

**BY-LAWS OF WABASH GARDENS CONDOMINIUM ASSOCIATION, INC.**

**AS AMENDED ON 5/16/91, 5/16/94 and 4/8/2014**

**ARTICLE I**

**Definitions**

**Section 1. Declaration.** Declaration means the Declaration of Wabash Gardens Horizontal Property Regime dated November 17, 1978, and \_\_\_\_\_, 1978 in the office of the Recorder of Tippecanoe County, Indiana.

**Section 2. Association.** Association means Wabash Gardens Condominium Association, Inc.

**Section 3.** Unless there appears a clear intention to the contrary, any term which is used in these By-laws and which is defined in the Declaration or the in the Articles of Incorporation, shall have the same meaning as it has when so used in the Declaration or Articles of Incorporation.

**ARTICLE II**

**Members**

**Section 1. Classes of Membership.** There shall be one class of membership: Class A.

Class A members shall be all the unit owners, as that term is defined in Section 1 (c) of the Declaration, except the Declarant. Ownership of a unit in the Property shall be the sole qualification for Class A membership.

**Section 2. Membership Certifications.** This section is deleted.

**Section 3. Place of Meetings.** All meetings of the members shall be held at such place, within Tippecanoe County, Indiana, as may be specified in the notices or waivers of notice thereof.

**Section 4. Annual Meeting.** The annual meeting of the members shall be held during May of each year. At the annual meeting the members shall elect, by ballot, those directors whose terms of office expire on such date in accordance with the provisions of the Articles of Incorporation and these By-laws. The members may also transact such other business as may properly come before the meeting.

**Section 5. Special Meetings.** Special meetings of the members shall be called upon the order of the President or a majority of the Board of Directors or upon presentation to the Secretary of a petition signed by members representing at least **one-tenth (1/10)** of the total votes entitled to be cast by members in accordance with the Articles of Incorporation and these By-laws. No business shall be transacted at a special meeting except as stated in such notice.

**Section 6. Notice of Meetings.** Notice of each annual and special meeting shall be **mailed, hand delivered or electronically emailed** to each member at the address which appears on the records of the Association at least **ten (10) days** before the date of such meeting. The notice of any special meeting shall state the time, place and purpose thereof. In the case where several members have the same address as shown on the records of the Association, one notice shall be sufficient.

**Section 7. Voting.** Class A member shall be entitled to cast one vote per unit on all matters submitted to a vote of the membership. When more than one person is an owner of a unit, all such persons shall be members, but their total vote shall not exceed one, and each vote shall be cast as one unit in such manner as the majority of the co-owners of such unit shall agree. In event co-owners fail to reach agreement, they shall not be entitled to vote and shall be considered an abstention. In the event some of the co-owners do not attend the meeting, in person or by proxy, those co-owners who are in attendance, in person or proxy, shall, for purposes of determining the manner in which their vote shall be cast, be considered as the sole owners of the unit.

The Board of Directors may suspend the voting rights of a member during any period in which such member shall be default in payment of an annual or special assessment levied by the Association.

**Section 8. Quorum.** At all meetings of members, the presence in person or by proxy of members representing a majority of the outstanding voting rights shall constitute a quorum for the transaction of business. A majority vote at any such meeting shall decide all questions unless a greater plurality is required by law, the Declaration, the Articles of Incorporation or these By-laws. If at any meeting of members there be less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum can be obtained. Any business which might have been transacted at the meeting as originally called may be transacted at any adjournment thereof without further notice.

**Section 9. Proxies.** Votes may be cast in person or by proxy. All proxies shall be in writing and filed with the Secretary prior to the commencement of the meeting in which they are to be voted. No proxy shall be valid for a period of more than **eleven (11) months**, and every proxy shall automatically cease upon sale by the owner of his unit.

### ARTICLE III

#### Board of Directors

**Section 1. Number and Qualifications.** The number of directors of the Association shall, number at least three (3) with a maximum number of seven (7). All directors shall be members of the Association. Any member of the condominium association shall be eligible to serve on the Board of Directors, but preferably after one full year of membership.



**Section 2. Election and Term of Office.** One-third (1/3) of the Board of Directors shall be elected for a term of three (3) years annually so that one-third (1/3) of the Board of Directors expires annually. Upon expiration of the terms of office of the initial directors, the directors shall be elected at the annual meeting of members by a majority of the votes cast by members entitled to vote, for such terms and in such manner as is provided in the Articles of Incorporation, the provisions of which are incorporated herein by reference. Nomination of directors shall be made by a nominating committee appointed by the Board of Directors and may also be made from the floor at the annual meeting of members.

**Section 3. Regular Meetings.** A regular meeting of the Board of Directors shall be held annually immediately following the annual meeting of members and at such other intervals and upon such notice as may be fixed from time to time by resolution of the Board of Directors.

**Section 4. Special Meetings.** Special meetings of the Board of Directors shall be held when called by the President of the Association or by any two directors after not less than **three (3) days'** notice to each director. Notice of any meeting of the Board of Directors may be waived in writing or by attendance at such meeting.

