

**BY-LAWS  
OF  
HONEY CREEK MEADOWS HOMEOWNERS ASSOCIATION, INC.**

**ARTICLE I**

**DEFINITIONS**

**Section 1.1.** “**Articles of Incorporation**” or “**Articles**” shall mean and refer to the Articles of Incorporation of Honey Creek Meadows Homeowners Association, Inc., as filed with the Secretary of State of the State of Indiana.

**Section 1.2.** “**Board of Directors**” or “**Board**” shall mean and refer to the board of directors of the Association.

**Section 1.3.** “**Declarant’s Control Period**” shall mean and refer to the period of time beginning as of the date of adoption of these By-Laws and extending to the time of termination of the Class B membership in the Association in accordance with the Declaration of Covenants, Conditions and Restrictions of Honey Creek Meadows Homeowners Association.

**Section 1.4.** “**Declarant**” shall mean and refer to Arbor Investments LLC, and any successors or assigns who take title to any portion of Honey Creek Meadows for the purpose of development and sale, and who are designated as the successor Declarant under the Declaration in a recorded instrument executed by the immediately preceding Declarant.

**Section 1.5.** “**Declaration**” shall mean and refer to the Declaration of Covenants, Conditions, and Restrictions for Honey Creek Meadows, recorded in the Office of the Recorder of Johnson County, Indiana and all amendments thereof filed for record in the public records of Johnson County, Indiana.

**Section 1.6.** “**Directors**” shall mean and refer to the members of the Board of Directors.

**Section 1.7.** “**Honey Creek Meadows**” shall mean that certain residential community located in Johnson County, Indiana known as “Honey Creek Meadows,” as more particularly described in the Honey Creek Meadows Declaration.

**Section 1.8.** “**Honey Creek Meadows Homeowners Association**” shall mean and refer to Honey Creek Meadows Homeowners Association, Inc., an Indiana non-profit corporation.

**Section 1.9.** “**Expenses**” shall refer to the actual and estimated costs and expenses incurred in connection with the operation, maintenance and management of the Association.

**Section 1.10.** “**Lot**” shall mean and refer to each plot of land included in Honey Creek Meadows identified as a lot on any recorded plat of Honey Creek Meadows upon which it is intended that a dwelling shall be constructed.

**Section 1.11. "Member"** shall mean a member of the Association.

**Section 1.12. "Mortgage"** shall mean and refer to any mortgage or other security instrument by which real property or any improvements thereon is encumbered.

**Section 1.13. "Mortgagee"** shall mean and refer to a beneficiary or holder of a Mortgage.

**Section 1.14. "Mortgagor"** shall mean and refer to any Person who gives a Mortgage.

**Section 1.15. "Neighborhood"** shall mean and refer to Honey Creek Meadows.

**Section 1.16. "Owner"** shall mean and refer to the record owner, whether one or more Persons, with fee simple title to any Lot which is part of Honey Creek Meadows, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. The term "Owner" shall include Declarant so long as Declarant shall own any Lot.

**Section 1.17. "Person"** means a natural person, a corporation, a partnership, a trustee, or any other legal entity.

**Section 1.18. "Property"** shall mean and refer to those tracts or parcels of real estate described in the Honey Creek Meadows Declaration.

**Section 1.19. "Recreational Facilities"** shall refer to a swimming pool, bathhouse, tennis court, playground, basketball court, parking areas, sidewalks and related facilities and equipment that Declarant may, in its sole discretion, construct in Honey Creek Meadows.

## ARTICLE II

### NAME, PRINCIPAL OFFICE AND DEFINITIONS

**Section 2.1. Name.** The name of the Homeowners Association shall be Honey Creek Meadows Homeowners Association, Inc.

**Section 2.2. Principal Office.** The principal office of the Association in the State of Indiana shall be located at such place in the State of Indiana as the Board of Directors of the Association shall determine from time to time.

## ARTICLE III

### MEMBERS

**Section 3.1. Members.** As provided in the Articles of Incorporation of the Association, the Association has Members.

## ARTICLE IV

### BOARD OF DIRECTORS: NUMBER, POWERS, AND MEETINGS

**Section 4.1. Governing Body: Composition.** The affairs of the Association shall be governed by a Board of Directors, each of whom shall have one (1) vote.

**Section 4.2. Directors During Declarant's Control Period.** During the Declarant's Control Period, the Directors shall be appointed by the Declarant acting in its sole discretion and shall serve at the pleasure of the Declarant.

