

**ROLLING OAKS HOMEOWNERS ASSOCIATION**

**ASSOCIATION BY-LAWS**

**ARTICLE I**

**Adoption of Other Documents**

1.01 The applicable provisions of the "Rolling Oaks Sub Drainage Detention Basin Agreement; Rolling Oaks Homeowners Association; Voting; Assessments" entered into by Distinctive Land, Inc. (as "Declarant") as required by the City of Howell and recorded in Liber 1768 pages 34-39, Livingston County Records, and as from time to time further amended, (hereinafter referred to as the "DDB Agreement") and the applicable provisions of the Building and Use Restrictions recorded for Rolling Oaks Subdivision in Liber 1724 pages 247-251, Livingston County Records, and as from time to time amended (hereinafter collectively referred to as the "Restrictions") are hereby incorporated by reference and adopted as a part of the By-Laws of this non-profit corporation (hereinafter referred to as the "Association"). (A copy of the DDB Agreement and Restrictions are attached hereto). Where the Restrictions and DDB Agreement conflict with these By-Laws, the Restrictions and DDB Agreement shall supercede the By-Laws. The purposes and powers of the Association and the rights, duties and obligations of membership as set forth in the Articles of Incorporation of the Association filed with the State of Michigan on July 28, 1997 are also incorporated herein by reference, and a copy of said Articles of Incorporation are attached hereto.

**ARTICLE II**

**Meetings**

2.01 Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the members as may be designated by the Board of Directors. Meetings of the Association shall be conducted in accordance with Roberts' Rules of Order when not otherwise in conflict with the Articles of Incorporation, the By-Laws of the Association, the DDB Agreement or the Restrictions.

2.02 The first annual meeting of the members of the Association shall occur no later than thirty (30) days after the date upon which ninety-five (95%) percent of the lots are owned by persons other than the Developer or Builders. The time and place of such meeting shall be set by the Board of Directors, and at least ten (10) days written notice thereof shall be given to each member. Thereafter, the annual meeting of the members of the Association shall be held on the first Tuesday

of December of each succeeding year at a time and place as shall be determined by the Board of Directors. At such meeting, there shall be elected by ballot of the members a Board of Directors in accordance with the requirements of Section 1 of Article III of these By-Laws. The members may also transact at such meeting such other business of the Association as may properly come before them.

2.03 It shall be the duty of the President to call a special meeting of the members as directed by resolution of the Board of Directors or upon a petition signed by one-third (1/3) of the members presented to the Secretary of the Association. Notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

2.04 It shall be the duty of the Secretary (or other Association officer in the Secretary's absence) to serve a notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held, upon each member of record on the Association books at least thirty (30) days, but not more than sixty (60) days, prior to such meeting or within such other time period as is required in the DDB Agreement. The mailing, postage prepaid, of a notice (i) to the representative of each member or (ii) to any one or more of the members where there is more than one owner of the lot or (iii) merely addressed to the occupant if there is a home on the lot, and in each case mailed to the address shown on the records of the Association, shall be deemed notice served, except that any notice to Developer shall be sent certified mail, return receipt requested, postage prepaid to Developer's office address. Any member may, by written waiver of notice signed by such member, waive such notice, and such when filed in the records of the Association, shall be deemed due notice.

2.05 If any meeting of members, including annual meetings, cannot be held because a quorum is not in attendance, the members who are present may adjourn the meeting to a place and time not less than forty-eight (48) hours nor more than sixty (60) days from the time the original meeting was called.

2.06 The owners of each lot in the Subdivision shall file their name(s) and address(es) and evidence of ownership with the Secretary of the Association for the Association Records, and the successive owners of such lot shall also so file their name(s) and address(es) and evidence of ownership upon acquiring ownership.

### ARTICLE III

#### Membership and Voting

3.01 Membership in the Association shall be mandatory for each lot owner in <sup>Rolling Oaks</sup> ~~Springhill~~ Subdivision (hereinafter referred to as the "Subdivision"). Membership shall be appurtenant to, and

may not be separated from, ownership of a Lot.

Where there is more than one owner of a lot, the membership for such lot shall be joint and several among all the co-owners of the lot, and the co-owners of such lot shall be collectively deemed herein as being only one member and counted as only one member, even though all co-owners of such lot shall be jointly and severally personally liable for all mandatory assessments against such lot. Accordingly, each lot in the Subdivision shall be entitled to only one collective membership and each lot shall be entitled to only one vote.

