

**BY-LAWS  
OF  
HICKORY HILLS PROPERTY OWNERS ASSOCIATION**

**-2013-**

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**ARTICLE I**  
**GENERAL PROVISIONS**

**Section 1.01: Name.** The name of the Association is the HICKORY HILLS PROPERTY OWNERS ASSOCIATION, a Pennsylvania nonprofit corporation.

**Section 1.02: Registered Office.** The registered official of the Association is 20 Hickory Hills Drive, White Haven, Pennsylvania 18661 or at any other place as may be designated from time to time by the Board of Director.

**Section 1.03: Purpose.** These By-laws provide for the governance of the Association pursuant to the Association's Articles of Incorporation and Declaration of Covenants, Easements, Conditions and Restrictions recorded in the Office of the Recorder of Deeds of Luzerne County, Pennsylvania, in Deed Book \_\_\_\_\_ at Page \_\_\_\_\_.

**Section 1.04: Conflicting Provisions.** If there are any conflicts or inconsistencies between the provisions of the applicable law, the Declaration of Covenants, the Articles of Incorporation, these Bylaws and the Rules and Regulations, the terms of the document first listed in this section shall prevail, in that order, over a more junior document.

**Section 1.05: Effective Date.** These Bylaws shall become effective on the date adoption, the same being \_\_\_\_\_.

**HICKORY HILLS PROPERTY  
OWNERS ASSOCIATION**

\_\_\_\_\_  
**Secretary**

**(SEAL)**

\_\_\_\_\_  
**President**

## **ARTICLE II** **DEFINITIONS**

**Section 2.01: Definition of Terms.** When used in these By-laws, the following words, terms and phrases shall have the meaning indicated herein:

**“Amenities”** means property owned or under the control of the Association for the use and benefit of the members or their guests, including such things as the pool, lake, ball fields, clubhouse, playground and the like.

**“Articles of Incorporation”** means the Articles of Incorporation filed with the Pennsylvania Corporation Bureau for the Hickory Hills Property Owners Association.

**“Association”** means the Hickory Hills Property Owner’s Association, its successors and assigns.

**“Board of Directors”** means the Board of Directors of the Association, who are members in good standing duly elected or appointed as the case may be under these By-laws and as a whole comprised of no fewer than three (3) members and no more than thirteen (13) members as determined by the Board of Directors with a majority vote pursuant to these By-laws.

**“By-Laws”** means the By-Laws of the Association.

**“Capital Improvement Fund”** means money earmarked or set aside by the Board of Directors for the acquisition of real or personal property; the purchase of equipment; or the improvement or expansion of existing real or personal property.

**“Common Facilities”** means all real estate within Hickory Hills owned or leased by the Association. The term also includes common elements.

**“Covenants”** means the applicable Declaration of Covenants, Conditions and Restrictions recorded in the office of the Recorder of Deeds of Luzerne County, typically used interchangeably with the word Declaration.

**“Fiduciary”** means one who is entrusted with property of the Association or has the authority or power to act on behalf of the Association under these By-laws for the benefit of the Association and its membership. A fiduciary performs their duties in good faith in a manner they reasonably believe to be in the best interest of the Association and with care including reasonable inquiry, skill, and diligence as a person of ordinary prudence and caution would use under similar circumstances.

**“Fiscal Year”** means from April 1st through March 31<sup>st</sup>.

**“In Good Standing”** means a member in compliance with all Covenants, By-Laws, and Rules and Regulations of the Association and who has paid all dues by the due date listed on the invoice and paid all assessments and other charges levied by the Association.

**“Lot”** means the record owner of fee simple title to a residential lot, improved or unimproved, within Hickory Hills. Two or more adjoining lots, which have been legally merged with municipal approval into one lot, shall not be treated as one lot for the purposes of assessments and special assessments.

**“Member”** means a member of the Association and the record owner of a lot, whether one or more persons, excluding a person having an interest in a lot merely as security for the performance of an obligation.

**“Officers”** means the Executive Board comprised of the President, Vice-President, Treasurer, and Secretary of the Board of Directors. An executive board member may hold two offices except in case of the President and Secretary. Executive Directors must provide all necessary personal information required to conduct financial transactions on behalf of the association.

**“Seal”** means the corporate seal of the Association, which shall have inscribed thereon the name of the Association, the year of its organization and the words “Corporate Seal, Pennsylvania”. The seal may be used by causing it or a reasonable facsimile thereof to be impressed or affixed or reproduced.

**“Person”** includes any individual, corporation, partnership, unincorporated association, or other entity.

### **ARTICLE III**

### **MEMBERSHIP**

**Section 3.01: Membership.** The Association has been organized as a Pennsylvania non-profit corporation. Membership in the Association is automatic upon a person's being an owner of a lot within Hickory Hills. When a person is no longer an owner of a lot within Hickory Hills, that person's membership ends, but that person shall remain personally liable for all unpaid Association obligations.

**Section 3.02: Rights of all Members.** All members regardless of their standing, shall have the right to:

- (1) Reasonable access to and from their lot.
- (2) Attend general and special membership meetings, but only members in good standing shall have the right to participate and vote as set forth in Section 3.03(2) below.
- (3) Attend all open board meetings.

**Section 3.03: Additional Privileges of Members in Good Standing.** In addition to the rights listed in the previous Section 3.02, members in good standing shall have the further privilege to:

- (1) Vote in all elections and at all membership meetings.
- (2) Cast one vote regardless of the number of lots owned. A lot with multiple owners shall only be entitled to cast one vote as provided in Section 3.05 below.
- (3) To use and enjoy common Facilities, subject to Association Rules and fees, if applicable, and to extend those same rights to the member's family, guests, and tenants.
- (4) Serve in an elected Association position or on an appointed Association Committee(s).