**Section 4.3. Right to Disapprove Actions.** Prior to the expiration of the Declarant's Control Period, this Section 4.3 may not be amended without the express, written consent of the Declarant.

Throughout the Declarant's Control Period, the Declarant shall have a right to veto, reject, and otherwise disapprove of any actions that may have been otherwise authorized by the Board or any committee of the Board or any committee of the Association created under these By-Laws, if such matter was authorized without the consent of the Declarant in the manner described more fully in this Section. The Declarant's right to veto, reject or otherwise disapprove of any such action(s) shall be exercisable only by the Declarant, or by a successor and/or assign of the then current Declarant who is specifically identified by the then current Declarant to assume the rights of the Declarant under the Declaration in an instrument recorded in the Office of the Recorder of Johnson County, Indiana. Any such action(s) vetoed, rejected or otherwise disapproved of by the Declarant shall not be taken by the Association, by the Board or by any such committee, as applicable, or by any officer of the Association, and any actions taken prior to any such veto, rejection or other disapproval by the Declarant, in furtherance of any such vetoed, rejected or disapproved action shall be void as against the Association, the Board and/or any such committee.

In this regard, no action authorized by the Board of Directors or by any committee of the Board or any committee of the Association created under these By-Laws, shall become effective, nor shall any action, policy, or program be implemented until and unless:

(a) The Declarant shall have received written notice of any and all meetings and proposed actions proposed for approval and/or approved at any such meetings of the Board or of any such committee, in each instance, by certified mail, return receipt requested, or by personal delivery at the address that the Declarant has registered with the Secretary of the Association (as such address may change from time to time), which notice (i) with respect to any meeting of the Board of Directors, complies with the applicable requirements of Section 4.8, Section 4.9 and Section 4.10 of these By-Laws, as applicable, (ii) with respect to meetings of any committee of the Board of Directors, is given at least Ten (10) days prior to the date of any such meeting, and (iii) sets forth in reasonable particularity the agenda to be followed at said meeting; and

(b) The Declarant shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any

prospective action, policy, or program to be implemented by the Association, the Board, or any such committee. The Declarant, its representatives, or agents shall make its concerns, thoughts, and suggestions known to the Board and/or Members of any such committee.

(c) The Declarant shall have and is hereby granted the power to veto, reject or otherwise disapprove of any such action, policy, or program authorized by the Board or a committee without the consent of the Declarant or otherwise without compliance with the provisions of this Section. This power may be exercised by the Declarant, its representatives, or agents at any time within thirty (30) days following the meeting that otherwise approved of such action by providing written notice of such disapproval to the Board or applicable committee. This power to disapprove may be used by the Declarant to prevent the Association, the Board or any such committee from taking any particular action, but does not obligate the Association, the Board, or any Officer of the Association to take any affirmative action or counteraction on the behalf of any committee or the Board or the Association other than to discontinue and terminate any such actions in a manner reasonably calculated by the Board, or any Officer or committee member, as applicable, to minimize any obligations, exposure or liability of the Association for any such actions. The Declarant shall not use its power to veto, reject or otherwise disapprove of any reduction of the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

**Section 4.4. Number of Directors.** Until the last day of the fiscal year in which the Declarant's Control Period ends, the number of directors shall be determined from time to time by the Declarant, but in no event shall there be less than three (3) directors. Thereafter, the number of Directors in the Association shall be equal to five (5) directors.

**Section 4.5. Appointment and Term of Office.** Notwithstanding any other provision contained herein:

(a) During the Declarant's Control Period, each Director shall be appointed by the Declarant and each such Director shall serve for a period commencing upon appointment by the Declarant and ending on the earlier of (i) the date that the Declarant gives such Director written notice of his or her termination as a Director of the Association (which notice the Declarant shall be entitled to give at any time, in its sole discretion, with or without cause), or (ii) the last day of the fiscal year in which the Declarant's Control Period ends.

(b) On the last day of the fiscal year in which the Declarant's Control Period ends or, upon an earlier date specified by the Declarant, in the Declarant's sole discretion, a new Board of Directors shall take office following election by the Members of the Association.

(c) Each of the initial members of the Board of Directors that are elected by the Members of the Association will commence their respective terms as Directors of the

Association on the last day of the fiscal year in which the Declarant's Control Period ends.

(d) Each Director elected by the Members of the Association will serve for a term of one (1) year.

