

AMENDED AND RESTATED BYLAWS  
OF  
EMORY CREEK RANCH PROPERTY OWNERS ASSOCIATION, INC.

This AMENDED AND RESTATED BYLAWS (the "Bylaws") of Emory Creek Ranch Property Owners Association, Inc. is made this 25<sup>th</sup> day of October, 2013 and supersedes and replaces all prior Bylaws for Emory Creek Ranch Property Owners Association, Inc. and any other name under which the corporation may have been known.

ARTICLE 1 - INTRODUCTORY PROVISIONS

Section 1.1. *Applicability.* These Bylaws relate to the property called Emory Creek Ranch Property located in Taney County, Missouri, more fully described in the Declaration of Covenants, Conditions and Restrictions for the various phases of the subdivision and in the plats recorded in the Taney County Recorder of Deeds' Office, as the same may be amended from time to time.

Section 1.2. *Definitions.* The capitalized terms used herein without definition shall have the same definitions as such terms have in the Declaration of Covenants, Conditions and Restrictions for all phases of the Emory Creek Ranch Subdivision.

Section 1.3. *Location.* The office of the Association shall be in Taney County, Missouri at such location as may be designated from time to time by the Board of Directors.

Section 1.4. *Supremacy.* In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control. In the case of conflict between the Declaration of Covenants, Conditions and Restrictions and these Bylaws, the Declarations shall control.

ARTICLE 2 - THE ASSOCIATION

Section 2.1. *Membership.* The Association is a Missouri nonprofit corporation, all the Members of which are Owners of one or more Lots in the Emory Creek Ranch Property. A person shall automatically become a Member of the Association at the time they acquire a deed to one or more Lots, and shall continue to be a Member as long as they are an Owner. An Owner of a Lot is not permitted to resign from membership in the Association prior to transferring ownership of their Lot to another.

Section 2.2. *Meetings.* The annual meeting of the Members shall be held on the second Thursday of January of each year or such other date in January as determined by the

Board of Directors. Such annual meeting shall be for the purpose of announcing newly elected Directors and for the transaction of such other business as may come before the meeting. Special meetings of the Members may be called by the President, the Board of Directors, or 20% of the votes of Members (eligible to vote) with Members entitled to one vote for each Lot owned. Special meetings so called shall be held in a timely manner following required notification of the Members. Informational meetings of the Members may be called at the discretion of the Board of Directors and at such meetings no motions or voting shall be entertained.

Section 2.3. *Place of Meetings.* The meetings of the Members shall be held in Taney County, Missouri, at such locations as may be specified by the Board of Directors.

Section 2.4. *Action Without Meeting.* Any action required or permitted to be taken at a meeting of Members may be taken without a meeting if consents in writing, setting forth the action so taken, shall be signed by more than fifty percent (50%) of the Members entitled to vote with respect to the subject matter thereof. Written notice of Member approval pursuant to such action shall be given to all Members who have not signed the written consent. The Secretary of the Association shall file the consents with the minutes of the meetings.

Section 2.5. *Record Date and Notice.* The Secretary shall fix a record date for notice of the annual meeting or special meeting and prepare an alphabetical list of the names of all Members who are eligible to vote. The list must show the address and number of votes each Member is entitled to vote at the meeting. Such list will be made available to any Member at the meeting for which the list was prepared. Notices of annual meetings or special meetings of Members shall be delivered by mail to the mailing address of each Member as shown by the Taney County Assessor's office or to another mailing address designated in writing by the Member to the Board of Directors. All such notices shall be delivered to Members not less than ten (10) or more than sixty (60) days in advance of the date of the meeting to which the notice relates and shall state the date, time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Articles of Incorporation or Bylaws. The Secretary shall cause all such notices to be delivered as aforesaid. Notices sent by mail shall be deemed to have been delivered on the second regular delivery day after the date of mailing. Notices of informational meetings of Members may be delivered by mail or by e-mail to the e-mail address designated by the Member.

