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FOR  
THE BYLAWS OF  
WYNDEMERE HOMEOWNERS ASSOCIATION

[For Informational Purposes. Not a Part of the Bylaws]

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**BYLAWS OF THE  
WYNDEMERE HOMEOWNERS ASSOCIATION**

**ARTICLE I - THE ASSOCIATION**

**Section 1. The Association.** Centex Real Estate corporation ("Centex") organized Wyndemere Homeowner's Association (the "Association") as a Minnesota nonprofit corporation to enforce the Declaration of Covenants, Restrictions and Easements (the "Declaration") which Centex Real Estate Corporation executed on October 31, 1994 and will record against the lots depicted on the plat of Wyndemere Addition, a subdivision located in Dakota County, Minnesota (referred to herein, individually, as a "Lot" and, collectively as "Lots" or the "Subdivision") and to levy and collect assessments for the maintenance of and to maintain entrance monuments and landscaping located in the public right-of-way which serves as the entrance to this Subdivision and in various private easements described in the Declaration.

**Section 2. Association's Registered Office.** The Association's Registered Office is located at 12400 Whitewater Drive, Minnetonka, Minnesota 55343. To change the location of the Association's registered office, the Association must comply with the requirements of Minnesota Stat. § 317A.123.

**ARTICLE II - MEMBERSHIP, VOTING RIGHTS  
AND MEETINGS OF MEMBERS**

**Section 1. Membership.** The Association shall have members. The individual, corporation, limited liability company, partnership, limited liability partnership, trustee under a trust, personal representation, guardian, conservator, governmental entity, governmental subdivision or agency, or other legal entity capable of holding title to real estate (hereinafter a "Person"), which owns a Lot, or if more than one Person owns a Lot, all Persons who own the Lot, collectively, shall have membership rights in the Association. If a Person is the sole owner of a Lot, the Person is a member of the Association and if more than one Person owns a Lot, all Persons who own the Lot are considered to be, collectively, a single member of the Association (a "Member"). Acceptance of an ownership interest in a Lot shall constitute consent to admission as a Member of the Association. If a Member ceases to be the owner of a Lot, the Person's membership in the Association shall automatically terminate. Only owners of Lots may be Members. The number of Members shall, at all times, equal the number of Lots in the Subdivision.

**Section 2. Annual Meetings.** There shall be no annual meeting of the Members until the Members' election of directors pursuant to Section 3 of Article III. The first annual meeting of the Members

shall be held as provided for in Section 3 of Article III. Thereafter, the annual meetings of the Members shall be held at such time and place as the Board may, from time to time, reasonably determine. At each annual meeting of the Members:

(a) The Members shall elect successors for directors whose terms have expired or whose terms expire at the annual meeting;

(b) The Association's board of directors (the "Board") or its designated representative shall report to the Members on the Association's activities and financial condition; and

(c) The Members shall consider and act upon any other matters included in the notice of meeting.

**Section 3. Special Meetings.** The Association president may call a special meeting of the Members at any time and shall call a special meeting of the Members if:

(a) The Board adopts a resolution directing the president to call a special meeting; or

(b) Twenty percent of the Members with voting rights execute and present to the president or treasurer a written demand for a special meeting of the Members which demand must state the purpose for which the special meeting is to be held.

No business shall be transacted at a special meeting except as stated in the notice of meeting.

**Section 4. Determination of a Record Date and Suspension of Members.** The Board may fix a date not more than 60 days before the date of an annual or special meeting of the Members as the date for the determination of the Members entitled to notice of and entitled to vote at the meeting (the "Record Date"). Only Members on the Record Date are entitled to notice of and are permitted to vote at the meeting. After determining the Record Date, the Board shall prepare an alphabetical list of the names of the Members who are entitled to notice of the meeting and are entitled to vote at the meeting. The list must show the address and number of votes each Member is entitled to vote at the meeting. If a Member is delinquent in the payment of assessments levied against the Member's or otherwise in violation of the Declaration as of the Record Date, the Board shall provide the delinquent Member with notice of the meeting, but the Board may suspend the Member and prohibit the Member from voting at the meeting. To suspend a Member, the Board shall provide the Member, along with the notice of a meeting, a notice that the Member is delinquent in the payment of assessments levied against the Member's Lot or otherwise in violation of the Declaration and that the Member will be suspended and prohibited from voting at the meeting unless the Member pays

