

**AMENDED AND RESTATED**  
**BY-LAWS**  
**OF**  
**FOXCLIFF ESTATES SOUTH ASSOCIATION, INC.**

**ARTICLE I**  
**Definitions**

**Section 1.1.** “Corporation” shall mean and refer to the Foxcliff Estates South Association, Inc., an Indiana Not-For-Profit Corporation, its successors and assigns.

**Section 1.2.** “Declarant” shall mean and refer to Newcorp, Inc., its successors and assigns.

**Section 1.3.** “Common Area” shall mean, and refer to (i) all portions of the Properties shown on any recorded sub-division plat which are not lots, (ii) such portions of the Properties as are declared to be Common Area even though located on or constituting part of one or more Lots, (iii) such improvements located, installed or established in, to, on, under, across or through the Properties as are declared to be Common Area whether located, installed or established entirely or partially on Lots or portions of the Properties which are not Lots, or both; PROVIDED, HOWEVER, that (i) all streets shown on any recorded subdivision plat of the Properties and (ii) any lakes, dams, spillways and any drainage facilities which are located on, over, across or through the Properties shall, for all purposes, be considered a part of the Common Area. The clubhouse, swimming pool, and tennis courts (hereinafter referred to as “Recreational Facilities”), and that portion of the property upon which they are located, shall, for purpose of the use by members of the Pool and Tennis Association only, be a part of the Common Area. The golf course shall not be part of the Common Area unless hereafter specifically acquired by annexation or purchase.

**Section 1.4.** “Declaration” shall mean and refer to the Declaration of Restrictions, Foxcliff Estates South filed for record in the office of the Recorder of Morgan County, Indiana, on May 13, 1985, at Deed Record 299, Page 31, as amended by the Amended Declaration of Restrictions, Sections XXX through XXXVI of Foxcliff Estates South filed for record in the office of the Recorder of Morgan County, Indiana, on December 10, 1985, at Deed Record 302, Page 377, as amended by the Amended and Restated Declaration of Restrictions, Foxcliff Estates South and as the same may be amended, said Declaration being incorporated herein as if set forth herein.

**Section 1.5.** “Lot assessments” shall mean and refer to the Annual Assessment, Special Assessments and Recreation Assessment-Operating as each is hereinafter defined.

**Section 1.6.** “Good Standing” shall mean and refer to membership in the Corporation, SHA or PTA (as each is hereinafter defined) which has not been suspended or terminated.

**Section 1.7.** “Properties” shall mean and refer to that real estate which is subject to the Declaration.

## **ARTICLE II** **Membership**

**Section 2.1. Membership, Transfer, Voting Rights, Suspension of Voting Rights.** Reference is hereby made to Article V of the Articles of Incorporation which sets forth terms, provisions and conditions governing and relating to membership in the Corporation, transfer of membership, voting rights of classes of members and suspension of voting rights, all of which terms, provisions and conditions are incorporated herein by reference.

### **Section 2.2. The Associations.**

- (a) **South Homeowners Association (“SHA”).** A person automatically becomes a member of the SHA once he becomes a record owner of a fee simple title to any lot or lots in the Foxcliff Estates South Subdivision (“South Subdivision”). However, it is the responsibility of each SHA member, upon becoming a member, to so notify the Corporation in writing, and until so notified the Corporation may, in its discretion, continue to carry the former lot owner as a member.
- (b) **Pool and Tennis Association (“PTA”).** A person automatically becomes a member of the PTA once he becomes a record owner of a fee simple title to any lot or lots in the South Subdivision. Other persons may become members of the PTA only after favorable action by the board of directors of the Corporation after making application to the Secretary of the Corporation upon the form prescribed by him. No person shall be denied membership if said person qualifies for membership as set forth in Article VI of the Articles of Incorporation and these By-Laws.

**Section 2.3. Membership Certificates.** As provided by law, each member of the Corporation shall receive a certificate signed by the president and secretary certifying the membership held by him and such other information as may be required by law, including the particular class of membership. The form of such certificate shall be prescribed by the board of directors. Such certificates shall not be transferable.

