

55-167. HOMEOWNERS' ASSOCIATION.

A homeowners' association may be established for the purposes of owning and assuming maintenance responsibilities for the common open space and common property designed within a development, provided that the approving authority is satisfied that the organization will have a sufficient number of members to reasonably expect a perpetuation of the organization in a manner enabling it to meet its obligations

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and responsibilities in owning and maintaining any property for the benefit of owners or residents of the development. If established, the organization shall incorporate the following provisions:

- A. Membership by all property owners, condominium owners, stockholders under a cooperative development and other owners of property or interest in the project shall be mandatory. Required membership and the responsibilities upon the members shall be in writing between the organization and each member, in the form of a covenant, with each agreeing to liability for his pro rata share of the organization's costs.
- B. The organization shall be responsible for liability insurance, taxes, maintenance and any other obligations assumed by the organization and shall hold the municipality harmless from any liability. The organization shall not be dissolved and shall not dispose of any open space or property by sale or otherwise, except to an organization conceived and established to own and maintain the open space or property for the benefit of such development, and thereafter such organization shall not be dissolved or dispose of any of its open space or property without first offering to dedicate the same to the municipality(ies) wherein the land is located.
- C. The assessment levied by the organization upon each member may become a lien on each member's property. The organization shall be allowed to adjust the assessment to meet changing needs.
- D. The organization shall clearly describe in its bylaws all the rights and obligations of each tenant and owner, including a copy of the covenant, model deeds and articles of incorporation of the organization and the fact that every tenant and property owner shall have the right to use all common properties. These shall be set

forth as a condition of approval and shall be submitted prior to the granting of final approval.

- E. The articles of incorporation, covenants, bylaws, model deeds and other legal instruments shall ensure that control of the organization shall be transferred to the members based on a percentage of the dwelling units sold and/or occupied and shall clearly indicate that, in the event that such organization shall fail to maintain the common open space or common property in reasonable order and condition, the Township may serve written notice upon such organization or upon the owners of the development, setting forth the manner in which the organization has failed to maintain the common open space or common property in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be cured within thirty-five (35) days thereof and shall state the date and place of a hearing thereon, which shall be held within fifteen (15) days of the notice. At such hearing, the designated Township body or officer, as the case may be, may modify the terms of the original notice as to deficiencies and may give a reasonable extension of time not to exceed sixty-five (65) days within which they shall be cured. If the deficiencies set forth in the original notice or in the modification thereof shall not be cured within said thirty-five (35) days or any permitted extension thereof, the Township, in order to preserve the common open space and common property and maintain the same for a period of one (1) year, may enter upon and maintain such land. Said entry and maintenance shall not vest in the public any rights to use the common open space and common property except where the same is voluntarily dedicated to the public by the owners. Before the expiration of said year, the Township shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the common open space and common property, call a public hearing, upon fifteen (15) days'

written notice to such organization and to the owners of the development, to be held by the Township, at which hearing such organization and the owners of the development shall show cause why such maintenance by the Township shall not, at the election of the Township, continue for a succeeding year. If the Township shall determine that such organization is ready and able to maintain said open space and property in reasonable condition, the Township shall cease to maintain said open space and property at the end of said year. If the Township shall determine that such organization is not ready and able to maintain said open space and property in a reasonable condition, the Township may, in its discretion, continue to maintain said open space and property during the next succeeding year, subject to a similar hearing and determination in each year thereafter. The decision of the Township in any such case shall constitute a final administrative decision subject to judicial review.

The cost of such maintenance by the Township shall be assessed pro rata against the properties within the development that have a right of enjoyment of the common open space and common property in accordance with assessed value at the time of imposition of the lien and shall become a lien and tax on said properties and be added to and be a part of the taxes to be levied and assessed thereon and shall be enforced and collected with interest in the same offices and in the same manner as other taxes.