

**BY-LAWS OF  
NEWBERRY POOL ASSOCIATION, INC.**

**A Missouri Nonprofit Corporation**

ARTICLE I

NAME AND LOCCATION. The name of the Corporation is Newberry Pool Association Inc., hereinafter referred to as the Corporation. The principal office of the corp. shall be located at 702 SE 13<sup>th</sup> Street, Lee's Summit, Missouri 64081, but meetings of members and directors may be held at such places within the State of Missouri, County of Jackson, as may be designated by the board.

ARTICLE II  
MEETING OF MEMBERS

Section 1. Annual Meetings. Members shall be those owners of property in the Newberry Addition and Newberry Condominiums who own lots and/or condominium units, and as referenced in the Articles of Incorporation for the Corporation. The first annual subsequent regular annual meeting of the members shall be held on the third Tuesday of February of each year thereafter, at the hour of 7:00 o'clock. p.m. If the day fro the annual meeting of the members is a legal holiday, the meeting will be held at the same hour of the first day following, which is not a legal.

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 one-fourth (1/4) of all of the votes of the membership.

Section 3. Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the secretary of the Corp. by mailing a corp. 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 Corp., or supplied by such member to the Corp. 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 purpose of the meeting.

Section 4. Quorum The presence at the meeting of members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes of the membership shall constitute a quorum for any action except as otherwise provided in the Articles, 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 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 5. 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 condominium unit or single family residence.

ARTICLE III  
**BOARD OF DIRECTORS TERM OF OFFICE**

Section 1. Number. Initially, the affairs of the Corp. shall be managed by a Board of six (6) directors. Consisting of three (3) directors representing each of Newberry Home Owners Association, Inc. and Newberry Commons Condominium Owners Association, Inc. (hereafter called "Assc.") Until such time as the control of a development has been transferred from the Declarant to lot and/or unit owners, the Declarant shall appoint the members. Following the transfer of control of Newberry HOA and Newberry

CC from the respective Declarant, the directors representing said Assc. Shall be members of the respective Assc. And shall be elected by the members.

Section 2. Initial Board of Directors. The Initial Board of Directors shall consist of the five (5) directors appointed by the Incorporator and will serve until the first annual meeting of the members in the year 2001.

Section 3. Term of Office. At the first annual meeting following the transfer of control from the Declarant(s), the members shall elect three (3) directors representing each Assc. For staggered terms of one (1) year, two (2) years, and three (3) years. At each annual meeting thereafter the members shall elect successor directors to replace directors whose terms expire for a term of three years.

Section 4. Removal. Any director may be removed from the Board, with or without cause, by the development Declarant prior to its transfer of control, and by a majority vote of the members of the Corp. following transfer of control from the Declarants. 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 for the unexpired term of his predecessor. The successor director shall represent the same Assc. As the outgoing director.

Section 5. Compensation. No director shall receive compensation for any service he may render to the Corp. However, any director may be reimbursed for his actual expenses incurred in the performance of 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 IV** **NOMINATION AND ELECTION OF DIRECTORS**

Section 1. Nomination. Following transfer of control from the Declarants, nomination for election to the Board of Directors shall be made by a Nomination Committee shall consist of a Chairman, who shall be a member of the Corp. and two or more other members of the Corp. The Nomination Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, 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 annual meeting. The 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 nominations may be made only from among members.

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 Articles. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

#### **ARTICLE V** **MEETING OF DIRECTORS**

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held annually 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 the meeting shall be held at the same time of 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 Corp. 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 make 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 VI** **POWERS AND DUTIES OF THE BOARD DIRECTORS**

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

- Adopt and publish rules and regulations governing the use of the facilities of the Corp., and the personal conduct of the members and their guest thereon, and to establish penalties for the infraction thereof;
- suspend the voting rights and right to use of the facilities of a member during any period in which such member shall in default in the payment of any assessment levied by the Corp. or an assessment levied by one or both of the Associations. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days for infraction of published rules and regulations;
- exercise for the Corp. all powers, duties and authority vested in or delegated to this Corp and not reserved to the membership by other provisions of the By-Laws, or the Articles;
- declare the office of a member of the Board of Directors to be vacant I the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and
- employ a manager, an independent contractor, or such employees of the Corp. as they deem necessary, and to prescribe their duties.

Section 2. Duties. It shall be the duty of the Board of Directors 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 when such statement is requested in writing by one-fourth (1/4) of the members who are entitled to vote;
- supervise all officers, agents and employees of this Corp. and to see that their duties are properly performed;
- establish the annual assessment period and fix the amount of the annual assessment against each member for each lot and condominium unit owned at least thirty (30) days in advance of each annual assessment;
- send written notice of each assessment to every lot and condominium unit owner at least thirty (30) days in advance of each annual assessment period, and levy all such assessments as liens;
- foreclose the lien against any property for which assessments are 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;
- 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;
- procure and maintain liability, fire and other hazard insurance of property owned by the Corp.
- cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;
- cause all of the facilities to be maintained;

## **ARTICLEVII** **OFFICERS AND THEIR DUTIES**

Section 1. Enumeration of Offices. The officers of this Corp. 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. Except for the initial officers the election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members. The initial officers shall be appointed by the initial Board of Directors.

Section 3. Term. The officers of this Corp. shall be elected annually by the Board and each shall hold office for one (1) year unless they 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 Corp. may acquire, 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 offices 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 and other written instruments.
- Vice President 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 The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Corp. and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Corp. together with their addresses, and shall perform such other duties as required by the Board.
- Treasurer The treasurer shall receive and deposit in appropriate bank accounts all monies of the Corp. and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Corp. books to be made by a public accountant at the completion of each fiscal year; and shall 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.

#### **ARTICLE VIII** **COMMITTEES**

The Board of Directors shall appoint such committees as deemed appropriate in carrying out its purpose.

**ARTICLE IX**  
**BOOKS AND RECORDS**

The books, records and papers of the Corp. shall at all times, during reasonable business hours, be subject to inspection by any member. The Articles and the By-Laws of Corp. shall be available for inspection by any member at the principal office of the Corp., where copies may be purchased at reasonable cost.

**ARTICLE X**  
**ASSESSMENTS**

As more fully provided in the Enabling Declaration of Newberry Commons and the Declaration of Newberry Homes, each member is obligated to pay to the Corp. such assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments, annual or special, which are 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 maximum legal rate, and the Corp. may bring an action at law against the member obligated to pay the same of foreclose the lien against the property, and interest, cost, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No member may waive or otherwise escape liability for the assessments provided for herein by nonuse of the property of the Corp. or abandonment of any property.

**ARTICLE XI**  
**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 of members present in person or by proxy, or at a regular or special meeting of the Board of Directors, by a vote of a majority of a quorum of directors,

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

**ARTICLE XII**  
**MISCELLANEOUS**

The fiscal year of the Corp. 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 recordation of the Articles

Adopted

NEWBERRY POOL ASSOCIATION, INC.