

BY-LAWS
OF
FAIRWAY PINES AT PHEASANT RUN SUBDIVISION ASSOCIATION

ARTICLE I.

NAME AND LOCATION

The name of this Corporation is Fairway Pines at Pheasant Run Subdivision Association, hereinafter referred to as the "Association". The principal office of the Association shall be located at 2025 West Long Lake Road, Suite 104, Troy, Michigan 48098, but meetings of members and directors may be held at such places within the State of Michigan as may be designated by the Board of Directors.

ARTICLE II.

DEFINITIONS

Section 1. "Association" shall mean and refer to the Fairway Pines at Pheasant Run Subdivision Association, a Michigan Non-Profit 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 of a lot, the interest of all such persons collectively shall be that of a single Owner.

Section 3. "Lot" shall mean and refer to any numbered lot shown on any recorded Plat of the Fairway Pines at Pheasant Run Subdivision No. 1 or any other lot shown on a recorded Plat of a Fairway Pines Subdivision which is subject to the Declaration of Restrictions.

Section 4. "Declarant" shall mean and refer to Fairway Pines Limited Partnership, a Michigan Limited Partnership, its successors and assigns.

Section 5. "Declaration" shall mean and refer to the Declaration of Restrictions for Fairway Pines at Pheasant Run Subdivision No. 1, as recorded in Liber 26813, Pages 134 through 154, inclusive, Wayne County Records, and any further Amendments thereto.

Section 6. "Member" shall mean and refer to those persons entitled to membership in the Association, as provided in the Declaration and its Amendments.

Section 7. "Common Area" shall mean those areas of land within the Subdivision or within any future Subdivision if any, hereafter annexed (including improvements thereto) now or hereafter owned by the Association, which are set aside for the common use and enjoyment of the Owners. References to Common Area shall only apply if Common Area exists.

ARTICLE III.

MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Person who or which is the Owner of a Lot shall be a mandatory Member of the Association. Membership in the Association is, and shall be, appurtenant to, and may not be separated from, ownership of any Lot. Notwithstanding the foregoing, the termination of any Person's ownership interest in any Lot, and the consequent termination of such Person's membership in the Association, shall not be deemed to relieve such Person from any debt or obligation attributable to such Lot which accrued or arose during the period in which such Person was an Owner of a Lot.

Section 2. Voting Rights. The Association shall have two classes of membership, being Class A and Class B, as follows:

(a) Class A membership shall be voting, and the Declarant shall be the only Class A Member;

(b) each Owner of a Lot other than the Declarant shall be a Class B Member;

(c) Class B membership shall be non-voting until the time specified in subsection (d) below, at which time all Owners (including the Declarant) shall be entitled to vote on a one vote per Lot basis (regardless of the number of Owners of any such Lot);

(d) the Declarant shall have the sole vote in the Association, and the consequent right to appoint the Board of Directors of the Association (the "Board"), until such time as seventy-five percent (75%) of the Lots in the Subdivision, and in every subdivision of land which in the future is annexed by the Declarant or the Association in accordance with Article IX, Section 4 of this Declaration, shall have occupied residences on them, or at such earlier time as may be designated in writing by the Declarant; and

(e) at such time as seventy-five percent (75%) of the Lots in the Subdivision, and in every subdivision of land which in the future

is annexed by the Declarant or the Association in accordance with Article IX, Section 4 of this Declaration, shall have occupied residences on them, or at such earlier time as shall have been designated in writing by the Declarant, Class B Members of the Association shall have the voting rights described in subsection (d) above, and, thereafter, the Board shall be elected by the combined vote of the Class A and Class B Members (in each case, voting on a one vote per Lot basis).

Section 3. Transition of Control of the Association. In the event that the Declarant has requested that the Board be elected in accordance with Section 2.(e) of this Article II, but the Class A and Class B members are unwilling or unable to elect a Board who desire to serve as Directors, the Declarant reserves the right to grant to the Management Agent of the Association or to such other designee chosen by Declarant the right to appoint a Board composed of either Owners or non-Owners, or some combination thereof. The fee charged by the Management Agent or other designee and by the Directors shall be paid directly by the Association. The right of the Management Agent or other designee to appoint the Board shall continue until the first annual meeting at which the Owners are willing and able to elect a Board comprised of Owners who desire to serve as Directors.

ARTICLE IV.

