

Cross Reference: Instrument No. 2001-0120126

**AMENDED AND RESTATED CODE OF BY-LAWS OF
BAYBERRY VILLAGE HOMEOWNERS' ASSOCIATION, INC.**

COMES NOW Bayberry Village Homeowners' Association, Inc., by its Board of Directors, and hereby states as follows:

WITNESSETH THAT:

WHEREAS, the residential community in Marion County, Indiana commonly known as Bayberry Village (the "Subdivision") was established upon the recording of certain Plats with the Office of the Recorder of Marion County, Indiana; and

WHEREAS, in conjunction with the Plats, the Subdivision was formed pursuant to a "Declaration of Covenants, Conditions and Restrictions for Bayberry Village," recorded in the Office of the Recorder of Marion County, Indiana as **Instrument No. 2001-0120126** (the "Declaration"); and

WHEREAS, the developer of the Subdivision caused to be incorporated under the laws of the State of Indiana a not-for-profit corporation under the name Bayberry Village Homeowners' Association, Inc. ("Association") for the purpose of managing the affairs, enforcing the restrictions, and maintaining the Common Areas of the Subdivision; and

WHEREAS, the Association is governed by the "Code of By-Laws of Bayberry Village Homeowners' Association, Inc.," which was prepared by the Subdivision's developer when the Association was formed, but which was not recorded with the Office of the Recorder of Marion County, Indiana (the "By-Laws"); and

WHEREAS, pursuant to Article VII of the By-Laws, the By-Laws may be amended, at any time, by vote of the Board of Directors at a duly called meeting of the Board; and

WHEREAS, at a duly called and held meeting, the Board of Directors voted to approve these Amended and Restated By-Laws.

WHEREFORE, the following Amended and Restated By-Laws are effective as of the date of adoption, and shall supersede and replace all prior By-Laws and amendments thereto.

ARTICLE I

NAME

Section 1. Name. The name of the corporation is Bayberry Village Homeowners' Association, Inc. (the "Association").

ARTICLE II

IDENTIFICATION AND APPLICABILITY

Section 1. Identification and Adoption. The provisions of these By-Laws shall apply to the Subdivision and the administration and conduct of the affairs of the Association. These By-Laws shall constitute the full and complete By-Laws of the Association.

Section 2. Individual Application. As more specifically set forth in the Declaration, each of the Owners within the 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 (said Owners also referred to herein, from time to time, as "Members"). All Members, 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 Declaration, together with all further amendments or supplements thereto, the Articles of Incorporation, the Plats, the rules and regulations of the Association, and the provisions hereof. 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 shall be subject to the rules, restrictions, terms, and conditions set forth in the Declaration, the Articles of Incorporation, the Plats, these By-Laws, the applicable provisions of the Indiana Homeowners Association Act at Indiana Code §32-25.5-1 et seq. (the "HOA Act"), and the Indiana Nonprofit Corporations Act of 1991 at Indiana Code §23-17-1 et seq. (the "Nonprofit Act"), all as the same may be amended from time to time. All of the covenants, rights, restrictions, and liabilities contained in the Declaration and Plats 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, as may be amended, shall have the same meaning in these By-Laws, unless otherwise indicated herein.

ARTICLE III

MEETINGS AND VOTING

Section 1. Purpose of Meetings. At least annually, a meeting of the Members shall be held for the purpose of electing the Board, reviewing the year-end financials and annual budget,

and for such other purposes as may be required by the Declaration, these By-Laws, the Articles of Incorporation, the HOA Act, or the Nonprofit Act.

Section 2. Annual Meeting. The annual meeting of the Members shall be held in March of each fiscal year.

Section 3. Special Meetings. A special meeting of the Members may be called by the President, the Board, or upon a written petition signed by at least ten percent (10%) of the Members. The 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 President's or Board's notice or in the petition or resolution.