### **Section 2.4. Duration of Membership in the Corporation, SHA, and PTA.**

- (a) SHA. Membership in the SHA may only be terminated at such time as the member is no longer a record owner of a fee simple title to any lot in the South Subdivision.
- (b) PTA. Membership in the PTA may be terminated by voluntary withdrawal, as provided in Section 2.7 hereof or as otherwise provided in the Amended and Restated Articles of Incorporation. All rights and privileges of a member in the PTA shall cease on the termination of membership. Any member may voluntarily withdraw from membership by giving written notice of such intention to the PTA Committee. Such notice shall be presented to the board of directors at the next succeeding meeting of the board of directors. Withdrawal of a member shall be effective upon action by the board of directors terminating such membership.
- (c) Corporation. Membership in the Corporation may terminate only when a member of the SHA, PTA or both is no longer a member of either the SHA or PTA. On the day that a person is no longer a member of either the PTA or SHA, said person’s membership in the Corporation shall be considered to have terminated, and said person shall no longer be entitled to any rights or benefits of the Corporation, nor shall said person have the right to vote on any matters affecting the Corporation.

As long as a person retains membership in either the PTA or SHA and such membership has not been suspended as provided in Section 2.5 hereof, that person shall constitute a member of the Corporation and shall be entitled to all of the rights of persons of the same class of membership in the Corporation, unless otherwise provided in these By-Laws.

**Section 2.5.** Suspension of Membership in the Corporation. Any Class A or C member may have their membership suspended for cause. Sufficient cause for suspension of membership in the Corporation shall be violation of these By-Laws, nonpayment of dues or lot assessments, violation of any lawful rule or practice duly adopted by the Corporation or any other conduct prejudicial to the interests of the Corporation. Proceedings for suspension of a member may be instituted by a petition to the board of directors in writing signed by any three (3) members, or the board of directors on its own motion. Unless suspension is by reason of nonpayment of any dues, fees or lot assessments, the affirmative vote of two-thirds (2/3rds) of the entire membership of the board of directors shall be required for a member to be suspended. A statement of the charges on which such action is based shall be mailed by certified mail to the last recorded address of the member at least fifteen (15) days before final action is taken thereon. This statement shall be accompanied by a notice of the time and place of the meeting of the board of directors at which the charges shall be considered and the member shall have the opportunity to appear in person or by its representative and present any defense to such charges before action is taken thereon. Membership in the Corporation shall be automatically suspended if any dues, fees or assessments or any installment thereof remains unpaid thirty (30) days after such dues, fees or assessments or an installment thereof first became due. Membership in the Corporation shall be automatically terminated if the PTA dues of any Class C member remain unpaid on the last day of the year in which such dues first became due.

Suspension or termination of membership in the Corporation suspends or terminates all rights of a member in the Corporation, including those arising out of the SHA and PTA.

**Section 2.6.** Suspension of Membership in the SHA. Any membership in the SHA may be suspended for cause. Sufficient cause for suspension of membership in the SHA shall be violation of these By-Laws, nonpayment of lot assessments, violation of any lawful rule or practice duly adopted by the Corporation or any other conduct prejudicial to the interests of the Corporation of the SHA. Proceedings for suspension of a member may be instituted by a petition to the board of directors in writing signed by any three (3) members, or by the board of directors on its own motion. Unless suspension is by reason of nonpayment of lot assessments, the affirmative vote of two-thirds (2/3rds) of the entire membership of the board of directors shall be required in order for a member to be suspended. A statement of the charges on which such action is based shall be mailed by certified mail to the last recorded address of the member at least fifteen (15) days before final action is taken thereon. This statement shall be accompanied by a notice of the time and place of the meeting of the board of directors at which the charges shall be considered and the member shall have the opportunity to appear in person or by its representative and present any defense to such charges before action is taken thereon. Membership in the SHA shall be automatically suspended if any lot assessments or installment thereof remains unpaid thirty (30) days after such lot assessment or installment thereof first became due.

Suspension of membership in the SHA suspends all of a member's rights as to the SHA, the PTA and the Corporation.