PROPERTY RIGHTS

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Section 3 of this Article IV, following, and the provisions of the Reciprocal Roadway Easement, every Member shall have a right and easement of enjoyment in and to the Common Areas and the Roadways, and such easements shall be appurtenant to and shall pass with the title to any Lot whether or not specifically set forth in the deed or other conveyance to such Lot.

Section 2. Title to Common Areas and Roadways. Declarant hereby covenants that it shall convey the Common Areas and Roadways to the Association, free and clear of all liens and encumbrances, except (i) easements and rights-of-way of record, and (ii) such rights with regard to the grant of additional easements as are reserved to the Declarant and/or Association herein, and subject to the Members' rights and easements of enjoyment, not later than three (3) years from the date of recordation of this Declaration.

Section 3. Extent of Member's Easements. The rights and easements of enjoyment of the Members in and to the Common Areas and Roadways are, and shall be, subject to the following:

- (a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Areas;

(b) the right of the Association to suspend the voting and enjoyment rights of any Member for any period during which any assessment against such Member's Lot remains delinquent and unpaid, and for a period, not to exceed sixty (60) days, for any infraction by such Member of the published rules and regulations of the Association;

(c) the right of the Declarant and/or Association to grant easements affecting the Common Areas, or Roadways, to government agencies, and others, for utilities of any kind serving the Subdivision, or any part thereof;

(d) the right of the Association to dedicate or transfer all or any part of the Common Areas, or Roadways, to any public agency or authority for such purposes, and subject to such conditions as may have been agreed upon by the Members; provided that no such dedication or transfer, or determination as to the conditions thereof, shall be effective unless an instrument signed by two-thirds (2/3rds) of the Members shall have been recorded, agreeing to such dedication or transfer, and as to the conditions thereof; and, provided further, that no such dedication or transfer or determination as to the conditions thereof, shall be effective unless the prior consent thereto of the Township, acting by and through its Board of Trustees, shall have first been obtained; and

(e) the right of the Association to levy assessments upon the Lots, as set forth in Article V hereof.

Section 4. Delegation of Use. Any Owner may delegate his right of enjoyment in and to the Common Areas and Roadways to the members of his family and/or his Occupants and Permittees.

Section 5. Additional Easements. Declarant reserves the right to grant additional easements affecting the Common Areas, or Roadways, to government agencies, and others, for utilities of any kind serving the Subdivision, or any part thereof, without the consent of the Association or any Member.

Section 6. Uniform Application. This Declaration and the Reciprocal Roadway Easement apply uniformly to each Lot. Every Person who or which is the Owner of a Lot shall be a Member of the Association. Membership in the Association by each Owner is a mandatory condition of Lot ownership, and is appurtenant to, and may not be separated from, ownership of any Lot. Each Member has equal rights in the Common Areas and Roadways.

ARTICLE V.**COVENANT FOR MAINTENANCE ASSESSMENTS**

Section 1. **Creation of the Lien and Personal Obligation of Assessments.** The Declarant, for each Lot within the Subdivision owned by Declarant, hereby covenants and agrees, and each Owner of any Lot, by acceptance of a deed, land contract or other conveyance thereto, whether or not it shall be so expressed in any such deed, land contract or other conveyance, shall be deemed to have covenanted and agreed to pay to the Association, annual and special assessments and/or charges, established and to be collected as hereinafter provided. Such assessments, together with interest thereon, administrative fees, and the costs of collection thereof, including reasonable attorneys' fees, shall be a charge and continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest thereon, administrative fees, and the costs of collection thereof, including reasonable attorneys' fees, shall also be the personal obligation of each Person who was an Owner of such Lot at the time the assessment becomes due and payable. The personal obligation of any Owner for any delinquent assessment shall not pass to any successor in title of such Owner unless expressly assumed by such successor.