Section 2.6. *Voting.* Each Member shall be entitled to one vote for each Lot owned; however, the Board of Directors may suspend the right to vote of a Member who is delinquent in payment of assessments or other fees invoiced by the Association. A majority of the votes entitled to be cast by the Members present at a meeting, in person or by proxy, at which a quorum is present, shall be necessary for the adoption of any matter voted upon

by the Members except for the election of Directors addressed in Section 3.4. If ballots are used to cast votes pertaining to a specific issue or issues, such ballots shall be cast by placement in a sealed envelope and mailing it to the Secretary seven (7) days prior to the meeting or by the date set by the Secretary in the ballot.

Section 2.7. *Proxies and Ballots.* Except for the election of Directors and other matters submitted by ballot prior to the meeting, votes may be cast in person or by proxy. Proxies shall be duly executed in writing, shall be valid only for the particular meeting designated therein and must be filed with the Secretary before the appointed time of the meeting. Such proxy shall be deemed revoked only by actual receipt by the person presiding over the meeting of written notice of revocation from the grantor of the proxy. A proxy is void if it is not dated or purports to be revocable without notice. All attending voters at any annual or special meeting shall sign a registration sheet to allow verification of their voting eligibility.

Section 2.8. *Quorum.* The presence in person, by proxy or vote by ballot of at least fifteen percent (15%) of votes held by Members (with eligible Members entitled to one vote for each Lot owned) shall constitute a quorum at any meeting of the Members.

Section 2.9. *Manner of Acting and Rules of Order.* In all matters not covered by these Bylaws, parliamentary procedures shall be governed by the manual known as "Robert's Rules of Order Newly Revised 11<sup>th</sup> Edition" ("Robert's Rules"). The act of the majority of the Members present at a meeting of the Members at which a quorum is present shall be the act of the Members, unless a greater number is required under the Articles of Incorporation, these Bylaws or any applicable laws of the State of Missouri.

Section 2.10. *Powers.* All powers not reserved to the Members are delegated to the Board of Directors.

### ARTICLE 3 - BOARD OF DIRECTORS

Section 3.1. *Number.* The affairs of the Association shall be managed and supervised by a Board of Directors, consisting of three (3), five (5) or seven (7) persons as fixed from time to time by the Members at any regular or special meeting of Members. Until the annual meeting of the Members in January 2014, the Board shall consist of the three (3) current Board members and, commencing with the annual meeting of the Members in January 2014, the Board shall consist of five (5) Board members.

Section 3.2. *Nominations.* At least sixty (60) days prior to the date of the annual meeting of the Members each year, the Board of Directors shall send notice to the Members requesting nominations. The notice may be delivered by mail or e-mail. The Board of Directors shall verify that those nominated are (1) Members of the Association; (2) willing

to serve on the Board of Directors; (3) not delinquent in payment of assessments or other fees invoiced by the Association; and (4) willing to consent to a national criminal background check prior to taking office should they be elected. Nominees who have been convicted of a felony or who do not meet the aforementioned requirements shall not be eligible for election to the Board.

Section 3.3 *Term of Directors and Vacancies.* At the annual meeting of Members in January 2014, five Directors shall be elected – two for three year terms; two for two year terms; and one for a one year term. Thereafter, in ensuing years, Directors shall be elected to succeed those whose term or terms have expired for a term of three years.

If a Director, for any reason, does not complete their term of office, the nominee in the previous election with the highest number of votes who did not win a Board position in that election will be asked to serve as a Director for the balance of the vacated term. If that person declines to accept, the Board shall elect, by majority vote of the remaining Directors, a Member who meets the qualifications in Section 3.2 above; and that new Director shall serve until the next annual meeting of Members at which time the Members will elect a Director to serve for the balance of the vacated term.

Any Director may succeed himself or herself, if duly elected.

Section 3.4. *Election of Directors.* Election of Directors shall be completed before the annual meeting of Members by written ballot which shall describe the vacancies to be filled and which shall set forth the names of the nominees for those vacancies. Ballots shall be prepared and distributed by the Secretary to all Members at least fifteen (15) days in advance of the date designated by the Board of Directors as the date of the election. The date of the election shall be at least fifteen (15) days but not more than thirty (30) days prior to the date of the annual meeting of Members. Ballots shall be returned to the Secretary by mail and must be postmarked on or before the return date specified in the ballot.

