

MEMORANDUM

To: Members of Hunters Pointe Subdivision Association
From: Association Counsel
Re: Explanation of Proposed Amended Subdivision Documents for Hunter's Pointe Subdivisions

The Board of Directors has been working with our firm to develop a new, updated set of Subdivision Documents. The enclosed drafts are the end product of their substantial work and input.

There are three documents that the Board is proposing to revise or adopt. These are the Declaration of Restrictions for Hunter's Pointe Subdivision Nos. 1 through 7, the Association's Bylaws, and the Association's Articles of Incorporation. The following briefly describes the purpose of each of these documents:

1. Declaration of Restrictions: The Declaration is recorded against each Lot and primarily serves two main functions: (1) to describe all Community property within the Subdivisions; and (2) to apprise all Owners and prospective Owners of the respective rights and obligations of the Owners and Association relative to the upkeep of Lots, Residences and Community property.

2. Bylaws: The Bylaws are drafted pursuant to the Nonprofit Corporation Act and generally include provisions relating to the designation, number, term of office, qualifications, manner of election, duties, manner of removal and replacement of the directors and officers of the Association, as well as provisions relating to the meetings of the Association members. The Bylaws are not currently recorded against the Lots.

3. Articles of Incorporation: The Articles of Incorporation are drafted pursuant to the Nonprofit Corporation Act. This document is filed with the State and establishes the existence of the Association as a nonprofit corporation.

As Subdivision documents become older, they become outdated in many respects due to changes in the law concerning community associations. Likewise, as communities mature, additional needs of the community become more apparent. Accordingly, the Board has been working with our firm to update the Subdivision Documents so that they reflect current community and nonprofit association law and so that community needs can be met.

The following summarizes the significant changes to these documents (note that this Memo does not take the place of reading the proposed documents, and that references below are to the new Article and Section numbers, as opposed to the old):

A. Amended and Restated Declaration

1. We deleted references to the rights of the Declarant (i.e. developer) as the Declarant is no longer involved in the Subdivisions. We added a table of contents and paragraph headings for ease of reference.

2. The separate Declarations of Restrictions for Subdivisions 1 through 7 have been consolidated into the revised Declaration so that all Subdivisions that form the Community are referenced in a single Declaration rather than through seven separate declarations.

3. We added a definition section, which is contained in Article I, to provide definitions that are important to understanding the terms used throughout the Subdivision Documents. These include a definition for “Common Areas,” which are owned by the Association, are designated on the Subdivision Plats as being for the beneficial use and enjoyment of the Owners, and include Sheffield Park, Hunter’s Pointe Park, Wilshire Park, North Hill Park, and North Hill Park No. 2.

4. In Article II, Section 2, we included a definition for “good standing” and specified that only Owners in good standing are permitted to vote. We also specified that each Owner has one vote in the Association for each Lot owned.

5. In Article III, we consolidated various easement provisions contained in the existing separate declarations. We also incorporated several provisions of the Agreement for Planned Unit Development entered into by the Township and Declarant regarding the development and use of the Subdivisions and Lots, and added Section 5 to point out the City’s rights relating to ensuring the Common Areas are properly maintained.

6. In Article IV, Section 1, we updated the description of purposes for which the Association may levy assessments by removing items for which assessments have not been historically used (for instance, “employing night watchmen,” “collecting and disposing of garbage, ashes and rubbish,” and “constructing, purchasing, maintaining or operating any community service facility,” and by adding items for which assessments have been historically utilized (for instance, snow plowing and maintaining the cul-de-sac islands).

7. We revised Article IV, Section 3 to specify that the Board must establish an annual budget projecting all expenses that may be required for the proper operation, management and maintenance of the Subdivision and administration of the Association. We also removed the cap on assessment increases as the Association has a duty to set assessment levels based on the actual and anticipated cost of maintaining, repairing and replacing the Common Areas and administering and operating the Association, and any approval requirement is inconsistent with this duty.

8. We added Article IV, Section 4 and 5 to distinguish between the general assessment (i.e. annual dues addressed in Section 3), additional assessments and special assessments. Additional assessments are those assessments that may be required from time to time for the Board to carry out its assigned duties. Special assessments are those assessments that may be sought from time to time for the Board to do other, non-required things, such as adding new common areas – Section 4 reflects that the Board may levy special assessments only if approved by 60% of all Owners.

9. We revised Article IV, Section 7 by adding provisions as to how payments on a delinquent account will be applied, to make clear that a delinquent Owner may not vote or run for or hold office, and to permit the Association to foreclose its lien for unpaid assessments by advertisement in addition to judicial foreclosure. We also add provisions permitting the Association to charge interest on unpaid assessments, to reflect that the current late fee is \$25, and to permit the Board to revise the late fee by rule.

10. We added Article IV, Section 8 to reflect that Owners cannot withhold assessment payments based on claims of, among other things, not utilizing the Common Areas.

11. Article V, Section 1 now contains a provision that prohibits commercial and business activities (to discourage group homes, transitional housing and other potential nuisances) on Lots, but recognizes and allows home office use to the extent that it does not (a) involve additional vehicle or pedestrian traffic, (b) utilize or involve the presence of any employees other than the individual Owner and their families, (c) disturb other Owners, (d) involve additional expense to the Association (such as utility charges or insurance), (e) constitute a violation of any municipal ordinances or regulations, and (f) otherwise violate any other provision or restriction contained in the revised Declaration. Additionally, we incorporated occupancy restrictions on the number of people residing in a Residence in accordance with City ordinances.

12. We revised Article V, Section 2 to make the attached garage requirements uniform for all Subdivisions so that all residences must have an attached garage for not less than 2 nor more than 3 vehicles, and so that all garages must be utilized to allow parking of at least 2 vehicles. We also revised this Section so that the minimum floor space requirements are consistent among the Subdivisions.