**Section 3.04: Obligations of all Members.** All members shall:

- (1) Comply with the Covenants, Articles of Incorporation, Bylaws, and Rules of the Association, and all other legal documents of the Association.
- (2) Be responsible for that member's family members, guests, tenants, contractors and other invitees, and to guarantee and ensure that each of them comply with the By-Laws, Covenants, Rules and all other legal documents of the Association.
- (3) Pay all assessments, special assessments, fees, fines and other obligations to the Association when due.
- (4) Be responsible for all damage to Common Elements or to other owners' property caused by the member, the member's family, guests, tenants, contractors or other invitees.

**Section 3.05: Voting Rights of Members.**

- (1) When more than one person holds an interest in more than one lot, all persons shall be members of the Association, but the one vote cast for the lot or lots shall be exercised as provided in Section 3.05(2) below, but in no event shall more than one (1) vote be cast with respect to the lot or lots.
- (2) If a lot is owned by one person, the lot owner's right to vote shall be established by the recorded title to the lot. If a lot is owned by more than one person, the person entitled to cast a vote for the lot shall be designated in a certificate signed by all of the record owners of the lot and filed with the Secretary of the Association. If a lot is owned by a corporation, joint venture, partnership or



unincorporated association, the natural person who shall be entitled to cast the vote of that lot or lots shall be designated in a certificate for this purpose, signed by that entity in accordance with its governing documents, and filed with the Secretary of the Association. The natural person designated in the certificate shall be known as the "Voting Member." A certificate shall be valid until revoked in writing by any owner of the lot, or until superseded by a subsequent certificate, or until a change in the ownership of the lot concerned. If a lot is owned by more than one person, and the lot owners do not designate a voting member by the filing of a certificate with the Secretary of the Association, then they shall lose their right to vote until such time as they could agree on a voting member and filing the necessary certificate with the Secretary of the Association.

(3) Only those lot owners in good standing and entitled to vote shall be considered for purposes of obtaining a quorum, or determining the percentage of lot owners voting on a matter. A lot owner shall be deemed to be "in good standing" and entitled to vote at any annual meeting or at any special meeting of the Association if, and only if, the person shall have fully paid all Assessments made or levied against the lot owner and against the lot by the Board of Directors together with all interest, costs, attorneys' fees, penalties and other expenses, if any, properly chargeable to the lot owner and against the lot owner's lot, at least five (5) days prior to the date fixed for the annual or special meeting, and shall have no other violations against the lot.

(4) In the event that a lot owner shall lease or permit another to occupy the lot owner's improved lot in accordance with the provisions of the Declaration of Covenants and Rules and Regulations of the Association, the tenant or occupant shall be permitted to use the Common Facilities within Hickory Hills subject to all of the same limitations as would be applicable to the lot owner, but shall not vote in the affairs of the Association.

(5) Every lawful transfer of title to a lot shall also include membership in the Association and, upon making such transfer, the previous lot owner's membership shall automatically terminate. Membership in the Association may not be assigned or transferred without the transfer of legal title to a lot and any other attempt to assign or transfer the membership shall be void and of no effect.

## **ARTICLE IV**

### **BOARD OF DIRECTORS**

**Section 4.01: Number and Qualifications.** The affairs of the Association shall be governed by the Board of Directors. The Board of Directors shall be composed of no fewer than three (3) and no more than thirteen (13) members as determined by a majority vote of the Board of Directors. The Board of Directors shall be elected by a majority of the Association members in good standing. Only one owner of a lot with more than one owner shall be permitted to serve on the Board, and a member and the member's spouse or cohabitating partner may not serve on the Board at the same time.

**Section 4.02: Duties; Fiduciary Role.** The duties of the Board of Directors are to manage the affairs and business of the Association as set forth in these By-laws, the Non-Profit Corporation Law; and the retroactive provisions of the Pennsylvania Uniform Planned Community Act. In the performance of their duties, the Board of Directors shall stand in a fiduciary relation to the Association and shall perform their duties, including duties as members of any committee of the Board upon which they may serve, in good faith; in a manner they reasonably believe to be in the best interests of the Association; and with care, including reasonable inquiry, skill and diligence as a person of ordinary prudence would use under similar circumstances. In managing the Association's reserve funds, the Board of Directors shall have the power to invest the Association's reserve funds in investments permissible by law for the investment of trust funds and shall be governed in the management of the Association's reserve funds by 20 Pa.C.S. § 7203 (relating to prudent investor rule). In performing any duties, the members of the Board of Directors shall be entitled to rely in good faith on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by any of the following:

(1) One or more other officers or employees of the Association whom the board member reasonably believes to be reliable and competent in the matters presented.

(2) Counsel, public accountants or other persons as to matters which the board member reasonably believes to be within the professional or expert competence of that person.

(3) A committee upon which the board member does not serve, designated in accordance with law, as to matters within its designated authority, which committee the officer or executive board member reasonably believes to merit confidence.

A board member shall not be considered to be acting in good faith if he or she has knowledge concerning the matter in question that would cause his reliance to be unwarranted. The board members shall have no liability for exercising these powers provided they are exercised in good faith, in the best interests of the Association.

