

## TRANSCRIPTION

### First Amendment to Code of By-Laws

[BEGINNING OF First Amendment to Code of By-Laws.pdf]

**FIRST AMENDMENT**  
**to the**  
**CODE OF BYLAWS**  
**for**  
**AMBER RIDGE HOMEOWNERS' ASSOCIATION, INC.**

COMES NOW the Amber Ridge Homeowners' Association, Inc. by its Board of Directors, on this 24th days of November, 2009, and states as follows:

**WITNESSETH THAT:**

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

**WHEREAS**, the Plat for Amber Ridge, Section 1, was filed with the Office of the Marion County Recorder on May 9, 2001, as **Instrument # 2001-0075531**; and

**WHEREAS**, the Plat for Amber Ridge, Section 2, was filed with the Office of the Marion County Recorder on September 25, 2001, as **Instrument # 2001-0168587**; and

**WHEREAS**, the Amber Ridge subdivision is subject to Covenants which run with the land, namely the Declaration of Covenants, Conditions and Restrictions for Amber Ridge (hereinafter "Declaration"), recorded in the Office of the Marion County Recorder on May 9, 2001, as **Instrument #2001-0075529**, which state that by taking a deed to any Lot within Amber Ridge each owner becomes a mandatory member of the Amber Ridge Homeowners Association, Inc., an Indiana nonprofit corporation (hereinafter "Association"); and

**WHEREAS**, all Lots within the Amber Ridge Subdivision are also subject to additional Covenants with run with the land, namely, the Plat Covenants and Restrictions for Amber Ridge (hereinafter "Plat Covenants"), recording in the office of the Marion County Recorder on May 9, 2001, as **Instrument #2001-0075530**; and

**WHEREAS**, the Association was incorporated pursuant to the above listed Declaration as a non-profit corporation pursuant to Articles of Incorporation (hereinafter "Articles") filed with, and approved by, the Indiana Secretary of State on October 18, 2000; and

**WHEREAS**, the Association's Initial Board of Director(s) adopted a Code of Bylaws (hereinafter "Bylaws") for the Association and the homeowners within Amber Ridge; and

**WHEREAS**, the Articles of Incorporation, Article X, Section 4, and the Bylaws, Article VII, Section 1, states that the power to make, alter, amend or repeal the Code of Bylaws, without the consent of the Members, shall be vested in the Board of Directors of the Association; and

**WHEREAS**, pursuant to the authority granted to the Board of Directors by the Articles and the Bylaws, the Board of Director(s) desires to make the following amendments to the current Bylaws;

**WHEREFORE**, the following Amendments to the Bylaws are hereby approved and adopted by a majority vote of the Board of Directors of the Amber Ridge Homeowners' Association, Inc. Those amendments do not conflict in any manner with any provision contained in the Declaration or the Articles, and it is the intention of the Association that all current Bylaw provisions not affected by these amendments are deemed and desired to remain in full force and effect.

*Article I, Section 2, is hereby amended to read as follows:*

**ARTICLE I**

**Identification**

**Section 2. Registered Agent and Mailing Address.** The name and post office address of the registered agent and principle office of the Corporation at the time of this amendment is: Amber Ridge Homeowners' Association, Inc., c/o Eric Koons, 6325 Nightshade Drive, Indianapolis, IN 46237, or as updated from time to time with the Indiana Secretary of State's Office. Because the registered agent may change from time to time, the current registered agent of the Corporation can be determined through the most recent annual business entity report filed with the Indiana Secretary of State's office.

Currently, the mailing address of the Association is Amber Ridge Homeowners Association, Inc., P.O. Box 39153, Indianapolis, IN 46239. Until the Board of Directors otherwise determines, the registered agent's location shall be the registered place of business of the Corporation, but such registered office may be changed from time to time by the Board of Directors in the manner provided by law and need not be identical to the registered place of business of the corporation.

*Article II, Section 3, is hereby amended to read as follows:*

**ARTICLE II**

**Members**

**Section 3. Annual Meetings.** The annual meeting of the Association shall be held on October 1<sup>st</sup> of each year, or any other date deemed necessary or desirable by the Board within one hundred eight (180) days of October 1<sup>st</sup> of each year; however, under no circumstances shall the annual meeting be held more than fifteen (15) months of the previous annual meeting. The specific date, time and place of the annual meeting are to be determined by the Board of Directors. At each annual meeting, the Members shall elect the Board of Directors of the Association in accordance with the provisions of these Bylaws and transact such other business as may properly come before the meeting.