**Section 2.7.** Suspension and Termination of Membership in PTA. Any membership in the PTA may be suspended or terminated, for cause. Sufficient cause for suspension or termination of a PTA membership shall be violation of these By-Laws, nonpayment of dues, violation of any lawful rule or practice duly adopted by the Corporation, or any other conduct prejudicial to the interests of the Corporation or the PTA. Proceedings for suspension or expulsion of a member may be instituted by a petition to the board of directors in writing signed by any three (3) members, or by the board of directors on its own motion. Unless termination or suspension is by reason of nonpayment of dues, the affirmative vote of at least two-thirds (2/3rds) of the entire membership of the board of directors shall be required in order for a member to be suspended or expelled. A statement of the charges on

which such action is based shall be mailed by certified or registered mail to the last recorded address of the member at least fifteen (15) days before final action is taken thereon. These statements shall be accompanied by a notice of the time and place of the meeting of the board of directors at which the charges shall be considered and the member shall have the opportunity to appear in person or by its representative and present any defense to such charges before action is taken thereon. Membership in the PTA shall be automatically suspended if the annual dues for the PTA or any installment thereof are unpaid thirty (30) days after such dues or installment first became due. Membership in the PTA shall be automatically terminated if the annual dues for the PTA or any installment thereof remains unpaid on the last day of the year in which such dues first became due.

Suspension or termination of a member's rights in the PTA either suspend or terminate all of that member's rights in the PTA and the Corporation.

**Section 2.8. Dues, Fees and Assessments.**

- (a) Authorization to Collect Assessment. Reference is hereby made to Article V of the Declaration which authorizes the Corporation to collect assessments and dues from certain members. The provision of Article V are incorporated herein.
- (b) Assessment for SHA. Prior to January 1, 1989, the annual assessment for SHA members (hereinafter referred to as the "Annual Assessment") for the calendar years 1986, 1987, and 1988 were limited to Two Hundred Dollars (\$200.00) except for lots owned by the Declarant which were limited to Fifty Dollars (\$50.00). The maximum annual assessment, from and after January 1, 1989, shall be Two Hundred Twenty Dollars (\$220.00) except for Lots owned by the Declarant which shall be limited to Fifty-Five Dollars (\$55.00). The maximum annual assessments for any year commencing after December 31, 1989, shall be established by the Corporation but may not be increased each year by more than fifteen percent (15%) above the maximum annual assessment for the previous year without an affirmative vote of two-thirds (2/3rds) of the votes of each class of members of the SHA who are voting in person or by proxy at a meeting duly called for this purpose. If title to any lot is held by more than one person, and each of such persons is a member, the annual assessments will be assessed only once. The written notice of membership required to be delivered by new members shall be accompanied by the annual assessments for such calendar year, pro-rated to the end of said calendar year. Any member of the SHA is entitled to membership in the PTA without further assessment or payment of the annual dues for the PTA so long as such SHA is not delinquent with respect to any installment of any fees or assessments permitted by the Declaration. Any member of the SHA who is delinquent in the payment of any installment of such fees or assessment and each guest or family member of such member may lose all privileges as provided in Subsection (h) of this Section 2.8
- (c) Annual Dues for PTA. The annual dues for a PTA family membership shall be Seventy-Five Dollars (\$75.00) a year where such member is not also a member in good standing of the SHA, beginning with calendar year 1989. However, the board of directors shall have the sole and exclusive right to increase or decrease the annual dues, at any time, and to provide for individual and corporate memberships at the same or at different dues rates for the benefit of the PTA and its members.
- (d) Recreation Assessment. The board of directors of the Corporation has the right commencing January 1, 1989 and continuing indefinitely, to impose a recreation assessment for the repair, maintenance and operation of the clubhouse, swimming pool and tennis courts of Seventy-Five Dollars (\$75.00) a year for each PTA member (hereinafter referred to as "Recreation Assessment-Operating"). However, the board of directors of the Corporation shall have the sole and exclusive right to increase or decrease the Recreation Assessment-Operating, as is necessary for the continued operation and management of the Recreational Facilities. If title to any lot is held by more than one member of a family, each