**Section 4.03: Validity of Contracts with Interested Board of Directors Members.** No contract or other transaction between the Association and one or more of its Board of Directors or between the Association and any corporation, firm or association in which one or more of the Board of Directors are directors or officers or financially interested, shall be void or voidable because such Director is present at any meeting of the Board of Directors which authorized or approved the contract or transaction or because his, her or their votes are counted, if the circumstances specified in either of the following exists:

(1) The fact that a member of the Board of Directors is also such a director or officer or has such a financial interest is disclosed or known to the Board of Directors and is noted in the minutes thereof, and the Board of Directors authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of such member or members of the Board of Directors, or

(2) The contract or transaction is made in good faith and is not unconscionable to the Association at the time it is authorized, approved or ratified.

**Section 4.04: Inclusion of Interested Members of the Board of Directors in the Quorum.** Any member of the Board of Directors holding such director or officer position or having such financial interest in another corporation, firm or association may be counted in determining the presence of a quorum at a meeting of the Board of Directors or a committee thereof which authorizes, approves or ratifies a contract or transaction of the type described in Section 4.03 above.

**Section 4.05: Execution of Contracts.** Contracts and other legally binding documents, if properly approved, by the Board of Directors may be signed at the direction of the Board of Directors by at least two (2) Officers or designated Directors.

**Section 4.06: Creation of Committees.** The Board of Directors may appoint or dissolve committees on as needed basis. Committee members serve at the discretion of the Board. Committees shall report to the Board as directed.

**Section 4.07: Compensation.** Membership on the Board of Directors is voluntary and members of the Board shall not receive financial compensation for their services. Board of Directors may seek to recover reimbursement of their out-of-pocket expenses provided that those expenses are pre-approved by a majority of the Board of Directors or unless otherwise permitted under a reimbursement policy by the Board of Directors. No person employed by the Association may serve as a director and no director may be employed by the Association.

**Section 4.08: Indemnification.** Any member of the Board of Directors, whether elected, appointed or an officer, shall be indemnified against expenses (including attorney fees) in any legal matters incurred in the performance of their duties on behalf of the Association except in such cases where the board member has breached or failed to perform the duties of their office and the breach or failure to perform constitutes self-dealing, willful misconduct, recklessness, maliciousness or illegality. The Association shall carry insurance to cover those indemnified.

**ARTICLE V**  
**BOARD OF DIRECTOR ELECTIONS; REMOVALS; AND VACANCIES**

**Section 5.01: Qualifications.** Persons qualified to be nominated for election are those persons in good standing who are not subject to removal or have not otherwise been removed as set forth in Section 5.06 and disqualified under Section 5.07 below, and whose name has been submitted to the Secretary of the Association, at least thirty (30) days before the meeting at which the election is to be held or by the deadline as specified, together with a statement that the person so nominated is willing to serve on the Board of Directors and including a biographical summary of the nominee. A qualified candidate must also be bondable and willing to submit to a criminal background check verifying that the candidate has never been convicted of a felony or crime of dishonesty.

**Section 5.02: Elections.** Elections are held every two (2) years at the annual meeting for the seats about to be vacated by directors of the board whose terms are set to expire since, at inception, the Board of Directors were separated into two classes. However, if the number of qualified candidates for the board equals or is less than the number of vacancies, those candidates shall be deemed elected and no ballots shall be sent out. The Secretary of the Association shall notify the membership and the results shall be recorded in the minutes of the next meeting.

**Section 5.03: Term.** All elected directors serve a term of four (4) years. The term of a given director begins at the second board of directors meeting following the election (the inauguration meeting) at which time they will take the oath of office and assume their fiduciary responsibilities and duties. Newly elected members shall sit with the Board of Directors but not vote until they are sworn in and assume their seats at the inauguration meeting.

**Section 5.04: Ending Time to Vote.** The presiding officer shall determine when voting will cease and shall announce such to the membership. Once voting has ceased, no other ballots and proxies will be accepted or counted.

**Section 5.05: Judges of Elections.**

(1) In advance of any election, the board may appoint one or more persons to serve as judges of elections who need not be members. If judges of elections are not so appointed the presiding officer of any such meeting may, and on the request of any member shall, make such appointment at the meeting. The number of judges shall be one or three. In the case that there is only one judge of elections, the chair shall select a random witness to observe the judge of elections. No person who is a candidate for office shall act as a judge or witness.

(2) In case any person appointed as judge fails to appear or fails or refuses to act, the vacancy may be filled by appointment made by the board of directors or other body in advance of convening of the meeting or at the meeting by the presiding officer.

(3) The judges of elections shall determine the number of members of record and the voting power of each. The members present at the meeting, the existence of a quorum, the authenticity, validity, and effect of proxies, if voting by proxy is permitted under the bylaws, receive votes or ballots, hear and determine all challenges and questions in any way arising in the

connection with the right to vote, count and tabulate all votes, determine the result, and do such acts as may be proper to conduct the election or vote with fairness to all members. The judge(s) of election shall perform their duties impartially, in good faith, to the best of their ability, and as expeditiously as is practical. If there are three judges of election, the decision, act or certificate of a majority shall be effective as the decision of all.

(4) On request of the presiding officer of the meeting, or of any member, the judges shall make a report in writing of any challenge or question or matter determined by them, and execute a certificate of any fact found by them. Any report or certificate made by them shall be prima facie evidence of the facts stated therein.

#### **Section 5.06: Removal.**

(1) By the Membership. At any regular or special meeting of the Association, any one or more of the Directors may be removed, with or without cause, by members entitled to cast at least 51% or more of all votes in the Association, and the vacancy may then be filled by nominations taken from the floor at the meeting where the director has been removed with the elected candidate receiving the most number of votes, or at a special election meeting conducted in the same manner as set forth in this Section except that the term shall be only for the unexpired period of the director so removed. Any member proposing removal of a Director shall give notice thereof to the Secretary of the Association. Any Director whose removal has been proposed by a member shall be given at least ten (10) days notice by the Secretary of the time, place and purpose of the meeting and shall be given an opportunity to be heard at the meeting.

