

**DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS OF AUTUMN RIDGE SUBDIVISION**

THIS DECLARATION, is made on the date hereafter referenced by **Autumn Ridge Holding Company, LLC** ("Declarant"), and shall be upon the following terms and conditions:

**RECITALS**

WHEREAS, the Declarant is the owner and the developer of the real property located in Monroe County, Indiana to be commonly known as Autumn Ridge Subdivision ("Autumn Ridge") which real property is more particularly and legally described on **Exhibit A**, attached hereto and incorporated herein;

WHEREAS, the Declarant plans to improve, in phases, the subject real property by causing the construction of forty-seven (47) living units and thereafter selling said individual living units together with the right to use the Common Area;

NOW, THEREFORE, the Declarant hereby declares that the real property described on Exhibit A shall be held, sold and conveyed subject to the following easements, restrictions, covenants, assessments and conditions which shall run with the subject real property and are for the purpose of protecting the value, integrity and desirability of the subject real property. The following easements, restrictions, covenants, assessments and conditions shall be binding on all persons or entities having any right, title or interest in the described real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I**  
**Definitions**

**Section 1.1 - Articles of Incorporation.** The Articles of Incorporation of Autumn Ridge Subdivision Owner's Association, Inc., or a similarly named entity, to be filed with the Secretary of State of the State of Indiana.

**Section 1.2 - Association.** The Autumn Ridge Subdivision Owner's Association, Inc., or a similarly named Indiana not-for-profit corporation, its successors and assigns.

**Section 1.3 - Board.** The Board of Directors shall be the governing body of the Association.

**Section 1.4 - Bylaws.** The Bylaws of the Association, as they may be amended from time to time, a copy of which are attached hereto as **Exhibit B** and incorporated herein.

**Section 1.5 - Common Area.** All real estate, personal property and improvements including, but not limited to, streets and roads not dedicated to the public and maintained by the Association for the common use and enjoyment of all Owners, or in the case of Limited Common Area, for the use and enjoyment of individual Lot Owners pursuant to Section 1.16 below.

**Section 1.6 - Common Expenses.** Actual and estimated expenses incurred by the Association for the general benefit of all Lot Owners as may be found to be necessary and appropriate by the Board, including the following:

- (i) Expenses of administration, maintenance, repair or replacement of the Common Area;
- (ii) Expenses declared to be Common Expenses by the Documents or pursuant to the Board's decision;
- (iii) Expenses agreed upon as Common Expenses by the Association; and
- (iv) Such reasonable reserves as may be established by the Association, whether held in trust or by the Association, for repair, replacement or addition to the Common Area or any other real or personal property acquired or held by the Association.

**Section 1.7 - Community.** The real property described on Exhibit "A," subject to this Declaration.

**Section 1.8 - Declarant.** Autumn Ridge Holding Company, LLC, or its successors, successors-in-title, or assigns.

**Section 1.9 - Declaration.** This document, including any amendments hereto.

**Section 1.10 - Development Rights.** The rights reserved by the Declarant under Article VIII of this Declaration to create Lots, Common Area, and Limited Common Area within the real property described on Exhibit "A."

**Section 1.11 - Director.** A member of the Board.

**Section 1.12 - Documents.** The Declaration and Plat(s) recorded hereunder, the Bylaws, the Articles of Incorporation and the Rules, all as they may be amended from time to time. Any exhibit, schedule, or certification accompanying a Document is a part of that Document.

**Section 1.13 - Eligible Insurer.** An insurer or guarantor of a first Security Interest in a Lot which has notified the Association in writing of its name and address and that has insured or guaranteed a first Security Interest in a Lot. Such notice shall be deemed to include a request that the eligible insurer be given the notices and other rights described in Article XIV.

**Section 1.14 - Eligible Mortgagee.** The holder of a first Security Interest in a Lot which has notified the Association, in writing, of its name and address, and that it holds a first Security Interest in a Lot. Such notice shall be deemed to include a request that the Eligible Mortgagee be given the notices and other rights described in Article XIV.

**Section 1.15 - Improvements.** Any construction, structure, fixture or facilities existing or to be constructed on the real property described on Exhibit "A," including but not limited to, buildings, trees and shrubbery planted by the Declarant or the Association, paving, utility wires, pipes, and light poles.

**Section 1.16 - Limited Common Area.** The portion of the Common Area allocated for the exclusive use of one or more but fewer than all of the Lots by the Declaration. The Limited Common Area in the Community is described in Article V of this Declaration.

**Section 1.17 - Lot.** A physical portion of the Community designated for separate ownership or occupancy and represented and described on the Plat(s) as a numbered unit ("living unit"), which includes the real estate located under said unit, plus an undivided one/forty-seventh (1/47) interest in all common and limited common areas and streets as shown on the recorded Plat(s).

**Section 1.18 - Lot Owner/Owner.** The Declarant or other Person who owns a Lot. Lot Owner or Owner does not include a Person having an interest in a Lot solely as security for an obligation. The Declarant is the initial owner of any Lot created by this Declaration.

**Section 1.19 - Majority or Majority of Lot Owners.** The owners of more than fifty percent (50%) of the votes in the Association.

**Section 1.20 - Manager.** A person, firm or corporation employed or engaged to perform management services on behalf of the Community and the Association. The initial Manager of the Association shall be the Declarant until such time as Declarant voluntarily resigns this position by either turning over management of the Association to the Owners and/or to a professional manager.

**Section 1.21 - Notice and Comment.** The right of a Lot Owner to receive notice of an action proposed to be taken by or on behalf of the Association, and the right to comment thereon. The procedures for Notice and Comment are set forth in Section 20.1 of this Declaration.

**Section 1.22 - Notice and Hearing.** The right of a Lot Owner to receive notice of an action proposed to be taken by or on behalf of the Association, and the right to be heard thereon. The procedures for Notice and Hearing are set forth in Section 20.2 of this Declaration.

**Section 1.23 - Person.** An individual, corporation, limited liability company, business trust, estate, trust, partnership, association, joint venture, government, government subdivision or agency, or other such legal or commercial entity.

**Section 1.24 - Plat(s).** The Plat(s) filed or to be filed in the Office of the Recorder of Monroe County, Indiana, of the real estate described in Exhibit "A" or any portion thereof, as they may be amended from time to time.

**Section 1.25 - Property.** The land and all Improvements, easements, rights, and appurtenances which have been submitted to the provisions of this Declaration, and such additions and annexations thereto as may hereinafter be made subject to the Declaration in the manner provided herein.

**Section 1.26 - Regular Assessments.** Assessments charged to each Lot Owner for payment of Common Expenses.

**Section 1.27 - Rules.** Rules for the use of Lots and Common Area and for the conduct of persons within the Community, adopted by the Board of Directors pursuant to Sections 17.2 and 21.1 of this Declaration.

**Section 1.28 - Security Interest.** An interest in real estate or personal property, created by contract or conveyance, which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an Association, and any other consensual lien or title retention contract intended as security for an obligation.

**Section 1.29 - Special Declarant Rights.** Rights reserved for the benefit of the Declarant to (i) complete improvements indicated on the Plat(s); (ii) exercise any Development Right; (iii) maintain sales offices, management offices, signs advertising the Community, and models; (iv) use easements through the Common Area for the purpose of making improvements within the Community or within real property that may be added to the Community; or (v) appoint or remove an officer of the Association or any member of the Board of Directors during any period of Declarant control.

## **ARTICLE II**

### **Membership in the Association**

**Section 2.1 - The Organization.** The Association is a not-for-profit corporation organized under the laws of the State of Indiana. Its affairs shall be governed by and it shall have such powers as are set forth in the Documents.

**Section 2.2 - Membership.** Each Owner (including Declarant for so long as Declarant is an Owner), by virtue of being an Owner, shall be a Member of the Association. No other person shall be accepted as a Member.

**Section 2.2.1 - Appurtenant to Ownership.** Association membership is appurtenant to and may not be separated from the ownership of a Lot. Membership shall terminate upon termination of Lot ownership. Ownership of a Lot shall be the sole qualification for Association membership. Membership shall not be transferred, pledged or alienated in any way except upon transfer of title to the Owner's Lot (and then only to the transferee of title to such Lot). Any attempt to make a prohibited transfer is void. The rights, duties, privileges and obligations of all Members shall be provided in the Documents.

**Section 2.3 - Classes of Membership.** The Association shall initially have two (2) classes of Members:

**Section 2.3.1 - Class "A" Members.** Each Owner, except Declarant, shall be a Class A Member. Only one (1) vote for each Lot owned by a Class A Member(s) may be cast. The vote for each Lot shall be cast as a majority of co-Owners of the subject Lot shall determine. Any vote cast by a single Member shall be deemed the authorized vote for that Lot. If the majority of co-Owners present in person or by proxy at a meeting cannot agree as to how to cast the vote for their Lot, no vote shall be cast for that Lot. The power to cast a particular Member's vote may be exercised by (i) the Member's conservator; (ii) the guardian of the Member's estate; (iii) the parent(s) entitled to custody of a Member if the Member is a minor; or (iv) the executor or administrator of a deceased Member's estate if the Member's interest in the Lot is subject to administration in his estate.

**Section 2.3.2 - Class "B" Member.** Declarant shall be the sole Class B Member. Three (3) votes for each Lot owned by a Class B Member(s), i.e., the Declarant, may be cast. Class B membership shall expire and shall be converted to Class A membership when in Declarant's sole discretion, shall determine.

**Section 2.3.3 - Conversion of Class B Membership.** Upon the conversion of Class B membership to Class A membership, but while Declarant still owns one or more Lots in the Community, each provision of the Documents which requires approval by each class of Members shall instead require: (i) the approval of a majority of all Members; and (ii) the approval of a majority of all Members other than Declarant. After Declarant no longer owns a Lot in the Community, each provision of the Documents which requires the approval of a majority of each class of Members shall instead require the approval of a majority of all Members.

**ARTICLE III**  
**Description of Land**

The entire Community is situated in Monroe County, Indiana, and is located on the real property described on Exhibit "A."

**ARTICLE IV**  
**Maximum Number of Lots; Boundaries**

**Section 4.1 - Maximum Number of Lots.** The Community shall contain a maximum of forty-seven (47) Lots, unless otherwise determined by the Declarant.

