

CODE OF BY-LAWS OF

HAWTHORN HOMEOWNERS ASSOCIATION

An Indiana Limited Liability Corporation

ARTICLE 1

NAME

Section 1.1. Name.

The name of this corporation is Hawthorn Homeowners Association (hereafter referred to as "Association").

ARTICLE 2

IDENTIFICATION & APPLICABILITY

Section 2.1. Identification and Adoption.

The provisions of these By-Laws shall apply to the Hawthorn subdivision in Kosciusko County, Indiana and the administration and conduct of the affairs of the Association. These By-Laws shall also constitute the By-Laws of the Association.

Section 2.2. Individual Application.

Each of the Owners within the Hawthorn subdivision shall automatically and mandatorily be Members in the Association and be entitled to all of the privileges and subject to all of the obligations thereof. All Owners, by their acceptance of their respective deeds to their Lots, covenant and agree to be bound by the conditions, restrictions, and obligations contained in the "Neighborhood Declaration of Covenants, Conditions and Restrictions for Hawthorn", said Declaration being recorded in the Kosciusko County Recorder's Office on **DATE**, as Instrument No. **NUMBER** (hereafter referred to as the "Declaration"), together with all amendments or supplements thereto, the Articles of Incorporation, the Plats filed with the County Recorder, the rules and regulations of the Association and of the provisions hereof, all as amended. All of the Owners, future Owners, tenants, future tenants, their guests and invitees, or any other person who might now or hereafter use or occupy a Lot or any part of the Common Areas shall be subject to the rules, restrictions, terms, and conditions set forth in the Declaration, the Articles of Incorporation, and these By-Laws, all as the same may be amended from time to time, and to any rules and regulations adopted by the Board of Directors as herein provided. The Declaration is incorporated herein by reference. All of the covenants, rights, restrictions, and liabilities contained in the Declaration shall apply to and govern the interpretation of the Articles of Incorporation and these By-Laws. The definitions and terms, as defined and used in the Declaration, shall have the same meaning in the Articles of Incorporation and this Code of By-Laws, and reference is specifically made to Article 1 of the Declaration containing definitions for terms, unless otherwise indicated herein.

ARTICLE 3
MEETINGS OF ASSOCIATION

Section 3.1. Purpose of Meetings.

At least annually, and at such other times as may be necessary or appropriate, a meeting of the Members shall be held for the purpose of electing Directors to the Board of Directors, receiving the annual budget, approving the annual budget, providing for the collection of Common Expenses, and for such other purposes as may be required by the Declaration, these By-Laws, or the Articles.

Section 3.2. Annual Meeting.

The 2022 annual meeting of the Members shall be at any time determined by the Existing Board of Directors. At this annual meeting of the Members, the Members may designate a regular day or date for successive annual meetings, which date shall be not more than one (1) year after the close of each fiscal year of the Association. If the Members fail to designate such a regular day or date, the Board of Directors may continue to designate the day or date of the next annual meeting until such a designation is made by the Members. If any designated day or date falls upon a legal holiday, the actual date of the meeting shall be the next business day succeeding such designated day or date. At each annual meeting, the Members shall elect the Board of Directors of the Association in accordance with the provisions of these By-Laws and transact such other business as may properly come before the meeting.

Section 3.3. Special Meetings.

A special meeting of the Members of the Association may be called by the President, by resolution of the Board of Directors or upon a written petition of the Owners of not less than ten percent (10%) of the total number of Lots. The resolution or petition shall be presented to the President or Secretary of the Association and shall state the purpose for which the meeting is to be called. No business shall be transacted at a special meeting except as stated in the petition or resolution.

If the Board of Directors does not send out a notice of the date, time, and place for a special meeting not more than thirty (30) days after the date the Board of Directors receives a valid written demand for the special meeting under this Section 3.3, a Member of the Association who signed the written demand may:

- (1) set the date, time, and place for the special meeting; and
- (2) send out the notice for the special meeting to the other Members.

Section 3.4. Notice and Place of Meetings.