Section 2. **Purpose of Assessments.** The assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the residents in the Subdivision or any future annexed subdivisions, and, in particular, for (i) the operation, maintenance, management and improvement of the Common Areas, Roadways, and other property under the jurisdiction or control of the Association, including, without limitation, the repair and replacement thereof, and the costs of labor, material, public utilities, equipment and supervision; (ii) the periodic plowing of snow in the Roadway Areas; (iii) the installation of additional facilities, improvements and landscaping within the Common Areas and Roadways; (iv) the operation and maintenance of any storm drainage collection, retention and/or outlet facilities and irrigation systems which are not operated and maintained by any government agency, but which are located within the Common Area and other property under the jurisdiction or control of the Association, including without limitation those to be operated and maintained in accordance with the Storm Drainage Agreement by Declarant, its successors and assigns and/or the Association; (v) the payment of real estate taxes in regard to the Common Areas and Roadways; (vi) the payment of insurance expenses in regard to the Common Areas, the Roadways, and the Association; (vii) enforcing the provisions of this Declaration, the Reciprocal Roadway Easement and any Underlying Roadway Easement; (viii) providing community services; and (ix) the protection of the Owners.

Section 3. **Annual Assessments.** The basis of the annual assessments, and the maximum amounts thereof, shall be as follows:

(a) until January 1st of the year immediately following the conveyance of the first Lot to an Owner other than the Declarant, the maximum annual assessment shall be Three Hundred (\$300.00) Dollars per Lot;

(b) from and after January 1st of the year immediately following the conveyance of the first Lot to an Owner other than the Declarant, the maximum annual assessment may be increased by the Board to Four Hundred (\$400.00) Dollars per Lot, without a vote of the Owners;

(c) thereafter, the maximum annual assessment may be increased each year by the Board to an amount which is not more than ten percent (10%) above the maximum permissible assessment permitted for the prior year without a vote of the Owners (it being understood that the maximum annual assessment for any year may be increased to an amount which is more than ten percent (10%) above the maximum permissible assessment for the prior year upon the affirmative vote of two-thirds (2/3rds) of the Owners voting in person, or by proxy, at a meeting duly called for that purpose); and

(d) the Board may, after consideration of the current fiscal needs of the Association, fix the actual annual assessment for any year at an amount less than the maximum herein otherwise permitted.

Section 4. Special Assessments. In addition to the aforesaid annual assessments, the Association may levy against each Owner, 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, replacement or maintenance of any improvement upon the Common Areas or Roadways, provided that any such special assessment shall have the assent of two-thirds (2/3rds) of the Owners voting in person, or by proxy, at a meeting duly called for that purpose.

Section 5. Uniform Rate of Assessments. The annual assessments, and each special assessment, shall be set by the Board at a uniform rate for each Lot, and may be collected on an annual basis, or in such installments, as the Board shall deem appropriate.

Section 6. Notice of Quorum for Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under either Section 3 or 4 of this Article V, shall be sent to all Owners not less than fifteen (15) days in advance of such meeting. At the first meeting so called, the presence at the meeting of Owners, or of proxies, entitled to cast thirty percent (30%) of all votes of the Class A and Class B membership shall constitute a quorum. If the required quorum is not present at such meeting, another meeting may be called, subject to the notice

requirement set forth above, and the required quorum at such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that such subsequent meeting shall be held not more than sixty (60) days following the preceding meeting at which a quorum was not present.

Section 7. **Date of Commencement of Annual Assessments:** **Due Date.** The annual assessments provided for herein shall commence as to all Lots on the first day of the month next following the conveyance of the first Lot to an Owner other than Declarant. The first annual assessment shall be made for (and adjusted on the basis of) the balance of the calendar year, and shall become due and payable as of the day fixed for commencement. The annual assessment for any year, after the first year, shall become due and payable on the first day of January of such year.

Section 8. **Duties of Board of Directors.** Subject to the limitations set forth in Sections 3, 4 and 6 of this Article V, the Board shall fix the amount of the annual assessment against each Lot for each assessment period at least thirty (30) days in advance of such date or period, and shall, at that time, prepare a roster of the Lots and the assessments applicable thereto, which shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the assessment shall thereupon be sent to every Owner subject thereto, provided that failure by the Association to send such written notice on a timely basis shall not permit any Owner to avoid paying the assessment provided that a notice of assessment is eventually sent. The Association shall, upon demand, and payment of a reasonable charge, furnish to any Owner liable for such assessment a certificate in writing signed by an officer of the Association setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 9. **Effect of Non-Payment of Assessment:** **The Personal Obligation of the Owner: The Lien: Remedies of the Association.** Any assessment not paid within thirty (30) days after the due date, or such subsequent date upon which written notice of the assessment has been sent by the Association, shall be deemed delinquent, and shall bear interest from the due date at the rate of eleven percent (11%) per annum, and shall be subject to an administrative fee equal to twenty percent (20%) of the amount of the assessment to cover the cost of collection by the Association. In the event that the cost of collection exceeds the twenty percent (20%) administrative fee, the Association shall be entitled to collect the deficiency. The aggregate amount of the unpaid assessment, interest, administrative fee and deficiency shall be a lien against the Lot. The Association may bring an action at law against the Owner personally obligated to pay the assessment, interest, administrative fee and deficiency, and may foreclose the lien against the Lot. In such case, there shall be added to the amount of such assessment the cost of preparing and filing the

