

**BY-LAWS**  
**OF**  
**LICKING CREEK ESTATES**  
**HOMEOWNERS ASSOCIATION, INC.**  
**TABLE OF CONTENTS**

	<u>Page</u>
<b>Article I Name, Principal Office, Definitions</b>	
1.1. Name.....	1
1.2. Principal Office.....	1
1.3. Definitions.....	1
1	
<b>Article II Membership and Meetings.....</b>	<b>1</b>
2.1. Membership.....	1
2.2. Place of Meetings.....	1
2.3. Annual Meetings.....	1
2.4. Special Meetings.....	1
2.5. Notice of Meetings.....	2
2.6. Waiver of Notice.....	2
2.7. Adjournment of Meetings.....	2
2.8. Voting.....	2
2.9. Proxies.....	2
2.10. Majority.....	3
2.11. Quorum.....	3
2.12. Conduct of Meetings.....	3
2.13. Action Without a Meeting.....	3
<b>Article III Board of Directors.....</b>	<b>4</b>
3.1. Governing Body; Composition.....	4
3.2. Number of Directors.....	4
3.3. Directors During Declarant Control Period.....	4
3.4. Nomination of Directors.....	4
3.5. Election and Term of Office.....	4
3.6. Removal of Directors and Vacancies.....	5
3.7. Organizational Meetings.....	6
3.8. Regular Meetings.....	6
3.9. Special Meetings.....	6
3.10. Notices; Waiver of Notice.....	6
3.11. Telephonic Participation in Meetings.....	7

3.12. Quorum of Board of Directors.....	7
3.13. Compensation.....	7
3.14. Conduct of Meetings.....	7
3.15. Open Meetings.....	7
3.16. Action Without a Formal Meeting.....	8
3.17. Powers.....	8
3.18. Duties.....	8
3.19. Right of Declarant to Disapprove Actions.....	9
3.20. Management.....	10
3.21. Accounts and Reports.....	11
3.22. Borrowing.....	12
3.23. Rights of the Association.....	12
3.24. Enforcement Procedures.....	13
<b>Article IV Officers.....</b>	<b>13</b>
4.1. Officers.....	13
4.2. Election and Term of Office.....	13
4.3. Removal and Vacancies.....	13
4.4. Powers and Duties.....	13
4.5. Resignation.....	13
4.6. Agreements, Contracts, Deeds, Leases, Checks, Etc. ....	13
4.7. Compensation.....	13
<b>Article V Committees.....</b>	<b>14</b>
5.1. General.....	14
5.2. Covenants Committee.....	14
<b>Article VI Miscellaneous.....</b>	<b>14</b>
6.1. Fiscal Year.....	14
6.2. Parliamentary Rules.....	14
6.3. Conflicts.....	14
6.4. Books and Records.....	14
6.5. Notices.....	15
6.6. Amendment.....	15

**BY-LAWS**

**OF**

**LICKING CREEK ESTATES HOMEOWNERS ASSOCIATION, INC.**

## **Article I**

### Name, Principal Office, and Definitions

1.1. Name. The name of Association shall be Licking Creek Estates Homeowners Association, Inc. (the "Association").

1.2. Principal Office. The principal office of the Association in the Commonwealth of Pennsylvania shall be located in Franklin County. The Association may have such other offices, either within or outside the Commonwealth of Pennsylvania, as the Board of Directors may determine or as the affairs of the Association may require.

1.3. Definitions. The words used in these By-Laws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in that Declaration of Covenants, Conditions, and Restrictions for Licking Creek Estates, a Planned Community, as it may be amended (the "Declaration"), recorded or to be recorded in the Public Records of Franklin County, Pennsylvania, unless the context indicates otherwise.

## **Article II**

### Association: Membership, Meetings, Quorum, Voting, Proxies

2.1. Membership. The Association shall have two classes of membership, Class "A" and Class "B", as more fully set forth in the Declaration, the terms of which pertaining to membership are incorporated by reference.

2.2. Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board of Directors, either within the Properties or as convenient thereto as possible and practical.

