

CODE OF BY-LAWS

OF

ROSEMARY VILLAS HOMEOWNERS' ASSOCIATION

An Indiana Not-for-Profit Corporation

ARTICLE I

Identification and Applicability

Section 1.1. Identification. These are the By-laws of Rosemary Villas Homeowners' Association (the "Association"), and Indiana Not-for-Profit Corporation, for which a Certificate of Incorporation was issued on the ninth day of November 1987. These By-laws are adopted pursuant to the Declaration of Protective Covenants and Restrictions Applicable to the Final Plat of Kensington Farms East P.U.D., Section Five, and Known as Rosemary Villas ("Restrictions"), recorded on October 7, 1987, in the Office of the Recorder of St. Joseph County, Indiana, as Document No. 8731780, a copy of which is attached to these By-laws as Exhibit "a." The Restrictions concern the following described real estate:

A parcel of land being a part of the Southeast Quarter of Section 31, Township 37 north, Range 3 east, City of South Bend, Centre Township, St. Joseph County, Indiana and being more particularly described as follows:

Beginning at the Southwest corner of Lot 58 in the plat of Kensington Farms East, P.U.D. Section 1 as the same is recorded in the office of the Recorder of St. Joseph County, Indiana as document number 7925154; thence for the next five courses along the boundary of said Section 1, the first course being South 67°-56'-30" East, a

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distance of 208.16 feet; thence South 22°-03'-30" West, a distance of 37.59 feet; thence South 67°-56'-30" East, a distance of 75.43 feet; thence South 89°-53'-30" East a distance of 155.00 feet; thence South 0°-06'-30" West, a distance of 667.64 feet; thence North 89°-48'-22" West, a distance of 542.00 feet; thence North 0°-06'-30" East, a distance 305.00 feet; thence North 60°-00'-00" East, a distance of 126.00 feet; thence North 11°-00'-00" West, a distance of 130.00 feet; thence North 09°-56'-30" East, a distance of 316.57 feet to the place of beginning containing 8.46 acres more or less;

("Rosemary Villas").

Section 1.2. Individual Application. All persons and/or entities acquiring title to or any interest in any of the lots ("Lots") or other property in Rosemary Villas, ("Owners"), future Owners, tenants, future tenants, or their guests and invitees, or any other person that might use or occupy a residence on a lot in Rosemary Villas ("Residence"), shall be subject to the restrictions, terms and conditions set forth in the Restrictions, these By-laws, and to any rules and regulations adopted by the Board of Directors as herein provided.

ARTICLE II

Membership

Section 2.1. Classes. There shall be two (2) classes of membership: Voting and Nonvoting ("Members").

- A. The Voting Members shall be the Owners.
- B. The Nonvoting Members shall be a resident who is not an Owner.

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Section 2.2. Rights, Preferences, Limitations and Restrictions of Classes. All Members shall have the same rights, preferences, limitations and restrictions as set forth in the By-laws.

Section 2.3. Voting Rights. Each person holding an interest in a Lot shall be a member, but each Lot shall only have one (1) vote. Membership shall conclude when a member ceases to be an Owner. Upon the transfer of ownership by a deed duly recorded in the Office of the Recorder of St. Joseph County, Indiana, membership in the Association shall run from the grantor to the grantee, without the requirement of any endorsement or assignment.

ARTICLE III

Meetings of Association

Section 3.1. Purpose of Meetings. At least annually, and at such other times as may be necessary, the meetings of the Members shall be held for the purpose of electing the Board of Directors (subject to the provisions of Section 4.2 hereof), providing for the collection of assessments, and for such other purposes as may be required by the Restrictions or these By-laws.

Section 3.2. Annual Meetings. The annual meeting of the Members shall be held on a date selected by the Board of Directors in each calendar year. At the annual meeting, the Members shall (subject to the provisions of Sections 4.2 hereof) elect the Board of Directors in accordance with the provisions of these By-laws and transact such other business as may properly come before the meeting.

