

# **BYLAWS OF NEW MARK FIRST POOL ASSOCIATION**

DATED: November 8<sup>th</sup>, 2020

## **ARTICLE I PURPOSE AND RESTRICTIONS**

The purposes of New Mark First Pool Association (hereafter "Corporation") shall be those nonprofit purposes stated in the Articles of Incorporation, as they may be amended. No part of the net earnings or other assets of the Corporation shall inure to the benefit of, be distributed to or among, or revert to, any director, officer, contributor or other private individual, or any of their agents, assigns, or businesses owned by them having, directly or indirectly, any personal or private interest in the activities of the Corporation, except that the Corporation may pay reasonable compensation for services rendered and may make payments and distributions in furtherance of the non-profit purposes stated in the Articles of Incorporation.

## **ARTICLE II DEFINITIONS**

1. "Declaration" shall mean the Declaration of Covenants, Conditions, and Restrictions for New Mark as the same may from time to time be supplemented or amended.
2. "Lot" shall mean and refer to any plot or parcel of land subject to the Declaration and located within New Mark.
3. "Member" Each Owner shall be a member of the Corporation entitled to one (1) membership so long as the Owner remains an Owner of such Lot(s) and shall have one (1) vote per Lot owned.
4. "New Mark" shall mean the subdivision as platted at the Clay County recorder of deeds, and those other homeowners, if any, whose platted subdivision has been merged with or subsumed by the corporation
5. "Owner" shall mean and refer to any person or entity holding record title to the fee interest of any Lot.

## **ARTICLE III OFFICES**

The principal office of the Corporation in the State of Missouri shall be located in Kansas City, Missouri. The Corporation may have such other offices within or without Kansas City, Missouri as may be required. The registered office of the Corporation required under the laws of the State of Missouri may be, but need not be, identical with the principal office in the State of Missouri, and the address of the registered office may be changed from time to time in conformity with the laws of the State of Missouri. The registered agent of the corporation shall be as set forth in the annual reports or related records maintained by the Secretary of State. The Corporation may elect any individual or entity to serve as registered agent in accordance with Missouri Law.

## **ARTICLE IV MEMBERS**

**A. *Qualification of Members.*** Every Owner of a Lot within the recorded subdivision shall be a member of the Corporation.

**B. *Annual Meeting.*** The Corporation shall hold an annual meeting each year, at which time the election of the Board of Directors and Executive Body shall occur. The meeting shall be conducted by the President of the then current Executive Body. The Corporation may take up additional business and take votes on any issues at the discretion of the Executive Body. Written notice of each annual meeting shall be provided to each Member by either US mail to such Members address of record, by e-mail to each Member's e-mail address of record, or by posting on the Corporation's website. Notice shall be provided not less than fifteen (15) nor more than forty-five (45) days prior to the meeting, and shall contain the date, time, location and general description of the business to be transacted.

**C. *Special Meetings.*** Special meetings of the Members of the Association may be called by the president of the Executive Board of the Association, by a fifty-one percent (51%) majority vote of the Executive Body, by a fifty-one percent (51%) majority vote of the Board of Directors, or by that proportion of the Members in good standing, entitled to cast one-twentieth (1/20) of the votes which can be voted at such meeting. If a special meeting is to be held, written or printed notice stating the place, day and hour of the meeting and the purpose or purposes for which the meeting is called shall be delivered to each member of the Association, either by US mail to such Members address of record or by e-mail to each Member's e-mail address of record not less than fifteen (15) nor more than forty five (45) days before the date of the meeting. No vote or business shall be transacted at any special meeting that was not reasonably identified in the notice. The notice shall further provide the date, time and location of the meeting. A Member, at his or her own expense, may add additional items to be considered at a special meeting, but must provide notice consistent with this paragraph.

**D. *Place of Meeting.*** For any special or annual meeting, the meeting shall convene at the date and time set forth in the notice and shall be held at the location set forth on the notice, except that no meeting shall take place outside of Clay County, Missouri. In the event that no location is designated, meetings shall convene at the "clubhouse" adjacent to the Corporation's swimming pool.

**E. *Participation Through Electronic Communication.*** Members may participate in a meeting of the Members by means of conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other, and participation in a meeting in this manner shall constitute presence in person at the meeting.

