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KATHERINE SWEENEY BELL  
MARION COUNTY IN RECORDER  
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**Cross-Reference:**

Liberty Creek, Section One (Plat), Instrument #83-90188  
Liberty Creek, Section Two (Plat), Instrument #86-0046757  
Liberty Creek, Section Three (Plat), Instrument #86-0129937  
Liberty Creek, Section Four (Plat), Instrument #84-59062  
Liberty Creek, Section Five (Plat), Instrument #87-0106306  
Liberty Creek, Section Six (Plat), Instrument #84-91813  
Liberty Creek, Section Seven (Plat), Instrument #85-0096448  
Liberty Creek, Section Eight (Plat), Instrument #86-23323  
Liberty Creek, Section Nine (Plat), Instrument #92-110965  
Liberty Creek, Declaration of Covenants, Section One, Instrument #83-91377  
Liberty Creek, Declaration of Covenants, Section Two, Instrument #86-0047718  
Liberty Creek, Declaration of Covenants, Section Three, Instrument #87-0004109  
Liberty Creek, Declaration of Covenants, Section Four, Instrument #84-0061348  
Liberty Creek, Declaration of Covenants, Section Five, Instrument #87-0107945  
Liberty Creek, Declaration of Covenants, Section Six, Instrument #84-0099028  
Liberty Creek, Declaration of Covenants, Section Seven, Instrument #85-0098791  
Liberty Creek, Declaration of Covenants, Section Eight, Instrument #86-0036240  
Liberty Creek, Declaration of Covenants, Section Nine, Instrument #83-91377 and #87-0107945

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**REVISED AND RESTATED****CODE OF BY-LAWS**

for

**THE LIBERTY CREEK ASSOCIATION, INC.**

COMES NOW The Liberty Creek Association, Inc., by its Board of Directors, on this 8th day of August, 2016, and states as follows:

**WITNESSETH THAT:**

**WHEREAS**, the residential community in Marion County, Indiana commonly known as Liberty Creek South was established upon the recording of certain documents with the Office of the Recorder for Marion County, Indiana; and



53       **WHEREAS**, the Plat for Liberty Creek, Section One, was recorded with the Office of the  
54 Recorder of Marion County, Indiana, on December 9, 1983, as **Instrument #83-90188**; and  
55

56       **WHEREAS**, the Plat for Liberty Creek, Section Two, was recorded with the Office of the  
57 Recorder of Marion County, Indiana, on June 3, 1986, as **Instrument #86-0046757**; and  
58

59       **WHEREAS**, the Plat for Liberty Creek, Section Three, was recorded with the Office of the  
60 Recorder of Marion County, Indiana, on December 16, 1986, as **Instrument #86-0129937**; and  
61

62       **WHEREAS**, the Plat for Liberty Creek, Section Four, was recorded with the Office of the  
63 Recorder of Marion County, Indiana, on July 31, 1984, as **Instrument #84-59062**; and  
64

65       **WHEREAS**, the Plat for Liberty Creek, Section Five, was recorded with the Office of the  
66 Recorder of Marion County, Indiana, on September 11, 1987, as **Instrument #87-0106306**; and  
67

68       **WHEREAS**, the Plat for Liberty Creek, Section Six, was recorded with the Office of the  
69 Recorder of Marion County, Indiana, on November 21, 1984, as **Instrument #84-91813**; and  
70

71       **WHEREAS**, the Plat for Liberty Creek, Section Seven, was recorded with the Office of the  
72 Recorder of Marion County, Indiana, on November 4, 1985, as **Instrument #85-0096448**; and  
73

74       **WHEREAS**, the Plat for Liberty Creek, Section Eight, was recorded with the Office of the  
75 Recorder of Marion County, Indiana, on March 21, 1986, as **Instrument #86-23323**; and  
76

77       **WHEREAS**, the Plat for Liberty Creek, Section Nine, was recorded with the Office of the  
78 Recorder of Marion County, Indiana, on August 24, 1992, as **Instrument #92-110965**; and  
79

80       **WHEREAS**, the Liberty Creek subdivision is subject to Covenants which run with the land,  
81 namely the Declaration of Covenants, Conditions and Restrictions ("Declaration") recorded in the Office  
82 of the Marion County Recorder on December 13, 1983, as **Instrument #83-91377**; and supplemented by  
83 the Declaration of Covenants, Conditions and Restrictions (Section Two) recorded in the Office of the  
84 Marion County Recorder on June 4, 1986, as **Instrument #86-0047718**; and supplemented by the  
85 Declaration of Covenants, Conditions and Restrictions (Section Three) recorded in the Office of the Marion  
86 County Recorder on January 12, 1987, as **Instrument #87-0004109**; and supplemented by the Declaration  
87 of Covenants, Conditions and Restrictions (Section Four) recorded in the Office of the Marion County  
88 Recorder on August 7, 1984, as **Instrument #84-0061348**; and supplemented by the Declaration of  
89 Covenants, Conditions and Restrictions (Section Five) recorded in the Office of the Marion County  
90 Recorder on September 16, 1987, as **Instrument #87-0107945**; and supplemented by the Declaration of  
91 Covenants, Conditions and Restrictions (Section Six) recorded in the Office of the Marion County Recorder  
92 on December 18, 1984, as **Instrument #84-0099028**; and supplemented by the Declaration of Covenants,  
93 Conditions and Restrictions (Section Seven) recorded in the Office of the Marion County Recorder on  
94 November 8, 1985, as **Instrument #85-0098791**; and supplemented by the Declaration of Covenants,  
95 Conditions and Restrictions (Section Eight) recorded in the Office of the Marion County Recorder on May  
96 2, 1986, as **Instrument #86-0036240**; and supplemented by the Declaration of Covenants, Conditions and  
97 Restrictions (Section Nine) recorded in the Office of the Marion County Recorder on December 13, 1983,  
98 as **Instrument #83-91377** and on September 16, 1987, as **Instrument #87-0107945**, which states that by  
99 taking a deed to any Lot within the Liberty Creek subdivision each owner becomes a mandatory member  
100 of The Liberty Creek Association, Inc., an Indiana nonprofit corporation ("Association"); and  
101

102       **WHEREAS**, the Association was incorporated as described in the Declaration as a non-profit  
103 corporation pursuant to Articles of Incorporation ("Articles") filed with, and approved by, the Indiana  
104 Secretary of State on October 28, 1983; and  
105

106       **WHEREAS**, a Code of Bylaws ("Bylaws") was adopted by the Initial Board in 1983; and  
107

108       **WHEREAS**, the Bylaws, Article XIII, states "*These Bylaws may be amended at a regular or*  
109 *special meeting of the members, by a vote of a majority of a quorum of members present in person or by*  
110 *proxy*"; and  
111

112       **WHEREAS**, on August 3, 2016, a meeting of the membership was held, and a  
113 quorum of members, in person or by proxy, was present at this meeting, and a majority of those members  
114 voted to adopt this Revised and Restated Code of Bylaws; and  
115

116       **WHEREFORE**, pursuant to the authority granted to the Members by the Code of Bylaws of the  
117 Association, the Members have properly voted to adopt this Revised and Restated Code of Bylaws. This  
118 Revised and Restated Code of Bylaws does not conflict in any manner with any provision contained in  
119 the Declaration, the Articles, or Indiana law, and it is the intention of the Association that this Revised  
120 and Restated Code of Bylaws shall replace all formerly adopted Bylaws and any amendments thereto, if  
121 any.  
122

123  
124                                   **[End of Recitals]**  
125

126                                   **[Remainder of Page Left Intentionally Blank]**  
127  
128  
129

REVISED AND RESTATED  
CODE OF BYLAWS

for

**THE LIBERTY CREEK ASSOCIATION, INC.**

ARTICLE I

**Identification**

**Section 1. Name.** The name of the corporation is "The Liberty Creek Association, Inc." (also referred to as "Corporation" or "Association").