**Section 5. Quorum.** At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business. A majority vote of any such meeting shall decide all questions unless a greater plurality is required by law. If at any meeting of the Board of Directors there be less than quorum present, the majority of those present may adjourn the meeting from time to time until a quorum can be obtained. Any business which might have been transacted at the meeting as originally called may be transacted at any adjournment thereof without further notice.

**Section 6. Powers and Duties.** The Board of Directors shall manage the affairs of the Association and shall have such powers as are given to it by law, by the Articles of Incorporation and by the Declaration including, but not limited to, the power:

- a. To call special meetings of the members whenever it deems necessary;
- b. To appoint and remove at will all officers, agents and employees of the association, to prescribe their duties and to require of them such security or fidelity bond as it may deem expedient. Nothing contained in these By-laws shall be construed to prohibit the employment of any member, officer or director of the Association in any capacity whatsoever;
- c. To employ or contract for a manager or managing agent for such compensation, during such period and upon such other terms and conditions as the Board of Directors may determine;
- d. To enter into contracts with other associations of home-owners organized pursuant to a horizontal property declaration which provide for joint ownership of personal and real

property, sharing of employee and managerial expenses and other forms of cooperation in the management, operation, maintenance, repair and replacement of the property under the respective horizontal property regimes with a view toward effecting cost savings and increasing efficiency;

- e. To establish, levy, assess and collect all the various assessments or charges which under the terms and provisions of law, the Articles of Incorporation and these By-laws, the Association is empowered or required to establish, levy, assess or collect. The Board of Directors may designate and retain a collecting agent to collect such assessments or charges;
- f. From time to time to adopt, publish, amend, modify or withdraw rules and regulations governing the use of the common areas and facilities and regarding the personal conduct thereon of the members, their families and guests;
- g. From time to time adopt, publish, amend, modify or withdraw rules and regulations governing the use of the units and regarding the personal conduct therein of the members, their families and guests, but only insofar as such use or conduct affects the enjoyment of the property by others or impairs the structural soundness of any building or the value thereof, or interferes with the proper use of any part of the property or any easement;
- h. To exercise for the Association of all powers, duties and authorities vested in or delegated to the Association;
- i. To contract for, or to provide directly, services for the common benefit of all owners, such as trash and garbage collection and the cost of which shall be a common expense.

It shall be the duty of the Board of Directors:

- a. To keep a complete record of all of its acts and corporate affairs and to present a statement thereof to the members at the annual meeting held for such purpose;
- b. To keep detailed, accurate records in chronological order, of the receipts and expenditures affecting the common areas and facilities, specifying and itemizing the maintenance and repair expenses of the common areas and facilities and any other expenses incurred. Such records and vouchers authorizing the payments shall be available for examination by the owners at convenient hours of week days;
- c. To supervise all officers, agents, and employees of the Association and to see that their duties are properly performed;
- d. To maintain, replace and repair the common areas and facilities and to carry out all other obligations and duties imposed on the Association by the Declaration and by the Act.



**Section 7. Compensation.** The directors shall receive no compensation for their services as directors but shall be reimbursed for their actual expenses incurred in the discharge of their duties and may be compensated for additional services actually rendered the Association which are not connected with their duties as directors.

**Section 8. Death, Resignation and Removal.** Any director may be removed, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a director, his successor may be selected by the remaining directors and may serve for the unexpired term of his predecessor.

## ARTICLE IV

### Officers

**Section 1. Designation.** The officers of the Association shall be a President, a vice President, a Secretary and a Treasurer and such other officers as the Board may from time to time by resolution designate.

**Section 2. Election.** The election of the officers shall take place the first meeting the Board of Directors and at each regular meeting following each annual meeting of the members.

**Section 3. Term.** The officers shall be elected annually by the Board of Directors and each shall hold office for **one (1) year** unless he shall sooner resign, be removed or become otherwise disqualified.

**Section 4. Resignation and Removal.** Any officer may be removed from office, with or without cause, by the Board of Directors. Any officer may resign at any time by giving written notice to the Board of Directors. Such resignation shall take effect on the date of 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.

**Section 5. Multiple Offices.** Any two or more offices may be held by the same person except the office of the President.

**Section 6. President.** The President shall be the chief executive officer of the Association and shall preside at all meetings of the Board of Directors and members and shall have such other powers and perform such other duties as are delegated to him by the Board of Directors.

**Section 7. Vice President.** The Vice President shall perform the duties of the President when the President shall be absent or unable to act. The Vice President shall also perform such other duties and have such other powers as are delegated to him by the Board of Directors from time to time.

**Section 8. Secretary.** The Secretary shall keep the minutes of all meetings of the Board of Directors and the members. He shall have charge of such books and papers as the Board of

Directors may direct and shall perform such other duties as may be from time to time imposed upon him by the Board of Directors.

**Section 9. Treasurer.** The Treasurer shall keep complete and accurate books of account in accordance with the accounting methods adopted by the Board of Directors, showing the financial condition of the Association and the result of its operation. He shall have custody of all monies of the Association and shall disburse such funds as directed by the Board of Directors. He shall cause an annual audit of the Association's books to be made at the completion of the Association's fiscal year and shall assist in the preparation of an annual budget and a statement of income and expenditures to be presented to the members at their annual meeting.