Section 3.5. *Ballot Count.* Upon receipt of the ballots, the Secretary, or a designee selected from among the Board of Directors, shall retain the ballots in sealed envelopes in a safe place and, on the date designated as date the of the election, shall open the ballots and count same in the presence of not fewer than one (1) other Director and two (2) Members appointed by the Board of Directors and a majority of the nominees named on the ballot. "Write in" votes shall not be permitted. In the case of a tie, the winner shall be chosen by a show of hands vote taken at the annual meeting. Unless a recount is requested, the ballots may be destroyed ninety (90) days after the date of the election.

Section 3.6. *Compensation.* No Director shall receive any compensation for any service as a member of the Board of Directors. Directors may be reimbursed for actual expenses incurred and for services provided to the Association other than as a Director.

Section 3.7. *Resignation.* Any Director may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary of the Association. The acceptance of such resignation shall not be necessary to make it effective. Within 10 days after giving notice of resignation, the resigning Director shall relinquish all equipment, documents and information pertaining to their service as a Director which shall include but not be limited to: User IDs, passwords, personal identification numbers (PINs), bank cards and account information for banking institutions and vendors, keys, contracts, Member lists, meeting minutes, and all other items owned by and associated with the operation of the Association.

Section 3.8. *Removal of a Director.* Any Director may be removed with or without cause by the vote of a majority of votes entitled to be cast by the Members present in person or by proxy at a meeting of the Members at which a quorum is present; however, a Director elected by the Members may be removed by the Members only at a special meeting called for the purpose of removing the Director; and the notice of such meeting shall state one of the purposes of the meeting is to consider removal of the Director. A Director may be removed by a majority vote of the Board of Directors, without consent of the Members, due to a felony conviction of that Director or absence from three (3) consecutive regular Board meetings or from five (5) regular Board meetings during a calendar year.

Section 3.9. *Meetings of the Board.* The annual meeting of the Board of Directors shall be held in the month of January of each year, and shall follow the annual meeting of the Members of the Association, and shall be held for the purpose of electing new officers and transacting such other business as may come before the meeting. Regular meetings of the Board of Directors shall be held monthly, or more frequently, at the call of the President or by petition of a majority of the Board members. Special meetings of the Board of Directors may be called by, or at the request of, the President or by any two Directors. Board meetings shall be open to all Members

Section 3.10. *Place of Meetings.* Meetings of the Board of Directors, regular or special, may be held at any place within Taney County, Missouri.

Section 3.11. *Notice.* Not less than forty-eight hours prior to the time of any Board of Directors meeting, a written notice stating the date, time, and place of such meeting shall be delivered, either by hand or by mail, fax, or e-mail to each Board member at the address given to the Board by such Board member for such purpose. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice. A Board member's attendance at a meeting shall constitute their waiver of notice of such meeting. Upon the request of any Member, the Board shall notify that Member of the date, time and place of regular Board meetings.

Section 3.12. *Participation Through Electronic Communication.* Members of the Board of Directors, or of any committee designated by the Board of Directors, may participate in a meeting of the Board or committee by means of conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other, and participation in a meeting in this manner shall constitute presence in person at the meeting.

Section 3.13. *Action Without Meeting.* Any action, either required or permitted to be taken by the Board or any committee established by the Board of Directors, may be taken without a meeting if consents in writing are signed by all of the members of the Board or of the committee as the case may be. The consent shall have the same effect as a vote at a meeting duly held and may be stated as such in any certificate or document. The Secretary shall file the consents with the minutes of the meetings of the Board of Directors.

Section 3.14. *Quorum.* A majority of the whole Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors.

