

RESOLUTION R-88-07

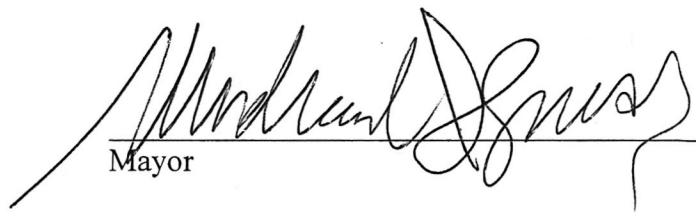
A RESOLUTION AUTHORIZING THE EXECUTION OF AN
AGREEMENT FOR THE ENFORCEMENT OF TRAFFIC REGULATIONS
ON PRIVATE STREETS WITHIN THE
BRIARCLIFFE KNOLLS TOWNHOMES UNIT FIVE

WHEREAS, Division 5, Chapter 70 of the Wheaton City Code provides for enforcement of Traffic Regulations on Private Streets in Planned Unit Developments; and

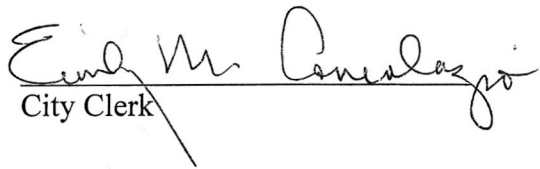
WHEREAS, the City of Wheaton and the Briarcliff Knolls Townhome Owners' Association is desirous of entering into an Agreement for the Enforcement of Traffic Regulations on Private Streets Within the Briarcliffe Knolls Townhomes Unit 5 Planned Unit Development.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the city of Wheaton, Illinois, that the Mayor is authorized to execute the agreement for the enforcement of traffic regulations on private streets within the Briarcliffe Knolls Townhomes Unit Five Planned Unit Development, dated December 17, 2007.

ADOPTED this 17th day of December, 2007.


Mayor

ATTEST:


City Clerk

Ayes: Roll Call Vote:
 Councilman Mouhelis
 Councilman Prendiville
 Councilman Suess
 Councilwoman Corry
 Councilman Johnson
 Mayor Gresk
 Councilman Levine

Nays: None
Absent: None

Motion Carried Unanimously

Adopted: December 17, 2007

12-88-07

**AGREEMENT FOR THE ENFORCEMENT OF TRAFFIC
REGULATIONS ON PRIVATE STREETS WITHIN THE
BRIARCLIFFE KNOLLS TOWNHOMES UNIT FIVE**

THIS AGREEMENT is made and entered into this 17th day of ^{December 2007}~~January, 2008~~ by and between the City of Wheaton, an Illinois Municipal Corporation (hereinafter referred to as "City") and the Briarcliffe Knolls Townhomes Unit Five Townhome Owner's Association (hereinafter referred to as "Owner").

WITNESSETH

WHEREAS, THE Owner is the owner of certain property located in the Briarcliffe Knolls Townhomes Unit No. 5 within the corporate limits of the City and which is legally described below (hereinafter referred to as the "Property"):

THAT PART OF THE SOUTHEAST ¼ OF SECTION 21, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS: BEGINNING AT A POINT 983 FEET SOUTH OF THE NORTH LINE OF THE SOUTHEAST ¼ OF SECTION 21 AND ON THE EAST LINE OF SECTION 21; THENCE S. 0° 12' 17" W. A DISTANCE OF 1176.47 FEET; THENCE N. 82° 55' 07" W. A DISTANCE OF 50.36 FEET; THENCE N. 0° 12' 17" E. A DISTANCE OF 475.72 FEET; THENCE N. 89° 47' 43" W. A DISTANCE OF 285.00 FEET; THENCE S. 0° 12' 17" W. A DISTANCE OF 441.35 FEET; THENCE N. 82° 55' 07" W. A DISTANCE OF 385.00 FEET; THENCE N. 32° 04' 53" E. A DISTANCE OF 170.00 FEET; THENCE N. 77° 58' 47" W. A DISTANCE OF 125.00 FEET TO A POINT ON THE ARC OF A CIRCLE, SAID LINE BEING RADIAL THERETO; THENCE NORTHWESTERLY ALONG THE ARC OF A CIRCLE CONCAVE WESTERLY HAVING A RADIUS OF 60.00 FEET A DISTANCE OF 54.89 FEET; THENCE N. 16° 14' 15" E. A DISTANCE OF 357.37 FEET TO A POINT OF CURVE; THENCE NORTHERLY ALONG THE ARC OF A CIRCLE CONCAVE WESTERLY HAVING A RADIUS OF 583.00 FEET A DISTANCE OF 372.85 FEET TO A POINT OF REVERSE CURVE; THENCE NORTHWESTERLY ALONG THE ARC OF A CIRCLE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 517.00 FEET A DISTANCE OF 152.95 FEET; THENCE S. 89° 47' 43" E. A DISTANCE OF 311.24 FEET TO A POINT OF CURVE; THENCE EASTERLY ALONG THE ARC OF A CIRCLE CONCAVE TANGENT TO THE LAST DESCRIBED LINE NORTHERLY HAVING A RADIUS OF 3092.99 FEET A DISTANCE OF 176.84 FEET TO A POINT OF REVERSE CURVE; THENCE EASTERLY ALONG THE ARC OF A CIRCLE CONCAVE SOUTHERLY HAVING A RADIUS OF 3026.99 FEET A DISTANCE OF 173.00 FEET TO A POINT OF TANGENCY; THENCE S. 89° 47' 43" E. A DISTANCE OF 50.00 FEET TO A POINT OF BEGINNING ALL IN DUPAGE COUNTY, ILLINOIS.