*Article II, Section 4, is hereby amended to read as follows:*

**ARTICLE II**

**Members**

**Section 4. Special Meetings.** A Special Meeting of the Members may be called by the President, by resolution approved by a majority of the Board of Directors, or upon written petition signed and dated by not less than ten percent (10%) of all eligible members. The petition shall be presented to the President or Secretary of the Association and shall state the purposes for which the meeting is to be called. Such purposes, along with the date, time and location of the special meeting shall be stated in the notice of the meeting which is delivered to the members, not less than ten (10) days prior to the date fixed for such meeting. No business shall be transacted at a Special Meeting except as stated in the notice of the meeting, unless all the members are present.

*Article II, Section 5, is hereby amended to read as follows:*

**ARTICLE II**

**Members**

**Section 5. Notice of Meetings.** Written or printed notices stating the place, day and hour of a meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called shall be delivered or mailed by the Secretary of the Corporation to each member of record of the Corporation entitled to vote at the meeting, at such address as appears upon the records of the Corporation, at least (10) days before the date of the meeting. Notices of meetings may also be emailed to members if the member consents to receiving such notices via email. Notice of any meeting of the members may be waived in writing by any member if the waiver sets forth in reasonable detail the purpose or purposes for which the meeting is called and the time and place thereof. Attendance at any meeting in person or by proxy shall constitute a waiver of notice of such meeting.

*Article II, Section 6(a), is hereby amended to read as follows:*

**ARTICLE II**

**Members**

**Section 6. Voting at Meetings**

(a) **Voting Rights.** Unless otherwise suspended, each Lot shall be entitled to cast one vote on each issue properly brought before the membership. In the event any Lot is owned by

more than one person, such persons shall designate one (1) person with respect to such Lot who shall be entitled to vote at a meeting of the members. Such person shall be known at the "Voting Member". Such Voting Member may be the Owner or one of a group comprising all of the Owners of a Lot, or may be some person designated by such Owner or Owners to act as proxy on his or their behalf and who need not be an Owner. Any or all of such Voting Members may be present at any meeting of the Voting Members and may vote or take any action as a Voting Member, either in person or by proxy. Developer, as such term is defined in the Declaration (or its nominee), may exercise the voting rights with respect to any Lot owned by it.

*Article II, Section 6(b), is hereby amended to read as follows:*

**ARTICLE II**  
**Members**

**Section 6. Voting at Meetings**

(a) **Proxies.** A Voting Member is entitled to vote either in person or by proxy, executed in writing by such voting Member or by his or her duly authorized attorney-in-fact and delivered to the Secretary. Proxies must be filed with the Secretary before being allowed to vote. In any meeting of the Voting Members called for the purposes of electing the Board of Directors of the Corporation, each Voting Member shall be permitted to cast the number of votes to which he is entitled, as hereinabove set forth, for each Director of the Corporation to be elected at such meeting. A submitted proxy shall be valid for eleven (11) months from the date of its execution unless it states a longer or shorter period of validity. A proxy may be withdrawn or revoked by the Voting Member in writing, or by the attendance of the Member at the meeting in which the proxy is to be cast.

*Article II, Section 6(c), is hereby amended to read as follows:*

**ARTICLE II**  
**Members**

**Section 6. Voting at Meetings**

(c) **Quorum and Adjournments:** At any meeting of the membership, unless otherwise set forth in the Declaration of Covenants, the presence of Members, in person or by proxy, entitled to cast ten percent (10%) of the total number of valid and eligible Owner votes shall constitute a quorum. For purposes of this section, the term "eligible" means any Owner whose privileges are not suspended for any reason as set forth in the Declaration, Articles or these Bylaws. If a Member has had his voting rights suspended pursuant to the Declaration, Articles or these Bylaws, that vote is not considered a valid or eligible vote toward calculating quorum requirements.