Where a lot is owned by two or more parties, the Officer conducting the meeting shall have the authority in his or her discretion to select any of the owners of the lot to cast the vote for such lot on the particular matter being voted upon, in the absence of a writing signed by all the co-owners of the lot designating one of the co-owners of the lot as having the right or authority to cast the vote for such lot and filed with the Secretary of the Association or the Officer conducting the meeting prior to the time of the vote. Said co-owners shall have the right to designate a different co-owner from time to time if they desire, which new designation must be filed as aforesaid in order to be effective. Notwithstanding anything to the contrary herein, the Developer shall be considered the lot owner for purposes of voting (but shall not be responsible for assessments) of any lot which is sold by Developer on land contract until delivery of a warranty deed by Developer to the lot Purchaser.

3.02 Unless waived by the Officer conducting the meeting, no member, other than the Developer, shall be entitled to vote at any meeting of the Association unless such member has presented evidence of ownership of a lot or has previously filed such evidence in accordance with Section 6 of Article II above.

3.03 The presence in person of members representing thirty-five (35%) percent of the total number of lots shall constitute a quorum for holding a meeting of the members of the Association, and except for voting on questions specifically required by these By-Laws or the DDB Agreement, if any, which require a greater quorum. In cases where written voting is permitted, the written vote of the member furnished at or prior to any duly called meeting at which meeting said party is not present in person shall be counted in determining the presence of a quorum with respect to the question upon which the vote is cast.

3.04 If a quorum is not present and the meeting is adjourned as provided in Section 5 of Article II of these By-Laws, the presence in person of members representing one-half the required quorum at the preceding meeting, however in no event less than ten (10%) percent of the lots, shall constitute a quorum at such adjourned meeting.

3.05 Votes may be cast in person and it shall also be permissible to vote by a writing duly signed by the member who is not present at a given meeting in person. Any written votes must be filed with the Secretary of the Association or the Officer conducting the meeting at or before the time of the voting. Also, voting by proxy shall be permitted. Cumulative voting shall not be permitted.

## ARTICLE IV

### Board of Directors

4.01 The affairs of the Association shall be governed by a Board of Directors, all of whom must be Subdivision lot owners or officers, partners, trustees, or employees of corporate or partnership lot owners, except for members of the Board of Directors who are appointed by the Developer. Anything in these By-Laws to the contrary notwithstanding, subject to terms of the DDB Agreement, the Developer may appoint the Directors of the Association until such time as ninety (90%) percent of the lots in the Subdivision shall have been sold by the Developer. Directors shall serve without compensation. Any Director may be reimbursed for his or her actual expenses incurred in the performance of his or her duties.

4.02 The Board of Directors shall be composed of five (5) persons. The Board of Directors shall manage the affairs of the Association. A director shall hold office until its successor has been elected or appointed, or until its resignation or removal. Notwithstanding the foregoing, so long as the Developers shall be entitled to appoint the Directors, the number of Directors shall be determined by said Developer.

4.03 The Board of Directors shall have all powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by law, the DDB Agreement, the Articles of Incorporation, or by these By-Laws, prohibited.

4.04 In addition to the foregoing duties imposed by these By-Laws or any further duties which may be imposed by resolution of the members of the Association, the Board of Directors shall specifically have the following duties and/or rights:

- (a) To manage and administer the affairs of and maintenance of the Association and the property (real, personal and otherwise) owned by the Association.
- (b) To collect mandatory and voluntary assessments from the members of the Association and to use the proceeds thereof for the respective purposes of the Association.
- (c) To carry insurance and collect and allocate the proceeds thereof.
- (d) To rebuild improvements after casualty.
- (e) To contract for and employ persons, firms, corporations or other agents to assist in the management, operation, maintenance and administration of the Association.
- (f) To acquire, maintain, improve, and to buy, sell, convey, assign, grant easements, rights-of-way and licenses, mortgage or lease, any real or personal property on behalf of the Association in furtherance of any of the purposes of the Association.

(g) To borrow money and issue evidence of indebtedness in furtherance of any or all of the purposes of the Association, and to secure the same by mortgage, pledge, or other lien, on property owned by the Association; provided, however, that any such action shall be approved by affirmative vote of seventy-five (75%) percent of the members.

(h) To enforce the provisions of the DDB Agreement, these By-Laws and the Restrictions.

(i) To suspend the voting rights and the right to the use of the Common Areas owned by the ~~Springhill~~ Homeowners Association of a member during any period during which such member shall be in default in the payment of any mandatory assessment levied by the Association. Such right may also be suspended for a period not to exceed sixty (60) days for infraction of Rules and Regulations adopted by the Board of Directors.

