

**BY-LAWS**  
**OF**  
**ROSETREE HUNT MAINTENANCE ASSOCIATION**

**I. NAME AND LOCATION.**

The name of the corporation is Rosetree Hunt Maintenance Association, hereinafter referred to as "Association" or the "Corporation". The principal office of the corporation shall be located at 248 East Chestnut Hill Road, Newark, Delaware 19715, but meetings of members and directors may be held at such places within the State of Delaware, County of New Castle, as may be designated.

*Roseanne  
Hawkins  
Deed Add*

**II. DEFINITIONS.**

Section 1. "Corporation" or "Association" shall mean and refer to Rosetree Hunt Maintenance Association.

Section 2. "Lots" shall mean and refer to all of the buildings lots shown on the Record Major Land Subdivision Plan of ROSETREE HUNT, prepared by Tetra Tech Richardson, Engineers and Surveyors of Newark, Delaware, dated January 8, 1990, as said Plan is of record in the Office of the Recorder of Deeds in and for New Castle County, Delaware, in Microfilm No. 10658.

Section 3. "Common Areas" or "Common Facilities" shall mean and refer to those private open spaces, including storm water management area, and Easement for Landscape Berming, shown on said Plan of Rosetree Hunt for the Land for which maintenance will be necessary.

Section 4. "Declarant" or "Declarants" shall mean and refer to Rose Heart, Inc., a corporation of the State of Delaware, its successors and assigns.

Section 5. "Declaration" shall mean and refer to the Declaration by Rose Heart, Inc., a corporation of the State of Delaware, dated October 5, 1990, as said Declaration is of record in the Office of the Recorder of Deeds aforesaid, in Deed Book 1109, Page 300.

Section 6. "Member" shall mean and refer to every person or entity who holds membership in the corporation.

Section 7. "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 subject to the Declaration, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 8. "Voting Rights" shall mean that only one vote shall be cast with respect to any lot. When more than one person or entity holds an interest in any lot, the vote for such lot shall be cast as the owners may determine among themselves, but in no event shall more than one vote be cast with respect to any one lot. If any owner owns more than one lot, he shall have one vote for each lot owned.

### III. MEMBERSHIP

Section 1. Membership. Every person or entity who is a record owner of a fee or undivided fee interest in any lot which is subject by covenants of record to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment by the Association. Ownership of such lot shall be the sole qualification for membership.

Section 2. Suspension of Membership. During any period in which a member shall be in default in the payment of any annual or special assessment levied by the Association, the voting rights of such member may be suspended by the Board of Directors until such assessment has been paid.

### IV. PROPERTY RIGHTS

Section 1. Each member shall be entitled to the use and enjoyment of the common areas.

### V. BOARD OF DIRECTORS

Section 1. Number. The affairs of this Association shall be managed by a Board of Three (3) directors, who need not be members of the Association.

Section 2. Election. At the first meeting the members shall elect two (2) directors for a term of one year, and one director for a term of two years; and at each annual meeting thereafter the members shall elect those directors whose terms expire at such meeting for a term of two 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 successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 4. 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 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.

## 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.

## VII. NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to 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 a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating 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 annual 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 nomination may be made from among members or non-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 Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

#### VIII. POWERS AND DUTIES OF THE BOARD OF DIRECTIONS

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

(a) Adopt and publish rules and regulations governing the use of the common areas;

(b) 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 By-Laws, the Certificate of Incorporation, or the Declaration;

(c) 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

(d) 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:

(a) Cause to be kept a complete record of all acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members or at special meeting, when such statement is requested in writing by one-fourth of the members;

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

(c) As more fully provided herein, and in the Declaration to:

(1) recommend the amount of the annual assessment for vote and approval by the membership as provided for in Declaration, against each lot at least thirty (30) days in advance of each annual assessment meeting, as hereinafter provided in Article XII; and

(2) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period;

(d) issue, or to cause an appropriate office 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) procure and maintain adequate liability and hazard insurance on property owned by the Association;

(f) cause all officers or employees having fiscal responsibility to be bonded, as it may deem appropriate;

(g) cause the common areas to be maintained, repaired, replaced and improved, as necessary.

