

BY-LAWS

OF

SUTTER'S MILL COUNCIL OF CO-OWNERS

SUTTER'S MILL COUNCIL OF CO-OWNERS, a Texas non-profit corporation, is the corporation referred to in the Declaration of Condominium of Sutter's Mill Condominium, a condominium regime in College Station, Brazos County, Texas, created pursuant to the provisions of the Texas Condominium Act. This Corporation is and shall have all the powers of the "Co-Owners" as authorized by the Texas Condominium Act. The terms used in these By-Laws shall have the same meanings given to them in the Declaration, unless otherwise specifically provided. In the event of any conflict between the terms and provisions of these By-Laws and the Declaration or the Texas Condominium Act, or both, the Declaration shall control over these By-Laws and the Act shall control over both the Declaration and these By-Laws.

All present or future owners, tenants, future tenants, mortgagees, or future mortgagees, or the employees of either of them, or any persons that might use the facilities of Sutter's Mill Condominium in any manner, are subject to these By-Laws and to the Declaration. Any person, firm or corporation acquiring, leasing, occupying, or renting any of the units at Sutter's Mill Condominium accepts and ratifies these By-Laws and the Declaration, and agrees that the terms and provisions of both will be complied with.

ARTICLE I.

VOTING BY OWNERS

1.01. Voting. Each Owner shall be entitled to one vote for each Unit owned by such Owner.

1.02. Multiple Interests. No Owner, other than the Declarant, shall be entitled to vote at any meeting of the Council until such Owner has presented evidence of ownership of a Unit in the Condominium to the Secretary of the Council. In the event that ownership interests in a Unit are owned by more than one member of the Council, the members who own fractional interests in such Unit aggregating more than

When ship

fifty percent (50%) of the whole ownership thereof shall appoint one member who shall be entitled to vote the vote of that Unit at any meeting of the Council. Such designation shall be made in writing to the Board of Directors and shall be revocable at any time by actual notice to the Board or upon the death or judicially declared incompetence of any one of the members; the Board shall be entitled to rely upon any such designation until written notice revoking such designation is received by the Board. In the event that a Unit is owned by more than one member and no single member is designated to vote on behalf of the members having an ownership interest in such Unit, then none of such members shall be allowed to vote. All members of the Council may be present at any meeting of the Council and may act at such meetings either in person or by proxy.

ARTICLE II.

MEETINGS

2.01. Annual Meetings. The first meeting of the members of the Council shall be held when called by the initial Board upon ten (10) days written notice to the members. Such written notice may be given at any time but must be given not later than the earlier to occur of (i) seven (7) years following the recordation of the Declaration of Condominium for Sutter's Mill Condominium and (ii) thirty (30) days after at least ninety-five percent (95%) of all of the Units have been sold by the Declarant, a deed therefor recorded and the purchase price paid. Thereafter, an annual meeting of the members of the Council shall be held at such place as may be designated by the Board at 8:00 o'clock p.m. on the third Tuesday in January of each calendar year (or the first business day thereafter if such day is a governmental or religious holiday). At the discretion of the Board, the annual meeting of the members of the Council may be held at such other reasonable time (not more than sixty (60) days prior to or subsequent to the aforesaid date) as may be designated by written notice of the Board delivered to the members not less than ten (10) nor more than sixty (60) days prior to the date fixed for said meeting.

2.02. Notice. Any notice permitted to or required to be given to a member of the Board or to an Owner may be delivered personally, by mail or by placing such notice in the mail distribution facilities of each Owner if such facilities are present in the Buildings. If delivery is

*changed
to April in
1986*

made by mail, it shall be deemed to have been delivered seventy-two (72) hours after deposit in the U.S. Mail postage prepaid, addressed to an Owner at his Unit or to such other address as the Owner may have given in writing to the Secretary of the Council for the purpose of service of notices. Any address for purposes of notice may be changed from time to time by notice in writing to the Secretary. For the purpose of determining the members entitled to a notice of a meeting and to vote at any meeting, the membership of the Council shall be determined at the close of business on the twenty-fifth (25) day preceding such meeting.