complaint in such action, or in connection with such foreclosure, and in the event a judgment is obtained, such judgment shall include interest on the assessment and the cost of collection, as above provided, and a reasonable attorney's fee to be fixed by the court, together with the costs of the action. No Owner may waive or otherwise escape liability for any assessment by non-use of the Common Areas or Roadways, or by the abandonment of such Owner's Lot. Subject to the provisions of Section 10 of this Article V, sale or transfer of any Lot shall not affect the lien for any unpaid assessment regarding such Lot.

Section 10. **Subordination of the Lien to Mortgages.** The lien of the assessment(s) provided for herein is and shall be subordinate to the lien(s) of any mortgage or mortgages now or hereafter placed upon any Lot subject to assessment hereunder; provided, however, that such subordination shall apply only to assessments which have become due and payable prior to sale or transfer of such Lot pursuant to foreclosure of such mortgage(s), or prior to any other proceeding or conveyance in lieu of foreclosure. Such sale, transfer or conveyance shall not, however, relieve such Lot from liability for any assessment thereafter coming due, or from the lien of any such subsequent assessment.

Section 11. **Affiliation with Other Associations.** The Subdivision is part of a planned development known as "Pheasant Run". The Association shall be permitted, and at the request of Declarant shall be obligated, to contract with or become a constituent member of a "Master" association comprised of the Association and various other associations of owners of lots in Pheasant Run, for the maintenance of the Common Area and Roadways, and/or other common areas and roadways located within other subdivisions located within Pheasant Run, and any facilities that may be constructed on the Common Area or Roadways, or such adjacent common areas and roadways. Without limitation, such contract may either require the Association to reimburse the "Master" Association or other association(s) for services provided to the Subdivision, the Common Areas or Roadways, or may require the Association to provide and be reimbursed for services benefiting the "Master" association or any other such subdivisions, common areas or roadways..

Section 12. **Liability of Board Members.** Neither any Member of the Board nor the Declarant shall be personally liable to any Owner, or to any other party, for the damage, loss or prejudice suffered or claimed on account of any act or omission of the Association, the Board, the Declarant or any other representatives or employees of the Association.

ARTICLE VI.

MEETINGS OF MEMBERS

Section 1. **Annual Meetings.** The first annual meeting of the members entitled to vote shall be held within one (1) year from the

date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held on the same day of the same month of each year thereafter, at the hour of five (5:00) o'clock p.m. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

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 the members who are entitled to vote one-half (1/2) of all of the votes of the Class A membership.

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 ten (10) days before such meeting of each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Each member shall register his address with the secretary, and notices of meetings shall be mailed to him at such address. Such notice shall specify the place, date and hour of the meeting, and in the case of a special meeting, the purpose of the meeting. If the business of any meeting shall involve any change in the basis or maximum amount of the annual assessment set forth in Article V of the Declaration, or any special assessments therein authorized, notice of such meeting shall be given or sent as therein provided.

Section 4. **Quorum.** The presence at the meeting of the members entitled to cast, or of proxies entitled to cast, one-tenth (1/10th) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. 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: SELECTION: TERM OF OFFICE

Section 1. **Number.** The affairs of this Association shall be managed by a Board of not less than five (5), but not more than fifteen (15) Directors who need not be members of the Association. Such Board of Directors shall be appointed by the Declarant until such time as not

less than sixty-five (65%) percent of the residential lots in the Subdivision shall have been sold to Owners or from that date that Declarant transfers voting rights to the Owners or four (4) years from the date of recording of the plat, whichever is first to occur. Thereafter, the Board of Directors shall be elected by the Owners.

