

**BYLAWS
OF
MORNING SUN SUBDIVISION HOMEOWNERS' ASSOCIATION, INC.**

**ARTICLE I
NAME**

Following are the Bylaws for the Morning Sun Subdivision Homeowners' Association, Inc., an Idaho non-profit corporation (herein referred to as "Association").

**ARTICLE II
OFFICE**

The principal office of the Association shall be in the County of Twin Falls, State of Idaho. The Association may have such other offices, either within or without the State of Idaho, as the Board of Directors may determine, or the affairs of the Association may require.

**ARTICLE III
MEMBERSHIP**

Every person, persons or entity who is a record owner of a fee or undivided fee interest in any lot located in any phase of Morning Sun Subdivision, Twin Falls, County, Idaho, shall be a member of the Association, provided that any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a member. Membership shall be appurtenant to and may not be separated from ownership of the lot which is subject to assessment. Transfer of title to a lot shall operate automatically to transfer said membership, and the voting rights associated herewith, to the new owner thereof. The mere acquisition of any such lot shall signify that these Bylaws are accepted, ratified, and will be observed by said owner.

**ARTICLE IV
DUTIES OF THE ASSOCIATION**

- 4.1 Duties of the Association: The Association shall have the obligation to perform each of the following duties for the benefit of the members:

All property or interest therein or right to use thereof, which is acquired, owned or held by the Association ("Association property") shall be owned or held by the Association, maintained and repaired by the Association for the use and benefit of members and the successors and assigns. Such property may include, but need not be limited to, nonexclusive perpetual rights-of-way or easements which have been or may be conveyed to the Association.

Each lot served by the Association, other than common areas held in fee simple title by the Association, shall be assessed for its pro rata share of all costs and expenses incurred by the Association, in connection with ownership, operation, maintenance or repair of Association property.

In the event that assessments (sometimes referred to herein as maintenance fees or membership dues) are not paid when they become due and before they become delinquent, said assessments, plus costs of collection, including attorney fees, plus interest thereon at the then legal interest rate, shall constitute and become a lien on the lot. The Board of Directors of the Association shall cause to be recorded with the County Recorder of Twin Falls County a notice of a lien which will state the amount of such assessment(s), and other charges, a description of the lot, and the name of the record owner thereof. Such notice shall be signed by the President or Secretary of the Association on behalf of the Association. Upon payment of said charges in satisfaction thereof, the Board or an authorized officer of the Association shall cause to be recorded a further notice stating the satisfaction and release of the lien thereof. Alternatively, the Association may sue for payment of the amount of the assessment(s), together with interest at the lawful rate allowed by law and all attorney fees and costs expended in the effort to collect the sums due.

The duties of the Association, or any of them, may be carried out and its powers exercised by any other person or entity under contract to the Association provided that the Association shall continue to remain responsible to its members for duly carrying out such duties.

- 4.2 Powers and Authority: The Association shall have all powers and authority of any non-profit corporation unless restricted by its Articles of Incorporation, these Bylaws or by Covenants, Conditions and Restrictions, and the officers and directors of the Association shall have all powers and authority reasonable and necessary to carry out the purposes of the Association, except and to the extent otherwise provided in its Articles of Incorporation, these Bylaws or in Covenants, Conditions and Restrictions.

ARTICLE V VOTING RIGHTS AND MEETINGS

- 5.1 Voting Rights: There shall be one vote and one class of voting rights for each lot served by the Association and owned by the members, whether owned in community, jointly or separately. Voting rights and membership

and continuation thereof shall be dependent upon the ownership of property served by the Association and there can be no expulsion of a member or cancellation of voting rights of such member so long as the member is qualified, provided that such voting rights may be suspended by the Board of Directors, as provided for in the Bylaws. Membership voting rights and attendant rights and obligations shall be evidenced by ownership of a lot served by the Association. In the event of a dispute as to ownership of the lot, where title of the person claiming to be the owner does not appear of record in Twin Falls County, Idaho, the record title holder shall be presumed the owner of the lot unless such title holder acknowledges, in a signed and acknowledged writing furnished to the Association, the ownership of the lot by another person or entity identified therein.

