

**By-Laws of the
Cumberland Hills Subdivision Association
A Michigan Non-Profit Corporation**

- 1. Name and Organization.** This organization, named in its Articles of Incorporation as “CUMBERLAND HILLS SUBDIVISION ASSOCIATION” (“the Association”), is a Michigan non-profit corporation with a perpetual corporate term, organized and existing pursuant to appropriate enabling legislation.
- 2. Office.** The registered office of the Association shall be maintained in Oakland County, Michigan. Its location within the county may be changed by the Board of Directors.
- 3. Purpose.** The Association is organized to own and maintain common areas in the Cumberland Hills Subdivisions 1, 2 and 3, as recorded in Liber 160 of Plats, pages 14 through 18, pages 36 through 38, and pages 40 through 43, Oakland County Records, for the benefit of the members of the Association, in accordance with the provisions of the Articles of Incorporation of the Association, the by-laws and the Declarations of Restrictions recorded in Liber 7453, pages 594 through 610, Liber 7475, pages 851 through 854, and Liber 7589, pages 285 through 289, Oakland County Records.
- 4. Membership.** The members of the Association are the owners of the lots comprising Cumberland Hills Subdivisions 1, 2 and 3, as recorded in Liber 160 of Plats, pages 14 through 18, pages 36 through 38, and pages 40 through 43, Oakland County Records. The term “owners”, for the purposes of this section, shall include an owner or co-owner in fee simple and, in the case of an executory land contract of sale, the land contract vendee or co-vendee.
- 5. Member Meetings.**

 - (a) Time, Ballots:** Member meetings shall be held annually on a date, time and place designated by the Board of Directors to elect the members of the Board of Directors and to transact other business as shall be stated in the written notice of the meeting. Ballots of the election must be held for 10 days following the election, in a sealed container, for the purpose of a recount. If there is no recount request, the ballots shall be destroyed. The voting tallies shall be retained by the Secretary as part of the Association records.
 - (b) Special Meetings:** Special meetings of the members may be called at the request of a majority of the Board of Directors, or upon written petition filed with the president setting forth the purpose of the special meeting signed by not less than 25 members in good standing. The Board of Directors shall fix the date, time and place for the special meeting.
 - (c) Notices:** Meeting notices shall be given by first class mail or by personal delivery to each member at his residence address at least five days prior to the date of such meeting. Such notice shall state the purpose or purposes of the meeting. Notice by mail shall be effective when deposited in a United States Postal Service receptacle located in Oakland County, Michigan.
 - (d) Quorum:** A quorum of the members shall consist of 5% of the members in good standing who are present in person or represented in person by a member holding a signed proxy. In the absence of a quorum, no business may be transacted at any meeting, but the members present, by a majority vote, may adjourn the meeting without further notice. The acts of a majority of the members present at a meeting at which a quorum is present shall be the official act of the members.
 - (e) Voting:** Members in good standing are entitled to one vote for each lot in which they hold the interest required for membership. When more than one person holds any such interest in any lot, all such persons are members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any one lot.

6. Board of Directors. The property and the lawful business of the Association shall be held, controlled and managed by a Board of Directors consisting of seven members. The Board of Directors shall be elected by the members and shall hold office for a period of two years, or until their respective successors are duly elected and qualified. Directors must be members of the Association in good standing. Elected terms are from May 1 through April 30.

(a) Meetings: Meetings of the Board of Directors may be called by or at the request of the president or any two directors. The person or persons calling meetings of the Board of Directors shall fix the place, date and time for the holding of such meeting.

(1) Notice: Notice of meetings of the Board of Directors must be given at least two days previous to the meeting. Any director may waive notice of any meeting in writing.

(2) Quorum: A majority of the number of directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

(b) Vacancies: Any vacancy occurring in the Board of Directors may be filled by the affirmative vote of a majority of the remaining Directors, though less than a quorum of the Board of Directors is present. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office.

(c) Committees: The Board of Directors may form committees and appoint committee members from time to time as needed.

7. Officers: The officers of the Association are president, vice-president, secretary and treasurer.

(a) Election, Term of Office: The officers of the Association shall be elected by the Board of Directors. Each officer holds office for a period of one year or until his successor is duly elected and qualified.

(b) Removal: An officer may be removed by a majority vote of the Board of Directors whenever in its judgment the best interests of the Association will be served thereby.

(c) Vacancies: Office vacancies shall be filled by the Board of Directors for the unexpired portion of the term.

(d) Duties: The officers have the following duties:

(1) President: The president is the principal executive officer of the Association. Subject to the control of the Board of Directors, he or she supervises and controls the business of the Association. He or she presides at all meetings of the members and the Board of Directors. He or she may sign, with the secretary, when authorized by the Board of Directors, any deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed. The president performs other duties as assigned by the Board of Directors.

(2) Vice-president: In the absence of the president, the vice-president performs the duties of the president. When so acting, the vice-president has the powers and is subject to the restrictions upon the president. The vice-president performs other duties as be assigned by the president or the Board of Directors.

(3) Secretary: The secretary takes and maintains the minutes of the actions of the members and of Board of Directors and sees that all notices are given in accordance with the provisions of these by-laws or as required by law. The secretary is the custodian of the Association records and shall keep a register of members with their addresses. The secretary signs, with the president or vice-president, any documents which the Board of Directors authorizes to be executed. The secretary shall perform other duties as be assigned by the president or the Board of Directors.