Section 4. Notice and Place of Annual and Special Meetings. All meetings of the Members shall be held at any suitable place in Marion County, Indiana, or electronically, as may be designated by the Board.

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 emailed, delivered or mailed by the Secretary of the Association or the managing agent acting as agent for the Secretary to each Member entitled to vote thereat not less than ten (10) 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, emailed, or delivered to the Members constitutes a written notice. If an annual or special meeting of Members is adjourned to a different date, time, and place, written notice is not required to be given of the new date, time, and place so long as the new date, time, and place is announced at the meeting before adjournment.

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. However, in lieu of written notices from the Association being mailed or delivered, a Member may elect to receive notices of all Association matters by email. Any Member 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 Member shall have the right at any time, and upon written notice to the Association, to withdraw his or her election to receive notices by email, and shall thereafter be sent or delivered notices by mail or personal delivery.

Section 5. Voting.

(A) Number of Votes. At meetings, each Member shall be entitled to cast one (1) vote for each Lot of which such Member is the Owner. In voting for Directors, each Member (or his, her,

or its representative) shall be entitled to cast one (1) vote for each directorship being filled at that meeting, and the candidate(s) receiving the highest number of votes shall fill the available directorship(s); provided that no Member may accumulate his or her votes. To the extent provided in the Nonprofit Act, and except as otherwise provided in the Declaration or these By-Laws, plurality voting shall be permitted such that at a meeting, if a quorum exists, action on a matter is approved if the votes cast in favor of the action exceed the votes opposing the action. Members must be in Good Standing in order to vote. For the purposes of these By-Laws, "Good Standing" means an Owner who is no more than thirty (30) days delinquent on the payment of any assessments or other charges owed to the Association, and who is in compliance with all rules, covenants, and regulations of the Association.

(B) Multiple Owners. If 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.

(C) Voting by Corporation or Trust. If 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 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.

(D) Proxy. A Member may vote either in person or by his or her duly authorized and designated attorney-in-fact. Where voting is by proxy, the Member shall duly designate his or her attorney-in-fact in writing, delivered to the Secretary of the Association prior to the commencement of the meeting. As set forth in the HOA Act, to be valid, a proxy must contain:

- i. The name and address of the Member who is giving the proxy;
- ii. The name of the person being appointed as proxy;
- iii. The date on which the proxy is given;
- iv. The date of the meeting for which the proxy is given;
- v. The signature of the Member who is giving the proxy; and

- vi. 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 it on the Member's behalf.

Proxies may be general or may be limited in their use to specific matters described in the proxy form. A proxy is only valid for one hundred eighty (180) days from the date it is signed. A proxy may be revoked in writing by the Member prior to it being exercised or by the Member's personal attendance at the meeting where the proxy appointment was to be used. If a Member is not in Good Standing, then he or she cannot vote, either in person or by proxy. In addition, any Member who is not in Good Standing cannot serve as a proxy for another Member.

(E) Quorum. Except where otherwise expressly provided in these By-Laws, the HOA Act, or the Nonprofit Act, the presence of at least ten percent (10%) of the Members in Good Standing or their duly authorized proxies shall constitute a quorum at all meetings. If a Member is not in Good Standing, his or her vote is not considered valid and will not count toward the quorum calculation. The Members at a meeting at which a quorum is initially present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members 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 all Owners in the Association who are in Good Standing, and the term "Majority of the Vote" shall mean a majority of the votes of the Members in Good Standing who are present or represented by proxy at a meeting at which a quorum is represented.

(F) Manner of Voting and Meeting Participation. Voting and meeting participation may be held or performed in any manner set forth in the Declaration or these By-Laws as well as any manner that is not prohibited by the Nonprofit Act or the HOA Act, or which is deemed acceptable by the Courts as a practical way to collect votes and allow Members to participate in Association actions. Member meetings may be conducted by any means through which all participating Members can simultaneously hear each other during the meeting, including, but not limited to, videoconference (example: Zoom, Go-to-Meeting) or teleconference. A Member participating in a meeting by such means is considered to be present in person at the meeting. In the event that the Board elects to hold a membership meeting virtually, the Board shall have discretion to provide for such procedures and to set the terms of use, including, but not limited to, establishing guidelines and procedures governing voting and submission of ballots.