#### IX. COMMITTEES

Section 1. The Association shall appoint a Nominating Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purposes, such as;

(a) A Maintenance Committee which shall report to and advise the Board of Directors on all matters pertaining to the maintenance, repair or improvement of the common areas and shall perform such other functions as the Board, in its discretion, determines; and

(b) An Audit Committee which shall supervise the annual audit of the Association's books and approve the annual budget and statement of income and expenditures to be presented to the membership at its regular annual meeting.

Section 2. 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.

## **X. MEETINGS OF MEMBERS**

**Section 1. Annual Meetings.** The first annual meeting of the members shall be held within one year from the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held on the same day of the same month of each year thereafter, at the hour of 8 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 or by the Board of Directors, or upon written request of the members who are entitled to vote one-fourth of all of the votes authorized to be cast by Article II, Section 8 of these By-Laws.

**Section 3. Notice of Meetings.** 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 to the Association for the purpose of notice, or by delivering a copy of such notice to the members' homes. 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-fourth of the votes authorized to be cast by Article II, Section 8 of these By-Laws, 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 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 lot.

## **IX. OFFICERS AND THEIR DUTIES**

**Section 1. Enumeration of Offices.** The officers of the Association shall be a president, who shall at all times be a member 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 annual meeting of the members.

Section 3. Term. The officers of this Association shall be elected annually 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 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 in the manner prescribed for regular election. The officer elected to such vacancy shall serve for the remainder of the term of the officer he replaced.

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

President

The president shall preside at all meetings of the Board of Directors; and at all meetings of the members; shall see that orders 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.

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 Association 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 Association 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 Association and shall disburse such funds as directed by resolution of the Board of Directors; shall 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 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; and shall act in the place and stead of the president in the event of his absence, inability or refusal to act.

## XII. ASSESSMENTS

### Section 1. Creation of the Lien and Personal Obligation of Assessments.

By the Declaration each member is deemed to covenant and agree to pay to the Association annual assessments for maintenance and improvements. The annual assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest, costs, and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due and shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting, improving, and maintaining the common areas.

Section 3. Uniform Rate. Assessments must be fixed at a uniform rate for all lots and may be collected on a monthly basis.

### Section 4. Date of Commencement of Annual Assessments: Due Dates.

The first assessment provided for herein shall commence on the date established by the first meeting called as hereinabove provided; thereafter the assessment periods shall be on a calendar basis commencing on January 1, of each and every year thereafter and ending on December 31, of each respective year. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall recommend the amount of the annual assessment against each lot at least thirty (30) days in advance of each subsequent annual assessment meeting. Written notice of the annual assessment shall be sent to every Owner subject thereto. The Association shall upon demand at any time furnish a certificate in writing, signed by an officer of the Association, setting forth whether the assessments on a specified lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.



**Section 5. Effect of Non-Payment of Assessments: Re. dies of the Association.**

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, the assessment shall bear interest from the date of delinquency at the rate of six (6) percent 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 be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the common areas or abandonment of his lot.

**Section 6. Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot which is subject to any mortgage, pursuant to a decree of foreclosure under such mortgage or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to payments thereof which become due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

**XIII. 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 principal office of the Association, where copies may be purchased at reasonable cost.

**XIV. CORPORATE SEAL**

The Association shall have a seal in circular form having within its circumference the name of the Association.

**XV. AMENDMENTS.**

**Section 1.** These By-Laws may be amended at a regular or special meeting of the members by a vote of three-quarters of a quorum of members present at any such regular or special meeting.

**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.

**XVI. MISCELLANEOUS**

The fiscal year of the Association shall begin on the first day of January and end on the Thirty-first day of December of every year.

Introduced by:

SUBSTITUTE ORDINANCE NO. 1

TO

ORDINANCE NO. 87-028

TO AMEND SECTION 20-70 OF THE NEW CASTLE COUNTY CODE  
CONCERNING THE MAINTENANCE OF PRIVATE OPEN SPACE  
AND OTHER COMMON AREAS

WHEREAS, Sections 20-70(c) and (d) of the New Castle County Code set forth the requirements for maintenance of private common areas and facilities shown on a record plan; and

WHEREAS, the New Castle County Department of Planning has determined that the present procedures for maintaining these common areas are often ineffective; and