Section 2. **Transfer of Right to Appoint Directors.** In the event that following the transfer of operating rights by the Declarant, the Owners are unwilling or unable to elect a Board of Directors who desire to serve as directors, the Declarant reserves the right to grant to a Management Agent of the Association or to such other designee chosen by Declarant the right to appoint a Board of Directors composed of either Owners or non-Owners, or some combination thereof. The fee charged by such Management Agent or other designee and by the directors shall be paid directly by the Association. The right of the Management Agent or other designee to appoint the Board of Directors shall continue until the next annual meeting of the members at which the Owners are willing and able to elect a Board of Directors of Owners who desire to serve as directors.

Section 3. **Term of Office.** At the first annual meeting, and at each annual meeting thereafter, the members of the Association entitled to vote shall elect at least three (3) Directors for a term of one (1) year. A Director shall hold office for the term for which he is elected and until his successor is elected and qualified or until his resignation or removal.

Section 4. **Removal.** 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.

Section 5. **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 his predecessor.

Section 6. **Compensation.** No Director other than as set forth in Section 2, shall receive compensation for any service he may render to the Association. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

ARTICLE VIII.

MEETINGS OF DIRECTORS

Section 1. **Place of Meeting.** The Directors may hold their meetings in such place or places within or without this State as a majority of the Board of Directors may, from time to time, determine.

Section 2. **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 (3) days prior to the date scheduled for said meeting with the exception of the annual meeting of the Board of Directors, for which no notice shall be provided, and which shall be held immediately after the annual meeting of the members. 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 3. **Quorum.** A majority of the members of the Board then in office 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; provided that amendment of the By-Laws by the Board of Directors requires the vote of not less than a majority of the members of the Board then in office.

Section 4. **Action Without a Meeting.** Any action which 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.** The Board of Directors shall have power to, in addition to any and all powers conferred by Statute, to:

- (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 sixty (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 By-Laws, the Articles of Incorporation, the Declaration, or Open Space Agreement;

- (d) Declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (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 to prescribe their duties; and
- (f) To delegate to the appropriate officers the carrying out of its policies and directives.

Section 2. **Duties.** The Board of Directors shall:

- (a) Fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each annual assessment period;
- (b) Send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period;
- (c) Initiate collection of delinquent assessments including, in their discretion, the foreclosure of the lien against any property for which assessments are not paid after due or to bring an action at law against the Owner personally obligated to pay the same;
- (d) Issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- (e) Procure and maintain adequate liability and hazard insurance on property owned by the Association;
- (f) Cause the Common Area, if any, to be maintained and preserved, as is more fully defined in the Declaration;
- (g) To exercise for the Association all powers, duties and authority vested in or delegated to the Association.

ARTICLE X.**OFFICERS**

Section 1. At the annual meeting of the Board of Directors the Board shall elect a president, a secretary and a treasurer and may select one or more vice presidents, assistant secretaries and assistant treasurers who shall serve for a period of one (1) year or until their successors shall be chosen. Two or more offices may be held by the same person but an officer shall not execute, acknowledge or verify an instrument in more than one capacity if the instrument is required by law or the Articles of Incorporation or By-Laws to be executed and acknowledged or verified by two (2) or more officers.

Section 2. The Board of Directors may also appoint such other officers and agents as they may deem necessary for the transaction of the business of the Corporation, including a Managing Agent. All officers and agents shall respectively have such authority and perform such duties in the management of the property and affairs of the Association as may be designated by the Board of Directors. The Board of Directors may remove any officer or agent whenever, in their judgment, the interests of the Association will be served thereby.

Section 3. The Board of Directors may secure the fidelity of any or all of such officers by bond or otherwise.

ARTICLE XI.**DUTIES OF OFFICERS**

Section 1. **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. He shall preside at all meetings of the Directors and all meetings of the members.

Section 2. **Vice-President.** In case of the office of President shall become vacant by death, resignation, or otherwise, or in case of the absence of the President, or his disability to discharge the duties of his 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 him to do.

Section 3. **Treasurer.** The Treasurer shall have custody and keep account of all money, funds and property of the Association, unless otherwise determined by the Board of Directors, and he shall render such accounts and present such statement to the Directors and

President as may be required of him. He shall deposit all funds of the Association which may come into his hands in such bank or banks as the Board of Directors may designate. He shall keep his bank accounts in the name of the Association, and shall exhibit his books and accounts, at all reasonable times, to any Director of the Association upon application at the office of the Association during business hours. He shall pay out money as the affairs of the Association require upon the order of the properly constituted officer or officers of the Association, taking proper vouchers therefor; provided, however, 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. He shall perform, in addition, such other duties as may be delegated to him by the Board of Directors.

