

Symphony Hills Homes Association
Bylaws

Adopted January 13, 2004

DEFINITIONS OF TERMS USED

The term "District" as used in this Declaration shall mean all of the real property described in the Symphony Hills Declaration of Restrictions document and all attached plat filings in Johnson County, Kansas. The term "Lot", as used herein, shall mean any numbered lot as platted, which may consist of one or more numbered lots or part or parts of one or more numbered lots, as platted, upon which a residence may be erected in accordance with the "Restrictions" hereinafter defined. The term "Association" shall mean and refer to the Symphony Hills Homes Association. The term "Public Place" as used herein shall be deemed to mean all streets, and similar places the use of which is expressly dedicated to or set aside for the use of which is expressly dedicated to or set aside for the use of the general public on said plats. The term "Common Areas" as used herein shall be deemed to mean any tract, designated as such on said plats, located within the District as it exists from time to time, which tracts shall be owned, managed and maintained by the Symphony Hills Homes Association for the use, benefit and enjoyment of the present and future owners of land within the District. The term "Owners" as used herein shall mean those persons or corporations who may from time to time own land within the District. The term "Restrictions" as used herein shall specifically include those contained in the "Declaration of Restrictions" of Symphony Hills, filed in the Office of the Register of Deeds, Johnson County, Kansas, on February 3, 1998, as Document 2787919, in Book 5448, Page 696 and all amendments thereto.

ARTICLE I: MEMBERSHIP

Section 1. Membership. Membership in the Association shall be limited to any person or entity who is the owner of any piece of land, as platted, which is now or hereafter within the boundaries of the Symphony Hills subdivision. Members in the Association shall be bound by the Declaration of Restrictions. Symphony Hills Homes Association officers shall be the sole judge of the qualifications of its members and of their right to participate in its meetings and proceedings.

Section 2. Suspension of membership. Membership and voting rights may be suspended for any period during which any assessment, described herein, including interest and fees, remains unpaid.

Section 3. Voting Rights. Each owner of a lot in Symphony Hills shall be entitled to one vote for each lot owned by him, her or it in fee simple title.

Section 4. Voting. At any regular or special meeting of the Association, members may cast their vote in person or by proxy.

Section 5. Participation. Except as hereinbefore provided, the Association shall be the sole judge of the qualification of its members and of their rights to participate in its meetings and proceedings.

Section 6. Land Entitled to Benefits. No land shall be entitled to any of the benefits, improvements or services provided by the Association unless the owner thereof shall have subjected his, her or its land to the terms of this Declaration and to the assessments herein provided for. For purposes hereof, accepting title to land within the District shall satisfy the foregoing requirements.

Section 7. Use of Common Areas. The Owners of land within the District shall have the exclusive right to the use of all Common Areas within the District as it from time to time exists.

ARTICLE II: MEETINGS

Section 1. Place of meetings. All meetings of the Symphony Hills Homes Association members shall take place in the clubhouse located within the subdivision, unless notified otherwise in writing.

Section 2. Annual meeting. An annual meeting of members shall take place not less than once each calendar year with notice given in writing to all members not less than fourteen (14) days prior. Business at this meeting shall consist of presentation of the annual budget, selection of officers, approval of minutes from the prior meeting of membership, old business and new business as introduced by the President. Each of said items are to be voted on by a quorum of members. If a quorum of members does not exist at the meeting, proxy voting of membership will take place as prescribed in section 3.

Section 3. Waiver of meeting/consent of members. Should a quorum not be present for voting at the annual meeting a waiver of meeting/consent shall be sent to all members. Voting on business of the homes association will therefore take place by proxy with the written votes of members being recorded in the minutes of the annual meeting.

Section 4. Special meetings. Special meetings of the members, for any purpose or purposes whatsoever, may be called at any time by the president or by a group of members comprising not less than one-fifth of the membership of the association. Except in special cases where other express provision is made by statute notice of such special meetings shall be given in the same manner as for annual meetings of members. Notices of any special meeting shall specify in addition to the place, day and hour of such meeting, the general nature of the business to be transacted.