13. We revised Article V, Section 4 to make clear that Owners must also remove the tree stump when a tree is removed.

14. We revised Article V, Section 8 to make the fence requirements uniform for all Subdivisions.

15. We revised Article V, Section 9 to make clear that above-ground pools are prohibited, but to permit temporary "wading" or "children" pools not utilizing filtration equipment and otherwise meeting the requirements contained in this Section.

16. We revised Article VI, Section 11 to prohibit the use or discharge of potentially dangerous items on the Condominium except as otherwise set forth in the Association's rules and regulations.

17. We revised Article V, Section 12 to reflect municipal ordinance requirements relating to the number of pets that may be maintained within a Residence, and to specify that pets cannot run loose but rather must be kept on a leash or otherwise properly restrained via the utilization of an invisible fence. This Section also contains rules to ensure pets do not become a nuisance to other Owners.

18. We expanded Article V, Section 13 to make clear that Owners must properly maintain their Lots and Residences and to provide examples of what Owners are required to maintain.

19. We revised Article V, Section 14 to remove the specific for sale and lease sign restrictions and to instead simply specify that signs must comply with the Association's rules and regulations.

20. We revised Article V, Section 16 to make clear that all replacement mailboxes conform with the Association's size, color and design standards.

21. We revised Article V, Section 17 to include a definition for commercial vehicle and to highlight that the Association may tow vehicles parked in violation of the Bylaws. We also added a provision permitting the temporary parking of recreational vehicles for loading and unloading.

22. We added Article V, Section 18, to incorporate and comply with restrictions related to satellites as established by the FCC.

23. We added Article V, Section 19 to make clear that the Board may adopt reasonable rules regarding the use and administration of the Subdivision.

24. Article V, Section 20 is new and provides that the cost of enforcing the Subdivision Documents will be borne by the Owner who violates the same. Including this provision helps prevent Owners that comply with the documents from paying for another Owner's violation of the Documents.

25. In Article VI, Section 3, we removed the provision indicating that failure to approve a modification within a specified timeframe will not be deemed an approval – this will protect the Association from instances where a modification request has been submitted but inadvertently overlooked by the Board.

26. Article VII is rewritten to give the Association necessary rights of enforcement. In addition to the right to enforce the restrictions, conditions, covenants or rules and regulations through legal action, the Association has the right to (a) charge any violating Owner with the expenses, including attorneys' fees, of enforcing a restriction, and (b) to remove and abate any violation without court action at the expense of a violating Owner. The right to fine for violations

is also included in Section 7, and this Section satisfies necessary due process concerns and clarifies how fines and hearings are to proceed, and how continuing and multiple violations will be treated.

B. Amended and Restated Bylaws

1. As with the Declaration, we added a table of contents.
2. We added Article III, Section 3 to specify the methods for voting, which includes voting by alternative means such as electronic transmission.
3. We revised Article III, Section 4 to increase flexibility for voting and not require votes simply at a meeting. This will make voting easier, less expensive, and allow for advances in technology, facilitating more responses in situations requiring broad Owner involvement.
4. Article IV, Section 1 provides for the annual meeting to be held in the month of November, and we added a provision allowing the Board of Directors to change the date of the annual meeting if necessitated by Owner availability. This provides more flexibility to ensure that the Association can hold the Annual Meeting when it is anticipated that most Owners will be able to participate.
5. We revised Article IV, Section 2 to specify that an Association special meeting must be called upon the written request of 1/3rd of the Owners.
6. We modified Article IV, Sections 3 and 4 to reflect the ability to send meeting notices via electronic means and to participate in member meetings via remote communication as permitted under recent amendments to the Nonprofit Corporation Act.
7. We reduced the quorum requirement in Article IV, Section 5 from 2/3^{rds} to 60 % to reflect a safer quorum for holding Association meetings.
8. Article IV, Section 6 now contains a "shrinking" quorum requirement for meetings which have been adjourned due to lack of quorum (i.e. the quorum requirement is automatically reduced by ½ at the adjourned meeting if quorum is not met at the initial meeting).
9. In Article V, Section 1, we specified that the Board consists of 15 members. We also added a provision prohibiting more than one person from each Lot serving on the Board at one time, which helps avoid concerns of conflict of interest or monopolization of the Board. We also implemented a policy for Directors who become delinquent.
10. In Article V, Section 2, we increased Board terms to 2 years. We also revised the Board terms so they are staggered, which will help ensure smooth transitions from year to year.
11. We revised Article V, Section 6 to reflect the powers granted to the Board as a nonprofit corporation and as administrator of the Subdivision.

12. Article VI, Section 1, we added a provision requiring the Board of Directors to hold at least 2 Board meetings each year.

13. We added provisions to Article VI to enlarge the methods of giving notice of meetings, methods for voting by Directors, and methods for participating in meetings to reflect new technology, to allow action of the Board by written consent as well as by telephone and e-mail, and allowing the Board to close meetings and meet in executive session to discuss privileged matters.

14. In Article X we included detailed indemnification provisions as permitted under the Nonprofit Corporation Act.

C. Articles of Incorporation

We added three Articles to the Association's Articles of Incorporation. The first and second Articles contain provisions providing the level of indemnification and protection allowed to volunteer directors and officers pursuant to the Michigan Nonprofit Corporation Act. Under the Act, these provisions must be contained in the Articles to be effective. We added the third Article to reflect updated provisions of the Nonprofit Corporation Act relating to voting on Association issues without a meeting.

Please note that this Memo is not intended as a substitute for a complete reading of the proposed new documents. This Memo seeks only to call your attention to the most significant changes in those documents, and is not exhaustive. You are encouraged to completely read the proposed new documents.

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Attorneys for the Association