2.03. Special Meetings. Special meetings of the members may be called by the President or any Vice President at any time or may be called upon petition to the President by members having at least ten percent (10%) of the votes in the Council or by a majority of the Board of Directors. Written or printed notice stating the place, day and hour of such special meeting and the purpose or purposes for which the meeting is called shall be delivered to each member not less than three (3) nor more than twenty-one (21) days before the date of such meeting.

2.04. Quorum. The presence in person or by proxy of the Owners representing an aggregate of more than fifty percent (50%) of total vote of all Units shall constitute a quorum for holding any meeting of the Council. If, however, such quorum shall not be present or represented at any meeting of the Council, the Owners present in person or represented by proxy shall have the power to adjourn and reconvene the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such reconvened meeting, at which a quorum shall be present or represented by proxy, any business may be transacted as was set out in the notification of the original meeting.

2.05. Proxies. At any meeting of the Council, votes may be cast in person or by proxy. Proxies must be filed with the Secretary of the Council at or before the appointed time of each meeting of the Council.

2.06. Majority Vote. When a quorum is present at any meeting of the Council, the vote by Owners present in person or by proxy at such meeting of a majority (an aggregate of more than fifty percent (50%) of the total vote of all Units shall decide any question brought before such meeting unless

the question is one upon which, by express provisions of the Act, the Declaration or the By-Laws, a different percentage is required, in which case such express provision shall govern and control a vote on such question.

2.07. Cumulative Voting Prohibited. At all meetings of the Council, cumulative voting shall not be permitted.

ARTICLE III

BOARD OF DIRECTORS

3.01. Number and Qualification. The Board of Directors shall consist of five (5) persons who are members of the Council, spouses of members, or in the event that a Unit is owned by a corporation or other business entity, an officer or director of such entity or other designated representative who resides in the Unit owned by such entity; with the exception of the members of the first Board who shall be appointed by the Declarant (and any replacement Directors selected by the Declarant or the members of the first Board prior to the first meeting of the Council).

3.02. Election. The Directors shall be elected by the members of the Council at the first meeting of the members and at each annual meeting thereafter. At the initial meeting of the members of the Council, three (3) Directors shall be elected for a term of two (2) years and two (2) Directors shall be elected for a term of one (1) year. Thereafter, at the annual meeting of the members, the members shall elect either three (3) or two (2) Directors, as the case may be, each to serve for a term of two (2) years, in order to fill the positions of the Directors whose terms have expired at the time of the annual meeting. The candidates receiving the highest number of votes up to the number of members of the Board to be elected shall be deemed elected. All votes shall be cast by written ballot.

The members of the Board (other than members of the initial Board) shall serve for a term of two (2) years commencing at the time of their election until their death, resignation, removal or until they are no longer members of the Council, whichever is earlier.

3.03. Removal and Vacancies. Any Director may be removed from the Board with or without cause, by a vote of Owners representing in the aggregate at least two-thirds

(2/3rds) of the total vote of all Units by Owners voting in person or by proxy at a special meeting called for such purpose or at an annual meeting. In such an event, a successor for such Director as has been removed shall be selected by a vote of the Council. Except as to vacancies created by removal of Directors by vote of the Council, vacancies in the Board occurring between annual meetings of the Council shall be filled by the remaining Directors.

3.04. Compensation and Expenses. No member of the Board shall receive any compensation from the Council for acting as such but shall be reimbursed for reasonable expenses incurred while serving in such capacity.

3.05. Action by Written Consent. 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 of the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

3.06. Organizational Meeting. The organizational meeting of a newly elected Board shall be held within ten (10) days of their election at such place and time as shall be fixed by the Directors so elected at the meeting at which they were elected, and no further notice of the organizational meeting shall be necessary.

3.07. Regular Meetings. The annual meeting of the Board shall be held each year immediately following the annual meeting of the Council, at the place of such annual meeting, for the election of officers and consideration of any other business that may be properly brought before such annual meeting. Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or telegraph, at least two (2) days prior to the date named for such meeting.