4.05 The Board of Directors may adopt Rules and Regulations respecting the use and enjoyment of the Common Areas (sometimes also referred to in these By-Laws as parks) owned by the Association and for the personal conduct in the Common Areas of the members and to establish penalties for the infraction thereof, and such other Rules and Regulations as are desirable for proper maintenance and control of the Common Areas.

4.06 Vacancies in the Board of Directors caused by any reason other than the removal of a Director by a vote of the members of the Association shall be filled by vote of the majority of remaining Directors, even though they may constitute less than a quorum. Each person so elected shall be a Director until a successor is (i) elected at the next annual meeting of the Association or (ii) otherwise elected by the remaining Directors, or (iii) elected at a special meeting of the Association called for this purpose.

4.07 The first meeting of a newly elected Board of Directors shall be held within ten (10) days of election at such place as shall be fixed by the Directors at the meeting at which such Directors were elected, and no formal notice shall be necessary to the newly elected Directors in order legally to constitute such meeting providing some form of notice is given to each Director and providing a majority of the whole Board shall be present.

4.08 Regular meetings of the Board of Directors may be held at such times and places as shall be determined from time to time by a majority of the Directors, but at least one such meeting shall be held during each calendar year. Notice of regular meetings of the Board of Directors shall be given to each Director, personally, by mail, telephone or telegraph, at least ten (10) days prior to the date named for such meeting.

4.09 Special meetings of the Board of Directors may be called by the President on at least three (3) days' prior notice to each Director, given personally, or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice (except

as otherwise required by the DDB Agreement) on the written request of any two Directors.

4.10 Before, at, or after any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meetings of the Board shall be deemed a waiver of notice. If all the Directors are present at any meeting of the Board, no prior notice shall be required and any business may be transacted at such meeting not otherwise prohibited by these By-Laws.

4.11 At all duly held meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice. The later joinder of a Director in the action of a meeting by signing and concurring in the minutes thereof shall constitute the prior presence of such Director for the purposes of determining a quorum.

4.12 The Board of Directors may require that all officers and employees of the Association handling or responsible for Association funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be expenses of administration of the Association and paid for by the Association.

4.13 The first Board of Directors shall be appointed by the Developer who shall serve until their successors (whether by Developer appointment and election by members in accordance with the Bylaws and DDB Agreement) are appointed or elected.

## ARTICLE V

### Officers

5.01 The principal officers of the Association shall be a President, who shall be a member of the Board of Directors, a Vice President, a Secretary and a Treasurer, all of whom shall serve without compensation if they are members of the Board of Directors and otherwise may be reasonably compensated at the discretion of the Board of Directors. The Directors may appoint an assistant Treasurer and an assistant Secretary and such other officers as in their judgment may be necessary. Any two offices except that of President and Vice President may be held by one person.

5.02 The Officers of the Association shall be elected annually by the Board of Directors at the organizational meeting of each new Board and shall hold office at the pleasure of the Board.

5.03 Upon an affirmative vote of a majority of the members of the Board of Directors, any Officer may be removed either with or without cause, and his or her successor elected at any regular meeting of the Board of Directors, or any special meeting of the Board called for such purpose.

5.04 The President shall be the chief executive officer of the Association. He or she shall preside at all meetings of the Association and of the Board of Directors. He or she shall have all of the general powers and duties which are usually vested in the office of the President of the Association, including but not limited to the power to appoint committees from among the members of the Association from time to time as he or she may in his or her discretion deem appropriate to assist in the conduct of the affairs of the Association.

5.05 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 Board of Directors shall appoint some other member of the Board to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him or her by the Board of Directors.

5.06 The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the members of the Association; he or she shall have charge of the corporate seal and of such books and papers as the Board of Directors may direct; and he or she shall, in general, perform all duties incident to the office of the Secretary.

5.07 The Treasurer shall have responsibility for Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He or she shall be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Association, in such depositories as may from time to time be designated by the Board of Directors. The Treasurer shall also within a reasonable time respond in writing on behalf of the Association to written requests to the Association as to whether, and the amount of, there are unpaid mandatory assessments against any particular lot according to the books of the Association.

5.08 The Officers shall have such other duties, powers and responsibilities as shall, from time to time, be authorized by the Board of Directors.

## ARTICLE VI

### Seal

6.01 The Association may, but is not required to, have a seal which shall have inscribed thereon the name of the corporation, the words "corporate seal" and "Michigan".