After a Member's vote is represented, either in person or by proxy, for any purpose at a meeting, the vote will be considered present for quorum purposes for the remainder of the meeting and for any adjournment of the meeting. Except as otherwise provided in the Declaration, Articles or these Bylaws, each question or action shall be deemed passed if approved by a simple majority of the eligible votes cast by the Members present, in person or by proxy, at a meeting at which a quorum is present.

In the event a quorum is not present at any meeting called under authority of these Bylaws, that meeting may be adjourned to a date not more than sixty (60) days later without Notice other than announcement at the meeting even though less than a quorum is present. At such subsequent meeting, the presence of Members, in person or by proxy, entitled to cast five percent (5%) of the total number of valid and eligible Owner votes shall constitute a quorum.

*Article II, Section 8, is hereby amended to read as follows:*

## **ARTICLE II**

### **Members**

**Section 8. Action by Written Ballot.** Any action required or permitted to be taken at any meeting of the Members may be taken without a meeting if the Corporation delivers a written ballot to every Member entitled to vote on the matter. The written ballot must set forth each proposed action and provide an opportunity for the Member to vote for or against each proposed action. Approval by written ballot is only valid if the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing such action, and the number of approvals equals or exceeds the number of votes required to approve the matter at a meeting. A solicitation, or request, for votes by written ballot must indicate the number of responses needed to meet the quorum requirements, state the percentage of approvals necessary to approve each matter (other than the election of directors), and specify the time by which a ballot must be received by the Corporation to be counted.

In addition, the Association may conduct voting and other meetings in any other manner as authorized by the Indiana Nonprofit Corporations Act of 1991, as amended.

*Article II, Section 9, is hereby added to the Bylaws and shall read as follows:*

## **ARTICLE II**

### **Members**

**Section 9. Suspension of Voting Rights.** No Member shown on the books or management accounts of the Association to be more than thirty (30) days delinquent in any payment due to the Association shall be eligible to vote, either in person or by proxy, or to be elected to the Board of Directors.

For purposes of this provision, the thirty (30) day period begins on the first day of the fiscal year or the due date of the assessment as set by the Board of Directors pursuant to its authority as set forth in the Declaration, and "payment" shall mean payment of the full assessment amount due, which shall include any collection fees, interest, late fees, attorney fees and court costs that are due and owing the Association pursuant to the Declaration, Articles or these Bylaws. Hence, if any Owner arranges payment of an assessment amount through a payment option offered by the Association, and that payment arrangement does not pay the entire assessment amount within thirty (30) days of the assessment becoming due, then that Owner's voting rights shall remain suspended as set forth under this provision until the entire assessment amount is paid in full.

In addition, payment of delinquent accounts by any method other than cash at a meeting where a vote will be held does not cease any suspension under this provision until the funds from the payments are actually received by the Association.

*Article III, Section 1, is hereby amended to read as follows:*

### **ARTICLE III**

#### **Directors**

##### **Section 1. In General.**

(a) **Number.** The affairs of the Association shall be governed and managed by the Board of Directors (herein collectively called the "Board" or "Directors" and individually called "Director"). The Board of Directors shall be composed of three (3) persons, with the minimum number of Directors being three (3) and the maximum number of Directors being nine (9). The exact number of Directors may be increased or decreased, as permitted by law, by resolution of the Board of Directors.

(b) **Qualifications.** A director must be an Owner in the Amber Ridge subdivision, maintain their primary place of residence in the Amber Ridge community, and not have their membership rights in the Corporation suspended for any reason as set forth in the Declaration, Articles or these Bylaws. In addition, and in a display of honesty and integrity to the members of the Amber Ridge community, all persons elected to serve as a Director must execute, or sign, the Statement of Conduct adopted by the Board of Directors and attached to this amendment of the Bylaws and marked as "Addendum 1", to govern the conduct and activities of Board members; and any person elected to serve on the Board of Directors who shall refuse to sign the Statement of Conduct shall not be eligible to serve as a Director. In addition, no Lot may be represented by more than one person or representative on the Board of Directors at the same time.

(c) **Term of Office Generally.** The Board of Directors shall serve their terms on a staggered basis as provided by law. To initiate this staggered rotation, the Association shall elect one (1) Director to serve a three (3) year term, one (1) Director to serve a two (2) year term of office, and one (1) Director to serve a one (1) year term of office. At all directorship elections held thereafter, all directors shall be elected to serve a three (3) year term of office. All directors shall serve their full term and/or until their respective successors are properly elected and qualified.

