

**BY-LAWS  
OF  
BROOK RIDGE ESTATES HOMEOWNERS  
ASSOCIATION, INC.**

**ARTICLE I**

**NAME AND LOCATION**

Section 1.01 Name. The name of this organization is BROOK RIDGE ESTATES HOMEOWNERS ASSOCIATION, INC. (hereinafter called the “Association”)

Section 1.02. Registered Office and Agent. The registered office and registered agent of the Association shall be designated by the Board of Directors. The registered office of the Association at the time of the adoption of these By-laws shall be 1427 North Main Street, P. O. Box 277, Bluffton, Indiana 46714. The registered agent of the Association at the time of the adoption of the By-laws shall be Anthony O. Crowell.

**ARTICLE II**

**PURPOSE**

Section 2.01. Purpose. Brook Ridge Estates is a residential development located in Jefferson Township, Wells County, Indiana. The Association is responsible for the management, maintenance, operation and administration of the common areas, easements and affairs of the residential development in accordance with the “Brook Ridge Estates Homeowners Association Declaration Of Covenants, Conditions, and Restrictions” (the “Declaration”); the “Articles Of Incorporation Of The Brook Ridge Estates Homeowners Association, Inc.” (the “Articles”); the “Dedications, Protective Restrictions, Covenants, Limitations And Approvals Appended To And Part Of The Dedication And Plat Of Section I Of Brook Ridge Estates, A Subdivision Located In Wells County, Indiana”; and the laws of the State of Indiana (collectively “Residential Development Documents”). Each owner (which term includes co-owners) shall be a member of the Association, and no other person or entity, except the Declarants as defined in the Articles, shall be entitled to membership. The share of an owner in the funds and assets of the Association can not be assigned, pledged or transferred in any manner except as an appurtenance to the transfer of a lot in Brook Ridge Estates. All owners of lots in Brook Ridge Estates and all persons using or entering upon or acquiring any interest in any lot or common elements thereof shall be subject to the provisions and terms set forth in the Residential Development Documents.

**ARTICLE III**

**ASSESSMENTS**

Section 3.01. Assessments. All expenses for the management, administration and operation of the Association shall be paid by assessments levied by the Association against the lots and the owners thereof in accordance with the provisions of the Residential Development Documents.

## **ARTICLE IV**

### **MEMBERSHIP**

Section 4.01. Membership. The Association shall have two (2) classes of membership, Class "A" and Class "B", as more fully set forth in Article IV of the Declaration, the terms of which pertaining to membership are specifically incorporated herein by reference.

Section 4.02. Representation. Each co-owner of a lot shall file a written notice with the Association designating the individual representative who shall vote at meetings of the Association and receive all notices and other communications from the Association on behalf of such co-owner. Such notice shall state the name and address of the voting Member, the number of lots owned by the co-owner, and the name and address of each person, or entity who is a co-owner. Such notice shall be signed and dated by the co-owner. The voting Member may be changed by the majority in interest of co-owners of a lot at any time by filing a new notice in the manner herein provided. Each lot shall have one voting Member. Whenever a vote is required in these By-laws, reference to a "Member" is intended to refer only to the "Member" entitled to vote so that a calculation of any stated majority is to be based on the number of Members entitled to vote, thereby excluding from the calculation any co-owners who may be Members, but not entitled to vote.

Section 4.03. Quorum. The presence in person or by proxy of Members representing a majority of the total votes of the Association shall constitute a quorum for holding a meeting of the members of the Association, except for voting questions which have a greater quorum as specifically required by the Residential Development Documents. The written vote of any Member at or prior to any duly called meeting at which meeting the Member is not otherwise present in person or by proxy shall be counted in determining the presence of a quorum in respect to the question upon which the vote is cast.

Section 4.04. Majority. A majority, except when otherwise provided in the Residential Development Documents or these By-laws, shall consist of more than fifty percent (50%) of the Members present in person or by proxy (including prior written votes) at a meeting which has a quorum.