Section 3.3. Special Meetings. Special meetings of Members may be called by the President, by a majority of the Board of Directors, or by written petition signed by not less than one-tenth (1/10th) of all Members authorized to vote by the Articles of Incorporation. The resolution or petition shall be presented to the President or Secretary of the Association and shall state the purpose for which the meeting is to be called. No business shall be transacted at a special meeting except as stated in the resolution or petition.

Section 3.4. Notice and Place of Meetings. All meetings of the members of the Association shall be held at any suitable place in St. Joseph County, Indiana, as may be designated by the Board of Directors. Written or printed notice stating the place, day and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered or mailed by the Secretary of the Association or by the officer or person calling the meeting to each Member of record entitled to vote at that meeting, not less than ten (10) days prior to the date of such

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meeting, at the address which appears on the records of the Association. Notice of any meeting of the Members may be waived in writing filed with the Secretary or by attendance in person.

Section 3.5. Voting and Conduct of Meetings.

- A. Each Voting Member shall be entitled to cast one (1) vote for each Lot he owns on each matter coming before the meeting as to which he is entitled to vote. If a Lot is owned by more than one person, the person entitled to cast a vote for the Lot shall be designated by a Certificate signed by all of the recorded Owners of the Lot, and filed with the Secretary of the Association. If a Lot is owned by a corporation or partnership, the person entitled to cast the vote for the Lot shall be designated by a Certificate of Appointment signed by the President or Vice President and attested by the Secretary or Assistant Secretary of a corporation, or signed by all members of the partnership, and filed with the Secretary of this Association. The Certificate shall be in a form provided by the Board of Directors. Such Certificate shall be valid until revoked, or until superseded by a subsequent Certificate, or until a change in the ownership of the Lot concerned. A Certificate designating the person entitled to cast the vote of a Lot may be revoked by any Owner thereof.
- B. A Nonvoting Member shall have no voting rights.
- C. An officer, or Director who is an Owner of a Lot shall have the rights of a Voting Member.
- D. No Member, whose dues or assessments are unpaid at the time of the commencement of a meeting, shall be entitled to vote.

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- E. A Member may vote either in person or by his duly authorized and designated attorney-in-fact. Where voting is by proxy, the Member shall duly designate his attorney-in-fact in writing, delivered to the Secretary of the Association prior to the commencement of the meeting.
- F. A majority of the Voting Members represented in person, or by proxy, shall constitute a quorum; except, in cases of a meeting called for the purpose of voting on a proposed amendment to the Articles of Incorporation, merger, consolidation, reorganization, special corporate transaction or voluntary dissolution, or an annual meeting at which such vote is conducted, for the purpose of voting on that matter only, a quorum shall be constituted by those Voting Members that are present in person or by proxy at the meeting at which such vote is conducted.
- G. The President of the Association shall act as the Chair of all annual meetings of the Association if he is present.
- H. The President of the Association shall act as Chair of any special meetings of the Association if he is present. The Chair shall call the meeting to order at the duly designated time and the only business to be considered at such meeting shall be in consideration of the matters for which such meeting was called, as set forth in the notice of such special meeting.

ARTICLE IV

Board of Directors

Section 4.1. Management. The affairs of the Association shall be governed and managed by the Board of Directors (herein collectively called "Board" or "Directors" and individually called "Director"). The Board of Directors shall be composed of three persons. No person shall be eligible to serve as a Director unless he is, or is deemed in accordance with the By-laws to be, an Owner.

Section 4.2. Additional Qualifications. Where a Member consists of more than one person or is a partnership, corporation, trust or other legal entity, then one of the persons constituting the multiple Member, or a partner or an officer or trustee shall be eligible to serve on the Board of Directors except that no single Lot may be represented on the Board of Directors by more than one person at a time.

Section 4.3. Term of Office and Vacancy. Each member of the Board of Directors shall be elected for a term of three (3) years with one-third elected annually at the Annual Meeting of the membership. Directors may succeed themselves.

Any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining Directors or by vote of the Members if a Director is removed in accordance with Section 4.4 of this Article IV. The Director so filling a vacancy shall serve until the next annual meeting of the Members and until his successor is elected and qualified. At the first annual meeting following any such vacancy, a Director shall be elected for the balance of the term of the Director so removed or in respect to whom there has otherwise been a vacancy.