2.3. Annual Meetings. The first meeting of the Association, whether a regular or special meeting, shall be held within one year from the date of incorporation of the Association. Subsequent regular annual meetings shall be set by the Board so as to occur during the third quarter of the Association's fiscal year on a date and at a time set by the Board of Directors.

2.4. Special Meetings. The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting if so directed by resolution of the Board or upon a petition signed by Members representing at least 10% of the total votes of the Association.

2.5. Notice of Meetings. Written or printed notice stating the place, day and hour of any meeting of the Members shall be delivered, either personally or by mail, to each Member entitled to vote at such meeting, not less than 10 nor more than 60 days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting.

In the case of a special meeting or when otherwise required by statute or these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

The notice of a meeting shall be deemed to be delivered when hand delivered or, it mailed, when deposited in the United States mail addressed to the Member at the address of the Member's Unit or such other address as the Member may have designated in writing to the Association, with postage prepaid.

2.6. Waiver of Notice. Any Member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Waiver of notice shall be deemed the equivalent of proper notice. Attendance at a meeting by a Member shall be deemed waiver by such Voting Member of notice of the time, date, and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting also shall be deemed waiver of notice of all business transacted unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.7. Adjournment of Meetings. If any meeting of the Association cannot be held because a quorum is not present, a majority of the Members who are present at such meeting may adjourn the meeting to a time not less than five nor more than 30 days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Members in the manner prescribed for regular meetings.

The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of some Members leaving less than a quorum, provided that any action taken is approved by at least a majority of the votes required to constitute a quorum.

2.8. Voting. The voting rights of the Members shall be as set forth in the Declaration, and such voting rights provisions are specifically incorporated by reference.

2.9. Proxies. Members may not vote by proxy, subject to the limitations of Pennsylvania law relating to use of general proxies and subject to any specific provision to the contrary in the Declaration or these By-Laws. Every proxy shall be in writing specifying the Unit for which it is given, signed by the Member or his duly authorized attorney-in-fact, dated, and filed with the Secretary of the Association prior to any meeting for which it is to be effective. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes for which the Member giving such proxy is entitled to cast, and in the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid. Every proxy shall be revocable and shall

automatically cease upon conveyance of any Unit for which it was given, upon receipt by the Secretary of written notice of revocation of the proxy or the death or judicially declared incompetence of a Member who is a natural person, or one year from the date of the proxy, unless a shorter period is specified in the proxy.

2.10. Majority. As used in these By-Laws, the term “majority” shall mean those votes, Owners, or other group as the context may indicate totaling more than 50% of the total eligible number.

2.11. Quorum. Except as otherwise provided in these By-Laws or in the Declaration, the presence of Members or their proxies representing at 25% of the total votes in the Association shall constitute a quorum at all meetings of the Association.

2.12. Conduct of Meetings. The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring at the meeting.

2.13. Action Without a Meeting. Unless otherwise prohibited by Pennsylvania law, any action required or permitted by law to be taken at a meeting of the Members may be taken by written consent or ballot cast by mail without a meeting, in accordance with the following procedure:

(a) The Secretary shall send written notice of the proposed action for which consent is requested to each Member entitled to vote thereon at least 10 days prior to the deadline for returning the ballots or consents. The notice shall be accompanied by a ballot or consent form (i) describing the proposed action, (ii) providing a place to indicate, in the case of a ballot, how the Member’s vote is to be cast, or in the case of a consent, the Member’s approval or disapproval of or consent to the proposed action, (iii) providing method of identifying the Member and the Unit for which the ballot is cast if consent is given, and, in the case of a consent, a place for the Member’s signature, and (v) indicating the address to which completed forms should be returned and the deadline for returning them, if any.

(b) The proposed action shall be deemed approved if ballots approving the action to consents are received from Members holding at least the minimum number of votes necessary to authorize such action at a meeting if all Members entitled to vote thereon were present, and such ballots or consents shall have the same force and effect as a vote of the Members at a meeting. The ballots or consents shall be filed with the minutes of the Association. Within 10 days after receiving authorization for any action by written consent, the Secretary shall give written notice to all Members entitled to vote fairly summarizing the material features of the authorized action.