## ARTICLE VII

### Finance

7.01 The fiscal year of the Association shall be from January 1 to December 31.

7.02 The funds of the Association shall be deposited in such banks or savings and loan associations (herein "bank accounts") as may be designated by the Directors and shall be withdrawn only upon the check or other draft of such Officers, employees or agents as are designated by resolution of the Board of Directors from time to time. The Association shall keep separate bank accounts for mandatory assessments and for voluntary assessments so that receipts and expenses of the two different assessments will not be mixed together.

7.03 The Association shall keep detailed books of account pertaining to the administration of the Association in accordance with generally accepted accounting principles. Such accounts shall be open for inspection by the members at reasonable intervals and during reasonable working hours and shall be audited annually by a qualified auditor. The cost of such audit shall be an expense of administration of the Association.

7.04 There shall be two types of Association assessments. One shall be mandatory assessments and the members are obligated to pay same. The other shall be voluntary assessments and the members may elect not to pay same, although the members are hereby encouraged to pay same for the benefit of themselves, their neighbors, the Association and the Subdivision.

a. Mandatory annual assessments are due on June 1<sup>st</sup> of each year and they shall not exceed \$200.00 per lot per year until January 1, 1994. From and after January 1, 1994 the maximum mandatory assessment may be increased each year not more than five (5%) percent above the maximum assessment for the previous year without a vote of the members. However, from and after January 1, 1994, the maximum mandatory assessment may only be increased above the five (5%) percent maximum previously described, upon a vote of two-thirds (2/3) of the members, excluding the Developer and the affirmative vote of the Developer. Notwithstanding the foregoing, in addition to mandatory annual assessments, special assessments may be levied in accordance with the terms of the DDB Agreement. Late charges as a handling fee (in addition to interest) not to exceed \$25.00 may be established by the Board of Directors on any mandatory assessments which are more than thirty (30) days delinquent in payment but may be waived by the Board of Directors in its discretion for any given lot. Mandatory annual assessments may be used to provide for the (i) improvements of, (ii) payment of taxes, insurance, electricity, water and other utility charges for, and (iii) repair, replacement, maintenance and management of, the following:

(i) The Common Area and all present and future improvements therein located within the Subdivision, which Common Areas ~~are known as Springhill Park~~, and



(ii) The property located alongside and within the entryways to the Subdivision (including without limitation any signs, fixtures and facilities located thereon, and including without limitation the street right of ways) and/or any cul-de-sac islands within the subdivision and/or berms and other landscaping along ~~Auburn~~ Road, in and as the Association shall determine,

and may be used to collect and enforce payment by any lawful means of all charges or mandatory assessments against members pursuant to, or to carry out, or to enforce these By-Laws and the applicable provisions of the DDB Agreement, and as they may be amended, and may be used to pay all expenses in connection with the Common Area and the entryways and/or the cul-de-sac islands, and/or the berms and other landscaping along ~~Auburn~~ Road, all as referred to in (i) and (ii) above, and all office and other expenses incident to the conduct of such business of the Association, including all licenses, taxes and governmental charges levied or imposed against the land of the Association. The Association shall have a lien against the property to secure payment of mandatory assessments including any interest thereon.

b. Voluntary assessments may be in any amount but shall not be an obligation against a member or its property and is in the nature of a voluntary contribution to be made or not made at the discretion of each member, and which assessments may be used to fund the above purposes and other purposes of the Association for items not contained in (i) and (ii) above, including without limitation contracting for early snow removal from Subdivisions streets and funding activities for the enforcement of the Restrictions.

7.05 Each year prior to December 31st the Board of Directors may levy mandatory annual assessments as provided for in the DDB Agreement and in these By-Laws. The existing year's annual mandatory assessment shall be the following year's annual mandatory assessment in the event the Board of Directors does not levy a new one by December 31st, except that such automatic renewal shall be limited to a cap of no higher than \$200.00 for any given year absent the approval of the Developer as provided in Section 4a of this Article VII. The Board of Directors may also propose voluntary assessments from time to time during the year.

7.06 Interest at the rate of seven (7%) percent per annum shall accrue on unpaid mandatory assessments from the date due and at such higher rate permitted by law upon the filing of court action. The Association may enforce collection of delinquent assessments including interest thereon by a suit at law for a money judgment without foreclosing or waiving the lien, or by foreclosure, or by any other legal method or by any combination thereof to the extent permitted by law, including without limitation that an action for money damages and foreclosure may be combined in one action. The election of one remedy shall not bar the election of another remedy. Each lot owner and every other person who from time to time has any interest in the lot shall be deemed to have granted the Association the unqualified right to elect to foreclose such lien either by judicial action or by advertisement with power of sale. The provisions of Michigan law pertaining to foreclosure of mortgages by judicial action and by advertisement with power of sale, as the same may be amended