**Section 4.2 - Boundaries.** Boundaries of each Lot created by the Declaration shall be shown on the Plat(s) as numbered Lots with their identifying number.

**ARTICLE V**  
**Limited Common Area**

The following portions of the Common Area are Limited Common Area assigned to the Lots as stated:

- (a) Stoops, steps and walks to the entrances to each building, which provide access to less than all Lots, the use of which is limited to the Lots to which they provide access.
- (b) Driveways associated with each Lot, the use of which is limited to the Lot or Lots as shown on the Plat(s).
- (c) Patios and/or decks associated with each Lot, the use of which is limited to the Lot or Lots to which said patio and/or deck is adjacent or attached.

**ARTICLE VI**  
**Maintenance, Repair and Replacement**

**Section 6.1 - Common Area.** The Association shall maintain, repair and replace all of the Common Area, including, but not limited to, streets and roads not dedicated to the public and maintained by the Association in the manner deemed necessary and appropriate by the Board in its sole discretion, except the portions of the Limited Common Area which are required by this Declaration to be maintained, repaired or replaced by the Lot Owners.

**Section 6.2 - Lots.** Each Lot Owner shall maintain, repair and replace, at his or her own expense, all portions of his or her Lot, except the portions thereof required by the Declaration, to be maintained, repaired or replaced by the Association.

**Section 6.3 - Limited Common Area.** The Association shall perform all regularly scheduled and routine repair, maintenance, cleaning or replacement of the Limited Common Areas and the expenses thereof shall be born by the Lot Owners as a Common Expense. Any repair, maintenance, cleaning or replacement of the Common Area or Limited Common Area which becomes necessary because of the negligence or neglect of any Lot Owner(s) shall be performed by the Association at such Lot Owners' expense as a separately assessed Common Expense after notice and hearing pursuant to Section 15.6. No additional exterior improvement, component or element of any kind, including exterior antennae or satellite dish of any sort, may be attached to any Lot without the prior written consent of the Board. In the event that such approved additional component or element becomes deteriorated or unsightly or is inconsistent with conditions placed upon its installation, it may be removed or repaired at the Lot Owner's expense as a separately assessed Common Expense after Notice and Hearing.

The Association shall be responsible for snow removal from all driveways and sidewalks (but not the patios, decks, stoops, steps or walks that lead to an interior entrance) which are Limited Common Area. Each Lot Owner shall be responsible for removing all snow, leaves and debris from all patios, decks, stoops, steps or walks that lead to an interior entrance which are Limited Common Areas appurtenant to the Owner's Lot. If any such Limited Common Area is appurtenant to two or more Lots, the Owners of those Lots shall be jointly responsible for such removal.

**Section 6.4 - Access.** Any person authorized by the Board shall have the right of access to all portions of the Property for the purpose of correcting any condition threatening a Lot or the Common Area, and for the purpose of performing installations, alterations or repairs, and insect or other pest extermination, provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the affected Lot Owner. In case of an emergency, no such request or notice is required and such right of entry shall be immediate, and with such force as is apparently necessary to gain entrance, whether or not the Lot Owner is present at the time.

**Section 6.5 - Repairs Resulting from Negligence.** Each Lot Owner will reimburse the Association for any damages to any other Lot or to the Common Area caused intentionally, negligently or by the Lot Owner's failure to properly maintain, repair or make replacements to the Lot Owner's Lot or to the Limited Common Area for which such Owner is responsible under Section 6.3 of the Declaration. The Association will be responsible for damage to Lots caused intentionally, negligently or by its failure to maintain, repair or make replacements to the Common Area. If such expense is caused by misconduct, it will be assessed following Notice and Hearing.

**Section 6.6 - Party Wall, General Rules of Law to Apply.** Each wall which is built as a part of the original construction of the living unit(s) upon the Lots and placed on the dividing lines between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

**Section 6.7 - Sharing of Repair and Maintenance.** The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

**Section 6.8 - Destruction by Fire or Other Casualty.** Subject to the provisions of Article XI hereof, if a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owner(s) thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owner(s) to call for a larger contribution from the others under any rules of law regarding liability for negligent or willful acts or omissions.

**Section 6.9 - Weatherproofing.** Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

**Section 6.10 - Right to Contribution Runs with Land.** The right of any Owner to contribution from any other Owner under this Article VI shall be appurtenant to the land and shall pass to such Owner's successors in title.

## **ARTICLE VII**

### **Encroachments and Easements for Building**

If, by reason of the location, construction, settling or shifting of a building, any part of a Building consisting of the single-family living unit appurtenant to a Lot (hereinafter in this Article VII referred to as the "Encroaching Lot") now encroaches or shall hereafter encroach upon any other adjacent Lot, then in such event, an easement shall be deemed to exist and run to the owner of the Encroaching Lot and all appurtenances. Each Owner shall have an easement in common with each other Owner to use all pipes, wires, ducts, cables, conduits, utility lines and other common facilities located in or on any other Lot and serving the subject Owner's Lot.

## **ARTICLE VIII**

### **Development Rights and Other Special Declarant Rights**

**Section 8.1 - Special Declarant Rights.** The Declarant reserves the following Special Declarant Rights, to the maximum extent permitted by law, which may be exercised, where applicable, anywhere within the Community:

- (a) To complete Improvements indicated on the Plat(s);
- (b) To exercise any right reserved to it in the Declaration;
- (c) To maintain sales offices, management offices, signs advertising the Community, and models;
- (d) To use easements through the Common Area for the purpose of making Improvements within the Community;
- (e) To appoint or remove any officer of the Association or member of the Board until such time as the Class B Membership is converted to Class A Membership pursuant to Section 2.3.3 of this Declaration;
- (f) To annex additional property pursuant to Section 8.8 of this Declaration.

(g) To dedicate any streets or drives within the Property to the appropriate municipal authority.

**Section 8.2 - Models, Sales Offices and Management Offices.** As long as the Declarant is a Lot Owner, the Declarant and its duly authorized agents, representatives and employees may maintain any Lot owned by the Declarant or any portion of the Common Area as a model Lot or sales office or management office.

**Section 8.3 - Construction; Declarant's Easement.** The Declarant reserves the right to perform warranty work and repairs, construction work, and to store materials in secure compartments or directly upon the ground, in or upon Lots and in the Common Area, and the further right to control all such work and repairs, and the right of access thereto, until its completion. All work may be performed by the Declarant without the consent or approval of the Board. The Declarant has such an easement through the Common Area as may be reasonably necessary for the purpose of discharging the Declarant's obligations or exercising Special Declarant Rights reserved in this Declaration. Such easement includes the right to convey utility and drainage easements to public utilities, municipalities, the State, riparian owners or upland owners to fulfill the plan of development.

**Section 8.4 - Signs and Marketing.** The Declarant reserves the right to post signs and displays in the Common Area to promote sales of Lots and to conduct general sales activities.

**Section 8.5 - Declarant's Personal Property.** The Declarant reserves the right to retain all personal property and equipment used in the sales, management, construction and maintenance of the Property that has not been represented as property of the Association. The Declarant reserves the right to remove from the Property any and all goods and improvements used in development, marketing and construction, whether or not they have become fixtures.

**Section 8.6 - Limitations on Special Declarant Rights.** Unless sooner terminated by an amendment to this Declaration executed by the Declarant, any Special Declarant Right may be exercised by the Declarant so long as the Declarant: (a) is obligated under any warranty or obligation, (b) holds a Development Right to create additional Lots or Common Area, (c) owns any Lot; or (d) owns any Security Interest in any Lots.

**Section 8.7 - Interference with Special Declarant Rights.** Neither the Association nor any Lot Owner may take any action or adopt any rule that will interfere with or diminish any Special Declarant Right without the prior written consent of the Declarant.

**Section 8.8 - Annexation of Additional Property.** Additional land owned by the Declarant and contiguous to the real property described on Exhibit "A" attached hereto and made a part hereof may be annexed by the Declarant without the consent of Owners during the period set forth in Section 8.6 above. Said annexation shall be effective upon the Declarant's recording an instrument referencing this Declaration, describing the real property to be annexed, and submitting said real property to the provisions of this Declaration. Upon the annexation of land to the jurisdiction of this Declaration, the Owners of Lots in such annexed land shall have full access to all of the Common Area, facilities, and amenities, as though such annexed land had originally been within the provisions of this Declaration from the time it was recorded in the Office of the Recorder of Monroe County. In a like manner, the existing Owners shall have full access to the Common Area of any land annexed pursuant to this Declaration.

**Section 8.9 - Declarant Control of the Association.** Notwithstanding any other provisions of this Declaration, there shall be a period of Declarant control of the Association, during which the Declarant, or persons designated by the Declarant (regardless of whether such persons personally own a Lot or Lots), may



appoint and remove the officers and members of the Board. The period of Declarant control shall continue for so long as Declarant owns any Lot. Declarant may, however, sooner voluntarily surrender the right to appoint and remove officers and members of the Board before termination of the period of Declarant control of the Association, but in that event the Declarant may require, for the duration of the period of Declarant control, that specified actions of the Association or Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

**ARTICLE IX**  
**Restrictions on Use, Alienation and Occupancy**

**Section 9.1 - Use Restrictions.** Subject to the Special Declarant Rights reserved under Article VIII, the following use restrictions apply to all Lots and to the Common Area:

- (a) The use of each Lot is restricted to that of a single family residence and accessory uses as permitted herein. Except for those activities conducted as a part of the marketing and development program of the Declarant, no industry, business, trade or commercial activities, other than home professional pursuits without employees, public visits or nonresidential storage, mail, or other use of a Lot, shall be conducted, maintained or permitted in any part of a Lot, nor shall any Lot be used or rented for transient, hotel or motel purposes. A single-family residence is defined as a single housekeeping Lot, operating on a non-profit, non-commercial basis between its occupants, cooking and eating with a common kitchen and dining area.
- (b) No immoral, improper, offensive or unlawful use may be made of, on or about the Property and Lot Owners shall comply with and conform to all applicable laws and regulations of the United States and of the State of Indiana and all ordinances, rules and regulations of the County of Monroe and the City of Ellettsville. The violating Lot Owner shall hold the Association and other Lot Owners harmless from all fines, penalties, costs and prosecutions for the violation thereof or noncompliance therewith.