## **ARTICLE V**

### **MEETINGS**

Section 5.01. Place Of Meeting. Meetings of the Association shall be held at a suitable place convenient to the Members as may be determined by the Board of Directors.

Section 5.02. First Annual Meeting. The first annual meeting of the Members of the Association shall be in 1997 on a date determined by the Board of Directors. The time and place of such meeting shall be set by the Board of Directors, and at least twenty-one (21) days written notice thereof shall be given to each Member.

Section 5.03. Annual Meeting. Annual meetings of Members of the Association shall be held in the month of August of each succeeding year after the year in which the first annual meeting is held, on such date and at such time and place as shall be determined by the Board of Directors; provided, however, that the second annual meeting shall not be held sooner than eight (8) months after the date of the first annual meeting. At such meetings there shall be elected by ballot of the Members, a Board of Directors in accordance with these By-laws. The Members may also transact at annual meetings such other business of the Association as may properly come before them.

Section 5.04. Special Meetings. It shall be the duty of the President to call a special meeting of the Members as directed by resolution of the Board of Directors or upon a petition signed by one-third (1/3) of the Members presented to the Association. Notice of any special meeting shall state the time, place and purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

Section 5.05. Notice Of Meeting. It shall be the duty of the Secretary (or other Association officer in the Secretary's absence) to serve a notice of each annual or special meeting, stating the purpose thereof as well as the time and place, upon each member at least twenty-one (21) days but not more than sixty (60) days prior to such meeting. The mailing, postage paid to the representative of each member at the address shown in the notice required to be filed with the Association by Article IV, of these By-laws, shall be deemed notice served. Any Member may, by written waiver of notice signed by such Member, waive such notice, and such waiver, when filed in the records of the Association, shall be deemed due notice to the Member and any co-owners of a lot the Member represents.

Section 5.06. Adjournment. If any meeting of Members cannot be held because a quorum is not in attendance, the Members who are present may adjourn the meeting to a time not less than twenty-four (24) hours from the time the original meeting was called.

Section 5.07. Action Without Meeting. Any action which may be taken at a meeting of the Members (except for the election or removal of Directors) may, be taken without a meeting by written ballot of the Members. Ballots may be solicited in the same manner as provided in Section 5.05 for the giving of notice of meetings of Members. Such solicitations shall specify (a) the number of responses necessary to meet the quorum requirements; (b) the percentage of approvals necessary to approve the action; and (c) the time by which the ballots must be received in order to be counted. The form of written ballot shall afford an opportunity to specify a choice between approval and disapproval of each matter and shall provide that, where the Member specifies a choice, the vote shall be cast in accordance therewith. Approval by written ballot shall be constituted by receipt, within the time period specified in the solicitation, of (i) a number of ballots which equals or exceeds the quorum which would be required if the action were taken at a meeting; and (ii) a number of approvals which equals or exceeds the number of votes which would be required for approval of the action were a meeting held at which the total number of votes cast was the same as the total number of ballots cast.

## ARTICLE VI

### BOARD OF DIRECTORS

Section 6.01. Number. The initial number of directors of the Association shall consist of five (5) persons. This first Board of Directors shall manage the affairs of the Association until a successor Board of Directors is elected at the first annual meeting of the Members of the Association convened within the time required by Article V, Section 5.02 of the By-laws. Directors must be members of the Association.

Section 6.02. Management. Except as otherwise provided in the Residential Development Documents, the business, property, and affairs of the Association shall be managed by the Board of Directors.

Section 6.03. Annual Meeting. Unless otherwise determined by the President of the Board of Directors, the Board of Directors shall meet each year, immediately after the annual meeting of the Members, at the place where the meeting of the Members was held, for the purpose of electing officers and considering any other business that may be brought before the meeting. No notice shall be necessary for the holding of the annual meeting. If the annual meeting of the Board of Directors is not held, the election of officers may be held at any subsequent regular or special meeting of the Board of Directors.