WHEREAS, the Owner has filed with the City a written request (attached as Exhibit A) for the City to enforce certain traffic regulations on the private streets located within the Property and owned by the Owner;

WHEREAS, the Owner is desirous of entering into an Agreement with the city, pursuant to Chapter 95 1/2, Section 11-209.1 of the Illinois Revised Statues, Chapter 70 of the Wheaton City Code, and the Home Rule Powers of the city, for the purpose of enforcing certain traffic regulations identified within this Agreement on the private streets located within the Property and owned by the Owner; and

WHEREAS, the City Council of the city and the Owner have each authorized and executed the terms, provisions, and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the parties hereto agree as follows:

1. The City hereby agrees to establish and enforce the following traffic regulations contained in Chapter 70 of the Wheaton City Code on the streets located within the Property:

- a. Article IX (Abandoned and Inoperable Vehicles) and Article X (Adoption of Motor Vehicle Code;
- b. Section 70-341 (Parking Not to Obstruct Traffic); Section 70-343 (Parking at Night); and Section 70-355 (Standing, Parking in Fire Lane) contained in Article IV Stopping, Standing and Parking.

2. The Chief of Police of the City, or designated representative, and the Owner, or designated representative, shall identify the specific locations within the Property which shall, pursuant to the terms of this Agreement, be regulated, as well as a designation of the exact regulations to be imposed thereon. The Chief of Police of the City, or designated representative, and the Owner may from time to time agree to amend the above referenced locations. The initial specific locations of the regulations to be enforced shall be as set forth on the Site Plan ("Plan") attached as Exhibit "B."

3. The Owner does hereby authorize the City to erect and maintain signs relating to the regulations provided for by this Agreement, at appropriate places on the Property as designated on the Plan and in accordance with applicable City and State of Illinois regulations and specifications.

4. The Owner does hereby agree to reimburse the City for any costs and expenses associated with the obtaining, erecting, and maintenance of any and all signs necessary for enforcement of the regulations contained in this Agreement.

5. Where any owner or user of a vehicle shall use or permit the use of a vehicle in a manner contrary to the regulations contained within this Agreement, the City will enforce the regulations contained in this Agreement against such person as if the action had taken place on a public street.

6. The term of this Agreement shall continue for a period of one (1) year from the date of this Agreement, and may, by further Agreement of the parties, be continued for additional periods. Notwithstanding any provisions contained herein to the contrary, this Agreement may be canceled by providing not less than thirty (30) days written notice by either party to the other of its intention to cancel this Agreement.

7. The Owner shall be required to notify in writing all of its members/tenants of the provisions of this Agreement.

R-88-07

8. The Owner hereby agrees to release and hold harmless, indemnify and defend (including the payment of all costs and attorney's fees) the City, its Officers, Agents and Employees, in connection with any and all actions or claims for any loss, damage, personal injury or death occurring as a consequence of the performance of this Agreement and shall procure insurance to protect, save, harmless and indemnify the City pursuant thereto. Such insurance shall be in such amount, form, and with such company as shall be approved by the City. Upon the execution of this Agreement, the parties hereto do hereby certify that each has taken proper action authorizing the execution ratification of the terms, provisions, and conditions of this Agreement.

9. The sole remedy available to the Owner, upon any breach of this Agreement by the City, shall be the cancellation of the Agreement. It is of the essence of this Agreement that the city shall not be liable in money damage for any breach of this Agreement.

10. No regulations made pursuant to this Agreement shall be effective and enforceable until three (3) days after the posting of signs or signals as may be required pursuant hereto.

11. Whenever notice to the City is required, it shall be addressed to:

City Clerk
City of Wheaton
303 West Wesley Street
Wheaton, IL 60189-0727

Whenever notice to the Owner is required, it shall be addressed to:

Anthony M. Solis, President
Briarcliffe Knolls Townhome Owners' Association
836 Queenswood Court
Wheaton, IL 60187

IN WITNESS WHEREOF, the parties hereto have executed this instrument by their duly authorized officers the day and year first above written.