#### ARTICLE 4 - OFFICERS

Section 4.1. *Number and Election.* The officers of the Association shall be a President, a Vice President, a Secretary, and a Treasurer. All officers shall be elected at the annual meeting of the Board by a majority of those Board members present, including newly-elected Board members, and said officers shall hold office at the pleasure of the Board until the next annual meeting or until their successors are elected and assume office. Where a vacancy occurs in an office, it shall be filled by the Board for the unexpired term.

Section 4.2. *President.* The President shall be the chief executive officer of the Association and shall preside at all meetings of the Board of Directors and the Members, and shall see that orders and resolutions of the Board are carried out. He or she shall have the power to transact all of the necessary and regular business of the Association as may be required and, with prior authorization of the Board, to execute such contracts, deeds, evidences of indebtedness, leases and other documents as shall be required by the Association; and carry out such other duties as may from time to time be assigned by the Board of Directors.

Section 4.3. *Vice President.* The Vice President shall act as chief executive officer in the absence of the President and, when so acting, shall have all the power and authority of the President; and shall have such other duties as may from time to time be assigned by the Board of Directors.

Section 4.4. *Secretary.* The Secretary shall record and preserve the minutes of the meetings of the Board of Directors and the Members; and shall perform all other duties

incident to the office of Secretary or as from time to time assigned by the Board of Directors or by the President.

Section 4.5. *Treasurer.* The Treasurer shall be responsible for all funds of the Association, shall direct that such funds be deposited in such financial institutions as the Board of Directors may from time to time determine, shall maintain appropriate accounting records and shall make reports to the Board of Directors as requested by the Board. The Treasurer shall give a bond for the faithful discharge of the Treasurer's duties in such sum and with such surety or sureties as the Board of Directors shall determine. The cost of such bond shall be payable as a business expense of the Association.

Section 4.6. *Removal and Resignation.* Any officer may be removed, with or without cause, by the vote of a majority of the entire Board of Directors at any meeting of the Board. Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Any such resignation or removal shall take effect at the time specified therein.

#### ARTICLE 5 - ASSESSMENTS AND ENFORCEMENT

The Board of Directors shall make annual and special assessments and collect and enforce them in accordance with the provisions of the Declaration of Covenants, Conditions and Restrictions identified in Section 1.1 above.

#### ARTICLE 6 – COMMON AREAS AND COMMITTEES

Section 6.1. *Common Areas.* The Board of Directors shall implement and enforce the provisions of any and all of the Declarations of Covenants, Conditions and Restrictions for all phases of the Emory Creek Ranch Property with respect to Common Areas.

Section 6.2. *Architectural Control Committee and Other Committees.* The Board of Directors or their designees shall implement and enforce the provisions of any and all of the Declarations of Covenants, Conditions and Restrictions for all phases of the Emory Creek Ranch Property with respect to the Architectural Control Committee. Other committees may be appointed by the President or the Board of Directors as from time to time shall be deemed necessary to carry on the work of the Association. The Board of Directors shall determine the duties and powers of each committee.

#### ARTICLE 7 - GENERAL PROVISIONS

Section 7.1. *Contracts, Etc., How Executed.* The Board of Directors may authorize any officer or officers, agent or agents to enter into any contract or execute and deliver any

instrument in the name of and on behalf of the Association; such authorization may be general or confined to specific instances; and, unless so authorized, no officer, agent or employee shall have any power or authority to bind the Association by any contract or engagement or to pledge its credit or to render it liable pecuniarily for any purpose or in any amount.

In addition to regular and recurring expenses, the Board of Directors is authorized to expend funds of the Association for capital expenditures, maintenance of and repairs to Common Areas in amounts included in the current budget, in reserve funds so allocated, and plus up to 15% of the Annual Assessment amount billed in the current year or \$10,000, whichever is greater. Additionally, the Board is authorized to enter into or authorize agreements for capital expenditures, maintenance or repairs which have not specifically been included in the budget or reserve funds up to \$15,000 without prior Member approval. Agreements for financing, for purchases, or for services that exceed the aforementioned amounts shall require prior approval of a majority of the Members at a special meeting of the Members.

