

# **MISSION TRACE HOMEOWNERS ASSOCIATION**

## **BY-LAWS**

(Restated after Amendments of May 25, 1993)

(Electronically scanned from paper copy provided by Association office)

(Revised December 6, 1999 to correct spelling errors as well as to make wording of Article IV, Section 3 and Article V, Section 1 agreed exactly with proxy ballot used for the May 25, 1993 meeting. Further revised November 15, 2004 to include amendments to Articles VII and XIV approved at the membership meetings of May 22, 2001 and May 23, 2000 respectively.)

## **ARTICLE I**

Section 1. The registered office of the corporation shall be at 11330 Vance Jackson Road, San Antonio, Texas, County of Bexar, and the name of the Registered Agent of the corporation at such address is ADRIAN HURD.

Section 2. The corporation may also have offices at such other places both within and without the State of Texas, as the Board of Directors may from time to time determine or the business of the corporation may require.

## **ARTICLE II**

### **DEFINITIONS**

Section 1. "Association" shall mean and refer to MISSION TRACE HOMEOWNERS ASSOCIATION, its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property described in the Declaration of Covenants and Restrictions and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 6. "Declarant" shall mean and refer to ADRIAN HURD, his successors and assigns, if such successors and assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 7. "Declaration" shall mean and refer to the Declaration of Covenants and Restrictions applicable to the Properties recorded in the office of the County Clerk, Bexar County.

Section 8. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

### ARTICLE III

Section 1. Annual Meetings. The annual meeting of the members for election of directors and for the transaction of such other business as may come before the meeting shall be held at a place designated by the Board of Directors on the fourth Tuesday in May in each year, commencing with the year 1979, at the hour of 7:30 o'clock p.m. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the members may be called at any time by the president of the Board of Directors, or upon written request of the members who are entitled to vote one-fourth ( $\frac{1}{4}$ ) of the votes of the Class A and Class B membership.

Section 3. At least ten days before each meeting of shareholders, a complete list of the shareholders entitled to vote at said meeting, arranged in alphabetical order with the residence of each and the number of voting shares held by each, shall be prepared by the officer or agent having charge of the stock transfer books. Such list, for a period of ten days prior to such meeting, shall be kept on file at the registered office of the corporation and shall be subject to inspection by any shareholder at any time during usual business hours, and shall also be posted at the shareholders' meetings.

Section 4. Record Date and Notice of Meetings. Only members of record 21 days prior to any meeting of the members shall be entitled to notice of the meeting and to vote thereat. Written notice of each meeting of the members shall be given by or at the direction of the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least 15 days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member of the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting and, in the case of a special meeting, the purposes of the meeting.

Section 5. Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, one-fourth ( $\frac{1}{4}$ ) 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 By-Laws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have the 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 be represented.

Section 6. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Lot.

### ARTICLE IV

#### BOARD OF DIRECTORS

Section 1. The business and affairs of the corporation shall be managed by its Board of Directors who may exercise all such powers of the corporation and do all such lawful acts and things as are not by statute or by the Articles of Incorporation or by these By-Laws directed or required to be exercised or done by the shareholders.

Section 2. The Board of Directors shall consist of nine (9) directors, each of whom shall be an owner whose principle residence shall be located within the Association properties.

Section 3. Method of Election and Term of Office. The members shall elect nine directors at each annual meeting. Each director shall hold office until the next annual meeting or until a successor is elected or appointed, whichever occurs first. The nomination for directors shall include at least three incumbent directors providing at least three such directors are willing to stand for re-election. Among the incumbent directors standing for re-election, the three (or fewer) who receive more votes than any other incumbent director standing for re-election shall be re-elected. The remaining six or more nominees who receive more votes than any other such nominees, shall also be elected. Directors may serve three consecutive one year terms, and must then take one year off the board before being allowed to serve again.

Section 4. 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 successor shall be selected by the remaining members of the Board and shall serve until the next annual shareholders meeting, at which time a director will be elected to serve for the unexpired term.

Section 5. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 6. 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. Nomination. Nomination for election of the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of five members: a Chairman, who shall be a member of the Board of Directors, and two other members, who shall be members of the Board of Directors and two other members of the Association. The Nominating Committee shall be appointed by the Board of Directors at least sixty days prior to each annual meeting of the members, to serve until the close of the annual meeting, and such Nominating Committee shall make as many nominations for election to the Board of Directors as it shall, in its discretion, determine, but not less than the number of vacancies that are to be filled. Such nomination may be made only from among resident members.

Section 2. Election. Election of the Board of Directors shall be by secret, written ballot. At such election 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. Cumulative voting is not permitted.