Section 5. Meetings of committee chairpersons and officers. Meetings of committee chairpersons and officers shall take place at the clubhouse on the first Tuesday of each month. Meetings shall begin at 7:00 PM and be adjourned by the president or other officer in his/her absence. Business to take place at these meetings will consist of a report from each officer and each committee chairperson. Minutes of each monthly meeting shall be submitted for approval by the management company at the next month's meeting and shall be made available to any member of the community wishing to view said meeting minutes. Meeting minutes will be made available by the management company or the communications director of the association after receiving a written request from any member of the association.

Section 6. Quorum. A simple majority of officers and committee chairpersons must be present at any meeting to vote on business. Any meeting with less than a simple majority in attendance may still be conducted with each person present reporting on their areas of responsibility. In lieu of a majority, proxy voting may take place on items of business as long as items to be voted on are presented to absentee members in writing in a manner approved by members attending the meeting. A signature of the absentee members will constitute their vote in favor or opposed to each item.

ARTICLE III: OFFICERS

Section 1. President. The president shall be the chief executive officer of the association and shall, subject to the control of the management committee, have general supervision, direction and control of the business and officers of the association. He/she shall preside at all meetings of the members and at all meetings of the management committee. He/she shall be ex officio a member of all the standing committees and shall have the general powers and duties of management usually vested in the office of president of a corporation, and shall have such other powers and duties as may be prescribed by the management committee or these bylaws.

Section 2. Vice-President. In the absence or disability of the president, the vice-president shall perform all the duties of the president, and when so acting shall have all the powers of and be subject to all the restrictions upon, the president. The vice-presidents shall have such other powers and perform such other duties as from time to time may be prescribed for them respectively by the management committee, president or these bylaws.

Section 3. Communications Director. The communications director shall keep, or cause to be kept, a book of minutes of all meetings of the management committee and members, with the time and place of holding, whether regular or special business occurred, the names of those present at management committee meetings, the number of members present or represented at members' meetings and the proceedings thereof. The communications director shall be responsible for the review of all published communications sent on behalf of the management committee to the general membership of the Association including, but not limited to, the newsletter, web site and meeting notices.

The communications director shall keep, or cause to be kept, a membership roster, showing the names of the members and their addresses.

The communications director shall give, or cause to be given, notice of all the meetings of the members and of the management committee required by these bylaws or by law to be given and shall have such other powers and perform such other duties as may be prescribed by the president of the association, the management committee or these bylaws.

Section 4. Finance Director. The finance director shall keep and maintain or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the association, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital, surplus and shares. Any surplus, including earned surplus, paid in surplus and surplus arising from a reduction of stated capital, shall be classified according to source and shown in a separate account. The books of account shall at all reasonable times be open to inspection by any officer of the association.

He/she shall disburse the funds of the association as may be ordered by the management committee, shall render to the president and other officers, whenever they request it, an account of all of his/her transactions as finance director and of the financial condition of the association, and shall have such other powers and perform such other duties as may be prescribed by the president of the association, the management committee or these bylaws. The finance director and/or Management Company selected by the association shall provide an audited statement of the financial condition of the corporation at said Symphony Hills Homes Associations Annual Meeting or upon the request of the officers of the association.

Section 7. Election and Term of Office. Election of officers shall take place at general membership meetings on a rotating basis in order to prevent complete replacement of officers at any one time. Terms of office for each officer of the association shall be two years.

Section 8. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled in the manner prescribed in these bylaws for regular election to such office.

Section 9. Compensation of Officers. All officer positions for the Symphony Hills Homes Association are volunteer positions. No compensation shall be prescribed by the Management Committee for the compensation of officers or committee chairpersons of the organization.

Section 10. Removal and resignation. Removal of any officer may take place at any time with the majority vote of the Management Committee. Removal of officers or committee chairpersons shall be necessary due to non-compliance with association rules or failure to meet the qualifications or duties of his/her office.

Section 11. Subordinate officers. The president of the association may at any time prescribe additional officers for the organization such as additional vice-presidents and assistant treasurer(s). While the creation of subordinate offices will take place at the discretion of the president of the association, election of such officers shall be subject to the same rules of election of primary officers of the organization.

ARTICLE IV: COMMITTEES

Section 1. Committees shall be formed for the purpose of the operation of the management committee at the direction of the president of the Association.