All meetings of the Members of the Association shall be held at any suitable place in Kosciusko County, Indiana, as may be designated by the Board of Directors. Written notice stating the date, time, and place of any meeting, and in the case of a special meeting the purpose or purposes for which the meeting is called, shall be delivered or mailed by the Secretary of the Association to each Member entitled to vote thereat not less than fourteen (14) days prior to the date of such meeting. Any written notice delivered to the Members as part of a newsletter or other publication regularly sent to the Members constitutes a written notice. If at any meeting an amendment to the Declaration, the Articles of Incorporation, or these By-Laws is to be considered, the notice of such meeting shall describe the nature of such proposed amendment. All notices shall be mailed by first-class U.S. Mail, postage prepaid, or delivered to the Members

at their respective addresses as the same shall appear upon the records of the Association. If an annual or special meeting of Members is adjourned to a different date, time or place, written notice is not required to be given of the new date, time or place so long as the new date, time and place is announced at the meeting pursuant to the Act before adjournment.

In lieu of written notices from the Association sent pursuant to the above paragraph, an Owner may elect to receive notices from the Association by email. Any Owner choosing email shall be deemed to have waived the right to receive notices from the Association by U.S. Mail or personal delivery. However, any such Owner shall have the right at any time to withdraw his or her election to receive notice by email, and shall thereafter be sent notices by the Association pursuant to the above paragraph.

Section 3.5. Voting.

(a) Number of Votes.

When more than one (1) person or entity constitutes the Owner of a particular Lot, all such persons or entities shall be Members of the Association, but all of such persons or entities shall have only one (1) vote for such Lot, which vote shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.

If only one of several Owners for a Lot is present at a meeting of the Association, that Owner is entitled to cast the vote allocated to that Lot. If more than one of the Owners is present, the vote allocated to the Lot may be cast only in accordance with the agreement of a majority in interest of the Owners. There is majority agreement if any one of the Owners casts a vote allocated to that Lot without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Lot. The association may adopt rules regarding deadlocks.

No votes allocated to a Lot owned by the Association may be cast.

(b) Voting by Corporation or Trust.

Where a corporation or trust is an Owner or is otherwise entitled to vote, the trustees may cast the vote on behalf of the trust, and the agent or other representative of the corporation duly empowered by the board of directors of such corporation shall cast the vote to which the corporation is entitled. The secretary of such corporation or a trustee of such trust so entitled to vote shall deliver or cause to be delivered prior to the commencement of the meeting a certificate signed by such person to the Secretary of the Association stating who is authorized to vote on behalf of said corporation or trust.

(c) Proxy.

An Owner may vote either in person or by his or her duly authorized and designated attorney-in-fact. Where voting is by proxy, the Owner shall duly designate his attorney-in-fact in writing, delivered to the Secretary of the Association prior to the commencement of the meeting. No such proxy shall remain valid for longer than one hundred eighty (180) days after the date on which the proxy is given.

(d) Meeting Quorum.

Except where otherwise expressly provided in the Declaration, these By-Laws, or the Articles, the presence of Owners or their duly authorized representatives owning at least twenty percent (20%) of the total number of Lots shall constitute a quorum at all meetings. Unless otherwise required herein, the Owners at a meeting at which a quorum is initially present may continue to do business until adjournment, notwithstanding the withdrawal of enough Owners to leave less than a quorum. As used elsewhere in these By-Laws, the term "Majority of Owners" shall mean, unless otherwise

expressly indicated, more than fifty percent (50%) of the total number of Lots, and the term "Majority of the Vote" shall mean a majority of the votes of the Owners present or represented at a meeting at which a quorum is present.

(e) Suspension of Voting Rights.

No Member shown on the books or management accounts of the Association to be more than six (6) months delinquent in any payment due to the Association shall be eligible to vote, either in person or by proxy, or to be elected to the Board of Directors.

Section 3.6. Conduct of Annual Meeting.

The Chairman of the annual meeting shall be the President of the Association. The President shall call the meeting to order at the duly designated time, and business will be conducted in the following order:

- (1) Reading of Minutes. The Secretary shall read the minutes of the last annual meeting and the minutes of any regular or special meeting of the Members held subsequent thereto, unless such reading is waived by a Majority of the Vote as defined in Section 3.5(d) hereof.
- (2) Treasurer's Report. The Treasurer shall report to the Members concerning the financial condition of the Association and answer relevant questions of the Members concerning the Common Expenses and financial report for the prior year and the proposed budget for the ensuing year.
- (3) Budget. The proposed budget for the current calendar year shall be presented to the Members for approval or amendment, as more fully described in the Declaration.
- (4) Election of Board of Directors.