(2) By the Board of Directors. If a member of the Board of Directors: (a) has been declared of unsound mind by an order of the court; (b) is convicted of a felony or a crime of dishonesty; (c) fails to attend four (4) unexcused meetings of the Board of Directors in any 12 month period; (d) fails to attend a meeting within 60 days of their election or appointment; (e) fails to be in good standing; (f) is adjudged to be violating their fiduciary duties; (g) neglects or fails to perform their assigned duties despite being given notice and an opportunity to cure by the Board; or (h) performs in a manner detrimental to the interests of Hickory Hills, the Board of Directors may remove the director by a two thirds majority vote of the entire Board after a hearing and an opportunity by the accused board member to be heard. The accused board member may not vote on his or her removal.

**Section 5.07: Inability of Removed Board Member to Serve in the Future.** Any director removed under Section 5.06 above may not serve as a director for a period of five (5) years from the date of removal, nor shall their name be placed on a ballot until the member would be eligible to serve. Once that person may be eligible to serve again as a Board of Directors, the ballot shall contain a statement informing the voting membership of the candidate's prior removal including the reasons for that removal.

#### **Section 5.08: Resignation.**

(1) Directors may resign at any time by giving written signed notice to the Secretary of the Association or any of the Board of Directors. The resignation shall take effect on the date of

receipt of the letter or the date specified in the letter. Acceptance of the resignation by the Board of Directors shall not be necessary to make it effective.

(2) Directors who resign for reasons other than health or active deployment in the armed services may not serve again for a period of three (3) years.

(3) A Director shall be deemed to have resigned upon transfer of title to his or her lot.

**Section 5.09: Return of Property.** Upon resignation, removal or not being re-elected to the Board of Directors, all Association keys, property and passwords must be relinquished by the former Board member upon his or her last day of service on the Board of Directors. Failure to do so will result in the replacement costs of the property, the costs of changing the locks and the passwords, and all court costs and attorney fees incurred by the Association with seeking the return of property or reproduction and replacement costs.

**Section 5.10: Appointment to Vacancies.**

(1) The Directors may fill vacancies on the Board on an as needed basis as determined by the Board with a majority vote. When, and if, the Board decides it is necessary to fill a vacancy(s), qualified candidates will be considered from the list of qualified people who have submitted letters of intent.

(2) The Board will solicit letters of intent from qualified members interested in serving. The Board will review all letters of intent and appoint a candidate to fill the vacancy by a two thirds vote. In the case that no candidate receives a two thirds vote the Board will continue, at its discretion, to solicit letters of intent until the seat is filled or until the next general election.

(3) Any appointed director will serve the remainder of term to which the director whose seat they have been appointed to was elected.

(4) Once appointed the new director will take the oath of office and assume fiduciary responsibility.

(5) This section shall not apply to the removal of a director by the membership. When a member is removed by the membership that member's position will be filled by Section 5.06(1) above.

## **ARTICLE VI** **OFFICERS**

**Section 6.01: Designation of Officers.** The officers shall be a President, Vice President, Secretary and Treasurer of the Association. One Board member may serve as both the Secretary and Treasurer. The officers shall have the powers and duties described in this Article. The Board may also appoint other assistant officers who shall have such authority as shall be designated by resolution of the Board of Directors.

**Section 6.02: Election of Officers.** The Officers of the Association shall be elected annually by the Board of Directors, at the organization meeting, and shall hold office at the pleasure of the Board of Directors until the following organization meeting.

**Section 6.03: Removal of Officers.** Upon the affirmative vote of a majority of all members of the Board of Directors, any officer may be removed, either with or without cause, and a successor may be elected at any meeting of the Board of Directors called for such purpose.

**Section 6.04: President.** The President shall be the Chief Executive Officer of the Association, preside at all meetings of the Association and of the Board of Directors and have all of the general powers and duties which are incident to the office of president of a corporation organized under the Laws of Pennsylvania. In particular, the President shall be responsible for setting the agenda at all meetings and shall make certain that all orders and resolutions of the Board of Directors are carried out. At the annual meeting the President is responsible for presenting the number of members of the Association to date as well as the increase or decrease in this number relative to the previous year. The President may vote any time at his or her discretion. The President is required to vote in case of a tie. The President may temporarily relinquish the chair at any meeting to present his or her view on a point on the floor. If the President chooses to temporarily relinquish the chair at a meeting, the Vice-President shall preside, or a President Pro Temp in the absence of the Vice-President as appointed from among the board members.

**Section 6.05: Vice President.** The Vice-President's primary duty is to assist the President. In the absence of the President, the Vice President shall act for the President. The Vice President shall perform any duties as may be assigned from time to time or delegated to the Vice President by the Board or President.

**Section 6.06: Treasurer.** The Treasurer(s) or their designee shall have responsibility for and keep full and accurate accounts of the finances of the association. The Treasurer shall maintain all financial records in accordance with accepted accounting practices. The Treasurer or their designee is responsible for all financial transactions of the association. The Treasurer shall present a detailed current report of the finances of the association at each board of directors meeting. The Treasurer shall present a financial report at the Annual Membership Meeting detailing the assets, liabilities and funds of the Association including expenses and disbursements for the previous and current fiscal year. The annual Treasurer's report shall be filed with the minutes of the annual meeting. The Treasurer is responsible for insuring the creation of the annual budget during the months of October, November and December. The annual budget shall be adopted no later than December 31st of each

year. The treasurer shall present the budget to the membership at the annual meeting and will act as administrator of the accounting software.