In the event that the number of Directors is increased or decreased by resolution of the Board, the election terms, or rotation, of said Directors shall be determined by the Board at the time the increase or decrease is approved, so long as the election of Directors continues to be staggered. If multiple directors are being appointed by the Board to fill staggered Board vacancies, then the Board shall determine which appointee shall serve each respective staggered term. A Director may serve any number of consecutive terms.

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

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

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

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

At any director election where the terms of those directors being elected are to be staggered, the highest vote recipient shall be elected to the longest term, the second highest vote recipient shall be elected to the second longest term, and so on until all director positions being elected are filled. If there is a tie for directorship positions of differing term lengths (i.e. two (2) persons both receive fifteen (15) votes, but one (1) is to serve a two (2) year term and one (1) is to serve a one (1) year term), the directors may agree to which term each will serve without the need for a new run-off vote. If the directors cannot resolve the term dispute by agreement, then the presiding officer shall have the sole discretion to decide the issue by either 1) a run-off ballot, or 2) the flip of a coin.

In the event no quorum is present at an annual meeting of the Association, or if a sufficient number of candidates cannot be found to fill all open Board vacancies at the annual meeting, whether by slating, written petition or oral nomination, then the remaining members of the Board of Directors may fill any directorship positions open for election at the annual meeting in the same fashion as they would fill a vacancy under the terms of these Bylaws. Any Director so appointed to fill an open position on the Board of Directors shall serve until the next annual meeting.

*Article III, Section 2, is hereby amended to read as follows:*

### **ARTICLE III**

#### **Directors**

##### **Section 2. Vacancies and Removal.**

**(a) Vacancies.** Any vacancy that shall occur in the Board of Directors due to the death, resignation, removal or otherwise shall be filled by a majority vote of the remaining Directors, unless that vacancy is caused by a Director(s) being removed from the Board by a vote of the Membership at a Special Meeting, in which case the Members in attendance at that Special Meeting shall elect from eligible Owners nominated at the Special Meeting a successor(s) to fill

the vacant term(s) of any removed Director(s). Any Director appointed to fill a vacancy on the Board shall serve the unexpired portion of his predecessor.

**(b) Removal.** Any Director may be removed from the Board of Directors, with or without cause, by a majority vote of the Members of the Corporation at a meeting of the Members called expressly for that purpose.

A Director holding an office may also be removed, with or without cause, by a two-thirds (2/3) vote of the Board of Directors.

For purposes of this provision, an act that constitutes "for cause" includes, but is not limited to: a) failing to attend three (3) or more consecutive meetings of the Board of Directors; b) becoming ineligible to serve on the Board pursuant to any terms set forth in the Declaration, Articles or these Bylaws; c) acts of fraud, theft, deception, or criminal behavior; d) breach or disclosure of confidential Board information or discussions to person(s) not on the Board; e) failure to conform or follow the Director's Statement of Conduct; f) or any other actions not authorized by the Board which hinder or bypass the authority of the Board to act as a whole.

Determination of whether "for cause" has been sufficiently established to justify removal of a Director is left to the sole discretion of the members or the remaining Directors. The vacancy of a Director removed by the Members at a special meeting or a vacancy of a directorship due to a Director being removed by a vote of the Board shall be filled pursuant to the vacancy provisions within these Bylaws.

*Article III, Section 5, is hereby amended to read as follows:*

**ARTICLE III**

**Directors**

**Section 5. Special Meetings.** Special meetings of the Board of Directors may be called by the President or by a majority of the members of the Board of Directors, at any place within or without the State of Indiana, upon twenty-four (24) hours notice, specifying the time, place and general purposes of the meeting, given to each Director personally, by telephone or email, or notice may be given by mail if mailed at least three (3) days before such meeting.

*Article III, Section 8, is hereby amended to read as follows:*

**ARTICLE III**

**Directors**

**Section 8. Action Taken Without a Meeting.** Any action required or permitted to be taken at a meeting of the Board of Directors or any committee may be taken without a meeting if the action is approved by a majority of the entire Board in writing or via email. Evidence of the written or email approval shall be made a part of the corporate Board minutes or records.