(e) Each Director, whether appointed by the Declarant during the Declarant's Control Period, or elected by the Members of the Association after the expiration of the Declarant's Control Period, shall hold office until the later of (i) the last day of the fiscal year in which the Declarant's Control Period ends (in the case of Directors appointed by the Declarant), or (ii) their respective successors have been appointed or elected in accordance with these By-Laws.

(f) Directors may be appointed to serve any number of consecutive terms.

**Section 4.6. Removal of Directors and Vacancies.** Following the Declarant's Control Period, any Director may be removed, with cause (including but not limited to breach of fiduciary duty or breach of the duty of care), by the majority vote of the other Directors. Any Director whose removal is sought shall be given notice prior to any meeting called for that purpose. In such a case, upon removal of a Director, a successor shall then and there be elected by the remaining Directors to fill the vacancy for the remainder of the term of such removed Director.

Any Director who has three (3) consecutive unexcused absences from Board meetings or who is delinquent in the payment of any assessment or other charge due the Association of more than thirty (30) days may be removed by a majority of the Directors present at a regular or special meeting at which a quorum is present, and a successor may be appointed by the Board to fill the vacancy for the remainder of the term. In the event of the death, disability, or resignation of a Director, a vacancy may be declared by the Board, and it may appoint a successor who shall serve for the remainder of the term of such Director who is no longer serving.

**Section 4.7. Annual Meetings of the Board of Directors.** The first annual meeting of the Board of Directors (the "Annual Board Meeting") shall be held within thirty (30) days of the date the last day of the fiscal year in which the Declarant's Control Period ends. Such Annual Board Meeting shall be held at such time and place as shall be fixed by the Directors that have been appointed by the Declarant. Subsequent regular Annual Board Meetings of the Board shall be set by the Board so as to occur at least thirty (30) days but not more than ninety (90) days before the close of the Association's fiscal year on a date and at a time set by the Board of Directors.

**Section 4.8. Regular Meetings of the Board of Directors.** Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority vote of the Directors, but at least four (4) such meetings shall be held during each fiscal year with at least one (1) such meeting occurring in each calendar quarter. Notice of the time and place of each and any such regular meetings shall be communicated to each of the Directors not less than four (4) days prior to the meeting; provided, however, notice of a meeting

need not be given to any Director who has signed a waiver of notice or a written consent to holding of the meeting.

**Section 4.9. Special Meetings of the Board of Directors.** Special meetings of the Board of Directors shall be held when called by written notice signed by the President of the Association or by any two (2) Directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each Director by one of the following methods:

- (a) by personal delivery;
- (b) by first class mail, postage prepaid;
- (c) by verbal telephone communication, either directly or to the Director or to a person at the Director's office or home who would reasonably be expected to communicate such notice promptly to the Director; or
- (d) by internet electronic mail transmission.

All such verbal telephone notices shall be given at the Director's telephone number as shown on the records of the Association. All such U. S. Mail notices shall be sent to the Director's street address as shown on the records of the Association. All such internet electronic mail notices shall be sent to the Director's electronic mail address as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting. Notices given by personal delivery, by telephone or by electronic mail shall be delivered, telephoned or transmitted at least seventy-two (72) hours before the time set for the meeting.

**Section 4.10. Waiver of Notice.** The transactions of any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the Directors not present signs a written waiver of notice, which waiver need not specify the purpose of the meeting. Notice of a meeting shall also be deemed given to any Director who attends such a meeting without protesting before or at its commencement about the lack of adequate notice.

**Section 4.11. Quorum of Board of Directors.** At all meetings of the Board of Directors, the Directors representing a majority of the members of the Board of Directors shall constitute a quorum for the transaction of business. If any meeting of the Board cannot be held because a quorum is not present, the Directors who are present at such meeting may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the date the original meeting was called. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

**Section 4.12. Compensation of Directors.** No Director shall receive any compensation from the Association for acting or otherwise serving as a member of the Board of Directors;

provided any Director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other Directors.

**Section 4.13. Conduct of Meetings of the Board of Directors.** The President shall preside over all meetings of the Board of Directors, and the Secretary shall keep a minute book of meetings of the Board of Directors, recording therein all resolutions adopted by the Board of Directors and all transactions and proceedings occurring at such meetings. Notwithstanding the presence and participation of the President and the Secretary of the Association at each and any such meeting of the Board of Directors, voting on matters being considered by the Board of Directors shall be limited to those individuals who are actually Directors.