Furthermore, the Board shall have the power to authorize voting by the Members through a secure, internet-based online voting system (electronic voting). The Board can adopt rules and regulations concerning the use of acceptable, verifiable means of technology, including electronic means for Member notice, voting, signatures, consents, and approvals. A verifiable electronic signature (Example: DocuSign) satisfies any requirements for signatures on

documents. If a Member either does not have the capability or desire to conduct business electronically, the Association will make reasonable accommodation for the person to conduct business without the use of electronic means. If electronic voting is used in connection with a regular or special meeting, the votes cast electronically shall count toward the quorum requirement for such meeting.

Section 6. Conduct of Annual Meeting. The Chairperson 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:

(A) **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.

(B) **Treasurer's Report.** The Treasurer shall report to the Members concerning the financial condition of the Association. The Treasurer shall answer relevant questions of the Members concerning the expenses and revenue of the Association, the financial report for the prior fiscal year, and the annual budget.

(C) **Election of Board.** Voting for the Board will occur as set forth in Article IV of these By-Laws.

(D) **Other Business.** Other business may be brought before the meeting only upon a written request submitted to the Secretary of the Association at least five (5) 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.

(E) **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 may be presented.

(F) **Adjournment.** Upon completion of all business before the Association, the Chairperson, upon the motion of any Member, may adjourn the meeting.

Section 7. Conduct of Special Meeting. The President of the Association shall act as Chairperson of any special meetings of the Association. The Chairperson 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 8. Written Ballots. In lieu of voting at any annual or special meeting of the Members, written or electronic ballots may be utilized in the manner prescribed in the Nonprofit Act at Indiana Code §23-17-10-8. Any action or vote which may be taken at a meeting of the Members may be taken by written or electronic ballots pursuant to the Nonprofit Act.

ARTICLE IV

NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination and Election. Nominations for the Board of Directors may be made by a Member from those persons eligible to serve. Such nominations must be in writing and presented to the Secretary of the Association or the community's managing agent at least five (5) days prior to the annual meeting. Nominations for Directors will also be accepted from the floor at the annual meeting prior to voting on Director positions.

Section 2. Voting. Voting for the Board will be by paper and/or electronic ballots. However, written balloting may be waived at the annual meeting and voting may be conducted by a voice vote or show of hands in circumstances where the number of nominees does not exceed the number of Board positions (Example: one (1) nomination for one (1) open position). The ballot shall contain the name of each person nominated to serve as a Director. Each Member may cast the total number of votes to which he or she is entitled for as many nominees as are to be elected; however, no Member shall be entitled to accumulate his or her votes. Those persons receiving the highest number of votes shall be elected. If there is a tie in voting for any Director position, the tie will be resolved via coin-flip.

ARTICLE V

BOARD OF DIRECTORS

Section 1. Number and Qualification. 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 shall be composed of three (3) Members.

Section 2. Additional Qualifications. Directors must be Members in Good Standing and must reside in the Subdivision as their primary place of residence. Where an Owner consists of more than one person or is a partnership, personal representative of an estate, corporation, trust or other legal entity, one of the persons constituting the multiple Owner, or a partner or an officer or trustee or personal representative of an estate shall be eligible to serve on the Board, except that no single Lot may be represented on the Board by more than one person at a time. In addition, and in a display of honesty and integrity to the community, all persons elected to serve as Director must sign the Statement of Conduct adopted by the Board of Directors and attached to these By-Laws and marked as "Addendum #1", to govern the conduct and activities of Board

members; and any person elected to serve on the Board of Directors who refuses to sign or violates the Statement of Conduct shall not be eligible to serve as Director.

