has been duly approved and recorded. Further, the time and place fixed by the bylaws for the annual election of directors shall not be changed within sixty (60) days next preceding the date on which such elections are to be held. Notice of any amendment of the bylaws by the Board of Directors shall be given to each member within ten (10) days after the date of such amendments by the Board.

CERTIFICATE OF SECRETARY

I, the undersigned, do hereby certify:

- (1) That I am the duly elected and acting Secretary of Clearwater Creek Homes Association, a Kansas non-for-profit corporation; and
- (2) That the foregoing bylaws, comprising of eleven (11) pages, constitute the original bylaws of said Association, as duly adopted at the first meeting of the members thereof duly held on _____, 2002.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the seal of the said Association this ____ day of _____, 2002.

Secretary