**Section 4.14. Action by the Board of Directors Without a Formal Meeting.** Any action to be taken at a meeting of the Directors or any action that may be taken at a meeting of the Directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Directors, and such consent shall have the same force and effect as unanimous vote.

**Section 4.15. Powers of the Board of Directors.** The Board of Directors shall be responsible for the affairs of the Association, including without limitation maintaining and keeping in good repair the Recreational Facilities, and shall have all of the powers and duties necessary for the administration of the Association's affairs.

The Board of Directors shall delegate to one of its members the authority to act on behalf of the Board of Directors on all matters relating to the duties of the managing agent or manager, if any, which might arise during any time period between meetings of the Board of Directors.

In addition to the duties imposed by these By-Laws, or by any resolution of the Association that may hereafter be adopted, the Board of Directors shall have the power to establish policies relating to, and shall be responsible for performing or causing to be performed, the following, by way of explanation, but not limitation:

(a) preparation and adoption of annual budgets in which there shall be established the amount of general and special assessments or other amounts;

(b) making assessments to the Member of the Association and establishing the means and methods of collecting such assessments; provided, however, that unless otherwise determined by the Board of Directors, the annual assessment shall be payable in advance in one annual installment, due and payable on the date established from time to time by the Board;

(c) providing for the management, operation, care, upkeep, and maintenance of all Association property and facilities;

(d) designating, hiring, and dismissing the personnel necessary for the operation of the Association and the maintenance, operation, repair, and replacement of its property and the Recreational Facilities, and, where appropriate, providing for the

compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;

(e) collecting the assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to operate the Association; provided, any reserve fund may be deposited, in the Directors' best business judgment, in depositories other than banks;

(f) making and amending rules and regulations for use of the common areas and Recreational Facilities,

(g) making and amending rules and regulations and establishing fees for use of the Recreational Facilities by non-Owners, including third party rental of the Recreational Facilities, if the Directors' determine that allowing such use and/or rental of the Recreational Facilities is in the best interest of the Association;

(h) opening of bank accounts on behalf of the Association and designating the signatories required (to the extent that the Association does not utilize the services of a manager or managing agent to collect and disburse all funds for and on behalf of the Association);

(i) making or contracting for the making of repairs, additions, and improvements to or alterations of the Recreational Facilities in accordance with other provisions of these By-Laws after damage or destruction by fire or other casualty (to the extent that the Association does not utilize the services of a manager or managing agent to provide these services for the Community);

(j) enforcing by legal means the provisions of these By-Laws, the Declaration and the rules and regulations adopted by it, and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association;

(k) obtaining and carrying insurance including a Directors and officers policy against casualties and liabilities, and paying the premium costs thereof (to the extent that the Association does not utilize the services of a manager or managing agent to procure and provide such insurance coverage);

(l) paying the cost of all services rendered to the Association or the Members (to the extent that the Association does not utilize the services of a manager or managing agent to perform such obligations);

(m) keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair expenses and any other expenses incurred (to the extent that the Association does not utilize the services of a manager or managing agent to perform such obligations);

(n) making available to any prospective purchaser of a Lot, any Owner of a Lot, any first Mortgagee, and the holders, insurers, and guarantors of a first Mortgage on any Lot, current copies of the Articles of Incorporation, these By-Laws, any rules



governing the Association, and all other books, records, and financial statements of the Association; and

(o) permitting utility suppliers to use portions of the Recreational Facilities reasonably necessary to the ongoing development or operation of the Recreational Facilities.

**Section 4.16. Management.** The Board of Directors may employ for the Association a professional management agent or agents at a compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall authorize. The Board of Directors may delegate to the managing agent or manager, subject to the Board's supervision, all of the powers granted to the Board of Directors by these By-Laws, other than the powers set forth in Section 4.15(f) of this Article. The Declarant, or an affiliate of the Declarant, may be employed as managing agent or manager.

**Section 4.17. Borrowing.** The Board of Directors shall have the power to borrow money for the purpose of maintenance, repair, or restoration of the Recreational Facilities. The Board shall also have the power to borrow money for other purposes; provided, that the Board must secure the written consent of the Declarant in the event that the proposed borrowing is for the purpose of modifying, improving, or adding Recreational Facilities and the total amount of such borrowing exceeds or would exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year. Notwithstanding anything to the contrary contained in these By-Laws, or the Articles of Incorporation, during the Declarant's Control Period, no Mortgage lien shall be placed on any portion of the Recreational Facilities without the affirmative vote or written consent of the Declarant.