- of such persons is a member and the annual assessment will be assessed only once. The written notice of membership required to be delivered by new members shall be accompanied by the annual assessment for such calendar year, pro-rated to the end of said calendar year.
- (e) Special Assessments. In addition to the Annual Assessments and Recreation Assessment-Operating, the Corporation may levy special assessments for capital improvements or for other purposes permitted by the Declaration (hereinafter collectively referred to as "Special Assessments").
  - (f) Time for Payment of Assessments. Annual, special and recreation assessments permitted by the Declaration shall be payable in such installments as provided by the board of directors.
  - (g) Time for Payment of Dues. The annual dues for the PTA shall be payable annually or in such installments, and at such time, as provided by the board of directors.
  - (h) Loss of Privileges. Any member of the Corporation, whose dues, fees, assessments, or any installment thereof, with respect to the SHA or PTA, are in arrears for a period of thirty (30) days shall not be entitled to the use of any properties or facilities owned by, managed by, or under lease or contract by the Corporation, and the members of the family and guests of all such unpaid members shall be barred from such privileges.
  - (i) Rules and Regulations Regarding Dues, Fees and Assessments. The board of directors is authorized to issue such rules and regulations regarding dues, fees and assessments as it deems necessary which are not inconsistent with Article V of the Declaration.

### **ARTICLE III** **Meeting of Members**

**Section 3.1.** Annual Meetings. The annual meeting of the members of the Corporation shall be held on the second (2 nd) Monday in February of each year, or on such other date as may be designated by the board of directors.

**Section 3.2.** Special Meetings. Special meetings of the members of the Corporation may be called by the president, by a majority of the board of directors, or by a petition in writing signed by not less than one-tenth (1/10 th) of all members authorized to vote with respect to the subject matter to be discussed at such special meeting.

**Section 3.3.** Meetings to Discuss Certain Assessments. Where inconsistent, the provisions of this By-Law are controlled by Article V of the Declaration in the case of meetings called to discuss an increase in annual assessments which exceeds fifteen percent (15%) above the maximum allowable amount or meetings called to discuss special assessments.

**Section 3.4.** Notice of Meetings. Written notice stating the place, day, and hour of any meeting of members and, in the case of special meetings or when otherwise required by law, the purpose for which any such meeting is called, shall be delivered or mailed by the secretary of the Corporation to each member of the Corporation of record entitled to vote at such meeting, at such address as appears upon the records of the Corporation and at least ten (10) days, but not more than thirty (30) days, before the date of such meeting.

**Section 3.5.** Waiver of Notice. Notice of any meeting may be waived by any voting member of the Corporation in writing filed with the Secretary of the Corporation. Attendance at any meeting in person shall constitute waiver of notice of such meeting.

**Section 3.6. Voting Rights.** Each member of the Corporation shall have the voting rights specified in the Article of Incorporation of the Corporation.

**Section 3.7. Voting by Proxy.** A member entitled to vote at any meeting of members may vote either in person or by proxy executed in writing by the member or a duly authorized attorney-in-fact of such member. For purposes of this section, a proxy granted by telegram by a member shall be deemed "executed in writing by the member". No proxy shall be voted at any meeting of members unless the same shall be filed with the secretary of the meeting at the commencement thereof.

**Section 3.8. Quorum.** At any meeting of members, members which in the aggregate have twenty-five percent (25%) of the total votes of the membership of the Corporation who are qualified to vote as members pursuant to the Articles of Incorporation, represented at the meeting in person or by proxy, shall constitute a quorum. A majority vote of the membership entitled to vote with respect to the specific matter upon which a vote is to be taken, at a meeting where a quorum of the membership is present in person or by proxy, shall be necessary for the transaction of any business by the meeting, unless a greater number is required by law, the Declaration or the Articles of Incorporation. If the required quorum is not present, another meeting may be called subject to the same notice requirements and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

**Section 3.9. Voting List.** The secretary or assistant secretary of the Corporation shall at all times keep at the principal office of the Corporation a complete and accurate list of all members entitled to vote by the Articles of Incorporation and the membership class of such member. Such list may be inspected by any member for any proper purpose at any reasonable time.