all assessments due and payable as of the Record Date or otherwise cures the Member's violation of the Declaration. The Board must provide the Member an opportunity to be heard by the Board not less than 5 days before the effective date of the suspension. After the opportunity for a hearing, the Board shall decide, by resolution, whether or not to enforce the suspension.

**Section 5. Preparation of Member List.** After affixing the Record Date for determining Member's right to receive notice of and to vote at a meeting, the Board shall prepare an alphabetical list of the names of the Members who are entitled to receive notice of the meeting and to vote at the meeting. The list must show the address and number of votes each Member is entitled to vote at the meeting. Beginning two business days after the Board gives notice of an annual or special meeting, as provided for in Section 6 below, continuing through the date of the meeting, the Board must make the list of Members available to Members for inspection. The list must be available at the Association's principle place of business or at a reasonable location identified in the notice of meeting. The Member list must also be available at the meeting. A Member or his or her agent or attorney is entitled, on written demand, to inspect and copy the member list at a reasonable time at the Member's expense during the period it is available for inspection and at any time during the meeting or an adjournment.

**Section 6. Notice of Meetings.** The Association's secretary shall deliver a notice of each annual or special meeting of the Members to each Member at least 5 days prior to an annual meeting and at least 3 days prior to a special meeting, but the Secretary may not deliver the notice of meeting more than 60 days prior to an annual or special meeting. The notices shall be hand delivered or mailed to all Members at the address of the Member's Lot. A Member may, by written notice delivered to the Board, designate another address for the receipt of notices of annual and special meetings. The notice shall state the date, time and place of the meeting, the purposes of the meeting, and the procedures for appointing proxies.

**Section 7. Place of Meetings.** The Board shall hold meetings of the Members at the Association's office, if any, or such other location, reasonably convenient to the Members that the Board designates.

**Section 8. Conduct of Meetings and Quorum Requirement.** The Board may establish reasonable procedures to govern the conduct of meetings of the Members. The presence, in person or by written proxy statements, of Members eligible to vote who hold 25% of the total number of eligible votes in the Association constitutes a quorum.

**Section 9. Adjourned Meetings.** If any meeting of Members cannot be organized for lack of a quorum, a majority of the Members who are present, either in person or by proxy, may adjourn the meeting to a time not less than 48 hours from the time the original

meeting was called and this process may be continued until a quorum can be obtained.

**Section 10. Voting Rights.** Each Member is entitled to one vote on Association matters. Members may cast a vote in person or by a written proxy at annual and special meetings of the Members. The Board may adopt a resolution providing for a vote of the Members on any issue, except the election of directors, via mailed ballots pursuant to Minn. Stat. § 317A.447. If there is more than one Member of a Lot, only one of the Members may cast the membership vote allocated to the Lot. If the Members of a Lot fail to agree as to who shall cast the vote, the vote shall not be cast.

**Section 11. Proxies.** A Member may execute a written proxy statement appointing a third party to cast the Member's vote at an annual or special meeting of the Members. The Member must deliver the proxy statement to the Association secretary before the scheduled time of the meeting. A proxy statement shall be valid for a period of 11 months unless the proxy statement itself indicates that it is valid for a different period of time. A proxy statement is not valid for more than three years from its execution. A proxy may be revoked, at any time, by attending a meeting and voting in person; delivering a written statement of revocation to the secretary; or delivering a subsequent proxy form to the secretary.

**Section 12. Action of the Members.** If a quorum is present or if a quorum has been present at a meeting, the affirmative vote of the majority of Members, present and entitled to vote, which must also be a majority of the required quorum, is the act of the Members.