**Section 4.18. Rights of the Association.** In accordance with the Articles of Incorporation, the Association shall have the right to contract with any person for the performance of various duties and functions. Without limiting the foregoing, this right shall entitle the Association to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, or neighborhood and other owners' or residents' associations. Such agreements shall require the vote or written consent, or any combination thereof, of the Directors representing a majority of the total vote.

The Association shall not be bound, either directly or indirectly, by any contract, lease, or other agreement (including any management contract) executed during the Declarant's Control Period unless such contract, lease, or other agreement contains a right of termination exercisable by either party without penalty at anytime, with or without cause, upon not more than ninety (90) days notice to the other party.

**Section 4.19. Major Decisions.** The Association shall not, without the affirmative vote or written consent, or any combination thereof, of Members representing seventy percent (70%) of the Total Votes (as such term is defined in the Declaration) in the Association, and the consent of Declarant, so long as Declarant still owns any property described in Exhibits "A" or "B" of the Declaration for development, (a) sell, transfer, assign, convey, mortgage or otherwise dispose of the Recreational Facilities or any parts thereof; or (b) permanently close, without intent of re-opening, the Recreational Facilities.

**Section 4.20. Budget.** It shall be the duty of the Board, at least sixty (60) days before the beginning of each fiscal year, to prepare a budget covering the estimated Expenses of the Association during the coming year. The budget shall include a capital contribution maintaining a reserve fund in accordance with a budget separately prepared.

(a) The assessment to be levied against Association Members for the coming year shall be set at a level which is reasonably expected to produce total income to the Association equal to the total budgeted Expenses, including reserves.

(b) The total annual assessments to each Association Member shall be a fraction, the numerator of which will be the number of Lots in the subdivision owned by each Member and the denominator of which will be the total number of Lots in the subdivision.

(c) Declarant and any builder of new homes in the subdivision shall not be obligated to pay any type of assessment whether for operating expenses, reserves or otherwise, at any time, regardless of the number of lots owned by Declarant or builder.

(d) So long as the Declarant owns any Lots within the subdivision, the Declarant may elect on an annual basis, but shall not be obligated, to reduce the resulting assessment for any fiscal year by payment of a subsidy; provided, any such subsidy shall be conspicuously disclosed as a line item in the income portion of the Association budget and shall be made known to the Members. The payment of such subsidy in any year shall under no circumstances obligate the Declarant to continue payment of such subsidy in future years.

(e) The Board shall cause a copy of the Expenses budget and notice of the amount of the assessment to be levied against Association Members for the following year to be delivered to the Members at least forty-five (45) days prior to the beginning of the fiscal year. Notwithstanding the foregoing in the event the Board fails for any reason to determine the budget for the succeeding year, then until such time as a budget shall have been determined as provided herein, the budget and annual assessments in effect for the then current year shall be increased in proportion to the percentage increase, if any, for the then current year, in the Consumer Price Index (All Urban Consumers, United States City Average, All Items 1982-84=100), or its successor index, and such increased budget shall be implemented for the succeeding year, until a new budget shall have been adopted by the Board. If any budget at any time proves inadequate for any reason, then the Board may call a special meeting for the approval of a special assessment. The Expenses to be funded by the annual assessments may include, but shall not necessarily be limited to, the following:

- (i) management fees and expenses of administration;
- (ii) legal and accounting fees and expenses;
- (iii) utility charges;

- (iv) the cost of any policies of insurance required by these By-Laws, and such other insurance coverage as the Board of Directors determines to be in the interests of the Association and the Owners;
- (v) the expenses of maintenance, operation, and repair of the Recreational Facilities and common areas;
- (vi) ad valorem, real and personal property taxes assessed and levied against the common areas and personal property of the Association;
- (vii) the expenses of legal drain assessments;
- (viii) the expenses for conducting recreational, cultural, or other related programs for the benefit of the Owners and their families, tenants, guests, and invitees;
- (ix) the expenses of independent contractors and employees of the Association, including without limitation the expenses of independent contractors and employees of the Association;
- (x) such other expenses as may be determined from time to time by the Board of Directors; and
- (xi) the establishment and maintenance of a reasonable reserve fund or funds (a) for inspections, maintenance, repair, and replacement of those portions of the common areas or personal property which must be inspected, maintained, repaired, or replaced on a periodic basis, (b) to cover emergencies and repairs required as a result of casualties which are not funded by proceeds, and (c) to cover unforeseen operating contingencies or deficiencies arising from unpaid assessments or liens, as well as from emergency expenditures and other matters, all as may be authorized from time to time by the Board of Directors.