Section 3. Term of Office and Vacancy. Members of the Board shall be elected at each annual meeting of the Association. Each Director shall serve a term of one (1) year commencing at the immediate conclusion of the annual meeting. Any vacancy occurring in the Board caused by a death, resignation, or otherwise other than a vacancy created by removal of Directors, shall be filled until the next annual meeting of the Members through a vote of a majority of the remaining Directors. At the first annual meeting of the Members following any such vacancy, the Owners shall elect a Director to serve for the balance of the term of the Director in respect to whom there has been a vacancy. Despite the expiration of a Director's term, the Director continues to serve until a successor is appointed or elected and qualified. A Director may serve any number of consecutive terms.

Section 4. Removal of Director. A Director may be removed by the Members with or without cause if the number of votes cast to remove would be sufficient to elect the Director(s) 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). The meeting notice must state that the purpose of the meeting is for voting upon the removal of the Director(s). In such case, his, her, or their successor(s) shall be elected at the same meeting from eligible Members nominated at the meeting to serve for the remainder of the term(s) of the removed Director(s).

Pursuant to Indiana Code §23-17-12-10, as may be amended or re-codified from time to time, the Board of Directors, by a majority vote, may remove a Director with cause for the following specific acts: a) failing to attend three (3) or more regular meetings of the Board of Directors within a twelve (12) month period; b) becoming ineligible to serve on the Board according to any terms set forth in the Declaration, Articles of Incorporation, or these By-Laws; c) acts of fraud, theft, deception, or criminal behavior while performing his or her duties as a Director; d) breach or disclosure of confidential Board or Member information to person(s) not on the Board; e) refusal to sign or violation of the Statement of Conduct attached as "Addendum #1"; or f) performing any action in the name of or on behalf of the Association that is not within the Director's duties as set forth under the By-Laws, was not previously authorized by the Board, or was not subsequently ratified by the Board. If a Director is removed by a vote of the Board, the vacancy will be filled by a majority vote of the remaining Directors and the appointee will serve until the next annual meeting of the Members, at which time the Members will elect a person to fill the remaining balance of the term of the Director who was removed.

Section 5. Duties. The Board of Directors shall have the following duties and responsibilities:

- (A) To cause to be kept a complete record of all its acts and corporate affairs;
- (B) To supervise all officers, agents, and employees of the Association;
- (C) To prepare an annual financial budget for the fiscal year as set forth in the Declaration;
- (D) To send notice of assessments to each Owner in accordance with the provisions of the Declaration;
- (E) To foreclose the Association's lien for assessments against any Lot for which assessments are not paid or to bring an action at law against the Owner or other person personally obligated to pay the same;
- (F) To procure and maintain the insurance coverages required by the Declaration and such other insurance coverage as the Board of Directors, in its sole discretion, deems necessary or advisable;
- (G) To adopt and enforce rules and regulations governing use of the Lots, Common Areas, easements, and other property, as deemed necessary by the Board;
- (H) Maintenance, preservation, repair, and replacement of the Common Areas and other property as set forth in the Declaration;
- (I) Preparing annually a full accounting of all revenue and expenses incurred during each fiscal year, which shall be made available to any Member upon written request to the extent required by the HOA Act; and
- (J) Keeping a current and accurate record of receipts and expenditures affecting the Common Areas, specifying and itemizing the Common Expenses; to the extent required by the HOA Act, all such financial records and vouchers from the prior two (2) years shall be made available to any Member upon written request.