**Section 9.2 - Occupancy Restrictions.** Subject to the Special Declarant Rights reserved under Article VIII, the following occupancy restrictions apply to all Lots and to the Common Area:

- (a) No electrical device creating electrical overloading of standard circuits may be used without written permission from the Board. Misuse or abuse of appliances or fixtures within a Lot which affects other Lots or the Common Area is prohibited. Any damage resulting from such misuse shall be the responsibility of the Lot Owner from whose Lot it shall have been caused. Total electrical usage in any Lot shall not exceed the capacity of the circuits as labeled on the circuit breaker boxes.
- (b) Each Lot Owner shall keep his or her Lot in a good state of preservation and cleanliness. No storage of trash will be permitted in or outside any Lot in such manner as to permit the spread of fire, odors, seepage, or encouragement of vermin, insects or other health hazard. Moreover, trash bins and containers shall not be stored outside except the day before regularly scheduled trash pick-up. Following such regularly scheduled trash pick-up all trash bins and containers shall be returned to their proper storage areas within twelve (12) hours.

- (c) All fixtures and equipment will be used for the purposes for which they were designed. There shall be no floor load in excess of fifty (50) pounds per square foot, unless special arrangements are made, and an engineering determination of floor load capacity in the area of the heavy use is approved by the Association.
- (d) Garages are for occupancy and use by the owner of the subject Lot on which the garage is located and shall be used for storage, parking space for vehicles, shop pursuits and other such uses. No boats, campers, recreational vehicle or watercraft of any type may be kept, parked or stored outside of any garage for more than forty-eight (48) hours. Only passenger cars and light, non-commercial trucks may be parked outside of the garage in the driveways to the subject Lot and no vehicles of any type shall be parked in the roadways within the Community.
- (e) No noxious, offensive, dangerous or unsafe activity shall be carried on in any Lot, nor shall anything be done therein either willfully or negligently, which may be or become an annoyance or nuisance to the other Lot Owners or occupants. No Lot Owner or occupant shall make or permit any disturbing noises by himself or herself, his or her family, servants, employees, agents, visitors and licensees, nor do or permit anything to be done by such persons that will interfere with the rights, comforts or convenience of other Lot Owners or occupants. No Lot Owner or occupant shall cause noise or play, or suffer to be played, any musical instrument or operate or suffer to be operated a television set, radio or other such device at such high volume or in such other manner that it shall cause unreasonable disturbances to other Lot Owners or occupants.
- (f) No animals, bird, or reptiles of any kind shall be raised, bred, or kept in a Lot, except for: A maximum of three (3) pets consisting of either dog(s) (of gentle disposition and reasonable size), which shall be kept on a leash at all times when outdoors; cat(s); or other traditional household pet(s), approved by the Board or the Manager as to compatibility with the Community. Pets may not be kept, bred or maintained for any commercial purposes. The decision of the Board with regard to the reasonableness of the size and type of pets shall be final. Any pet causing or creating a nuisance or unreasonable disturbance or noise shall be permanently removed from the Property upon three (3) days' written notice following Notice and Hearing from the Executive Board. The Owner shall hold the Association harmless from any claim resulting from any action of his or her pet. Seeing eye dogs and hearing ear dogs will be permitted for those persons holding certificates of necessity.
- (g) All dryers will have lint filters, which will remain installed and prevent lint from accumulating in the vent duct. All stove hoods will have grease screens, which will remain installed and prevent grease from accumulating in the vent duct. All such filters and screens will at all times be used and kept in clean, good order and repair by the Lot Owner.
- (h) No signs, window displays or advertising visible from outside a Lot (except for a name plate or sign not exceeding 9 square inches in area, on the main door to each Lot) shall be maintained or permitted in any part of a Lot, except standard "For Sale" and "For Lease" signs as allowed by the Association.
- (i) No more than three (3) unrelated persons shall reside in any Lot without the express written consent of the Board.

- (j) The porches, stoops, patios and decks attached to the Lots shall not be used for general storage. Only potted plants may be maintained on the front porches or stoops. All porches, stoops, patios and decks shall be kept in a neat and orderly manner and shall not appear cluttered.

**Section 9.3 - Restrictions on Alienation.** A Lot may not be conveyed pursuant to a time-sharing plan. A Lot may not be leased or rented for a term of less than six (6) months. All leases and rental agreements shall be in writing and subject to the requirements of the Documents and the Association.

All leases of a Lot shall be deemed to include a provision that the tenant will recognize and attorn to the Association as landlord, solely for the purpose of having the power to enforce a violation of the provisions of the Documents against the tenant, provided the Association gives the landlord notice of its intent to so enforce, and a reasonable opportunity to cure the violation directly, prior to the commencement of an enforcement action.

**Section 9.4 - Declarant's Rights.** Notwithstanding the foregoing, as long as the Declarant is a Lot Owner, the Declarant and its duly authorized agents, representatives and employees may maintain any Lot owned by the Declarant or any portion of the Common Area as a model Lot or sales office. The Declarant may also maintain management offices, signs and display advertising in and around the Community as Declarant deems appropriate.

## **ARTICLE X**

### **Easements and Licenses**

There shall be and hereby is established a blanket easement upon the common areas within the Community for the installation, maintenance and repair of all public utilities, including without limitation, water, sanitary sewer, storm sewer, electricity, gas, telephone, cable television, telecommunications as well as Community signage and other such Community improvements. Any additional easements or licenses to which the Community shall be subject will be noted on the Plat(s). In addition, the Community may be subject to other easements or licenses granted by the Declarant pursuant to Declarant's powers under Article VIII of this Declaration.

## **ARTICLE XI**

### **Additions, Alterations and Improvements**

#### **Section 11.1 - Additions, Alterations and Improvements by Lot Owners.**

- (a) No Lot Owner will make any structural addition, structural alteration, or structural improvement in or to the Community without the prior written consent thereto of the Board in accordance with Section 11.1(c).
- (b) Subject to Section 11.1(a), a Lot Owner:
  - (i) May make any other improvements or alterations to the interior of his or her Lot that do not impair the structural integrity or mechanical systems or lessen the support of any portion of any other Lot;

- (ii) May install landscaping and plant vegetation within five feet of the Lot Owner's foundation, without the permission of the Board in accordance with Section 11.3, provided that such landscaping shall be sightly and properly maintained.
- (iii) May not change the appearance of the Common Area, or the exterior appearance of a Lot, or any other portion of the Community, without the prior written permission of the Board;
- (c) A Lot Owner may submit a written request to the Board for approval to do anything that an Owner is forbidden to do under Subsection 11.1(a) or 11.1(b) (iii). The Board shall answer any written request for such approval, after Notice and Hearing, within sixty (60) days after the request thereof. Failure to do so within such time shall not constitute a consent by the Board to the proposed action. The Board shall review requests in accordance with the provisions of its rules.
- (d) The Board, in its sole discretion, may declare that any landscaping or vegetation planted by a Lot Owner in accordance with Subsection 11.1(b)(ii) is unsightly or improperly maintained and may, after Notice and Hearing, either maintain or remove such landscaping or vegetation at the Lot Owner's expense.
- (e) Any applications to any department or to any governmental authority for a permit to make any addition, alteration or improvement in or to any Lot shall be executed by the Association only. Such execution will not, however, create any liability on the part of the Association or any of its members to any contractor, sub-contractor or materialman on account of such addition, alteration or improvement or to any person having any claim for injury to person or damage to property arising therefrom.
- (f) All additions, alterations and improvements to the Lots and Common Area shall not, except pursuant to prior approval by the Board, cause any increase in the premiums of any insurance policies carried by the Association or by the Owners of any Lots other than those affected by such change. In the event that there is an increase in any insurance premium carried by the Association as a result of any addition, alteration or improvement by a Lot Owner(s), such increase shall be assessed in a separate Special Assessment against the Lot Owner(s) affected by such change.

The provisions of this Section shall not apply to the Declarant in the exercise of any Special Declarant Right.

**Section 11.2 - Additions, Alterations and Improvements by Board.** The Board may make any additions, alterations or improvements to the Common Area which, in its judgment, it deems necessary.

**Section 11.3 - Exterior Improvements and Landscaping Within Limited Common Area.** Lot Owners may make exterior improvements within or as a part of the Limited Common Area (constituting stoops, steps, patios and/or decks and entrances) consisting of certain repainting, restaining and additional architectural detailing of said limited areas; changing of doors; planting (outside of five feet of the Owner's foundation) of gardens, hedges, shrubs; construction of wood (or similar material) privacy fences around back patios and/or decks (which shall be constructed by Declarant at the requesting Owner's expense); additions of walks and benches; and certain other similar improvements provided they are undertaken with the prior

written permission of the Board or a covenants control committee, if established by the Board for such purpose. Such permission from the Board, if approved, shall be only following submission by Lot Owner of complete plans prepared by an architect or landscape architect and a review by the Board or such covenants control committee as to consistency with improvements originally constructed by the Declarant, and consistent with the style and character of the Community. No approval will be awarded without Notice and comment given to the other Lot Owners. Any such permitted improvements or landscaping shall be maintained by the Lot Owner (or successor thereto) that installs such permitted improvements or landscaping at said Lot Owner's sole cost and expense. In the event that such Lot Owner fails to maintain such improvements or landscaping, the Board may, in its sole discretion, determine that such improvements or landscaping are improperly maintained or unsightly and may, after Notice and Hearing, either maintain or remove such improvements or landscaping at the Lot Owner's expense as a separately assessed Special Assessment.

The applicant (Lot Owner requesting improvement) will pay for the cost of preparation of the application, the cost of professional review, if deemed required by the review entity, and all costs of permits and fees.

## **ARTICLE XII** **Amendments to Declaration**

**Section 12.1 - General.** During the term of initial control of the Board by the Declarant, the Declarant shall have the right to amend any provision of this Declaration or annex additional land as provided in Article VIII without consent of any Owner. After the expiration of the term of initial control by the Declarant, this Declaration may be amended only by vote or agreement of Lot Owners of Lots to which at least seventy-five percent (75%) of the votes in the Association are allocated.

