

**AMENDED AND RESTATED  
BYLAWS OF  
ARBORS ON BLUFF HOMEOWNERS ASSOCIATION, INC.**

**ARTICLE I  
Association**

**Section 1.1 Name.** The name of the Homeowners Association shall be Arbors on Bluff Homeowners Association, Inc., a not-for-profit corporation formed under the Indiana Nonprofit Corporation Act of 1991 (Ind. Code 23-17-1-1) (“Homeowners Association”).

**Section 1.2. Purpose.** The Homeowners Association has been formed for the purpose of providing for the maintenance, repair, replacement, upkeep, administration, and operation of the property owned or used by the Homeowners Association (“Common Areas”), and located in Marion County, Indiana, within the boundaries of Arbors on Bluff property (the “Development”). The Homeowners Association shall perform such other functions as may be designated by it to perform under the Declaration of Covenants and Plats Covenants and Restrictions described in Section 1.3, below, and shall be the governing body for the administration and operation of the Homeowners Association. The Homeowners Association shall not be deemed to be conducting a business of any kind, and all funds received by the Homeowners Association shall be held and applied by it for the use and benefit of the owners of lots (“Lot Owners”) within the Development in accordance with the provisions set forth below.

**Section 1.3. Plats and Covenants.** The Homeowners Association has been established in accordance with the Amended and Restated Declaration of Covenants, Conditions and Restrictions of Arbors on Bluff (“Declaration”), and the Amended and Restated Plat Covenants and Restrictions (“Plat Covenants”), each of which was filed on July 2, 1999, as, respectively, Instruments Nos. 99-0127343 and 99-0127344 in the Office of the Recorder of Marion County, Indiana. The Declaration and the Plat Covenants are incorporated herein by reference.

## **ARTICLE II**

### **Membership**

**Section 2.1. Membership.** The owner or owners of each lot and improvement thereon ("Dwelling Unit") within the Development shall automatically become a member of the Homeowners Association ("Member" or "Members"), and shall remain a Member so long as he or she owns the lot and Dwelling Unit.

The term "Dwelling Unit" as used herein is defined as referring to one-half of a double residence separated by a party wall from the other half of the double, with each Dwelling Unit located on its own platted lot and designated as Lot A or Lot B. "Lot" as used herein means any plot of ground designated as such upon the recorded plat of the Development.

**Section 2.2. Multiple or Entity Owners.** Where more than one person or entity constitutes the owner of a lot and Dwelling Unit, all such persons shall be deemed members of the Homeowners Association, but the single vote in respect of such lot and Dwelling Unit shall be exercised as the person or entity holding such ownership shall determine among themselves. In no event shall more than one person exercise the vote of any Lot Owner, and no vote shall be split.

**Section 2.3. Voting Rights of Voting Members.** Votes shall be exercisable in person or by proxy on each matter submitted to the membership for a vote at a meeting of the Members. Only Members in good standing will be entitled to voting rights. Any Member owing Homeowners Association dues will be considered not in good standing.

**Section 2.4. Applicable Date.** The applicable date is July 11, 2006, the date on which one hundred percent (100%) of the lots in the Development were deeded to Lot Owners, and the date of the initial meeting of the Members of the Homeowners Association.

**ARTICLE III**  
**Meetings of Members**

**Section 3.1. Quorum.** Meetings of the Members shall be held within the Development, or at such place within reasonable proximity to the Development as may be designated by the board of directors of the Homeowners Association in any notice of a meeting. The presence in person or by proxy at any meeting of the Members having thirty percent (30%) of the total votes shall constitute a quorum. Unless otherwise expressly provided by law, the Articles of Incorporation, or these Bylaws, any action may be taken at any meeting of the Members at which a quorum is present upon the affirmative vote of the Members having a majority of the total votes present at such meeting.

**Section 3.2 Initial and Annual Meetings.** The initial meeting of the Members shall be held upon ten (10) days' written notice given by the developer of the Development. Thereafter, there shall be an annual meeting of the Members during the second week in October following the initial meeting, and at the same time each succeeding October thereafter, or at such other reasonable time or date as may be designated by written notice of the board of directors delivered to the Members.

**Section 3.3. Special Meetings.** Special meetings of the Members may be called by the president of the board of directors, by a majority of the board of directors, or by a petition in writing of at least one-half (½) of the voting Members of the Homeowners Association.