Section 6. Powers. 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 professional managing agent (herein referred to as "managing agent") to assist the Board in performing its duties, provided that any management agreement shall be

reviewed annually by the Board and shall be terminable with or without cause upon no more than sixty (60) days written notice;

(B) To enter into contracts on behalf of the Association, 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 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;

(D) 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;

(E) 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;

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

(G) To adopt, revise, amend, and alter from time to time rules and regulations with respect to use, occupancy, operation, and enjoyment of the Subdivision, including the Lots and the Common Areas, provided that the Board shall give advance written notice to the Owners of such rules and any revision, amendment, or alteration thereof. All such rules and regulations shall be binding and enforceable upon each and every Lot and Owner, including all occupants, guests, and invitees of any Lot or Owner, in the Subdivision. Enforcement of such rules, regulations, policies, and guidelines shall be subject to the remedies set forth in the Declaration.

Section 7. Compensation. No Director shall receive compensation for any service he or she may render to the Association as a Director except to the extent such compensation is approved by a Majority of the Owners. However, any Director may be reimbursed for his or her actual expenses incurred in the performance of his or her duties.

Section 8. Regular Meetings. The Board shall hold an "organizational meeting" of the Directors immediately after (or within ten (10) days of) the annual membership meeting for the purpose of electing officers as set forth in Article VI herein and discussing any other organizational or administrative issues that need to be addressed. Regular meetings of the Board shall be held at such regular intervals, without notice, at such place and time as may be determined from time to time by resolution of the Board. As and to the extent required by the

HOA Act, meetings of the Board shall be open to attendance by the Members of the Association. The Board may meet in private "executive sessions" to discuss Owner delinquencies, contract negotiations (i.e. bids), information pertaining to an individual Owner's account, pending and current litigation with legal counsel, and communication protected by attorney-client privilege. The Board may adopt rules, regulations, and procedures regarding administration of such meetings, including regulation of matters such as Member participation, time limits for speaking, scheduling, agendas, and other administrative issues consistent with Indiana law, the Declaration, and these By-Laws. A Director may conduct or participate in a regular or special meeting of the Board through use of conference telephone, videoconference, 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 such means is considered to be present in person at the meeting.

Section 9. Special 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 or electronic notice thereof to the Secretary, who shall either personally or by mail or email give notice to the Board members at least three (3) days prior to the date of such special meeting. The notice of the meeting shall contain a statement of the purpose for which the meeting is called.

Section 10. Quorum. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which quorum is present shall be the acts of the Board of Directors except as otherwise provided in or required by the Declaration, Articles of Incorporation, these By-Laws, or statute. If, at any meeting of the Board of Directors, there shall be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 11. Action Taken Without a Meeting. The Board may take any action in the absence of a meeting which it could take at a meeting by obtaining the written approval of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors. Such written consents shall be kept with the minutes of the Association.

ARTICLE VI

OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Offices. The officers of the Association shall be a President, Secretary, and Treasurer, all of whom shall be members of the Board, and such other officers as the Board of Directors may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the "organizational meeting" of the Board of Directors following each annual meeting of the Members of the Association.

Section 3. Term. The officers of the Association shall be elected annually by the Board of Directors, and each shall hold office for one (1) year or until his or her successor is elected and qualified unless he or she shall sooner resign, be removed, or otherwise be disqualified to serve.

Section 4. Special Appointments. The Board of Directors may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board of Directors may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board of Directors. Any officer may resign at any time by giving written notice to the Board of Directors, the President, or Secretary. Such resignation shall take effect on the date of receipt of such notice or at any time specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board of Directors. The officer appointed to fill such vacancy shall serve for the remainder of the term of the officer he or she replaces.

Section 7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one (1) of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

(A) President. The President shall preside at all meetings of the Board of Directors. He or she shall see that orders and resolutions of the Board are carried out. He or she shall have the power to appoint committees from among the Members of the Association from time to time as he or she may in his or her discretion deem appropriate to assist in conducting the affairs of the Association. The President shall have and discharge all the general powers and duties usually vested in the office of the president or chief executive officer of an association or a stock corporation organized under the laws of the State of Indiana.

(B) Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the Members; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the

Association, together with their addresses; and perform such other duties as required by the Board of Directors. The Secretary may assign such duties to a managing agent, if any, as part of the managing agent's duties as set forth more specifically in a contract for management services.