WHEREAS, the Zoning Code Study Commission established by the County Executive has recommended that certain changes be made to the Subdivision Code as it pertains to the maintenance of common areas,

NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:

Section 1. Sections 20-70(c) and (d) of the New Castle County Code are hereby amended by deleting these sections in their entirety and adding the following language, all of which shall be deemed to be underlined, as follows:

(c) (1) All areas designated on the record plan as private open space, private streets or rights-of-way, parking areas, or other common facilities, shall be maintained pursuant to the terms of a maintenance agreement executed by the owner of the common areas in a form substantially similar to that set forth in Appendix XIV to this Chapter. The maintenance agreement shall be subject to the approval of the New Castle County Law Department and shall be executed and submitted to that Department for recording prior to the approval of the record plan. The form of such document may be amended with the approval of the New Castle County Departments of Law and Planning.

(2) In residential subdivisions, the owner and/or developer of the subdivision shall maintain a record of the individual acknowledgements evidencing the fact that the purchaser of a lot within the subdivision has received a copy of the maintenance agreement at the time of signing an agreement of sale for said lot, and that the purchaser has read the agreement and understands it. The record of all acknowledgements shall be transmitted to the homeowners organization or maintenance corporation when it takes over from the developer. All subsequent purchasers of lots or improved lots shall also be subject to this provision.

(3) All private common areas shown on the record plan shall be constructed by the owner and/or developer of the subdivision. In addition, the owner/developer shall place sufficient funds in an escrow account to pay for the costs of developing or maintaining the common areas. For areas designated to be active recreational areas, the funds set aside shall be for an amount sufficient to cover the cost of developing said area. In the event that the area shall be used for passive recreational purposes, the funds to be set aside shall be equivalent to the costs for maintaining the area for one (1) year, as determined by the New Castle County Department of Parks and Recreation. The funds set aside shall be placed in an account established in the name of the maintenance corporation or association and shall not be used until such time as the maintenance corporation or association has full membership.

(4) The corporation or association created to maintain the private areas, shall be created at the time of conveyance of the first lot within the subdivision. The developer and/or owner of the subdivision shall be a member of the maintenance corporation until the last lot in the subdivision has been conveyed, and shall be assessed for the maintenance costs attributable to the lots he owns from the time of creation of the maintenance corporation until the transfer of the last lot within the subdivision.

(d) Where applicable, an open space management plan shall be submitted to the Department of Planning for review at the time of review of the record plan for the subdivision. The open space shall be developed in accordance with the open space management plan once certificates of occupancy have been issued for all the lots within the subdivision. However, where development of the subdivision is to be phased, the development of the open space shall occur according to the schedule set forth on the record plan for the construction of residential dwelling units.

Section 2. This ordinance shall become effective immediately upon its adoption and approval.

Adopted by County Council of New  
Castle County on:

\_\_\_\_\_  
President of County Council of  
New Castle County.

APPROVED ON:

\_\_\_\_\_  
County Executive

## **Rose Tree Hunt Bylaws**

### **POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

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

- (a) Adopt and publish rules and regulations governing the use of the common areas;
- (b) 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 Certificate of Incorporation, or the Declaration;
- (c) 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
- (d) 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:

- (a) Cause to be kept a complete record of all acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members or at special meeting, when such statement is requested in writing by one-fourth of the members;
- (b) Supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;
- (c) As more fully provided herein, and in the Declaration to:
  - (1) recommend the amount of the annual assessment for vote and approval by the membership as provided for in Declaration, again each lot at least thirty (30) days in advance of each annual assessment: meeting, as hereinafter provided in Article XII; and
  - (2) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment, period;
- (d) issue, or to cause an appropriate office 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) procure and maintain adequate liability and hazard insurance on property owned by the Association;
- (f) cause all officers or employees having fiscal responsibility to be bonded, as it may deem appropriate;
- (g) cause the common areas to be maintained, repaired, replaced and improved, as necessary.

## **OFFICERS AND THEIR DUTIES**

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

### **President**

The president shall preside at all meetings of the Board of Directors; and at all meetings of the members; shall see that orders 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.

### **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 Association 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 Association 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 Association and shall disburse such funds as directed by resolution of the Board of Directors; shall 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 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; and shall act in the place and stead of the president in the event of his absence, inability or refusal to act.