**Section 4.21. Special Assessment.** The Association may levy Special Assessments from time to time. Special Assessments pursuant to this Section shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so determines.

## **ARTICLE V**

### **OFFICERS**

**Section 5.1. Officers.** The officers of the Association shall be a President, Vice President, Secretary, and Treasurer, to be elected from among the members of the Board. The

Board of Directors may appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed from time to time by the Board of Directors. Any two (2) or more offices may be held by the same person.

**Section 5.2. Election, Term of Office, and Vacancies.** The officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board of Directors as herein set forth in Article IV. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

**Section 5.3. Removal.** An officer may be removed by a majority vote of the Board of Directors whenever in its judgment the best interest of the Association will be served thereby.

**Section 5.4. Powers and Duties.** The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may from time to time specifically be conferred or imposed by the Board of Directors. The President shall be the chief executive officer of the Association. The Vice President shall perform the duties of the President when the President is unable to perform such duties. The Secretary shall have the care and custody of the corporate records, shall attend all meeting of the Board and shall keep, or cause to be kept in a book provided for such purpose, a true and complete record of the proceedings of such meetings when required. The Secretary shall also attend to the giving and serving of all notices of the Association. The Treasurer shall have primary responsibility for the care and investment of the Association's funds and for the preparation of the budget and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

**Section 5.5. Resignation.** Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**Section 5.6. Agreements, Contracts, Deeds, Leases, Checks.** All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two (2) officers or by such other person or persons as may be designated by resolution of the Board of Directors.

## ARTICLE VI

### COMMITTEES

**Section 6.1. General.** Committees are hereby authorized to perform such tasks and to serve for such periods as may be designated by a resolution adopted by a majority vote of the Directors. Each committee shall operate in accordance with the terms of the resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors.

## ARTICLE VII

### INSURANCE AND CASUALTY LOSSES

#### Section 7.1. Insurance.

(a) Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

- (i) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements on the common areas. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. All property insurance policies obtained by the Association shall be written on a replacement cost basis and include ordinance and law coverage for both real and personal property;
- (ii) Commercial general liability insurance on the common areas insuring the Association and the Owners for damage or injury caused by the negligence of the Owners or the Association or any of the Association's employees, agents, or contractors while acting on behalf of the Association. If generally available at reasonable cost, such coverage (including primary and any umbrella coverage) shall have a limit of at least \$1,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage; provided, should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits;
- (iii) Workers compensation insurance and employers liability insurance, if and to the extent required by law;
- (iv) Directors and officers liability coverage;
- (v) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's business judgment but not less than an amount equal to one-sixth of the annual Expenses, plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation; and

- (vi) Such additional insurance as the Board, in the exercise of its business judgment, determines advisable.

Premiums for all insurance listed above shall be Association Expenses.

(b) Policy Requirements. The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in Johnson County, Indiana. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Owner.

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 7.1(a). In the event of an insured loss, the deductible shall be treated as an Association Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Lots.

All insurance coverage obtained by the Board shall:

- (i) be written with a company authorized to do business in Indiana and having an A.M. Best rating of not less than A-VII;
- (ii) be written in the name of the Association as trustee for the benefited parties. Policies shall be for the benefit of the Association and the Owners;
- (iii) not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;
- (iv) contain an inflation guard endorsement;
- (v) include an agreed amount endorsement, if the policy contains a co-insurance clause;
- (vi) provide that each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest as a Member of the Association (provided, this provision shall not be construed as giving an Owner any interest in the Association other than that of a Member of the Association); and
- (vii) provide a waiver of subrogation under the policy against any Owner or occupant of a Lot.

**Section 7.2. Damage and Destruction.**

(a) Immediately after damage or destruction by fire or other casualty to all or any part of the property covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance or obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the same condition in which it existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

(b) Any damage or destruction to the property shall be repaired or reconstructed unless the Board shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such funds or information shall be made available; provided, however, such extension shall not exceed sixty (60) additional days.

(c) In the event that it should be determined in the manner described above that the damage or destruction to the property shall not be repaired or reconstructed and no alternative improvements are authorized, then the affected portion of the property shall be restored to its natural state and maintained by the Association in a neat and attractive, landscaped condition.