### ARTICLE III - BOARD OF DIRECTORS

**Section 1. Qualifications of Directors.** Each director shall be a Member, or if a Member is a corporation, partnership, trust or other legal entity other than a natural person or persons, a designated agent of such corporation, partnership or other legal entity, or beneficiary of such trust.

**Section 2. Declarant's Right to Appoint Directors.** The Articles of Incorporation designate the Association's initial Board. The Board has three members. Centex or a Person a Centex designates (either being a "Declarant"), shall have the exclusive right to remove one or more of the three directors designated in the Articles of Incorporation or their approved successors, at will, and appoint successors, until the earlier of:

(a) five years from the date of the filing of the Declaration;

(b) a Declarant's voluntary surrender of the right to elect directors: or

(c) the date sixty days from the date Declarants have conveyed 100% of the Lots to purchasers other than a Declarant ("Purchasers").

**Section 3. Members' Election of Directors; Number of Directors.** The Board shall have three members until the date Declarant has conveyed 75% of the Lots to Purchasers. Within 60 days of the date a Declarant has sold 75% of the Lots to Purchasers, the Board shall call and hold an annual meeting of the Members. At that meeting the Members shall elect two additional directors who shall not be Declarants or representatives of a Declarant. From and after that election and until the election described in the following sentence, the Board shall consist of five directors. Within sixty days after the date a Declarant has conveyed 100% of the Lots to Purchasers or the Declarant's right to remove directors and appoint their successors pursuant to Article III, Section 2 expires or is terminated, the Board shall call and hold an annual or special meeting of the Members. At that meeting, the terms of all five directors shall expire, and the Members shall elect three directors. The term of office of one director shall be fixed for 3 years; the term of office of one director shall be fixed at 2 years; and the term of office of one director shall be fixed at 1 year. Thereafter, all directors shall serve for three year terms. Directors take office upon election and hold office until they resign, the Members remove them pursuant to Section 5 below or their terms expire and the Members elect successor directors.

**Section 4. Vacancies.** If a vacancy occurs on the Board as a result of a directors death, disqualification or resignation, a majority of the remaining directors shall vote to fill the vacancy even though the remaining directors may constitute less than a quorum. Each director so elected shall be a director until the next annual meeting of the Members at which time the Members shall elect a successor to serve the remainder of the original director's term. If the original director's term has expired, the Members shall elect a successor director.

**Section 5. Removal of Directors.** A Declarant may remove directors that a Declarant appointed and appoint a successor director. The Members may, with or without cause, remove a director whom the Members elect, but not a director designated in the Association's Articles of Incorporation or a director that a Declarant appoints to replace a director designated in the Association's Articles of Incorporation, at any annual or special meeting duly called, and the Members shall immediately elect a successor to fill the vacancy created. If the Members propose the removal of a director, the director shall be given an opportunity to be heard before the Members vote on the director's removal.

**Section 6. Organizational Meeting of Elected Directors.** A newly elected Board shall hold its first meeting within 10 days of its election at a place a majority of the directors present at the election shall determine and announce at the election. No additional notice of the initial meeting shall be necessary.

**Section 7. Regular Meetings.** The Board shall hold regular meetings at the times and places the Board determines and announces at the Board's previous meeting. The Board shall hold at least two regular meetings each year.

**Section 8. Special Meetings.** Any director may call a special meeting of the Board on 5 days notice to each director. The notice shall be given personally, by mail or by telephone and shall state the date, time, place and purpose of the meeting.

**Section 9. Waiver of Notice.** A director may waive notice of a meeting of the Board. The waiver may be given before, at or after a meeting and may be made orally or in writing or implied from attendance at the meeting without objection.

**Section 10. Electronic Meetings.** A conference among directors via any means of communication through which the participants and any Members wishing to attend may simultaneously hear each other during the conference constitutes a meeting of the Board if the same notice is given of the conference as would be required for a meeting, and if the number of directors participating in the conference would be sufficient to constitute a quorum at the meeting. The participation in the meeting by that means constitutes a directors presence, in person, at the meeting.

**Section 11. Quorum and Actions of the Board.** A majority of the directors shall constitute a quorum for the transaction of business. The affirmative vote of a majority of the directors present at a duly held meeting at which a quorum is present shall be the acts of the Board.