3.08. Special Meetings. Special meetings of the Directors may be called by the President and must be called by the Secretary of the Board at the written request of two (2) of the Directors. Not less than three (3) days notice of the meeting shall be given personally by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting.

3.09. Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting and such waiver, if in writing and signed by such Director, shall be deemed equivalent to the giving of notice.

3.10. Quorum. A quorum at Board meetings shall consist of a majority of the entire Board present at such meetings. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board, except where approval by a greater number is required by the Declaration or by the By-Laws.

3.11. Consent to Action. The joinder of a Director in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such Director for the purpose of determining a quorum.

3.12. Nomination. Nomination for election to the Board shall be made by a nominating committee which shall consist of a chairman who shall be a member of the Board, and two or more Owners, who shall have been appointed by the Board prior to each annual meeting of the members (except the initial nominating committee, which shall be determined by the initial Board) 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 as it shall in its discretion determine but not less than the number of vacancies that are to be filled. Nominations may also be made from the floor at the annual meeting.

3.13. Election. Election to the Board shall be by secret written ballot, at which election the Owners may cast, in person or by proxy, in respect to each vacancy, such votes as they are entitled to exercise under the provisions of the Declaration. Persons receiving the largest number of votes shall be elected. Cumulative voting shall not be permitted.

3.14. Powers and Duties. All of the powers and duties of the Council existing under the Act, the Declaration and the By-Laws shall be exercised exclusively by the Board, its agents, contractors or employees, subject only to approval by Owners when such is specifically required. Such powers and duties shall include but shall not be limited to the

following, subject, however, to the provisions of the Act, the Declaration and the By-Laws:

- (1) To make and collect assessments against the Owners for the purposes outlined in the Declaration of the Condominium and all of its property and facilities;
- (2) To use the proceeds of assessments in the exercise of its powers and duties;
- (3) To maintain, repair, replace and operate the Condominium;
- (4) To purchase insurance upon the Condominium and for the protection of the Owners as required by, and pursuant to the Declaration;
- (5) To reconstruct improvements after casualty and further improve the Condominium;
- (6) To amend the original Condominium Rules and Regulations adopted by the Declarant and attached hereto as Exhibit "A" and to make such other regulations as it deems necessary respecting the use of the Condominium;
- (7) To arrange for and purchase water, sewer, garbage, electrical, chilled water, gas and other necessary utility services for the Common Elements and (to the extent not separately metered and charged) for the Units;
- (8) To contract for management of the Condominium and to delegate to the Managing Agent all powers and duties of the Board except such as are specifically required by the Act, the Declaration and the By-Laws to have approval of the Owners;
- (9) To employ (and dismiss) personnel to perform the services required for proper operation of the Condominium; and
- (10) To cause to be kept a complete record of all its acts and affairs and to present a statement thereof to the Owners at the annual meeting of the Council or at any special meeting when such statement is

requested in writing by twenty-five percent (25%) or more of the votes of the Council requesting such special meeting.

ARTICLE IV.

OFFICERS

4.01. Executive Officers. The executive officers of the Council shall be a President, a Vice President, a Treasurer and a Secretary, all of whom shall be elected annually by the Board and who may be pre-emptorily removed by vote of the Board at any meeting. Any person may hold two or more offices except the President shall not also be the Secretary. The Board shall, from time to time, elect such other officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Council.

4.02. President. The President shall be the chief executive officer of the Council and shall have all of the powers and duties which are usually vested in the office of President of an organized association including, but not limited to, the power to appoint committees from among the Owners from time to time that, in the exercise of discretion, are determined appropriate, to assist in the conduct of the affairs of the Council.

4.03. Vice President. The Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of the President and shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Board.

4.04. Secretary. The Secretary shall keep the minutes of all proceedings of the Board and Council and shall attend to the giving and serving of all notices to the Owners and Directors and other notices required by law; shall keep the records of the Council, except those of the Treasurer, and shall perform all other duties incident to the office of Secretary of an organized association and as may be required by the Board or the President.