Section 6.04. Other Meetings. Regular meetings of the Board of Directors may be held, without notice, at the time and place from time to time fixed by resolution of the Board of Directors. Special meetings of the Board of Directors may be called at any time by the President, and shall be called on the written request of any member of the Board of Directors. Notice of the date, time, and place of a special meeting shall be sent by the Secretary to each director at his or her residence or usual place of business by letter, telegram, telex, telecopy, or other document transmitted electronically in a manner that, in regular course, would reach that place not later than during the second day immediately preceding the date set for the special meeting, and may also be delivered to a director personally at any time during the second day immediately preceding the meeting. Regular and special meetings of the Board of Directors may be held at any place in Wells County, Indiana, as may be specified in the respective notices, or waivers of notice, of the meetings.

Section 6.05. Waiver Of Notice. A director may waive any required notice either before or after the date and time stated in the notice. The waiver must be in writing, signed by the director and filed with the minutes or corporate records. However, a director's attendance at or participation in a meeting waives any required notice unless the director at the beginning of the meeting (or promptly upon the director's arrival) objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to the action taken at the meeting. For purposes of this section, a waiver granted by telegram, telex, telecopy, or other document transmitted electronically by a director shall be deemed "signed by the director".

Section 6.06. Participation In Meetings By Electronic Communications. Any or all directors may participate in a meeting of the Board or of a committee of the Board by any means of communication by which all directors participating may simultaneously hear each other

during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

Section 6.07. Action Without A Meeting. Any action which may be taken at a Board of Directors' meeting may be taken without a meeting if evidenced by one or more written consents describing the action taken, signed by each director and included in the minutes or filed with the corporate records reflecting the action taken. For purposes of this section, a consent granted by telegram, telex, telecopy, or other document transmitted electronically by a director shall be deemed "signed by a director". Action taken by written consent is effective when 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 a meeting vote in any document.

Section 6.08. Quorum And Voting Requirements. A quorum of the Board of Directors for the transaction of all business shall consist of a majority of the number of directors in office immediately before the meeting begins. If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present shall constitute a decision by the Board. The right of dissent or abstention is not available to a director who votes in favor of the action taken.

Section 6.09. Election Of Directors. (a). First Board Of Directors. The first Board of Directors, or its successors, shall manage the affairs of the Association until the successor Board of Directors is elected at the first annual meeting of members of the Association.

(b). Election of Directors At The First Annual Meeting And Thereafter. At the first annual meeting of the Members, the Members shall elect all directors on the Board with Class A Members having one vote for each lot owned and with the Class B member having three (3) votes for each lot owned.

(c). At the first annual meeting of Members, one (1) Director shall be elected for a term of three (3) years, two (2) Directors shall be elected for a term of two (2) years, and two (2) Directors shall be elected for a term of one (1) year. At such meeting, all nominees shall stand for election as one slate, and the one (1) person receiving the highest number of votes shall be elected for a term of three (3) years, the two (2) persons receiving the next highest number of votes shall be elected for a term of two (2) years, and the two (2) persons receiving the next highest number of votes shall be elected for a term of one (1) year. At each annual meeting thereafter, either one (1) or two (2) Directors shall be elected, depending upon the number of Directors who terms expire. After the first election of Directors at the first annual meeting of Members, each Director shall be elected for a term of three (3) years. The Directors shall hold office until their successors have been elected and hold their first meeting. There is no limit on the number of terms a Director may serve.

Section 6.10. Removal. Any director may be removed, either with or without cause, at (1) the annual meeting of the Members, if the annual meeting notice states that one of the purposes of the meeting is to consider the removal of the director, or (2) any special meeting of the Members if the special meeting is to consider the removal of the director.