**Section 12.2 - Execution of Amendments.** Any amendment to the Declaration which has been adopted in accordance with this Declaration, must be prepared, executed, recorded and certified on behalf of the Association by an officer of the Association designated for that purpose or, in the absence of designation, by the president of the Association. Amendments by the Declarant shall be executed by the Declarant only. All properly enacted amendments must be recorded by the Association in the office of the recorder of Monroe County, Indiana.

**Section 12.3 - Special Declarant Rights.** Provisions in this Declaration creating Special Declarant Rights may not be amended without the consent of the Declarant.

## **ARTICLE XIII** **Amendments to Bylaws**

The Bylaws may be amended only by a majority vote of the members of the Board, following Notice and Comment to all Lot Owners, at any meeting duly called for such purpose and provided that the text of the proposed Amendment(s) shall have been sent to all Directors with the call for the meeting at least ten (10) days in advance of such meeting.

## **ARTICLE XIV** **Mortgagee Protection**

**Section 14.1 - Introduction.** This Article establishes certain standards and covenants which are for the benefit of the holders, insurers, and guarantors of certain Security Interests. This Article is supplemental

to, and not in substitution for, any other provisions of the Documents, but in the case of conflict, this Article shall control.

**Section 14.2 - Percentage of Eligible Mortgagees.** Wherever in this Declaration the approval or consent of a specified percentage of Eligible Mortgagees is required, it shall mean the approval or consent of Eligible Mortgagees holding Security Interests in Lots which in the aggregate have allocated to them such specified percentage of votes in the Association when compared to the total allocated to all Lots then subject to Security Interests held by Eligible Mortgagees.

**Section 14.3 - Notice of Actions.** The Association shall give prompt written notice to each Eligible Mortgagee and Eligible Insurer of:

- (a) Any condemnation loss or any casualty loss which affects a material portion of the Community or any Lot in which there is a first Security Interest held, insured, or guaranteed by such Eligible Mortgagee or Eligible Insurer, as applicable;
- (b) Any delinquency in the payment of Common Expense assessments owed by a Lot Owner whose Lot is subject to a first Security Interest held, insured, or guaranteed, by such Eligible Mortgagee or Eligible Insurer, as applicable, which remains uncured for a period of ninety (90) days;
- (c) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association;
- (d) Any judgment rendered against the Association.

**Section 14.4 - Inspection of Books.** The Association shall permit any Eligible Mortgagee or Eligible Insurer to inspect the books and records of the Association during normal business hours.

**Section 14.5 - Enforcement.** The provisions of this Article are for the benefit of Eligible Mortgagees and Eligible Insurers and their successors, and may be enforced by any of them by any available means, at law, or in equity.

**Section 14.6 - Attendance at Meetings.** Any representative of an Eligible Mortgagee or Eligible Insurer may attend and address any meeting which a Lot Owner may attend.

## **ARTICLE XV**

### **Assessment and Collection of Common Expenses**

**Section 15.1 - Payment of Regular Assessments.** Regular Assessments for each fiscal year shall be established when the Board approves the budget for that fiscal year. Regular Assessments shall be levied on a fiscal year basis. Unless otherwise specified by the Board, Regular Assessments shall be due and payable in monthly installments by each Lot Owner on the first day of each month during the term of this Declaration. Regular Assessments shall commence as to each Lot subject to Section 15.4 below, no later than the first day of the first month following the month in which the Lot is conveyed to an Owner other than Declarant and may commence prior to that date at the option of Declarant.

**Section 15.2 - Budgeting.** Regardless of the number of Members or the amount of assets of the Association, each year the Board shall prepare, approve and make available to each Member a pro forma operating statement (budget) containing: (i) estimated revenue and expenses on an accrual basis; (ii) the amount of the total cash reserves of the Association currently available for replacement or major repair of Common Area and for contingencies; (iii) an itemized estimate of the remaining life of, and the methods of funding to defray repair, replacement or additions to, major components of the Common Area; and (iv) a general statement setting forth the procedures used by the Board in the calculation and establishment of reserves to defray the costs of repair, replacement or additions to major components of the Common Area. The total amount shall be charged equally against all Lots in the Community as Regular Assessments, subject to the limitations set forth in the By-Laws. Each year the Board shall annually prepare and approve the budget and distribute a copy thereof to each Member, together with written notice of the amount of the Regular Assessment to be levied against the Owner's Lot, not less than thirty (30) days prior to the beginning of the fiscal year.

**Section 15.3 - Non-Waiver of Assessments.** If before the expiration of any fiscal year the Association fails to fix Regular Assessments for the next fiscal year, the Regular Assessment established for the preceding year shall continue until a new Regular Assessment is fixed.

**Section 15.4 - Exemption from Regular Assessment.** Declarant is exempt from payment of all Regular and Special Assessments so long as Declarant remains fully responsible for maintenance and all other expenses associated with structural Improvements on any Lots that are owned by Declarant. Those portions of the Community which do not include structural Improvements suitable for human occupancy shall be exempt from the payment of those portions of the Regular Assessment which are allocated for defraying operating expenses and reserves directly attributable to the existence and use of the structural Improvements, including but not limited to (i) roof replacement; (ii) exterior maintenance; (iii) deferred structural maintenance and repair; (iv) refuse disposal; and (v) landscaping. The exemption from payment of those portions of the Regular Assessment shall be effective only until construction of the structural Improvements has been completed.

**Section 15.5 - Special Assessments.** Subject to the limitations in the By-Laws, Special Assessments may be levied in addition to Regular Assessments for (i) constructing capital Improvements; (ii) correcting an inadequacy in the Current Operation Account; (iii) defraying, in whole or in part, the cost of any construction, reconstruction, unexpected repair or replacement of Improvements in the Lot(s) or Common Area; or (iv) paying for such other matters as the Board may deem appropriate for the Property. Special Assessments shall be levied in the same manner as Regular Assessments.

**Section 15.6 - Common Expenses Attributable to Fewer than all Lots.** Expenses attributable to fewer than all Lots, or attributable to an individual Lot or Lot Owner, may be assessed as a Special Assessment against the individual Lot(s) under the following circumstances:

- (a) Any expense associated with the repair, maintenance, cleaning or replacement of the Common Area or Limited Common Area which becomes necessary because of the negligence or neglect of any Lot Owner or any repair made pursuant to Section 6.3 or Section 6.5 shall be separately assessed against the responsible Lot Owner's Lot. No such separate assessment shall be made without Notice and Hearing as provided in Section 20.2.

- (b) Any expense associated with proper maintenance or removal of landscaping, vegetation or improvement pursuant to Section 11.1 and 11.3 shall be separately assessed against such Lot Owner's Lot.
- (c) Any expense for services provided by the Association to an individual Lot at the request of the Lot Owner shall be assessed against the Lot which benefits from such service.
- (d) Any insurance premium increase attributable to a particular Lot by virtue of activities in or construction of the Lot shall be assessed against that Lot.
- (e) An assessment to pay a judgment against the Association may be made only against the Lots in the Community at the time the judgment was entered, in proportion to their Common Expense liabilities.
- (f) If a Common Expense is caused by the misconduct of a Lot Owner, the Association may assess that expense exclusively against that Lot Owner's Lot.
- (g) Fees, charges, late charges, fines, collection costs (including reasonable attorneys' fees), and interest charged against a Lot Owner pursuant to the Documents and the Act are enforceable as Common Expense assessments.

**Section 15.7 - Lien.**

- (a) The Association shall have a lien on a Lot for a delinquent assessment (regular or special) levied against the Lot or fines imposed against its Lot Owner from the time the Association records a Notice of Delinquency and/or Lien that the assessment is delinquent. If an assessment is payable in installments, the full amount of the assessment is delinquent if not paid to the Association by the due date of the installment.
- (b) A lien under this Section is prior to all other liens and encumbrances on a Lot except: (i) a lien, encumbrance, or secured interest recorded before the recordation of the Notice referenced in subsection 15.7(a) above; and (ii) liens for real estate taxes and other governmental assessments or charges against the Lot.
- (c) Recording of a Notice of Delinquency constitutes record notice and perfection of the lien. Further recording of a claim of lien for assessment under this Section is not required and all subsequent unpaid assessments shall be included therein.
- (d) A lien for an unpaid assessment is extinguished unless proceedings to enforce the lien are instituted within three years after the Notice is recorded; provided, that if an Owner of a Lot subject to a lien under this Section files a petition for relief under the United States Bankruptcy Code, the period of time for instituting proceedings to enforce the Association's lien shall be tolled until thirty (30) days after the automatic stay of proceedings under Section 362 of the Bankruptcy Code is lifted.
- (e) This Section does not prohibit an action to recover sums for which Subsection (a) of this Section creates a lien.



- (f) Any steps taken by the Association to collect sums due or enforce a lien under this Section shall entitle the Association to add to the amount due its costs and reasonable attorneys' fees.
- (g) A judgment or decree in an action brought under this Section is enforceable by execution under the laws of the State of Indiana.
- (h) The Association's lien may be foreclosed as a mortgage on real estate.
- (I) In any action by the Association to collect assessments or to foreclose a lien for unpaid assessments, the court may appoint a receiver of the Lot Owner to collect all sums alleged to be due from that Lot Owner prior to or during the pendency of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pendency of the action to the extent of the Association's Common Expense assessments based on a periodic budget adopted by the Association pursuant to Section 15.2 of this Declaration.
- (j) Any payments received by the Association in the discharge of a Lot Owner's obligation may be applied to the oldest balance due.

**Section 15.8 - Ratification of Non-budgeted Common Expense Assessments.** If the Board votes to levy a Common Expense special assessment not included in the current budget in an amount greater than twenty percent (20%) of the current annual operating budget, the Board shall submit such Common Expense special assessment to the Lot Owners for ratification in the same manner as a budget.

**Section 15.9 - Certificate of Payment of Common Expense Assessments.** The Association upon written request shall furnish to a Lot Owner a statement in recordable form setting out the amount of unpaid assessments against the Lot. The statement must be furnished within ten (10) days after the receipt of the request and is binding on the Association, the Board and each Lot Owner.

**Section 15.10 - Acceleration of Common Expense Assessments.** In the event of default for a period of ten (10) days by any Lot Owner in the payment of any Common Expense assessment (regular or special) levied against his or her Lot, the Board shall have the right, after Notice and Hearing, to declare all unpaid assessments for the then current fiscal year to be immediately due and payable.