Section 4. Secretary. The Secretary of the Association shall keep the minutes of all the meetings of the members and Board of Directors in books provided for that purpose; he shall attend to the giving and receiving of all notices of the Association to the members, he shall have charge of 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 application at the office of Secretary, and in addition such other duties as may be delegated to him by the Board of Directors; and shall keep appropriate records of the names and addresses of the members.

Section 5. Contracts Signed by Officers. Any of the following officers, President, Vice President, Secretary or Treasurer may sign any contracts of the Association unless otherwise provided by the Board of Directors.

ARTICLE XII.

COMMITTEES

The Board of Directors may appoint such committees as deemed appropriate in carrying out its purposes.

ARTICLE XIII.

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 XIV.

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 XV.

AMENDMENTS

Section 1. These By-Laws may be amended, at a regular or special meeting of the members, by a vote of two-thirds (2/3rds) of each class of members present, either in person or by proxy, and entitled to vote, provided that any matter stated herein to be or which is in fact governed by the Declaration of Restrictions or to any Open Space Agreement applicable to the Subdivision, and recorded, may not be amended except as provided in such Declaration of Restrictions or Open Space Agreement.

Section 2. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control.

ARTICLE XVI.

MISCELLANEOUS

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except the first fiscal year shall be on the date of incorporation.

ARTICLE XVII.

INDEMNITY

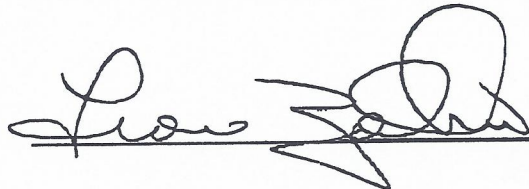
Limitation of Liability of Directors. No volunteer director, as that term is defined in Act 162, Public Acts of 1982, as amended ("Act"), shall be personally liable to the Association or its members for monetary damages for breach of fiduciary duty as a director, provided that the foregoing shall not eliminate the liability of a director for any of the following: (i) breach of the director's duty of loyalty to the Association or its members; (ii) acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law; (iii) a violation of Section 551 (1) of the Act; (iv) a transaction from which the director derived an improper personal benefit; or (v) an act or omission that is grossly negligent. If the Act hereafter is amended to authorize the further elimination or limitation of the liability of directors, then the liability of a director of the Association, in addition to the limitation on personal

liability contained herein, shall be limited to the fullest extent permitted by the amended Act. No amendment or repeal of this Article XVII shall apply to or have any affect on the liability of any director of the Association or with respect to any acts or omissions of such director occurring prior to such amendment or repeal.

CERTIFICATION

I the undersigned, do hereby certify:

That I am the duly elected and acting secretary of Fairway Pines at Pheasant Run Subdivision Association; and that the above is a true copy of the By-Laws of this Association adopted by the Association on the above date.


Secretary

FP1\SUBBYLAWS

**WRITTEN INSTRUMENT OF INCORPORATOR OF
FAIRWAY PINES AT PHEASANT RUN SUBDIVISION ASSOCIATION**

WHEREAS, Section 223 of the Michigan Nonprofit Corporation Act provides that the incorporators of a corporation may, by written instrument, select a board of directors for that corporation and adopt by-laws for that corporation; and

WHEREAS, the undersigned, being the sole incorporator of Fairway Pines at Pheasant Run Subdivision Association, a Michigan nonprofit corporation (hereinafter referred to as the "Association"), desires that the actions expressed in the resolutions hereinbelow set forth be taken.

NOW, THEREFORE, the undersigned hereby declares that the actions expressed in the following resolutions be, and the same hereby are taken by the incorporator of the Association as of the 1st day of March, 1993.

RESOLVED, that the Incorporator has prepared by-laws for the Association and said by-laws (the "By-Laws") are hereby adopted and a copy of the By-Laws shall be placed in the minute book for the Association.

FURTHER, RESOLVED, that the following persons are hereby elected as directors of the Association to serve in such capacity until their successor(s) are duly elected and qualified:

Andrew M. Coden
Jack R. Carnahan
Laurie Cole
Joyce E. Kuhn
Phyllis Ziegenfelder

IN WITNESS WHEREOF, the undersigned has executed this Written Instrument as of the date and year first above written.



