

By-Laws of Blackthorne Estates Homes Association

Article I

Purposes

Blackthorne Estates Homes Association (the "Association") is a not-for-profit corporation; its purpose is to promote the maintenance of attractive residential surroundings in Blackthorne Estates, a subdivision in Johnson County, Kansas, as the same may be expanded from time to time as provided in that certain Homes Association Declaration, Blackthorne Estates 1st Plat, filed in the Register of Deeds' Office of Johnson County, Kansas on October 26, 1998 in Book 5898, Pages 883 – 901; document recorded in the Office of the Johnson County, Kansas Register of Deeds on May 4, 2001 in Book 7014, at Page 338; document recorded in the Office of the Johnson County, Kansas Register of Deeds on August 10, 2001 in Book 7218, at Page 352; document recorded in the Office of the Johnson County, Register of Deeds on July 8, 2002 in Book 7928, at Page 654; Amendment filed Dec 31, 2002 Book 8507, pages 934 – 937; and Assignment of Developer Rights, recorded in the Office of the Register of Deeds of Johnson County, Kansas on December 31, 2002 in Book 8507, at Pages 938-943, as the same may be amended or modified from time to time, to be hereinafter referred to as the "Declaration", said subdivision to be hereinafter referred to as the "District".

The Association shall have those powers enumerated in Section 6 – "Powers and Duties of the Association" of the Declaration, and shall also have such powers as are now or may hereafter be granted by the laws of the State of Kansas.

Article II

Membership

2.1 Membership Generally. The Association shall have one class of members (hereinafter the "Members") as the Developer, Duggan Homes, Inc. has provided written documentation that Duggan Homes, Inc. has no vested interest and/or ownership interest in Blackthorne Estates. Each Lot Owner shall be a Member. Each Member shall be entitled to one vote for each Lot with regard to which he or she holds fee simple title. When more than one person holds such interest in any Lot, all such persons shall be Members, and 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 Lot, and in no event shall a fractional vote be cast.

2.2 Suspension of Membership. During any period in which a Member shall be delinquent in the payment of any assessment levied by the Association as provided in the Declaration, the rights of a Member to receive services provided by the Association and the right to use any Common Areas in or available to the

Subdivision (other than streets) shall be suspended by the directors until such assessment has been paid. Such rights of a Member may also be suspended by the directors, after notice and hearing, for a period not to exceed 90 days, for violation of any rules and regulations established by the directors governing the use of the Common Areas in or available to the Subdivision.

Article III

Meetings of Members

3.1 Annual Meeting. An Annual Meeting of the Members shall be held each year for the purposes of: (1) electing directors; (2) discussion of the proposed budget for the next fiscal year; and (3) discussion of the proposed assessment for the next fiscal year. The date of said meeting to be set by the Board. The annual meeting will be set to take place in the fourth quarter.

3.2 Special Meeting. Special Meetings of the Members may be called either by the President, a majority of the Board, or by any Lot Owners who cumulatively have not less than ten percent of all the votes entitled to be cast by all Lot Owners.

3.3 Place of Meeting. The Board may designate any place within Johnson County, Kansas as the place of meeting for any annual or special meeting.

3.4 Notice of Meetings. The Association shall notify Lot Owners of the time, date and place of each annual and special meeting not less than 10 days or more than 60 days before the meeting date. Notice may be made by any method reasonably calculated to provide notice to the Lot Owner. The notice for any meeting must state the time, date and place of the meeting and the items on the agenda, including:

- (1) A statement of the general nature of any proposed amendment to the Declarations or By-laws;
- (2) Any budget proposals or changes; and
- (3) Any proposal to remove an officer or member of the Board of Directors.

3.5 Quorum. A quorum is present if 20 percent of the Lot Owners in the Association:

- (1) Are present in person at the beginning of the meeting;
- (2) Have assigned proxies, cast absentee ballots, solicited in accordance with the Association's procedures, which have been delivered to the Association Secretary; or
- (3) Are present by any combination of paragraphs (1) and (2).

3.6 Absentee Ballots & Proxies. Lot Owners shall be entitled to vote at Members' meetings either in person, by absentee ballot or by assigning a proxy.

Absentee ballots and proxies shall be in writing, signed by at least one Lot Owner and shall be delivered to the Association Secretary by the start of the meeting when called to order.

3.7 Manner of Action. Unless otherwise expressly provided by law, by the Homes Association Declaration, by the Declaration of Restrictions, or by these By-Laws, the vote of a majority of the eligible Members at a meeting of Members for which the quorum requirements have been met shall constitute the act of the Members.