(a) An Election Committee shall make nominations for elections of the Board of Directors. The Election Committee shall consist of a Chairman, and two (2) or more (maximum 5) Members, all of whom must be members of the Association (ie; residents). A majority of the Officers shall appoint the Election Committee at each annual meeting of the Members when the Board members term expire to serve from close of such annual meeting until the close of the next annual meeting. If a member of the Election Committee resigns or ceases to become a member of the Association, the Board may appoint a replacement.

The Election Committee shall make as many nominations for election to the Board as it shall in its discretion determine, but in no event less than the number of vacancies to be filled. Between 30 and 60 days prior to the annual meeting, the Election Committee shall hold a special meeting for the purpose of delivering its nominations to the Association. Nominations shall be permitted from the floor during this special meeting. Persons nominated must accept their nomination during this meeting, either in-person or by phone in order to be eligible for election. Election by Acclamation – The Association may forego sending out ballots in an election for the board of directors if the election is uncontested, i.e., the number of nominees does not exceed the number of open seats on the board. The Association's Inspector of Elections ("IOE") must declare at the Nominations meeting an Election by Acclamation naming each qualified candidate that will be seated by acclamation and presented to the board for approval during the meeting.

(b) The Board of Directors shall be elected every two years at the annual meeting of the members of the Association or at a special meeting called for the purpose of electing Directors. At a meeting of Members of the Association at which Directors are to be elected, only persons nominated as candidates shall be eligible for election, and the candidates receiving the greatest number of votes shall be elected. Election rules adopted by the Board outlines the procedures for election notices, nomination qualifications, campaigning and balloting.

Election to the Board shall be by written ballot, those ballots having been created by the Board, and at such elections the members or their proxies may cast, in respect to each vacancy, such voting power as they are entitled to exercise under the provisions of this document.

(5) Other Business. Other business may be brought before the meeting only upon a written request submitted to the Secretary of the Association at least ten (10) days prior to the date of the meeting; provided, however, that such written request may be waived at the meeting if agreed by a Majority of the Vote as defined in Section 3.5(d) hereof.

(6) Committee Reports. Reports of committees designated to supervise and advise on the respective segments of maintenance and operations prescribed in the Declaration or assigned by the Board of Directors shall be presented.

(7) Adjournment. Upon completion of all business before the Association, the President, upon the motion of any Member, may adjourn the meeting; provided, however, that no annual meeting shall be adjourned until a budget is approved by the Owners for the upcoming year.

Section 3.7. Conduct of Special Meeting

The President of the Association shall act as Chair of any special meetings of the Association. The Chair shall call the meeting to order at the duly designated time and the only business to be considered at such meeting shall be in consideration of the matters for which such meeting was called, as set forth in the notice of such special meeting.

Section 3.8. Written Ballots.

In lieu of any annual or special meeting of the Members, written ballots may be utilized in the manner prescribed in the Election Rules and Procedures.

Section 3.9. Roster of Members; Member Addresses.

(a) The Association shall maintain:

- (1) a current roster of all Members; and
- (2) the mailing address and legal description (by lot number) for each Member.

(b) The Association shall also maintain any electronic mail (email) addresses, cell phone (text message / SMS) numbers, and/or social media messaging contacts of those Members who have consented to receive notice by email, cell phone (text message / SMS), or social media messaging. This information provided by a Member to receive notice by these means should be removed from the Association's records when the Member revokes consent to receive notice via these methods. However, the Association shall not be liable for an erroneous disclosure of contact information, for instance through group distribution lists.

(c) The mailing addresses and legal descriptions maintained by the Association under subsection (a) above:

- (1) shall be made available to a Member of the Association upon request;
- (2) may be used by a Member of the Association only for a purpose related to the operation of the Association;
- and
- (3) may not be used by a Member of the Association for personal reasons.

(d) Except as provided in subsection (c) above, the Association may not sell, exchange, or otherwise transfer information maintained by the Association under this section to any person.