**Section 12. Powers.** The Board shall have the powers conferred by Minn. Stat. Ch. 317A, the Declaration, or Bylaws and any other powers necessary and proper to carry out the Association's purpose as stated in the Articles of Incorporation.

#### ARTICLE IV - OFFICERS

**Section 1. Required Officers; Election and Appointment of Officers.** The Association shall have a president, a vice president, and a secretary-treasurer. The Declarant shall appoint the officers during the period of time Declarant is entitled to appoint directors as set forth in Article III. Thereafter, the Board shall elect officers annually at the organizational meeting of each new Board. The president, vice president and secretary-treasurer shall be directors. The Board may appoint an assistant

treasurer, and an assistant secretary, and such other officers as in their judgment may be necessary.

**Section 2. Removal of Officers.** The Board may, by affirmative vote, remove any officer either with or without cause. The Board shall elect a successor at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

**Section 3. President.** The president shall be the chief executive officer of the Association. He or she shall have general active management of the Association and shall, when present, preside at all meetings of the Association and the Board. He or she shall have all of the general powers and duties which are usually vested in the president of a Minnesota non-profit corporation including, but not limited to, the authority to execute and deliver contracts and other documents in the name of the corporation; the authority to appoint committees from among the Members from time to time as he or she may in his or her discretion decide are appropriate to assist in the conduct of the affairs of the Association; and the duty to see that orders and resolutions of the Board are carried into effect.

**Section 4. Vice President.** The vice president shall take the place of the president and perform his or her duties whenever the president shall be absent or unable to act. If neither the president nor the vice president is able to act, the remaining shall act as president on an interim basis. The vice president shall also perform such other duties as the Board may impose on him or her.

**Section 5. Secretary-Treasurer.** The secretary-treasurer shall maintain records of and, when necessary, certify to proceedings of the Board and the members. He or she shall keep accurate financial records of the Association; deposit money and endorse and deposit notes, checks and drafts the Association receives in the name of and to the credit of the Association in the banks and depositories the Board has designated; and disperse Association funds and issue checks and drafts in the name of the Association pursuant to resolutions of the Board; and upon request, provide the president and the Board an account of transactions and of the financial condition of the Association.

#### ARTICLE V - BUDGET AND ASSESSMENTS

**Section 1. Annual Budget Preparation.** Before Centex conveys the first Lot to a Purchaser and on and before November 1 of each year, the Board shall prepare a proposed budget for the Association. The first proposed budget shall be for the period commencing on the first day of the month in which the Board anticipates that Centex will close on the sale of the first Lot to a Purchaser and ending on December 31 of that year. Subsequent

budgets shall be for the upcoming calendar year. Proposed budgets shall set forth the Board's estimate of the Association's expenses for the budget period.

**Section 2. Assessment Role Preparation.** Contemporaneously with the preparation of each annual budget, the Board shall prepare an assessment role. The assessment role shall allocate to each Lot, as its annual assessment for the upcoming year, an amount determined by dividing the Association's estimated income requirements for the upcoming year, based on the proposed budget, by the number of Lots in the Subdivision. Except as set forth in the following sentence and in Section 5, the maximum assessment shall be \$50.00 per Lot. The \$50.00 maximum assessment may be increased by an act of the Members, as defined in Article II, Section 12, at an annual or special meeting of the Members or by the affirmative vote of the majority of Members entitled to vote who vote on a proposal to increase the \$50.00 maximum assessment via mailed ballot as provided for in Section 10 of Article II. Notwithstanding anything else in this Section 2, the Board may assess against a Lot any and all expenses, including attorney's fees and court costs, which the Association incurs in connection with the collection of assessments due and payable with respect to that Lot or in connection with the enforcement of the provisions of the Declaration against the owner or occupant of the Lot.

