

BY-LAWS  
OF  
BEAUTY CREEK VILLA HOMES  
PROPERTY OWNERS ASSOCIATION, INC.

ARTICLE I  
NAME, MEMBERSHIP, APPLICABILITY AND DEFINITIONS

Section 1.      Name.      The name of the Association shall be Beauty Creek Villa Homes Property Owners Association, Inc., (hereinafter referred to as the "Association").

Section 2.      Principal Office.      The principal office of the Association shall be located initially at the principal business location of Declarant, and thereafter such location as determined by the Board of Directors. The association may have such offices, either within or without the State of Indiana, as the Board of Directors may determine or as the affairs of the Association may require.

Section 3.      Definitions.      The words used in these By-laws shall have the same meaning as set forth in the Declaration of Covenants, Conditions, Restrictions and Easements for Beauty Creek Villa Homes Property Owners Association, Inc. (said Declaration as amended, renewed or extended from time to time, is hereinafter sometimes referred to as the "Declaration" ) unless the context shall prohibit.

ARTICLE II  
ASSOCIATION: MEETINGS, QUORUM, VOTING, PROXIES

Section 1.      Membership.      The Association shall have one (1) class of membership, as more fully set forth in the Declaration, the terms of which pertaining to membership are specifically incorporated herein by reference.

Section 2.      Place of Meetings.      Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board of Directors either in the Project or as convenient thereto as possible and practical.

Section 3.      Annual Meetings.      The first meeting of the Members, whether a regular or special meeting, shall be held within one (1) year from the date of incorporation of the Association. The next annual meeting shall be set by the Board so as to occur no later than ninety (90) days after the close of the Association's fiscal year. Subsequent regular annual meetings of the Members shall be held within thirty (30) days of the same day of the same month of each year thereafter at an hour set by the Board. Subject to the foregoing, the annual meeting of the Members shall be held at a date and time as set by the Board of Directors.

Section 4.      Special Meetings.      The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association if so directed by resolution of a majority of a quorum of the Board of Directors or upon a petition signed by at least ten percent (10%) of the total votes of the Association. The notice of any special meeting shall state the date, time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

Section 5.      Notice of Meetings.      Written or printed notice stating the place, day and hour of any meeting of the Members shall be delivered, either personally or by mail, to each Member entitled to vote at such meeting, not less than ten (10) days nor more than fifty (50) days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting.

In the case of a special meeting or when required by statute or these By-laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Member at his address as it appears on the records of the Association, with postage thereon prepaid.

**Section 6. Waiver of Notice.** Waiver of notice of meeting of the Members shall be deemed the equivalent of proper notice. Any member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member, whether in person or by proxy, shall be deemed a waiver by such member of notice at the time, date and place thereof, unless such Member specifically objects to a lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed a waiver of notice of all business transacted thereat unless objection to the calling or convening of the meeting, of which proper notice was not given, is raised before the business is put to vote.

**Section 7. Adjournment of Meetings.** If any meeting of the Association cannot be held because a quorum is not present, a majority of the Members who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called may be transacted. If a time and place for the adjourned meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed for regular meetings.

The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, provided that at least twenty-five (25%) percent of the total votes of the Association remains present in person or by proxy, and provided further that any action taken shall be approved by at least a majority of the Members required to constitute a quorum.

**Section 8. Voting.** The voting rights of the Members shall be as set forth in the Declaration, and such voting rights provisions are specifically incorporated herein.

**Section 9. Proxy.** At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary before the appointed time of each meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his or her Residential Unit or upon receipt of notice by the Secretary of the Board of the death or judicially declared incompetence of a Member or upon the expiration of eleven (11) months from the date of the proxy.

**Section 10. Majority.** As used in these By-laws, the term "majority" shall mean those votes of Owners, or other group as the context may indicate, totaling more than fifty percent (50%) of the total number.

**Section 11. Quorum.** Except as otherwise provided in these By-laws or in the Declaration, the presence in person or by proxy of one-third (1/3) of the Members shall constitute a quorum at all meetings of the Association. Any provision in the Declaration concerning quorums is specifically incorporated herein.

**Section 12. Conduct of Meetings.** The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring thereat.

Section 13. Action without a Meeting. Any action required by law to be taken at a meeting of the Members or any action which may be taken at a meeting of the Members, may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all the Members entitled to vote with respect to the subject matter thereof, and such consent shall have the same force and effect as a unanimous vote of the Members.