**Section 6.07: Secretary.** The Secretary or their designee shall attend and record all meetings: Board of Directors, Annual Membership Meetings, Special Meetings of the Board of Directors, Special Meetings of the Membership, and Executive Meetings of The Board of Directors. This record of these meetings shall be called the Minutes. The Minutes are a legal document. The Secretary shall see that these Minutes are preserved in a manner prescribed by law. The Secretary need not record work sessions. The Secretary or their designee shall give notice of all meetings of the board of directors, members meetings, and special meetings. The Secretary shall insure that the adopted corporate seal of the Hickory Hills Property Owners Association is secure. When required by law or by these by-laws, the Secretary shall affix the corporate seal and when so affixed it shall be validated by their signature or by the signature of their designee.

**Section 6.08: Authorized Signatories.** The officers are the authorized signatories for the Association's contracts and other instruments, with any two (2) of the officers required to sign checks, notes, drafts and any other instruments approved by the Board of Directors. All authorized signatories shall be bonded at the expense of the Association. However, the Board of Directors may, by resolution, permit the office manager and at least one other officer sign checks, when circumstances warrant such an arrangement.

**Section 6.09: Compensation of Officers.** No officer shall receive compensation from the Association for acting as an officer, but may be reimbursed for any out-of-pocket expenses incurred in performing his or her duties; however, the Secretary and Treasurer may be compensated for their services if the Board of Directors determines such compensation to be appropriate.



## **ARTICLE VII** **MEETINGS**

### **Section 7.01: Standards Governing All Board Meetings.**

(1) The Board shall meet at regular meetings at any intervals it shall determine from time to time by resolution. After the Board adopts by resolution the time and place of its regular meetings, no further notice of those regular meetings shall be required.

(2) All meetings are traditionally held at the Association clubhouse except when, due to extenuating circumstances, the Board of Directors changes the place of the meeting. In case of a change in the meeting place the Board of Directors shall provide notification to the membership.

(3) All meetings are traditionally held on the first Saturday of each month at 9:00 AM except when due to extenuating circumstances, the Board of Directors cancels or changes the time of the meeting. In case of a change in the meeting time the Board of Directors shall provide notification to the membership.

(4) From time to time the directors may vote to cancel a future meeting due to holidays, weather or any other reason the directors deem to be reasonable.

(5) Each seated member of the Board of Directors, including the President, is entitled to cast one vote per motion. From time to time it may be necessary for the Board of Directors to vote and take action on a matter essential to the welfare of Hickory Hills before a regularly scheduled meeting will occur. In such cases the Directors may vote in person, telephonically or electronically. Votes will be collected by the Secretary or the Secretary's designee. A majority of votes is required for passage.

(6) Each resolution of the Board must be documented in writing in a "Book of Resolutions". The record of each resolution must include the vote upon each resolution taken by roll call and entered in the record. A minimum of a majority of affirmative votes of the Directors present in person or by conference telephone at a Board meeting at which quorum is present shall constitute the decision of the Board.

(7) The President shall preside at all Board meetings. In the absence of the President, the Vice President shall act in that capacity. The Secretary shall cause the minutes of the meeting to be recorded, including all resolutions adopted at the meeting, as well as a record of all other material transactions. Approved minutes of the Board shall be signed by the Secretary. Minutes other than those for an Executive Session shall be available to all members for inspection as permitted in compliance with state law. The Board shall determine its own rules of procedure and order, subject to these Bylaws.

**Section 7.02: Annual Membership Meeting.** The yearly membership meeting shall be held in July of each year on a date and time specified by the Board of Directors. At the annual membership meeting members in good standing may participate verbally and cast votes on

business that comes before the membership. The Annual Membership Meeting shall be conducted in accordance with Article VIII below.

**Section 7.03: Inauguration and Organizational Meeting.** The inauguration shall occur during the second Board of Directors meeting following the Annual Meeting. During this portion of the meeting all Directors will take the oath of office and newly elected Directors will be seated. The organizational meeting shall take place immediately following the adjournment of the inauguration meeting. The board shall meet in order to elect officers and set the calendar of regular Board meetings for the coming year.

**Section 7.04: Regular Meetings.** The Board of Director regular meetings normally occur on the first Saturday of each month at the Association clubhouse. However, the dates and times shall be established by a majority vote of the Board of Directors. Members in good standing may attend regular meetings but may not participate verbally until the member participation portion of the meeting. Only sitting members of the Board of Directors may vote at Board of Directors Meetings. Voting by proxy is not permitted. The order of business at a regular meeting shall include (a) approval of the minutes from the last board meeting; (b) Treasurer's report; (c) Committee reports, if any; (d) approval of bills for payment; (e) opening of bids, estimates, or proposals, and awarding of contracts, if any; (f) old business; (g) new business; (h) correspondence; and (i) petitions and complaints.

**Section 7.05: Special Meetings of the Board.** Special meetings of the Board may be called by the President, Secretary, or by written request of two members of the Board of Directors. Notice of a Special Meeting may be given in writing at least three (3) business days prior to the meeting, or verbally at least twenty-four (24) hours prior to the time of the meeting. The notice shall state or provide the time, place and purpose of the meeting. Special meetings of the Board may be attended by any member in good standing but due to the ad hoc nature of such meetings no notice is required. Members in good standing may observe but not participate in Special Meetings of the Board of Directors. Voting by proxy is not permitted.

