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STATE OF IOWA, Pottawattamie County
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By John Scortino Recorder
George Farnage Deputy

BY LAWS

OF

WILSHIRE HEIGHTS SUBDIVISION
HOMEOWNERS ASSOCIATION

ARTICLE I
ORGANIZATION

1.01 INCORPORATION. Wilshire Heights Subdivision Homeowners Association is incorporated under Chapter 504A of the Code of Iowa as a nonprofit corporation. The members shall consist of the Lot Owners in Wilshire Heights Subdivision.

1.01a ONE OWNER. The Owner of each Lot shall be defined as one Owner. The voting rights of such Owner shall be as set forth below.

1.02 PRINCIPAL OFFICE. A Member of the Association shall be designated by the Board to receive service of process for the Association, and the principal office of the Association shall be at such suitable place convenient to the Owners as may be designated by the Board. All meetings of the Association shall be held in its principal office unless some other place is stated in the call.

1.03 VOTING RIGHTS. Each Lot shall have one vote and there shall be one voting Member for each Lot Ownership. Such voting Member may be the Owner or the group composed of all the Owners of a Lot Ownership, or may be some person designated by such Owner or Owners to act as proxy on his or her or their behalf and who need not be an Owner. Such designation shall be made in writing to the Board of Directors (hereinafter sometimes referred to as the Board) of the Association, and shall be revocable at any time by actual notice to the Board of the death or judicially declared incompetence of any designator, or by written notice to the Board by the Owner or Owners so designating. Any or all of such Owners may be present at any meeting of the voting Members and (those constituting a group acting unanimously) may vote or take any other action as a voting Member either in person or by proxy.

1.04 MEETINGS OF MEMBERS

1.04a QUORUM. The presence in person or by proxy at any meeting of the voting Members having a majority of the total votes shall constitute a quorum.

1.04b ACTION. Unless otherwise expressly provided herein, any action may be taken at any meeting of the voting Members upon the affirmative vote of the voting Members having a majority of the total votes present at such meeting.

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1.04c ANNUAL MEETING. There shall be an annual meeting of the Members on the third Thursday of April of each year at 7:30 p.m. at the principal office, or other time (not more than thirty(30) days before or after such date) and place, as may be designated by written notice of the Board delivered to the voting Members not less than five (5) nor more than twenty (20) days prior to the date fixed for said meeting.

1.04d SPECIAL MEETING. Special meetings of the voting Members may be called at any time for the purpose of considering matters which, by the terms of the By Laws of the Association, require the approval of all or some of the voting Members, or for any other reasonable purpose. Said meetings shall be called by written notice, authorized by a majority of the Board, or by the voting Members having one-third (1/3) of the total votes, and delivered not less than five (5) nor more than twenty (20) days prior to the date fixed for said meeting. The notice shall specify the date, time and place of the meeting and the matters to be considered.

1.05 NOTICES OF MEETINGS OF MEMBERS. Notices of meetings required to be given herein may be delivered either personally or by mail to the persons entitled to vote thereat, addressed to each such person at the address given by him to the Board for the purpose of service of such notice, or to the Lot of the Owner with respect to which such voting right appertains, if no address has been given to the Board.

1.06 BOARD OF DIRECTORS

1.06a ELECTION AND NUMBER. The voting Members shall at each annual meeting, by a majority of the total votes present at such meeting, elect Directors for the forthcoming year. The Board of Directors shall consist of nine (9) owners, all of whom must reside in the subdivision. No more than two (2) Directors from the same street shall serve together on the Board.

1.06b QUORUM, TERM AND COMPENSATION. A quorum shall consist of five (5) members of the Board. Members of the Board shall serve for a term of three (3) years or until their successors are elected. The term of each Director shall begin on May 1 of the year of election. No Director shall be paid compensation for service on the Board.

1.06c ORDER AND VACANCIES. Except as otherwise provided, the Board shall act by the affirmative vote of at least five (5) members. Vacancies in the Board may be filled by the affirmative vote of at least five (5) of the remaining members thereof.

1.06d CALL. Meetings of the Board may be called, held and conducted in accordance with such regulations as the Board may adopt.

1.06e FIRST BOARD. The first Board shall determine among

themselves which three (3) Directors will serve a term of only one (1) year and which three (3) Directors will serve a term of only two (2) years, so that there will be staggered terms for the Directors with one-third (1/3) of the Board elected at each annual meeting.