4.05. Treasurer. The Treasurer shall have the responsibility for the funds and securities belonging to the Council; shall have the responsibility for keeping full and accurate accounts of all reports and disbursements of the Council;

shall be responsible for the deposit of all monies and valuable effects in the name of and to the credit of the Council in such depositories as may from time to time be designated by Council; and shall perform all other duties incident to the office of Treasurer.

4.06. Compensation. The compensation of all officers and employees of the Council shall be fixed by the Board. This provision shall not preclude the Board from employing a Director as an employee of the Council nor preclude the contracting with a Director for the management of the Condominium.

ARTICLE V.

DELEGATION OF BOARD DUTIES

5.01. Delegation of Board Duties. Notwithstanding anything contained herein otherwise to the contrary, but subject to the provisions of the Texas Condominium Act and the Declaration, the Board may delegate any of its duties, powers or functions to a Managing Agent, provided that any such delegation shall be revocable upon notice by the Board. The members of the Board shall not be liable for any omission or improper exercise by the Managing Agent of any such duty, power or function so delegated by written instrument executed by a majority of the Board.

ARTICLE XI.

RECORDS

6.01. Records. The Board or the Managing Agent shall keep or cause to be kept a set of books with a detailed account of the receipts and expenditures affecting the Condominium and its administration and specify the maintenance and repair expenses of the Common Elements and any other expenses incurred by or on behalf of the Condominium. Both the books and vouchers accrediting the entries made thereon shall be available for examination by all the Owners and Mortgagees (or their designees) at convenient hours on working days. All books and records shall be kept in accordance with generally accepted accounting procedures.

ARTICLE VII.

AMENDMENT

7.01. Amendment. These By-Laws may be amended from time to time by the affirmative vote of members having at least fifty-one percent (51%) of the number of votes (weighted in accordance with the Percentage Ownership Interest) entitled to act upon such matters at a meeting of the Council as provided herein.

ARTICLE VIII.

SEVERABILITY

8.01. Severability. The invalidity of any provision or provisions of these By-Laws shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of these By-Laws, and, in such event, all of the other provisions of these By-Laws shall continue in full force and effect as if such invalid provision had never been included herein.

ARTICLE IX.

INDEMNITY

9.01. Indemnity. The Council shall indemnify the Board of Directors (and each member thereof) and its Officers (each of them) against expenses and liabilities (including the cost and expense of defending against any such alleged liability) reasonably incurred by such person or persons by reason of his being or having been a Officer or Director of the Council except in cases where such Director or Officer is adjudged guilty by a court of competent jurisdiction of willful misfeasance of malfeasance, bad faith, gross negligence or reckless disregard of the duties involved in the conduct of his office.

9.02. Rights of Indemnification. The rights of indemnification herein provided may be insured against by policies maintained by the Council; shall be severable, shall not affect any other rights to which any Director or Officer may now or hereafter be entitled, shall continue as to a person who has ceased to be such Director or Officer and shall inure to the benefit of the heirs, executors and administrators of such a person. Nothing contained herein shall

affect any rights to indemnification to which Council personnel other than Directors and Officers may be entitled by contract or otherwise under law.

9.03. Expenses to Defense of Claims. Expenses in connection with the preparation and presentation of a defense to any claim, action, suit or proceeding of the character described in Section 9.01 hereof may be advanced by the Council prior to final disposition thereof upon receipt of an undertaking by or on behalf of the Director or Officer, secured by a surety bond or other suitable insurance issued by a company authorized to conduct such business in the State of Texas, to repay such amount if it is ultimately determined that he is not entitled to indemnification under this Article.

ARTICLE X.

CONTRACTS, LOANS, CHECKS, DEPOSITS AND TRANSACTIONS

10.01. Contracts. Subject to the limitations set forth in the Declaration, the Board of Directors may authorize any Officer or Officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Council, and such authority may be general or confined to the specific instances.

10.02. Checks, Drafts, Etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Council shall be signed by such Officer or Officers, agent or agents of the Council and in such manner as shall, from time to time, be determined by Resolution of the Board of Directors.