Article IV

Board of Directors

4.1 Number of Directors. The number of directors shall be five. All directors shall at all times be Members in good standing of the Association. Good standing herein defined as a Member who is current in the payment of their assessments and not in violation of the governing documents.

4.2 Powers. The business and affairs of the Association shall be managed by the Board, comprised of directors, and the Board may exercise all powers of the Association except such as are by statute, the Homes Association Declaration, the Declaration of Restrictions, or these By-Laws conferred upon or reserved to the Members. Without limiting the generality of the foregoing, the Board shall propose and adopt an annual operating budget for the Association.

4.3 Duties and Responsibilities. Among other duties and responsibilities, the Board shall be charged with the duty each year to prepare and publish for inspection by all Members of the Association an annual financial statement and projected budget. In addition, the Board shall cause to be distributed an occasional communiqué with the activities of the Board and the Association, for all Lot Owners. The Board may also adopt, amend or repeal rules. Before doing so, the Board shall give all Lot Owners notice of:

- (1) Its intention to adopt, amend, or repeal a rule and provide the text of the rule or the proposed change and
- (2) A date on which the Board will act on the proposed rule or amendment after considering comments from Lot Owners.

Following adoption, amendment or repeal of a rule, the Board shall notify the Lot Owners of its action and provide a copy of any new or revised rule.

4.4 Tenure and Election of Directors.

(a) Director terms shall be two consecutive years in duration. Directors shall have staggered terms. There shall be no cumulative voting for directors.

Elections of directors shall be such that two directors will be elected in odd-numbered years and three directors will be elected in even-numbered years.

(b) Nomination for election to the Board of Directors may be made in writing by any Member delivered to the Secretary of the Association in advance of the annual meeting or from the floor at the annual meeting of the Members.

(c) Election to the Board of Directors shall be by written ballot. At any such election, the Members entitled to vote or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of Article IV hereof. The persons receiving the largest number of votes shall be elected. Cumulative voting shall not be permitted.

(d) A director shall be deemed elected at the time of his or her election, but he or she shall not be deemed to have commenced his or her term of office or to have any of the powers or responsibilities of a director until the time he accepts the office of director either by a written acceptance or by participating in the affairs of the Association at a meeting of the Board of Directors.

4.5 Regular Meetings.

(a) Meetings of the Board must be open to the Lot Owners except during executive sessions. The Board may hold an executive session only during a regular or special meeting of the Board. No final vote or action may be taken during an executive session. An executive session may be held only to:

- (1) consult with the Association's attorney concerning legal matters;
- (2) discuss existing or potential litigation or mediation, arbitration, or administrative proceedings;
- (3) discuss labor or personnel matters;
- (4) discuss contracts, leases, and other commercial transactions to purchase or provide goods or services currently being negotiated, including the review of bids or proposals, if premature general knowledge of those matters would place the Association at a disadvantage; or
- (5) prevent public knowledge of the matter to be discussed if the Board or committee determines that public knowledge would violate the privacy of any person.
- (6) Or any other reason permitted by law.

(b) A gathering of directors at which the directors do not conduct Association business is not a meeting of the Board. The Board and its directors may not use incidental or social gatherings or any other method to evade the open meeting requirements of this section.

(c) The Board shall meet at least one time per year. The meetings must be held in Blackthorne Estates or at a place convenient to the community.

(d) At each Board meeting, the Board shall provide a reasonable opportunity for Lot Owners to comment regarding any matter affecting the common interest of the Association.

(e) If any materials are distributed to the Board before the meeting, at the same time copies of those materials shall reasonably be made available to Lot Owners. The Board need not make available copies of unapproved minutes or materials that are considered in executive session.

4.6 Special Meetings. Special meetings of the Board may be called by or at the request of the President or any two directors.

4.7 Quorum. A majority of the Board shall be present to constitute a quorum for the transaction of business at any meeting of the Board. If less than a quorum is present, a majority of those present may adjourn the meeting to a subsequent date.

4.8 Manner of Acting. The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board, except where otherwise provided by law, the Homes Association Declaration, the Declaration of Restrictions, or these By-Laws. Each director shall have one vote.

4.9 Vacancies. Any vacancy occurring with respect to a director shall be filled by the Board and serve the balance of the unexpired portion of the term.