### **Article III**

#### **Board of Directors: Number, Powers, Meetings**

3.1. Governing Body; Composition. The affairs of the Association shall be governed by a Board of Directors, each of whom shall have one equal vote. Except with respect to directors appointed by the Class "B" Member, the directors shall be Members or residents; provided, however, no Owner and resident may serve on the Board at the same time. A "resident" shall be any natural person 18 years of age or older whose principal residence is a Unit within the Properties. In the case of a Member which is not a natural person, any officer, director, partner or trust officer of such Member shall be eligible to serve as a director unless otherwise specified by written notice to the Association signed by such Member; provided, no Member may have more than one such representative on the Board at a time, except in the case of directors appointed by the Class "B" Member. Notwithstanding the above, after the Declarant Control Period, at least a majority of the directors shall be Members

3.2. Number of Directors. The number of directors in the Association shall be not less than three nor more than five, as provided in Section 3.5 below. The initial Board shall consist of three directors as identified in the Articles of Incorporation.

3.3. Directors During Declarant Control Period. Subject to the provisions of Section 3.5 below, the Declarant, as the Class "B" Member, shall be entitled to appoint, remove and replace the directors in its sole discretion during the Declarant Control Period.

3.4. Nomination of Directors. Prior to each election of directors, the Board shall prescribe the opening date and the closing date of a reasonable period in which each and every eligible person who has an interest in serving as a director may file as a candidate for any position for which he or she may be eligible. The Board shall also establish such other rules and regulations as it deems appropriate to conduct the nomination of directors in a fair, efficient and cost-effective manner.

Except with respect to directors selected by the Class "B" Member, nominations for election to the Board may also be made by a Nominating Committee. The Nominating Committee, if any, shall consist of a Chairman, who shall be a member of the Board, and three or more Members or representatives of Members. The members of the Nominating Committee shall be appointed by the Board not less than 30 days prior to each annual meeting to serve a term of one year or until their successors are appointed, and such appointment shall be announced in the notice of each election.

The Nominating Committee shall make as many nominations for election to the Board as it shall in its discretion determine. All candidates shall have a reasonable opportunity to communicate their qualifications to the Voting Members and to solicit votes.

3.5. Election and Term of Office. Notwithstanding any other provision of these By-Laws:

- (a) Within 60 days after conveyance by the Declarant of 25% of the maximum number of

Units permitted for the Properties, any Convertible Property and the Additional Property under Section 10.1 of the Declaration, or whenever the Class "B" Member earlier determines, the President shall call for an election by which the Class "A" Members shall be entitled to elect one of the three directors. The remaining two directors shall be appointees of the Class "B" Member. The director elected by the Voting Members shall not be subject to removal by the Class "B" Member and shall be elected for a term of two years or until the happening of the event described in subsection (b) below, whichever is shorter. If such director's term expires prior to the happening of the event described in subsection (b) below, a successor shall be elected for a like term.

(b) Within 60 days after the time that Class "A" Members other than Builders own 50% of the maximum number of Units permitted for the Properties, any Convertible Property and the Additional Property under Section 10.1 of the Declaration, or whenever the Class "B" Member earlier determines, the Board shall be increased to five directors. The President shall call for an election by which the Class "A" Members shall be entitled to elect two of the five directors. The remaining three directors shall be appointees of the Class "B" Member. The Directors elected by the Class "A" Members shall not be subject to removal by the Class "B" Member and shall be elected for a term of two years or until the happening of the event described in subsection (c) below, whichever is shorter. If such directors' terms expire prior to the happening of the event described in subsection (c) below, successors shall be elected for a like term.

(c) Not later than the date of the Declarant Control Period, the President shall call for an election by which the Members, voting without regard to class of membership, shall be entitled to elect all five directors, with each Member being entitled to cast one vote for each Unit which such Member owns for each position to be filled. The three directors receiving the greatest number of votes shall serve until the second annual meeting following their election and the remaining two directors shall serve until the next annual meeting following their election.

(d) At the next annual meeting and at each annual meeting thereafter directors shall be elected to succeed those directors whose terms are expiring. Each successor shall be elected to serve a term of two years. The directors elected by the Members shall hold office until their respective successors have been elected.