ARTICLE 4

BOARD OF DIRECTORS

Section 4.1. Existing Board of Directors.

The Existing Board of Directors shall be Carl Sowers, Elizabeth Rodriguez, Brad Kellar, Peggy Lee, and Christine Lemmon (herein referred to as the "Existing Board"), all of whom have been serving as current board members. Notwithstanding anything to the contrary contained in, or any other provisions of, these By-Laws or elsewhere, the Existing Board shall hold office until the beginning of the term of the newly elected officers effective the start of the Association's calendar year. Existing Board members may run as incumbents as part of the election process should they so desire.

Section 4.2. Board of Directors.

The affairs of the Association shall be governed and managed by the Board of Directors (herein sometimes collectively called "Board" and individually called "Directors"). The Board of Directors shall be composed of three (3) to seven (7) persons who each own at least one (1) Lot.

Section 4.3. Additional Qualifications.

Where an Owner consists of more than one person or is a partnership, corporation, trust or other legal entity, then one of the persons constituting the multiple Owner, or a partner or an officer or trustee shall be eligible to serve on the Board of Directors, except that no single Lot may be represented on the Board of Directors by more than one person at a time. Board of Directors candidates must also have satisfied all payments and fines, must not have any criminal convictions, must submit a profile of qualifications and be vetted and approved by the Election Committee.

Section 4.4. Term of Office and Vacancy.

Except for the Existing Board, members of the Board of Directors shall hold office until their two-year term is complete, or until they are removed or resign. Any vacancy in the Board of Directors shall be filled by vote of the majority of remaining Directors, even though they may constitute less than a quorum. Each person so elected shall be a Director for the unexpired term of his predecessor, until his successor is elected at the annual meeting when the term of his predecessor would have expired.

Section 4.5. Removal of Directors.

Directors may be removed by members of the Association, with or without cause, if the number of votes cast to remove would be sufficient to elect the Directors at a meeting to elect Directors. A Director or Directors may be so removed by the Members only at a meeting called for the purpose of removing the Director(s). Any such meeting must state that the purpose of the meeting is for voting upon the removal of Director(s). In such case, the removed Director(s) successor(s) shall be elected at the same meeting to serve for the remainder of the term(s) of the removed Director(s) in accordance with Section 4.4 above.

Section 4.6. Duties of the Board of Directors.

The Board of Directors shall perform or cause to be performed, when and to the extent deemed necessary or appropriate in the Board's business judgment, the following:

a) Protection, repair and replacement of the Common Areas, unless the same are otherwise the responsibility or duty of the Owners; provided, however, that this duty shall not include or be deemed or interpreted as a requirement that the

(Association, the Board, or any Managing Agent must provide any on-site or roving guards, security service or security system for protection or surveillance, and the same need not be furnished;

(b) Procuring of utilities for the Common Areas;

(c) Landscaping, painting, decorating, and furnishing of the Common Areas and such other portions of the Development as specifically described in the Declaration;

(d) Assessment and collection from the Owners of the Owners' pro-rata share of the Common Expenses;

(e) Preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time the notice of annual meeting is mailed or delivered;

(f) Preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred during each year, a line-by-line summary of which shall be delivered to each Owner simultaneously with delivery of the notice of the annual meeting of the Owners;

(g) Keeping a current, accurate, and detailed record of receipts and expenditures affecting the Common Areas, specifying and itemizing the Common Expenses; all records and vouchers shall be available for examination by an Owner immediately following any meeting of the association, and at any reasonable time agreed upon by the Board of Directors following a request for such but no later than fourteen (14) days from the request;

(h) Procuring and maintaining in force all insurance coverage required by the Declaration;

(i) Performing such other duties as may be reasonably inferred from the provisions of the Declaration.