**Section 3.10. Conduct of Meetings.** Meetings of members, including the order of business, shall be conducted in accordance with Roberts; Rules of Order, Revised, excepts insofar as the Article of Incorporation, these By-Laws, or any rules adopted by the board of directors or members may otherwise provide. The members may, by majority vote, waive the requirements of this section, but such waiver shall not preclude any member from invoking the requirements of this section at any subsequent meeting.

**Section 3.11. Action by Consent.** Any action required to be taken at a meeting of members, or any action which may be taken at a meeting of members, may be taken without a meeting, but with the same effect as a unanimous vote at a meeting, if, prior to such action, a consent in writing, setting forth the action so taken, shall be signed by all members entitled to vote with respect thereto, and such consent is filed with the minutes of the proceedings of the members.

## **ARTICLE IV** **Board of Directors**

**Section 4.1. Duties and Qualifications.** The business and affairs of the Corporation shall be managed by the board of directors. Each director shall be either a Class A or Class B member of the Corporation or a representative designated by any such corporate member. No member of the board of directors shall be compensated for services to the Corporation.

**Section 4.2. Number and Election.** There shall be three (3) directors of the Corporation unless a different number is specified by an amendment to the By-Laws or by a vote of the members at an annual meeting. The minimum number of directors so specified shall be three (3) and the maximum

number shall be fifteen (15). The directors shall be elected at the annual meeting of the members. If the annual meeting of the members is not held at the time designated in these By-Laws, the directors then in office shall hold over until their successors shall be elected and qualified, or until their resignation, removal or death.

**Section 4.3. Vacancies.** Any vacancy among the directors caused by death, resignation, removal or otherwise shall be filled by a majority vote of the remaining members of the board of directors. A director chosen to fill a vacancy shall hold office until the expiration of the term of the director causing the vacancy and until his successor shall be elected and qualified.

**Section 4.4. Removal.** Any director may be removed, with cause, in the manner specified in the Articles of Incorporation.

**Section 4.5. Annual Meetings.** Unless otherwise agreed upon, the board of directors shall meet immediately following the annual meeting of the members, at the place where such meeting of the members was held, for the purpose of election of officers of the Corporation and consideration of any other business which may be brought before the meeting. No notice shall be necessary for the holding of such annual meeting.

**Section 4.6. Other Meetings.** Regular meetings of the board of directors may be held pursuant to a resolution of the board of directors to such effect, and shall be held whenever convenient for the board of directors. No notice shall be necessary for any regular meeting. Special meetings of the board of directors may be held upon the call of the president or any two (2) members of the board and upon forty-eight (48) hours notice specifying the time, place and general purposes of the meeting, given to each director either personally or by mail, telegram or telephone. Notice of a special meeting may be waived in writing by telegram. Attendance at any special meeting shall constitute waiver of notice of such meeting.

**Section 4.7. Quorum.** A majority of the entire board of directors shall be necessary to constitute quorum for the transaction of any business except the filling of vacancies, and the act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors unless the act of a greater number is required by law, the Articles of Incorporation, or these By-Laws; provided, when filling vacancies a majority of the existing directors shall be required for a quorum.

**Section 4.8. Participation by Telephone.** Any or all of the members of the board of directors, or of a committee designated by the board, may participate in a meeting of the board or committee by means of a conference telephone or similar communications equipment by which all persons participating in the meeting can communicate with each other, and participation in this manner constitutes presence in person at the meeting.

**Section 4.9. Action by Consent.** Any action required or permitted to be taken at any meeting of the board of directors may be taken without a meeting, if prior to such action a written consent to such action is signed by all members of the board and such consent is filed with the minutes of proceeding of the board of directors.

**Section 4.10. Committees.** The president or the board of directors may from time to time create and appoint standing and special committees to undertake studies, make recommendations and carry on functions for the purpose of efficiently accomplishing the purposes of the Corporation.

**Section 4.11. Building Control Committee.** The Corporation shall establish a Building Control Committee, which shall carry out its duties as established by the Declaration. The Building Control Committee shall consist of three (3) or more persons to be appointed by the Board of Directors.