*Article III, Section 9, is hereby amended to read as follows:*

**ARTICLE III**

**Directors**

**Section 9. Duties of the Board of Directors.** The Board of Directors shall be the governing body of the Association representing all of the Owners and being responsible for the functions and duties of the Association, including but not limited to, providing for the administration of the Development, the management, maintenance, repair, upkeep and replacement of the Common Area (unless the same are otherwise the responsibility or duty of Owners), and the collection and disbursement of the Common Expenses. The Board may employ a Managing Agent upon such terms as the Board shall find, in its discretion, reasonable and customary. The Managing Agent, if one is employed, shall assist the Board in carrying out its duties, which include, but not limited to:

- (a) maintenance, repair and replacement of the Common Areas, unless the same are otherwise the responsibility or duty of the Owners of Lots; provided, however, that this duty shall not include or be deemed or interpreted as a requirement that the Association, the Board or any Managing Agent must provide any on-site or roving guards, security service or security system for protection or surveillance, and the same need not be furnished;
- (b) procuring of utilities in connection with the Common Areas (to the extent the same are not provided and billed directly to Owners of Lots and Dwelling Units by utility companies);
- (c) landscaping, painting, decoration, furnishing, and maintenance and upkeep of, the Common Areas;
- (d) assessment and collection from the Owners of the Owners' respective shares of the Common Expenses;
- (e) preparation of the annual budget, a copy of which will be mailed or delivered to each Owner at the same time as the notice of the annual or special meeting at which the same is to be acted upon is mailed or delivered;
- (f) preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred in the prior year; if possible, such accounting shall be delivered to each Owner simultaneously with delivery of the proposed annual budget for the current year;
- (g) keeping a current, accurate and detailed record of receipts and expenditures affecting the Common Areas and the business and affairs of the Association, specifying and itemizing the Common Expenses; all records and vouchers shall be available for examination by an Owner at any time during normal business hours;
- (h) procuring and maintaining for the benefit of the Association, the Owners, any Managing Agent and the Board the insurance coverage required under this Declaration and such other insurance coverage as the Board, in its sole discretion, may deem necessary or advisable;
- (i) paying taxes and assessments assessed against and payable with respect to the Common Areas and paying any other necessary expenses and costs in connection with the Common Areas;

- (j) enforcing all covenants, restrictions, bylaws and rules and regulations in the Declaration, Articles, Bylaws or adopted rules and regulations;
- (k) all duties and obligations imposed upon the Association or the Board under this Declaration, the Articles, the Bylaws or the Act.

*Article II, Section 10, is hereby amended to read as follows:*

**ARTICLE III**

**Directors**

**Section 10. Powers of the Board of Directors.** The Board of Directors shall have such powers as are reasonable and necessary to accomplish the performance of their duties. These powers include, but are not limited to, the power:

- (a) to employ a Managing Agent to assist the Board in performing its duties;
- (b) to purchase, lease or otherwise obtain for the Association, to enable it to perform its functions and duties, such equipment, materials, labor and services as may be necessary in the judgment of the Board of Directors;
- (c) to employ legal counsel, architects, contractors, accountants and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business and affairs of the Association;
- (d) to employ, designate, discharge and remove such personnel as in the judgment of the Board of Directors may be necessary for the maintenance, upkeep, repair and replacement of the Common Areas, and to perform all other maintenance, upkeep, repair and replacement duties of the Association and the Board;
- (e) to include the costs of performing all of its functions, duties and obligations as Common Expenses and to pay all such costs there from;
- (f) to open and maintain a bank account or accounts in the name of the Association;
- (g) to promulgate, adopt, revise, amend and alter from time to time such additional rules and regulations with respect to use, occupancy, operation and enjoyment of the Development, including the individual lots, streets (whether public or private), and the Common Areas, said rules and regulations being in addition to the rules and restrictions set forth in the Declaration and Plat Covenants, as the Board, in its discretion, deems necessary or advisable; provided, however, that copies of any such additional rules and regulations so adopted by the Board shall be promptly delivered to all Owners;
- (h) To take any and all appropriate action, including legal action, if necessary, to enforce or gain compliance by all Owners of the provision, restrictions or requirements within Declaration, Articles, Bylaws, or rules and regulations of the Association;
- (i) to grant such public or private companies, entities or bodies as the Board may approve, such easements as may be necessary to provide the Lots, Dwelling Units and Common Areas with facilities for utility and similar services, including but not limited to cable television facilities and service; provided that such easements are located within or are co-extensive with an one or more utility easements, maintenance and access easements, landscape and maintenance easements, or Common Areas shown upon, and identified as such on, or provided for in, any subdivision plat of the Real Estate, whether such plat is heretofore or hereafter recorded.