(C) Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; shall keep proper books of account; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at the annual meeting. The Treasurer may assign such duties to a managing agent, if any, as part of the managing agent's duties as set forth more specifically in a contract for management services.

ARTICLE VII

COMMITTEES

The Board of Directors may designate one or more committees to serve the Association. The committees may, to the extent authorized by and under the direction of the Board, have and exercise the authority of the Board in the management of specific issues and functions of the Association. The designation of any such committee and the delegation thereto of authority shall not operate to relieve the Board, or any individual Director, of any responsibility imposed upon it or him or her by the Articles of Incorporation, Declaration, these By-Laws and/or law.

ARTICLE VIII

FISCAL YEAR

Section 1. Fiscal Year. The fiscal year of the Association shall commence January 1 and end the following December 31 each year, unless otherwise established by the Board.

ARTICLE IX

INDEMNIFICATION

Section 1. Indemnification. 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, officer, or committee member of the Association shall be indemnified by the Association to the same and fullest extent that directors of nonprofit corporations may be indemnified under the Nonprofit Act. The standard and duty of conduct for and the standard or requirements for liability of the Directors and Officers of the Association shall be as set forth in the Nonprofit Act.

ARTICLE X
CONTRACTS, LOANS & CHECKS

Section 1. Authorization. The Board of Directors may authorize any officer or officers or agent or agents of the Association to enter into any contract or execute any instrument on its behalf. Such authorization may be general or confined to specific instances. Except as provided in these By Laws, no officer, agent, or employee shall have any power to bind the Association or to render it liable for any purpose or amount unless so authorized by the Board of Directors.

Section 2. Checks. All checks, drafts, or other orders for payment of money by the Association shall be signed by the President, Secretary, Treasurer, or such other person as the Board of Directors may from time to time designate by resolution.

ARTICLE XI
MISCELLANEOUS

Section 1. Amendments. These By-Laws may be amended, altered, or replaced by a new Code of By-Laws by an affirmative vote of a majority of the then-serving members of the Board of Directors of the Association.

Section 2. Enforcement. The Association, or any Owner, may enforce these By-Laws, the Articles of Incorporation, the Declaration, the Plats, or any rules, regulations, guidelines, or policies of the Association by any means available at law or in equity. Available relief in any such action shall include, without limitation, injunctive relief against any violation or attempted violation, and the recovery of any damages, costs, interest, and expenses incurred, as well as attorneys' fees incurred by any party successfully enforcing these By-Laws, the Articles of Incorporation, the Declaration, the Plats, or any rules, regulations, guidelines or policies of the Association against any other party. Failure by the Association or by any Owner to proceed with such enforcement shall in no event be deemed a waiver of the right to proceed with enforcement at a later date, whether in respect to the original violation or a subsequent violation, nor shall the doctrine of laches nor any statute of limitations bar such enforcement.

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IN WITNESS WHEREOF, we, the undersigned, hereby execute these Amended and Restated By-Laws and certify the truth of the facts herein stated, this 18 day of

July, 2026.

Bayberry Village Homeowners' Association, Inc.

Nicholas Voll
Signature of President

Nicholas Voll
Printed Name

Jeremy Horsthemke
Signature of Secretary

Jeremy Horsthemke
Printed Name

STATE OF INDIANA)
)
COUNTY OF Johnson)

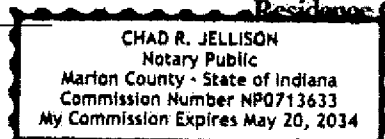
Before me a Notary Public in and for said County and State, personally appeared Nicholas Voll and Jeremy Horsthemke, the President and Secretary, respectively, of Bayberry Village Homeowners' Association, Inc., who acknowledged execution of the foregoing Amended and Restated By-Laws, for and on behalf of said corporation and who, having been duly sworn, stated that the representations contained herein are true.