**F. *Action Without Meeting.*** Any action required or permitted to be taken at a meeting of Members may be taken without a meeting if consents in writing, setting for the action so taken, shall be signed by a fifty-one percent (51%) majority of the Members in good standing entitled to vote with respect to the subject matter thereof. Written notice of Member approval pursuant to such action shall be given to all Members who have not signed the written consent. The Secretary of the Corporation shall file the consents with the minutes of the meetings of the Members of the Corporation.

**G. *Membership Registry.*** The Corporation shall maintain a registry of members. Such registry shall provide the name and mailing address for each Member and whether or not the Member is in "Good Standing". For purposes of these Bylaws, "Good Standing" means that the Member is substantially current on all home owner's Corporation fees and has not otherwise had their voting rights suspended for other violations of these Bylaws and/or the Declarations. The registry shall further indicate whether a proxy has been filed, and the name of the person entitled to exercise the proxy. The registry shall be certified by the President and Secretary on or before any annual or special meeting of the Members. Only those Members on the certified registry and in good standing as of the last update shall be entitled to notice or to vote at any annual or special meeting of Members.

**H. Quorum and Methods for Calculating Votes.** For any meeting of Members, a simple majority of Members in good standing shall constitute a quorum. Upon the finding of a quorum, any business may be transacted, and motions shall pass by a simple majority of the quorum, unless otherwise provided herein. Each Member in good standing shall be entitled to one vote per Lot owned on each matter submitted to a vote of Members. Any motion or issue may be voted upon orally, but any Member entitled to a vote may request a roll call, ballot, or secret ballot vote to be held on any or all the motions and issues. The Executive Body shall, at its sole discretion, set forth procedures for conducting roll call, ballot, or secret ballot votes. The Secretary shall certify the count of any such vote, and in the event of deadlock, the President shall cast the deciding vote. For purposes of this subsection, "majority of Members" refers to Lots, such that if more than one person is a lot owner, then those persons jointly and severally count as a single member for purposes of establishing a majority. In the event that individual owners cannot agree, their vote will be discarded, but a member's vote so discarded shall not affect the existence of a quorum.

**I. Proxies or Agents.** Any Member may provide a proxy to another Member. Such proxy must be provided to the Secretary on or before any vote. The proxy must include the name(s) and addresses of the Member granting the proxy, the name(s) and addresses of the person(s) entitled to exercise the proxy, whether the proxy is limited or durable, and the date upon which the proxy is to expire, which may not exceed one year from the date of issue. If the Member is a corporation or other entity, the Member shall designate the name and address of the agent who is authorized to vote on behalf of the Member. Such agency designation must be provided to the Secretary on or before any vote. If a Member has deceased or is incapacitated, the Member's personal representative, guardian, or receiver in the case a corporation, may vote on behalf of the decedent or incapacitated Member, provided that sufficient proof of such person's authority is provided to the Secretary on or before any vote.

**J. Manner of Acting and Rules of Order.** The act of the majority of the Members present at a meeting of the Members at which a quorum is present shall be the act of the Members, unless a greater number is required under the Articles of Incorporation, these Bylaws, or any applicable laws of the State of Missouri.

**K. Powers.** All powers not reserved to the Members are delegated to the Executive Body.

## **ARTICLE V BOARD OF DIRECTORS**

**A. Management.** The Board of Directors shall be the appeals Board of the Executive Body's final decision reasonably related to any Owner or Lot in violation of these Bylaws, the Declarations, or any applicable law and shall generally oversee the officers of the Executive Body. The Board of Directors shall consist of five (5) persons. Each director must be an individual and a resident of the State of Missouri. The Board of Directors shall be elected by the Members at the annual meeting. Before voting, each director shall be nominated by a member in good standing. Upon nomination, a vote shall be had, and if the individual receives a simple majority of the vote, he/she shall then be elected and serve his/her term. Another vote shall be had in the same fashion until five (5) Directors shall have been elected.

**B. Term and Election of Directors.** The full term of office of directors shall be two years, and to the extent practicable, no more than three-fifths (3/5) of the Board of Directors shall be elected each year at the annual meeting of the Members, the directors so elected filling the place of retiring directors. In the event of a change in the number of directors, the resolution effectuating such change shall specify the years in which the terms of the directorship thereby created shall first expire. Vacancies occurring in the Board of Directors, including vacancies due to an increase in the number of directors, may be filled by the directors then in office. Any director may succeed himself or herself indefinitely.