**Section 15.11 - No Waiver of Liability for Common Expenses.** No Lot Owner may exempt himself or herself from liability for payment of the Common Expenses (via either regular or special assessment) by waiver of the use or enjoyment of the Common Area or by abandonment of the Lot against which the assessments are made.

**Section 15.12 - Personal Liability of Lot Owners.** The Lot Owner of a Lot at the time a Common Expense assessment (regular or special) or portion thereof is due and payable is personally liable for the assessment. Personal liability for the assessment shall not pass to a successor in title to the Lot unless he or she agrees to assume the obligation or unless a lien is recorded prior to the subject transfer.

**Section 15.13 - Accounts.** As soon as regular Common Expense assessments begin to cover normal operating expenses, Assessments collected by the Association shall be deposited into at least two (2) separate accounts with a bank and/or savings and loan association, which accounts shall be clearly designated as (i) the Current Operation Account and (ii) the Reserve Account. The Board shall deposit those portions of the assessments collected for current maintenance and operation into the Current Operation Account and shall

deposit those portions of the assessments collected as reserves for contingencies and for replacement and deferred maintenance of capital Improvements into the Reserve Account.

**Section 15.14 - Current Operation Account.** All of the following may be paid from the Current Operation Account:

- (a) All costs of enforcing the provisions of the Documents;
- (b) Taxes and assessments, if any, levied or assessed separately against the Common Area;
- (c) Sums necessary to discharge any lien or encumbrance, including taxes, levied against any Lot which constitutes a lien against any portion of the Common Area;
- (d) Insurance premiums and costs for policies purchased for the benefit of the Association;
- (e) Water, sewer, garbage, trash, electrical, gas, telephone and other necessary utility services for the Common Area;
- (f) Costs of routine maintenance, repair and upkeep of Improvements in the Common Area; and
- (g) All other goods, materials, supplies, furniture, labor, services, maintenance, repairs or alterations which the Association is authorized to secure and pay for pursuant to the terms of this Declaration or by law, other than those to be expended from the Reserve Account.

**Section 15.15 - Reserve Account.** The Association shall pay out of the Reserve Account only those costs that are attributable to the maintenance, repair or replacement of capital Improvements for which reserves have been collected and held. No portion of a reserve designated for a particular capital Improvement may be expended for any purpose other than the maintenance or replacement of that capital Improvement. Except for funds collected for contingencies, no funds collected for the Reserve Account may be used for ordinary current maintenance and operation purposes.

#### **ARTICLE XVI** **Right to Assign Future Income**

The Association may assign its future income, including its right to receive Common Expense assessments, only by the affirmative vote of Lot Owners of Lots to which at least fifty-one percent (51%) of the votes in the Association are allocated, at a meeting called for that purpose.

#### **ARTICLE XVII** **Persons and Lots Subject to Documents**

**Section 17.1 - Compliance with Documents.** All Lot Owners, tenants, mortgagees and occupants of Lots shall comply with the Documents. The acceptance of a deed or the exercise of any incident of ownership or the entering into of a lease or the entering into occupancy of a Lot constitutes agreement that the provisions of the Documents are accepted and ratified by such Lot Owner, tenant, mortgagee or occupant, and all such provisions are covenants running with the land and shall bind any Persons having at any time any interest or estate in such Lot.

**Section 17.2 - Adoption of Rules.** The Board may adopt Rules regarding the use and occupancy of Lots affecting the Common Area and Limited Common Area and the activities of occupants, subject to Notice and Comment.

**ARTICLE XVIII**  
**Insurance**

**Section 18.1 - Coverage.** To the extent reasonably available, the Board shall obtain and maintain insurance coverage as set forth in this Article. If such insurance is not reasonably available, and the Board determines that any insurance described herein will not be maintained, the Board shall cause notice of that fact to be hand-delivered or sent prepaid by United States mail to all Lot Owners and Eligible Mortgagees at their respective last known address.

**Section 18.2 - Property Insurance.** Each living unit in Autumn Ridge Community will be insured with the same insurance company as chosen by the Board of Directors of the Association. The limit of insurance for each living unit will be equal to the full replacement cost of the subject living unit and each Owner will be responsible for the premium for their living unit. Further provisions regarding property insurance shall be as follows:

- (a) As referenced above, property insurance covering one hundred percent (100%) of the actual replacement cost value of the following shall be obtained and maintained, at each Lot Owner's pro-rata cost and expense pursuant to Section 18.8 hereafter, by the Association:
  - (i) The Association shall provide fire and extended coverage insurance over the fixtures, improvements, and alterations that are part of any living unit or other building in the Autumn Ridge Community, and shall provide coverage for appliances such as those used for refrigerating, ventilating, cooking, dishwashing, laundry, security, or housekeeping, regardless of ownership.
  - (ii) All personal property owned by the Association.

Notwithstanding anything contained in this Section 18.2(a), the Association shall not be responsible for obtaining or maintaining property and casualty insurance covering any personal property located on any Lot which is not the property of the Association.

- (b) **Risks Insured Against.** The insurance shall afford protection against "all risks" of direct physical loss commonly insured against.
- (c) **Other Provisions.** Insurance policies required by this Section shall provide that:
  - (i) The insurer waives the right to subrogation under the policy against a Lot Owner or member of the household of a Lot Owner;
  - (ii) An act or omission by a Lot Owner, unless acting within the scope of the Lot Owner's authority on behalf of the Association, will not void the policy or be a condition to recovery under the policy;

- (iii) If, at the time of a loss under the policy, there is other insurance in the name of a Lot Owner covering the same risk covered by the policy, the Association's policy provides primary insurance;
- (iv) Loss must be adjusted with the Association;
- (v) Insurance proceeds shall be paid to the Association, and will be used to repair or restore the damaged property for the benefit of the Lot Owner and such Lot Owner's mortgagee;
- (vi) The insurer may not cancel or refuse to renew the policy until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association, each Lot Owner and each Holder of a Security Interest to whom a certificate or memorandum of insurance has been issued, at their respective last known addresses.
- (vii) The name of the insured shall be "Autumn Ridge Subdivision Owner's Association, Inc." or a similarly named not-for-profit corporation.

**Section 18.3 - Liability Insurance.** Liability insurance, including medical payments insurance, in an amount determined by the Board but in no event less than One Million Dollars (\$1,000,000.00), covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Area, and the activities of the Association.

- (a) **Other Provisions.** Insurance policies carried pursuant to this Section shall provide that:
  - (i) Each Lot Owner is an insured person under the policy with respect to liability arising out of the Lot Owner's interest in the Common Area or membership in the Association.
  - (ii) The insurer waives the right to subrogation under the policy against a Lot Owner or member of the household of a Lot Owner.
  - (iii) An act or omission by a Lot Owner, unless acting within the scope of the Lot Owner's authority on behalf of the Association, will not void the policy or be a condition to recovery under the policy.
  - (iv) If, at the time of a loss under the policy, there is other insurance in the name of a Lot Owner covering the same risk covered by the policy, the policy of the Association provides primary insurance.
  - (v) The insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association, each Lot Owner and each holder of a Security Interest to whom a certificate or memorandum of insurance has been issued at their last known addresses.

**Section 18.4 - Workers' Compensation Insurance.** The Board shall obtain and maintain Workers' Compensation Insurance to meet the requirements of the laws of the State of Indiana.

**Section 18.5 - Directors' and Officers' Liability Insurance.** The Board may obtain and maintain directors' and officers' liability insurance covering all of the directors and officers of the Association in such limits as the Board in its sole discretion may, from time to time, determine.

**Section 18.6 - Other Insurance.** The Association may carry other insurance which the Board considers appropriate to protect the Association or the Lot Owners.

**Section 18.7 - Premiums.** Insurance premiums for policies obtained and maintained by the Association hereunder shall be a Common Expense, but with respect to property insurance, shall be annually assessed against the Lot Owners separately from regular assessments on a pro-rata basis. Each Lot Owner shall be individually responsible for the payment of the insurance premiums for such Lot Owner's personal property and liability insurance.

## **ARTICLE XIX**

### **Damage to or Destruction of Property**

**Section 19.1 - Duty to Restore.** A portion of the Community for which insurance carried by the Association is in effect, that is damaged or destroyed, must be repaired or replaced promptly by the Association unless:

- (a) Repair or replacement would be illegal under a state statute or municipal ordinance governing health or safety; or
- (b) Eighty percent (80%) of the Lot Owners, including each owner of a Lot or assigned Limited Common Area that will not be rebuilt, vote not to rebuild.

**Section 19.2 - Cost.** The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense.

**Section 19.3 - Plans.** The Property must be repaired and restored in accordance with either the original plans and specifications or other plans and specifications which have been approved by the Board, a majority of Lot Owners and fifty-one percent (51%) of Eligible Mortgagees.

### **Section 19.4 - Replacement of Less Than Entire Property.**

- (a) The insurance proceeds attributable to the damaged Common Area shall be used to restore the damaged area to a condition compatible with the remainder of the Community.
- (b) Except to the extent that other persons will be distributees:
  - (i) The insurance proceeds attributable to a Lot and Limited Common Area that are not rebuilt must be distributed to the owner of the Lot and the owner of the Lot to which the Limited Common Area were allocated, or to lien holders, as their interests may appear.

- (ii) The remainder of the proceeds must be distributed to each Lot Owner or lien holder, as their interests may appear, in proportion to the Common Area interests of all the Lots.

**Section 19.5 - Insurance Proceeds.** The Board of the Association, acting by the President, shall hold any insurance proceeds in trust for the Association, Lot Owners and lien holders as their interests may appear. The proceeds shall be disbursed first for the repair or restoration of the damaged Property, and the Association, Lot Owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the Property has been completely repaired or restored.

**Section 19.6 - Certificates by Attorneys or Title Insurance Companies.** If payments are to be made to Lot Owners or mortgagees, and the Board shall obtain and may rely on a title insurance company or attorney's title certificate of title or a title insurance policy based on a search of the records of Monroe County, Indiana, from the date of the recording of the original Declaration stating the names of the Lot Owners and the mortgagees.