3.6. Removal of Directors and Vacancies. Any director elected by the Members may be removed, with or without cause, by a two-thirds vote of Members present and entitled to vote at any meeting at which a quorum is present. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director, a successor shall be elected by the Members entitled to elect the director so removed to fill the vacancy for the remainder of the term of such director.

Any director elected by the Voting Members who has three consecutive unexcused absences from Board meetings, or who is more than 30 days delinquent in the payment of any assessment or other charge due the Association, may be removed by a majority of the directors present at a regular or special meeting at which a quorum is present, and a successor may be

appointed by the Board to fill the vacancy for the remainder of the term.

In the event of the death, disability, or resignation of a director, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Members entitled to fill such directorship may elect a successor for the remainder of the term.

This Section shall not apply to directors appointed by the Class "B" Member nor to any director serving as a representative of the Declarant. The Class "B" Member or the Declarant shall be entitled to appoint a successor to fill any vacancy on the Board resulting from the death, disability or resignation of a director appointed by or elected as a representative of the Class "B" Member or the Declarant.

3.7. Organizational Meetings. The first meeting of the Board of Directors following each annual meeting of the membership shall be held within 10 days thereafter at such time and place the Board shall fix.

3.8. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as a majority of the directors shall determine, but at least four such meetings shall be held during each fiscal year with at least one per quarter.

3.9. Special Meetings. Special meetings of the Board of Directors shall be held when called by written notice signed by the President or by any two directors.

3.10. Notices; Waiver of Notice.

(a) Notices of meetings of the Board shall specify the time and place of the meeting and, in the case of a special meeting, the nature of any special business to be considered. The notice shall be given to each director by: (a) personal delivery; (b) first class mail, postage prepaid; (c) telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (d) facsimile, computer, fiber optics or other electronic communication device, with confirmation of transmission. All such notices shall be given at the director's telephone number, fax number, electronic mail number, or sent to the director's address as shown on the records of the Association. Notices of special meetings of the Board shall also be posted in a prominent place within the Properties.

(b) Notices sent by first class mail shall be deposited into a United States mailbox at least five business days before the time set for the meeting. Notices given by personal delivery, telephone, or other device shall be delivered or transmitted at least 72 hours before the time set for the meeting.

(c) The transactions of any meeting of the Board, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of



the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.11. Telephonic Participation in Meetings. Members of the Board of any committee designated by the Board may participate in a meeting of the Board or committee by means of conference telephone or similar communications equipment<sup>6</sup>, by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this subsection shall constitute presence in person.

3.12. Quorum of Board 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 Board of Directors, unless otherwise specifically provided in these By-Laws or the Declaration. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not present, a majority of the directors present at such meeting may adjourn the meeting to a time not less than five nor more than 30 days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

3.13. Compensation. Director shall not receive any compensation from the Association for acting as such unless approved by Members representing a majority of the total Class "A" votes in the Association at a regular or special meeting of the Association. Any director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other directors. Nothing herein shall prohibit the Association from compensating a director, or any entity with which a director is affiliated, for services or supplies furnished to the Association in a capacity other than as a director pursuant to a contract or agreement with the Association, provided that such director's interest was made known to the Board prior to entering into such contract and such contract was approved by a majority of the Board, excluding the interested director.

3.14. Conduct of Meetings. The President shall preside over all meetings of the Board, and the Secretary shall keep a minute book of Board meetings, recording all resolutions and all transactions and proceedings occurring at such meetings.

3.15. Open Meetings. Subject to the provision of Section 3.16, all meetings of the Board shall be open to all Members, but attendees other than directors may not participate in any discussion or deliberation unless permission to speak is requested on their behalf by a director. In such case, the President may limit the time any Voting Member may speak. Notwithstanding the above, the President may adjourn any meeting of the Board and reconvene in executive session, and may exclude persons other than directors, to discuss matters of a sensitive nature, such as pending or threatened litigation, personnel matters, etc.

3.16. Action Without a Formal Meeting. Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote.

3.17. Powers. The Board of Directors shall have all of the powers and duties necessary for the administration of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Declaration, these By-Laws, the Articles, and as provided by law. The Board may do or cause to be done all acts and things as are not by the Declaration, Articles, these By-Laws, or Pennsylvania Law directed to be done and exercised exclusively by the Voting Members or the membership generally.