4.10 Compensation. Directors shall not receive any compensation for their services to the Association except reimbursement for out of pocket costs.

4.11 Removal. If listed in the notice of a meeting of Members, and after given a reasonable opportunity to speak before the vote, any director may be removed by the majority vote of the Members for any cause or for no cause, whenever in their judgment it is in the best interest of the Association.

ARTICLE V

Officers and their Duties

5.1 Officers. The directors of the Association shall appoint a President, Vice President, Treasurer and Secretary (hereafter, "the officers"). The Board may elect or appoint such other officers, including one or more assistant secretaries and/or assistant treasurers, as it shall deem desirable. Such officers have the authority to perform the duties prescribed, from time to time, by the Board.

5.2 Removal. Any officer appointed by the Board or agent of the Association may be removed by the Board for any cause, or for no cause whenever in their judgment it is in the best interest of the Association, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

5.3 Vacancies. A vacancy of any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board for the unexpired portion of the term.

5.4 President. The President shall be the principal executive officer of the Association and shall in general supervise and control all of the business and affairs of the Association. He or she shall preside at all meetings of the Board and Members, and shall perform all duties incident to his office. The President shall further execute any Amendment to the Declaration on behalf of the Association.

5.5 Vice President. In the absence of the President or in the event of his inability or refusal to act, the Vice President shall perform the duties of the President and, when so acting, shall have all the powers of and be subject to all the restrictions imposed upon the President.

5.6 Treasurer. If required by the Board, the Treasurer shall give a bond for the faithful discharge of his or her duties in such sum and with such surety or sureties as the Board shall determine. The premiums for such bond shall be paid by the Association. The Treasurer shall have charge and custody of and be responsible for all funds and securities of the Association, and in general shall perform all the duties incident to his or her office. The Treasurer will insure that all expenditures are budgeted and that the funds exist to pay the expenditure before the Board authorizes payment. Expenditures should be against the authorized budget (as originally proposed and adjusted during the year by Board vote).

5.7 Secretary. The Secretary shall keep the minutes of the meetings of the Board and Members; shall see that all notices are duly given in accordance with the provisions of these By-Laws, or as required by law; and shall be the custodian of the Association records and of the seal of the Association. The Secretary shall prepare, certify, attest the President's execution of, and record Amendments to the

Declarations on behalf of the Association and in general shall perform all duties incident to his or her office.

5.8 Compensation. No officer shall receive compensation for his or her services except for out of pocket costs.

ARTICLE VI

Committees

6.1 Committees may be designated by a resolution of the Board which shall set forth the duties, authorities, and functions thereof. Committees will report their recommendation to the Board for approval.

6.2 Architectural Review Committee (“ARC”). The Board will appoint no more than three Members in good standing to fill the ARC, as defined in the Declarations of Restrictions. At least one member shall be a member of the Board.

6.3 All meetings of committees that have been empowered to act on behalf of the Board must be open to Members and are subject to notification requirements the same as a Board meeting would be.

ARTICLE VII

Contracts & Gifts

7.1 Contracts. The Board may not authorize any officer or officers, agent or agents of the Association, in addition to the officers so authorized by these By-Laws, unless approved by a majority of the Board, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association and such authority may be general or confined to specific instances.

7.2 Gifts. The Board may accept, on behalf of the Association, any contribution, gift or bequest for the general purposes or for any special purpose of the Association.

ARTICLE VIII

Indemnification of Officers, Directors, Employees or Agents of the Association

The Association shall and does hereby indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative or investigative, other than an action by, or in the right of, the Association, by reason of the fact that he or she is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee or agent of any other corporation, partnership, joint venture, trust, or other enterprise, against expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding, and with respect to any criminal action or proceeding had no reasonable cause to believe his or her conduct was unlawful.

The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plead of nolo contendere or its equivalent, shall not, of itself create a presumption that the person did not act in good faith in a manner which he or she reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

The Association shall and does hereby indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending, or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he or she is or was a director, officer, employee or agent of any other corporation, partnership, joint venture, trust or other enterprise against expenses actually and reasonably incurred by him or her in connection with the defense of the settlement of such action or suit, including attorney's fees, if he or she acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association.

The indemnification provided in these By-Laws shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any other By-Laws agreement, vote of stockholders, or disinterested directors or otherwise, both as to the action in his or her official capacity and as to action in any other capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent, and shall inure to the benefit of the heirs, executors, and administrators of such a person.