Section 6.11. Resignation. A director may resign at any time by delivering written notice to the Board of Directors, the President of the Association, or the Secretary of the Association. A resignation is effective when the notice is delivered unless the notice specifies a later effective date.

Section 6.12. Vacancies. Any vacancy occurring on the Board of Directors, whether caused by removal, resignation, death, or increase in the number of directors, may be filled by the Board of Directors. However, if the directors remaining in office constitute fewer than a quorum of the Board, they may fill the vacancy by the affirmative vote of a majority of all the directors remaining in office. If the vote of the remaining members of the Board of Directors results in a tie, the vacancy shall be filled by vote of the Members entitled to vote for directors at a special meeting called for that purpose.

Section 6.13. Compensation Of Directors. Members of the Board of Directors shall receive no compensation for serving on the Board of Directors.

Section 6.14. Organization Of Meetings. The President of the Association or, in his or her absence, any director chosen by the directors present, shall call meetings of the Board of Directors to order and shall act as chairman of those meetings. The Secretary of the Association shall act as Secretary of meetings of the Board of Directors. In the absence of the Secretary, the chairman of a meeting shall appoint any director to act as Secretary of the meeting.

Section 6.15. Powers. The Board of Directors shall be responsible for the affairs of the Association and shall have all the powers and duties necessary for the administration of the Association's affairs and, as provided by law, may do or cause to be done all acts and things as are required by the Residential Development Documents to be done by the Association except for those acts and things which are directed to be done and exercised exclusively by the Members or the membership generally.

The Board of Directors may delegate to one of its members the authority to act on behalf of the Board of Directors on all matters relating to its duties as 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 hereafter be adopted, the Board of Directors shall have the power to establish policies relating to, and shall be responsible for performing or causing to be performed, the following, in way of explanation, but not limitation:

- (a) Preparation and adoption of annual budgets in which there shall be established the contribution of each Class A member by lot for Regular or Special Assessments;
- (b) Making assessments to defray expenses and establishing the means and methods of collecting such assessments, and establishing the period of the installment payments of the annual assessment; provided, unless otherwise determined by the Board of Directors, the annual assessment for each lot's proportionate share of expenses shall be payable in one (1) installment, to be due and payable in advance on the first day of September;
- (c) Providing for the operation, care, upkeep, and maintenance of all of the common areas;

- (d) Designating, hiring, and dismissing the personnel necessary for the operation of the Association and the maintenance, operation, repair, and replacement of its property and the common areas and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in 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 operate the Association; provided, any reserve fund may be deposited, in the directors' best business judgment, in depositories other than banks;
- (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 the common areas 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 proceedings which may be instituted on behalf of or against the members concerning 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 directly to specific lot 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;
- (m) Making available to any prospective purchaser of a lot, any owner of a lot, any first mortgagee, and the holders, insurers, and guarantors of a first mortgage on any lot, current copies of the Residential Development Documents, rules governing the lot and all other books, records, and financial statements of the Association; and
- (n) Permitting utility suppliers to use portions of the common areas reasonably necessary to the ongoing development or operation of the properties.

Section 6.16. Accounts and Reports. The following management standards of performance will be followed unless the Board by resolution specifically determines otherwise:

- (a) Accounting and controls should conform to generally accepted accounting principles;

- (b) Cash accounts of the Association shall not be commingled with any other accounts;
- (c) No remuneration shall be accepted by any agent of the Board 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; anything of value received shall benefit the Association;
- (d) Commencing at the end of first assessment period, financial reports shall be prepared for the Association at least annually containing:
  - (i) An income statement reflecting all income and expense activity for the preceding period on the accrual basis
  - (ii) a statement reflecting all cash receipts and disbursements for the preceding period;
  - (iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;
  - (iv) a balance sheet as of the last day of the preceding period;
  - (v) a delinquency report listing all members who are delinquent in paying any assessments at the time of the report and describing the status of any action to collect such assessments which remain delinquent (any assessment or installment thereof shall be considered to be delinquent on the fifteenth (15<sup>th</sup>) day following the due date unless otherwise determined by the Board of Directors); and
  - (vi) an annual report shall be distributed to all members within one hundred twenty (120) days after the close of the fiscal year consisting of the following: (1) a balance sheet; (2) an operating (income) statement; and (3) a statement of changes in financial position for the fiscal year. The annual report referred to above may be prepared on an audited or reviewed basis or on a more informal basis, as determined by the Board.