## ARTICLE XX

### **Rights to Notice and Comment; Notice and Hearing**

**Section 20.1 - Right to Notice and Comment.** Before the Board amends the Bylaws or the Rules, whenever the Documents require that an action be taken after "Notice and Comment," and at any other time the Board determines, the Lot Owners have the right to receive notice of the proposed action and the right to comment orally or in writing. Notice of the proposed action shall be given to each Lot Owner in writing and shall be delivered personally or by mail to all Lot Owners at such address as appears in the records of the Association, or published in a newsletter or similar publications which is routinely circulated to all Lot Owners. The notice shall be given not less than five (5) days before the proposed action is to be taken. It shall invite comment to the Board orally or in writing before the scheduled time of the meeting. The right to Notice and Comment does not entitle a Lot Owner to be heard at a formally constituted meeting.

**Section 20.2 - Right to Notice and Hearing.** Whenever the Documents require that an action be taken after "Notice and Hearing," the following procedure shall be observed: The party proposing to take the action (e.g., the Board, a committee, an officer, the Manager, etc.) shall give written notice of the proposed action to all Lot Owners or occupants of Lots whose interest would be significantly affected by the proposed action. The notice shall include a general statement of the proposed action and the date, time and place of the hearing. At the hearing, the affected person shall have the right, personally or by a representative, to give testimony orally, in writing or both (as specified in the notice), subject to reasonable rules of procedure established by the party conducting the meeting to assure a prompt and orderly resolution of the issues. Such evidence shall be considered in making the decision but shall not bind the decision makers. The affected person shall be notified of the decision in the same manner in which notice of the meeting was given.

**Section 20.3 - Appeals.** Any Person having a right to Notice and Hearing shall have the right to appeal to the Board from a decision by persons other than the Board by filing a written notice of appeal with the Board within ten (10) days after being notified of the decision. The Board shall conduct an appeals hearing within thirty (30) days, giving the same notice and observing the same procedures as were required for the original meeting.

**ARTICLE XXI**  
**Board of Directors**

**Section 21.1 - Power and Duties.** The Board of Directors may act in all instances on behalf of the Association, except as provided in this Declaration or the Bylaws. The Board shall have, subject to the limitations contained in this Declaration, the powers and duties necessary for the administration of the affairs of the Association and of the Community which shall include, but not be limited to, the following:

- (a) Adopt and amend Bylaws, Rules and Regulations;
- (b) Adopt and amend budgets for revenues, expenditures and reserves;
- (c) Assess and collect regular and special assessments for Common Expenses from Lot Owners;
- (d) Hire and discharge managing agents;
- (e) Hire and discharge employees and agents, other than managing agents, and independent contractors;
- (f) Institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violation of the Association's Declaration, Bylaws or Rules in the Association's name on behalf of the Association or two or more Lot Owners on matters affecting the Community;
- (g) Make contracts and incur liabilities;
- (h) Regulate the use, maintenance, repair, replacement and modification of the Common Area;
- (i) Cause additional improvements to be made as a part of the Common Area;
- (j) Acquire, hold, encumber and convey in the Association's name any right, title or interest to real property or personal property;
- (k) Grant easements for any period of time including permanent easements, and leases, licenses and concessions for no more than one year, through or over the Common Area;
- (l) Impose and receive a payment, fee or charge for the use, rental or operation of the Common Area and for services provided to Lot Owners;
- (m) Impose a reasonable charge for late payment of assessments and, after Notice and Hearing, levy reasonable fines for violations of this Declaration, Bylaws, Rules and Regulations of the Association;
- (n) Provide for the indemnification of the Association's officers and Board and maintain directors' and officers' liability insurance;
- (o) Assign the Association's right to future income, including the right to receive Common Expense assessments;

- (p) Exercise any other powers conferred by this Declaration or the Bylaws;
- (q) Exercise any other power that may be exercised in this state by legal entities of the same type as the Association;
- (r) Exercise any other power necessary and proper for the governance and operation of the Association; and
- (s) By resolution, establish committees of directors, permanent and standing, to perform any of the above functions under specifically delegated administrative standards, as designated in the resolution establishing the committee. All committees must maintain and publish notice of their actions to Lot owners and the Board. However, actions taken by a committee may be appealed to the Board by any Lot Owner within forty-five (45) days of such action and such committee action must be ratified, modified or rejected by the Board at its next regular meeting.

**ARTICLE XXII**  
**Open Meetings**

**Section 22.1 - Access.** All meetings of the Board, at which action is to be taken by vote will be open to the Lot Owners, except as hereafter provided.

**Section 22.2 - Notice.** Notice of every such meeting will be given not less than twenty-four (24) hours prior to the time set for such meeting, by posting such notice in a conspicuous location in the Community, except that such notice will not be required if an emergency situation requires that the meeting be held without delay.

**Section 22.3 - Executive Sessions.** Meetings of the Board may be held in executive session, without giving notice and without the requirement that they be open to Lot Owners, in either of the following situations only:

- (a) No action is taken at the executive session requiring the affirmative vote of Directors; or
- (b) The action taken at the executive session involves personnel, pending litigation, contract negotiations, enforcement actions, or matters involving the invasion of privacy of individual Lot owners, or matters which are to remain confidential by request of the affected parties and agreement of the Board.

**ARTICLE XXIII**  
**Condemnation of Common Area**

If all or any portion of the Common Area is taken for any public or quasi-public use under any statute, by right of eminent domain or by purchase in lieu of eminent domain, the entire award shall be deposited into the Association's operating account until distributed. The Association shall distribute such funds proportionately to all Owners as their interests appear according to the respective fair market values of their Lots immediately prior to the time of condemnation, as determined by an independent appraisal made by a qualified Real Estate Appraiser with a Member of the Appraisal Institute Certificate or the equivalent, as selected by the Board. The Association shall represent the interests of all Owners.



**ARTICLE XXIV**  
**Miscellaneous**

**Section 24.1 - Captions.** The captions contained in the Documents are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of the Documents nor the intent of any provision thereof.

**Section 24.2 - Gender.** The use of the masculine gender refers to the feminine and neuter genders and the use of the singular includes the plural, and vice versa, whenever the context of the Documents so requires.

**Section 24.3 - Waiver.** No provision contained in the Documents is abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

**Section 24.4 - Invalidity.** The invalidity of any provision of the Documents does not impair or affect in any manner the validity, enforceability or effect of the remainder, and in such event, all of the other provisions of the Documents shall continue in full force and effect.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed this 12<sup>th</sup> day of May, 2004.

AUTUMN RIDGE HOLDING COMPANY, LLC

By: *Daniel J. Walls*  
Daniel J. Walls, Member

STATE OF INDIANA            )  
  ) SS:  
COUNTY OF MONROE        )

Personally appeared before me, a Notary Public in and for said County and State, Daniel J. Walls, known to me to be a Member of Autumn Ridge Holding Company, LLC, who acknowledged execution of the above and foregoing Declaration of Covenants, Conditions and Restrictions of Autumn Ridge Subdivision to be a voluntary act and deed for and on behalf of said company.

Witness my hand and Notarial Seal, this 12<sup>th</sup> day of May, 2004.

My Commission Expires:  
November 1, 2009

*Gregory Scott Lauer*  
Gregory Scott Lauer, Notary Public  
Resident of Monroe County, Indiana

This document prepared by: Gregory Scott Lauer, Attorney at Law, Bloomington, Indiana.

Exhibit "A"

A part of the Northeast quarter of Section 14, Township 9 North, Range 2 West, Richland Township, Monroe County, Indiana, more specifically described as follows: Commencing at a rebar found marking the northwest corner of said Northeast quarter; thence on the north line of said Northeast quarter South 88 degrees 22 minutes 24 seconds East (basis of bearings being Instrument #2002001053, Office of the Recorder) 898.93 feet; thence leaving said north line south 00 degrees 18 minutes 44 seconds West 216.41 feet to a rebar found at the true point of beginning; thence through the real estate of Mary E. George (Instrument #2002001053, Office of the Recorder) South 84 degrees 43 minutes 38 seconds West 176.05 feet to a 5/8 inch diameter rebar with a survey cap engraved "Bynum Fanyo 890006" (called "monument" for the remainder of this description) set; thence South 68 degrees 15 minutes 20 seconds West 306.02 feet to a monument set; thence South 81 degrees 30 minutes 12 seconds West 136.29 feet to a monument set; thence South 61 degrees 40 minutes 22 seconds West 208.94 feet to a monument set; thence South 01 degree 17 minutes 30 seconds East 553.51 feet to a monument set on the north line of the real estate of the Town of Ellettsville (Instrument #2001011043, Office of the Recorder); thence on said north line South 88 degrees 27 minutes 13 seconds East 362.39 feet to a monument set on a westerly line of the real estate of ellettsville First Assembly of God (Instrument #2001024652, Office of the Recorder); thence leaving the said north line and on said westerly line North 00 degrees 07 minutes 40 seconds East 147.62 feet to a rebar with a survey cap found at the northwest corner of said First Assembly real estate; thence leaving said Westerly line and on the north line of said real estate South 89 degrees 52 minutes 20 seconds East 399.57 feet to a rebar found on the west line of Autumn Hills Subdivision (Plat Book 8, page 205, Office of the Recorder); thence leaving said north line and on said west line North 00 degrees 18 minutes 44 seconds East 665.26 feet to the point of beginning containing within said bounds 11.21 acres be the same more or less but subject to all rights-of-way and easements of record according to a survey by Douglas R. Curry, Registered Surveyor No. 890006 in September of 2002. Together with a 60 foot wide Ingress, Egress, and Utility Easement as described in Instrument #2001011043, Office of the Recorder.

Initials \_\_\_\_\_

EXHIBIT

A

**BY-LAWS OF**  
**AUTUMN RIDGE SUBDIVISION**  
**OWNER'S ASSOCIATION**

**ARTICLE I**  
**Introduction**

These are the By-Laws of the **Autumn Ridge Subdivision Owner's Association, Inc.** Certain capitalized terms used herein are defined in Article I of the Declaration.