3.18. Duties. The duties of the Board shall include, without limitation:

(a) preparing and adopting, in accordance with the Declaration, an annual budget establishing each Owner's share of the Common Expenses;

(b) levying and collecting assessments from the Owners;

(c) providing for the operation, care, upkeep, and maintenance of the Controlled Facilities;

(d) designating, hiring, and dismissing the personnel necessary to carry out the rights and responsibilities of the Association and where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;

(e) depositing all funds received on behalf of the Association in a bank depository which it shall approve, and using such funds to operate the Association; provided, any reserve fund may be deposited, in the directors' best business judgment, in depositories other than banks;

(f) making and amending restrictions and rules in accordance with the Declaration;

(g) opening bank accounts on behalf of the Association and designating the signatories required;

(h) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Area in accordance with the Declaration and these By-Laws;

(i) enforcing by legal means the provisions of the Declaration, these By-Laws, and the rules adopted by it and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association; provided, the Association shall not be obligated to take action to enforce and covenant, restriction or rule which the Board in the exercise of its business

judgment determines is, or is likely to be construed as, inconsistent with applicable laws, or in any case in which the Board reasonable determines that the Association's position is not strong enough to justify taking enforcement action, or otherwise as provided in Section 8.4 of the Declaration;

(j) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Declaration, paying the cost thereof, and filing and adjusting claims, as appropriate;

(k) paying the cost of all services rendered to the Association;

(l) keeping books with detailed accounts of the receipts and expenditures of the Association;

(m) making available to any prospective purchaser of a Unit, any Owner, and the holders, insurers, and guarantors of any Mortgage on any Unit, current copies of the Declaration, the Articles of Incorporation, the By-Laws, rules and all other books, records, and financial statements of the Association as provided in Section 6.4;

(n) permitting utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Properties;

(o) indemnifying a director, officer or committee member, or former director, officer or committee member of the Association in accordance with Pennsylvania law, and in accordance with the Articles of Incorporation and the Declaration; and

(p) assisting in the resolution of disputes between owners and others without litigation, as set forth in the Declaration.

3.19. Right of Declarant to Disapprove Actions. So long as the Class "B" membership exists, the Class "B" Member shall have a right to disapprove any action, policy or program of the Association, the Board and any committee which, in the sole judgment of the Class "B" Member, would tend to impair rights of the Declarant or Builders under the Declaration or these By-Laws, or interfere with development, construction of any portion of the Property, or diminish the level of services being provided by the Association.

(a) The Class "B" Member shall have been given written notice of all meetings and proposed actions approved at meetings (or by written consent in lieu of a meeting) of the Association, the Board or any committee. Such notice shall be given by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, as it may change from time to time, which notice complies as to the Board meetings with Section 3.10 and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth in reasonable particularity the agenda to be followed at said meeting; and

(b) The Class “B” Member shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein.

No such action, policy or program subject to the right of disapproval set forth herein shall become effective or be implemented until and unless the requirements of subsections (a) and (b) above have been met.

The Class “B” Member, its representatives or agents shall make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee. The Class “B” Member, acting through any officer or director, agent or authorized representative, may exercise its right to disapprove at any time within 10 days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within 10 days following receipt of written notice of the proposed action. This right to disapprove may be used to block proposed actions but shall not extend to the requiring of any action or counteraction on behalf of any committee, or the Board or the Association. The Class “B” Member shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

3.20. Management. The Board may employ for the Association a professional management agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board may delegate such powers as are necessary to perform the manager’s assigned duties, but shall not delegate policy making authority or those duties set forth in Sections 3.18(a), 3.18(b), 3.18(e), 3.18(f), 3.18(g) and 3.18(i). The Declarant, or an affiliate of the Declarant, may be employed as managing agent or manager.

The Boards may delegate to one of its members the authority to act on behalf of the Board on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Board.