Section 4.4. Removal of Directors. A Director or Directors may be removed with or without cause by vote of a majority of the Members at a special meeting of the Members duly called and constituted for such purpose. In such case, his successor shall be elected at the same meeting from eligible Members nominated at the meeting. A Director so elected shall serve until the next annual

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meeting of the Members and until his successor is duly elected and qualified.

Section 4.5. Duties of the Board of Directors. The Board of Directors shall provide for the administration of the Association, the maintenance of lawns and shrubbery (including watering, weeding, fertilizer and cutting grass), snow removal on driveways, streets and sidewalks, and exterior painting of exterior doors, for the general benefit of all Owners, and the collection and disbursement of the assessments. The Board may on behalf of the Association, employ a property management agent (herein called the "Managing Agent") upon such terms as the Board shall find, in its discretion, reasonable and customary. The Managing Agent shall assist the Board in carrying out its duties.

Section 4.6. Compensation. No Director shall receive any compensation for his or her services as such except to such extent as may be expressly authorized by a majority of the Members, The Managing Agent shall be entitled to reasonable compensation for its services. A Director may serve as Managing Agent.

Section 4.7. Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors. The Secretary shall give notice of regular meetings of the Board to each Director personally, email, or by United States Mail at least five (5) days prior to the date of such meeting.

Special meetings of the Board may be called by the President or any two (2) members of the Board. The person or persons calling such meeting shall give written notice thereof to the Secretary who shall, either personally or by mail, and at least three (3) days prior to the date of such special meeting, give notice to the Board members. The notice of the meeting shall contain a statement of the purpose for which the meeting is called. Such meeting shall be held at such place and at such time within St. Joseph County, Indiana, or any of the contiguous Counties, as shall be designated in the notice.

Section 4.8. Waiver of Notice. Before any meeting of the Board, any Director may, in writing, waive notice of such meeting, and such waiver shall be deemed equivalent to the giving of such notice. The presence of any Director at a meeting or his subsequent consent to the actions taken thereat, shall, as to such Director, constitute a waiver of notice of the time, place and purpose thereof. If all Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 4.9. Quorum. At all meetings of the Board, a majority of the Directors shall constitute a quorum for the transaction of business, and the votes of the majority of the Directors present at a meeting at which a quorum is present shall be the decision of the Board.

Section 4.10. Action in Lieu of Meeting. Any action required or permitted to be taken by the Board of Directors under any provision of law may be taken without a meeting if all members of the Board shall, individually or collectively, consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board. Such action by written consent shall have the same force and effect as an unanimous vote of the Directors. Any certificate or other document filed under law which relates to action so taken shall state that the action was taken by unanimous written consent of the Board of Directors without a meeting, and that the By-laws authorize the Directors to so act.

Section 4.11. Non liability of Directors. The Directors shall not be liable to the Members or any other persons for any error or mistake of judgment exercised in carrying out their duties and responsibilities as Directors, except for their own individual willful misconduct, bad faith or gross negligence. The Association shall indemnify and hold harmless and defend each of the Directors against any and all liability to any person, firm or corporation arising

out of contracts made by the Board on behalf of the Association, unless any such contract shall have been made in bad faith or contrary to the provisions of the Restrictions or By-laws. It is intended that Directors shall have no personal liability with respect to any contract made by them on behalf of the Association and that in all matters the Board is acting for and on behalf of the Members as their agent.

ARTICLE V

Officers

Section 5.1. Officers of the Association. The principal officers of the Association shall be the President, Vice President, Secretary and Treasurer, all of whom shall be elected by the Board. The Directors may appoint an Assistant Treasurer and an Assistant Secretary and such other officers as in their judgment may be necessary. Any two (2) or more offices may be held by the same person, except that the duties of the President and Secretary shall not be performed by the same person.