**C. *Removal and Resignation.*** Any director may resign at any time by giving written notice to the Board of Directors, the President or the Secretary of the Corporation; unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. Any director may be removed, with or without cause, by the affirmative vote of a majority of the Members at a meeting of the Members at which a quorum is present; provided, however, that a director elected by the Members may be removed by the Members only at a meeting called for the purpose of removing the director, and the notice of such meeting shall state the purpose, or one of the purposes, of the meeting is removal of the director. Any such resignation or removal shall take effect at the time specified therein.

**D. *Special Powers.*** The Board of Directors may, by simple majority, overturn decisions of the Executive Body. The Board of Directors may, by unanimous vote, remove an officer from the Executive Body. The Board of Directors may appoint an officer to fill a vacant seat on the Executive Body in the event the officer is removed, dies, is temporarily unavailable, removed, or otherwise unable to perform. Such appointment shall continue day to day until the absent officer returns or a new officer may be elected at the next special or annual meeting of members. Directors may submit motions or proposals to be considered by the Executive Body, but shall not have voting privileges except as set forth in this subsection. Members, by majority vote, may take any grievance reasonably related to Executive Body decisions concerning any Owner or Lot in violation of these Bylaws, the Declaration's, or any applicable law and appeal Executive Body decisions to the Board of Directors. After such vote is made and approved by the Members, a special meeting shall be called as established by these Bylaws and the Board of Directors shall take on all grievances and appeals as described herein so long as notice was given as established under Article V of these Bylaws.

**E. *Vacancies.*** If a director is temporarily unavailable, or resigns, is removed, dies, or is otherwise unable to perform, the Executive Body, by majority vote, may appoint an alternate director to serve until such time as the absent director returns or a new director may be elected at the next special or annual meeting of members.

**F. *Regular Meetings.*** A meeting of the Board of Directors shall take place immediately following the Annual Meeting.

**G. *Special Meetings.*** A special meeting of the Board of Directors may be called by any director upon five (5) days' notice to all other directors.

**H. *Meetings.*** Meetings of the Board of Directors, regular or special, may be held at any place either within the State of Missouri, or from time to time by resolution of the Board of Directors or by unanimous written consent of the members thereof. Meetings of the Board of Directors shall be held upon such notice as provided herein. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

**I. *Participation Through Electronic Communication.*** Members of the Board of Directors, or of any committee designated by the Board of Directors, may participate in a meeting of the Board or committee by means of conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other, and participation in a meeting in this manner shall constitute presence in person at the meeting.

**J. *Action Without Meeting.*** Any action which is required to be or may be taken at a meeting of the directors, or any committee established by the Board of Directors, may be taken without a meeting if consents in writing, setting forth the action so taken, are signed by all of the members of the Board or of the committee as the case may be. The consent shall have the same force and effect as a unanimous vote at a meeting duly held, and may be stated as such in any certificate or document. The Secretary shall file the consents with the minutes of the meetings of the Board of Directors or of the committee as the case may be.

**K. Notice.** Notice of any regular or special meeting of the Board of Directors shall be given at least five (5) days previous thereto by written or printed notice stating the place, day and hour of the meeting shall be delivered to each member of the Board of Directors, either by US mail to such Directors address of record or by e-mail to each Director's e-mail address of record. Written notice shall be deemed effective at the earliest of the following: (i) When received; (ii) five days after its deposit in the United States mail, as evidenced by the postmark, if mailed correctly and with first class postage affixed; or (iii) on the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee. Any director may waive notice of any meeting. The attendance of a director at any meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

**L. Quorum.** A majority of the whole Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors.

**M. Manner of Acting and Rules of Order.** The act of the majority of the directors present at a meeting of the directors at which a quorum is present shall be the act of the Board of Directors, unless a greater number is required under the Articles of Incorporation, these Bylaws, or any applicable laws of the State of Missouri.

## **ARTICLE VI EXECUTIVE BODY**

**A. General Powers.** The Executive Body shall carry out the day-to-day operations and affairs of the Corporation. The officers comprising the Executive Body shall have the authority to bind the Corporation in contract, and generally act on behalf of the Corporation.

**B. Number and Voting.** The Executive Body is comprised of the officers and the Members at large. There shall be a President, Vice-President, Secretary, and Treasurer. There shall be at least three (3), but no more than seven (7) members at large. Each Member of the Executive Body shall have one vote. In order to serve on the Executive Body, the person must be an individual who is also a Member in Good Standing. Each officer shall be elected by a simple majority vote of the Members present at an annual meeting or as appointed by the Board of Directors. The term of each office shall be for two years, from the date of the last held annual meeting. There may not be more than one (1) Owner from any one Lot running or acting as officer of the Executive Body during a term.