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

- (a) cash or accrual accounting, as defined by generally accepted accounting principles, shall be employed;
- (b) accounting and controls should conform to generally accepted accounting principles;
- (c) cash accounts of the Association shall not be commingled with any other accounts;
- (d) no remuneration shall be accepted by the managing agent from vendors, independent

contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; any thing of value received shall benefit the Association;

(e) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors;

(f) commencing at the end of the month in which the first Unit is sold and closed, financial reports shall be prepared for the Association at least quarterly containing:

(i) an income statement reflecting all income and expense activity for the preceding period on an accrual basis;

(ii) a statement reflecting all cash receipts and disbursements for the preceding period;

(iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;

(iv) a balance sheet as of the last day of the preceding period; and

(v) a delinquency report listing all Owners who are delinquent in paying any assessments at the time of the report and describing the status of any action to collect such assessments which remain delinquent (Any assessment or installment thereof shall be considered to be delinquent on the 15th day following the due date unless otherwise specified by resolution of the Board); and

(g) an annual report consisting of at least the following shall be made available to all Members within 120 days after the close of the fiscal year: (1) a balance sheet; (2) an operating (income) statement; and (3) a statement of changes in financial position for the fiscal year. Such annual report shall be prepared on an audited or reviewed basis, as determined by the Board, by an independent public accountant; provided, upon written request of any holder, guarantor or insurer of any first Mortgage on a Unit, the Association shall provide an audited financial statement.

3.22. Borrowing. The Association shall have the power to borrow money for any legal purpose; provided, the Board shall approval of Members entitled to cast at least a majority of the votes cast at a duly called and held meeting of the Members at which a quorum is represented, if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous 12-month period, exceeds or would exceed 25% of the budgeted gross expenses of the Association for that fiscal year. During the Declarant Control Period, no Mortgage lien shall be placed on any portion of the Common Area without the affirmative vote or written consent, or any combination thereof, of Members representing at least 67% of the votes in the Association.

3.23. Right to Contract. The Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, or other owners or residents associations, both within and outside the Properties; provided, any common management agreement shall require the consent of a majority of the total number of directors of the Association.

3.24. Enforcement Procedures. Prior to exercising certain enforcement rights set forth in Section 8.4 of the Declaration and otherwise as specified in the Governing Documents, the Association shall comply with the following notice and hearing procedures:

(a) Notice. Prior to imposition of certain sanctions specified in the Governing Documents which require notice, the Board or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a period of not less than 10 days within which the alleged violator may present a written request for a hearing to the Board or the Covenants Committee, if one has been appointed pursuant to Article V; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within 10 days of the notice.

If a timely challenge is not made, the sanction stated in the notice shall be imposed; provided the Board of Directors or the Covenants Committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the 10 day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

(b) Hearing. If a hearing is requested within the allotted 10-day period, the hearing shall be held before the Covenants Committee, or if none has been appointed, before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard.

Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

(c) Appeal. Following a hearing before the Covenants Committee, the violator shall have the right to appeal the decision to the Board. To exercise this right, a written notice of appeal must be received by the manager, President, or Secretary of the Association within 10 days after the hearing date.

Notwithstanding anything to the contrary in this Article, the Board may elect to enforce then Governing Documents by certain sanctions set forth in Section 8.4 of the Declaration,

including by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred.

## **Article IV**

### Officers

4.1. Officers. The officers of the Association shall be a President, Vice President, Secretary, and Treasurer. The President and Secretary shall be elected from among the members of the Board; other offices may, but need not be, members of the Board. The Board may appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed by the Board of Directors. Any two or more offices may be held by the same person, except the offices of President and Secretary.

4.2. Election and Term of Office. The Board shall elect officers of the Association at the first meeting of the Board following each annual meeting of the Members, to serve until their successors are elected.

4.3. Removal and Vacancies. The Board may remove any officer whenever in its judgment the best interests of the Association will be served, and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise, for the unexpired portion of the term.

4.4. Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may specifically be conferred or imposed by the Board. The President shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

4.5. Resignation. Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

4.6. Agreements, Contracts, Deeds, Leases, Checks, Etc. All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two officers or by such other person or persons as may be designated by Board resolution. The President or Vice President, and one other officer, shall prepare, execute, certify and record amendments to the Declaration on behalf of the Association.