**Section 7.06: Special Meetings of the Members.** Special meetings of the membership may be called for any purpose, unless otherwise prescribed by statute, may be called at any time by the President, or a majority of the Board of Directors, or not less than ten (10%) percent of all members in good standing upon written request delivered to the Secretary of the Association. Such a request shall state the purpose of the proposed meeting. Upon receipt of any such request it shall be the duty of the Secretary to call a special meeting of the members to be held at such time not more than sixty (60) days after receipt of such request as the secretary may fix. If the secretary shall neglect to call the meeting within fifteen (15) days, the person(s) making the request may issue the call. Voting by proxy is permitted at Special Meetings of the Membership.

**Section 7.07: Executive Meetings of the Board of Directors.** The Board of Directors may convene closed sessions meetings to consider personnel matters, consult with legal counsel, and discuss pending litigation, or matters of possible liability to a member or to the Association. Executive meetings of the Board of Directors are normally for the purpose of discussion only and no votes shall be cast and no action taken unless legal matters require the

Board of Directors to take such action. Otherwise, when voting is necessary on matters discussed in an executive meeting they must be cast publicly at the next available meeting.

**Section 7.08: Work Sessions.** The Board of Directors may convene informally to discuss issues, ideas and possible solutions to matters of concern to the Association. No formal actions may be taken at a work session. Members may observe work sessions but may not participate. Work sessions may be announced informally on the bulletin board, website, by word of mouth or by other means. Because of the often ad hoc nature of work sessions announcement is suggested but not required. Minutes need not be taken at work sessions.

**Section 7.09: Waiver of Notice of Meetings.** Any Director may at any time, in writing, waive notice of any meeting of the Board of Directors, and such waiver shall be deemed the equivalent of proper notice. Attendance at a meeting by a Director shall be deemed a waiver by the Director of notice of the time, place and purpose of the meeting. If all Directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

**Section 7.10: Quorum of the Board of Directors.** At all meetings of the Board of Directors a majority of the Directors shall constitute a quorum for the transaction of business, and the vote of a majority of the Directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. If at any meeting of the Board of Directors there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been at the meeting originally called may be transacted without further notice. One or more Directors may participate in and be counted for quorum purposes at any meeting by means of conference telephone or similar communication equipment by means of which all person participating in the meeting can hear each other.

## **ARTICLE VIII**

### **ANNUAL MEMBERSHIP MEETING**

**Section 8.01: Meeting Place, Date and Time.** All annual membership meetings are traditionally held at the Association clubhouse on a Saturday morning in July. The meeting place, date and time shall be fixed by the Board of Directors and notice given to the membership. The notice to the members shall be sent to every member of the Association. This notice shall state the time, date and location of the meeting. This notice shall state the nature of the business to be transacted. The Secretary or the Secretary's designee shall cause the notice to be sent not less than ten (10) days and not more than sixty (60) days prior to the annual meeting to the mailing address of record.

**Section 8.02: Conduct of Business.** The presiding officer shall determine the order of business and shall have the authority to establish rules for the conduct of the meeting. Roberts Rules of Order may be used as a guide.

**Section 8.03: Ballots.** When elections occur, the Secretary or the Secretary's designee shall create ballots including the names and a brief biography of all the qualified candidates standing for election and proxies. Ballots and proxies shall be included with the notice of the annual meeting and sent only to members in good standing. Only ballots and proxies with the corporate seal affixed will be considered valid and counted in the election. A member is not required to cast a vote for all open positions on the ballot in order for the ballot to be valid. Ballots which include excess votes shall be discounted. All voting materials will be kept by the Association for a period of 12 months after the election.

**Section 8.04: Proxies.** Voting by proxy bearing the corporate seal of the Association shall be allowed at the annual membership meeting and special meetings. No other proxies shall be recognized. A proxy terminates one year after its date unless it specifies a shorter term. Proxies shall be sent to members in good standing along with the notice of meeting. Proxies must be returned in the preprinted envelope provided and in the manner proscribed in the notice. The proxy shall include the name of the association, the word proxy under the association, a statement that BLANK is the person's proxy for the meeting. Solicitation of proxies is prohibited.

**Section 8.05: Quorum.** Ten (10%) Percent of the Association members of record in good standing, either in person or by proxy, shall constitute a quorum at the annual membership meeting. A quorum is present throughout the meeting if it is present at the beginning of the meeting.

**Section 8.06: Annual Report of Directors.** The Board of Directors shall present an annual report to the members at the annual membership meeting. The report must be verified by the President and Treasurer or by a majority of the Directors. The annual report shall be available to the membership for review on the Association website, by hard copy in the office and for distribution at the annual meeting. The annual report must show the following in detail and be filed with the minutes of the meetings of members:

- (1) The assets and liabilities of the Association as of the end of the fiscal year immediately preceding the date of the report.
- (2) The principal changes in assets and liabilities during the year immediately preceding the date of the report.

(3) The expenses/disbursements of the Association during the year immediately preceding the date of the report

(4) The number of members of record and the number of members in good standing as of the date of the report together with a statement of the increase or decrease in such numbers during the year immediately preceding the date of the report.

**Section 8.07: Adjournment and Continuation.** When the annual membership meeting is continued it shall not be necessary to give any notice of the continued meeting or notice of the business to be transacted other than by announcement at the meeting at which the continuation is taken.

## **ARTICLE IX** **ASSESSMENTS**

**Section 9.01: Accounts; Audits.** All sums collected by the Board of Directors with respect to Assessments against the Members or from any other source may be commingled into a single fund. All books and records of the Association shall be kept in accordance with good and accepted accounting practices, and the same may be audited once each year by an independent accounting firm retained by the Board of Directors.