Witness my hand and Notarial Seal this 18 day of July, 2026.

Chad R. Jellison
Notary Public - Signature

My Commission Expires:

5/20/34 Residence County: Marion



"I 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." Gregory A. Chandler, Esq.

This instrument prepared by, and should be returned to, Gregory A. Chandler, Esq., EADS MURRAY & PUGH, P.C., 9515 E. 59th St., Suite B, Indianapolis, IN 46216.

ADDENDUM #1

To the Amended and Restated Code of By-Laws of Bayberry Village Homeowners' Association, Inc.

Board Member Statement of Conduct

Congratulations on your election or appointment to the Board of Directors for Bayberry Village Homeowners' Association, Inc. The purpose of this letter is to acquaint you with the standard of conduct that is expected of community association Board members in Indiana. The law imposes certain legal obligations on all Board members. Failure to fulfill these obligations could lead to a lawsuit against the Association, the Board, and even you personally. Chief among these obligations is what is called a "fiduciary duty" to the Association and its members. This means that you must perform your duties as a Board member in good faith and with the degree of care that an ordinarily prudent person would use under similar circumstances, being at all times loyal to the Association and its best interests. But in practice it gets a little more complicated than that. While it is impossible to review every possible situation you might face, here are some guidelines to follow. As a Board member, you must:

1. Act in the Association's best interests at all times. Your decisions must be based on what is best for the Association as a whole. Making decisions or taking actions that put the interests of yourself, your family, your friends, or your supporters above those of the Association or its members as a whole is a breach of your fiduciary duty to the Association.

2. Act with care, including seeking advice from experts when appropriate. When making decisions or taking actions, you must exercise the degree of care that an ordinarily prudent person would under the circumstances. Among other things, this means that if, for example, the Board must decide an issue that no one on the Board is an expert on, the Board should consult an expert. This doesn't mean you should feel paralyzed to make a decision, but it does mean that you should exercise care in making certain decisions regarding issues for which the average person would find it helpful or necessary to seek some input or advice from an expert or advisor before making a final decision, such as legal, accounting, construction or particular maintenance (such as fertilization chemicals) issues or matters.

3. Act within the scope of your authority. Your authority is defined in the Association's governing documents and by applicable Indiana and local law. It is important that you become familiar with the provisions of the Declaration, By-Laws and other governing documents of the community; and that you understand the scope of your authority in those documents and not exceed it. If a Board action violates the duly adopted By-Laws, Declaration, or other governing documents, or state or local laws, the Board may have breached its fiduciary duty and the action may have to be invalidated. Examples of this would be failing to comply with procedural requirements for community meetings and elections or failing to comply with the restrictions or requirements in the Declaration. Therefore, it is especially important that Board members always act to make reasonable decisions that are consistent with Indiana and local laws, the Declaration, the By-Laws, and the other governing documents of the community. Likewise, Board members

should not act unilaterally or contrary to Board decisions, such as signing contracts, approving architectural requests, or making other promises or agreements with vendors or other Owners without Board approval.

4. Act in good faith. Board members' motives at all times must be to further the legitimate best interests of the Association. If Board members make decisions based on favoritism, discrimination, or malice - or make arbitrary decisions -they are breaching their fiduciary duty. This does not mean that the Board cannot create a rule that affects some members differently from the way it affects others, such as a clean-up-after-your-pets rule or a parking rule. It just means that the decision to create the rule must be based on Board members' honest judgment of what is best for the Association as a whole. This same guideline applies to enforcement of the covenants as well, meaning a Board member should not seek to enforce the restrictions of the community selectively or in a personal or self-serving fashion.