4.7. Compensation. Compensation of officers shall be subject to the same limitations as compensation of directors under Section 3.13.



**Article V**  
Committees

5.1. General. The Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution.

5.2. Covenants Committee. In addition to any other committees which the Board may establish pursuant to Section 5.1, the Board of Directors may appoint a Covenants Committee consisting of at least three and no more than seven Members. Acting in accordance with the provisions of the Governing Documents, the Covenants Committee, if established, shall be the hearing tribunal of the Association and shall conduct all hearings held pursuant to Section 3.24 of these By-Laws.

**Article VI**  
Miscellaneous

6.1. Fiscal Year. The fiscal year of the Association shall be the calendar year unless the Board establishes a different year by resolution.

6.2. Parliamentary Rules. Except as may be modified by Board resolution, *Robert's Rules of Order* (current edition) shall govern the conduct of Association proceeding when not in conflict with Pennsylvania law, the Articles of Incorporation, the Declaration, or these By-Laws.

6.3. Conflicts. If there are conflicts between the provisions of Pennsylvania law, the Articles of Incorporation, the Declaration, and these By-Laws, the provisions of Pennsylvania law, the Declaration, the Articles of Incorporation, and the By-Laws (in that order) shall prevail.

6.4. Books and Records.

(a) Inspection by Members and Mortgagees. The Board shall make available for inspection and copying by any holder, insurer or guarantor of a first Mortgage on a Unit, any Member, or the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to his or her interest in a Unit: the Declaration, By-Laws, and Articles of Incorporation, any amendments to the foregoing, the rules of the Association, the membership register, books of account, and the minutes of meetings of the Members, the Board, and committees. The Board shall provide for such inspection to take place at the office of the Association or at such other place within the Properties as the Board shall designate.

(b) Rules for Inspection. The Board shall establish reasonable rules with respect to:

(i) notice to be given to the custodian of the records;

(ii) hours and days of the week when such an inspection may be made; and

(iii) payment of the cost of reproducing copies of documents requested.

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make a copy of relevant documents at the expense of the Association.

6.5. Notices. Unless otherwise provided in these By-Laws, all notices, demands, bills, statements, or other communications under the Declaration or these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, first class postage prepaid:

(a) if to a Member, at the address which the Member or Voting Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Unit of such Member; or

(b) if to the Association, the Board, or the managing agent, at the principal office of the Association or the managing agent, if any, or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

#### 6.6. Amendment.

(a) By Class "B" Member. During the Class "B" Membership, the Class "B" Member may unilaterally amend these By-Laws at any time and from time to time if such amendment is necessary (i) to cure an ambiguity; (ii) correct or supplement any provision of these By-Laws which is defective, missing or inconsistent with the Declaration or the Act; (iii) conform to the requirements of any applicable governmental statutes, rule or regulation, or judicial determination; (iv) enable any reputable title insurance company to issue title insurance coverage on the Units; or (v) conform to the requirements of any agency or entity that has established national or regional standards with respect to loans secured by mortgages or deeds of trust on Units, such as the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation,.

(b) By Members Generally. Except as provided above, these By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing 51% of the total Class "A" votes in the Association, and the consent of the Class "B" Member, if such exists. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) Validity and Effective Date of Amendments. Amendments to these By-Laws shall become effective upon adoption thereof in accordance with subsection (a) or (b) above; provided, if these By-Laws have been recorded, then any amendment shall become effective upon recordation in the land records of Franklin County, Pennsylvania, unless a later effective date is

specified therein. A copy of any amendment shall be provided to each Owner within 10 days after its adoption. Any procedural challenge to an amendment must be made within six months of its effective date or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these By-Laws.

No amendment may remove, revoke, or modify any right or privilege of the Declarant or the Class "B" Member without the written consent of Declarant, the Class "B" Member, or the assignee of such right or privilege.

**CERTIFICATION**

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of Licking Creek Estates Homeowners Association, Inc., a Pennsylvania non-profit corporation; and

That the foregoing By-Laws constitute the original By-Laws of such Association, as duly adopted at a meeting of the Board of Directors thereof held on the \_\_\_\_ day of \_\_\_\_\_, 2004.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this \_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
Secretary