

# The Woods at Elm Creek

By-Laws  
2019

THE WOODS AT ELM CREEK HOMEOWNERS ASSOCIATION

Revised 05/2019

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Board of Directors:

President	Todd McDowell	763-233-2739
Vice President	Mike Young	763-229-2012
Treasurer, and Secretary	Jon Speich	612-382-5994
Director	Jeff Linders	612-860-8357
Director	Shanna Johnson	612-245-9602

Committee Chairs:

Architectural Review	Todd McDowell	763-233-2739
Landscape/Maintenance	at large	
Homeowner Welcome Coordinator	At large	

BYLAWS OF  
THE WOODS AT ELM CREEK HOMEOWNERS ASSOCIATION  
Revised 05/2019

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**BYLAWS OF  
THE WOODS AT ELM CREEK  
HOMEOWNERS ASSOCIATION**

**ARTICLE I NAME AND LOCATION**

The name of the corporation is The Woods at Elm Creek Homeowners Association, hereinafter referred to as the "Association." The registered office of the Association is located at 12201 Champlin Drive, Champlin, MN 55316, but meetings of members and directors may be held at such places within the State of Minnesota, County of Hennepin, as may be designated by the Board of Directors.

**ARTICLE II DEFINITIONS**

Terms used herein shall have the meanings ascribed to them in the Declaration of Covenants, Conditions and Restrictions of The Woods at Elm Creek recorded \_\_\_\_\_ in the office of the Recorder of Hennepin County, Minnesota as Document No. \_\_\_\_\_ ("Declaration"). The terms of the Declaration are incorporated herein by reference.

**ARTICLE III MEETING OF MEMBERS**

Section 1. Annual Meetings. The first annual meeting of the members shall be held within one (1) year from the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held on such date and at such place as shall be designated by the Board of Directors in a notice of annual meeting to be furnished to the Members in the manner required by law.

Section 2. Special Meetings. Special meetings of the members may be called at any time by the president or by the Board of Directors, or upon written request of the members who are entitled to vote twenty-five percent (25%) of all of the votes of the Class A membership.

Section 3. Notice of Meetings. It shall be the duty of the Secretary to send to each Owner at least twenty-one (21) days, and not more than thirty (30) days, in advance of an annual meeting of the Owners, and not less than seven (7) days and not more than thirty (30) days in advance of any other meeting, notice of the date, time, place, the purpose of the meeting, and the procedures for appointing proxies. The notice shall be posted on the Association's website, hand-delivered or sent by United States Mail, postage prepaid, to all Owners of record at the address of their respective Lot or to such other address or addresses as any of them may have designated in writing to the Secretary. Notice of the time and date of the meeting shall be mailed or hand delivered. All other information regarding action to be considered at the meeting may be posted on the Association's website, hand delivered or sent by United States mail, postage prepaid.

Section 4. Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, ten percent (10%) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or represented.

Section 5. Proxies. Votes may be cast electronically, in person or by proxy. Proxies must be filed with the Secretary at or before the appointed time of each meeting. A person designated by a proxy to act for a Member need not be a Member. A proxy appointment is valid for eleven (11) months unless: (a) a different period is expressly provided in the appointment (not more than three (3) years); (b) the proxy is revoked either by the Member attending and voting at a meeting or signing and delivering to the Secretary a writing revoking the proxy or a later appointment; or (c) the granting Owner is no longer an Owner. The Board of Directors may establish additional rules and policies for the use and form of proxies.

Section 6. Fair Voting Procedures. The following shall be considered minimum standards to assure fair voting procedures:

- (a) All proxies should be available for inspection prior to and during a Members' meeting, so that a reasonable opportunity is afforded to challenge and count proxies.
- (b) All electronic or mailed ballots and all proxies cast at a meeting should be first opened at the time the votes on an election or issue are counted and tallied.
- (c) In the case of an election of director, every candidate or designee of a candidate may observe the counting and tallying of votes; and on any other issue, a reasonable number of observers from both sides of each issue shall observe the counting and tallying of votes.
- (d) A vote by electronic means, by mail or by proxy shall be considered as attendance at a meeting for purposes of a quorum. The vote count on each election and issue shall be announced before adjournment of the meeting, and shall be available to all Members in written form, signed by the secretary of the Association, within seven (7) days of the meeting.
- (e) A Member who is delinquent in the payment of assessments may reinstate voting rights for a meeting by payment of the delinquency by delivering a check to the secretary, treasurer, or president of the Association before the meeting is called to order, unless a different requirement is adopted by the Board and the delinquent Member is given written notice thereof at least fifteen (15) days before the meeting.