Section 6.17. Enforcement. In the event any member or occupant, guest, or invitee of a member violates any duty imposed under the Declarations, By-laws or a rule or regulation duly adopted by the Board of Directors, the Board shall give thirty (30) days written notice of such violation to the member. If the member fails to cure the violation in such thirty (30) day period, the Board, by a unanimous vote, shall have the power to impose a reasonable fine, not to exceed \$1,000.00, which, if not paid within the time period set by the Board, shall constitute a lien upon the lot owned by the member, and to suspend the member's right to vote or to use the common areas. Provided, however, nothing herein shall authorize the Association or the Board of Directors to limit ingress to or egress from a Lot. The failure of the Board to enforce any provision of the Declaration, By-laws, or any rule or regulation shall not be deemed a waiver of the right of the Board to do so thereafter.



Notwithstanding anything to the contrary herein contained, the Association, acting through the Board of Directors, may elect to enforce any provision of the Declaration, these By-laws, or the rules and regulations of the Association by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedure set forth above or to foreclose any lien authorized under these By-laws or the Residential Development Documents. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred by the Association.

## ARTICLE VII

### OFFICERS OF THE ASSOCIATION

Section 7.01. Designation. The officers of the Association shall consist of a President, a Secretary, a Treasurer, and such Vice Presidents, if any, as are appointed by the Board of Directors from time to time. Officers must be Directors. Any two or more offices may be held by the same person. The Board of directors may, by resolution, create and define the duties of other offices in the Association, and shall elect or appoint persons to fill all such offices.

Section 7.02. Election, Removal And Vacancies. Officers shall be elected by the Board of Directors at its annual meeting and shall hold office for one year or until their respective successors have been elected and qualified. The Board of Directors may remove any officer at any time with or without cause. Vacancies in offices occurring by reason of death, resignation, removal, or otherwise, shall be filled by the Board of Directors.

Section 7.03. President. The President shall be the chief executive officer of the Association. The President shall preside at all meetings of Members and of the Board of Directors, discharge all the duties which are customarily performed by a presiding officer, and perform such other duties as these By-laws provide, or as the Board of Directors may prescribe. The President shall have full authority to execute proxies on behalf of the Association, and to execute, with the Secretary, powers of attorney appointing other corporations, partnerships, or individuals the agent of the Association.

Section 7.04. Vice President. The Vice President shall perform all duties incumbent upon the President during the absence or disability of the President, and shall perform such other duties as these By-laws may require or the Board of Directors may prescribe. However, if the Board of Directors elects more than one Vice President, they shall each perform the duties prescribed by the Board of Directors and their respective right to act during the absence or disability of the President shall be in the order in which their respective names appear in the resolution, or resolutions, electing them.

Section 7.05. Secretary. The Secretary shall attend all meetings of the Members and of the Board of Directors, and shall keep, or cause to be kept, a true and complete record of the proceedings of those meetings. The Secretary shall authenticate the records of the Association and shall, unless the Board of Directors provides otherwise, maintain the records required to be kept by the Association. The Secretary shall attend to the giving and serving of all notices of the Association and shall perform such other duties as these By-laws may require or the Board of Directors may prescribe.