**Section 2. Principal Office and Registered Agent.** The name and post office address of the principal office of the Association is: The Liberty Creek Association, Inc., c/o Meridian Management Corp., 101 S. Harding St., Suite B, Indianapolis, IN 46222, or as updated from time to time with the Indiana Secretary of State's Office.

The registered agent of the corporation is currently: Meridian Management Corp., 101 S. Harding St., Suite B, Indianapolis, IN 46222. However, it should be noted that the registered agent may be a member of the Board of Directors, a hired management agent, or other professional representing the Association and can potentially change from year to year. Therefore, the current registered agent of the Association can be determined through the most recent annual business entity report filed with the Indiana Secretary of State's office.

The principal office of the Association will also serve as the registered place of business of the Association; however, it should be noted that the principal office for the Association can be changed by the Board of Directors and does not have to be the same as the registered place of business of the Association.

ARTICLE II

**Definitions**

**Section 1.** "Act" means the Indiana Nonprofit Corporation Act of 1971 and any subsequent amendments thereto.

**Section 2.** "Articles of Incorporation" or "Articles" means the Articles of Incorporation of the Corporation filed with the Office of the Secretary of State of Indiana, and includes any amendments that have been made to the original Articles.

**Section 3.** "Association" or "Corporation" means The Liberty Creek Association, Inc.

**Section 4.** "Board of Directors" means the Board of Directors of the Association.

**Section 5.** "Bylaws" means this Revised and Restated Code of Bylaws, including any amendments or revisions made to it by the Association.

180  
181 **Section 6.** “Common Expenses” means the expenses shared by the owners on a pro-rata basis for  
182 the care and upkeep of the common areas, enforcement of the Declaration, and administration of the  
183 Association in Liberty Creek.

184  
185 **Section 7.** “Declarant” or “Developer” means Liberty Creek Associates, Inc., an Indiana  
186 corporation.

187  
188 **Section 8.** “Declaration” means the Declaration of Covenants, Conditions and Restrictions  
189 recorded in the Office of the Recorder of Marion County, Indiana, on December 13, 1983, as **Instrument**  
190 **#83-91377**, including any supplements or amendments later made to the Declaration, if any.

191  
192 **Section 9.** “Director” means an individual member of the Board of Directors that has been elected  
193 or appointed to the Board of Directors following the procedures outlined in the Bylaws.

194  
195 **Section 10.** “Owner”, also referred to as “Member”, means the record owner, whether one or  
196 more persons or entities, of a fee simple title to any Lot which is part of the Properties, including contract  
197 sellers, but excluding those having such interest merely as security for the performance of an obligation.

198  
199 **Section 11.** “Property”, “Properties”, “Real Estate” and “Tract” means the real estate described on  
200 the various recorded Plats and the Declaration for the Liberty Creek Development.

201  
202 **Section 12.** All other terms used in these Bylaws not listed in this Article are to use the meaning  
203 given to them in the Declaration or by law.

## 204 205 206 207 **ARTICLE III**

### 208 209 **Membership, Meetings, and Voting Rights**

210  
211 **Section 1. Membership:** Terms, provisions, and conditions governing and relating to  
212 membership in the Association, transfer of membership, and voting rights of the Members, are listed in the  
213 Declaration and Articles and are incorporated into these Bylaws by reference.

214  
215 **Section 2. Quorum and Adjournments:** At any meeting of the membership, unless otherwise  
216 required by the Declaration, the presence of Members, in person or by proxy, entitled to cast ten percent  
217 (10%) of the total number of valid and eligible Owner votes will make up a quorum. For purposes of this  
218 section, the term “eligible” means any Owner whose privileges are not suspended for any reason as set forth  
219 in the Declaration, Articles or these Bylaws. If a Member has had his voting rights suspended pursuant to  
220 the Declaration, Articles or these Bylaws, then that Member’s vote is not considered a valid or eligible vote  
221 toward calculating quorum requirements. After a Member’s vote is represented, either in person or by  
222 proxy, for any purpose at a meeting, the Member’s vote will be considered present for quorum purposes for  
223 the remainder of the meeting and for any adjournment of that meeting, even if the Member leaves the  
224 meeting before a vote is taken.

225 If quorum is not met at the first meeting, then the Board may call another meeting, and at this new  
226 meeting, the quorum requirement will be met by the number of members attending the meeting, in person  
227 or by proxy. A follow-up meeting(s) may be called without a new notice being sent to the Members if it is  
228 called within sixty (60) days following the preceding meeting. If the follow-up meeting is re-set more than  
229 sixty (60) days from the previous meeting, then a new meeting notice must be sent to the Members.

**Section 3. Meetings:** Meetings of the Members of the Association will follow these procedures:

- A. **Place.** Meetings of the Members will be held in Marion County, Indiana, at a location picked by the Board of Directors of the Association.
- B. **Annual Meeting.** The Board of Directors of the Association will set a date for the Association's Annual Meeting to be held each year. The only limitation to setting the date for the Annual Meeting is that the Annual Meeting must be held within fifteen (15) months after the previous annual meeting. However, the specific date, time and place of the Annual Meeting are to be determined by the Board of Directors. At each Annual Meeting, the Members may conduct director elections, unless a separate date for director elections is used, and transact any other Association business to be properly addressed at the meeting.

- C. **Special Meetings.** A Special Meeting of the Lot Owners may be called by: a) the President; b) resolution approved by a majority of the Board of Directors; or c) by written petition signed by at least ten percent (10%) of the lot owners. The petition must be presented to the President or Secretary of the Association and must state the purpose(s) for which the Special Meeting is to be called. A Special Meeting may be called by the membership only to address items that are within the member's authority to review and vote upon.

The Board of Directors has thirty (30) days from the date the Secretary receives a properly signed petition from the members to send a notice to the membership calling the requested Special Meeting. The purpose(s) of the Special Meeting, along with the date, time and location of the Special Meeting must be stated in the meeting notice sent to the lot owners. No business shall be transacted at a Special Meeting except as stated in the notice of the meeting, unless all the lot owners are present.

It should be noted that according to the Act, the members may not call or hold a Special Meeting of the members without first submitting a petition, signed by not less than ten percent (10%) of the members, asking the Board of Directors to call a Special Meeting as set forth above. If the Board refuses to send a notice within thirty (30) days of receiving a proper petition setting a Special Meeting as requested by the members, then the members may call a Special Meeting of the membership on their own.

- D. **Notice of Meetings.** Written or printed notices stating the place, day and hour of a meeting and, in case of a Special Meeting, the purpose or purposes for which the Special Meeting is called, must be delivered or mailed by the Secretary of the Association to each member of the Association eligible to vote at the meeting. This meeting notice must be sent to the member's last known address as appears upon the records of the Association at least ten (10) days before, but no more than sixty (60) days before, the meeting date.