### ARTICLE III BOARD OF DIRECTORS: NUMBER, POWERS, MEETINGS

#### A. Composition and Selection.

Section 1. Governing Body: Composition. The Affairs of the Association shall be governed by a Board of Directors. Except as provided in Section 2 of this Article III, the Directors shall be Members or spouses of such Members; provided, however, no person and his or her spouse may serve on the Board at the same time.

Section 2. Directors During Declarant Control. The Directors shall be selected by the Declarant acting in its sole discretion and shall serve at the pleasure of the Declarant until such time as is specified in the Declaration, unless the Declarant shall earlier surrender this right to select Directors. The Directors selected by the Declarant need not be owners or residents in the project. After the period of Declarant appointment, all Directors must be Members of the Association.

Section 3. Number of Directors. The number of Directors in the Association shall be not less than three (3) nor more than five (5), as the Board of Directors may from time to time determine by resolution. The initial Board of Directors shall consist of three (3) members and are identified in the minutes of the first meeting of the Board.

Section 4. Nomination of Directors Except with respect to Directors selected by the Declarant, nominations for election to the Board of Directors shall be made by a Nominating Committee. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two (2) or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors not less than thirty (30) days prior to each annual meeting of the Members to serve from the close of such annual meeting until the close of the next annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but in no event less than the number of vacancies or terms to be filled. Nominations shall be permitted from the floor. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members to solicit votes.

Section 5. Election and Term of Office. Notwithstanding any other provision contained herein: At the first annual meeting of the membership after the termination of the Declarant's right to select directors and at each annual meeting of the membership thereafter, Directors shall be elected. All Directors shall be elected at-large. All Members of the Association shall vote upon the election of Directors. So long as there are three (3) Directors, the term of one (1) Director shall be fixed at one (1) year, and the term of one (1) Director shall be fixed at two (2) years, and the term of one (1) Director shall be fixed at three (3) years. The members of the Board of Directors shall hold office until respective successors have been elected by the Association.

Section 6. Removal of Directors and Vacancies. Unless the entire Board is removed from office by the vote of the Association Members, an individual Director shall not be removed prior to the expiration of his or her term of office, except by the vote of a majority of Members.

In the event of death or resignation of a Director, his or her successor shall be selected by a majority of the remaining members of the Board and shall serve for the unexpired term of the predecessor.

**Section 7.** Voting Procedure for Directors. The first election of the Board shall be conducted at the first meeting of the Association. At such election, the Members of their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected.

**B. Meetings**

**Section 8.** Organization Meetings. The first meeting of the members of the Board of Directors following each annual meeting of the membership shall be held within ten (10) days thereafter at such time and place shall be fixed by the Board.

**Section 9.** Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors, but at least two (2) meetings shall be held during each fiscal year after Declarant control has expired. Notice of the time and place of the meeting shall be communicated to Directors not less than four (4) days prior to the meeting; provided, however, notice of a meeting need not be given to any Director who has signed a waiver of notice or a written consent to holding of the meeting.

**Section 10.** Special Meetings. Special meetings of the Board of Directors shall be held when called by written notice signed by the President, Vice President or Secretary of the Association, or by any two (2) Directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each Director by one of the following methods: (1) by personal delivery; (b) written notice by first class mail; (c) by telephone communication, either directly to the Director or to a person at the Director's office or home who would reasonably be expected to communicate such notice promptly to the Director; or (d) by electronic e-mail. All such notices shall be given or sent to the Director's address, e-mail or telephone number as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting. Notices given by personal delivery, telephone or e-mail shall be delivered, telephoned or e-mailed at least seventy-two (72) hours before the time set for the meeting.

**Section 11.** Waiver of Notice. The transactions of any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (1) quorum is present, and (2) either before or after the meeting each of the Directors not present signs a written waiver or notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting shall also be deemed given to any Director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

**Section 12.** Quorum of Board of Directors. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the votes of a majority of the Directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of Directors, if any action taken is approved by at least a majority of the required quorum for that meeting. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

**Section 13.** Compensation. No Director shall receive any compensation from the Association for acting as such unless approved by a majority vote of the total vote of the Association at a regular or special meeting of the Association.

**Section 14.** Conduct of Meetings. The President shall preside over all meetings of the Board of Directors, and the Secretary shall keep a minute book of the Board of Directors, recording therein all resolutions adopted by the Board of Directors and a record of all transactions and proceedings occurring at such meetings.

Section 15. Open Meeting. All meetings of the Board of Directors shall be open to all Members, but Members other than Directors may not participate in an discussion or deliberation unless expressly so authorized by a majority of a quorum of the Board.