from time to time, are incorporated herein by reference for the purposes of establishing the alternate procedures to be followed in lien foreclosure actions and the rights and obligations of the parties to such actions. To the extent permitted by law the Association has the right to elect one method and thereafter decide instead to elect the other method. The Association may bid in at the foreclosure sale and acquire, hold, lease, mortgage and/or convey the lot and all improvements thereon. The expenses incurred in collecting or attempting to collect unpaid mandatory assessments, including interest, costs, actual attorneys fees (not limited to statutory fees) and advances for taxes or other liens paid by the Association to protect its lien, plus any late charges, shall be chargeable to the lot owner in default and shall be secured by the lien on the lot. Notwithstanding any other provisions of these By-Laws, the mortgagee of a first mortgage of record of a lot obtains title to the lot as a result of foreclosure of the first mortgage or by Deed (or assignment or other arrangement) in lieu of foreclosure, or any Purchaser at a foreclosure sale obtains title to the lot except for the delinquent lot owner, such mortgagee or person, its successors and assigns, is not liable for said mandatory assessments and ancillary charges recited above (including without limitation expenses incurred in attempting to collect same) which became due prior to the acquisition of title to the lot by such mortgagee or person and the expiration of the period of redemption from such foreclosure. The Association may not commence proceedings to foreclose its lien without recording and serving notice of lien in the following manner:

- a. The notice of lien shall set forth the legal description of the lot to which the lien attached, the name of the owner of record thereof, the amount of mandatory assessments due the Association as of the date of the notice, exclusive of interest, expenses, attorneys' fees and future mandatory assessments.
- b. The notice of lien shall be in recordable form, executed by an officer of the Association or authorized representative or attorney of the Association, and may contain such other information as the Association deems appropriate.
- c. The notice of lien shall be recorded in the office of the Register of Deeds for Livingston County, Michigan and shall be served upon the delinquent lot owner by first class or certified mail, postage prepaid, addressed to the last known address of the lot owner at least ten (10) days in advance of the commencement of the foreclosure proceedings.

## ARTICLE VIII

### Indemnification of Officers and Directors

Every Director and every Officer of the Association shall be indemnified by the Association against all expenses and liabilities including counsel fees, reasonably incurred by or imposed upon him or her in connection with any proceeding to which he or she may be a party, or in which he or she may become involved, by reason or his or her being or having been a Director or an Officer of the Association, except in such cases wherein the Director or Officer is adjudged guilty of willful

misfeasance or malfeasance in the performance of his duties. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Director or Officer may be entitled. The Association may purchase insurance to protect Officers, Directors and employees from liability for their actions or inactions as Officers, Directors or employees.

## ARTICLE IX

### Amendments

9.01 Amendments to these By-Laws may be proposed by the Board of Directors of the Association acting upon the vote of the majority of the Directors or by one-third or more in number of the votes of the members of the Association whether meeting as members or by instrument in writing signed by them.

9.02 Upon any such amendment being proposed, a meeting for the consideration of the same shall be duly called in accordance with the provisions of these By-Laws.

9.03 These By-Laws may be amended by the members of the Association at any regular annual meeting or a special meeting called for such purpose, by an affirmative vote of a majority of all of the members of the Association, except that these By-Laws cannot be amended without the written consent of the Developer so long as the Developer owns any lot in Springhill Subdivision. Further, these By-Laws cannot be amended in such a manner as to conflict with the DDB Agreement or to reduce any of the Association's obligations, as assumed from the Developer, under the DDB Agreement.

9.04 At any meeting held to consider such amendment or amendments to these By-Laws, the witnessed and notarized written vote of any member of the Association shall be recognized if such member is not in attendance at such meeting providing such written vote is delivered to the Secretary of the Association or the Officer conducting the meeting at or prior to the time of the voting at such meeting.

9.05 A copy of each amendment to the By-Laws shall be mailed or delivered to every member of the Association after adoption.

## ARTICLE X

### Developer

10.01 The word "Developer" as used herein means Distinctive Land, Inc., its successors and assigns, or any party to whom Developer specifically assigns the rights of Developer under these By-Laws.

## ARTICLE XI

### Severability

11.01 In the event that any of the terms or provisions of these By-Laws are held to be partially or wholly invalid or unenforceable for any reason whatsoever, such holdings shall not affect, alter, modify, or impair in any manner whatsoever any of the other terms or provisions or the remaining portions of any terms of provisions exclusive of those portions held to be partially invalid or unenforceable.