Section 2. Chairperson selection and term of office. The chairpersons for each committee shall be selected by a vote of the management committee after an announcement of an opening has been made to all committee members and, when deemed necessary by the president of the association, to the membership.

ARTICLE V: MANAGING COMMITTEE

Section 1. Powers and duties The Association shall have the following powers and duties:

(a) To care for, spray, trim, protect, replace and replant trees, shrubbery, bushes, flowers, grass and sod in the Common Areas set aside for the exclusive use of the Owners in the District.

(b) To provide, maintain, protect and, when necessary, design, construct, reconstruct and replace protective lighting within the District when adequate service of that type is not available from any public source.

(c) To provide for the maintenance of any gateways, entrances, drinking fountains, and ornamental features now existing or which may hereafter be erected or created in said District in any public street or park, or on any land set aside for the exclusive use of the Owners in the District; and also to provide for the maintenance of any streams or natural water-courses within the District.

(d) To provide for the operation and maintenance of and also to establish and enforce rules for the use by the members of any tennis courts, swimming pools, playgrounds, beach areas, green areas and parking areas which now exist or which may hereinafter be included, created, owned or erected by the Association in the District.

(e) To acquire and own the title to such real estate as may be reasonably necessary in order to carry out the purposes of the Association, and to pay taxes on such real estate as may be owned by it; and to pay such taxes as may be assessed against land in the semipublic places or common areas within the District.

(f) To enforce, either in its own name or in the name of any Owner within the District, any and all building or other restrictions which may have been heretofore or may hereafter be imposed upon any of the land in such District, either in the form as originally placed thereon or as modified subsequently thereto, and impose and collect fines for violations of such restrictions, provided, however, that this right of enforcement shall not serve to prevent such changes, releases or modifications as are permissible in the deeds, declaration, contract, plats or certificate of survey in which such restrictions or reservations are set forth, nor shall it serve to prevent the assignment of those rights by the proper parties, wherever and whenever such rights of assignment exist. The expenses and costs of any enforcement proceedings shall be paid out of the general fund of the Association as provided for herein. Nothing herein contained shall be deemed or construed to prevent any Owner having the contractual right to do so from enforcing in his own name any such restrictions.

(g) To manage and control as trustee for its members all improvements, including storm water improvements, located upon common areas in the District, provided that such management and control of said improvements shall at all times be subject to that had and exercised by the City, County, and State, or any one of them in which the land within the District is located.

(h) To mow, care for, maintain and remove rubbish from vacant and unimproved property and to do any other things necessary or desirable in the judgment of the officers of the Association to keep any vacant and unimproved property and the parking in front of any property in the District neat in appearance and in good order.

(i) To exercise control over such easements as it may acquire from time to time.

(j) To provide for the collection and disposal of rubbish and garbage, in the discretion of the Board of Directors of the Association.

(k) To levy and collect the assessments which are provided for in this Declaration.

(l) To alter, amend or repeal the bylaws of the association.

(m) To select and remove all vendors for the association.

(n) To conduct, manage, and control the affairs and business of the association, and to make such rules and regulations therefore not inconsistent with the law, or with the bylaws of the association.

(o) To conduct fair election of officers and appointment of committee chairpersons and to remove officers or chairpersons when necessary and by a vote of the Managing Committee.

(p) To enforce and make changes to the Declaration of Restrictions and to inform all members of the association of such rule changes thirty (30) days prior to changes going into effect. When necessary, to call a meeting of the members to vote on changes to the Declaration of Restrictions.

(q) The association upon approval of its Board of Directors, shall have the right to charge reasonable fees and determine the rules for the use of any recreational facility, including one or more swimming pools, located within a Common Area.

(2) The Association shall have the following additional powers and duties which it may exercise and perform whenever in its discretion it may deem it necessary or desirable, to-wit:

(a) To provide for the plowing and removal of snow from sidewalks and streets, when such services are not available from any public source.

(b) To provide such lights as the Association may deem advisable on gateways, entrances or other features, and in other public or semi-public places, when such facilities are not available from any public source.

(c) To provide for the cleaning of streets, gutters, catch basins and sidewalks and for the repair and maintenance of storm sewers and appurtenant drainage facilities, when such services are not available from any public source.