Section 16. Executive Sessions. The Board may, with approval of a majority of a quorum, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may be involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

Section 17. Action without a Formal Meeting. Any action to be taken at a meeting of the Directors or any action that may be taken at a meeting of the Directors may be taken without a meeting if a consent is in writing, setting forth the action so taken, shall be signed by all of the Directors, and such consent shall have the same force and effect as a unanimous vote.

C. Powers and Duties

Section 18. Powers. The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the Association's affairs and, as provided by law, may do all acts and things as set forth by the Declaration, Articles of Incorporation or these By-laws directed to be done and exercised exclusively by the Members.

The Board of Directors shall delegate to one of its members the authority to act on behalf of the Board of Directors on all matters relating to the duties of the Managing Agent or Manager, if any, which might arise between meetings of the Board of Directors.

In addition to the duties imposed by these By-laws or by any resolution of the Association that may be hereafter adopted, the Board of Directors shall have the power to and be responsible for the following, in way of explanation, but no limitation:

- a) Preparation and adoption of an annual budget in which there shall be established the contribution of each Owner to the Common Expenses;
- b) making Assessments to defray the Common Expenses, establishing means and methods of collecting such Assessments, and establishing the period of the installment payments of the annual Assessment, provided otherwise determined by the Board of Directors, the annual Assessment against the proportionate share of the Common Expenses shall be payable in yearly installments, each such installment to be due and payable in advance on the first day of the year for said year;
- c) providing for the operation, care, upkeep and maintenance of any Common Area;
- d) designating, hiring and dismissing the personnel necessary for the maintenance, operation, repair and replacement of the Association, its property, and any Common Area, and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties;
- e) collecting the Assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to administer the Association;
- f) making and amending rules and regulations;
- g) opening of bank accounts on behalf of the Association and designating the signatories required;

- h) making or contracting for the making of repairs, additions and improvements to or alterations of any Common Area in accordance with the other provisions of the Declaration and these By-laws after damage or destruction by fire or other casualty;
- i) enforcing by legal means the provisions of the Declaration, these By-laws, and the Rules and Regulations adopted by it and bringing any proceeds which may be instituted on behalf of or against the Owners of the Association;
- j) obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof;
- k) paying the cost of all services rendered to the Association or its members and not chargeable to Owners;
- l) keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair expenses and any other expenses incurred. The said books and vouchers accrediting the entries thereupon shall be available for examination by the Owners and Mortgagees, their duly authorized agents, accountants, or attorneys, during general business hours on working days at the time and in a manner that shall be set and announced by the Board of Directors for the general knowledge of the Owners.
- m) Make available to any prospective purchaser of a Residential Unit, any Owner of a Residential Unit, any first Mortgagee, and the holders, insurers, and guarantors of a first Mortgage on any Residential Unit, current copies of the Declaration, the Articles of Incorporation, the By-laws, Rules and Regulations, and all other books, records and financial statements of the Association
- n) Permit utility suppliers to use portions of any Common Area reasonably necessary to the ongoing development or operation of the Project.

Section 19. Management Agent.

- a) The Board of Directors may employ for the Association a professional management agent or agents at a compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall authorize. The Board of Directors may delegate to the managing agent or manager, subject to the Board's supervision, all of the powers granted to the Board of Directors by these By-laws, other than the powers set forth in subparagraphs a), b), d), f), g), and 10 of Section 18 of this Article III. The Declarant, or an affiliate of the Declarant, may be employed as managing agent or manager.
- b) No management contract may have a term in excess of one (1) year and must permit termination by either party without cause and without termination fee on ninety (90) days' or less written notice.

Section 20. Accounts and Reports. The following management standards of performance will be followed unless the Board of resolution specifically determines otherwise:

- a) cash basis accounting shall be employed;
- b) accounting and controls should conform with established AICPA guidelines and principles, which require, without limitation, (i) a segregation of accounting duties, (ii) disbursements by check requiring two (2) signatures, and (iii) cash disbursements limited to amounts of Twenty-five (\$25.00) Dollars and under;

- c) cash accounts of the Association shall not be commingled with any other accounts;
- d) no remuneration shall be accepted by the Managing Agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts or otherwise ; any thing of value received shall benefit the Association;
- e) any financial or other interest which the Managing Agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors; and
- f) commencing at the end of the month in which the first Residential Unit is sold and closed, quarterly financial reports shall be prepared for the Association containing:
  - (i) an Income and Expense Statement reflecting all income and expense activity for the preceding six (6) months on a cash basis;
  - (ii) a Balance Sheet as of the last day of the Association's fiscal year and an Operating Statement for said fiscal year, which shall be distributed within ninety (90) days after the close of a fiscal year.
  - (iii) a Delinquency Report listing all Owners who have been delinquent during the preceding three (3) month period in paying the monthly installments of Assessments and who remain delinquent at the time of the report and describing the status of any action to collect such installments which shall be considered to be delinquent on the fifteenth (15<sup>th</sup>) day of each month; and
  - (iv) an annual report consisting of at least the following shall be distributed within sheet as of the end of the fiscal year; (2) an operating (income) statement for the fiscal year; and (3) statement of changes in financial position for the fiscal year. If said report is not prepared by an independent accountant, it shall be accompanied by the certificate of an authorized officer of the Association that the statements were prepared without an audit from the books and records of the Association.