*Article IV, Section 1, is hereby amended to read as follows:*

**ARTICLE IV**

**Officers**

**Section 1. In General.** The officers of the Corporation shall be members of the Board of Directors and shall consist of a President, a Secretary, a Treasurer, and such other officers or assistant officers as the Board shall from time to time create and so elect. Any two (2) or more offices may be held by the same person, except that the duties of the President and Secretary shall not be performed by the same person.

*Article V, Section 1, is hereby amended to read as follows:*

**ARTICLE V**

**Books and Records and Assessments**

**Section 1. In General:** Current copies of the Declaration, the Articles, the Bylaws, rules and regulations, financial documents and other corporate documents concerning the Real Estate or the Association and its operation required to be kept and made available for inspection shall be open for inspection by any member or other properly designated party upon written request submitted to the Board at least five (5) days in advance of the inspection date, at the principal office of the Association, during reasonable business hours or under other reasonable circumstances, where copies of the same may be purchased at a reasonable cost. The Association shall keep detailed books of account showing all expenditures and receipt of administration which shall specify the maintenance and repair expenses of the Common Areas, all easements, and any other expenses incurred by or on behalf of the Association and its members. Any holder, insurer, or guarantor of a first mortgage on a Lot shall be entitled upon written request to receive a financial statement for the immediately preceding fiscal year.

The Association reserves the right to require any member requesting to inspect the accounts, books, records, financial statements, membership lists and other documents and papers of the Association to comply with the procedures and requirements set forth under the Indiana Nonprofit Corporation Act of 1991, specifically Indiana Code 23-17-27 et seq., and any amendments or modification subsequently adopted thereto, and reserves the right to deny any request for document inspection which the Association, in its sole discretion, determines: a) was not made in good faith or for a proper purpose; b) the member fails to describe with reasonable particularity the purpose and the records the member desires to inspect; or c) the records requested to be inspected by the member are not directly connected to the stated purpose for the request.

*Article V, Section 2, is hereby amended to read as follows:*

**ARTICLE V**

**Books and Records and Assessments**

**Section 2. Assessments.** Each Owner, with the exception of the Developer, is obligated to pay to the Corporation annual and special assessments, as more specifically described in the Declaration. The assessments are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid within thirty (3) days shall be delinquent.

If the assessment is not paid within thirty (30) days after the assessment falls due, the assessment shall bear interest from the date of delinquency at the rate of one percent (1%) per month or the maximum lawful rate, whichever is less. In addition, the Association may impose reasonable late fees on all delinquencies in an amount(s) determined by the Board from time to time. The Board may adopt specific collection procedures to be used in collecting assessments and pursuing delinquent accounts.

If the Association incurs administrative fees or expenses as a result of collecting delinquent amounts, the Owner shall be personally obligated to reimburse the Association these fees.

If the Association employs legal counsel to pursue the collection of unpaid amounts owed to the Association, the Owner shall be personally obligated to pay any collection costs or expenses for the sending of collection letters or other correspondence or communication prior to the filing of legal action, or for the Association's attorney to take any other action in an attempt to collect the unpaid amounts.

The Association may bring an action at law against the Owner personally obligated to pay the same or to foreclose the lien against the property, or both, and there shall be added to the amount of such account balance the costs of preparing the collection notices and letters, preparing and filing the complaint in such action, interest and late fees on any assessment as above provided, and reasonable attorneys' fees, together with the costs of the action. In addition, an Owner who becomes more than thirty (30) days delinquent on an assessment or other payment due to the Association shall not be eligible to vote, either in person or by proxy, to be elected or serve on the Association's Board of Directors, or to use any of the Common Area facilities, if any, pursuant to the provisions set forth in the Declaration.