The owner of a lot may by notice to the Association, designate a person (who need not be an owner) to exercise the vote for such lot. Said designation (proxy) shall be in writing (handwritten or typed), signed by the owner, or by all owners where a lot is owned by more than one person or entity, and dated within eleven (11) months of the date upon which it is exercised, and shall be revocable at any time by written notice to the Association by the owner(s). Such powers of designation and revocation may be exercised by the owner, by the guardian of an owner's estate or by the owner's conservator, or in the case of a minor having no guardian, by the parent entitled to his or her custody, or during the administration of an owner's estate, by the owner's executor, administrator or personal representative where the owner's interest in said property is subject to administration in his or her estate.

The vote for each lot shall, if at all, be cast as a unit, and fractional votes shall not be allowed. In the event that joint owners are unable to agree among themselves as to how their vote shall be cast, they shall lose their right to vote on the matter in question. If any owner casts a vote representing a certain lot, it will thereafter be conclusively presumed for all purposes that the owner or owners were acting with authority or consent of all other owners of the same lot.

The right to vote may not be severed or separated from the ownership of the lot to which it is appurtenant, except that any owner may give a revocable proxy, or may assign the right for the term of a lease or deed of trust. The transfer, sale or conveyance of such lot to a new owner or owners shall operate automatically to transfer the appurtenant vote to the new owner, subject to any assignment of the right to vote to a lessee or beneficiary as provided herein.

In any election of the members of the Board, every owner entitled to vote at such an election shall have the right to cumulate votes and give one candidate, or divide among any number of candidates, a number of votes equal to the total number of votes to which that owner is entitled in voting in any other action by the Association multiplied by the number of directors to be elected. The candidates receiving the highest number of total votes, up to the number of the Board members to be elected, shall be deemed elected.

- 5.2 Annual Meetings: An annual meeting of the members for the purpose of electing directors and transaction of other matters as may properly come before the meeting, shall be held at 7:00 p.m. on the first Thursday of August, of each year, in a convenient location in the County of Twin Falls, State of Idaho. All members shall be entitled to at least ten (10) days notice prior to the annual meeting.
- 5.3 Special Meetings: Special meetings of the members of the Association may be called at any time by the board of directors or by written request of one-fifth of the voting power of all of the members and shall be held at a convenient location in the County of Twin Falls, State of Idaho. The Secretary shall forthwith give notice of such meeting at such time as the Board may fix, not less than five (5) nor more than thirty-five (35) days after the receipt of said request, and if the Secretary shall neglect or refuse to issue such call, the Board of Directors or members making request may do so.
- 5.4 Notice, Waiver: Notice of annual and special meetings of the members must be in writing, and must state the date, hour, place of meeting and generally describe the nature of the business to be transacted. Such notice shall be delivered personally to or deposited in the mail, postage prepaid, addressed to the last known address as shown on the books of the Association, to the members as shown on the books of the Association and shall be delivered or deposited in the mail at least ten (10) days prior to the date of the meeting.

In the event that a special meeting is called by the members as aforesaid, they shall notify the Secretary in writing of the time, place and purpose of the meeting in sufficient time to permit the Secretary to give notice to all members in accordance with these Bylaws. Written waiver of notice signed by or attendance at a meeting by the owners or any one of the co-owners of a membership shall constitute a waiver of the notice of such

meeting, except where attendance is for the expressed purpose of objecting to the failure to receive such notice or to the defects in said notice.

- 5.5 Quorum, Vote Required, Adjournment: A majority of the membership entitled to vote represented in person or by proxy shall constitute a quorum at any meeting of the members. If a quorum is present, the action of the majority of the membership present and voting, shall be the act of the members. If a quorum is not represented at a meeting, a majority of the membership present in person or by proxy, may adjourn the meeting from time to time without notice other than announcement at the meeting.
- 5.6 Conduct of the Meeting: The meeting will be conducted by the officers in order of their priority. The order of business shall be a call of the roll, a reading of the notice and proof of the call, report of the officers, report of the committees, unfinished business, new business, election of directors and miscellaneous business.

ARTICLE VI BOARD OF DIRECTORS

- 6.1 General Powers: The property, business and affairs of the Association shall be controlled, managed and governed by the Board of Directors.
- 6.2 Number: The initial Board of Directors shall consist of three (3) members; however, the number of directors may be increased or decreased by amendments to these Bylaws, but in no case shall there be more than nine (9) or less than three (3) Board members.
- 6.3 Qualifications, Election and Term: The directors shall be members of the Association and shall be elected by the members at the annual membership meeting. At such election of directors, each member entitled to vote shall have the right to cast for any one or more nominees for director a number of votes equal to the number of votes attached to his/her membership. There shall be three (3) members elected to serve two-year terms.
- 6.4 Removal and Resignation: Any director may be removed with or without cause by a vote of two-thirds of the total number of votes entitled to be cast by the members of the Association at a meeting called for that purpose. Any director may resign by submitting a written notice to the Board of Directors stating the effective date of the resignation, and acceptance of the resignation shall not be necessary to make it effective.