Notices of any meeting may be mailed by first class U.S. Mail. Notices of meetings may also be hand-delivered to an owner's residence. If the owner consents to electronic service, then notice of meetings may be provided to owners by email or postings on the Association's website, if the Association has one.

The Association does not have a duty to research or locate new or alternate addresses for an owner. It is the owner's responsibility to make sure the Association has the owner's current mailing or contact information.

Notice of any meeting of the members may be waived in writing by any owner or by the owner's attendance at the meeting in person, by proxy or by ballot.

- E. **Order of Business.** The suggested order of business at meetings of the members will, to the extent applicable, be as follows:

1. Call to Order.
2. The reading of minutes of the preceding annual meeting (if an annual meeting).
3. Reports of officers.
4. Reports of committees.
5. Treasurer's Report and review of Annual Budget (if an annual meeting).
6. Election of director(s) (if an annual or election meeting).
7. Unfinished business.
8. New business.
9. Adjournment.

#### **Section 4. Voting at Meetings.**

- A. **Voting Rights.** Unless otherwise suspended, each lot will be entitled to cast one (1) vote on each issue properly brought before the membership. In the event any lot is owned by more than one person, the owners will decide among themselves which co-owner of the lot will cast the vote for that lot at a meeting of the members. In the event the lot is owned by a corporation or other entity, that entity may appoint a representative to cast the vote for the lot.

- B. **Proxies.** Any eligible member may vote either in person or by his duly appointed proxy. When a member wishes to appoint a proxy to vote in his place, the member must designate the name of his proxy in writing and deliver it to the Secretary of the Association. The proxy is effective once it is received by the Association. If the member fails to name the person appointed to be his proxy on the proxy form, the proxy will be counted toward quorum and the designated officer of the Association shown on the proxy form will cast the member's vote(s).

A proxy must contain:

- a. The name and address of the Association member giving the proxy;
- b. The name of the individual who can exercise the member's proxy;
- c. The date on which the proxy is given;
- d. The date of the meeting for which the proxy is given;
- e. The member's signature;
- f. An affirmation under the penalties of perjury that the individual signing the proxy has the authority to grant the proxy to the individual named in the proxy to exercise the member's proxy.

A proxy is only valid for one hundred eighty (180) days from the date it is signed, and only for the designated meeting and any continuations of that designated meeting. A proxy may be revoked in writing by the member prior to being exercised or by the member's personal attendance at the meeting where the proxy appointment was to be used.

Unless excused by the presiding officer, all proxies must be received by the Association at least two (2) business days before the date of the scheduled meeting where the proxy is to be counted. That will give the Association sufficient time to verify the validity of the proxy.

If a member signs more than one proxy appointment, the latest in time, if possible to determine, is considered to be valid. If a member signs more than one (1) proxy to be used at a particular meeting, and it cannot be determined which proxy is the latest in time, then none of the member's proxies shall be counted or voted.

If a member has his voting privileges suspended for any reason, then he cannot vote, whether in person or by proxy. In addition, any member who is suspended for any reason cannot serve as a proxy for another member.

C. **Majority Required.** Unless a higher percentage is required by the Declaration, Articles or these Bylaws, each question or action voted on will be passed if it is approved by a simple majority of the eligible votes cast by the Members present, in person or by proxy, at a meeting at which a quorum is present.

D. **Suspension of Voting Rights.** No member shown on the books or management accounts of the Association to be more than thirty (30) days delinquent in any payment due to the Association will be eligible to vote, either in person or by proxy.

For purposes of this provision, the thirty (30) day period begins on the first day of the fiscal year or the due date of the assessment as set by the Board of Directors, whichever is later in time. If the amount due to the Association is for an obligation other than assessments, such as reimbursement for a covenant violation or court judgment, then the thirty (30) day period will start on the date the amount became due.

The term "payment" means the payment of all amounts due to the Association, including any assessments, collection fees, interest, late fees, administrative or management company fees, attorney fees, court costs, or other sums that are owed to the Association. As a result, if any owner is paying the Association on a payment plan or agreement, and that payment arrangement does not pay the entire amount due to the Association within thirty (30) days of becoming due, then that owner's voting rights will stay suspended until the entire amount due to the Association is paid in full.

In addition, payment of delinquent accounts by any method other than cash at a meeting where a vote will be held does not end any suspension under this provision until the funds from the payment are actually received by the Association. The Board of Directors is free to adopt additional rules regarding the suspension of voting rights as they deem necessary or appropriate for the failure of an owner to pay any sums owed to the Association.

**Section 5. Action by Written Ballot, Etc.** Any action required or permitted to be taken at any meeting of the Members may be taken by written ballot with or without a meeting if the Association delivers a written ballot to every owner eligible to vote on the matter. To be valid, the ballot must contain:

- a) the printed name of the lot owner;
- b) the signature of the lot owner;
- c) the lot(s) owned or being purchased by the lot owner; and
- d) the date the ballot is being signed.

Approval by written ballot is only valid if:

- a) the number of votes cast in person and/or by ballot equals or exceeds the quorum required to be present at a meeting authoring such action; and
- b) the number of approvals equals or exceeds the number of votes required to approve the matter at a meeting.

The written ballot must set forth each proposed action and provide an opportunity for the owner to vote for or against each proposed action. A solicitation, or request, for votes by written ballot must indicate:

- a) the number of responses needed to meet the quorum requirements;
- b) the percentage of approvals necessary to approve each matter, except for the election of directors; and
- c) specify the time by which a ballot must be received by the Association to be counted.

If a meeting is to be held, then ballots may be mailed to the Association's registered office prior to the meeting date; however, unless otherwise stated on the ballot, all ballots cast by owners NOT attending the meeting must be RECEIVED at the Association's registered office by the end of business at least two

(2) business days prior to the date of the meeting in order to be counted. Unless otherwise stated on the ballot, any ballots received less than two (2) business days prior to the meeting date will not be counted.

If a meeting is NOT to be held, then owners must mail their ballot to the Association's registered office by the due date stated on the ballot.

Only official ballots sent to the owners by the Association will be accepted. Unofficial ballots will not be counted. Each owner must fully fill out the ballot, print their name and address and sign the ballot. The Board of Directors may adopt additional voting procedures for submitting and processing ballots.

If an owner signs or submits more than one ballot, the latest in time, if possible to determine, is considered to be valid. However, if an owner signs or submits more than one ballot, and it is not possible to determine which ballot is to be used, the Board may reject all ballots submitted by that owner.

In addition, voting and meeting participation may be held or performed in any manner set forth in the Act or deemed acceptable by the Courts as a practical way to collect votes and allow Members to participate in Association actions.

## ARTICLE IV

### Nomination and Election of Directors

**Section 1. Nominations.** Nominations for the Board of Directors may be made by any Owner from those persons eligible to serve. Such nominations may be made in writing and presented to the Secretary of the Association prior to the date of the annual meeting. The Board has the authority to set a deadline date for submitting written nominations prior to the annual meeting.

If an insufficient number of written nominations are received prior to the date of the annual meeting to fill all Board positions open for elections at the annual meeting, then oral nominations will be accepted from the floor prior to voting on any open Directorship position.