Section 7.06. Treasurer. The Treasurer shall be the financial officer of the Association. The Treasurer shall keep a correct and complete record of accounts, showing accurately at all times the financial condition of the Association. The Treasurer shall be the legal custodian of all monies, notes, securities, and other valuables which may from time to time come into the possession of the Association. The Treasurer shall immediately deposit all funds of the Association in a reliable bank or other depository designated by the Board of Directors, and shall keep those deposits in the name of the Association. The Treasurer shall furnish at meetings of the Board of Directors, or whenever requested by the President, a statement of the financial condition of the Association, and shall perform such other duties as these By-laws may require or as the Board of Directors may prescribe. The Treasurer may be required to furnish a bond in an amount determined by the Board of Directors.

Section 7.07. Delegation Of Authority. In the absence of any officer of the Association, or for any other reason the Board of Directors may deem sufficient, the Board of Directors may delegate the power or duties of such officer to any other officer or to any director, for the time being, provided a majority of the entire Board concurs therein.

Section 7.08. Execution Of Instruments And Documents. Unless otherwise provided by the Board of Directors, all deeds, mortgages, leases, notes and bonds, and all other written contracts and agreements to which the Association shall be a party, shall be signed by the President and attested by the Secretary. All checks, drafts, bills of exchange and orders for the payment of money of the Association shall be signed by a minimum of two (2) of those officers of the Association as the Board of Directors may from time to time designate.

## ARTICLE VII

### INDEMNIFICATION

Section 8.01. Indemnification Of Directors And Officers. Every person who is or was a director of the Association (as defined in IC 23-17-16-2) shall be indemnified by the Association against all liability and reasonable expenses (as those terms are defined in IC 23-17-16-3 and 4) incurred by that person in any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, and whether formal or informal, because that person is or was a director of the Association, provided that such person is determined in the manner specified in IC 23-17-16-12 to have met the standards of conduct specified in IC 23-17-16-8. Subject to the requirements of IC 23-17-16-10, the Association shall advance to that person the reasonable expenses incurred by him or her in connection with any such action, suit, or proceeding. Upon demand for indemnification or advancement of expenses, as the case may be, the Association shall proceed as provided in IC 23-17-16-12 to determine whether that person is entitled thereto. Every person who is or was an officer of the Association shall be indemnified, and shall be entitled to an advancement of expenses, to the same extent as if that person were a director.

Section 8.02. Report Of Indemnification. If the Association indemnifies or advances expenses to a director in connection with a proceeding by or in the right of the Association, the Association shall report the indemnification or advance in writing to the members with or before the notice of the next member's meeting as provided.

Section 8.03. Indemnification Not A Limitation. Nothing contained in Section 8.01 shall limit or preclude the exercise of any right provided under the Law, the Articles of Incorporation of the Association, the By-laws, any general or specific action of the Board of Directors or shareholders of the Association, or any contract relating to the indemnification or the advancement of expenses to any director, officer, employee, or agent of the Association, or the ability of the Association to otherwise indemnify or advance expenses to any director, officer, employee, or agent.

## ARTICLE IX

### CONFLICT OF INTEREST TRANSACTION

Section 9.01. Conflict Of Interest Transaction. A transaction with the Association in which a Director or Officer of the Association has a direct or indirect interest is a conflict of interest transaction. A conflict of interest transaction is not voidable by the Association solely because of the Director's or Officer's interest in the transaction if the requirements of IC 23-17-13-12 are met.

**ARTICLE X**  
**AMENDMENTS**

Section 10.01. Amendments. The power to make, alter, amend, or repeal these By-laws is vested in the members of the Association with such power to be exercised only by at least Two-thirds (2/3rds) vote of the Members present and entitled to vote at any meeting at which a quorum exists.

**ARTICLE XI**  
**FISCAL YEAR**

Section 11.01. Fiscal Year. The fiscal year of the Association shall be the calendar year.

The foregoing By-laws of the Association was duly adopted by the Board of Directors of the Association on the \_\_\_\_\_ day of \_\_\_\_\_, 1996.

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Secretary of the Association