- 6.5 Vacancies: Any vacancy occurring on the Board of Directors whether by removal, resignation, death or otherwise shall be filled by a majority vote of the remaining directors, though less than a quorum of the Board.
- 6.6 Regular Annual Meeting: There shall be a regular annual meeting of the Board of Directors immediately following the annual meeting of the members of the Association, and the Board may establish regular meetings to be held at such other places and at such other times as it may determine from time to time. After an establishment of a time and place for such regular meeting, no further notice thereof need be given. The regular meeting schedule shall be mailed to all members notifying them of said meeting and that the same are open to all members. Special meetings of the Board may be called by the President or upon request to the Secretary by any two (2) directors or by any three (3) members.
- 6.7 Notices, Waiver: Five days notice of special Board meetings shall be given to each director by the Secretary. Such notice may be given orally, in person or in writing, served on, mailed or telephoned to each director. Written waiver of notice signed by, or attendance at a meeting of the Board of Directors by a director, shall constitute a waiver of notice of such meeting, except where attendance is for the expressed purpose of objecting to the failure to receive such notice or to defects in said notice.
- 6.8 Quorum, Vote Required, Adjournment: At any meeting of the Board of Directors, no less than three (3) of the qualified directors shall constitute a quorum. If a quorum is present the action of the majority of the directors present and voting shall be the act of the Board of Directors. If a quorum is not present, the majority of the directors present may adjourn the meeting from time to time without further notice other than announcement at the meeting.
- 6.9 Action of Directors Without a Meeting: Any action required to be taken or any other action which may be taken at a meeting of the Board of Directors may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all of the directors entitled to vote in respect to the subject matter thereof.

ARTICLE VII OFFICERS

- 7.1 General: The officers of the Association shall be members of the Board of Directors of the Association. The Association shall have the following

officers: President, Treasurer and Secretary, all of whom shall be elected by the Board of Directors.

- 7.2 President: The President shall be the principal executive officer of the Association, and, subject to the control of the Board of Directors, shall direct, supervise, coordinate, and have general control over the affairs of the Association and shall have the powers generally attributable to the chief executive officer of an association. The President shall be a director and shall preside at all meetings of the members of the Association.
- 7.3 Treasurer: The Treasurer shall have charge and custody of, and be responsible for, all sorts of securities of the Association. He/she shall deposit all such funds in the name of and to the credit of the Association in such banks and depositories as shall be designated by the Board of Directors. He/she shall keep books of account and records of his/her transactions and of the financial condition of the Association and shall submit such reports thereof as the Board of Directors may from time to time require, and in general, shall perform all of the duties incident to the office of the Treasurer and such other duties as may from time to time be assigned to him/her by the Board of Directors or the President. The Board may appoint one or more assistant Treasurers who may act in place of the Treasurer in case of death, absence, inability or failure to act.
- 7.4 Secretary: The Secretary shall be the custodian of the records and the seal of the Association and shall affix the seal to all documents requiring the same and shall see that all notices are duly given in accordance with the provisions of these Bylaws, as required by law, and that the books, reports and other documents and records of the Association are properly kept and filed.
- 7.5 Compensation: Neither the officers nor the directors shall be compensated for their services. However, out-of-pocket expenses shall be reimbursable from the Association.
- 7.6 Delegation of Powers: In the case of absence of any officer of the Association or for any other reason that may seem sufficient to the Board of Directors, the Board may delegate its duties and powers for the time being to any other officer or other directors.

**ARTICLE VII
CONTRACTS, CONVEYANCES, CHECKS
AND MISCELLANEOUS**

- 8.1 Contracts: The Board of Directors may authorize any officer or officers of the Association to enter into any contract or execute any instrument in the

name of the Association except as otherwise specifically required by the Articles of Incorporation.