**Section 3. Budget Adoption and Assessment Levy.** Upon the written request of a Member, the Board shall provide the Member with a copy of the proposed budget and assessment role for the upcoming year on or before November 1 of each year. Before Centex conveys the first Lot to a Purchaser and between December 1 and December 31 of each year thereafter, the Board shall, by resolution, adopt an annual budget and levy annual assessments. The Board shall base the annual budget and the annual assessments on the proposed budget and the assessment role, subject to any modifications specifically set forth in the resolution adopting the annual budget and levying the annual assessments.

**Section 4. Failure to Prepare Budget.** The failure of the Board to prepare a proposed budget or to adopt an annual budget or levy annual assessments as provided herein shall not constitute a waiver or release in any manner of a Member's obligation to pay the amounts assessed against the Member's Lot and in the absence of any proposed or annual budget, the Member shall continue to pay the monthly assessment established for the previous period until a new annual budget is mailed or delivered to the Member and a new assessment is levied.

**Section 5. Special Assessment for Declaration Enforcement Costs.** The Board has the legal right and the corporate authority to commence legal action to enforce the Declaration and these Bylaws. If the Board elects to engage legal counsel to assist the Board in enforcement of the Declaration or these Bylaws and the annual assessments are insufficient to finance the legal costs of enforcement, the Board may, with the consent of 50% of the Members obtained at an annual or special meeting of the Members or obtained via a mailed ballot pursuant to Minnesota Statutes, Section 3178.447, levy a special assessment to finance the cost of enforcement. Prior to submitting the proposed special assessment to the Members for approval, the Board shall prepare a budget estimating the enforcement costs. The Board shall provide the budget to the Members upon request. If the Members approve the special assessment, the Board shall prepare a special assessment role. The special assessment role shall allocate to each Lot, as its special assessment, an amount determined by dividing the Board's estimated cost of the enforcement action by the number of Lots in the Subdivision. After the Board prepared and approves the assessment role, the Board shall, by resolution, levy the special assessment based on the assessment role. In the Resolution approving the Special Assessment, the Board shall state, in addition to the amount of the assessment, the date upon which the special assessment will be due and payable.

**Section 6. Payment of Annual and Special Assessments.** Unless otherwise provided in the Board's resolution levying the assessment, annual assessments shall be payable to the Board or as the Board directs on or before January 31st of each year. Special Assessment shall be payable to the Board or as the Board directs on or before the date set forth in the Board's Resolution adopting the Special Assessment. Each Member is personally liable for the annual and special assessments levied against Member's Lot. The Association shall not have a lien against the Lots for the amount of unpaid annual or special assessments. If more than one Person owns a Lot, all Owners of the Lot shall be jointly and severally liable for all assessments. Members may not withhold payment of annual or special assessments or reduce the amount of the Members payments as a set-off against claims which the Member asserts against the Association. If a Member fails to pay an annual or special assessment, in full, within 10 days of the date due, the payment shall immediately become delinquent and shall begin to accrue interest. Interest shall accrue as of the date of such delinquency at the judgement rate of interest as determined by Minnesota Stat. § 549.09. In addition, the Board may adopt a resolution establishing a late fee to be assessed against a Lot if any assessment payment is not made when due. In any suit to recover a money judgment for unpaid special or annual assessments, the amount due and owing shall include the amount of all unpaid assessments, interest and any late charges as described above, and all costs of collection, including actual attorneys fees.

**Section 7. Rights of First Mortgagees.** A Person that acquires title to a Lot through a foreclosure of a first mortgage on the Lot shall be deemed a Member, but, notwithstanding any other provisions of these Bylaws or the Declaration, a first mortgagee that becomes a Member as a result of the first mortgagee's foreclosure of its first mortgage shall have no personal liability for annual or special assessments levied against the first mortgagee's Lot during the time period in which the first mortgagee owns the Lot and shall not be subject to or assume liability for unpaid annual or special assessments levied before the first mortgagee acquires title to the Lot.