**ARTICLE II**  
**Board of Directors**

**Section 2.1 - Number and Qualification; Termination of Declarant Control.**

- (a) The affairs of the Community and the Association shall be governed by a Board of Directors ("Board") which, until the termination of the period of Declarant control, shall consist of at least two (2) persons, and following such date shall consist of at least three (3) persons, the majority of whom, excepting the Directors appointed by the Declarant, shall be Lot Owners. If any Lot is owned by a partnership or corporation, any officer, partner or employee of that Lot Owner shall be eligible to serve as a Director and shall be deemed to be a Lot Owner for the purposes of the preceding sentence. Directors shall be elected by the Lot Owners except for those appointed by the Declarant. At any meeting at which Directors are to be elected, the Lot Owners may, by resolution, adopt specific procedures for conducting the elections, not inconsistent with these By-Laws or the Corporation Laws of the State of Indiana.
- (b) The terms of at least one-third (1/3) of the Directors not appointed by the Declarant shall expire annually, as established in a resolution of the Lot Owners setting terms.
- (c) As long as there is Class B membership, then the Declarant shall appoint the members of the Board.
- (d) The Board shall elect the officers. The Directors and officers shall take office upon election.
- (e) At any time after Lot Owners other than the Declarant are entitled to elect a Director, the Association shall call and give not less than ten (10) nor more than sixty (60) days' notice of a meeting of the Lot Owners for this purpose. Such meeting may be called and the notice given by any Lot Owner if the Association fails to do so.

**Section 2.2 - Powers and Duties.** The Board may act in all instances on behalf of the Association, except as provided in the Declaration, these By-Laws or the Act. The Board shall have, subject to the limitations contained in the Declaration and the Act, the powers and duties necessary for the administration of the affairs of the Association and of the Community which shall include, but not be limited to, the following:

- (a) Adopt and amend By-Laws and Rules and Regulations;
- (b) Adopt and amend budgets for revenues, expenditures and reserves;
- (c) Collect assessments for Common Expenses from Lot Owners;
- (d) Hire and discharge managing agents;
- (e) Hire and discharge employees and agents other than managing agents and independent contractors;
- (f) Institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violations of the Association's Declaration, By-Laws or Rules in the Association's name on behalf of the Association or two or more Lot Owners on matters affecting the Community;
- (g) Make contracts and incur liabilities;
- (h) Regulate the use, maintenance, repair, replacement and modification of Common Area;
- (i) Cause additional improvements to be made as a part of the Common Area;
- (j) Acquire, hold, encumber and convey in the Association's name any right, title or interest to real estate or personal property;
- (k) Grant easements for any period of time including permanent easements, and leases, licenses and concessions for not more than one year, through or over the Common Area;
- (l) Impose and receive a payment, fee or charge for the use, rental or operation of the Common Area, other than Limited Common Area and for services provided to Lot Owners;
- (m) Impose a reasonable charge for late payment of assessments and, after Notice and Hearing, levy a reasonable fine for a violation of the Declaration, By-Laws, Rules and Regulations of the Association;
- (n) Impose a reasonable charge for the preparation and recording of amendments to the Declaration or a statement of unpaid assessments;
- (o) Provide for the indemnification of the Association's officers and Board and maintain Directors' and officers' liability insurance;
- (p) Assign the Association's right to future income, including the right to receive Common Expense assessments;
- (q) Dedicate any roadway located within the Community to the public use;
- (r) Exercise any other powers conferred by the Declaration or By-Laws;

- (s) Exercise any other power that may be exercised in the state by a legal entity of the same type as the Association;
- (t) Exercise any other power necessary and proper for the governance and operation of the Association; and
- (u) By resolution, establish committees of directors, permanent and standing, to perform any of the above functions under specifically delegated administrative standards, as designated in the resolution establishing the committee. All committees must maintain and publish notice of their actions to Lot Owners and the Board. However, actions taken by any Lot Owner within forty-five (45) days of publication of such notice, and such committee action must be ratified, modified or rejected by the Board at its next regular meeting.

**Section 2.3 - Standard of Care.** In the performance of their duties, the officers and members of the Board are required to exercise the care required of fiduciaries of the Lot Owners.

**Section 2.4 - Additional Limitations.** The Board shall be additionally limited pursuant to Article XXI of the Declaration.

**Section 2.5 - Manager.** The Board may employ a manager for the Community at a compensation established by the Board, to perform such duties and services as the Board shall authorize. The Board may delegate to the manager only the powers granted to the Board by these By-Laws under Subdivisions 2.2(c), (e), (g) and (h). Licenses, concessions and contracts may be executed by the manager pursuant to specific resolutions of the Board, and to fulfill the requirements of the budget.

**Section 2.6 - Removal of Directors.** The Lot Owners, by a two-thirds vote of all persons present and entitled to vote at any meeting of the Lot Owners at which a quorum is present, may remove any Director of the Board with or without cause, other than a Director appointed by the Declarant.

**Section 2.7 - Vacancies.** Vacancies in the Board caused by any reason other than the removal of a Director by a vote of the Lot Owners, may be filled at a special meeting of the Board held for that purpose at any time after the occurrence of any such vacancy, even though the Directors present at such meeting may constitute less than a quorum, in the following manner:

- (a) as to vacancies of Directors whom Lot Owners other than the Declarant elected, by a majority of the remaining such Directors constituting the Board;
- (b) as to vacancies of Directors whom the Declarant has the right to appoint, by the Declarant.

Each person so elected or appointed shall be a Director for the remainder of the term of the Director so replaced.

**Section 2.8 - Regular Meetings.** The first regular meeting of the Board following each annual meeting of the Lot Owners shall be held within ten (10) days thereafter at such time and place as shall be fixed by the Lot Owners at the meeting at which such Board shall have been elected. No notice shall be necessary to the newly elected Directors in order to legally constitute such meeting, providing a majority of the Directors shall be present. The Board may set a schedule of additional regular meetings by resolution, and no further notice is necessary to constitute such regular meetings.

**Section 2.9 - Special Meetings.** Special meetings of the Board may be called by the President or by a majority of the Directors on a least three (3) business days' notice to each Director. The notice shall be hand-delivered or mailed and shall state the time, place and purpose of the meeting.

**Section 2.10 - Location of Meetings.** All meetings of the Board shall be held within the City of Bloomington or Ellettsville, unless all Directors consent in writing to another location.

**Section 2.11 - Waiver of Notice.** Any Director may waive notice of any meeting in writing. Attendance by a Director at any meeting of the Board shall constitute a waiver of notice. If all the Directors are present at any meeting, no notice shall be required and any business may be transacted at such meeting.

**Section 2.12 - Quorum of Directors.** At all meetings of the Board, a majority of the Directors shall constitute a quorum for the transaction of business, and the votes of a majority of the Directors present at a meeting at which a quorum is present shall constitute the decision of the meeting. If, at any meeting, there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any adjourned meeting at which a quorum is present any business which might have been transacted at the meeting originally called may be transacted without further notice.

**Section 2.13 - Compensation.** A Director may receive a fee from the Association for acting as such, as may be set by resolution of the Lot Owners, and reimbursement for necessary expenses actually incurred in connection with his or her duties. Directors acting as officers or employees may also be compensated for such duties.

**Section 2.14 - Consent to Corporate Action.** If all the Directors or all Directors of a committee established for such purposes, as the cause may be, severally or collectively consent in writing to any action taken or to be taken by the Association, and the number of the Directors or committee constitutes a quorum for such action, such action shall be a valid corporate action as though it had been authorized at a meeting of the Board or the committee, as the case may be. The Secretary shall file such consents with the minutes of the meeting of the Board.

**Section 2.15 - Telephonic Attendance.** A Director may attend a meeting of the Board by an electronic or telephonic communication method whereby the director may be heard by the other members, and hear the deliberations of the other members, or any matter properly brought before the Board, and his or her vote shall be counted, and his or her presence shall be noted as if he or she were present in person on that particular matter.

### **ARTICLE III** **Lot Owners**

**Section 3.1 - Annual Meeting.** Annual meeting of Lot Owners shall be held on the first Tuesday in February. At such meeting, the Directors shall be elected by ballot of the Lot Owners, in accordance with the provisions of Article II of the By-Laws. The Lot Owners may transact other business at such meetings as may properly come before them.

**Section 3.2 - Budget Meeting.** Meetings of Lot Owners to present the budgets shall be called in accordance with these By-Laws. The budget may be presented at Annual or Special Meetings called for other purposes as well.

**Section 3.3 - Special Meetings.** Special meetings of The Association may be called by the president, by a majority of the members of the Board, or by Lot Owners comprising twenty percent (20%) of the votes in the Association.

**Section 3.4 - Place of Meetings.** Meetings of the Lot Owners shall be held at the project, or may be adjourned to such suitable place convenient to the Lot Owners as may be designated by the Board or the president.

**Section 3.5 - Notice of Meetings.** Except for budget meetings which will be noticed not less than fourteen (14) nor more than thirty (30) days after the mailing of the summary, not less than ten (10) nor more than sixty (60) days in advance of a meeting, the secretary or other officer specified in the By-Laws shall cause notice to be hand-delivered or sent prepaid by United States mail to the mailing address of each Lot or to the mailing address designated in writing by the Lot Owner. No action shall be adopted at a meeting except as stated in the notice.

**Section 3.6 - Waiver of Notice.** Any Lot Owner may, at any time, waive notice of any meeting of the Lot Owners in writing, and such waiver shall be deemed equivalent to the receipt of such notice.

**Section 3.7 - Adjournment of Meeting.** At any meeting of Lot Owners, a majority of the Lot Owners who are present at such meeting, either in person or by proxy, may adjourn the meeting to another time.

**Section 3.8 - Order of Business.** The order of business at all meetings of the Lot Owners shall be as follows:

- (a) Roll call (or check-in procedure).
- (b) Proof of notice of meeting.
- (c) Reading of minutes of preceding meeting.
- (d) Reports.
- (e) Establish number and term of memberships of the Board (if required and noticed).
- (f) Election of inspectors of election (when required).
- (g) Election of Directors of the Board (when required).
- (h) Ratification of Budget (if required and noticed).
- (i) Unfinished business.
- (j) New business.