Section 5.2. Election of Officers. The officers of the Association shall be elected annually by the Board at the initial meeting of each new Board. Upon an affirmative vote of a majority of all members of the Board, any officer may be removed either with or without cause and his successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

Section 5.3. The President. The President shall be elected from among the Directors and shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board, shall have and discharge all general powers and duties usually vested in the office of president or chief executive officer of an association or a stock corporation organized under the laws of Indiana, including, but not limited to, the power to appoint committees from among the Members as he may deem necessary to

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assist in the affairs of the Association and to perform such other duties as the Board may from time to time prescribe.

Section 5.4. The Vice President. The Vice President shall be elected from among the Directors and shall perform all duties incumbent upon the President during the absence or disability of the President. The Vice President shall also perform such other duties as these By-laws may prescribe or as shall, from time to time, be imposed upon him by the Board or by the President.

Section 5.5. The Secretary. The Secretary shall attend all meetings of the Association and of the Board and shall keep or cause to be kept a true and complete record of the proceedings of such meetings, shall perform all other duties as from time to time may be prescribed by the Board. The Secretary shall specifically see that all notices of the Association or the Board are duly given, mailed or delivered, in accordance with the provisions of these By-laws.

Section 5.6. The Treasurer. The Board shall elect from among the Directors a Treasurer who shall maintain a correct and complete record of account showing accurately at all times the financial condition of the Association and who shall perform such other duties incident to the office of Treasurer. He shall be the legal custodian of all monies, notes, securities and other valuables, which may from time to time come into possession of the Association. He shall immediately deposit all funds of the Association coming into his hands in some reliable bank or other depository to be designated by the Board and shall keep such bank account or accounts in the name of the Association. The Treasurer may permit the Managing Agent to handle and account for monies and other assets of the Association to the extent appropriate as part of its duties.

Section 5.7. Assistant officers. The Board of Directors may from time to time designate and elect from among the Members an Assistant Secretary and an Assistant Treasurer who shall have such powers and duties as the officers, whom they are elected to assist,

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shall delegate to them and such other powers and duties as these By-laws or the Board of Directors may prescribe.

ARTICLE VI

Assessments

Section 6.1. Regular Assessments. At each annual meeting, the amount of all assessments, for the purposes described in Section 4.5 herein, shall be established by the Board of Directors and shall be paid by each Owner on a monthly basis and shall be due and paid by the first day of each month. Unpaid assessments shall be a lien on the lot of the nonpaying Owner, subordinate to any purchase money mortgage on such lot and extinguishable in the event of a Sheriff's sale arising out of a mortgage foreclosure or issuance of a deed in lieu of such foreclosure.

Section 6.2. Special Assessments. From time to time, expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time and without the approval of the Members, the Board of Directors shall have the full right, power and authority to make special assessments which, upon resolution of the Board, shall become a lien on each Lot.

Section 6.3. Failure of Member to Pay Assessments. No Member may exempt himself from paying assessments. Each Member shall be personally liable for the payment of all assessments. Where the Member constitutes more than one person, the liability of such persons shall be joint and several. If any Member shall fail, refuse or neglect to make any payment of any assessments when due, a written Notice of Lien against the Member's Lot may be filed by the Board of Directors in the Office of the Recorder of St. Joseph County, Indiana, which Notice of Lien shall reflect the lien of the Association and have the same force and effect as, and be enforced in the same manner as, a mortgage lien under Indiana law. An action to enforce a lien or to collect the indebtedness shall include title expenses, the current judgment rate of interest

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computed from the due date of the assessment, and costs of collection, including without limit attorneys' fees and court costs.

ARTICLE VII

Restrictions and Regulations

Section 7.1. Restrictions. The Restrictions attached hereto as Exhibit "A" are incorporated into these By-laws as if fully stated herein.

Section 7.2. Right of Board to Adopt Rules and Regulations. The Board of Directors may promulgate such additional rules and regulations regarding Rosemary Villas as it may deem necessary from time to time and such rules as are adopted may be amended by a vote of a majority of the Board, and the Board shall cause copies of such rules and regulations and all amendments thereto to be delivered or mailed promptly to all Members.