1.06f OFFICERS AND DUTIES. The Board shall elect from among its members a President, Vice-President, Secretary and Treasurer. The President shall preside over Board meetings and meetings of the voting Members. The Vice-President shall serve in the absence of the President. The Secretary shall keep the Association records, including the minute book wherein the resolutions shall be recorded. The Treasurer shall keep the financial records.

1.06g FIDELITY BONDS. The Board of Directors may require that all officers and employees of the Association handling or responsible for the Association funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Association.

1.06h REMOVAL OF BOARD MEMBERS. Any Board member may be removed from office by affirmative vote of the voting Members of the Association having at least two-thirds (2/3) of the total votes at any special meeting called for that purpose, and a successor to fill the unexpired term of a Board member removed may be elected by majority vote of the voting Members of the Association at the same meeting or any subsequent meeting called for that purpose.

1.06i BOARD LIABILITY. The Directors from time to time constituting the Board shall not be liable to the Members for any mistake of judgment, or for any acts made in good faith, or for any omissions to act omitted in good faith as such Directors.

1.06j VOTING RIGHTS SUSPENDED. The Board may suspend the voting rights and any right to the use of any common areas or 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 published rules and regulations and restrictive covenants. Such suspension shall not prohibit the ingress and egress of a Member to his or her Lot.

1.06k ACTION TAKEN WITHOUT A MEETING. The Board members shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Board members. Any action so approved shall have the same effect as though taken at a meeting of the Board of Directors.

1.06l LIAISON. Each Board member will serve as the liaison for Lot Owners on that Board member's street, and will receive and communicate complaints or requests from such Lot Owners

to the Board. The President shall designate a Board member to serve as the liaison for the Lot Owners on any street unrepresented on the Board.

ARTICLE II GENERAL POWERS

2.01 GENERAL POWERS OF ASSOCIATION. The Association, for the benefit of all the Owners, through its Board of Directors, shall have the power to acquire and shall pay for out of the maintenance fund hereinafter provided, the following:

2.01a STREETS. Management, maintenance, repair, upkeep, and general operation of the existing platted streets in the Subdivision.

2.01b INSURANCE-PROPERTY. A policy or policies of fire insurance, with extended coverage, vandalism and malicious mischief endorsements, for the full insurable replacement cost of all improvements on any common areas, including all personal property included within any common area, except such personal property as may be owned by the Owners, and such other insurance policies as shall afford coverage against such other risks as from time to time customarily shall be covered with respect to buildings and grounds similar in construction and use. Such insurance shall be in a form and amount satisfactory to any first mortgagee of the Association. Such insurance shall be written for the benefit of the Association, the Owners, and the respective mortgagees as their interests may appear, and shall provide for the issuance of certificates and mortgage endorsements to the holders of mortgages on any common areas. Such insurance policies should provide that the insurer waives its rights of subrogation as to any claims against the Owners, the Association and their respective employees, servants, agents and guests, and such policies should provide that all proceeds payable as a result of casualty losses be paid to the Association and be held and disbursed by the Association as may be required by these By Laws. Each Owner may obtain insurance, at his or her own expense, affording coverage against loss of his or her personal property and against personal liability, but all such insurance should contain the same waiver of subrogation as set forth above. All original policies of casualty insurance purchased by the Association shall be delivered into the possession of the Association. The Association shall upon request certify to any Owner, to any prospective purchaser of a Lot, and to any mortgagee or prospective mortgagee of a Lot, a complete statement as to the insurance policies held by it showing the identity of the policies, the expiration dates thereof, and the amount and type of insurance. A uniform fee approved by the Association may be charged by the Association for each such certificate furnished.

2.01c INSURANCE-LIABILITY. A policy or policies insuring the Association, the members of the Board and the Owners against any liability to the public or to the Owners of Lots, their invitees or tenants, incident to the ownership and/or use of the

streets and any common areas or facilities.

2.01d INSURANCE-COMPENSATION. Workmen's compensation insurance to the extent necessary to comply with any applicable laws.

2.01e FIDELITY BOND. If required by the Board, any fidelity bond covering any officer or employee of the Association in an amount to be determined by the Board.

2.01f COMMON AREAS OR FACILITIES. Maintenance and repair of any common areas or facilities, and such furnishings, equipment and utility services for any common areas or facilities as the Board may determine are necessary and proper.

