

**BY-LAWS OF**  
**RIVERGATE SUBDIVISION ASSOCIATION**

**ARTICLE I**  
**NAME AND LOCATION**

The name of the corporation is Rivergate Subdivision Association, hereinafter referred to as the "Association." The principal office of the corporation shall be located at the principal residence of the President of the Board of Directors, but meetings of members and directors may be held at such places within the State of Michigan, County of Macomb, as may be designated by the Board of Directors. The mailing address for the Association shall be P.O. Box 46113, Mount Clemens, MI 48046-6133.

**ARTICLE II**  
**DEFINITIONS**

Section 1. "Association" shall mean and refer to Rivergate Subdivision Association, its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions and Restrictions, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 6. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the office of the Macomb County Register of Deeds.

Section 7. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

Section 8. "Contiguous Properties" shall mean platted residential subdivisions, or portions thereof, adjacent to Rivergate Subdivision and not described in the Declaration.

### **ARTICLE III MEETING OF MEMBERS**

Section 1. **Annual Meetings.** An annual meeting of the members of the Association shall be held on or before June 15<sup>th</sup> of each year. The meeting shall be presided over by the President and shall include an introduction of all Board members, an announcement of the standing committees, and a general open forum for residents to express concerns or suggestions.

Section 2. **Special Meetings.** Special meetings of the members may be called at any time by the President or by the Board of Directors, or upon written request of one-fourth (1/4) of the members who are entitled to vote.

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 maintaining a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to 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. Such notice shall specify the place, day and hour of the meeting, and in the case of a special meeting, the purpose of the meeting.

Section 4. **Quorum at Special Meetings.** The presence at the meeting of the members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes 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 Special Meetings.** 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 IV BOARD OF DIRECTORS: SELECTION: TERM OF OFFICE**

Section 1. **Number.** The affairs of this Association shall be managed by a Board of Directors consisting of nine (9) regular members and two alternates, all of whom must be members of the Association.

Section 2. **Term of Office.** At each annual election, a minimum of six (6) regular directors and two (2) alternate directors shall be elected. The three (3) nominees receiving the most number of votes shall serve for two (2) years each, the three (3) nominees receiving the next highest number of votes shall serve for one (1) year each, and the last two (2) elected

nominees shall be the alternate directors and shall serve for one year. Their term of office shall be from May 1 following the election through April 30 of the following year.

Section 3. **Removal.** Any director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation, or removal of a director, his successor shall be determined in accordance with the provisions of Section 6 of this Article.

Section 4. **Compensation.** No director 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.

Section 5. **Action Taken Without a Meeting.** The directors 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 by all the directors of a written proposal. Any action so approved shall have the same effect as though taken at a meeting of the directors.

Section 6. **Vacancies.** Any Board member who wishes to resign from the Board must do so in writing and submit the letter to any officer of the Board. The letter must specify the effective date of the resignation.

(a) If a Board member resigns or is removed during the first year of a two (2) year term, the director receiving the next highest number of votes from the previous election of Board members serving one year terms shall fulfill the remainder of the two (2) year term of the resigning member. The alternate receiving the most votes shall then be called upon to serve out the remainder of the one (1) year term.

(b) If, for any reason, the first and second alternates have assumed positions as regular Board members, or are unable to assume said position, the nominee(s) receiving the next progressive number of votes in the previous election of directors would successively fill any Board vacancy(s) if same should occur during the Board term.

Section 7. **Alternates.** Alternates may attend all Board meetings, and will be allowed to vote in the place of an absent, regular Board member, provided the alternate has not missed more than three (3) meetings. The president shall designate which alternate will be the voting member for the specific meeting at which an alternate is allowed to vote. Under no other circumstances shall an alternate be allowed to vote at Board meeting. An alternate's presence at a meeting shall not be counted in order to determine a quorum.

## **ARTICLE V NOMINATION AND ELECTION OF DIRECTORS**

Section 1. **Nomination.** Nominations and elections for the Board of Directors shall be conducted by the Elections Committee, consisting each year of the three (3) Board members whose terms transcended that election year and are therefore not running for re-election.