Section 4.7. Powers of the Board of Directors

The Board of Directors shall have such powers as are reasonably necessary or appropriate to accomplish the performance of its duties. These powers include, but are not limited to, the power:

(a) To employ a reputable and recognized professional managing agent or real estate management company (either being hereinafter referred to as "Managing Agent") to assist the Board in performing its duties; provided, however, any management agreement shall be terminable for cause upon thirty (30) days written notice and terminable without cause upon sixty (60) days written notice, and any such agreement may not exceed three (3) years, renewable by agreement of the parties for successive one (1) year periods;

(b) To purchase for the benefit of the Owners such equipment, materials, labor, and services as may be necessary in the judgment of the Board of Directors;

(c) To procure fire and extended coverage insurance covering the buildings and improvements on the Common Areas to the full insurable value thereof, to procure public liability and property damage insurance and worker's compensation insurance, if necessary, and to procure all such other insurance as is required or permitted under the Declaration, for the benefit of the Owners, and the Association;

(d) To employ legal counsel, architects, engineers, contractors, accountants, and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business and affairs of the Association;

(e) To employ, designate, discharge and remove such personnel as in the judgment of the Board of Directors may be necessary for the maintenance, upkeep, repair and replacement of the Common Areas;

(f) To include the costs of all of the above and foregoing as Common Expenses of the Association and to pay all of such costs therefrom;

(g) To open and maintain a bank account or accounts in the name of the Association and to designate the signatories thereto;

(h) To adopt, revise, amend, and alter from time to time reasonable rules and regulations with respect to use, occupancy, operation, and enjoyment of the Real Estate provided that the Board shall give advance written notice to the Owners of such rules and any revision, amendment, or alteration thereof.

Section 4.7. Compensation.

No Director or Officer shall receive any compensation for his or her services. The Managing Agent, if any, shall be entitled to reasonable compensation for its services, the cost of which shall be a Common Expense.

Section 4.8. Meetings and Notice.

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 of Directors. No written or verbal notice need be given to Directors for regularly scheduled Board meetings of which the Directors are already aware. For all other Board meetings, the Secretary shall give notice of such meetings of the Board to each Director personally or by United States mail to be sent at least ten (10) days prior to the date of such meetings. Special meetings of the Board may be called by the President or any two (2) members of the Board. The person or persons calling such meeting shall give written notice thereof to the Secretary, who shall either personally or by mail and at least three (3) days prior to the date of such special meeting, give notice to the Board members. The notice of the meeting shall contain a statement of the purpose for which the meeting is called. Such meeting shall be held at such place as shall be designated in the notice. A Director may conduct or participate in a regular or special meeting of the Board of Directors through the use of conference telephone or any means of communication by which all Directors participating may simultaneously hear each other during the meeting. A Director participating in a meeting by this means is considered to be present in person at the meeting. In lieu of written notices from the Association sent pursuant to the above paragraph, a Director may elect to receive notices of Board meetings by email. Any Director choosing email shall be deemed to have waived the right to receive notices from the Association by U.S. Mail or personal delivery. However, any such Director shall have the right at any time to withdraw his or her election to receive notice by email, and shall thereafter be sent notices by the Association pursuant to the above paragraph.

Section 4.9. Waiver of Notice.

Before or after any meeting of the Board, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. The presence of any Director at a meeting shall, as to such Director, constitute a waiver of notice of the time, place, and purpose thereof. If all Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 4.10. Board Meeting Quorum.

At all meetings of the Board, unless these By-Laws provide otherwise, a majority of the Directors shall constitute a quorum for the transaction of business, and the votes of the majority of the Directors present at a meeting at which a quorum is present shall be the decision of the Board.

Section 4.11. Bond.

The Board of Directors may require the Managing Agent, Treasurer and such other officers as the Board deems necessary to provide surety bonds, indemnifying the Association against larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, willful misapplication, and other acts of fraud or dishonesty, in such sums and with such sureties as may be approved by the Board of Directors and any such bond shall specifically include protection for any insurance proceeds received for any reason by the Board. The expense of any such bond shall be a Common Expense.

Section 4.12. Informal Action by Directors.

Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting, if prior to such action a written consent to such action is signed by all members of the Board and such written consent is filed with the minutes of proceedings of the Board or committee.

ARTICLE 5

OFFICERS

Section 5.1. Officers of the Association.

The principal officers of the Association shall be the President, Vice-President, Secretary and Treasurer, all of whom shall be elected by the Association Owners. The Directors may appoint an Assistant Treasurer and an Assistant Secretary and such other officers as in their judgment may be necessary. Any two or more offices may not be held by the same person, except in dire emergencies, after which a replacement shall be appointed by the Board of Directors at the earliest opportunity.