**Section 3.4. Notice of Meetings.** Written notice stating the date, time, and place of any meeting of the Members shall be delivered or mailed by the secretary of the board of directors of the Homeowners Association to each voting Member of record, at such address as appears upon the records of the Homeowners Association, at least (10) days prior to the date of such meeting. In the case of special meetings or when otherwise required by law, the notice shall also contain the purpose for which such special meeting is being called.

**Section 3.5. Waiver of Notice.** Notice of any meeting may be waived by any voting Member, in writing, to the secretary of the Homeowners Association.

Attendance at any meeting in person or by proxy shall constitute a waiver of notice of such meeting.

**Section 3.6. Voting Rights.** Each Member of the Homeowners Association shall have the voting rights specified in the Articles of Incorporation.

**Section 3.7. Voting by Proxy.** A Member entitled to vote at any meeting of Members may vote either in person or by proxy, executed in writing by the Member or a person holding such Member's duly authorized power of attorney. For purposes of this section, a proxy granted by telegram or facsimile transmission by a Member shall be deemed as executed in writing by the Member.

**Section 3.8. Voting List.** The secretary or assistant secretary of the board of directors of the Homeowners Association shall at all times keep, at the principal office of the Homeowners Association, a complete and accurate list of all Members entitled to vote. Such list may be inspected, at any reasonable time and for any proper purpose, by any Member of the Homeowners Association.

**Section 3.9. Conduct of Meetings.** Meetings of Members, including the order of business, shall be conducted in accordance with Roberts' Rules of Order, Revised, except as may be otherwise provided by the Homeowners Association's Articles of Incorporation, these Bylaws, or any rule adopted by the board of directors. The Members may, by unanimous consent, waive the requirements of this section, but such waiver shall not preclude any Member from invoking the requirements of this section at any subsequent meeting.

**Section 3.10. Action by Consent.** Action required or permitted to be taken at a meeting of the Members may be taken without a meeting if the action is taken by all the Members entitled to vote on the action. The action must be evidenced by one (1) or more written consents describing the action taken, signed by all the Members entitled to vote on the action, and delivered to the Homeowners Association for inclusion in the minutes or filing with the Homeowners Association records.

**ARTICLE IV**  
**Board of Directors**

**Section 4.1. Duties and Qualifications.** The business and affairs of the Homeowners Association shall be managed by a board of directors. Each director shall be a Member.

**Section 4.2. Number and Election.** At the initial meeting of the voting Members of the Homeowners Association, held as provided in Section 3.2, above, the Members of the Homeowners Association shall elect a board of directors ("Board"), which shall consist of five (5) Members, whose terms shall expire at different times; provided, however, that no term shall be for more than three (3) years without the express approval, by two-thirds (2/3) majority vote, of the Members. In no event shall the Board consist of less than three (3) Members. In all elections for the Board, each voting Member shall be entitled to vote on a non-cumulative voting basis, and the candidates receiving the highest number of votes shall be deemed to be elected. The Members of the initial Board shall serve in accordance with the provisions of Section 4.4, below. The voting Members having at least two-thirds (2/3) of the total votes may from time to time increase or decrease such number of persons on the Board at any annual or special meeting, provided that such number shall be three (3), but not more than five (5).

**Section 4.3. Election of Officers.** Within thirty (30) days of the initial and subsequent annual meetings of the Members, the Board shall meet at a mutually agreeable location to elect officers for the following year, and to consider any other business which may be brought before the meeting. No notice shall be necessary to conduct such meeting.

**Section 4.4. Terms of Office.** With a five-member (5) Board, three (3) of the Members of the Board, shall be up for re-election annually, and two (2) of the Members of the Board shall continue for a second term, or until their successors are duly elected and qualified. With a three-member (3) Board, one (1) of the Members of the Board shall be up for re-election annually, and two (2) of the Members of the Board shall continue for a second term, or until their successors are duly elected and qualified. The initial Board shall serve a term of one and one-half (1 ½) years in order to avoid a special election.

**Section 4.5. Vacancies.** Any vacancy on the Board caused by death, resignation, removal, or otherwise, shall be filled by the remaining directors. A director chosen to fill a vacancy shall hold office until the expiration of the term of the director causing the vacancy, and until that director or his successor shall be elected and qualified.