10.03. Deposits. All funds of the Council not otherwise employed shall be deposited, from time to time, to the credit of the Council in such banks, trust companies or other depositories as the Board of Directors may select.

ARTICLE XI.

RULES AND ENFORCEMENT

11.01 Authority. The Board and/or the Managing Agent shall have the power to make such Rules and Regulations as are deemed necessary for the safe and efficient operation and administration of the condominium; to prescribe and

enforce penalties for violations of the Rules and Regulations and By-Laws of the Council of Co-Owners; to assess and fix charges to be levied against the members of the Council of Co-Owners and to exercise such other powers as may be necessary or proper to attain the object of the Council of Co-Owners.

11.02 Non-Waiver. The failure of the Board or the Managing Agent or any Owner to enforce any covenant, restriction or other provision of the Condominium Act, the Declaration, these By-Laws or the Rules and Regulations adopted pursuant thereto shall not constitute a waiver of the right to do so thereafter.

11.03 Injunction. In addition to any other rights or remedies available to any Owner, any violation or threatened violation of any of the Rules and Regulations or By-Laws of the Council of Co-Owners may be enjoined or prevented by suit for injunction by the Owner or the Board or the Managing Agent of the Condominium Regime.

ARTICLE XII.


MORTGAGES

12.1. Mortgages. An Owner who mortgages his Unit shall notify the Council of Co-Owners of such mortgage, giving the name and address of his Mortgagee; and the Council of Co-Owners shall maintain such information in a book kept for that specific purpose.

11.2. Reports. The Council of Co-Owners shall, at the request of a Mortgagee of a Unit, report any unpaid assessments due from the Owner of such Unit.

IN WITNESS WHEREOF, these By-Laws are adopted by Stanford Associates, Inc., a Texas corporation, this 21st day of September, 1982.

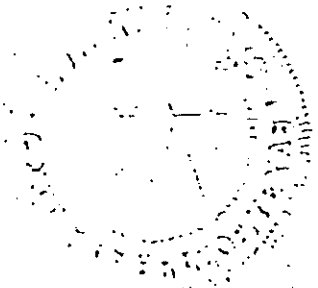
STANFORD ASSOCIATES, INC.,
a Texas Corporation

By: 
Its: John Schmid, Vice President

THE STATE OF TEXAS §
§
COUNTY OF BRAZOS §

BEFORE ME, the undersigned authority, on this day personally appeared John Schmid, the Vice President of STANFORD ASSOCIATES, INC., a Texas corporation, and acknowledged to me that he executed the same for the purposes and consideration therein expressed for said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 21st day of September, 1982.



Margaret Curtis
Notary Public in and for
Brazos County, TEXAS

BALLOT FOR CHANGE IN BYLAWS

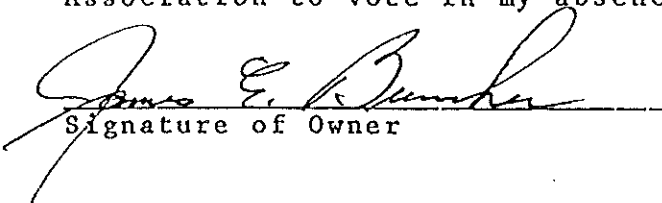
SUTTER'S MILL HOMEOWNERS ASSOCIATION

The following changes have been proposed by the Board of Directors:

1. Bylaws, Article IX - Add to existing article the following:

9.04. All officers and directors are not liable to the corporation or its members for monetary damages for an act or omission in their capacity as an officer or director, except for: a breach of duty of loyalty to the corporation or its members; an act or omission not in good faith or that involves intentional misconduct or a knowing violation of the law; a transaction from which one received an improper benefit, whether or not the benefit resulted from an action taken within the scope of their office; an act or omission for which liability of a director is expressly provided for by statute; or an act related to an unlawful payment of a dividend.

I will not be able to attend the Annual Meeting, however, I have assigned _____ or the Secretary of the Association to vote in my absence.


Signature of Owner

5
Unit #

Please return by mail prior to May 20, 1988.