Section 5.2. Election of Officers.

Prior to the 2022 annual meeting, the Existing Board of Directors shall appoint the officers of the Association. Thereafter, the officers of the Association shall be elected every two years by the Owners at the annual meeting or special meeting held for the Election of Officers (Directors). Each officer shall hold office for two (2) years or until his or her successor shall have been duly elected and qualified, unless earlier removed by the Board of Directors. Upon recommendation of a majority of members of the Board or upon an affirmative vote of a Majority of Owners (as defined in Section 3.5(d) hereof), any officer may be removed either with or without cause and his or her successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

Section 5.3. The President.

The President shall be elected by the Owners and shall be the chief executive officer of the Association. The President shall preside at all meetings of the Association and of the Board, shall have and discharge all the general powers and duties usually vested in the office of the president or chief executive officer of a Limited Liability corporation organized under the laws of Indiana, including, but not limited to, the power to appoint committees from among the

Owners as he or she may deem necessary to assist in the affairs of the Association and to perform such other duties as the Board may from time to time prescribe.

Section 5.4. The Vice-President.

The Vice-President shall be elected by the Owners and shall perform all duties incumbent upon the President during the absence or disability of the President. The Vice-President shall also perform such other duties as these By- Laws may prescribe or as shall, from time to time, be imposed upon him or her by the Board or by the President.

Section 5.5. The Secretary.

The Secretary shall be elected by the Owners. The Secretary shall attend all meetings of the Association and of the Board and shall keep or cause to be kept a true and complete record of proceedings of such meetings, shall authenticate the Association's records, shall perform all other duties incident to the office of the Secretary, and such other duties as from time to time may be prescribed by the Board. The Secretary shall specifically see that all notices of the Association or the Board are duly given, mailed or delivered, in accordance with the provisions of these By-Laws.

Section 5.6. The Treasurer.

The Owners shall elect a Treasurer who shall maintain a correct and complete record of account showing accurately at all times the financial condition of the Association and such other duties incident to the office of Treasurer. The Treasurer shall be legal custodian of all monies, notes, securities, and other valuables which may from time to time come into possession of the Association. He or she shall immediately deposit all funds of the Association coming into his or her hands in some reliable bank or other depository to be designated by the Board and shall keep such bank account in the name and for the exclusive benefit of the Association. The Treasurer may permit the Managing Agent, if any, to handle and account for monies and other assets of the Association to the extent appropriate as part of its duties.

Section 5.7. Assistant Officers.

The Board of Directors may from time to time designate and elect from among the Owners an Assistant Secretary and Assistant Treasurer, who shall have such powers and duties as the Officers whom they are elected to assist and shall delegate to them such other powers and duties as these By-Laws or the Board of Directors may prescribe.

ARTICLE 6

COMMITTEES

Section 6.1. Committees.

The Board of Directors shall appoint the committees provided for in the Declaration. In addition, the Board of Directors or the President may appoint various other committees to carry out the purposes of the Association. Members of such committees may, but need not, be members of the Board of Directors.

ARTICLE 7

ADDITIONAL RIGHTS OF BOARD

Section 7.1. Right of Board to Adopt Rules and Regulations.

The Board may promulgate such reasonable rules and regulations regarding the operation of the Development as the Board may deem desirable, including but not limited to the use of the Common Areas and Lots. Such rules as are adopted may be repealed or amended by a vote of a majority of the Board. The Board shall cause copies of all such rules and regulations, including any amendments or repeals thereof, to be delivered or mailed promptly to all Owners at least fifteen (15) days prior to the effective date thereof.

ARTICLE 8

INDEMNIFICATION

Section 8.1. Indemnification of Directors and Officers.

To the extent not inconsistent with the laws of the State of Indiana, every person (and the heirs and personal representatives of such person) who is or was a director or officer of the Association shall be indemnified to the fullest extent by the Association.

ARTICLE 9

MISCELLANEOUS

Section 9.1. Fiscal Year.

The fiscal year of the Association shall be the calendar year.

Section 9.2. Personal Interests.