**ARTICLE VI - BOOKS AND RECORDS, ANNUAL REPORTS, RESALE CERTIFICATES AND ACCOUNTING CONTROLS**

**Section 1. Books and Records.** The Board shall keep adequate records of the Association's membership, membership meetings, Board meetings, committee meetings, contracts, and other agreements to which the Association is a party, and material correspondence and memoranda relating to its operations. The Association shall keep or cause to be kept financial records sufficiently detailed to enable the Association to comply with Sections 3 below. The Association's records shall be kept at the registered office of the Association. The Board shall make the Association's records available to any Member, a Member's authorized agent, or a holder, insurer or guarantor of a first mortgage lien on a Lot for examination at reasonable times during normal business hours; provided, however, that a person wishing to review the Association's records must provide the Board with reasonable, advance notice to allow the Board to comply with this section.

**Section 2. Annual Reports.** The Association shall prepare an annual report and distribute it to each Member present at the annual meeting of the Members and to Members submitting a written request for a copy. The annual report shall contain, at a minimum, the following:

(a) A statement of the balance in any reserve or replacement fund.

(b) A copy of the statement of revenues and expenses for the last fiscal year and a balance sheet for the Association.

(c) A statement of the status of any pending litigation or judgments to which the Association is a party.

(d) A statement of all delinquent payments of annual or special assessments current as of not more than 60 days prior to the date of the report, in each case identifying the Member, the Lot, and the amount of the delinquency.

**Section 3. Resale Certificates.** At the request of a Member or a Member's authorized representative, the Association shall

provide the Member or Member's authorized representative with a resale disclosure certificate. The Association shall provide the certificate within 20 days of the Member's or Member's authorized representative's request. The Association may charge a reasonable fee for furnishing the certificate and any documents related thereto. The certificates shall include:

(a) a statement setting forth the amount of the annual assessments levied against the Lot and the amount of any due and unpaid annual assessment, fines or other charges payable with respect to a Lot;

(b) a statement of the amount of any reserves for maintenance, repair or replacement and of any portions of those reserves the Board has designated for any specified projects or uses;

(c) a copy of the most recent regularly prepared balance sheet and income and expense statement, if any, of the Association;

(d) a copy of the Association's current budget;

(e) a statement of any unsatisfied judgments against the Association and the status of any pending suits to which the Association is a party;

(f) a statement as to whether the Board has notified the current Member: (i) that any conditions on the Lot violate any provision of the Declaration; (ii) that the Lot is in violation of any governmental statute, ordinance, code or regulation.

#### ARTICLE VII - AMENDMENTS TO BYLAWS

**Section 1. Amendments.** Subject to the terms of the Declaration, the members of the Association may amend these Bylaws at an annual meeting or at a special meeting called for that purpose. To be effective, the Members of at least 51% of the Lots and the holders of first mortgages on at least 51% of the Lots subject to first mortgages (each mortgagee having one vote per unit financed) must vote in favor of the amendment in person or by written proxy, and the Association must record the amendment in the appropriate county land records.

#### ARTICLE VIII - NOTICES

**Section 1. Notice of Change of Residence.** If the Member is not residing at the Member's Lot, the Member shall promptly notify the Association, through the managing agent, if any, or the president if there is no managing agent, of the name of the resident of the Member's Lot; the address of the Member's new residence or corporate or partnership offices, as the case may be;

and the Member's current mailing address. The Association shall maintain such information in a record book.

**Section 2. Notice of Mortgages.** A Member who mortgages his Lot shall notify the Association through the managing agent, if any, or the president, if there is no managing agent, of the name and address of the Member's mortgagee. The Association shall maintain such information in a record book.

#### ARTICLE IX - INDEMNIFICATION

**Section 1. General.** The Association shall indemnify each person who is or was a director, an officer, or a member of any committee which the Board forms, or who serves or served the Association as the Association's appointed representative to some other corporation or legal entity for actions which the person takes or decisions which the person makes on behalf of the Association, as provided for in Minnesota Statutes § 317A.521 or any successor statute.

The foregoing Bylaws of Wyndemere Homeowners Association, a Minnesota non-profit corporation, were adopted by action of its Board of Directors on the 1<sup>st</sup> day of November, 1994.

By

Thomas M. Boyce  
Its President

and

By

Connie McGuire  
Its Secretary-Treasurer

