

# **CONSTITUTION AND BY-LAWS OF THE WHISPERING HILLS HOMEOWNERS ASSOCIATION, INC.**

## **Preamble to Amendment No.1 of the By-Laws**

This amendment is intended to provide definitive guidelines for preparing and submitting an application for the erection of a new fence or the replacement of an existing fence by homeowners of the Whispering Hills subdivision. It specifies the actions needed on the part of both the homeowner and the Board of Directors during the application and review process as well as setting time limits for the completion of the review and approval by the Board/Trustee. The authority for issuing this guideline is granted under Article III Section 7 of the Indenture of Trust and Restrictions for Whispering Hills Subdivision under St. Louis County Council Ordinance No. 4187 which states: "...the Trustees shall have the power and authority to consider, approve or reject any and all plans and specifications for any and all buildings or structures, fences, detached buildings...proposed for construction and erection on said lots ...it being provided that no building, structures or fences ...maybe erected...unless there shall first be had the written approval of a majority of the Trustees to the plans and specifications therefore and to the grade proposed therefore. "

It is proposed to amend the existing By-Laws by adding a new Article to be entitled "Article XII, Fence Rules for Whispering Hills Homeowners" , as follows:

## **Article XII. Fence Rules for Whispering Hills Homeowners**

### **Section 1. Homeowner requirement for requesting permission for a fence**

A homeowner must request permission for construction of all new or replacement fencing in writing from the Homeowner Association Trustee. The homeowner should contact their section representative to obtain the Whispering Hills Homeowners Association Fence Construction Guidelines. The Guidelines include the application process, materials and fencing types, and required forms. The request generally shall include the area covered by the proposed fence, height of fence, material of fence, description of fence, and additional information as noted in The Whispering Hills Homeowners Associations' Fence Construction Guidelines, dated April 17, 2012.

The completed fence application will be reviewed by a committee of four section representatives and chaired by the Whispering Hills Homeowners Association Board Vice President. The review will ensure that all the information necessary to make a proper decision has been presented including the type and location of the fence as well as confirmation that it complies with the new fence guidelines and that all the concerns of abutting neighbors have been taken into consideration and addressed. Upon completion of the review, the Vice President will make a recommendation to the Homeowner Association Trustee to approve or reject the fence application. This process must be completed within 30 days of receipt of the application by the fence committee. The Trustee will issue a formal notice to the applicant either granting approval or stating the reason for rejection and advising them of their right of appeal. The appeal would be advisable if the fence is not one of the acceptable fences, but the

homeowner feels that they have special circumstances which would justify the specific fence type being requested. Any exceptions to the Guidelines will require specific documentation and justification to obtain consideration for review.

## **Section 2. Acceptable Fencing**

Acceptable fence types include:

1. Chain link : galvanized steel or steel with black vinyl coating
2. Picket: wood, vinyl, aluminum or wrought iron.
3. Post and rail (2 or 3 rails): wood or vinyl.
4. Board on board: wood (approval subject to review of special circumstances presented by the homeowner).
5. All fences may be natural wood or coated with various common wood stains, brown, black, beige or white in color.

The fence shall have a maximum height of six feet and may be constructed around all or part of the back yard, but no fencing will be allowed in the front, or extending from the front side(s) of the house. A set back of 5 feet from the front of the house is required.

## **Section 3. Fence Removal**

Fences installed without proper approvals shall be removed at the Homeowners expense.

## **Section 4. Grandfather Clause**

Fences installed prior to the date of this amendment are considered approved and will not be subject to the requirements this amendment. In addition, repairs made to existing fences, if made with materials of like kind are also approved. Any homeowner who wishes written acknowledgement that their existing fence(s) is grandfathered may request certification from the Board and a meeting will be scheduled to document what is there and to issue a letter of confirmation.

## **Section 5. Replacement Fences**

Complete fence replacements of existing fences are subject to the terms and conditions set forth in this amendment and shall require the approval of the Board and Trustee.

## **Section 6. Swimming Pool Fencing**

Homeowners desiring to install a fence around an in ground pool must still notify the Board/Trustee of their intent and provide a plot plan showing the location of the fence. However, the specifications called out in St. Louis County ordinance 2.9.5 governing pool fencing must be observed. In those cases where the Whispering Hills Homeowners Fence Construction Guidelines are more stringent than those of the County, the Fence Construction Guidelines shall apply. Briefly stated, the ordinance requires that an effective fence or barrier of six-foot (6') minimum height be provided on the outside of the deck area to prevent unauthorized pool entrance by spectators. Picket type fences of wrought iron or wood shall have openings between uprights no greater than four inches (4"). All entrances (gates) shall be self-closing and self-latching.

**Section 7. Utility Fencing**

Fencing up to four (4) feet tall of any type construction but constructed of materials on the approved materials list contained in the Fence Construction Guidelines, is allowed to enclose air conditioners, and other small utilities.

**Section 8. Patio Screens**

Fences erected along a patio to act as a privacy screen are not considered fences subject to the terms and conditions of this amendment and do not require the approval of the Board or Trustee. However, they must be constructed of materials on the approved materials list contained in The Guidelines, and be no more than 6 feet in height.