## **ARTICLE IV BOARD OF DIRECTORS: SELECTION; TERM OF OFFICE**

**Section 1. Number of Directors.** The affairs of the Association shall be managed by a Board of Directors consisting of at least three (3) persons and not more than five (5) persons. The directors shall be elected and shall conduct the affairs of the Association as provided in the Bylaws.

**Section 2. Term of Office.** At the first annual meeting, the members shall elect one-third (1/3) (rounded to the nearest whole number) of the directors for a term of one (1) year, one-third (1/3) of the directors for a term of two (2) years and the balance for a term of three (3) years; and at each annual meeting thereafter the members shall fill any vacancies on the Board of Directors for a term of three (3) years.

**Section 3. Removal.** Any director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation, or removal of a director, his or her successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of said predecessor.

**Section 4. Compensation.** No director shall receive compensation for any service rendered to the Association. However, any director may be reimbursed for actual expenses incurred in the performance of duties.

**Section 5. Action Taken Without a Meeting.** The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

## **ARTICLE V NOMINATION AND ELECTION OF DIRECTORS**

**Section 1. Nominations.** Any homeowner member in good standing may self-nominate for election to the Board of Directors. Nominations may begin immediately once notification to homeowners of open director positions is completed and ahead of annual or special meetings where voting will commence. Nominations should be made to the president or secretary via website, email, phone or in person. Members may also self-nominate at annual or special meetings once the final call for nominees is made by the president ahead of voting.

**Section 2. Election.** Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

## **ARTICLE VI MEETING OF DIRECTORS**

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held at least quarterly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should a meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the president of the Association, or by any two (2) directors, after not less than three (3) days' notice to each director.

Section 3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

## **ARTICLE VII THE BOARD OF DIRECTORS: POWERS, DUTIES, AND RESTRICTIONS**

Section 1. Powers. The Board of Directors shall have power:

- (a) To adopt and publish rules and regulations governing the use of the Lots and the personal conduct of the members and their guests thereon, and to establish penalties for the infractions thereof; notice of any proposed rule or regulation or amendment thereto, shall be furnished to the members, and shall be deemed adopted ninety (90) days after such notice unless the Members, at a special meeting called for the purpose, vote to amend or repeal such proposed rule or regulation;
- (b) To suspend the voting rights of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulation;
- (c) To exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation, or the Declaration;
- (d) To declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and
- (e) To employ a manager, an independent contractor or such other employees as it deems necessary, and to prescribe their duties.

Section 2. Duties. It shall be the duty of the Board of Directors:

- (a) To cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting which such statement is requested in writing by one-fourth (1/4) of the members who are entitled to vote;
- (b) To supervise all officers, agents, and employees of this Association, and see that their duties are properly performed;
- (c) To as more fully provided in the Declaration:
  - (i) Fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period;
  - (ii) Send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and
  - (iii) Foreclose the lien of any assessment against any property subject thereto if such assessment is not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same.
- (d) To issue, or cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- (e) To procure and maintain adequate liability and hazard insurance, consistent with provisions set forth in the Declaration;
- (f) To cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate and in accordance with the Declaration; and
- (g) To cause the Lots to be maintained in accordance with the Declaration.

## **ARTICLE VIII OFFICERS AND THEIR DUTIES**

Section 1. Enumeration of Officers. The officers of this Association shall be a president and vice-president, who shall at all times be members of the Board of Directors, a secretary, a treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he or she shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he or she replaces.

Section 7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one (1) of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

#### PRESIDENT

The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds, contracts and other written instruments and shall co-sign all checks and promissory notes.

#### VICE-PRESIDENT

The Vice-President shall act in the place and stead of the President in the event of his or her absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required by the Board.

#### SECRETARY

The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses; and shall perform such duties as required by the Board.

## TREASURER

The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; sign all checks and promissory notes of the Association; keep proper books of account; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meetings, and deliver a copy of each to the members and to any First Mortgagees who shall request the same, pursuant to Article XI of the Declaration.

## **ARTICLE IX COMMITTEES**

Section 1. The Association shall appoint the following standing committees:

The Maintenance Committee  
The Architectural Control Committee

Unless otherwise provided herein, each committee shall consist of a Chairperson and one (1) or more members and shall include a member of the Board of Directors for board contact. The committees shall be appointed by the Board of Directors prior to each annual meeting to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each manual meeting. The Board of Directors may appoint such other committees as it deems desirable.

Section 2. The Maintenance Committee shall advise the Board of Directors on all matters pertaining to the Maintenance, repair or improvement of the Lots and shall perform such other functions as the Board, in its discretion, determines.