ARTICLE IX

Books and Records

- (a) The Association, or its agents, shall retain the following for five years:
 - (1) Detailed records of receipts and expenditures affecting the operation and administration of the Association and other appropriate accounting records;
 - (2) Minutes of all meetings of members of the Board, other than executive sessions, and record of all actions taken by committees in place of the Board on behalf of the Association;
 - (3) The names and addresses of Lot Owners in a form that permits preparation of Association communications, in alphabetical order;
 - (4) Its original or restated organizational documents, By-Laws and all amendments to them, and all rules currently in effect;
 - (5) All financial statements and tax returns of the Association;
 - (6) A list of the names and addresses of its current Board members and officers;
 - (7) Its annual reports, if any, delivered to the Secretary of State;
 - (8) Financial and other records sufficiently detailed to enable the Association to comply with other requirements of law;
 - (9) Copies of contracts to which it is a party;
 - (10) Records of Board or committee actions to approve or deny any requests for design or architectural approval from Lot Owners; and
 - (11) Ballots, proxies and other records related to voting by Lot Owners.

- (b) Subject to subsections (c) through (g), all records retained by the Association must be available for examination and copying by Lot Owners or the Owners' authorized agents:
 - (1) During reasonable business hours or at a mutually convenient time and location, and
 - (2) Upon 10 days' written notice reasonably identifying the specific records of the Association requested.

- (c) Records retained by the Association may be withheld from inspection and copying to the extent that they concern:
 - (1) Personnel, salary and medical records relating to specific individuals;
 - (2) Contracts, leases and other commercial transactions to purchase or provide goods or services currently being negotiated;
 - (3) Existing or potential litigation or mediation, arbitration, or administrative proceedings;
 - (4) Existing or potential federal, state or local administrative matters or other formal proceedings before a governmental tribunal for enforcement of the Declaration, By-Laws, or rules;
 - (5) Communications with the Association's attorney which are otherwise protected by the attorney-client privilege or the attorney work-product doctrine;
 - (6) Information the disclosure of which would violate the law;
 - (7) Records of an executive session of the Board; or

- (8) Individual unit files other than those of requesting Lot Owner.
- (d) The Association may charge a reasonable fee for providing copies of any records under this section and for supervising the Lot Owners' inspections.
- (e) A right to copy records under this section includes the right to receive copies by photocopying or other means, including copies through an electronic transmission, if available, upon request by the Lot Owner. Copied records may be used for any reasonable purposes other than for commercial purposes.
- (f) The Association is not obligated to compile or synthesize information.

ARTICLE X

Fiscal Year

The fiscal year of the Association shall begin on the first day of January and end on the last day of December in each year.

ARTICLE XI

Assessments

The Association shall levy and collect assessments from the Lot Owners as provided in the Declaration, the provisions of which are incorporated herein by this reference.

ARTICLE XII

Notice

Any notice required to be given to Lot Owners by the Association will be made in one of the following manners:

- (1) Hand delivery;
- (2) United States mail, postage paid, or commercially reasonable delivery service to the mailing address of each Lot;
- (3) Electronic means, if the Lot Owner has given the Association an electronic address AND opted for legal notification via email; or
- (4) Any other method reasonably calculated to provide notice to the Lot Owner.

ARTICLE XIII

Amendments to By-Laws

These By-Laws may be altered and amended by casting votes at a duly constituted meeting and by a majority of the Members, provided that not less than

10 days or more than 60 days before the meeting date written notice is given of intention to alter or amend these By-Laws.

ARTICLE XIV

Severability Clause

In case any provision in these By-Laws shall be held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

ARTICLE XV

Limitation on Rights and Obligations

Notwithstanding anything set out in these By-Laws, or any amendment thereof to the contrary, it is agreed that nothing set out in these By-Laws or any amendment thereto shall in any manner limit or enlarge the rights, duties or obligations of the Lot Owners as set out in the Homes Association Declaration or the Declaration of Restrictions. In the event of a conflict between the provisions of these By-Laws or any amendment thereof, and the provisions of the Declarations, the provisions of the Declarations shall control and supersede such inconsistent provisions herein, except as otherwise protected by law.

All prior By-Laws are hereby rescinded.

The undersigned President and Secretary of Blackthorne Estates Homes Association hereby certify that the foregoing By-Laws were adopted by 51 percent of the Members of the Association entitled to vote who were present at a meeting on _____, 2018 when a quorum was present.

Secretary
Printed Name: _____

President
Printed Name: _____