**Section 4.12. Powers.** The board of directors shall have such powers as are reasonable and necessary to accomplish the performance of their duties, which powers include, but are not limited to, the power:

- (a) To adopt and publish rules governing the use of the Common Area, facilities and the Recreational Facilities;
- (b) To suspend and terminate the voting rights and the right to use the Recreational Facilities as provided in Article II of these By-Laws;
- (c) To exercise for the Corporation all powers, duties and authority vested in or delegated to the Corporation and not reserved to the membership by other provisions of these By-Laws, the Articles, the Declaration or by statute;
- (d) To do and take all such action as is or may be necessary, desirable, or appropriate to perform the duties, obligations and responsibilities of the board of directors as required by these By-Laws, the Declaration, the Articles or by statute.

## **ARTICLE V** **Officers**

**Section 5.1. Officers and Qualifications Thereof.** The officers of the Corporation shall consist of a president, one or more vice presidents, a secretary and a treasurer. The officers shall be chosen by the board of directors. Any two (2) or more offices may be held by the same person except that the duties of president and secretary shall not be performed by the same person.

**Section 5.2. Terms of Office.** Each officer of the Corporation shall be elected by the board of directors at its annual meeting and shall hold office for a term of one (1) year and until his successor shall be duly elected and qualified, or until resignation, removal or death.

**Section 5.3. Vacancies.** Whenever any vacancies shall occur in any of the offices of the Corporation for any reason, the same may be filled by the board of directors at any meeting thereof, and any officer so elected shall hold office until the expiration of the term of the officer causing the vacancy and until his successor shall be duly elected and qualified.

**Section 5.4. Removal.** Any officer of the Corporation may be removed, with or without cause, by the board of directors or whenever a majority of such board shall vote in favor of such removal.

**Section 5.5. President.** The president, if present, shall preside at all meetings of the members and the board of directors. Subject to the general control of the board of directors, the president shall manage and supervise all of the affairs of the Corporation and shall perform all of the usual duties of the chief executive officer of a corporation.

**Section 5.6. Vice President.** Subject to the general control of the board of directors, the vice president or any one or more of them as the board of directors may direct shall discharge all the usual functions of the president or so much as determined by the board of director if the president is not present and shall have other powers and duties as these By-Laws or the board of directors may prescribe.

**Section 5.7. Secretary.** The secretary shall attend all meetings of the members and the board of directors, and keep, or cause to be kept, a true and complete record of the proceedings of such meetings, and shall perform a like duty, when required, for all committees appointed by the board of directors. The secretary shall attend to the giving and serving of all notices of the Corporation required



by these By-Laws, shall have custody of the books (except books of account) and records of the Corporation, and in general shall perform all duties pertaining to the office of the secretary and such other duties as these By-Laws or the board of directors may prescribe.

**Section 5.8. Treasurer.** The treasurer shall keep correct and complete records of account, showing accurately at all times the financial condition of the Corporation. The treasurer shall have charge and custody of, and be responsible for, all funds, notes, securities and other valuables which may from time to time come into the possession of the Corporations. The treasure shall deposit, or cause to be deposited, all funds of the Corporation with such depositaries as the board of directors shall designate, shall furnish at meetings of the board of directors, or whenever requested, a statement of the financial condition of the Corporation and in general shall perform all duties pertaining to the office of treasurer.

**Section 5.9. Assistant Officers.** The board of directors may from time to time designate and elect assistant officers who shall have such powers and duties as the officers whom they are elected to assist shall specify and delegate to them, and such other powers and duties as these By-Laws or the board of directors may prescribe.

## **ARTICLE VI** **Assessments and Dues**

**Section 6.1. Assessments and Dues.** As more fully provided in Article V of the Declaration, each Class A and Class B member is obligated to pay Corporation assessments which are secured by a continuing lien upon the member's lot or lots against which the assessment is made. If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at a rate of interest established each year by the board of directors, but not less than twelve percent (12%) per annum, and the Corporation may bring an action at law against the owner personally obligated to pay the same or to foreclose the lien against the property, or both, and there shall be added to the amount of each assessment interest on the assessment as provided above and a reasonable attorney's fee, together with the costs of the action and any expenses related to the collection of the assessment. The Corporation may file with Recorder of Morgan County, Indiana, a list of the name of any member of the SHA whose lot assessments or any installment thereof is more than thirty (30) days delinquent together with the amount delinquent as evidence of the Corporation's lien upon such member's lot or lots. PTA dues shall be the joint and several liability of each member entitled to the benefits of such membership and the Corporation shall be entitled to assess and collect from any such member the amount of such dues, interest at an annual rate not less than twelve percent (12%) per annum, costs of collection and attorney's fees incurred by the Corporation in collecting such dues.