CITY OF WHEATON, ILLINOIS, a Municipal Corporation

BY:

MAYOR

ATTEST:

CITY CLERK

BY:

ATTEST:

**Briarcliffe Knolls Townhome Owners' Association
Board of Directors**

November 28, 2007

Mr. Michael G. Dzugan
Assistant City Manager
City of Wheaton
303 W. Wesley Street
Wheaton, IL 60189-0727

Mr. Dzugan,

This letter is a written request by the board of directors of Briarcliffe Knolls Townhome Owner's Association (hereinafter Briarcliffe Knolls) to enter into an agreement with the City of Wheaton to enforce certain traffic regulations on all private streets located within Briarcliffe Knolls and owned by said Association effective January 1, 2008.

The Board of Directors of Briarcliffe Knolls has legal authority to enter into this agreement and voted unanimously (5 – 0) in the November 27, 2007 Special Meeting to proceed with this agreement. Specifically, Briarcliffe Knolls has reviewed the applicable Wheaton City Codes and requests enforcement of the following traffic regulations effective January 1, 2008:

- Section 70-341... Parking Not to Obstruct Traffic
- Section 70-343... Parking at Night
- Section 70-355... Parking in a Fire Lane
- Chapter 70, Article IX... Improper Storage of Vehicles

The private streets within Briarcliffe Knolls are:

Heatherbrook Court	Brittany Court	Queenswood Court
Johnstown Court	Leytonstone Drive	Heathrow Court

Attached are the following documents the City of Wheaton has requested:

- Briarcliffe Knolls Declaration which contains legal description
- November 2007 newsletter which was mailed to all owners in mid-November
- Briarcliffe Knolls Rules and Regulations which contains parking regulations
- Certificate of Insurance naming City of Wheaton as an additional insured party
- Briarcliffe Knolls Site Plan
- Copy of Minutes from 11/27/07 Special Meeting

Briarcliffe Knolls will contact all owners with another mailing in December after the City Council has presumably approved our request to reiterate the traffic enforcement on private streets.

We look forward to the City of Wheaton's response to our request.

Sincerely,

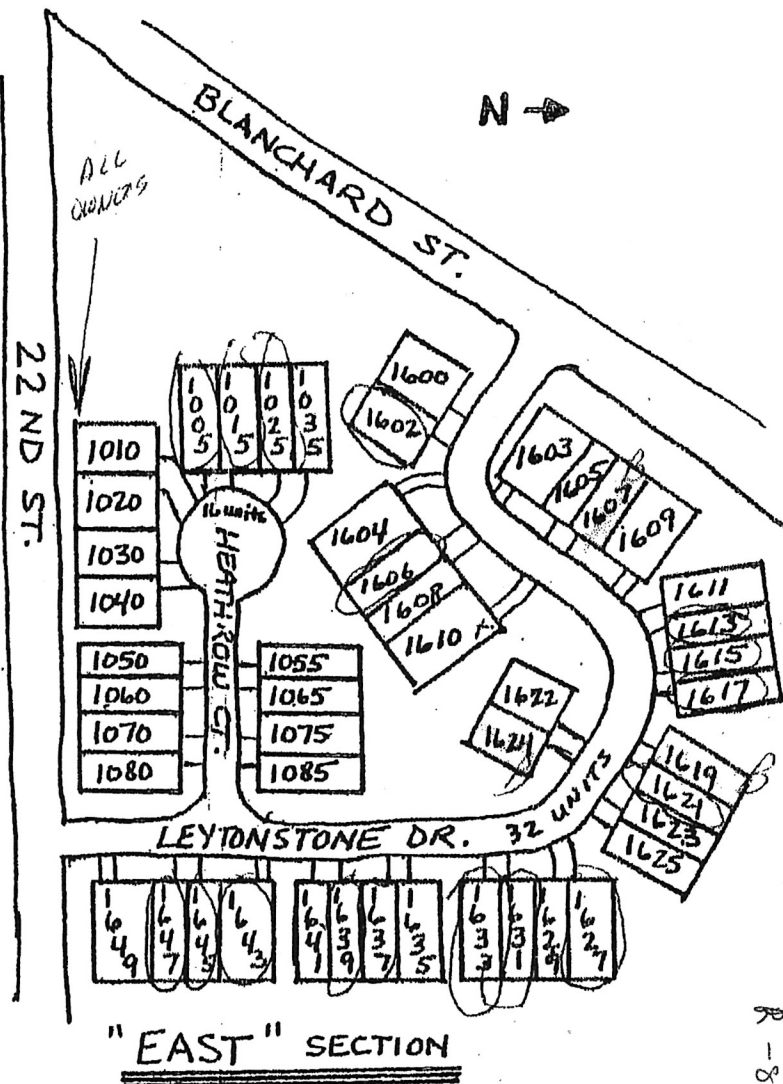


Anthony M. Solis
President



Tamara Van Cleave
Secretary

BOARD MEMBERS:
O KNOWN RENTAL



8-8-03

EXHIBIT B

22

**BRIARCLIFFE KNOLLS
TOWNHOME OWNERS' ASSOCIATION, INC.**