**Section 7.3. Disbursement of Proceeds.** If the damage or destruction for which the proceeds of insurance policies are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed for payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction to the property shall be retained by and for the benefit of the Association and placed in a capital improvements account. In the event no repair or reconstruction is made, any proceeds shall be retained by and for the benefit of the Association and placed in a capital improvements account.

**Section 7.4. Repair and Reconstruction.** If the damage to the property for which proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall levy a special assessment. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

**ARTICLE VIII**

**CONDEMNATION**

**Section 8.1. Condemnation of Common Areas.** Whenever all or any part of the common areas shall be taken (or conveyed in lieu of and under threat of condemnation by any

authority having the power of condemnation), the award made for such taking shall be payable to the Association, to be disbursed as follows.

(a) If the taking involves a portion of the common areas on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant, so long as Declarant owns any of the Lots, and the Board shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the common areas to the extent lands are available therefore, in accordance with plans approved by the Board and Declarant. If such improvements are to be repaired or restored, the above provisions in Article VII hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply.

(b) If the taking does not involve any improvements on the common areas, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors shall determine.

## ARTICLE IX

### RULES AND REGULATIONS

**Section 9.1. Rules and Regulations.** Copies of the rules and regulations and amendments thereto adopted by the Board from time to time shall be furnished by the Association to all Owners or posted in a conspicuous location at the Recreational Facilities prior to the effective date of such rules and regulations and amendments thereto. Such rules and regulations shall be binding upon the Owners, their families, tenants, guests, invitees, servants and agents, until and unless any such rule or regulation be specifically overruled, cancelled, or modified by the Board.

## ARTICLE X

### MISCELLANEOUS

**Section 10.1. Fiscal Year.** The fiscal year of the Association shall be set by resolution of the Board of Directors. In the absence of a resolution, the fiscal year shall be the calendar year.

**Section 10.2. Parliamentary Rules.** Except as may be modified by Board resolution, *Robert's Rules of Order* (current edition) shall govern the conduct of Association proceedings when not in conflict with Indiana law, the Articles of Incorporation, or these By-Laws.

**Section 10.3. Conflicts.** If there are conflicts between the provisions of Indiana law, the Articles of Incorporation, and these By-Laws, the provisions of Indiana law, the Articles of Incorporation, and the By-Laws (in that order) shall prevail.



**Section 10.4. Books and Records.**

(a) **Inspection by Owners.** The By-Laws, Articles of Incorporation, any amendments to the foregoing, the rules and regulations of the Association, books of account, and minutes of meetings of the Board and committees shall be made available for inspection and copying (at a reasonable cost) by any Owner, or by the duly appointed representative of the foregoing at any reasonable time and for a purpose reasonably related to his or her interest in the Association at the office of the Association or at the offices of any management agent as the Board shall prescribe.

(b) **Rules for Inspection.** The Board shall establish reasonable rules with respect to:

- (i) notice to be given to the custodian of the records;
- (ii) hours and days of the week when such an inspection may be made; and
- (iii) payment of the cost of reproducing copies of documents requested.

(c) **Inspection by Directors.** Every Director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a Director includes the right to make extracts and a copy of relevant documents at the expense of the Association, such expense to be reasonable.

**Section 10.5. Amendment.** Declarant may unilaterally amend these By-Laws at any time and from time to time if such amendment is (a) necessary to bring any provision hereof into compliance with any applicable governmental statutes, rules, or regulations, or judicial determination; (b) necessary to enable any reputable title insurance company to issue title insurance coverage on the common areas; (c) required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the common areas; or (d) necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the common areas. Additionally, so long as it still owns any property described in Exhibits "A" or "B" of the Declaration for development, the Declarant may unilaterally amend these By-Laws for any other purpose, provided the amendment has no material adverse effect upon any rights of any Owner.

Thereafter and otherwise, these By-Laws may be amended upon the affirmative vote or written consent, or any combination thereof, of a majority of all members of the Board of Directors, and the consent of the Declarant, so long as Declarant still owns any property described in the Declaration for development.

Notwithstanding the foregoing, Section 4.19 of these By-Laws may be amended only with (a) the affirmative vote or written consent, or any combination thereof, of Members

representing seventy percent (70%) of the Total Votes (as such term is defined in the Declaration) in the Association, and (b) the consent of the Declarant, so long as Declarant still owns any property described in the Declaration for development.

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