If a sufficient number of written nominations are received prior to the date of the annual meeting to fill all Board positions open for election at the annual meeting, then the presiding officer of the annual meeting has the sole discretion to either: 1) stand on the submitted written nominations; or 2) accept additional oral nominations from the floor prior to voting on any open Directorship position.

**Section 2. Election.** Voting on each position for the Board of Directors will be by paper ballot containing the signature, printed name and address of the Owner casting the ballot. Written balloting may be waived by proper motion at the annual meeting and voting conducted by a voice vote or show of hands in circumstances where the number of nominees does not exceed the number of Board positions open for election (i.e. 2 nominees for 2 open directorships).

Each Owner, or their proxy, may cast the total number of votes to which he is entitled to cast for as many nominees as are to be elected; however, cumulative voting will not be allowed. Those persons receiving the highest number of votes will be elected.

If there is a tie for a directorship position(s), the nominees involved in the tie may agree to the end result without the need for a new run-off vote. If the nominees cannot resolve the election dispute by agreement, then the presiding officer will have the sole discretion to decide the issue by either: 1) conducting a run-off ballot vote by the members; 2) draw from a hat; or 3) the flip of a coin.

In the event no quorum is present at an annual meeting of the Association, or if a sufficient number of candidates cannot be found to fill all open Board vacancies at the annual meeting, whether by slating, written petition or oral nomination, then the remaining members of the Board of Directors may fill any directorship positions open for election at the annual meeting. Any Director so appointed to fill an open position on the Board of Directors will serve the same term as if elected by the members at the annual meeting.

**Section 3. Conducting Elections by Ballot.** The election of directors may be conducted by ballot so that owners may select their nominees and send in their votes prior to the annual or election meeting. If the number of written nominations received by the Association before the deadline date exceeds the number of open board positions to be filled at the annual or election meeting, then a ballot will be mailed to each owner for voting on new board members. *If the election of directors is conducted by ballot voting, then NO write-in nominations or nominations from the floor of the meeting will be accepted so everyone has a chance to vote on the same list of candidates.*

If the number of written nominations received by the Association before the deadline date matches the number of open board positions to be filled at the annual or election meeting, then there is no reason to incur the expense of a mailed ballot since all submitted nominees will be elected by default. In this situation, the Board may simply waive ballot voting and accept the submitted nominees by voice vote at the annual or election meeting.

If an insufficient number of written nominations are received by the deadline date to fill all Board positions open for election at the annual or election meeting, then ballot voting will not be conducted and oral nominations will be accepted from the floor of the meeting prior to voting on any open Directorship position.

## ARTICLE V

### Board of Directors

#### **Section 1. Number, Qualifications and Term of Office.**

(a). **Number.** The affairs of the Association will be governed and managed by the Board of Directors (collectively called the "Board" or "directors" and individually called "director"). The Board of Directors will be composed of nine (9) persons, with the minimum number of directors being three (3) and the maximum number being nine (9). The exact number of directors may be increased or decreased, as permitted by law, by amending the Bylaws. If the number of directors currently serving changes due to the resignation or removal of directors, or if an insufficient number of members volunteer to fill all possible Board positions, the Board will continue to function with the remaining number of directors until those vacancies are filled so long as there are at least three (3) directors serving as required by IC 23-17-12-3.

(b). **Qualifications.** A director must maintain his primary place of residence in the Liberty Creek community and cannot have his membership rights in the Association suspended for any reason as set forth in the Declaration, Articles or these Bylaws. No lot may be represented on the Board by more than one person or representative at the same time; nor can an owner, along with a spouse, significant other or family member, hold more than one (1) directorship at the same time, even if the owner, spouse, significant other, or family member owns more than one (1) lot in Liberty Creek.

(c). **Term of Office Generally.** The current staggered rotation of Board members will be maintained, with three (3) director positions open for election at each annual meeting. Directors will be elected to serve a three (3) year term of office. If the number of directors is changed, then a staggered term rotation will be maintained, with approximately one-third (1/3) of the director positions be open for election each year. Each director will serve his full term and will continue to serve until his successor is properly elected and/or qualified.

483 **Section 2. Vacancies and Removal.**

484  
485 (a). **Vacancies.** Unless a director is removed from the Board by a vote of the owners,  
486 any vacancy or vacancies occurring in the Board will be filled by a vote of a majority of the  
487 remaining members of the Board. A director appointed by the Board or elected by the members to  
488 fill a vacancy on the Board will serve the remaining portion of the Board term of the director he is  
489 replacing.

490  
491 (b). **Removal.** A director or directors may be removed with or without cause by vote of  
492 a majority of the voting Members at a special meeting of the Members duly called and  
493 constituted. If a director is removed by a vote of the Members, then a successor will be elected at  
494 the same meeting from eligible Members nominated at the meeting. The person elected to fill the  
495 spot of the removed director will serve the remaining portion of the Board term of the director he  
496 is replacing.

497 Pursuant to Indiana Code 23-17-12-10, as may be amended or re-codified from time to  
498 time, the Board of Directors also may remove a director from the Board by a two-thirds (2/3) vote  
499 of the Board for the following specific acts: a) failing to attend three (3) or more consecutive  
500 meetings of the Board of Directors; b) becoming ineligible to serve on the Board according to any  
501 terms set forth in the Declaration, Articles or these Bylaws; c) acts of fraud, theft, deception, or  
502 criminal behavior while performing his duties as a director; d) breach or disclosure of confidential  
503 Board or owner information to person(s) not on the Board; or e) performing any action in the  
504 name of or on behalf of the Association that is not within the director's duties as set forth under  
505 the Bylaws, was not previously authorized by the Board, or was not subsequently ratified by the  
506 Board.

507 If a director is removed by a vote of the Board, the vacancy will be filled by a majority  
508 vote of the remaining directors and the appointee will serve the remaining portion of the Board  
509 term of the director he is replacing.

510  
511  
512 **Section 3. Duties of the Board of Directors.** The Board of Directors is the governing body of  
513 the Association. The Board is responsible for overseeing the functions and duties of the Association, which  
514 includes such things as the administration of the Real Estate; the enforcement of the Declaration and Rules  
515 and Regulations, if any; providing lawn care, pond care or other forms of Common Area maintenance and  
516 upkeep within the community; and collecting assessments and paying the common expenses of the  
517 Association.

518 The Board is to carry out these duties in good faith, with the care an ordinarily prudent person in a  
519 like position would exercise under similar conditions, and in a manner the Board believes to be in the best  
520 interest of the Association. The availability of funds, the unforeseen or unexpected nature of expenses  
521 caused by natural, administrative, or regulatory reasons, or any other factor or factors which may hinder or  
522 prevent the Board from taking action to fulfill any of these duties will be considered in determining the  
523 reasonableness of the Board's actions or failure to provide certain services or maintenance as required.