(4) Treasurer: The treasurer shall have charge and custody of and be responsible for all funds of the Association, shall receive and give receipts for monies due and payable to the Association from any source whatsoever and shall deposit all such monies in the name of the Association in such banks as shall be selected in accordance with the provisions of the by-laws. The treasurer performs all of the duties assigned to him or her by the president or by the Board of Directors.

8. Liability: Unless acting criminally or in bad faith, neither the Board of Directors, individual directors, nor any officer or committee member of the Association is personally liable to any Association member in any respect for any action or lack of action arising out of the execution of his office.

9. Dues and assessments: The Board of Directors may impose dues and assessments upon the members when necessary to carry out the corporate purposes of the Association and to maintain its property and assets. Any member of the Association who fails to pay such dues and assessments within the time limit imposed by the Board of Directors is a member not in good standing.

10. Amendments: These by-laws may be altered, amended, or repealed and new by-laws may be adopted by the Board of Directors at any regular or special meeting of the Board of Directors.

11. Copies to Members: Copies of these by-laws and any amendments to them shall be made available to the members upon request.

12. Construction: The Board of Directors has the power to construe these by-laws. Its decision with respect to their construction is final.

13. Indemnification of Officers, Directors, et.al.

(a) Definitions: For purposes of this section, the following definitions apply:

(1) Action, acted against: includes, but is not limited to, a civil or criminal lawsuit or threatened lawsuit, an administrative or investigation proceeding or threatened proceeding, or any other type of formal or informal action or threatened action. This definition is meant to be inclusive, not exclusive.

(2) Expenses: include, but are not limited to, costs, attorney's fees, fines, judgments, amounts paid in settlement or penalties.

(3) Person: includes officers, directors, committee members, or anyone serving in a volunteer capacity at the behest of the foregoing.

(b) Indemnification in Action by Third Party: If a person is acted against by a third party because of the person's Association status, the Association must indemnify that person for actual expenses incurred in defending the action. It does not matter what type of expense that person incurred, as long as the expense is a reasonable one to the defense of the action.

(c) Indemnification in Action by Association: If a person is acted against by the Association because of the person's Association status, the Association must indemnify that person for actual expenses incurred in defending the action. However, a person may not be indemnified for an action in which he or she has been found liable to the Association unless the court where the action was brought determines that, in view of all the circumstances, the person is fairly and reasonably entitled to indemnification for the expenses the court considers proper.

(d) Standard for Indemnification: The Association must indemnify a person if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Association or its members. With respect to a criminal case, the person must have had no reasonable cause to believe his or her conduct was unlawful. The Association must not indemnify a person if the conduct which led to the action was grossly negligent or committed with criminal intent. If the action ends in a plea of nolo contendere, this does not, in itself, create a presumption that the person's conduct was grossly negligent or committed with criminal intent.

(e) Advancing Expenses: The Association may pay expenses in advance of the final disposition of the action. Before doing this, it must receive (1) an affidavit from the person seeking advance indemnification of his or her good faith belief that he or she has met the applicable standard of conduct set forth in sub-section (b) above, and (2) an undertaking by or on behalf of the person seeking indemnification to repay the advanced expenses. The undertaking must be by unlimited general obligation of the person on whose behalf advances are made, but need not be secured.

(f) Determining Whether to Indemnify: Indemnification must be made after a determination that the standards in sub-section (b) have been met. The determination shall be made:

- (1) by a majority vote of a quorum of the Board of Directors consisting of directors who were not parties to the action. If not possible, then,
- (2) by a majority vote of a committee of directors who are neither parties to the action or threatened to be made parties. If not possible, then,
- (3) by independent legal counsel, appointed by the Board in the manner described in (1) or (2) above, in a written opinion. If not possible, then,
- (4) by independent legal counsel, appointed by the judge or person who the action was before, in a written opinion. If not possible, then,
- (5) by a majority of eligible members who appear at a regular or special board meeting.

The members must be given written notice of the meeting by first class mail sent 10 days in advance of the meeting. The notice must include the nature of the meeting and the amount being sought under this section.

(g) Enforcement of this Section: A situation may arise where a person entitled to indemnification must act against the Association or Board of Directors to enforce this provision. If that person wins his or her enforcement action, the person is entitled to additional indemnification for those expenses he or she incurred due to the enforcement action.

(h) Intent: This section applies only to those situations where a person is acted against by reason of the fact that he or she has an official relationship with the Association. It covers those situations where the person's conduct or lack of conduct in that official capacity has caused alleged injury.

(i) Bylaws Not Exclusive: Indemnification or advancement of expenses under this bylaw is not exclusive of other rights to indemnification or payment a person may have under any other type of agreement. However, the total amount of expenses indemnified or advanced from all sources combined shall not be more than the amount of actual expenses incurred.

(j) Continuation of Right to Indemnification: The indemnification provided by this section continues as to a person who ceases to be a director, officer, or committee member. It also shall inure to the benefit of the heirs, personal representatives and administrators of the person.

(k) Special Assessments, Increase in Dues: If the Board of Directors must raise dues or have a special assessment to cover indemnification costs, Section 3 of the Deed Restrictions dated September 9, 1978 and recorded at liber 7453, page 594-609, Oakland County Records, must be complied with.

(l) Michigan Law: In the event that any of these indemnification provisions conflict with Michigan law, Michigan law controls. The invalidity of any provision of this section shall not invalidate the remaining provisions of this section.

Changed and Adopted by
The Board of Directors
Cumberland Hills Subdivision Association

Secretary

Date: _____, 2002