2.01g MISCELLANEOUS. Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance or assessments which the Association is required to secure or pay for pursuant to the terms of these By Laws, or which in its opinion shall be necessary or proper for the maintenance and operation of Wilshire Heights Subdivision as a first class residential area, or for the enforcement of these By Laws and any published rules and regulations and restrictive covenants.

2.01h SATISFACTION OF LIENS. Any amount necessary to discharge any mechanic's lien or other encumbrance levied against the entire subdivision, or any part thereof which may in the opinion of the Association constitute a lien against the subdivision, or against any common areas (rather than merely against the interests therein of particular Owners) may be satisfied by the Association. Where one or more Owners are responsible for the existence of such lien, they shall be liable for the cost of discharging it and any costs incurred whatsoever by the Association by reason of such lien, and such lien and costs shall be allocated fairly among such Owners upon the sole judgment of the Board of Directors and shall be specially assessed to such Owners.

2.01i EXPENSES DUE TO OWNER'S NEGLECT. Maintenance and repair of any particular Owner's structure or Lot if such maintenance or repair is necessary, in the discretion of the Association, to protect the appearance of the subdivision or the health and safety of the other Owners, and the Owner of said Lot has failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair is delivered by the Association to said Owner, provided that the Association shall levy a special assessment against the Lot of such Owner for the cost of said maintenance or repair.

2.02 ENTRY WITHIN LOTS. The Association or its agents may enter any Lot when necessary in connection with any maintenance or construction for which the Association is responsible. Such entry

shall be made with as little inconvenience to the Owners as practicable, and any damage caused thereby shall be repaired by the Association at the expense of the maintenance fund.

2.03 CAPITAL ADDITIONS OR IMPROVEMENTS LIMITED. The Association shall have no authority to acquire and pay for out of the maintenance fund any structural alteration, capital addition or improvement having a total cost in excess of Five Thousand (\$5,000) Dollars, not covered by insurance, without in each case obtaining the prior approval of the voting Members of the Association holding a majority of the total votes present at any regular or special meeting called for that purpose.

2.04 ADOPTION OF RULES AND REGULATIONS AND RESTRICTIVE COVENANTS. The Association, by vote of the voting Members having a majority of the total votes present at a meeting, may adopt such reasonable rules and regulations and restrictive covenants as it may deem advisable for the maintenance, conservation and beautification of the subdivision, and for the health, comfort, safety and general welfare of the Owners and occupants of the subdivision. Written notice of such rules and regulations and restrictive covenants shall be given to all Owners and occupants, and the entire subdivision shall at all times be maintained subject to such rules and regulations and restrictive covenants.

2.05 LIMITATIONS ON POWERS OF THE ASSOCIATION. Nothing hereinabove contained shall be construed to give the Association authority to conduct any business for profit on behalf of all the Owners or any of them.

ARTICLE III ASSESSMENTS-ESTIMATED CASH REQUIREMENT

3.01 ASSESSMENTS-PROPORTIONATE SHARE BY LOT OWNER. Each Lot Owner shall be liable for a proportionate share of the cost of maintaining any common areas or facilities and the streets, which shall be payable semiannually. Such cost shall be a proportionate share of the actual costs as determined by the Board of the Association and shall continue until a first budget is arranged as hereinafter provided.

3.02 PROCEDURE. After the first year of operation of the Association, the following procedures shall govern:

3.02a ANNUAL BUDGET. Each year on or before April 15th, the Board shall estimate the total amount necessary to pay the cost of wages, materials, insurance, services and supplies which will be required during the upcoming fiscal year for the rendering of all services, together with a reasonable amount considered by the Board to be necessary for a reserve for contingencies and capital replacements, and the Board shall notify each Owner in writing as to the amount of such estimate, with reasonable itemization thereof, before the annual meeting of the Members of the

Association. On May 1st and on November 1st, each Owner shall be obligated to pay to the Association (or as it may direct) one-half (1/2) of the assessment made pursuant to this paragraph. The portion of each such assessment payment attributable to reserves shall be deemed a contribution by the Owner to the capital of the Association. A reasonable late charge (not exceeding \$1.00 per day) may be added to such assessments by action of the Board after the fifth (5th) day of the month in which said assessment is due. On April 30th, or as soon as practicable thereafter, the Association shall supply to all Owners an itemized accounting of the maintenance expenses for the preceding fiscal year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the estimates provided, and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited to the next installment due from each Lot Owner under the current fiscal year's estimate in proportion to his or her assessment for the preceding fiscal year, until exhausted, and any net shortage shall be added in like proportion to the installment due from each Lot Owner in the succeeding one-half year after rendering of the accounting.