524 The Board may hire a managing agent. The managing agent, if one is hired, will help the Board in  
525 carrying out its duties, which may include such things as:

- 526  
527 (a) maintenance, repair, and upkeep of the Common Areas, if any;  
528 (b) assessment and collection from the Owners of their respective share of the Common  
529 Expenses;  
530 (d) preparation of an annual budget for the operation of the Association and anticipated  
531 Common Expenses, a copy of which will be mailed or delivered to each Owner;  
532 (e) preparing and delivering annually to the Owners a full accounting of all receipts and  
533 expenses incurred in the prior fiscal year;

- (f) keeping a current, accurate and detailed record of receipts and expenditures for the Common Expenses and the business and affairs of the Association (i.e. an income / expense report), itemizing the Common Expenses when possible;
- (g) obtaining and maintaining for the benefit of the Association, the Owners, any Managing Agent and the Board the insurance coverage required under this Declaration and such other insurance coverage as the Board, in its sole discretion, decides is necessary or advisable;
- (h) paying any taxes and other necessary costs that are part of the Common Expenses;
- (i) enforcing the covenants, restrictions, bylaws and rules and regulations set forth in the Declaration, Articles, Bylaws or adopted rules and regulations;
- (j) all duties and obligations imposed upon the Association or the Board in the Declaration, the Articles, the Bylaws or the Act.

**Section 4. Powers of the Board of Directors.** The Board of Directors will have the powers that are reasonable and necessary to perform its duties. Some of these powers include the power to:

- (a) hire a managing agent to assist the Board in performing its duties;
- (b) purchase, lease or obtain for the Association any equipment, materials, labor and services that will help the Board perform its functions and duties;
- (c) employ legal counsel, architects, contractors, accountants and others to help advise the Board on the business and affairs of the Association;
- (d) hire, oversee, and discharge personnel that the Board decides is necessary to help perform the maintenance, upkeep, repair and replacement of those duties that are part of the Common Expenses;
- (e) assess the owners for the costs of performing all of the functions, duties and obligations of the Association as Common Expenses and to pay all such costs from those assessments;
- (f) open and maintain a bank account or accounts in the name of the Association;
- (g) create, adopt, revise, amend or alter from time to time such additional rules and regulations with respect to use, occupancy, operation, enjoyment, and architectural additions or modifications of the Property, including the individual lots and streets (whether public or private), as the Board in its discretion deems necessary or advisable, with these rules and regulations being in addition to or supplementing the provisions set forth in the Declaration; provided, however, that copies of any such additional rules and regulations so adopted by the Board must be either promptly delivered to all Owners at the Owner's last known address or recorded in the Office of the Marion County Recorder;
- (h) take any and all appropriate action, including legal action, if necessary, to enforce or gain compliance by all Owners of the provisions, restrictions or requirements within Declaration, Articles, Bylaws, or rules and regulations of the Association;

**Section 5. Annual Meeting.** The Board of Directors must meet annually, without notice, immediately following, and at the same place as, the annual or election meeting of the membership; or at the next regularly scheduled Board meeting, for the purpose of electing officers.

**Section 6. Regular Meetings.** Regular meetings of the Board of Directors will be held at such regular intervals, without notice, at such place and hour as may be determined from time to time by resolution of the Board of Directors. If a regular meeting of the Board is to be held on a date other than a regularly scheduled meeting date previously set by the board, then notice of the meeting must be provided to each director at least forty-eight (48) hours prior to the meeting.

**Section 7. Special Meetings.** Special meetings of the Board of Directors may be called by the President or by a majority of the members of the Board of Directors, at any place within or without the State of Indiana, upon twenty-four (24) hour notice, specifying the time, place and general purposes of the meeting, given to each Director personally, by telephone or email at least three (3) days before the meeting.

**Section 8. Attendance at Board Meeting.** Any board member may participate in a board meeting telephonically, such as a conference call, or electronically, such as internet video transmission, or other internet or electronic communication by which all directors participating may hear each other during the meeting.

**Section 9. Notice and Waiver of Notice.** Notices of Board meetings must be given to each Director as set forth in these Bylaws. A Director waives formal meeting notice requirements by attending the meeting or by voting in writing or email on any issue addressed at a meeting of the Board.

**Section 10. Quorum.** A majority of the entire Board of Directors then qualified and acting will constitute a quorum and be sufficient for transaction of any business, except for filling vacancies in the Board of Directors which requires action by a majority of the remaining Directors. Any act of the majority of the Directors present at a meeting at which a quorum is present will be considered an act of the entire Board unless otherwise provided for by law or by these Bylaws. A majority of the Directors present may adjourn any meeting from time to time. Notice of an adjourned meeting need not be given other than by announcement at the time of adjournment.

**Section 11. Action Taken Without a Meeting.** Any action required or permitted to be taken at a meeting of the Board of Directors or any committee may be taken without a meeting if the action is approved by a majority of the entire Board in writing or via email. If an action is approved via writing or email, evidence of the written or email approval must be made a part of the corporate Board minutes or records. However, failure to keep documentation of the approval does not automatically invalidate the decision.

**Section 12. Compensation.** No Director may receive any compensation for his services as such except to such extent as may be expressly authorized by a majority vote of the Owners. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties. The Managing Agent, if any is employed, is entitled to reasonable compensation for its services, the cost of which shall be a Common Expense.

## ARTICLE VI

### Officers

**Section 1. In General.** The term "Officer" is the name given to the particular position a director may be serving on the Board. Each officer position carries different duties on the Board. The officers of the Corporation must be members of the Board of Directors and may consist of a President, a Vice President, a Secretary, a Treasurer, etc. The same director can hold more than one officer position, except for the offices of President and Secretary which cannot be performed by the same person.

**Section 2. Election and Terms.** Officers are not elected by the members. Only directors are elected by the members. At the first Board meeting held after the election of directors at the annual meeting, the Board of Directors will assign each officer position to a member of the Board of Directors. Each officer will hold that officer position until: a) the next annual meeting of the Board; b) the expiration of the director's term on the Board of Directors; or c) the director's removal or resignation from the Board, whichever occurs first.

**Section 3. Vacancies and Removal.** Whenever a vacancy occurs in an office due to the death or resignation of the officeholder, or due to new office positions being created by the Board, the vacant office position will be filled by the Board of Directors, and the officer appointed to the office will hold that office until the next annual meeting of the Board.

A director may be removed from an officer position at any time, with or without cause, by a vote of a majority of the whole Board. A director removed from a particular office shall continue to serve on the Board of Directors, and may be re-appointed to a different office or may serve on the Board without an officer designation.

**Section 4. President.** The President is the chief executive officer of the Corporation. The President presides at all meetings of Members and of the Board of Directors; has general and active supervision, control, and management of the affairs and business of the Corporation, subject to the orders and resolutions of the entire Board; handles the general supervision and direction of all officers, agents and employees of the Corporation; makes sure that all orders and resolutions of the Board are carried into effect; and in general exercises all powers and perform all duties normally part of the President's office and any other powers and duties assigned to him by the Board.

The President has full authority to execute proxies on behalf of the Corporation, and to execute, with the Secretary, powers of attorney appointing other corporations, partnerships or individuals as the agent of the Corporation, all subject to the provisions of the laws of the State of Indiana, the Declaration, the Articles of Incorporation, this Revised and Restated Code of Bylaws, and the approval of the entire Board.

**Section 5. Vice-President.** The Vice-President acts in the place of the President if the President is absent, unable to act, or refuses to act, and will also have any other duties as may be assigned to him by the Board of Directors or delegated to him by the President.

**Section 6. Secretary.** The Secretary will attend both Board meetings and Membership meetings and will keep minutes during the meetings and record all votes taken at these meetings. The Secretary is also responsible for making sure all meeting notices are sent to the Board and the Members as required by these Bylaws and/or the law. The Secretary also keeps or oversees the records of the Corporation as well as the Membership list of the Association. The Secretary also performs any other duties that may be assigned to him by the Board or the President. The Board has the authority to appoint someone to perform the duties of the Secretary or serve as the Secretary's assistant.