#### ARTICLE IV OFFICERS

**Section 1. Officers.** The officers of the Association shall be a President, Vice President, Secretary and Treasurer. The Board of Directors may elect such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed from time to time by the Board of Directors. Any two (2) or more offices may be held by the same person, excepting the offices of President and Secretary. The President and Treasurer shall be elected from among the members of the Board of Directors.

**Section 2. Election, Term of Office and Vacancy.** The officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board of Directors following each annual meeting of the Members, as herein set forth in Article III. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board of Directors for the unexpired portion of the term

**Section 3. Removal** Any officer may be removed by the Board of Directors whenever in its judgment the best interests of the Association will be served thereby.

**Section 4. Powers and Duties.** The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties may

from time to time be specifically conferred or imposed by the Board of Directors. The President shall be the chief executive officer of the Association. The treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

**Section 5. Resignation** Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**Section 6. Agreements, Contracts, Deeds, Leases, Checks, Etc.** All agreements, contracts, deeds, leases, checks and other instruments of the Association shall be executed by the President or by such other person or persons as may be designated by resolution of the Board of Directors.

## **ARTICLE V COMMITTEES**

Committees to perform such tasks and to serve for such periods as may be designated by a resolution adopted by a majority of the Directors present at a meeting at which a quorum is present are hereby authorized. Such committees shall perform such duties and have such powers as may be provided in the resolution. Each committee shall be composed as required by law and shall operate in accordance with the terms of the resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors.

## **ARTICLE VI MISCELLANEOUS**

**Section 1. Fiscal Year.** The initial fiscal year of the Association shall be set by resolution of the Board of Directors.

**Section 2. Parliamentary Rules.** Except as may be modified by Board resolution establishing modified procedures, Robert's Rules of Order (current edition) shall govern the conduct of the Association proceedings when not in conflict with Indiana law, the Articles of Incorporation, the Declaration or these By-laws.

**Section 3. Conflicts.** If there are conflicts or inconsistencies between the provisions of Indiana Law, the provisions of Indiana law, the Declaration, the Articles of Incorporation, and the By-laws (in that order) shall prevail.

**Section 4. Books and Records**

a) **Inspection by Members and Mortgagees.** The Declaration and By-laws, membership register, books of account, and minutes of meetings of the Members, the Board and committees shall be made available for inspection and copying by any Mortgagee, Member of the Association, or by his or her duly appointed representative at any reasonable time and for a purpose reasonably related to his or her interest as a Member at the office of the Association or at such other place within the Project as the Board shall prescribe.

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

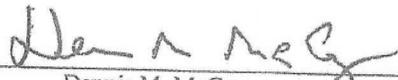
Section 5. Notices Unless otherwise provided by these By-laws, all notices, demands, bills, statements or other communications under these By-laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by registered or certified mail, return receipt requested, first class postage prepaid:

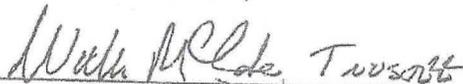
a) if to a Member, at the address which the Member has designated in writing and filed with the Secretary, or if no such address has been designated, at the address of the Residential Unit of such Owner; or

b) if to the Association, the Board of Directors, or the Managing Agent, if any, or at such other address shall be designated by the notice in writing to the Owners pursuant to this Section.

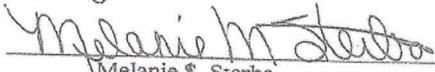
Section 6. Amendment. Declarant may amend the By-laws in accordance with the Declaration. These by-laws may be amended otherwise only by the affirmative vote (in person or by proxy) or written consent of Members representing two-thirds (2/3) of the total votes of the Association (not a majority of a quorum).

IN WITNESS WHEREOF, I, the undersigned, do hereby execute these Articles of Incorporation and certify the trust of the facts herein stated this 13 day of JAN, 20 09.  
I hereby verify subject to penalties of perjury that the facts contained herein are true.

  
Dennis M. McCoy

  
William H. McCabe, Trustee

  
James L. Wiser

  
Melanie S. Sterba  
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