**Section 3.9 - Voting.**

- (a) If only one of several owners of a Lot is present at a meeting of the Association, the owner present is entitled to cast all the votes allocated to the Lot. If more than one of the owners is present, the votes allocated to the Lot may be cast only in accordance with the agreement of a majority in interest of the owners. There is majority agreement if any one of the owners casts the votes allocated to the Lot without protest being made promptly to the person presiding over the meeting by another owner of the Lot.
- (b) Votes allocated to a Lot may be cast under a proxy duly executed by a Lot Owner. If a Lot is owned by more than one person, each owner of the Lot may vote or register protest to the casting of votes by the other owners of the Lot through a duly executed proxy. A Lot Owner may revoke a proxy given under this Section only by actual notice of revocation to the person presiding over a meeting of the Association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates one year after its date, unless it specifies a shorter term.
- (c) The vote of a corporation or business trust may be cast by any officer of such corporation or business trust in the absence of express notice of the designation of a specific person by the board of directors or By-Laws of the owning corporation or business trust. The vote of a partnership may be cast by any general partner of the owning partnership in the absence of express notice of the designation of a specific person by the owning partnership. The moderator of the meeting may require reasonable evidence that a person voting on behalf of a corporation, partnership or business trust owner is qualified so to vote.
- (d) Votes allocated to a Lot owned by the Association may not be cast.

**Section 3.10 - Quorum.** Except as otherwise provided in these By-Laws, the Lot Owners present in person or by proxy, at any meeting of Lot Owners, shall constitute a quorum at such meeting.

**Section 3.11 - Majority Vote.** The vote of a majority of the Lot Owners present in person or by proxy at a meeting at which a quorum shall be present shall be binding upon all Lot Owners for all purposes except where a higher percentage vote is required in the Declaration, these By-Laws or by law.

**ARTICLE IV**  
**Officers**

**Section 4.1 - Designation.** The principal officers of the Association shall be the president, the vice president, the secretary and the treasurer, all of whom shall be elected by the Board. The Board may appoint an assistant treasurer, an assistant secretary, and such other officers as in its judgment may be necessary. The president and vice president, but no other officers, need be Directors. Any two offices may be held by the same person, except the offices of president and secretary. The office of vice president may be vacant or held by the treasurer.

**Section 4.2 - Election of Officers.** The officers of the Association shall be elected annually by the Board at the organization meeting of each new Board and shall hold office at the pleasure of the Board.



**Section 4.3 - Removal of Officers.** Upon the affirmative vote of a majority of the Directors, any officer may be removed, either with or without cause, and his or her successor may be elected at any regular meeting of the Board, or at any special meeting of the Board called for that purpose.

**Section 4.4 - President.** The president shall be the chief executive officer of the Association. He or she shall preside at all meetings of the Lot Owners and of the Board. He or she shall have all of the general powers and duties which are incident to the office of president of a nonstock corporation organized under the laws of the State of Indiana, including but not limited to the power to appoint committees from among the Lot Owners from time to time as he or she may in his or her discretion decide is appropriate to assist in the conduct of the affairs of the Association. He or she may fulfill the role of treasurer in the absence of the treasurer. The president, as attested by the secretary, may cause to be prepared and may execute amendments to the Declaration and these By-Laws on behalf of the Association, following authorization or approval of the particular amendment as applicable.

**Section 4.5 - Vice President.** The vice president shall take the place of the president and perform his or her duties whenever the president is absent or unable to act. If neither the president nor the vice president is able to act, the Board shall appoint some other Director to act in the place of the president, on an interim basis. The vice president shall also perform such other duties as may be imposed upon him or her by the Board or by the president.

**Section 4.6 - Secretary.** The secretary shall keep the minutes of all meetings of the Lot Owners and the Board. He or she shall have charge of such books and papers as the Board may direct and he or she shall, in general, perform all the duties incident to the office of secretary of a nonstock corporation organized under the laws of the State of Indiana. The secretary may cause to be prepared and may attest to execution by the president of amendments to the Declaration and the By-Laws on behalf of the Association, following authorization or approval of the particular amendment as applicable.

**Section 4.7 - Treasurer.** The treasurer shall have the responsibility for Association funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of all required financial data. He or she shall be responsible for the deposit of all monies and other valuable effects in such depositories as may from time to time be designated by the Board, and he or she shall, in general, perform all the duties incident to the office of treasurer of a nonstock corporation organized under the laws of the State of Indiana. He or she may endorse on behalf of the Association for collection only, checks, notes and other obligations, and shall deposit the same and all monies in the name of and to the credit of the Association in such banks as the Board may designate. He or she may have custody of and shall have the power to endorse for transfer on behalf of the Association, stock, securities or other investment instruments owned or controlled by the Association or as fiduciary for others.

**Section 4.8 - Agreements, Contracts, Deeds, Checks, etc.** Except as provided in Sections 4.4, 4.6, 4.7 and 4.10 of these By-Laws, all agreements, contracts, deeds, leases, checks and other instruments of the Association shall be executed by an officer of the Association or by such other person or persons as may be designated by the Board.

**Section 4.9 - Compensation.** An officer may receive a fee from the Association for acting as such, as may be set by resolution of the Lot Owners, and reimbursement for necessary expenses actually incurred in connection with his or her duties.

**Section 4.10 - Statements of Unpaid Assessments.** The treasurer, assistant treasurer, or a manager employed by the Association, or, in their absence, any officer having access to the books and records of the Association, may prepare, certify, and execute statements of unpaid assessments.

The Association may charge a reasonable fee for preparing statements of unpaid assessments. The amount of this fee and the time of payment shall be established by resolution of the Board. The Association may refuse to furnish statements of unpaid assessments until the fee is paid. Any unpaid fees may be assessed as a Common Expense against the Lot for which the certificate or statement is furnished.

## **ARTICLE V** **Enforcement**

**Section 5.1 - Abatement and Enjoinment of Violations by Lot Owners.** The violation of any of the Rules and regulations adopted by the Board, or the breach of any provision of the Documents shall give the Board the right, after Notice and Hearing, except in case of an emergency, in addition to any other rights set forth in these By-Laws:

- (a) to enter the dwelling in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Lot Owner, any structure, thing or condition (except for additions or alterations of a permanent nature that may exist therein) that is existing and creating a danger to the Common Area contrary to the intent and meaning of the provisions of the Documents, and the Board shall not thereby be deemed liable for any manner of trespass; or
- (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

**Section 5.2 - Fine for Violation.** By resolution, following Notice and Hearing, the Board may levy a fine of up to Twenty-five Dollars (\$25.00) per day for each day that a violation of the Documents or Rules persists after such Notice and Hearing, but such amount shall not exceed that amount necessary to insure compliance with the rule or order of the Board.

## **ARTICLE VI** **Indemnification**

The Directors and officers of the Association shall have the liabilities, and be entitled to indemnification, as provided under the Indiana Not-for-Profit Corporation Act, as amended or superseded, the provisions of which are hereby incorporated by reference and made a part hereof.

## **ARTICLE VII** **Records**

**Section 7.1 - Records and Audits.** The Association shall maintain financial records. The financial records shall be maintained in accordance with these By-Laws and the Declaration. The cost of the audit shall be a Common Expense unless otherwise provided in the Documents.

**Section 7.2 - Examination.** All records maintained by the Association or by the manager shall be available for examination and copying by any Lot Owner, by any holder of a Security Interest in a Lot, or by

any of their duly authorized agents or attorneys, at the expense of the person examining the records, during normal business hours and after reasonable notice.

**Section 7.3 - Records.** The Association shall keep the following records:

- (a) An account for each Lot which shall designate the name and address of each Lot Owner, the name and address of each mortgagee who has given notice to the Association that it holds a mortgage on the Lot, the amount of each Common Expense assessment, the dates on which each assessment comes due, the amounts paid on the account, and the balance due.
- (b) An account for each Lot Owner showing any other fees payable by the Lot Owner.
- (c) A record of any capital expenditures in excess of Three Thousand Dollars (\$3,000.00) approved by the Board for the current and next two succeeding fiscal years.
- (d) A record of the amount, and an accurate account of, the current balance of any reserves for capital expenditures, replacement and emergency repairs, together with the amount of those portions of reserves designated by the Association for a specific project.
- (e) The most recently regularly prepared balance sheet and income and expense statement, if any, of the Association.
- (f) The current operating budget.
- (g) A record of any unsatisfied judgments against the Association and the existence of any pending suits in which the Association is a defendant.
- (h) A record of insurance coverage provided for the benefit of Lot Owners and the Association.
- (i) A record of any alterations or improvements to Lots or Limited Common Area which violate any provisions of the Declarations of which the Board has knowledge.
- (j) A record of any violations, with respect to any portion of the Community, of health, safety, fire or building codes or laws, ordinances, or regulations of which the Board has knowledge.
- (k) A record of the actual cost, irrespective of discounts and allowances, of the maintenance of the Common Area.
- (l) Such balance sheets and other records required by Indiana corporate law.
- (m) Tax returns for state and federal income taxation.
- (n) Minutes of proceedings of incorporators, Lot Owners, Directors, committees of directors and waivers of notice.

**ARTICLE VIII**  
**Miscellaneous**

**Section 8.1 - Notices.** All notices to the Association or the Board shall be delivered to the office of the manager, or if there is no manager, to the office of the Association, or to such other address as the Board may hereafter designate from time to time, by notice in writing to all Lot Owners and, if applicable, to all holders of Security Interests in the Lots who have notified the Association that they hold a Security Interest in a Lot. Except as otherwise provided, all notices to any Lot Owner shall be sent to his or her address as it appears in the records of the Association. All notices to holders of Security Interests in the Lots shall be sent, except where a different manner of notice is specified elsewhere in the Documents, by registered or certified mail to their respective addresses, as designated by them from time to time, in writing, to the Association. All notices shall be deemed to have been given when mailed except notices of changes of address which shall be deemed to have been given when received.

**Section 8.2 - Fiscal Year.** The Board shall establish the fiscal year of the Association.

**Section 8.3 - Waiver.** No restriction, condition, obligation, or provision contained in these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

**Section 8.4 - Office.** The principal office of the Association shall be on the Property or at such other place as the Board may from time to time designate.

**ARTICLE IX**  
**Amendments to By-Laws**

The By-Laws may be amended only pursuant to the provisions of Article XIII of the Declaration.

**ATTEST:**

Certified to be the By-Laws adopted by consent of the Directors of Autumn Ridge Subdivision Owners Association, Inc., dated this \_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
Daniel J. Walls, President