Section 3. The Architectural Control Committee shall have the duties and functions described in Article VI of the Declaration. It shall watch for any proposals, programs, or activities which may adversely affect the residential value of The Woods at Elm Creek and shall advise the Board of Directors regarding Association action on such matters. The Board has final authority in matters of architectural Control.

Section 4. It shall be the duty of each committee to receive complaints from members on any matter involving Association functions, duties, and activities within its field of responsibility. It shall dispose of such complaints as it deems appropriate or refer them to such other committee, director, or officer of the Association as is further concerned with the matter presented.

## **ARTICLE X BOOKS AND RECORDS**

The books, records, and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member or First Mortgagee. The Declaration, the Articles of Incorporation and the Bylaws of the Association shall be

available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

## **ARTICLE XI ASSESSMENTS**

Section 1. As more fully provided in the Declaration, each member is obligated to pay to the Association annual and Individual Lot Maintenance Assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent if the assessment is not paid within thirty (30) days after the due date. Collection of delinquent assessments will follow the following Policy. No Owner may waive or otherwise avoid liability for the assessments provided for herein and by the Declaration by nonuse of the Common Properties or abandonment of such Owner's Lot.

A Policy of  
The Woods at Elm Creek Homeowners Association Board of Directors  
**COLLECTION OF DELINQUENT ASSESSMENTS**

Need for Policy:

The Woods at Elm Creek Homeowners Association is charged by the governing documents with assessing fees to pay for the common expenses of the Association, costs of repairs benefitting fewer than all of the Lots, fines for enforcement and various other assessments. A clear policy is needed to establish definite guidelines that are consistent with the wishes of the Board of Directors.

Intent of Policy:

This policy is intended to ensure consistent, effective, efficient collection of delinquent assessments.

Effective Date: 5/5/2019

## **COLLECTIONS POLICY**

### **I. Collection Action Schedule**

At each meeting of the Board of Directors, the Board will review all delinquent accounts. Collection of delinquent Assessments shall proceed according to the following schedule:

- A.** A **Late Fee of \$25.00** shall be assessed against any account that is more than 30 days over due.
  
- B.** **If an account is more than \$500 delinquent:** Board of Directors may refer the account to a third party to begin collection action, **OR**
  
- C.** The Board may direct its legal counsel to file a lien against the homeowner's property and commence foreclosure, law suit or any other remedies allowed under the law.

## II. Interest on Outstanding Balances

As allowed by Declaration Article V, Section 6 the 8% per annum interest on outstanding balances shall be administered as follows:

- A. On each twelve month anniversary of any delinquent assessment:** An interest assessment equal to 8% of the outstanding assessment shall be applied to the account
- B. No partial-year interest charges:** Interest for any given outstanding assessment shall only be applied on the anniversary date of the original assessment – no prorated interest shall be calculated or applied

## III. Late fees and interest billed to Member Associations

At the discretion of the Board of Directors, late fees or interest assessed to Lot Owners in Member Associations may be billed to that Member Association as described in Declaration Article V, Section 4.

## IV. Authorization of President to sign POA to Foreclose

The Board of Directors **authorizes the President**, at the President's discretion, to sign the foreclosure POA.

## V. Criteria for Acceptable Repayment Plans

Board of Directors is authorized and directed to approve repayment proposals that meet the following conditions:

- A. No Power of Attorney** to foreclose an Association Lien has been drafted in an attempt to collect any portion of the debt referred to in the repayment proposal, **AND**
- B. No repayment plan** has, at any previous time, been approved under this policy or by Board decision for repayment of a debt owed by the Owner submitting the repayment proposal, **AND**
- C. The repayment proposal will result in a \$0.00 balance** on the account **within 6 months** of the date of approval, taking into consideration all foreseen charges during that period.

## VI. Repayment Contract

If the conditions in Section V are met, Board of Directors shall notify the Owner by US Mail that the proposal is accepted. Board of Directors shall also send a contract containing the following elements:

- A. A schedule of all payments** to be made during the repayment period, including firm due dates for all installments, with a minimum monthly installment equal to the lesser of the total amount owed, **AND**
- B. A clause stating that late fees** will continue to be assessed normally, **AND**
- C. A clause stating that the contract must be signed** and returned within ten (10) days, **AND**

- D. A clause stating that all installments **must be received** by Board of Directors or the Association's bank on or **before the due date** for that installment, **AND**
- E. A clause stating that failure to meet any condition of the repayment agreement will nullify the agreement, and that normal collection action will resume, **AND**
- F. A statement that if the Owner defaults on this payment agreement, no future repayment proposals will be considered by the Board

VII. Board Copies of All Correspondence

Board of Directors shall retain copies of all correspondence received or sent under this policy, including but not limited to, signed POAs, collection letters, repayment proposals, Board of Directors responses, payment contracts, etc. **Any repayment proposal that doesn't meet the criteria in sections V and VI shall be reviewed by the Board of Directors.**

Section 2. Documents Fee. The Board of Directors will collect at the time of real estate closings a documents fee of \$100 paid to The Woods at Elm Creek Homeowners Association. This fee will cover costs incurred by the Association for collecting and processing forms as well as providing documents needed by new homeowners and title companies for these proceedings.