**Section 4.6. Other Meetings.** Regular meetings of the Board may be held pursuant to a resolution of the Board to such effect. No notice shall be necessary for any regular meeting. Special meetings of the Board may be held upon the call of the president or any two directors of the Board upon forty-eight (48) hours' notice specifying the time, place and general purpose or purposes of the meeting. Such notices shall be given to each director either personally or by mail, facsimile transmission, e-mail, or telephone. Notice of any special meeting may be waived, in writing, by mail, e-mail, or by facsimile transmission. Attendance at any special meeting shall constitute waiver of notice of such meeting.

**Section 4.7. Meetings Open to Members.** All meetings of the Board shall be open to attendance by any Member of the Association; however, no Member may actively participate in any meeting unless the Member has requested permission to do so, in writing, or by e-mail, at least thirty (30) days in advance of the meeting.

**Section 4.8. Meetings via Electronic Voice Communication or by E-mail.** Any meeting of the Board may be held by any means of electronic voice communication, provided that all directors can simultaneously hear said electronic voice communications and be heard by all other directors attending the meeting. Any meeting of the Board may also be held by e-mail, provided all Members agree to said form of meeting. The quorum for any electronic voice communication or e-mail meeting shall be computed on the basis of all directors in contact with each other. Any meeting so held shall be considered a formal meeting of the Board for all purposes, and any business may be transacted at such meeting as could be transacted if the directors were assembled in physical proximity to each other. At any meeting held by electronic voice communications, minutes are to be taken as at any other meeting of the Board. If a meeting is held by e-mail, the content of the e-mail proceedings are to be printed and serve as the minutes of any such meeting.

**Section 4.9. Action By Consent.** Any action required or permitted to be taken at a Board of Directors' meeting may be taken without a meeting if the action is taken by all members of the Board. The action must be evidenced by one (1) or more written consents describing the action taken, signed by each director, and included in the minutes or filed with the Homeowners Association records reflecting the action taken. Action taken under this section is effective when the last director signs the consent, unless the consent specifies a different prior or subsequent effective date. A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

**Section 4.10. Removal of Director.** Any director may be removed from office at any time after the election of directors at the initial or annual meetings of Members pursuant to Section 3.2 hereof, by affirmative vote of the Members, provided that the Members voting at the special meeting called for that purpose, in person or by proxy, constitute at least two-thirds (2/3) of the voting Members of the Homeowners Association. A successor to fill the unexpired term of a removed director may be elected by the Members at the same meeting or any subsequent meeting called for that purpose, provided a quorum is present, in person or by proxy.

**Section 4.11. General Powers and Duties of the Board.** The powers and duties of the Board shall include, but are not limited to, the following:

(a) Maintenance of the Common Areas within the Development, and keeping any improvements located thereon in good repair as the Homeowners Association deems necessary or appropriate, including streets, sidewalks, and recreation areas. Maintenance of the landscape and mounding easements may be performed by the Homeowners Association, but the Lot Owners whose lots are subject to such easements shall have the primary responsibility for such maintenance.

(b) Maintenance, repair, replacement or installation of any and all signs, grass, sod, foliage, landscaping, lighting, or any other improvements located in and upon the Common Areas of the Development as the Homeowners Association deems necessary or appropriate.

(c) Contracting for the maintenance of lawns considered part of the Common Areas. "Maintenance of lawns," as used herein, shall include, but shall not be limited to, the mowing, care, fertilizing, trimming, removal, and replacement of the lawns, landscaping, and trees within the Common Areas.

(d) Contracting for the care and maintenance of the retention ponds and their aeration systems within the Common Areas.

(e) Contracting for lawn maintenance and snow removal for each Lot within the Development. Lawn mowing and maintenance shall mean solely the mowing of grass and trimming around fences, shrubs and bushes. It shall not include the fertilizing or watering of lawns on any lot, which shall be the responsibility of Lot Owners, nor the care and maintenance of shrubs, trees, flowers or other plants on any lot, nor shall maintenance of lawns mean the mowing of grass within any fenced portion of any lot for which permission to erect the fence has not been granted by the Board upon the recommendation of its Architectural Review Committee.