5. Act professionally. Being a member of the Board requires you to behave and express yourself in a professional and businesslike manner. Remember that you are a representative of the owners, and your behavior is a reflection on everyone you represent. Obviously, inappropriate language and personal attacks against other Board members, owners, managers, guests, vendors or contractors are not consistent with the best interests of the Association. Also, Board members should attend meetings regularly. You were chosen to sit on the Board because of your experience, education and talents, and not attending meetings prevents the Board from using your valuable input to make decisions. Additionally, if a Board member has any perceived, potential or actual conflict of interest regarding any aspect of the business operations of the Association, this information must be disclosed to the Board immediately. An example of this would be a situation where a Board member, or a relative or close friend, is directly involved with any vendor being used by the Association, such as the lawn maintenance company. This conflict of interest disclosure is required under the law, and failure to make a proper disclosure could open the Board member up to personal liability surrounding the conflict.

The great thing about serving on a Board is that each member is asked to bring his or her experience, knowledge and talents to the table and use them collectively for the benefit of the entire community. This does not mean every member needs to agree or have the same opinion of how the Association should handle a particular matter, but it does mean that each member should respect other points of view, seek to understand those differences, and ultimately follow the decision of the entire Board, even if that decision is not in agreement with the individual Director's views.

6. Act to preserve confidentiality. Remember, each Board member may be entrusted with information that is private or personal in nature and should not be passed along to others who are not on the Board. (That includes spouses, family members, and others in the Board member's household.) Board members should always maintain the confidentiality of all legal, contractual, personnel, vendor and management matters involving the Association. Board members should also maintain the confidentiality of the personal lives of other Board members, Association members, residents and management staff. Failing to keep confidential information private creates an enormous amount of potential liability for the Association, the members, and each

individual Board member. This does not mean that the Board should not discuss any Association matters with the residents, because you obviously need to let the members know what the Board is doing on their behalf. However, a safe approach to take on this issue is to not discuss specifics of confidential matters, but merely update the members in general terms. An example would be to tell members that there is a pending lawsuit involving an issue, and that the Association's legal counsel is providing guidance to the Board as it makes decisions during the litigation process, but not to disclose the terms of specific settlement offers or arguments being made by either side in the issue.

7. Act as a Steward for the Community. Board members have been elected to lead the community through the Association. You have been entrusted to manage and make decisions that will impact the entire neighborhood. As a representative of the people, you should hold yourself up as an example to the other residents of the community by complying and following the provisions of the governing documents for the community. Board members should also not defame, slander, harass, threaten, or otherwise attempt to intimidate or ridicule any other Board member, Association member, resident, or management staff member. Any action by a Board member that fails to fall within this good steward guideline is acting outside the scope of the Board member's authority, and as such, may be opening himself or herself up to potential individual liability or removal from the Board.

8. Avoid the following six common mistakes. You will have to use your best judgment in determining what your fiduciary duty requires of you in any specific situation. But there are common mistakes that you should avoid:

- Don't take personal advantage of business opportunities that should benefit the entire community.
- Don't do business with the Association unless you disclose that fact to the other Board members and get the appropriate approval to do so.
- Don't give preferential treatment to friends and supporters, or expect it for yourself from others.
- Don't accept gifts from vendors or others doing business- or seeking to do business - with the Association.
- Don't make decisions on behalf of the Association based solely upon your personal goals or views, but make them based upon the desire of the residents and the benefit to the neighborhood as a whole. Dictators seldom have loyal and happy followers.
- Don't reveal confidential information.

The Board has decided to adopt this statement of conduct to serve as a source of guidance for all Board members and to be a reminder to each member of his or her responsibilities as a Board member and a representative of the owners in Bayberry Village. Each Board member should always keep in mind that he or she has been entrusted to act as a representative of the community by their neighbors. Therefore, every member of the Board is asked to sign this statement of

conduct as your affirmation that you have read, understand and agree to follow these simple rules of conduct and ethical behavior. Your refusal to adopt and follow these simple rules of conduct shall act as a disqualification to serve on the Board of Directors.

You have undertaken an important job in our community, and we appreciate your service!

Thank you.

Printed Name

Date

Signature