- 8.2 Conveyances and Encumbrances: Association property may be conveyed or encumbered by authority of the Board of Directors by resolution of two-thirds of the members entitled to vote. Conveyances or encumbrances shall be executed by instrument by the President and by the Secretary of the Association.
- 8.3 Checks: All checks, drafts, notes and orders for the payment of money shall be signed by at least two of the three persons designated by the Board of Directors for the signing of said documents. Said designation shall be set forth as a resolution in the Board of Directors' minutes. A bill for \$500.00 or less may be paid by the designated signatories without Board approval. Any bill in excess of \$500.00 must be approved by a vote of the Board of Directors before payment.
- 8.4 Fiscal Year: The fiscal year or business year of the Association shall begin on the first day of January and end on the last day of December following.
- 8.5 Records: The Association shall maintain accurate and correct books, records, and accounts of its business and properties and they shall be kept in such places as is from time to time fixed and designated by the Board of Directors.
- 8.6 Seal: The Board of Directors may adopt an association seal of such design as may be appropriate.
- 8.7 Declarations of Covenants, Condition and Restrictions. Neither the Articles of Incorporation nor these Bylaws shall be interpreted so as to be inconsistent with any Declarations of Covenants, Conditions and/or Restrictions related to said lots. Said Declarations, Covenants, Conditions and/or Restrictions are hereby incorporated by this reference.

ARTICLE IX STANDING COMMITTEES

- 9.1 Committees: The Association may have the following standing committees:
1. Covenant Committee
 2. Maintenance Committee
 3. Architectural Control Committee
 4. Budget Committee

- 9.2 Appointment: The members constituting said committees shall be appointed by the Board of Directors.

ARTICLE X BOOKS AND ACCOUNTS

- 10.1 The books and accounts of the Association shall be kept under the direction of the Treasurer in accordance with reasonable standards of accounting practices and procedures.
- 10.2 At the close of each accounting year, the books and records of the Association shall be reviewed by a person or firm approved by the Board of Directors. Report of such review shall be prepared and submitted to the members at or before the annual meeting; provided, however, that a certified audit by a certified public accountant approved by the members shall be made only if at least 75% of the owners deem to do so.
- 10.3 Financial reports, such as are required to be furnished shall be available at the principal office of the Association for inspection at reasonable times by any member.

ARTICLE XI MAINTENANCE ASSESSMENTS

- 11.1 Personal Obligation of Assessments: Each member shall, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, be deemed to agree to pay to the Association annual assessments or charges to be fixed, established and collected from time to time by the Association. The annual and special assessments, together with such interest thereon and costs of collection thereof as herein provided, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for the delinquent assessments shall not pass to successors in title unless expressly assumed by them, provided that the lien shall nevertheless be a continuing lien against the property following any transfer or sale thereof.
- 11.2 Purpose of Assessments: The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents of the Subdivision, and in particular, for the improvement and maintenance of properties, services, utilities, and facilities devoted to this purpose and related to the use and enjoyment of the Association properties, including but not limited to, the maintenance, repair, replacement and additions thereto, taxes and utilities thereon (to the extent taxed or metered separately from lots) and for the cost of labor, equipment, materials, management and supervision thereof.

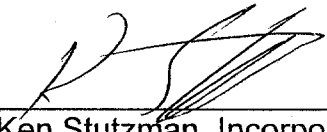
- 11.3 Uniform Rate of Assessment: Both annual and special assessments must be fixed at a uniform rate for all lots entitled to be served by the amenities for which the assessments are made and may be collected on a monthly or less-frequent basis.
- 11.4 Date of Commencement of Annual Assessments: The annual assessments provided for herein shall commence on the date (which shall be the first day of a month) fixed by the Board of Directors of the Association. The Board of Directors shall fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto. The due dates shall be established by the Board of Directors.
- 11.5 Effect of Nonpayment of Assessments; Remedies: Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the legal rate, but in no event less than the rate of 10% per annum. The Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against such property. No owner may waive or otherwise escape the liability for the assessments provided for herein by nonuse of the Association properties or by abandonment of the lot. Any judgment rendered hereunder may include interest, attorney's fees and court costs.
- 11.6 Subordination of the Lien to Mortgages: The lien of the assessments provided for herein shall be subordinate to the lien of any purchase money mortgage placed upon the property. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became 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.

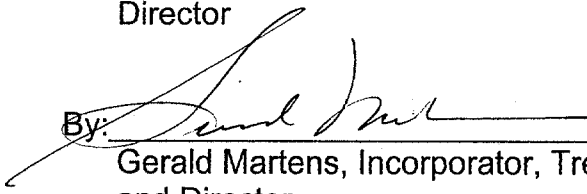
ARTICLE XII AMENDMENTS

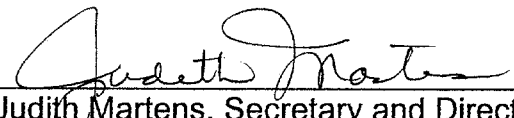
Bylaws. These Bylaws may be amended, altered or repealed from time to time by a two-thirds vote of the members of the Association.