No Member of the Association shall have or receive any earnings from the Association; provided, however, that a Member who is an officer, director, employee, or agent of the Association may be reimbursed for expenses incurred on the Association's behalf.

Section 9.3. Contracts, Checks, Notes, Etc.

All contracts and agreements entered into by the Association and all checks, drafts and bills of exchange and orders for the payment of money shall, in the conduct of the ordinary course of business of the Association, unless otherwise directed by the Board of Directors, or unless otherwise required by law, be signed by the Treasurer, and at least one other officer of the Association.

Section 9.4. Additional Statutory Requirements Set Forth in the Declaration.

In addition to the provisions above in this Article 9 and elsewhere in these By-Laws, there are additional requirements set forth in the Declaration pertaining to matters such as the budget approval process, special assessments, and the

contracting and borrowing authority of the Association, all of which are mandatory requirements under Indiana Code 32-25.5-1-1 et seq.

ARTICLE 10

GRIEVANCE RESOLUTION PROCEDURES

Section 10.1. Introduction and Definitions.

Effective July 1, 2015, Indiana enacted a statute that requires many disputes involving an Indiana homeowners association to be addressed through a grievance resolution procedure before a lawsuit can be filed in court. To comply with that statute, the following grievance resolution procedures shall apply to the Development: The Association, the members of the Association, the Board of Directors, and all persons subject to the Declaration (individually called “Party” and collectively called “Parties” for purposes of this Article) agree to encourage the amicable resolution of disputes involving the Development and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, each Party is deemed to covenant and agree that the grievance resolution procedures set forth in this Article apply to any Claim as hereafter defined. This Article does not apply to an Exempt Claim (as defined below) unless the Parties agree that this Article is applicable to the Exempt Claim. As used in this Article only, the following words, when capitalized, have the following specified meanings:

(a) “Claim” refers to any of the following:

- i. A claim arising out of or relating to the interpretation, application, or enforcement of the Restrictions.
- ii. A claim relating to the rights and/or duties of Association or the Board of Directors under the Restrictions.
- iii. A claim relating to the maintenance of the Development.
- iv. Any other claim, grievance, or dispute among the Parties involving the Development or the Association.
- v. The term “Claim” does not include an Exempt Claim as defined below.

(b) “Claimant” means any Party who has a Claim against another Party. To avoid confusion, and to make these provisions easier to understand, the term “Association” will be used interchangeably with the term “Claimant” in the procedures below to address the situation of the Association pursuing a covenant violation against a Homeowner.

(c) “Exempt Claims” means any of the following claims or actions:

- i. A claim by the Association for Assessments and any action by the Association to collect Assessments.
- ii. An action by a Party to obtain a temporary restraining order or equivalent emergency equitable relief: (A) to maintain the status quo and preserve the Party’s ability to enforce the provisions of the Restrictions; or (B) when an emergency condition exists which jeopardizes the health or safety of any of the residents within the Development.
- iii. A suit to which an applicable statute of limitations would expire within the notice period of this Article, unless a Party against whom the Claim is made agrees to toll the statute of limitations as to the Claim for the period reasonably necessary to comply with this Article.

iv. A dispute that is subject to alternate dispute resolution – such as mediation or arbitration – by the terms of applicable law or another instrument, such as a contract or warranty agreement.

v. A claim that is substantially identical to a Claim: (A) that was previously addressed by the Parties; or (B) which was resolved by a judicial determination in favor of one of the Parties.

d) “Homeowner” means the legal owner of record, land contract purchaser, tenant, or occupant of a residential dwelling or lot within the Development.

(e) “Legal Proceedings” refers to either:

(i) an action maintained in a court, or

(ii) an administrative proceeding initiated under an applicable law.

(f) “Respondent” means the Party against whom a Claimant has a Claim. To avoid confusion, and to make these provisions easier to understand, the term “Homeowner” will be used interchangeably with the term “Respondent” in the procedures below to address the situation of the Association pursuing a covenant violation against a Homeowner.

(g) “Restrictions” means all restrictions, conditions, and covenants now or hereafter imposed by the provisions of the Declaration of Covenants, the Plats, these By-Laws, the Articles of Incorporation, and any rules and regulations adopted by the Board of Directors of the Association

Section 10.2. Mandatory Procedures.