**C. Election and Tenure.** Each officer and Member at large shall be elected at the Corporation's annual meeting. There may be as many nominees for anyone position as the Members so choose. The individual who receives the highest number of votes for the position for which he/she has been nominated shall serve in that position for the duration of the term. Each term for office shall be for two (2) years beginning on the date of the annual meeting.

**D. Removal.** Any officer or Member at large may be removed by the Board of Directors as set forth above, or by a majority vote after motion by a Member at the annual meeting or a special meeting.

**E. Vacancies.** Vacancies shall be filled by the Board of Directors as set forth above.

**F. *President.*** The President shall be the chief executive officer of the Corporation. The President shall preside over all annual and special meetings. The President shall have the power to endorse checks or other negotiable instruments, and generally sign any contract or other legal instrument on behalf of the Corporation. The President may call special meetings of the Members and may set or limit the agenda of any meeting consistent with these Bylaws. The President shall have the final deciding vote for any vote in which there is deadlock. The President shall have final authority on all actions of the Executive Body, but he/she may be overturned by the Board of Directors or upon a majority vote of the remaining Executive Body. The President may delegate any authority as deemed necessary in his/her sole discretion.

**G. *Vice President.*** The Vice-President shall perform the duties of the President in the event the President is temporarily unable to act. In the event that the President dies, is removed, becomes incapacitated, or is otherwise permanently unable to act, the Vice President shall become the acting President until the Board of Directors appoints a replacement to the seat of the President. The Vice-President shall perform such other duties as the President may from time to time assign. The Vice-President shall be responsible for tallying and certifying any election. The Vice-President shall be responsible for ensuring that any notice required by these Bylaws was duly provided.

**H. *Secretary.*** The Secretary shall keep the minutes and records of the Corporation. The Secretary shall keep and maintain the Membership Registry. The Secretary shall be responsible for tallying and certifying any election. The Secretary shall be responsible for tallying and certifying any other vote cast by the Executive Body.

**I. *Treasurer.*** The Treasurer shall oversee the financial affairs of the Corporation. The Treasurer will maintain the financial records of the Corporation and shall have the control over the funds of the Corporation. The Treasurer shall compile and publish a budget of the prior year's expenditures at each annual meeting. The Treasurer shall ensure that the debts of the Corporation are timely satisfied. The Treasurer is authorized to endorse any checks or other negotiable instruments for or on behalf of the corporation, and to deposit or withdraw funds into the Corporation's bank account(s) as directed by the President or the Executive Body.

**J. *Members at Large.*** The members at large shall be a part of the Executive Body and may make motions and cast votes at any regular or special meeting.

**K. *Regular and Special Meetings.*** The Executive Body shall meet monthly to discuss the affairs of the Corporation and take any actions necessary to advance the interests of the Corporation. Special meetings may be called pursuant to the provisions of Article IV, Section C hereof. Any regular or special meeting may be postponed upon notice. Such notices shall conform to the requirements Article IV, Section C.

**L. *Compensation.*** Officers shall serve without compensation, but may be reimbursed for the actual expenses incurred in the performance of their duties. Officers serving as President, Vice-President, Secretary, or Treasurer may not have been compensated by the Corporation for services rendered a year before such officers are elected to the Executive Body, nor may such Officers be compensated by the Corporation for services rendered two years after the officer's tenure.

**M. *Code of Ethics.*** The Executive Body shall be bound by the Code of Ethics for New Mark First Pool Corporation Board Members.

## **ARTICLE VII CONTRACTS, LOANS, CHECKS, AND DEPOSITS**

**A. *Contracts., Etc. How Executed.*** Except as in these Bylaws otherwise provided or restricted, the Executive Body 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 the Corporation, and such authority may be general or confined to specific instances; and, unless so authorized. No officer, agent or employee shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable pecuniary for any purpose or in any amount.

**B. *Loans.*** No loans shall be contracted on behalf of the Corporation and no evidence of indebtedness shall be issued in its name unless authorized by a resolution of the Executive Body. Such authority may be general or confined to specific instances.