(f) Replacement of the drainage system in and upon the Common Areas as the Homeowners Association deems necessary or appropriate, and the maintenance of any drainage system installed in or upon the Common Areas by the developer or the Homeowners Association. Nothing contained herein shall relieve or replace the obligation of any Lot Owner subject to a drainage utility and sewer easement to keep the portion of the drainage system and drainage utility and sewer easement on the lot free from obstructions so that the storm water drainage will be unimpeded.

(g) Procuring and maintaining, for the benefit of the Homeowners Association, the Board and its officers, and the Lot Owners, the insurance coverage required under the Declaration, and such other insurance as the Board deems necessary or advisable.

(h) Payment of taxes, if any, assessed against and payable on the Common Areas.

(i) Assessment and collection of regular assessments or special assessments from the Lot Owners in the Development.



(j) Preparation of a proposed annual budget, as well as a financial statement for the current fiscal year, which financial statement shall be subject to review by an independent accountant. Copies of the proposed annual budget and financial statement shall be delivered to each lot owner with the notice of the annual meeting.

(k) Contracting for such services as management, snow removal, Common Area maintenance, security control, trash removal, or others services as the Homeowners Association deems necessary or advisable.

(l) Enforcing the rules and regulations of the Homeowners Association as set forth in the Declaration, Plat Covenants, and these Bylaws, and the applicable zoning covenants and commitments.

(m) Employment of legal counsel, accountants, or other professionals as may from time to time, in the judgment of the Board, be necessary or desirable in connection with conducting the business affairs of the Homeowners Association.

**Section 4.12. Compensation.** No director shall receive any compensation for his or her service on behalf of the Board. If, in the judgment of the Board, a managing agent ("Managing Agent") is employed by the Board in accordance with the provisions of Section 4.11(k), above, the Managing Agent shall be entitled to reasonable compensation for its services, the cost of which shall be treated as a common expense.

**Section 4.13. Non-Liability of Directors.** The directors of the Board shall not be liable to the Lot Owners or any other person for any error or mistake of judgment exercised in carrying out their duties and responsibilities as directors of the Board; *except for* willful misconduct, bad faith, or gross negligence. The Homeowners Association shall indemnify and hold harmless, through a policy of insurance or otherwise, and shall 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 Homeowners Association, unless any such contract shall have been made in bad faith. It is intended that the directors shall have no personal liability with respect to any contract made by them on behalf of the Homeowners Association.

**Section 4.14. Committees.** The Board shall establish an Architectural Review Committee, consisting of at least three (3) Lot Owners, for the purpose of regulating the external design and appearance of the Dwelling Units pursuant to the Declaration and Plat Covenants. All external additions to Dwelling Units, except for landscaping and the planting of trees and shrubs within the boundaries of the Lot Owner's properties, including, without limitation, decks, fences, outbuildings, and other structures, must be presented, in writing, together with plans, drawings, and/or specifications, to the Architectural Review Committee, and approved by it before such additions are performed. In the event the Architectural Review Committee fails to approve, modify or disapprove a Lot Owner's application, in writing, within forty-five (45) days after such application and plans, drawings, and/or specifications have been submitted, approval will be deemed to have been granted by the Architectural Review Committee.

The Board may also establish a "Nominating Committee" or any other committees, such as "Special Events/Welcoming Committee", "Crime Watch Committee" or "Neighborhood Assistance Committee" as it deems necessary or advisable; provided, however, that all committees shall consist of at least three (3) members.

The president or the Board of Directors may from time to time create and appoint standing, advisory and special committees of Members and other appropriate individuals to undertake studies, make recommendations, and carry on functions for the purpose of efficiently accomplishing the purposes of the Homeowners Association.

## **ARTICLE V**

### **Officers**

**Section 5.1. Officers and Qualifications Therefor.** The officers of the Board of the Homeowners Association shall consist of a president, one (1) or more vice presidents, a secretary, and a treasurer. The officers shall be chosen from among the directors. Any two (2) or more offices may be held by the same person, except that the duties of president and secretary shall not be performed by the same person.

**Section 5.2. Terms of Office.** Each of the officers of the Homeowners Association shall be elected by a majority vote of the Board following the annual meeting of the Members of the Homeowners Association, and shall hold office for a minimum term of one (1) year and a maximum term of three (3) years or until his or her successor shall be duly elected and qualified, or until resignation, removal, or death.