**Section 7. Treasurer.** The Treasurer keeps correct and complete financial records of the Association. The Treasurer is also in charge of the Association's funds and securities, and oversees the timely deposit of all money and other valuable effects belonging to the Association in a financial institution selected by the entire Board. The Treasurer also pays the Association's bills as approved by the Board or directed by the President; and in general exercises all the powers and duties customarily performed by the Treasurer's position, and any other powers and duties assigned to him by the Board or the President. The Board has the authority to appoint someone to perform the duties of the Treasurer or serve as the Treasurer's assistant.

**Section 8. Special Appointments.** The Board of Directors has the authority to appoint any other officers or assistant officers that the Board believes are necessary or advisable. These officers or assistant officers will hold their positions at the discretion of the Board, and will have the power and perform the duties assigned to them by the Board. However, these special appointments or assistants, even if they perform the duties of a specific officer, will not have any voting power on the Board.

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## ARTICLE VII

### Liability of Directors and Officers

**Section 1. In General.** The Directors and Officers of the Association will not be liable to the Owners or any other Persons for any error or mistake of judgment exercised in carrying out their duties and responsibilities as Directors, except for their own individual willful misconduct, bad faith or gross negligence. The Association will indemnify and hold harmless and defend each of the Directors against any and all liability to any person, firm or corporation arising out of contracts made by the Board on behalf of the Association, unless any such contract was made in bad faith. It is intended that the Directors will have no personal liability with respect to any contract made by them on behalf of the Association.

**Section 2. Grounds for Indemnification.** If a director is made a party to a proceeding based upon his actions as a director, the Association may indemnify the director against liability incurred in the proceeding if:

- (1) the individual's conduct was in good faith; and
- (2) the individual reasonably believed:
  - (A) in the case of conduct in the individual's official capacity with the corporation, that the individual's conduct was in the corporation's best interests; and
  - (B) in all other cases, that the individual's conduct was at least not opposed to the corporation's best interests; and
- (3) in the case of any criminal proceeding, the individual:
  - (A) had reasonable cause to believe the individual's conduct was lawful; or
  - (B) had no reasonable cause to believe the individual's conduct was unlawful.

The termination of a proceeding by judgment, order, settlement, or conviction is not determinative that a director did not meet the required standard of conduct.

**Section 3. Successful Defense.** Unless limited by the articles of incorporation, the Association will indemnify a director who was wholly successful, on the merits or otherwise, in the defense of a proceeding to which the director was a party, because the director is or was a director of the Association, against reasonable expenses actually incurred by the director in connection with the proceeding.

**Section 4. Advanced Expense Payments.** The Association may pay for or reimburse the reasonable expenses incurred by a director who is a party to a proceeding in advance of final disposition of the proceeding if the following occur:

- (1) The director furnishes the Association a written affirmation of the director's good faith belief that the director has met the standard of conduct described in Section 2 of this Article.
- (2) The director furnishes the Association a written undertaking, executed personally or on the director's behalf, to repay an advance if it is ultimately determined that the director did not meet the standard of conduct.
- (3) A determination is made that the facts then known to those making the determination would not preclude indemnification under this chapter.

The written undertaking described in #2 above:

- (1) must be an unlimited general obligation of the director;
- (2) is not required to be secured; and
- (3) may be accepted without reference to financial ability to make repayment.

Determinations and authorizations of payments under this section will be made in the manner specified in Section 6 of this Article.

**Section 5. Court Ordered Indemnification.** Unless the Association's articles of incorporation provide otherwise, a director of the Association who is a party to a proceeding may apply for indemnification to the court conducting the proceeding or to another court of competent jurisdiction. On receipt of an application, the court may, after giving any notice the court considers necessary, order indemnification in the amount the court considers proper if the court determines one (1) of the following:

- (1) The director is entitled to mandatory indemnification under Section 3 of this Article, in which case the court shall also order the corporation to pay the director's reasonable expenses incurred to obtain court ordered indemnification.
- (2) The director is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not the director met the standard of conduct set forth in Section 2 of this Article.

**Section 6. Authorization of Indemnification.** The Association may not indemnify a director under Section 2 of this Article unless authorized in the specific case after a determination has been made that indemnification of the director is permissible in the circumstances because the director has met the standard of conduct set forth in Section 2 of this Article.

The determination must be made by one (1) of the following procedures:

- (1) By the board of directors by majority vote of a quorum consisting of directors not at the time parties to the proceeding.
- (2) If a quorum cannot be obtained under subdivision (1), by majority vote of a committee designated by the board of directors consisting solely of at least two (2) directors not at the time parties to the proceeding. Directors who are parties may participate in the designation.
- (3) By special legal counsel:
  - (A) selected by the board of directors or a committee of the board of directors in the manner prescribed in subdivision (1) or (2); or
  - (B) if a quorum of the board of directors cannot be obtained under subdivision (1) and a committee cannot be designated under subdivision (2), selected by majority vote of the full board of directors. Directors who are parties may participate in the selection.
- (4) By the members. However, memberships voted under the control of directors who are at the time parties to the proceeding may not be voted on the determination.

Authorization of indemnification and evaluation as to reasonableness of expenses will be made in the same manner as the determination that indemnification is permissible. However, if the determination is made by special legal counsel, authorization of indemnification and evaluation as to the reasonableness of expenses will be made by those entitled in #3 above to select counsel.

**Section 7. Indemnification of Officers, Agents, and Others.** Unless the Association's articles of incorporation provide otherwise:

- (1) an officer of the Association, whether or not a director, is entitled to:
  - (A) mandatory indemnification under Section 3 of this Article; and
  - (B) apply for court ordered indemnification under Section 5 of this Article in each case; to the same extent as a director;
- (2) the Association may indemnify and advance expenses under this chapter to an officer, employee, or agent of the Association, whether or not a director, to the same extent as to a director; and
- (3) the Association may indemnify and advance expenses to an officer, employee, or agent, whether or not a director, to the extent and consistent with public policy that may be provided by articles of incorporation, bylaws, general or specific action of the Association's board of directors, or contract.

**Section 8. Other Rights to Indemnification.** The indemnification and advance for expenses provided for or authorized by this Article does not exclude other rights to indemnification and advance for expenses that a person may have under the following:

- (1) The Association's articles of incorporation or bylaws.
- (2) A resolution of the board of directors or of the members.
- (3) Any other authorization, whenever adopted after notice, by a majority vote of all the voting members of the Association.

If the articles of incorporation, bylaws, resolutions of the board of directors or of the members, or other duly adopted authorization of indemnification or advance for expenses limit indemnification or advance for expenses, indemnification and advance for expenses are valid only to the extent consistent with the articles of incorporation, bylaws, or resolution of the board of directors or of the members, or other duly adopted authorization of indemnification or advance for expenses.

This Article does not limit the Association's power to pay or reimburse expenses incurred by a director, an officer, an employee, or an agent in connection with the person's appearance as a witness in a proceeding at a time when the person has not been made a named defendant respondent to the proceeding.

**Section 9. Bond.** The Board of Directors may provide surety bonds (or an equivalent form of coverage) and may require the managing agent (if any), the treasurer of the Association, and such other officers as the Board deems necessary, to provide surety bonds (or an equivalent form of coverage), 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 (or equivalent form of coverage) must specifically include protection for any insurance proceeds received for any reason by the Board. The expense of any such bonds (or equivalent form of coverage) will be a Common Expense.