Section 2. **Election.** Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted. The Board seated at the time of the election shall by secret ballot and simple majority break all ties regarding the certification of election results concerning new Board members.

Section 3. **Election Process.** The election process shall take approximately six weeks as follows:

- (a) An announcement of the election and request for nominations shall be mailed to all members not later than March 15 of each year.
- (b) Nominations shall close by April 5. The Election Committee shall confirm all nominations with the nominees.
- (c) Ballots shall be mailed to all members within two (2) weeks of the closing of nominations.
- (d) Ballots shall be returned to the Election Committee within two (2) weeks after they are distributed.
- (e) The Election Committee shall count the ballots and report the results at a special meeting of the Board for election certification.
- (f) Results of the election shall be publicly announced by the Election Committee within two (2) weeks of the closing of balloting.

## **ARTICLE VI MEETING OF DIRECTORS**

Section 1. **Regular Meetings.** Regular meetings of the Board of Directors shall be held monthly without notice, at such place and hour as may be fixed at the May transition meeting by resolution of the Board. Should said meeting fall upon a Sunday or legal holiday, then that meeting shall be held at a time set by resolution of the Board.

Section 2. **Special Meetings.** Special meetings of the Board of Directors shall be held when called by the President or Secretary, or upon written request of three (3) directors. Notice shall be given directly to each Board member either personally or by phone. Notice shall state the time, place and purpose of the special meeting.

Section 3. **Quorum.** A minimum of six (6) directors must be present to constitute a quorum for the transaction of business at all Board meetings. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Section 4. **Transition.** The regular May meeting of the Board shall be the Transition Meeting. All Board members, outgoing and newly elected, shall attend. The agenda for the

meeting shall include the election of new officers and the setting of dates for regular Board meetings for the next twelve (12) months. Prior Board members who will not be serving on the newly formed Board may not vote for new officers. The meeting shall also include the appointment of standing committee chairpersons, and the transfer of all records from prior members to members-elect.

Section 5. **Meeting Rules.** In the absence of a specific By-Law regarding meetings, meetings of the Board of Directors, or meetings of members, said meeting will be conducted according to Roberts Rules of Order.

## **ARTICLE VII POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

Section 1. **Powers.** The Board of Directors shall have the power 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 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 suspend after notice and hearing, for a period not to exceed sixty (60) days for infraction of 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 provision of these By-Laws, the Articles of Incorporation, or the Declaration;
- (d) Declare the office of a member of the Board of Directors to be vacant in the event such member be absent from two (2) consecutive regular meetings of the Board of Directors, or three (3) meetings during their term, by a majority vote of the Board of Directors;
- (e) Employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties;
- (f) Promote the interests, welfare, educational opportunities, safety and advancement of the property and members of the Association;
- (g) Pursue the common concerns of the members and act on their behalf;
- (h) Approve, by two thirds (2/3) majority vote of the Board of Directors, the including of Contiguous Properties into the jurisdiction of the

Association.

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

- (a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members or at any special meeting which such statement is requested in writing by one-fourth (1/4) of the members who are entitled to vote;
- (b) Supervise all officers, agents, and employees of this Association, and to see that their duties are properly performed;
- (c) As more fully provided in the Declaration to:
  - (i) Fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each annual assessment period;
  - (ii) Send written notices of each assessment to every owner subject thereto at least thirty (30) days in advance of each annual assessment period; and
  - (iii) Foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring 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 all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;
- (g) Cause the Common Area to be maintained.

**ARTICLE VIII  
OFFICERS AND THEIR DUTIES**

Section 1. **Enumeration of Officers.** The officers of this Association shall be a president and vice president, who shall at all times be members of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. **Election of Officers.** The election of officers shall take place at the first meeting of the Board of Directors at the Transition Meeting held in May of each year.

Section 3. **Term.** The officers of this Association shall be elected annually by the Board and each shall hold office for one year unless he shall sooner resign, or shall be removed, or otherwise be disqualified to serve.