The Association may not initiate a Legal Proceeding seeking redress or resolution of a Claim until the Association has complied with the procedures of this Article.

Section 10.3. Notice.

The Association must notify the Homeowner in writing of the Claim (the “Claim Notice”), stating plainly and concisely: (1) the nature of the Claim, including the date, time, location, persons involved, and Homeowner’s role in the Claim; (2) the basis of the Claim, including the provision of the Restrictions or other authority out of which the Claim arises; (3) what the Association wants the Homeowner to do or not do to resolve the Claim; (4) that the Homeowner has a right to meet with the Association’s Board of Directors, if the Homeowner makes a written request for a meeting; and (5) the name and address of the person from whom the Homeowner must request such a meeting.

Section 10.4. Meeting.

This Section 10.4 applies if the Homeowner has requested a meeting under Section 10.3 above not later than fourteen (14) business days after the date of the Claim Notice. The Association and the Homeowner will meet in person to resolve the Claim by good faith negotiation, at the time and place agreed to by the Association and the Homeowner. During the meeting, the Parties must have full access to the property that is subject to the Claim, for the purpose of inspecting the property, if appropriate or necessary. If the Homeowner elects to take corrective action, the Association must provide the Homeowner and Homeowner’s agents with full access to the property to take and complete corrective action.

Section 10.5. Determination of an Impasse; Mediation or Arbitration.

(a) The parties are considered to be at an impasse if:

(i) the Homeowner does not request a meeting under Section 10.3 above;

(ii) either Party fails to attend a meeting agreed upon under Section 10.4 above; or

(iii) the Parties are unable to settle the claim at a meeting held under Section 10.4 above.

(b) Either Party may, not later than fourteen (14) days after an impasse is reached, request in writing to the other Party that the other Party submit the Claim to mediation or binding arbitration.

(c) The Party making the request under subsection (b) is responsible for the costs of the mediator or arbitrator.

Section 10.6. Legal Proceedings May Commence.

If an impasse is reached and:

(a) neither Party requests mediation or arbitration; or

(b) mediation or arbitration does not result in a settlement of the claim; the Association may begin Legal Proceedings.

Section 10.7. Enforcement of Settlement Agreement.

This Section 10.7 applies if a Claim is settled through negotiation, mediation, or arbitration. The settlement of the Claim must be documented in a written agreement signed by each of the Parties. If any Party fails to abide by the settlement agreement, then the other Party may begin Legal Proceedings without again complying with the procedures set forth in this Article. If a Party who begins Legal Proceedings prevails in those legal proceedings to enforce the settlement agreement, the Party is entitled to recover from the other noncomplying Party the court costs, attorneys' fees, and all other reasonable costs incurred in enforcing the settlement agreement.

Section 10.9. General Provisions.

A release or discharge of a Homeowner from liability to the Association with respect to the Claim does not release or discharge the Homeowner with respect to any other person who is not a Party to Claim.

Section 10.10. Settlement Authority.

The Board, on behalf of the Association, and without the consent of the members of the Association, may do any of the following:

(a) Negotiate settlements of Claims or Legal Proceedings under this Article; and

(b) Execute any document related hereto, such as settlement agreements and waiver or release of claims.

Section 10.11. Allocation of Costs.

Except as otherwise provided in this Article, each Party shall bear its own costs for application of this Article, including attorney's fees.

Section 10.12. Application of the above Procedures to a Homeowner's Claim against either the Association or another Homeowner.

As noted above, the Indiana statute requires the grievance resolution procedures described above to be completed before the Association can begin Legal Proceedings against a Homeowner for a covenant violation. However, that same statute is equally applicable to the Homeowners within the Development. Examples of this would be where a Homeowner has a Claim against the Association, the Association's Board of Directors, or against another Homeowner in the Development. Therefore, all of the grievance resolution procedures described above are equally applicable and mandatory if a Homeowner pursues such a Claim.

ARTICLE 11

AMENDMENT TO BY-LAWS

Section 11.1. Amendment.

These By-Laws may be amended, at a regular or special meeting of the Members of the Association, by a vote of a majority of a quorum of members present in person or by proxy.