Section 3. New Homebuyer HOA Initiation Fee. The Board of Directors will collect at the time of real estate closings a Woods at Elm Creek Homeowners Association Initiation Fee. This fee is an initial one-time revenue contribution by new homebuyers to the Association reserve fund for Association emergencies and special projects. This fee will be equal to the sum of three (3) year of member annual lot dues.

**ARTICLE XII NO CORPORATE SEAL**

There shall be no corporate seal.

**ARTICLE XIII AMENDMENTS**

Section 1. These Bylaws may be amended at a regular or special meeting of the members by a vote of a majority of a quorum of members present in person or by proxy. The procedure to amend the Bylaws shall be: (a) the Board of Directors may propose the amendment to the Bylaws by resolution setting forth the proposed amendment and directing that it be submitted for adoption at a meeting of the members; or (b) any five (5) members may set forth the proposed amendment by petition by them subscribed, which petition shall be filed with the secretary of the Association. Notice of the meeting of the members, stating the purpose, including the proposed amendment, shall be given to each member entitled to vote on the proposed amendment, and to each officer and director regardless of his voting rights. If notice required by this clause has been given, the

proposed amendment may be adopted at any meeting of members by a majority of a quorum of members present in person or by proxy.

Section 2. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control, and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

#### **ARTICLE XIV DISSOLUTION**

The Association may be dissolved by a vote of the members entitled to cast two-thirds (2/3) of the votes of each class of membership. Written notice of a proposal to dissolve, setting forth the reasons therefor and the disposition to be made of the assets (which shall be consonant with Article XI of the Declaration and Article XV hereof) shall be mailed to every member at least ninety (90) days in advance of any action taken.

#### **ARTICLE XV DISPOSITION OF ASSETS UPON DISSOLUTION**

Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created.

In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes. No such disposition of Association properties shall be effective to divest or diminish any right or title of any member vested in him or her under the Declaration unless made in accordance with the provisions of such Declaration.

#### **ARTICLE XVI MISCELLANEOUS**

The fiscal year of the Association shall begin on the first day of January and end on the 31<sup>st</sup> day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

IN WITNESS WHEREOF, we, being all of the directors of The Woods at Elm Creek Homeowners Association, have hereunto set our hands this 6<sup>th</sup> day of January, 1994.

\_\_\_\_\_  
/s/  
Robert E. Engstrom

\_\_\_\_\_  
/s/  
Paul T. Engstrom

\_\_\_\_\_  
/s/  
Richard F. Blomquist

[see p. 38 of document dated 10/1996 for original signature page]

STATE OF MINNESOTA     )  
  )ss.  
COUNTY OF HENNEPIN     )

On this 6<sup>th</sup> day of January, 1994, personally appeared before me Robert E. Engstrom, to me known to be the person named in and who executed the foregoing Bylaws, and acknowledged this to be his free act and deed for the uses and purposes therein expressed.

\_\_\_\_\_  
/s/  
Notary Public

STATE OF MINNESOTA     )  
  )ss.  
COUNTY OF HENNEPIN     )

On this 6<sup>th</sup> day of January, 1994, personally appeared before me Paul T. Engstrom, to me known to be the person named in and who executed the foregoing Bylaws, and acknowledged this to be his free act and deed for the uses and purposes therein expressed.

\_\_\_\_\_  
/s/  
Notary Public

STATE OF MINNESOTA     )  
  )ss.  
COUNTY OF HENNEPIN     )

On this 6<sup>th</sup> day of January, 1994, personally appeared before me Richard F. Blomquist, to me known to be the person named in and who executed the foregoing Bylaws, and acknowledged this to be his free act and deed for the uses and purposes therein expressed.

\_\_\_\_\_  
/s/  
Notary Public

[see p. 39 of document dated 10/1996 for original signature page] CERTIFICATION

I, the undersigned, do hereby certify:

THAT I am the duly elected and acting Secretary of The Woods at Elm Creek Homeowners Association, a Minnesota nonprofit corporation, and

THAT the foregoing Bylaws constitute the original Bylaws of said The Woods at Elm Creek Homeowners Association, as duly adopted at a meeting of the Board of Directors thereof, held on the 6<sup>th</sup> day of January, 1994.

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/s/

Paul T. Engstrom

[see p. 40 of document dated 10/1996 for original signature page]