## **ARTICLE VII** **Miscellaneous**

**Section 7.1. Corporate Seal.** The Corporation shall have no seal.

**Section 7.2. Execution of Contracts and Other Documents.** Unless otherwise directed by the board of directors, or unless otherwise required by law, all written contracts and any other documents entered into by the Corporation shall be executed on behalf of the Corporation by the president, singly, or by a vice president, singly. The board of directors may, however, authorize any other officer or

member of the board of directors of the Corporation to sign any such contracts or documents to which the Corporation is a party.

## **ARTICLE VIII** **Amendments**

**Section 8.1. Amendments.** Subject to law and the Articles of Incorporation, the power to make, alter, amend or repeal all or any part of these By-Laws is vested in the board of directors. The affirmative vote of a majority of the entire board of directors shall be necessary to effect any such change in these By-Laws.

## **ARTICLE IX** **Rules and Regulations for Members of the PTA and Their Guests**

**Section 9.1. Right of Guest to Use Facilities.** No person except a member of the Corporation in good standing, and the family of such member, and the guest of such member shall use the Recreational Facilities, except under such terms and conditions as may be established by the board of directors.

**Section 9.2. Definition of "Family".** As used in these By-Laws, Rules and Regulations, the term "family" shall include only persons within the third degree of relationship either to the member or to his spouse or with respect to any corporate member, any officer, director, employee or agent of such member.

The board of directors may limit the number of officers, directors, employees or agents of any corporate member not also a Class B member which may be deemed "family". Such limitation may also restrict the number of persons within the "family" of such officers, directors, employees and agents of such corporate member which may use the tennis courts, swimming pool or clubhouse at any one time.

**Section 9.3. Definition of "Guest".** Within the meaning of the foregoing, the term "guest" of a members shall include only persons temporarily visiting with a member upon his property located in the South or North Subdivision.

**Section 9.4. Roomer or Boarder not Within Definition of "Guest".** The term "guest" shall not include a paying roomer or boarder. A paying roomer, which tem shall include any person occupying for a consideration a portion only of the property of a member, any a paying boarder, shall not use any properties or facilities of the Corporation unless a member.

**Section 9.5. Additional Rules and Regulations.** The board of directors may establish and enforce any and all additional rules and regulations deemed advisable and necessary.

## AMENDMENTS TO BY-LAWS

### **Number of Board of Directors**

On December 15, 2022, a motion was made and adopted to amend By-Law **Article IV, Board of Directors, Section 4.2, Number and Election**, to increase the number of Directors from five (5) to seven (7). This amendment shall replace and repeal all prior amendments to section **Number of Board Members**.

#### **I. Board of Directors Terms and Limits of Office.**

On December 15, 2022, a motion was made and adopted to amend By-Law **Article IV, Board of Directors, Section 4.2, Number and Election**, from the current language, to the following:

**Section 4.2A.** Terms and Limits of Office. The term of office for any elected Board of Director shall be for four (4) years. Consecutive terms are prohibited. No majority of the Board of Directors shall be elected in any one year.

To initiate the four (4) year term cycle;

- (a) Beginning in the year 2023, three (3) Board of Director candidates shall be elected to serve terms of four (4) years;
- (b) In the year 2024, two (2) Board of Director candidates shall be elected to serve four (4) year terms;
- (c) In the year 2025, one (1) Board of Director candidate shall be elected to serve a four (4) year term;
- (d) In the year 2026, one (1) Board of Director candidate shall be elected to serve a four (4) year term;
- (e) In the year 2027 and successive years, the four (4) year cycle begun in the year 2023, will be repeated.