*Article VII, Section 1, is hereby amended to read as follows:*

**ARTICLE VII**

**Amendments and Definitions**

**Section 1. Amendments.** The Board of Directors of the Corporation shall have power to make, alter, amend or repeal the Bylaws of the Corporation by an affirmative vote of the majority of the members of the Board of Directors of the Corporation, except as otherwise provided in the Declaration.

*Article VII, Section 3, is hereby added to the Bylaws and shall read as follows:*

**ARTICLE VII**

**Amendments and Definitions**

**Section 3. Document Conflicts.** In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles of Incorporation shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

*Article VII, Section 4, is hereby added to the Bylaws and shall read as follows:*

**ARTICLE VII**

**Amendments and Definitions**

**Section 4. Recording.** Indiana law does not currently require corporate Bylaws of a homeowner's association to be recorded. Nevertheless, if the Association decides to record these Bylaws at any time in the Office of the Marion County Recorder, then all subsequent amendments or changes to these Bylaws must then be executed by the President and Secretary of the Board and recorded in the Office of the Marion County Recorder before becoming effective.

*The Article titled "The Indiana Nonprofit Corporation Act of 1991" was numbered incorrectly as "Article VII". Therefore, this Article is hereby re-numbered as Article VIII.*

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## ADDENDUM #1

### Amber Ridge Homeowners' Association, Inc.

#### Board Member Statement of Conduct

Dear Board Member:

Congratulations on your election or appointment to the Board of Directors for the Amber Ridge Homeowners' Association. The purpose of this letter is to acquaint you with the standard of conduct that is expected of community association board members in Indiana. The law imposes certain legal obligations on all board members. Failure to fulfill these obligations could lead to a lawsuit against the Association, the Board, and even you personally. Chief among these obligations is what's called a "fiduciary duty" to the Association and its members. This means that you must perform your duties as a board member in good faith and with the degree of care that an ordinarily prudent person would use under similar circumstances, being at all times loyal to the Association and its best interests.

But, in practice, it gets a little more complicated than that. While it's impossible to review every possible situation you might face, here are some guidelines to follow. As a board member, you must:

1. **Act in the Association's best interests at all times.** Your decisions must be based on what's best for the Association as a whole. Making decisions or taking actions that put the interests of yourself, your friends, or your supporters above those of the Association or its members as a whole is a breach of your fiduciary duty to the Association.
2. **Act with care, including seeking advice from experts when appropriate.** When making decisions or taking actions, you must exercise the degree of care that an ordinarily prudent person would under the circumstances. Among other things, this means that if, for example, the board must make a decision involving an issue that no one on the board is an expert on, the board should consult an expert. This doesn't mean you should feel paralyzed to make a decision, but it does mean that you should exercise care in making certain decisions regarding issues that the average person would find it helpful or necessary to seek some input or advice from an expert or advisor before making a final decision, such as legal, accounting, construction or particular maintenance (such as fertilization chemicals) issues or matters.
3. **Act within the scope of your authority.** Your authority is defined in the Association's governing documents and by applicable Indiana and local law. It's important that you be familiar with the content of the Declaration, Bylaws and other governing documents of the Amber Ridge community; and that you understand the scope of your authority in those documents and not exceed it. If a Board action violates the duly adopted Bylaws, Declaration, or other governing documents, or state or local laws, the Board may have breached its fiduciary duty and the action may have to be invalidated. Examples of this would be failing to comply with procedural requirements for community meetings and

elections, or failing to enforce or comply with the restrictions or requirements in the Declaration. Therefore, it is very important that board members always act to make reasonable decisions that are consistent with Indiana and local laws, the Declaration, the Bylaws, and other governing documents of the community. Likewise, board members should not act unilaterally or contrary to Board decisions, such as signing contracts, approving architectural requests, or making other promises or agreements with vendors or other Owners without Board approval.