**Section 5.3. Vacancies.** Whenever any vacancy shall occur in any of the offices of the Homeowners Association for any reason, the same may be filled by the Board at any meeting thereof, and any officer so elected shall hold office until the expiration of the term of the officer causing the vacancy, and until his or her successor shall be duly elected and qualified.

**Section 5.4. Removal.** Any officer of the Board may be removed by the Board, with or without cause, whenever a majority of the Board shall vote in favor of such removal.

## **ARTICLE VI**

### **Powers and Duties of Officers**

**Section 6.1. President.** The president, if present, shall preside at all meetings of the Members of the Board, and shall call such meetings as he or she deems necessary or appropriate. The president shall exercise general supervision over the activities and welfare of the Homeowners Association, and keep in regular touch with the other officers and members of the Board concerning matters of policy. Subject to the general control of the Board, the president shall perform all of the usual duties of the chief executive officer of a corporation. The president shall be an ex-officio member of all Homeowners Association committees, with the exception of the nominating committee.

**Section 6.2 Vice President(s).** Subject to the general control of the Board, the vice president shall discharge all the usual functions of the president if the president is not present, and shall have such others powers and duties as these Bylaws or the Board may prescribe.

**Section 6.3. Secretary.** The secretary shall attend all meetings of the Members and of the Board, including electronic voice communication and e-mail meetings, and keep, or cause to be kept, a true and complete record of the proceedings of and attendance at such meetings, and, if requested by the Board, perform a like duty for all committees appointed by the Board. If required, he or she shall attest the execution of deeds, leases, agreements, and other official documents of the Homeowners Association. He or she shall attend to the giving and serving of all notices of the Homeowners Association. All Homeowners Association records, including archival records, shall be under the control of the secretary. The secretary shall maintain a file of the correct names, addresses, and telephone numbers of all Members, and in general perform such other duties as these Bylaws or the Board may prescribe.

**Section 6.4. Treasurer.** The treasurer shall receive and disburse the funds of the Homeowners Association, and shall keep, or cause to be kept, proper vouchers and correct and complete records of account, showing accurately at all times the financial condition of the Homeowners Association, which records shall be open to inspection by the Board. He or she shall have control and custody of, and be responsible for, all funds, notes, securities, and other valuables which may from time to time come into the possession of the Homeowners Association. He or she shall deposit, or cause to be deposited, with such depository as the Board shall unanimously designate, all funds of the Homeowners Association, and shall furnish to the Board, at its regular meetings or when requested, a statement of the financial condition of the Homeowners Association. He or she shall submit an independently examined financial statement to the Members of the Homeowners Association, together with a proposed budget for the coming year, and in general perform all duties prescribed by these Bylaws or by the Board.

## **ARTICLE VII**

### **Miscellaneous**

**Section 7.1. Corporate Seal.** The Homeowners Association shall have no corporate seal.

**Section 7.2. Execution of Contracts and Other Documents.** Unless otherwise determined by the Board, all written contracts and other documents entered into by the Homeowners Association shall be executed by the president on behalf of the Homeowners Association, and, if required, attested by the secretary.

**Section 7.3. Execution of Association Checks.** Unless otherwise determined by the Board, all checks written on behalf of the Homeowners Association shall be signed by the treasurer or one other duly authorized director of the Board.

**Section 7.4.** The fiscal year of the Homeowners Association shall begin on January 1st, and end on the immediately following December 31st of each year.

## **ARTICLE VIII**

### **Amendments**

Subject to Indiana law, the Articles of Incorporation and the most recent Declaration filed with the Recorder of Marion County, Indiana, on July 2, 1999, as Instrument No. 99-0127343, as may be amended, and subsequent plats recorded pursuant to the plats, the power to make, alter, amend or repeal all or any part of these Bylaws is vested in the Board. The affirmative vote of a majority of the entire Board shall be necessary to effect any such changes in these Bylaws. Where the amendment of the Bylaws would affect the terms and conditions contained in the plat that are subject to approval by the Lot Owners or first mortgagees, then such amendment of the Bylaws shall be subject to the same percentage requirements of Lot Owners or first mortgagees as contained in the Plat.