**C. *Deposits.*** All funds of the Corporation shall be deposited from time to time to the credit of the Corporation with such banks, bankers, trust companies or other depositories as the Executive Body may select.

**D. *Checks, Drafts, etc.*** All checks, drafts, or other orders for the payment of money, notes, acceptances or other evidence of indebtedness issued in the name of the Corporation, shall be signed by such officer or officers, agent or agents of the Corporation, and in such manner as shall from time to time be determined by resolution of the Executive Body in accordance with the provisions of these Bylaws. Endorsements for deposit to the credit of the Corporation in any of its duly authorized depositories may be made without countersignature, by the President, Vice President or Treasurer, or by any other officer or agent of the Corporation to whom the Board of Directors, by resolution, shall have delegated such power, or by hand-stamped impression in the name of the directors.

## **ARTICLE VIII FISCAL YEAR**

The fiscal year of the Corporation shall begin on the first day of January in each year and end on the last day of December in each year.

## **ARTICLE IX SEAL**

The Executive Body shall provide a corporate seal, which shall be in the form of a circle and shall have inscribed thereon the name of the Corporation and the words "Corporate Seal, Missouri".

## **ARTICLE X INDEMNIFICATION**

Each director or officer, or former director or officer of this Corporation, and his/her legal representatives, shall be indemnified by this Corporation against liabilities, expenses counsel fees and costs reasonably incurred by him/her or his/her estate in connection with, or arising out of, any action, suit, proceeding or claim in which he/she is made a party by reason of his/her being, or having been. such director or officer; provided that the Corporation shall not indemnify such director or officer with respect to any matters as to which he/she shall be finally adjudged in any such action, suit or proceeding to have been liable for negligence or misconduct in the performance of his duties as such director or officer. The indemnification herein provided for, however, shall apply also in respect of any amount paid in compromise of any such action, suit, proceeding or claim asserted against such director or officer (including expenses, counsel fees and costs reasonably incurred in connection therewith), provided the Executive Body of the Corporation shall have first approved such proposed compromise settlement and determined that the director or officer involved was not guilty of negligence or misconduct; but in taking such action any director involved shall not be qualified to vote thereon, and if for this reason a quorum of the Board cannot be obtained to vote on such matter it shall be determined by a committee of three (3) persons appointed by the Members at a duly called special meeting or at a regular meeting. In determining whether or not a director or officer was guilty of negligence or misconduct in relation to any such matters, the Executive Body or committee appointed by Members, as the case shall be, may rely conclusively upon an opinion of independent legal counsel authorized herein by such Board or committee. Any compromise settlement authorized herein shall not be effective until submitted to and approved by a court of competent jurisdiction. The right to indemnification herein provided shall not be exclusive of any other rights to which such director or officer may be lawfully entitled.

## **ARTICLE XI AMENDMENTS**

These Bylaws may be altered, amended or repealed and new Bylaws may be adopted by vote of a majority of the entire Executive Body at any regular or special meeting. Such amendment shall be evidenced by a written instrument executed, acknowledged and recorded in the Office of the Recorder of Deeds of Clay County, Missouri.



Signed under the powers and authorities granted to the officers and executive board members by law and the Associations' Bylaws on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Board Member Signature

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Board Member Printed Name

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Board Member Printed Name

### CERTIFICATION



I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of the New Mark First Pool Association, a Missouri nonprofit corporation; and

That the Bylaws herein, as duly adopted at an annual meeting of the Executive Body thereof, held on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

IN WITNESS WHEREOF, I have hereunto subscribed by name this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Secretary Signature

\_\_\_\_\_  
Secretary Printed Name

## ACKNOWLEDGEMENT

STATE OF MISSOURI            )  
  )       SS.  
COUNTY OF CLAY            )

BE IT REMEMBERED that on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me, the undersigned, a Notary Public in and for the county and state aforesaid, personally appeared Mike Thomas, to me personally known who being by me duly sworn did say that is he is the President of the New Mark First Pool Association, a Missouri not-for-profit corporation, and that said instrument was signed on behalf of said Association by authority of it Executive Body and Board of Directors, and that said Mike Thomas acknowledge said instrument to be free act and deed of said Association.

IN WITNESS WHEREOF I have hereunto set my had and affixed by official seal on the day and hear last above written.

\_\_\_\_\_  
Notary Public Signature

\_\_\_\_\_  
Notary Public Printed Name



\_\_\_\_\_  
Notary Public Seal