Jeffrey L. Goldfarb

**AMENDMENT TO BYLAWS
OF
FAIRWAY PINES AT PHEASANT RUN SUBDIVISION ASSOCIATION**

Article XVII of the Bylaws of Fairway Pines at Pheasant Run Subdivision Association, a Michigan nonprofit corporation (the "Corporation"), was amended in its entirety by unanimous written consent of the sole Class A Member of the Corporation, dated as of the ____ day of February, 1996, to read as follows:

**"ARTICLE XVII
INDEMNIFICATION**

Section 1. Indemnification of Director, Officer, Partner, Trustee, Employee, Nondirector Volunteer or Agent: Claims by Third Parties. The Association shall, to the fullest extent authorized or permitted by the Michigan Nonprofit Corporation Act (the "Act") or other applicable law, as the same presently exists or may hereafter be amended, indemnify a person ("Indemnatee") who was or is a party or is threatened to be made a party to a 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 Indemnatee 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, nondirector volunteer or agent of another foreign or domestic corporation, business corporation, partnership, joint venture, trust, or other enterprise, whether for profit or not for profit, against expenses, including attorneys' fees, judgments, penalties, fines, and amounts paid in settlement actually and reasonably incurred by Indemnatee in connection with the action, suit, or proceeding, if Indemnatee acted in good faith and in a manner Indemnatee 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 Indemnatee had no reasonable cause to believe the 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, does not, of itself, create a presumption that Indemnatee did not act in good faith and in a manner which Indemnatee 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.

Section 2. Indemnification Against Expenses of Director, Officer, Partner, Employee, Nondirector Volunteer or Agent: Claims Brought by or in the Right of the Association. The Association shall, to the fullest extent authorized or permitted by the Act or other applicable law, as the same presently exists or may hereafter be amended, indemnify an Indemnatee who was or is a party to or is threatened to be made a party to a threatened, pending, or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that Indemnatee 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, nondirector volunteer or agent of another foreign or domestic corporation, business corporation, partnership, joint venture, trust, or other enterprise, whether for profit or not, against expenses, including actual and reasonable

attorneys' fees, and amounts paid in settlement incurred by Indemnatee in connection with the action or suit, if Indemnatee acted in good faith and in a manner Indemnatee reasonably believed to be in or not opposed to the best interests of the Association or its members. However, indemnification under this Section shall not be made for a claim, issue, or matter in which Indemnatee has been found liable to the Association unless and only to the extent that the court in which the action or suit was brought has determined upon application that, despite the adjudication of liability but in view of all circumstances of the case, Indemnatee is fairly and reasonably entitled to indemnification for the expenses which the court considers proper.

Section 3. Actions Brought by Indemnatee. Notwithstanding the provisions of Sections 1 and 2 of this Article, the Association shall not indemnify an Indemnatee in connection with any action, suit, proceeding or claim (or part thereof) brought or made by such Indemnatee; unless such action, suit, proceeding or claim (or part thereof) (i) was authorized by the Board of the Association, or (ii) was brought or made to enforce this Article and such Indemnatee has been successful in such action, suit, proceeding or claim (or part thereof).

Section 4. Approval of Indemnification. An indemnification under Sections 1 or 2 of this Article, unless ordered by a court, shall be made by the Association only as authorized in the specific case upon a determination that indemnification of Indemnatee is proper in the circumstances because Indemnatee has met the applicable standard of conduct set forth in Sections 1 and 2 of this Article. This determination shall be made promptly in any of the following ways:

- (a) By a majority vote of a quorum of the board consisting of directors who were not parties to the action, suit, or proceeding.
- (b) If the quorum described in subdivision (a) is not obtainable, then by a majority vote of a committee of directors who are not parties to the action. The committee shall consist of not less than two (2) disinterested directors.
- (c) By independent legal counsel in a written opinion.
- (d) By the Members.

Section 5. Advancement of Expenses. Expenses incurred in defending a civil or criminal action, suit, or proceeding described in Sections 1 or 2 of this Article shall be paid by the Association in advance of the final disposition of the action, suit, or proceeding upon receipt of any undertaking by or on behalf of Indemnatee to repay the expenses if it is ultimately determined that Indemnatee is not entitled to be indemnified by the Association. The undertaking shall be by unlimited general obligation of the person on whose behalf advances are made but need not be secured.