**Section 9.02: Annual Common Expense Assessments.** Annual common expense assessments shall be set by the Board. Assessments shall be charged uniformly per lot with two categories: improved and unimproved lots. Two or more adjoining lots legally merged by a recorded subdivision plan shall not thereafter be treated as one lot for assessment purposes. Annual assessments are intended to support the annual Budget, after considering all outlays, both operating and capital, non-assessment income and other available funds.

**Section 9.03: Special Assessments.** Special assessments may be used with Board approval to cover unbudgeted spending that otherwise is not provided for in the Budget including but not limited to approved overspending on budgeted line items, and unusual or non-recurring special projects or services.

**Section 9.04: Annual Bills.** Annual bills should be mailed to members prior to their due dates at dates and times to be set by the Board of Directors. Assessments shall be payable in one or more installments as established by the Board. The Board may grant a discount for payments received for assessments earlier than the due date. Assessments shall be delinquent if not paid by the due date. The Board may impose late fees and penalties for delinquent assessments, and annual interest of Fifteen (15%) percent per year, which interest shall continue until all charges are paid in full. Interest applies also to any delinquencies by members under special payment schedules. All lot owners shall remain responsible for payment despite the owners' failure to use the Common Facilities or despite abandonment of a lot. The Treasurer shall provide to the Board an annual Delinquency Report listing members delinquent during the prior year, plus the status of collection of the delinquent accounts. Any payment received by the Association shall be applied first to any interest accrued by the Association, then to any late fee, then to costs and reasonable attorney fees incurred by the Association in collection or enforcement and then to the delinquent assessment. This applies to all payments regardless of restrictive endorsement, designation or instructions with the payment.

**Section 9.05: Delinquent Accounts/Relief.** The Association may bring suit to collect any delinquent account and may also enforce the Association's right to foreclose on its statutory lien on the lot in question. In addition to the remedies available by law, the Association may seek the following relief:

(1) Additional Liability. Each lot owner shall be individually, jointly and severally liable for the expense of all maintenance, repair and replacement rendered necessary by his or her act, neglect or carelessness or the act, neglect or carelessness of the tenants, guests, invitees or licensees of a lot owner, but only to the extent that such expense is not covered by the proceeds of insurance carried by the Association. Such liability shall include any increase in the Association's insurance premiums occasioned by improper use, misuse, occupancy or abandonment of any lot or its

appurtenances. Nothing contained herein, however, shall be construed as modifying any waiver by an insurance company of its rights to subrogation.

(2) **Costs and Attorney's Fees.** The Association should also collect all charges for interest, late charges, cost of collection and attorney's fees as permitted by law.

**Section 9.06: Fines.** Failure to comply with rules and regulations of the association or, covenants, conditions and restrictions outlined in the deeds, shall result in fines levied as determined by the Board of Directors.

**Section 9.07: Rental Fees.** Whenever a lot is rented by a lot owner to any person(s) for 30 days or more per year a rental fee determined by the Board of Directors shall be assessed to the lot owner. The 30 day per year provision need not be consecutive. The lot owner shall surrender use of all Hickory Hills amenities to their tenants if the rental property is the only lot of record.

**Section 9.08: Builder's Fee.** A building fee shall be assessed at a rate so determined by the Board of Directors by annual review for the construction and/or placement of any dwelling upon a lot.

**Section 9.09: Road Usage Fee.** A road usage fee will be charged to the resident members of Autumn Mountain.

**Section 9.10: Property Transfer Fee.** A fee for the transfer of a property is currently charged at the rate of \$450.00 per improved lot and \$125.00 per unimproved lot.

**Section 9.11: Resale Certificate.** Resale Certificates are issued by the Association upon request and a fee is charged for preparation of that Certificate.

**Section 9.12: Non-Abatement or Waiver of Assessment.** No member may waive or otherwise escape liability for any valid assessment provided for herein by non-use of Association property or abandonment of his or her lot. Similarly, all liability for such assessments shall not be abated or reduced by reason of any interruption in an owner's right to occupancy of his or her lot or use of Association property or facilities or for any other reason whatsoever.

**Section 9.13: No Waiver of Rights.** The failure of the Association, the Board of Directors, or the Members to enforce any right, provision, covenant, or conditions of these By-Laws, the Declaration or Covenants, the Rules and Regulations of the Association and law shall not constitute a waiver of the right of the Association, the Board of Directors or the Members to enforce such right, provision, rule, regulation, covenant or condition in the future. All rights, remedies and privileges granted to the Association, the Board of Directors and the Members shall be deemed to be cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other privileges as may be granted to such party by the Declaration, Covenants, these By-laws, the Rules and Regulations of the Association and at law or in equity.

**Section 9.14: Abating and Enjoining Violations by Members.** The violation of any of the Rules and Regulations of the Association, the breach of any By-law contained herein or the breach or

violation of any provision or condition of the Declaration or Covenants or law by a Member or that Member's guests, tenants, or invitees shall give the Board of Directors the right, in addition to any other rights: (a) to enter the lot or improvement in which, or as to which such violation or breach exists and abate and remove such violation at the lot owner's expense, and the Board of Directors or their agent(s), employee(s) and/or contractor(s) shall not be deemed to be guilty of trespass; or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of such breach with the lot owner paying the costs of such suit, including reasonable attorney's fees.



## **ARTICLE X**

### **BUDGET AND FINANCES**

**Section 10.1: Fiscal Year.** The fiscal year of the Association shall be from April 1st through March 31st unless otherwise determined by the Board of Directors.