## ARTICLE VIII

### Committees

The Board of Directors, by resolution adopted by a majority of the Board of Directors, may create or appoint one (1) or more committees to assist the Board in carrying out the purposes of the Association. Committee members do not need to be members of the Board of Directors.

Each committee, to the extent provided in such resolution or as authorized by the Act, Articles, Declaration, these Bylaws, or the Board, will have the authority and duties assigned to it by the Board, except that no committee may:

- a. Adopt, amend or repeal the Articles of Incorporation;
- b. Approve or recommend a plan of merger or consolidation of the corporation not requiring Member approval;
- c. Approve or recommend to the Members the sale, pledge, lease, transfer or exchange of all or substantially all of the assets of the Corporation;
- d. Approve or recommend to the Members the dissolution of the Corporation or a revocation thereof;
- e. Adopt, amend, or repeal the Bylaws of the Corporation;
- f. Fill vacancies on the Board of Directors or committees;
- g. Elect, appoint or remove Directors or members of committees;
- h. Fix the compensation of any member of such committee; or
- i. Alter or repeal any resolution of the Board of Directors that by the resolution's own terms cannot be amended or repealed.

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837 Unless the Board directs otherwise, the committee's members may determine when the committee  
838 meets and how it performs its duties. The Board of Directors has the power at any time to: a) change the  
839 number of committee members; b) change the actual members of a committee; and c) end or discharge a  
840 committee. The creation of a committee does not relieve the Board of Directors, or any member thereof,  
841 of any responsibility imposed upon it or him by the Indiana Nonprofit Corporation Act of 1971, as amended.  
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## 843 844 ARTICLE IX

### 845 846 Records of the Association

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848 **Section 1. In General.** Current copies of the Declaration, the Articles, the Bylaws, rules and  
849 regulations, other corporate documents concerning the Real Estate or the Association and its operation  
850 required to be kept and made available for inspection will be available for inspection by any member or  
851 other properly designated party at the principal office of the Association or other designated location  
852 selected by the Board during reasonable business hours or under other reasonable circumstances, where  
853 copies of the same may be purchased at reasonable cost.

854 The Association will keep detailed books of account showing all expenditures and receipt of  
855 administration which will specify the Common Expenses incurred by or on behalf of the Association and  
856 the members. The accounts, books, records, financial statements, and other papers of the Association will  
857 be open for inspection by any member upon written request submitted to the Board at least five (5) days in  
858 advance of the inspection date, and said inspection is to be made during reasonable business hours or under  
859 other reasonable circumstances. Any holder, insurer, or guarantor of a first mortgage on a Lot will be  
860 entitled upon written request to receive a financial statement for the immediately preceding fiscal year. The  
861 Association is entitled to reimbursement from the party requesting to inspect records any reasonable  
862 administrative or reproduction expenses incurred by the Association as a result of the records request.

863 The Association reserves the right to require any member to request inspection of the accounts,  
864 books, records, financial statements, and other papers of the Association according to the requirements set  
865 forth under the Indiana Nonprofit Corporation Act of 1971, specifically Indiana Code 23-17-27 et seq., IC  
866 32-25.5-3-3(g) through (m), and any amendments or changes to these laws. The Association reserves the  
867 right to deny an owner access to any records that are not required to be opened for inspection under Indiana  
868 law. The Association also reserves the right to charge owners requesting inspection of Association records  
869 reasonable copy and search charges and other charges as allowed or not prohibited by law.  
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871 **Section 2. Record Retention.** Except for ballots voting on a covenant amendment, the  
872 Association must keep ballots for a period of ninety (90) days following the meeting date where an election  
873 or vote was held. After ninety (90) days has passed, any vote taken at the meeting will be presumed valid  
874 and accepted by the membership and the ballots may be destroyed by the Board or their designated agent.  
875 Ballots voting on an amendment to the covenants must be permanently retained in the corporate records  
876 unless they are attached to the recorded document.

877 In addition, other records of the Association not essential for tax purposes, such as meeting minutes,  
878 must be kept for a period of two (2) years before being destroyed. Financial records essential for a state or  
879 federal tax audit, if one is ever conducted, must be kept for seven (7) years before being destroyed.  
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889 **ARTICLE X**  
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891 **Execution of Instruments**  
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893 **Section 1. Checks, Draft, etc.** All checks, drafts, or other orders for the payment of money,  
894 obligations, notes or other evidences of indebtedness of the Association must be signed or endorsed by two  
895 (2) parties consisting of either: a) two (2) officers; or b) one (1) officer and the managing agent.

896 Signatories on each account held by the Association must be designated and approved by a majority  
897 vote of the Board, and the signatories may be removed and/or replaced at any time by a majority vote of  
898 the Board.  
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900 **Section 2. Contracts.** All contracts, agreements, deeds, conveyances, mortgages and similar  
901 instruments authorized by the Board of Directors must be signed, unless otherwise directed or permitted by  
902 the Board of Directors, by the President and attested by the Secretary or another officer.

903 Except as provided in these Bylaws, no officer, agent, or employee has the power to bind the  
904 Association or to render it liable for any purpose or amount unless the act is previously authorized or later  
905 ratified by the Board of Directors.  
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908 **ARTICLE XI**  
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910 **Assessments and Fiscal Year**  
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912 **Section 1. Assessments.** Each Owner is obligated to pay to the Association annual and special  
913 assessments as more specifically described in the Declaration. The assessments are secured by a continuing  
914 lien upon the property against which the assessment is made. Any assessments which are not paid within  
915 thirty (30) days of the due date are considered delinquent.

916 If the assessment is not paid within thirty (30) days after the assessment falls due, the assessment  
917 shall bear interest from the date of delinquency at a rate of ten percent (10%) per annum (simple interest)  
918 or the current statutory maximum annual interest rate, whichever is less. In lieu of interest, and to avoid  
919 the daily changing amount owed due to interest, the Association may impose a reasonable annual late fee  
920 on all delinquencies. The Board will determine the amount of the late fee, the time period before the late  
921 fee is imposed, and to make any other provisions for late fees and/or interest charges on late payments as  
922 the Board, in its sole discretion, deems appropriate. The Board may also adopt specific collection  
923 procedures to be used in collecting assessments and pursuing delinquent accounts.

924 If the Association incurs administrative fees or expenses as a result of collecting delinquent  
925 amounts, including fees charged to the Association by the Association's management company as part of a  
926 contractual agreement for the handling of collection matters for the Association, the Owner must reimburse  
927 the Association these fees.

928 If the Association employs legal counsel to pursue the collection of unpaid amounts owed to the  
929 Association, the Owner must reimburse to the Association any collection costs or expenses for the sending  
930 of collection letters or other correspondence or communication prior to the filing of legal action, or for the  
931 Association's attorney to take any other action in an attempt to collect the unpaid amounts.

932 The Association may bring an action at law against the Owner personally obligated to pay the  
933 assessments or charges, or it may foreclose the lien against the property, or both, and there will be added to  
934 the amount of the Owner's account balance the costs of preparing the collection notices and letters,  
935 preparing and filing the complaint in such action, interest or late fees on any assessment as above provided,  
936 administrative or management company charges for the handling of the collection account, and reasonable  
937 attorneys' fees, together with the court costs of the action.