APPROVED this 1st day of July, 2003.

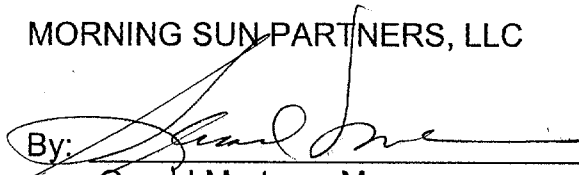
MORNING SUN SUBDIVISION
HOMEOWNERS' ASSOCIATION, INC.

By: 
Ken Stutzman, Incorporator, President and
Director

By: 
Gerald Martens, Incorporator, Treasurer
and Director

By: 
Judith Martens, Secretary and Director

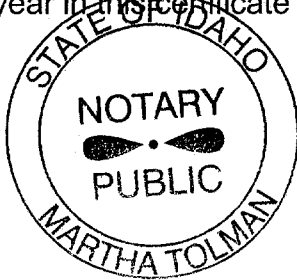
MORNING SUN PARTNERS, LLC

By: 
Gerald Martens, Manager

STATE OF IDAHO)
) ss.
County of Twin Falls)

On this 1st day of July, 2003, before me, the undersigned, a Notary Public in and for said County and State, personally appeared GERALD MARTENS as known by me or proven upon satisfactory evidence to me to be the person and as Incorporator, President and Director of MORNING SUN SUBDIVISION HOMEOWNERS' ASSOCIATION, INC., an Idaho non-profit Corporation, and as Manager of MORNING SUN PARTNERS, LLC, an Idaho limited liability company, whose names are subscribed to the within instrument, and acknowledged to me that he executed the same on behalf of MORNING SUN SUBDIVISION HOMEOWNERS' ASSOCIATION, INC, an Idaho non-profit Corporation and MORNING SUN PARTNERS, LLC, an Idaho limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year in this certificate first above written.

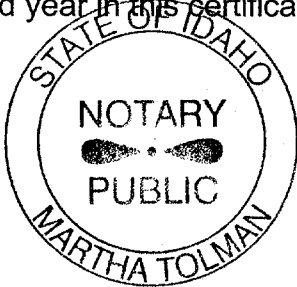


Martha Tolman
NOTARY PUBLIC FOR IDAHO
Residing at: Jerome
My commission expires: 10/17/06

STATE OF IDAHO)
) ss.
County of Twin Falls)

On this 1st day of July, 2003, before me, the undersigned, a Notary Public in and for said County and State, personally appeared KEN STUTZMAN as known by me or proven upon satisfactory evidence to me to be the person and as Incorporator, Treasurer and Director of MORNING SUN SUBDIVISION HOMEOWNERS' ASSOCIATION, INC, an Idaho non-profit Corporation, whose name is subscribed to the within instrument, and acknowledged to me that he executed the same on behalf of MORNING SUN SUBDIVISION HOMEOWNERS' ASSOCIATION, INC, an Idaho non-profit Corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year in this certificate first above written.

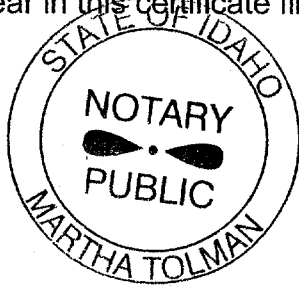


Martha Tolman
NOTARY PUBLIC FOR IDAHO
Residing at: Jerome
My commission expires: 10/17/06

STATE OF IDAHO)
) ss.
County of Twin Falls)

On this 1st day of July, 2003, before me, the undersigned, a Notary Public in and for said County and State, personally appeared JUDITH MARTENS as known by me or proven upon satisfactory evidence to me to be the person and as Secretary and Director of MORNING SUN SUBDIVISION HOMEOWNERS' ASSOCIATION, INC, an Idaho non-profit Corporation, whose name is subscribed to the within instrument, and acknowledged to me that she executed the same on behalf of MORNING SUN SUBDIVISION HOMEOWNERS' ASSOCIATION, INC, an Idaho non-profit Corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal
on the day and year in this certificate first above written.



Martha Tolman
NOTARY PUBLIC FOR IDAHO
Residing at: Jerome
My commission expires: 10/17/06