3.02b RESERVE FUNDS. The Association shall build up and maintain a reasonable reserve for contingencies and replacements. Extraordinary expenditures not originally included in the annual estimate which may become necessary during the year shall be charged first against such reserve. If said "estimated cash requirement" proves inadequate for any reason, including non-payment of any Owner's assessment, the Association may at any time levy a further assessment, which shall be assessed to the Owners according to the formula set forth in paragraph 3.02a. The Association shall serve notice of such further assessment on all Owners by a statement in writing giving the amount and reasons therefor, and such further assessment shall become effective with the payment which is due more than ten (10) days after the delivery or mailing of such notice of further assessment. All Owners shall be obligated to pay the adjusted assessment. The reserve fund shall be the property of the Association, and no part thereof shall be refunded to any Member.

3.02c REVISED YEARLY ASSESSMENTS. When the first Board takes office hereunder, the Association shall determine the "estimated cash requirement" as hereinabove defined, for the period commencing thirty (30) days thereafter and ending on April 30 of the next calendar year. Assessments shall be levied against the Owners during said period as provided in paragraph 3.02a of this Article.

3.02d DELAYS IN ESTABLISHING REVISED ASSESSMENTS. The failure or delay of the Board or the Association to prepare or serve the annual or adjusted estimate on the Owner shall not constitute a waiver or release in any manner of such Owner's obligation to pay the assessment as herein provided, whenever the same shall be determined, and in the absence of any annual estimate

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or adjusted estimate, the Owner shall continue to pay the assessment at the then existing rate established for the previous period until the assessment which is due more than ten (10) days after such new annual or adjusted estimate shall have been mailed or delivered.

3.02e ACCOUNTING. The Association shall keep full and correct books of account, and the same shall be open for inspection by any Owner or any representative of an Owner duly authorized in writing, at such reasonable time or times during normal business hours as may be requested by the Owner.

3.02f FUNDS COLLECTED. All funds collected hereunder shall be held and expended by the Association for the purposes designated herein.

3.02g OWNER IN DEFAULT. If an Owner is in default in the payment of any assessment for thirty (30) days, the Association may at its option accelerate all payments for the balance of the budget period and may bring suit for and on behalf of itself and as representative of all Owners, to enforce collection thereof or to foreclose the lien therefor as hereinafter provided; and there shall be added to the amount due the costs of said suit, together with legal interest at the rate provided by law on open accounts and reasonable attorneys' fees to be fixed by the Court. The amount of any delinquent and unpaid charges or assessments, interest, costs and fees as above provided shall be a lien or charge against the Lot Ownership of the Owner involved and may be foreclosed against the Lot of the Owner. Said lien shall take effect and be in force from and after the time of filing a notice of such lien of record in the office of the Recorder of Pottawattamie County, Iowa, and not before, as to all creditors and subsequent purchasers without actual notice. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of any common areas or facilities, or by abandonment of any Lot. Amendments to this paragraph 3.02g shall only be effective upon written consent of Members having seventy percent (70%) of the votes.

3.02h SAME-NOTICE TO FIRST MORTGAGEE. If an Owner is in default in the payment of any assessment for thirty (30) days, the Association may thereupon post written notice of such default to the first mortgagee, if any, of such defaulting Owner.

ARTICLE IV AMENDMENTS AND MISCELLANEOUS

4.01 AMENDMENTS TO BY LAWS. Except as otherwise provided herein, any of these By Laws except Section 1.03 of Article I hereof may be amended only upon the affirmative vote of two-thirds (2/3) of the Members of the Association present at any regular or special meeting of the Members, provided that notice of the proposed amendment is given to all Members in writing at least ten

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(10) days prior to such meeting. Section 1.03 of Article I hereof may not be amended except by unanimous consent of all Lot Owners.

Dated this 30th day of June, 1993.

WILSHIRE HEIGHTS SUBDIVISION
HOMEOWNERS ASSOCIATION

BY James L. Ficek
JAMES L. FICEK, President

STATE OF IOWA, POTTAWATTAMIE COUNTY, ss:

On this 30th day of JUNE, A.D. 19 93, before me, the undersigned, a Notary Public in and for said county and said state, personally appeared

JAMES L. FICEK

to me known to be the identical persons named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

Michael A. Dennis

Notary Public in and for said County and said State



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