4. **Act in good faith.** Board members' motives must at all times be to further the legitimate best interests of the Association. If board members make decisions based on favoritism, discrimination, or malice -- or make arbitrary decisions -- they are breaching their fiduciary duty. This doesn't mean that the board can't create a rule that affects some members differently from the way it affects others, such as a no-pets rule or a parking rule. It just means that the decision to create the rule must be based on board members' honest judgment of what is best for the Association as a whole. This same guideline applies to enforcement of the covenants as well, meaning a board member should not seek to enforce the restrictions of the community selectively or in a personal or self-serving fashion.
5. **Act professionally.** Being a member of the Board requires you to behave and express yourself in a professional and businesslike manner. Remember that you are a representative of the Owners, and your behavior is a reflection on everyone you represent. Obviously, inappropriate language and personal attacks against other board members, Owners, managers or guests are not consistent with the best interests of the Association. Also, board members should attend meetings regularly. You were chosen to sit on the Board because of your experience, education and talents, and not attending meetings prevents the Board from using your valuable input to make decisions.

Additionally, if a board member has any perceived, potential or actual conflict of interest regarding any aspect of the business operations of the Association, this information must be disclosed to the Board immediately. An example of this would be a situation where a board member, or a relative or close friend, is directly involved with any vendor being used by the Association, such as the lawn maintenance company. This conflict of interest disclosure is required under the law, and failure to make a proper disclosure could open the board member up to personal liability surrounding the conflict.

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

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

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

7. **Act as a Steward for the Community.** Board members have been elected to lead the community through its community Association. You have been entrusted to manage and make decisions that will impact the entire neighborhood. As a representative of the people, you should hold yourself up as an example to the other residents of the community by complying and following the provisions of the governing documents for the community. Board members should also not defame, slander, harass, threaten, or otherwise attempt to intimidate or ridicule any other board member, Association member, resident, or management staff member. Any action by a board member that fails to fall within this good steward guideline is acting outside the scope of the board member's authority, and as such, may be opening himself up to potential individual liability or removal from the Board.
  
8. **Avoid the following five common mistakes.** You'll have to use your best judgment in determining what your fiduciary duty requires of you in any specific situation. But there are five common mistakes that you should avoid:
  - Don't take *personal* advantage of business opportunities that should benefit the *entire* community.
  - Don't do business with the association unless you disclose that fact and get the appropriate approval to do so.
  - Don't give preferential treatment to friends and supporters, or expect it for yourself from others.
  - Don't accept gifts from vendors or others doing business -- or seeking to do business -- with the association.
  - Don't make decisions on behalf of the Association based solely upon your personal goals or views, but make them based upon the desire of the residents and the benefit to the neighborhood as a whole. Dictators seldom have loyal and happy followers.

The Board has decided to adopt this statement of conduct to serve as a source of guidance for all board members and to be a reminder to each member of his or her responsibilities as a board member and a representative of the Owners in Amber Ridge. Each board member should always keep in mind that they have been entrusted to act as a representative of the community by their neighbors. Therefore, every member of the Board is asked to sign this statement of conduct as your affirmation that you have read, understand and agree to follow these simple rules of conduct and ethical behavior. Your refusal to adopt and follow these simple rules of conduct shall act as a disqualification to serve on the Board of Directors.

You have undertaken an important job in the Amber Ridge community, and we appreciate your service.

Thank you.

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I hereby state that I have read this Statement of Conduct and understand these rules and what is expected of me as a board member of the Association. I also state by my signature below that I agree to follow these rules of conduct, and that I understand my failure to abide by these rules of conduct may result in my removal from the Board of Directors of the Amber Ridge Homeowners' Association, Inc.

\_\_\_\_\_  
Signature of Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Director

All Directors serving on the Amber Ridge Homeowners Association, Inc. Board of Directors shall sign a Statement of Conduct, which shall be maintained in the Association's records. This Statement of Conduct shall remain valid and in effect through the end of the Director's current term. If the Director is re-elected for a new term upon the expiration of his/her current term, then a new Statement of Conduct shall be signed by the Director for their new term of office.

**[End of Statement of Conduct]**

The undersigned hereby certifies that this First Amendment to the Code of Bylaws of Amber Ridge Homeowners' Association, Inc. was duly moved and passed by a majority vote of the Board of Directors of said Association.

AMBER RIDGE HOMEOWNERS' ASSOCIATION, INC.

*Amy Amico* 11/24/09  
President Date

Amy Amico  
Printed Name of Director

ATTEST:

*Michele K. Dew* 11/24/09  
Secretary Date

Michele K. Dew  
Printed Name of Director