Section 7.2. *Deposits.* All funds of the Association shall be deposited to the credit of the Association with such financial institutions or other depositories as the Board of Directors may select or as may be selected by any officer or agent of the Association to whom such power may be delegated from time to time by the Board of Directors.

Section 7.3. *Checks, etc.* All checks or other orders for the payment of money, notes, or other evidence of indebtedness issued in the name of the Association, shall be signed by such officers or agents of the Association and in such manner as shall be determined from time to time by the Board of Directors. Endorsements for deposit to the credit of the Association in any of its depositories may be made (without countersignature) by any officer or agent of the Association to whom the Board of Directors has delegated such power, or by hand-stamped impression in the name of the Association.

Section 7.4. *Books and Records.* A Member may inspect and copy, at a reasonable time and location specified by the Board of Directors, any of the following records of the Association, provided: (1) the Member gives the Board written notice at least five (5) business days before the date on which the Member wishes to inspect and copy; and (2) such written request describes with reasonable particularity the records the Member desires to inspect.

- Financial statements of the Association
- Articles or restated articles of incorporation and all amendments currently in effect
- Bylaws or restated bylaws and all amendments currently in effect



- Declaration of Covenants, Conditions and Restrictions (CCRs) for Emory Creek Ranch
- Corporate Registration Report most recently filed with the Missouri Secretary of State
- List of names and addresses of the current Directors and Officers
- List of Members to include name and address
- All written communications to all Members within the past three (3) years
- Minutes of all Meetings of Members and the Board of Directors
- Records of all actions approved by the Members for the past three (3) years
- Resolutions of the Board of Directors relating to the rights of Members
- Records of all actions taken by the Members or Board of Directors without a meeting

The Board of Directors may impose a reasonable charge, covering the costs of labor and material, for copies of any documents provided to a Member. The charge may not exceed the estimated cost of production or reproduction of the records; and one (1) copy of the Articles of Incorporation, Bylaws and CCRs will be provided to each Member at no charge upon their request. Email addresses, phone numbers, social security numbers, and dates of birth will be redacted from documents before they are provided.

#### ARTICLE 8 - CONFLICT OF INTEREST

No contract or transaction between the Association and one or more of its Directors or officers, or between the Association and any other business entity or organization in which one or more of its Directors or officers are affiliated or have a financial interest, shall be void or voidable solely for that reason, or solely because the Director or officer is present at or participates in the meeting of the Board or committee thereof which authorizes the contract or transaction, or solely because his or her or their votes are counted for such purposes, *if* the material facts as to his or her relationship or interest and as to the contract or transaction are disclosed or are known to the Board of Directors or the committee, and the Board or committee, in good faith, and taking into account the fairness of the contract or transaction, authorizes the contract or transaction by the affirmative votes of a majority of the disinterested Directors present.

#### ARTICLE 9 - INDEMNIFICATION

Section 9.1. *Indemnification.* The Association shall indemnify any Director who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which the Director was a party because he or she is or was a Director of the Association against reasonable expenses including attorneys' fees actually incurred by the Director in connection with the proceeding.

Section 9.2. *Insurance.* The Association may purchase and maintain insurance on behalf of an individual who is or was a Director, officer, employee, or agent of the Association, against liability asserted against or incurred by him or her in that capacity or arising from his or her status as a Director, officer, employee, or agent, whether or not the Association would have power to indemnify the person against the same liability under Section 9.1 above.

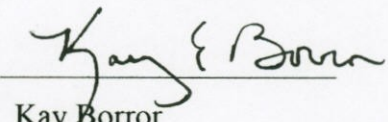
#### ARTICLE 10 - AMENDMENTS TO BYLAWS

The power to alter or amend these Bylaws is vested in the Members and the Board of Directors as provided by law.

The foregoing Amended and Restated Bylaws are adopted and approved on this 25<sup>th</sup> day of October, 2013.

  
\_\_\_\_\_  
Ed Nightengale  
Director

  
\_\_\_\_\_  
Jim Braatz  
Director

  
\_\_\_\_\_  
Kay Borrer  
Director