Should a Board of Director seat become vacant, for any reason, prior to the fulfillment of the four (4) year term obligation, the vacancy shall be filled, within one (1) month, through a simple majority vote of the remaining Board of Directors members. The highest-ranking Board of Director shall preside over this process and vote.

This amendment shall replace and repeal all prior amendments to section **Board of Directors Terms and Limits of Office sections and amendments**.

#### **II. Operational Contingency Fund.**

On January 12, 2004, a motion was made and adopted to amend By-Law **Article II, Membership, Section 2.8, Dues, Fees and Assessments**, to add the following paragraph:

- (j) Operational Contingency Fund. An Operational Contingency Fund of \$50,000 is established for use when unexpected non-recurring expenditures are encountered and other monies are not available. Amendment to the Fund size requires approval of a super majority (2/3rds of the entire membership) of the Board of Directors. Use of these funds must be approved by a majority of the Board of Directors, and when so approved and used, a like amount will be deposited into the Fund within the next three fiscal years.

#### **III. Road Fund.**

On January 12, 2004, a motion was made and adopted to amend By-Law **Article II, Membership, Section 2.8, Dues, Fees and Assessments**, to add the following paragraph:

- (k) Road Fund. A Road Fund is established in 2004, into which a minimum of \$10,600 is deposited annually. This Fund can only be used for major road reconstruction and repaving

as approved by a super majority (as described in 2.8(j) above) of the Board of Directors. Should major road reconstruction expenditure be approved in any given year when major road repaving is not being accomplished, a like amount will be deposited into the Fund within the next three fiscal years.

#### **IV. Residency and Relationship Restrictions.**

On January 9, 2006, a motion was made and adopted to add a paragraph to By-Law **Article VII, Miscellaneous.** to read:

**Article VII, Miscellaneous, Section 7.3. Residency and Relationship Restrictions.** Persons providing professional services specifically attorney, accountant and office manager, shall not be a full member of, the spouse of a full member of, or a family member (as described in Article IX, Section 9.2) of a full member of Foxcliff Estates South Homeowners Association. Alterations, amendment or repeal of this By-law may be made only by a two-thirds vote of the entire Board of Directors.

#### **V. Removal of Association Office Manager.**

On January 9, 2006, a motion was made and adopted to add a paragraph to By-Law **Article VII, Miscellaneous.** to read:

**Article VII, Miscellaneous, Section 7.4. Removal of Association Office Manager.** Persons serving in the Association Office Manager position may be removed by affirmative vote of two-thirds of the entire Board of Directors. Alterations, amendment or repeal of this By-law may only be made by two-thirds vote of the entire Board of Directors.

#### **VI. Amendments.**

On January 9, 2006, a motion was made and adopted to amend **Article VIII, Amendments, Section 8.1,** from the current language to the following:

**Article VIII, Amendments, Section 8.1, Amendments.** Subject to law and the Articles of Incorporation, the power to make, alter, amend or repeal all or any part of these By-Laws is vested in the Board of Directors. The affirmative vote of a majority of the entire Board of Directors, unless otherwise specified, shall be necessary to effect any such change in these By-Laws.

#### **VII. Uncontested Elections.**

On January 12, 2011, a motion was made and adopted to amend **Article III, Meeting of Members, Section 3.8, Quorum,** from the current language to the following:

**Article III, Meeting of Members, Section 3.8, Quorum.** At any meeting of members, members which in the aggregate have twenty-five percent (25%) of the total votes of the membership of the Corporation who are qualified to vote as members pursuant to the Articles of Incorporation, represented at the meeting in person or by proxy, shall constitute a quorum. In the event of an election to the Board of Directors where a candidate is uncontested, a quorum shall be established by the number of votes cast. A majority vote of the membership entitled to vote with respect to the specific matter upon which a vote is to be taken, at a meeting where a quorum of the membership is present in person or by proxy, shall be necessary for the transaction of any business by the meeting, unless a greater number is required by law or the Declaration or the Articles of Incorporation. If the required quorum is not present, another meeting may be called subject to the same notice requirements and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No subsequent meeting shall be held more than sixty (60) days following the preceding meeting.