ARTICLE VIII

Amendment to By-laws

Section 8.1. Amendment to By-laws. Subject to any contrary, overriding or superseding provisions set forth herein, these By-laws may be amended in the same manner, and subject to the same limitations and requirements, as amendments to the Restrictions, as set forth in paragraph V of the Restrictions; provided, however, that such amendment to the By-laws need not be recorded.

ARTICLE IX

Miscellaneous

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Section 9.1. Fiscal Year. The fiscal year of the Association shall begin on the first day of November in each year and end on the last day of October next following.

Section 9.2. Membership Each Owner is a Member of the Association. Membership shall become void and of no force and effect upon sale by a Member of his Lot.

Section 9.3. Personal Interests. No Member of the Association shall have or receive any earnings from the Association, except a Member who is an officer, Director or employee of the Association may receive fair and reasonable compensation for his service as officer, Director or employee, and a Member may also receive principal and interest on moneys loaned or advanced to the Association as provided in the Indiana Not-for-Profit Corporation Act.

Section 9.4. Indemnification of Directors, Officers, Employees, and Agents. The Association shall indemnify each person who is or was a Director, officer, employee, or agent of the Association, or of any other corporation, partnership, joint venture, trust, or other enterprise, hereinafter collectively called "other enterprise" which he is serving, or has served in any capacity at the request of the Association against any and all liability and reasonable expenses that may be incurred by him in connection with or resulting from any claim, action, suit or proceeding (whether actual or threatened) brought by, or in the right of the Association or such other enterprise, or otherwise, civil, criminal, administrative, investigative, or in connection with an appeal relating thereto, in which he may become involved as a party, or otherwise, by reason of his being or having been a Director, officer, employee, or agent of the Association, or of such other enterprise, or by reason of any past or future action taken or not taken in his capacity as such Director, officer, employee, or agent, whether or not he continues to be such at the time such liability or expense is incurred, provided that such person acted in good faith, and what he reasonable believed to be the best interest of the Association, or such other enterprise, as the case may be, and, in addition, in any criminal action or proceeding,

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he had no reasonable cause to believe that his conduct was unlawful. As used in this Section, the terms “liability” and “expense” shall include, but shall not be limited to, attorney’s fees and disbursements and amounts of judgments, fines, or penalties against, and amounts paid in settlement by, a Director, officer, employee or agent. The termination of any claim, action, suit, or proceeding, civil or criminal, by judgment, settlement (whether with or without Court approval) or conviction, or upon a plea of guilty or of nolo contendere, or its equivalent, shall not create a presumption that a Director, officer, employee, or agent did not meet the standards, or conduct set forth in the first sentence of this Section.

Any such Director, officer, employee, or agent who has been wholly successful, on the merits, or otherwise, with respect to any claim, suit, or proceeding of the character described herein shall be entitled to indemnification as of right. Except as provided in the preceding Section, any indemnification hereunder shall be made at the discretion of the Association, but only if (i) the Board of Directors, acting by a quorum consisting of Directors who are not parties to or who have been wholly successful with respect to such claim, action, suit, or any proceeding, shall find that the Director, officer, employee, or agent has met the standards of conduct set forth in the first sentence of this Section, or (ii) independent legal counsel (who may be regular counsel of the Association) shall deliver to it their written opinion that such Director, officer, employee, or agent has met such standards.

If several claims, issues, or matters of action are involved, any such person may be entitled to indemnification as to some matters even though he is not entitled as to others.

The Association may, at its expense, undertake the defense of any such Director, officer, employee, or agent upon receipt of an undertaking by or on behalf of such person to repay such expenses, if it should ultimately be determined that he is not entitled to indemnification under this Section.

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The rights of indemnification provided hereunder shall be in addition to any rights to which any person concerned may otherwise be entitled by contract or as a matter of law, and shall inure to the benefit of the heirs, executors, and administrators of any such person.

Duly adopted this _____ day of _____, 2012.

ROSEMARY VILLAS HOMEOWNERS' ASSOCIATION

By: _____
Joe Mankowski, President

By: _____
Richard Kline, Vice President

By: _____
Don Nemeth, Secretary/Treasurer

THIS INSTRUMENT PREPARED BY: RVHA Board of Directors. South Bend, IN 46614