(d) To erect and maintain signs for the marking of streets, and safety signs for the protection of children and other persons, when such signs are not available from any public source.

(e) To employ duly qualified peace officers for the purpose of providing such police protection as the Association may deem necessary or desirable in addition to that rendered by public authorities.

Section 2. Method of providing general and special funds.

(1) For the purpose of providing a general fund to enable the Association to exercise the powers and maintain the improvements and render the services herein provided for, each Lot within the District, owned by a member upon which a dwelling has been erected and is then or has been at any time theretofore occupied as a residence, shall be subject to an annual general fund assessment which may be levied by the Association from year to year, which assessment shall be paid to the Association annually or at such other times as the Association may determine in advance. Anything to the contrary herein notwithstanding, the Board of Directors of the Association shall from year to year fix and determine the total amount required in this general fund and may levy and collect an annual assessment for each Lot owned by a member upon which a dwelling has been erected and is then or has been at any time theretofore occupied as a residence.

(2) The annual assessment upon each Lot as aforesaid may be increased by the Board of the Association on all the Lots in the District by an amount not exceeding fifty percent (50%) of the preceding year annual assessment which the Association may levy against such Lot and collect from year to year without special approval from the membership. In order to increase annual assessments more than fifty percent (50%) over the previous year's assessment, the board of directors must have the approval of seventy five percent (75%) of the membership in person or by proxy. The board of directors may not propose an increase of more than one hundred percent (100%) over the previous year's assessment. The Association shall be empowered to levy and collect special assessments for capital improvements or repairs in such amounts as the said Board deems reasonably necessary.

(3) Unless the increases provided for in paragraph (2) of this section are specifically limited by the resolutions in which they are contained to be for a specified period, they shall continue to be effective until rescinded by the Association, at a meeting specially called for such purpose, by an affirmative vote of seventy-five percent (75%) of the members present in person or by proxy, or by action taken under the terms of paragraph (5) of this section and in either such event the rescission shall be effective commencing on the first day of the next succeeding year.

(4) Whenever the Board of Directors of the Association may deem it advisable to submit to the members a proposal under paragraph (2) of this section for increasing or decreasing the amount of the annual assessments, it shall notify the members of the Association by mailing to such members at the last known address, with United State postage prepaid thereon, a notice of such meeting, giving the time and place at which it is to be held and the fact that an increase or decrease in the amount of the annual assessment is to be voted upon at such meeting; such notice must be deposited in the Untied States mail at a post office, not less than fifteen (15) days prior to the date of such special meeting.

(5) Within fifteen (15) days from the levying of each assessment, the Association shall notify all Owners of assessable Lots whose addresses are listed with the Association of the amount of such assessment. Failure of the Association to levy the assessment prior to January 1 of each year for the next succeeding fiscal year beginning on January 1 shall not invalidate any such assessment subsequently made for that particular year; nor shall failure to levy an assessment for any one year affect the right of the Association to do so for any subsequent year. When the assessment is levied subsequent to the 1st day of December which precedes such fiscal year then such assessment shall become due and payable not later than thirty (30) days from the date of levying the assessment. The Board of Directors of the Association may elect to permit collections in monthly, quarterly or semi-annual payments in lieu of the annual payments provided for herein.

(6) A written or printed notice, deposited in the United States Post Office, with postage prepaid thereon, and addressed to the respective Owners at the last address listed with the Association, shall be deemed to be sufficient and proper notice for these purposes, or for any other purpose of these bylaws where notices are required, unless otherwise provided herein.

(7) The Owner of each Lot subject to an annual assessment as herein provided in paragraph (1) of this section shall by acceptance of a Deed to such Lot be taken to have agreed and does by these presents agree to pay to the Association all assessments placed against such Lot in accordance herewith, and said Association is hereby granted the power to proceed against such Owner personally for the collection of said assessments, said right to be in addition to and not to be construed as a limitation upon remedies and rights of said Association otherwise herein granted.