## **ARTICLE IX**

### **Assessments**

**Section 9.1. Purpose of Assessments.** The purpose of regular and special assessments of Lot Owners is to provide funds to maintain and improve the Common Areas, and to provide services for the benefit of the Lot Owners, and the same shall be levied for the following purposes:

(a) to promote the health, safety and welfare of the residents of the Development;

(b) to improve, maintain, and repair the Common Areas and the improvements, lawns, landscaping, and retention ponds within and upon the Common Areas, and any landscape and mounding easement, any drainage utility and sewer easement, and the drainage systems that are part of the Development;

(c) to provide lawn mowing and trimming for the Lot Owners within the Development;

(d) to provide snow removal for the Lot Owners within the Development; and

(e) for the performance of any other responsibilities specifically provided for herein.

A portion of the regular assessment may be set aside or otherwise allocated in a reserve fund set up for the purpose of providing repair and replacement of any capital improvements which the Homeowners Association is required to provide, maintain, install, or replace.

**Section 9.2. Regular Assessments.** The regular assessment for all Lot Owners within the Development shall be Four Hundred and Eighty Dollars (\$480.00) per year, billed and payable in semi-annual installments of Two Hundred and Forty Dollars (\$240.00). Should semi-annual payments be inconvenient or a hardship, a Lot Owner may, with the approval of the Board or its treasurer, make such semi-annual payments in bi-monthly or quarterly installments. For good cause, the Board shall have the right, power, and authority, without any vote of the Members of the Homeowners Association, to increase the regular assessment against each Lot Owner, every fiscal year, in an amount not to exceed five percent (5%) of the current regular assessment. Each lot shall be assessed an equal amount for any regular assessment, and no Lot Owner is exempt from the payment of the regular assessment for any reason.

**Section 9.3. Special Assessments.** In addition to regular assessments, the Board may make special assessments against each lot, for the purpose of defraying, in whole or in part, the cost of constructing, reconstructing, repairing, or replacing any capital improvement on the Common Areas in the Development which the Homeowners Association is required to maintain, or the cost of special maintenance and repairs, or to recover any deficits (whether from operations or any other loss) which the Homeowners Association may from time to time incur, but only with the assent of two-thirds (2/3) of the Members of the Homeowners Association who cast votes in person or by proxy at a duly constituted meeting of the Members of the Association called for such purpose.

**Section 9.4. Notices of Increase in Regular or Special Assessments.** The Board shall fix the amount of any increased regular assessment or special assessment at least sixty (60) days in advance of each annual assessment period, and provide written notice of the increase in regular assessment or special assessment to each Lot Owner.

**Section 9.5. Date of Commencement of Regular or Special Assessments.** The regular assessment, or special assessment (if any), shall be in an equal amount to each Lot Owner, and shall commence as to each lot on the first day of the first calendar month following the first conveyance of such lot to the Lot Owner, prorated if ownership was during only a portion of the assessment period. The Board may provide for reasonable interest and late charges on past-due installments of assessments.

**Section 9.6. Failure of Lot Owner to Pay Assessments.**

(a) No Lot Owner shall be exempt from paying regular assessments and special assessments for any reason, including such Lot Owner's nonuse of the Common Areas, refusal of lawn mowing and/or snow-removal services, or abandonment of his or her lot and Dwelling Unit. If any Lot Owner shall fail, refuse or neglect to make any payment of any assessment (or any periodic installment of an assessment, if applicable), when due, the lien for such assessment (as described in paragraph 9.7 below) may be foreclosed by the Board for and on behalf of the Homeowners Association as a mortgage on real property or as otherwise provided by law. Upon the failure of a Lot Owner to make timely payments of any assessment when due, the Board may, in its discretion, accelerate the entire balance of any unpaid assessments and declare the same immediately due and payable, notwithstanding any other provisions of these Bylaws to the contrary. In any action to foreclose the lien for any assessment, the Lot Owner and any occupant of the Dwelling Unit upon the Lot shall be jointly and severally liable for the payment to the Homeowners Association of reasonable rental for such lot and Dwelling Unit, and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the lot and its Dwelling Unit, and to collect the rentals and other profits therefrom, to be applied to the unpaid assessments for the benefit of the Homeowners Association. The Board, at its option, may in the alternative bring suit to recover a money judgment for any unpaid assessment without

foreclosing or waiving the lien securing the same. In any action to recover an assessment, whether by foreclosure or otherwise, the Board, for and on behalf of the Homeowners Association, shall be entitled to recover from the Lot Owner the costs and expenses incurred as a result of such action, including, but not limited to, attorneys' fees and interest from the date such assessments were due until paid.