Section 6. Partial Indemnification. If an Indemnatee is entitled to indemnification under Sections 1 or 2 of this Article for a portion of expenses including attorneys' fees, judgments, penalties, fines, and amounts paid in settlement, but not for the total amount thereof, the Association shall indemnify Indemnatee for the portion of the expenses, judgments, penalties, fines, or amounts paid in settlement for which Indemnatee is entitled to be indemnified.

Section 7. Indemnification of Employees, Nondirector Volunteers and Agents. Any person who is not covered by the foregoing provisions of this Article and who is or was an employee, nondirector volunteer or agent of the Association, or is or was serving at the request of the Association as a trustee, director, officer, employee, nondirector volunteer or agent of another foreign or domestic corporation, business corporation, partnership, joint venture, trust, or other enterprise, whether for profit or not for profit, may be indemnified to the fullest extent authorized or permitted by the Act or other applicable law, as the same exist or may hereafter be amended, but in the case of any such amendment, only to the extent such amendment permits the Association to provide broader indemnification rights than before such amendment, but in any event only to the extent authorized at any time or from time to time by the Board.

Section 8. Other Rights of Indemnification. The indemnification or advancement of expenses provided under Sections 1 to 7 of this Article is not exclusive of other rights to which a person seeking indemnification or advancement of expenses may be entitled under the Articles of Incorporation, these Bylaws, or a contractual agreement. However, the total amount of expenses advanced or indemnified from all sources combined shall not exceed the amount of actual expenses incurred by the person seeking indemnification or advancement of expenses. The indemnification provided for in Sections 1 to 7 of this Article continues as to a person who ceases to be a trustee, director, officer, employee, nondirector volunteer or agent and shall inure to the benefit of the heirs, executors, and administrators of the person.

Section 9. Liability Insurance. The Association shall have the power to purchase and maintain insurance on behalf of any person who 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 trustee, director, officer, employee, nondirector volunteer or agent of another corporation, business corporation, partnership, joint venture, trust or other enterprise against any liability asserted against the person and incurred by the person in any such capacity or arising out of the person's status as such, whether or not the Association would have the power to indemnify the person against such liability under the provisions of the Act.

Section 10. Contract with the Association. The right to indemnification conferred in this Article shall be deemed to be a contract between the Association and each director, officer, partner, trustee, employee, nondirector volunteer or agent who serves in any such capacity at any time while this Article is in effect, and any repeal or modification of any such law or of this Article shall not affect any rights or obligations then existing with respect to any state of facts then or theretofore existing or any action, suit or proceeding theretofore or thereafter brought or threatened based in whole or in part upon any such state of facts. In the event this Article is repealed or modified, the Association shall give written notice thereof to any director, officer, partner, trustee, employee, nondirector volunteer or agent and any such repeal or modification shall not be effective for a period of sixty (60) days after such notice is delivered.

Section 11. Application to a Resulting or Surviving Corporation or Constituent Corporation. The definition for "corporation" found in Section 569 of the Act, as the same exists or may hereafter be amended, is and shall be, specifically excluded from application to this Article. The indemnification and other obligations of the Association set forth in this Article shall be binding upon any resulting or surviving corporation after any merger or consolidation of the Association. Notwithstanding anything to the contrary contained herein or

in Section 569 of the Act, no person shall be entitled to the indemnification and other rights set forth in this Article for acting as a director, officer, partner, trustee, employee, nondirector volunteer or agent of another corporation prior to such other corporation entering into a merger or consolidation with the Association.

Section 12. Definitions. "Other enterprises" shall include employee benefit plans; "fines" shall include any excise taxes assessed on a person with respect to an employee benefit plan; and "serving at the request of the Association" shall include any service as a director, officer, employee, nondirector volunteer or agent of the Association which imposes duties on, or involves services by, the director, officer, employee, nondirector volunteer or agent with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner he or she reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be considered to have acted in a manner "not opposed to the best interests of the Association or its members" as referred to in Sections 1 and 2 of this Article.

Section 13. Severability. Each and every paragraph, sentence, term and provision of this Article shall be considered severable in that, in the event a court finds any paragraph, sentence, term or provision to be invalid or unenforceable, the validity and enforceability, operation, or effect of the remaining paragraphs, sentences, terms, or provisions shall not be affected, and this Article shall be construed in all respects as if the invalid or unenforceable matter had been omitted."

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