## ARTICLE VI

### MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held monthly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said 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 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

### POWERS AND DUTIES OF THE BOARD OF DIRECTORS

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

(a) adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;

(b) suspend the voting rights and right to use the recreational facilities 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 the period not to exceed 60 days for infraction of published rules and regulations.

(c) exercise for the Association all powers, duties, and authority vested in or delegated by this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declarations;

(d) 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) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

Section 2. Duties. It shall be the duty of the Board of Directors to do the following or cause the following to be done:

(a) keep 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 when such statement is required in writing by one-fourth ( $\frac{1}{4}$ ) of the Class A and Class B members who are entitled to vote;

(b) supervise all officers, agents, and employees of this Association and to see that their duties are properly performed;

(c) as more fully provided in the Declaration, to:

(1) fix the amount of the monthly assessment against each lot;

(2) send written notice of any change in assessment to every owner subject thereto at least thirty (30) days prior to the effective date of change;

(3) to take such action as is necessary to collect any assessment not paid within thirty (30) days after due date.

(d) 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 certificates shall be conclusive evidence of such payment;

- Association;
- (e) procure and maintain adequate liability and hazard insurance on property owned by the Association;
  - (f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;
  - (g) cause the Common Area to be maintained.
  - (h) prohibit all open-gated, open to the public events and sales. (Note 1)

## **ARTICLE VIII**

### **OFFICERS AND THEIR DUTIES**

Section 1. Enumeration of Offices. 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, and 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 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, 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 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 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**

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

#### **Vice-President**

(b) The vice-president shall act in the place and stead of the president in the event of his absence, inability, or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

Secretary

(c) 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 other duties as required by the Board.

Treasurer

(d) The treasurer shall do or cause to be done by a person or persons designated by the Board of Directors the following: receive and deposit in appropriate bank accounts, all monies of the Association, and disburse funds; sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members; and prepare and file such other reports as may be required by law.

**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. The Declaration, the Articles of Incorporation, and the By-Laws of the Association shall be available for inspection by any member at the principle office of the Association, where copies may be purchased at reasonable cost.

**ARTICLE XI**

ASSESSMENTS

As more fully provided in the Declaration, each member is obligated to pay to the Association the monthly and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessment which is not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of eight percent (8%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property and interest, costs, and reasonable attorney's fees of any such action shall otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment.

**ARTICLE XII**

AMENDMENTS

Section 1. These By-Laws may be amended, at a regular or special meeting of the members, by a vote of a majority of a quorum or members present in person or by proxy.

Section 2. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

**ARTICLE XIII**

OWNERSHIP OF HOMEOWNERS ASSOCIATION

Each owner of a fee simple interest in a Lot in MISSION TRACE PLANNED UNIT DEVELOPMENT shall be entitled to an ownership in this Association equivalent to what would normally be in a corporation, one share of stock. There shall be no issuance of any certificate of any nature, but this ownership shall occur automatically on the purchase of a fee simple interest in the land of MISSION TRACE PLANNED UNIT DEVELOPMENT.

**ARTICLE XIV**

GENERAL PROVISIONS

Section 1. Fiscal Year. The fiscal year of the corporation shall be fixed by resolution of the Board of Directors.

Section 2. The Directors and officers of the Association shall be indemnified as of right to the fullest extent now or hereof permitted by law in connection with an actual or threatened civil, criminal, administrative or investigative active suit or proceeding arising out of their service to the Association or to another organization at the request of the Association. Persons who are not Directors or officers of the Association may be similarly indemnified in respect to such service to the extent authorized at any time by the Board of Directors of the Association. The provisions of this Section shall be applicable to actions, suits or proceedings commenced after adoption hereof whether arising from acts or omissions occurring before or after the adoption hereof, and to Directors, officers and other persons who have ceased to render such service and shall inure to the benefit of the heirs, executors and administrators of the Directors, Officers and other persons referred to in this Section.

Section 3. All meetings of the Association and of the Board of Directors shall be conducted in accordance with Robert's Rules of Order. (Note 2)

IN WITNESS WHEREOF, the members, either attending in person or by proxy approved the amendments at this annual meeting of the MISSION TRACE HOMEOWNERS ASSOCIATION, have hereunto set our hands this 25th day of May, 1993.

Note 1: Article VII, Section 2, Item (h) approved and added at the Annual Meeting of May 22, 2001 and recorded in the Bexar County Clerk's Office in v. 9359 p.1241)

Note 2: Article XIV, Section 3 approved and added at the Annual Meeting of May 23, 2000)