**Section 10.2: Budget Preparation.** The Board of Directors shall prepare a draft Budget for the upcoming calendar year in the months of October, November and December. The draft Budget shall include operating expenses, capital expenses, revenues, reserve, and the capital improvement fund. The Board shall vote to approve a final Budget for the next year during the month of December.

**Section 10.3: Approval of Budget.** On or before December 31st of each year, the Board of Directors shall by majority vote adopt an annual budget for the Association. The Annual Budget for the Association may contain the following:

- (1) An estimate of the total amount considered necessary to pay the cost of maintenance, management, operation, repair and replacement of the Common Facilities;
- (2) The cost of wages, materials, real estate taxes, insurance premiums, sewer and water charges, services and supplies incident to the Common Facilities, including the maintenance of the Association properties;
- (3) Other expenses that may be declared to be Common Facilities by the Declaration, these By-laws or resolution of the Board of Directors or the Association and which will be required during the ensuing fiscal year from the administration, operation and maintenance and repair of the Common Facilities Assessments.
- (4) Reasonable amounts as the Board of Directors consider necessary to provide working capital, a general operating reserve and reserves for contingencies and replacements; and
- (5) The annual assessments for the next calendar year.

**Section 10.4: Notice Prior to Adoption of Budget.** The Board of Directors shall make the proposed Budget available for inspection at the Association's Office and once adopted make a copy of the Budget available to the membership by posting at the Association's Office and on its website.

**Section 10.5: Inability to Meet Deadlines.** The Board of Directors shall make reasonable efforts to meet the deadlines set forth herein, but compliance with such deadlines shall not be a condition precedent to the effectiveness of any budget.

**Section 10.6: Effect of Failure to Prepare or Adopt a Budget.** The failure or delay of the Board of Directors to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of a Member's obligation to pay his, her or their allocable share of the Assessment as hereinafter provided, whenever the same shall be determined and, in the absence of any annual budget or adjusted budget, each member shall continue to pay an annual Assessment, as applicable, at the rate established for the previous year until the new annual or adjusted budget shall have been adopted.

**Section 10.7: Annual Reports.** Before the end of the fiscal year, the Board may engage an independent Certified Public Accounting firm as auditor to audit the books and records, prepare tax returns and certified financial statements, and submit written comments and suggestions for improving Association financial practices. Audited financial statements, if prepared, may be available to the membership in the same manner as the adoption of a Budget.

## **ARTICLE XI**

### **RULES AND REGULATIONS**

**Section 11.1: Rules and Regulations.** The Board of directors has the authority to adopt and enforce rules and regulations for the good of Hickory Hills. Such rules and regulations become effective when approved by a majority vote of the Board of Directors.

**Section 11.2: Enforcement of Rules and Regulations.** Violation of the Association's Rules and Regulations may cause the member to be subject to fines and associated fees and withdrawal of privileges as determined by the Board of Directors. Suspension shall not relieve a member of the obligation to pay association dues and assessments. Failure to comply with any governing documents shall be grounds for civil action to recover all sums due including attorney fees, court costs and all other associated costs.

**Section 11.3: Notification of Violation of Rules and Regulations.** Members shall receive a written notice with the specific nature of the violation, a demand to cease and desist, and the right to appeal. At any time within twelve (12) months of such notice, if the violation continues, or if the same rule is violated, the member shall be served with written notice of the nature of the alleged violation and any sanction to be imposed.

**Section 11.4: Right to Appeal.** Members have the right to appeal any of the sanctions or fines levied for a violation of the Rules and Regulations. A written request for appeal must be received by the Association no later than 30 days from the date of the written notice. Only the lot owner(s) has the right to appeal. If a written request for an appeal is not received by the Association within this specified time period the member shall be determined to have admitted the violation and shall be guilty and responsible for all fines and fees. This shall be the exclusive method of a lot owner to be heard on the merits of a violation of the Association's Rules and Regulations. The lot owner waives his or her right to raise a defense to the violation of the Association's Rules and Regulations at a subsequent civil proceeding to collect the fines levied and assessed against the lot owner for the violation since the appeal process within the Association is final and binding upon the lot owner.

**Section 11.5: Loss of Use of Amenities.** Until assessed fines are paid, the member and all lot owners and residents of an improved lot are prohibited from using Association amenities. Persons may not act as guests of another member in good standing.

## **ARTICLE XII**

### **MISCELLANEOUS**

**Section 12.1: Invalidity.** The invalidity of any section or portion of a section shall not invalidate the balance of these Bylaws.

**Section 12.2: Amendments.** Adoption of an amendment to these By-laws requires a favorable vote by fifty-one (51%) percent of the members voting by mailed ballot. The proposals to amend these By-laws shall be made in writing, either by the Board after a favorable vote of fifty-one (51%) percent of its members or by a petition signed by no fewer than thirty percent (30%) of the members in good standing. The motion shall contain the full text of the proposed amendment, accompanied by an explanation of its need. The amendment materials must be filed with the Secretary immediately following their adoption.

**Section 12.3: Notices.** All notices, demands, bills, statements or other communications under these By-laws shall be in writing (unless otherwise specified) and shall be deemed to have been duly given if delivered personally or if sent by registered or certified mail, postage prepaid, to a member at a single address which the member shall designate in writing and file with the Secretary, or if no such address is designated, at the address of the lot; and if to the Association, at its registered office address, or at such other address as shall be designated by the Association in writing to the members. If a lot is owned by more than one person, each such person who so designates a single address in writing to the Secretary shall be entitled to receive all notices hereunder.

**Section 12.4: Captions.** The captions herein are inserted for convenience only and for reference, and in no way shall be construed as defining, limiting or describing the scope of these By-laws or the intent of any provision.