In addition, an Owner who becomes more than thirty (30) days delinquent on any assessment or other payment due to the Association will not be eligible to: a) vote on any Association matter, either in person or by proxy; b) act as a proxy for another Owner; c) be elected or serve on the Association's Board of Directors; or d) use any of the Common Area facilities, if any.

**Section 2. Fiscal Year.** The fiscal year of the Association begins at the beginning of the first day of January in a calendar year and ends at the close of the last day of December of the same calendar year.

## ARTICLE XII

### **Rules and Regulations; Enforcement**

**Section 1. Rules and Regulations.** The Board has the authority to create, adopt, revise, amend or alter from time to time such additional rules and regulations with respect to use, occupancy, operation, enjoyment, and architectural additions or modifications of the Property, including the individual lots, streets (whether public or private), and any other portion of the Property, including the personal conduct of the members and guests thereon, as in the sole discretion of the Board are deemed necessary or advisable. Copies of any rules and regulations adopted by the Board must be delivered to all owners at their last known address or recorded in the Office of the Marion County Recorder.

All rules, regulations, policies, procedures and guidelines are binding and enforceable upon each and every lot and member, including all occupants, guests and invitees of any lot or member in the Development the same as if it were expressly set forth in the Declaration itself. Any rules, regulations, policies, procedures and guidelines adopted by the Board may be specifically overruled, cancelled, or modified by the Board or at a duly called and constituted regular or special meeting of the members by a majority vote of all eligible members of the Association.

**Section 2. Enforcement In General.** Any party subject to the Declaration or these Bylaws, including the Association or any individual owner, may proceed at law or in equity to prevent the occurrence, recurrence or continuation of any violation of the Declaration, these Bylaws, or any properly adopted rules, regulations, policies, procedures or guideline of the Association. However, the Association may not be held liable for damages of any kind, including legal fees and costs, to any owner or person for failing to enforce or carry out any of the provisions of the Declaration or these Bylaws.

No delay or failure on the part of the Association or any owner to seek any available remedy regarding a violation of any provision of the Declaration or adopted rule of the Association will be a waiver by the Association or any owner (or an estoppel of that party to assert) any right available to him upon the occurrence, recurrence or continuation of a violation of the Declaration or rule adopted by the Association. Likewise, no delay or failure of the Association or any owner to enforce any particular provision of the Declaration or rule adopted by the Association will be a waiver or estoppel of the Association or owner to enforce any other provision of the Declaration or rule adopted by the Association.

**Section 3. Costs and Attorney Fees.** The provisions of the Declaration, Articles, Bylaws, and rules, regulations and architectural guidelines for the Association, including any amendments or modifications made to them, are binding and enforceable upon each and every Lot and Lot Owner in the Association. For any violation of the Declaration, Articles, Bylaws, or rules, regulations or architectural guidelines adopted by the Board, each owner in violation may be subject to an action at law or in equity by the Association to enjoin the violation, or pursue any other relief or remedy as may be set forth in the Declaration, Articles, Bylaws or rules and regulations.

If the Association takes any action to enforce any provision or restriction in the Declaration, Articles, Bylaws, or properly adopted rules, regulations and architectural guidelines of the Association, including such acts as the preparing and sending of violation letters, towing of vehicles, self-help, or filing

989 a legal action in the courts, then the Association will be entitled to reimbursement from the party or parties  
990 found to be in violation of a covenant, rule or guideline of all its costs and expenses, including reasonable  
991 attorney fees, administrative charges by a management agent, and court costs, for the enforcement action.

992 The remedies in this provision are in addition to, or supplement, any remedies of the Association  
993 identified in the Declaration, Articles, Bylaws or Rules and Regulations, and may be used or applied to any  
994 enforcement activity or action taken by the Association to stop a violation of the Declaration, Articles,  
995 Bylaws or any properly adopted rule, regulation or guideline of the Association.

996 These remedies are adopted to maintain the intent and spirit of the Declaration, Articles or Bylaws  
997 that the Association and its members should not be penalized or suffer a financial loss to the Association's  
998 operating budget for the cost of any enforcement effort necessary to gain or achieve an Owner's compliance  
999 with the terms and restrictions set forth in the Declaration, Articles, Bylaws or any properly adopted rule,  
1000 regulation or guideline of the Association.

## 1001 1002 1003 1004 **ARTICLE XIII**

### 1005 **Amendments**

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1008 **Section 1. Amendments.** The Board of Directors of the Association may alter, amend, repeal the  
1009 Revised and Restated Code of Bylaws or adopt a new Code of Bylaws for the Association, without the  
1010 approval of the Members, by an affirmative vote of the majority of the members of the Board of Directors  
1011 of the Association.

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1013 **Section 2. Recording.** While the Revised and Restated Code of Bylaws does not have to be  
1014 recorded under Indiana law, if the Board decides at any point in time to record the Revised and Restated  
1015 Code of Bylaws, the Bylaws, including all future amendments or changes thereto, must be executed by the  
1016 President and Secretary of the Board and recorded in the Office of the Marion County Recorder before  
1017 becoming effective.

1018  
1019 **Section 3. Document Conflicts.** In the case of any conflict between the Declaration and the  
1020 Articles, the Declaration will control. In the case of any conflict between the Declaration and these Bylaws,  
1021 the Declaration will control. In the case of any conflict between the Articles and these Bylaws, the Articles  
1022 will control.

## 1023 1024 1025 **ARTICLE XIV**

### 1026 **Applicable Indiana Laws**

1027  
1028  
1029 The provisions of the Indiana Nonprofit Corporation Act of 1971, as amended, along with Indiana  
1030 Code ("IC") 32-25.5-3-3(g) through (m), IC 32-25.5-3-10, IC 32-25.5-5, and any other laws applicable to  
1031 the Association or any matter not herein specifically covered by these Bylaws, are hereby incorporated by  
1032 reference in and made a part of these Bylaws.

1033  
1034 **[End of Bylaws]**  
1035

We certify that this Revised and Restated Code of Bylaws of The Liberty Creek Association, Inc. was approved 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.

THE LIBERTY CREEK ASSOCIATION, INC.

  
\_\_\_\_\_  
President

Date 8-8-2016

MARY SELIG  
\_\_\_\_\_  
Printed Name of Director

ATTEST:

  
\_\_\_\_\_  
Secretary

Date 8/8/2016

Laurinda Swank  
\_\_\_\_\_  
Printed Name of Director

STATE OF INDIANA )  
COUNTY OF HAMILTON )

Before me a Notary Public in and for said County and State, personally appeared Mary Selig and Laurinda Swank, the President and Secretary, respectively, of The Liberty Creek Association, Inc., who acknowledged execution of the foregoing Revised and Restated Code of Bylaws for The Liberty Creek Association, Inc. and who, having been duly sworn, stated that the representations contained herein are true.

Witness my hand and Notarial Seal of this 8th day of August, 2016.

Christina G. Short  
Notary of Public – Signature

Marion  
County of Residence

Christina G. Short  
Printed

4.15.17  
Date Commission Expires



*I hereby affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. –Scott A. Tanner*

This document was prepared by and should be returned to:  
Scott A. Tanner, TANNER LAW GROUP, 6125 S. East St. (U.S. 31), Indianapolis, IN 46227