(b) Notwithstanding anything contained in this section or elsewhere in these Bylaws, no sale or transfer of a Dwelling Unit and lot pursuant to a foreclosure of its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in the manner provided by law with respect to mortgage foreclosures, shall extinguish the lien of any unpaid assessments (or periodic installments, if applicable) which became due prior to such sale, transfer or conveyance; provided, however, that the extinguishment of such lien shall not relieve the prior Lot Owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Lot Owner, or the purchaser thereof at such foreclosure sale, or the grantee in the event of conveyance in lieu thereof, from liability for any assessments (or periodic installments of such assessments, if applicable) thereafter becoming due and payable, or from the lien therefor.

**Section 9.7. Creation of Lien and Personal Obligation.** Each Lot Owner, by acceptance of a deed of conveyance therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Homeowners Association (1) regular assessments and (2) special assessments for capital improvements and operating deficits and for special maintenance and repairs. Such regular assessments and special assessments shall be established and shall commence upon the dates of their establishments, and shall be collected as herein provided. All such regular assessments and special assessments, together with interest, costs of collection, and reasonable attorneys' fees, shall be a continuing lien upon the lot and its Dwelling Unit against which such regular assessment and/or special assessment is made prior to all other liens; *excepting only* (i) tax liens on any lot and Dwelling Unit in favor of any unit of government or special taxing district, and (ii) the lien of any first mortgage of record. Each such assessment, together with interest, costs of collection, and reasonable attorneys' fees, shall also be the personal obligation of the Lot Owner at the time such assessment became due and payable. Where the Lot Owner constitutes more than one person, the liability of such persons shall be joint and several. The personal obligation for



delinquent assessments (as distinguished from the lien upon the lot) shall not pass to such Lot Owner's successor-in-title unless expressly assumed by such successor (successors) in title. The Homeowners Association, upon the request of a proposed mortgagee or proposed purchaser having a contractual right to purchase a lot and its Dwelling Unit, shall furnish to such mortgagee or purchaser a statement setting forth the amount of any unpaid regular assessment or special assessment, or other charges against the lot and its Dwelling Unit. Such statement shall be binding upon the Homeowners Association as of the date of such statement.

**Section 9.8. Expense Incurred to Clear Drainage, Utility and Sewer Easements Deemed a Special Assessment.** As provided in paragraph 1.7 of the Declaration, a Lot Owner subject to a drainage, utility, and sewer easement, including any builder, sub-contractor or installer, shall be required to keep the portion of said drainage, utility, and sewer easement on the lot free from obstructions so that the storm water drainage will not be impeded and will not be changed or altered without a permit from the Department of Public Works or Department of Capital Asset Management of the City of Indianapolis, Indiana. Also, no structures or improvements, including, without limitation, decks, patios, fences, walkways, or landscaping of any kind shall be erected or maintained upon said easements, and any such structure or improvement so erected shall, at the Board's request, be removed by the Lot Owner at the Lot Owner's sole cost and expense. If, within thirty (30) days after the date of the Board's written request, such Lot Owner shall not have commenced and diligently and continuously effected the removal of any obstruction of storm water drainage or any prohibited structure or improvement, the Board may, on behalf of the Homeowners Association, enter upon the lot and cause such obstruction, structure or improvement to be removed so that the drainage utility and sewer easement is returned to its originally designed condition. In such event the Board, on behalf of the Homeowners Association, shall be entitled to recover the full cost of such work from the offending Lot Owner, and such amount shall be deemed a special assessment against the lot owned by such Lot Owner, which, if unpaid, shall constitute a lien against such lot and may be collected by the Homeowners Association pursuant to this Article IX in the same manner as any other regular assessment or special assessment.

**CERTIFICATE**

The foregoing Bylaws constitute a true record of the Bylaws adopted by the Board of Directors of Arbors on Bluff Homeowners Association, Inc., on May 7, 2007.

*Virginia F. Fletcher*  
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Virginia F. Fletcher, President

*Joe Stout*  
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Joe Stout, Secretary