ARTICLE VI: LIEN ON REAL ESTATE

(1) The assessment provided for herein shall become a lien on the real estate against which it can be levied as soon as it is due and payable as above set forth; provided; however, that such lien shall be inferior or subordinate to the lien of any valid first mortgage now existing or which may hereafter be placed on said real estate. In the event of the failure of any Owner to pay the assessment within thirty (3) days from the date same is levied, then such assessment, from the thirtieth (30th) day after it has been levied shall bear interest at the maximum rate of interest then allowed in Kansas on judgments.

(2) Within thirty (30) days from the date of levying the assessment for the calendar year during which and for which the assessment is levied, the assessments shall become delinquent and payment of both principal and interest may be enforced as a lien on said real estate, in proceedings in any court in Johnson County, Kansas, having jurisdiction of suite for the enforcement of such clients. It shall be the duty of the Association to bring suits to enforce such liens before the expiration thereof. The Association may at its discretion file certificates of nonpayment of assessments in the office of the Register of Deeds whenever any such assessments are delinquent. For each certificate so filed, the Association shall be entitled to collect from the Owner or Owners of the property described therein a fee of the greater of One Hundred fifty Dollars (\$150.00) or one year's general assessment as described in Article V, section 2 above, which fee is hereby declared to be a lien upon the real estate so described in said certificate, provided that such lien shall be inferior and subordinate to the lien of any valid first mortgage now existing or which may hereafter be placed on said real estate. Such fee shall be collectable in the same manner as the original assessments provided for herein ad in addition to the interest and principal due thereon.

(3) Such liens shall continue for a period of five (5) years from the date of delinquency or the maximum time allowed by law, whichever is longer, unless within such time suit shall have been instituted for the collection of the assessment, in which case the lien shall continue until the termination of the suit and until the sale of the property under execution of the judgment establishing same.

ARTICLE VII. EXPENDITURES LIMITED TO ASSESSMENTS FOR CURRENT YEAR

The Association shall at no time expend more money within any calendar year than the total amount of the assessment for that particular year plus any surplus which it may have on hand from previous assessments; nor shall said Association enter into any contract whatsoever binding the assessment of any future year to pay for any such obligation, and no such contract shall be valid or enforceable against the Association except for contracts for periods up to three (3) years for utilities, trash removal and equipment and property maintenance, it being the intention that the assessments for each year shall be applied as far as practicable toward payment of the obligations of that year, and that the Association shall have no power to make a contract affecting the assessment of any future or subsequent year except for the purposes set forth above.

ARTICLE VIII. ASSOCIATION TO NOTIFY MEMBERS OF ADDRESS

The Association shall notify all Owners of land in the District as it may exist from time to time, insofar as the addresses of such Owners are listed with said Association, of the official address of said Association, the place and time of the regular meetings of the Association, and the place where payments shall be made and any other business in connection with said Association may be transacted, and in the case of any change of such address the Association shall notify all the Owners of the land within the District, insofar as their addresses are listed within the Association, of the new address.

ARTICLE IX. TO OBSERVE ALL LAWS

Said Association shall at all times observe all State, County, City and other laws, and if at any time any of the provisions of this Declaration shall be found to be in conflict therewith, then such parts of this Declaration as are in conflict with such laws shall become null and void, but no other part of this Declaration not in conflict therewith shall be affected thereby. The Association shall have the right to make such reasonable rules and regulations, penalties for violation thereof and provide such means and employ such agents as will enable it to adequately and properly carry out the provisions of this Declaration, subject, however, to the limitation of its rights to contract as are herein provided.

ARTICLE X. AMENDMENT

Upon the affirmative vote of a simple majority of members in person or by proxy at a meeting called for such purpose evidenced by a Declaration duly executed and acknowledged by such members and recorded in the Office of the Register of Deeds of Johnson County, Kansas, this instrument may be modified and amended.

ARTICLE XI. HOW TERMINATED

These bylaws may be terminated, and all of the land now or hereafter affected may be released from all of the terms and provisions thereof, by the affirmative vote of ninety percent (90%) of the outstanding total votes of the members and shall be evidenced by an appropriate agreement or agreements for that purpose and filing the same of record in the Office of the Register of Deeds of Johnson County, Kansas.

ARTICLE XII. COVENANTS RUNNING WITH THE LAND

All of the provisions of this Declaration shall be deemed to be covenants running with the land, and shall be binding upon the board of directors and upon their successors and assigns.