Section 4. **Special Appointments.** The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may from time to time determine.

Section 5. **Resignation and Removal.** Any officer may be removed from office with or without cause by a two-thirds (2/3) vote of the Board. Any officer may resign at any time giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. **Vacancies.** A vacancy in any office may be filled by appointment by a majority vote of the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. **Multiple Officers.** The offices of secretary and treasurer may be held by the same person. No person shall simultaneous hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. **Duties.** The duties of the officers are as follows:

#### **PRESIDENT**

(a) The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

#### **VICE-PRESIDENT**

(b) The vice-president shall act in the place and stead of the president in the event of the president's absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required by the Board.

## SECRETARY

(c) The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses; carry on the correspondence of the Board; keep the files and records of all correspondence and communications; publish and distribute to all Board members minutes of the Board meetings no later than ten (10) days prior to the next regularly scheduled Board meeting; and shall perform such other duties as required by the Board.

## TREASURER

(d) The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by the President and a designated member of the Board at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to members upon request.

## ARTICLE IX COMMITTEES

The Association shall appoint an Election Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed necessary in carrying out its purpose. Chairpersons of each committee must be Board members but members of each committee may be chosen from among the Association members.

## ARTICLE X BOOKS AND RECORDS

Section 1. **Access.** The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation, and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

Section 2. **Retention of Records.** All books, records and papers of the Association, to

include the Declaration, By-Laws, Articles of Incorporation, all meeting minutes, correspondence, bids, contracts, and reports for the current year and the six (6) calendar years prior to the election of the current Board shall be maintained by the Secretary. At the end of each Secretary's term of office, all records shall be turned over to the Secretary-elect.

Section 3. **Mailing List.** The names and addresses of all homeowners within the Rivergate Homeowners Association are for the exclusive use of official Association mailings. No other person or organization will be allowed to use said mailing list.

## **ARTICLE XI ASSESSMENTS**

Section 1. As more fully provided in the Declaration, each member is obligated to pay to the association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after due date, the assessment shall bear interest from the date of delinquency at the rate of seven (7%) percent per annum, and the Association may bring an action at law against the owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs and reasonable attorney fees of any such action shall be added to the amount of such assessment. If said assessment is remitted to the Association with insufficient funds, the member will be assessed a \$25 return check fee as well as current bank non-sufficient funds (NSF) charges incurred by the Association. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his lot.

Section 2. Removal of a lien placed by the Rivergate Homeowners Association on a lot located within the subdivision shall be done according to either of the following procedures:

(a) The Treasurer of the Association will, within ten (10) days of receipt of a cashier's check or money order from the owner of the lot for the amount owed, deliver a notarized release of lien form, signed by the President (or Vice-President) of the Association, to either the Macomb County Register of Deeds, or to Greco Title Co. (for the purpose of recording it with the Register of Deeds).

(b) The Treasurer of the Association will, within ten (10) days of notification by a title company (Greco, Lawyers Title, etc.) that funds equal to the amount owed will be withheld at a closing of sale of the lot upon which a lien is in place and subsequently delivered to the Rivergate Homeowners Association, deliver a notarized release of lien form, signed by the President (or Vice-President) of the Association, to either the Macomb County Register of Deeds, or to Greco Title Co. (for the purpose of recording it with the Register of Deeds).

## **ARTICLE XII**

## **AMENDMENTS**

Section 1. Proposed amendments and/or additions to these By-Laws shall be submitted in writing by any member to the Board. The Board must approve the proposal by a two-thirds (2/3) majority in order for the By-Law proposal to be adopted.

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

## **ARTICLE XIII MISCELLANEOUS**

The fiscal year of the Association shall begin on the first day of January and end on the 31<sup>st</sup> day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

Adopted January 8, 1991  
Amended October 6, 1992  
Amended April 4, 1994  
Amended September 6, 1994  
Amended December 2, 1997 (Article VI, Section 5)  
Amended May 3, 1999 (Article VI, Section 2 and Article VII, Section 1, item (d))  
Amended March 5, 2002 (Article XI, Section 1)