## ARTICLE V

### Committees

**Section 1.** The Board of Directors shall appoint such committees as it deems appropriate in the management of the affairs of the Association. Such committees may include but not be limited to:

- a. A maintenance committee, which shall advise the Board of Directors on all matters pertaining to the maintenance, repair or improvement of the property and which shall perform such other functions as the Board of Directors in its discretion may determine.
- b. A finance committee, which shall prepare an annual budget by **November 15 of each year** and present it to the Board of Directors at the December Board meeting.
- c. An audit committee, which shall supervise the annual audit of the Association's books and review the annual budget and statement of income and operating expenditures to be presented to the membership in connection with its regular annual meeting. **The Treasurer shall be an ex-officio member of this committee.**

## ARTICLE VI

### Assessments

**Section 1. Assessments.** Each year before **November 15**, the Finance Committee shall prepare an annual budget, estimating the total amount necessary to pay for the wages, material, insurance services and supplies which will be required during the ensuing calendar year for the rendering of all services, together with a reasonable amount considered by the Committee to be necessary for a reserve for contingencies and replacements. The Finance Committee shall present the proposed budget to the Board of Directors who shall approve, amend, or disapprove the budget.



The Board of Directors shall, on or before **December 15 of each year**, notify each owner in writing as the amount of such estimate with reasonable itemization thereof. This estimated cash requirement shall be assessed against each owner according to his ownership percentage. Each, jointly and severally, shall be liable for and shall pay to the Association on or before January 1 of the ensuing year, and on or before the first day of each month thereafter during said year, one-twelfth (1/12) of the total assessment made against him pursuant to this section.

On or before the date of the annual meeting of each calendar year, the Board of Directors shall supply to all owners an itemized accounting of the maintenance expenses for the preceding calendar year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the estimates provided, and showing the net deficit or surplus of amounts actually collected over actual expenditures plus reserves.

Any amount accumulated in excess of the amount required for actual expenses and reserves (as determined by the Board) shall be used to reduce assessments for the next year and any deficit shall be added to future assessments according to the owner's ownership percentage.

**Section 2. Reserves.** The Association shall build up and maintain a reasonable reserve for contingencies and replacements. Extraordinary expenditures not originally included in the annual estimate which may become necessary during the year shall be charged first against such reserve.

**Section 3. Special Assessments.** If the annual estimated cash requirement provided for in Section 1 of this Article proves inadequate for any reason, and if the contingency portion of the reserves are depleted, the Association shall serve notice of such special assessment on all owners by a statement in writing showing the reasons thereof. Such special assessment which is due more than ten (10) days after deliver or mailing of such notice of special assessment shall be paid in a lump sum or in such installments as the Board of Directors shall determine. All owners shall be personally liable for such special assessments.

In addition to the special assessments authorized above, the Association may levy, in any assessment year, a special assessment for capital improvements provided that any such assessment shall have the assent of **two-thirds (2/3)** of the members voting in person or by proxy at a meeting duly called for this purpose.

**Section 4. Commencement of Assessments.** On or before the first day of the month following the close of the initial sale of each unit, and on or before the first day of each month thereafter during the same calendar year, the owner acquiring title shall pay to the Association one-twelfth (1/12) of the annual assessment made pursuant to Section 1 hereof.

A late fee of \$10.00 may be assessed if payment is not made by the 10<sup>th</sup> of the month.



**Section 5. Limitation on Assessments.** Expenses for water and sewer services shall not be considered as part of any owner's assessment.

**Section 6. Non-Waiver.** The failure or delay of the Association to assess or notify the owner of any assessment shall not constitute a waiver or release of the owner's obligation to pay any assessment as herein provided whenever the same shall be determined and, in the absence of any annual estimate or special assessment, the owner shall continue to pay the assessment at then existing monthly rate established for the previous year until the regular assessment shall have been established.

No owner may exempt himself from liability for the assessment imposed by this Article by waiver of the use or enjoyment of any of the common areas and facilities or by the abandonment of his apartment or otherwise; provided, however, nothing contained in this Section shall be construed as prohibiting forgiveness of liability of the Declarant for assessments in exchange for the undertaking of the Declarant as set forth in Section 5 hereof.

**Section 7. Books and Records.** The Association shall keep books of account of its receipts and expenditures specifying and itemizing the maintenance and repair expenses of the common areas and facilities and any other expenses incurred. Upon **five (5) days'** notice to the association and payment of a reasonable fee, any owner shall be furnished a certificate of his account setting forth the amount of any unpaid assessment or other charge due or owing from such owner which were incurred prior to the date of such certificate and which are in excess of the amount therein set forth.

**Section 8. Fiduciary Obligation.** All funds collected hereunder by the Association shall be held and expended only for the purposes designated herein, and except for such assessments as may be levied against less than all the owners, shall be deemed to be held for the benefit, use and account of all the owners in accordance with their ownership percentages.

**Section 9. Default.** If an owner is in default on the payment of any assessment or charge, the Association may enforce its lien against such owner's unit and proceed to collect any such delinquent sum in accordance with the provisions of the Declaration. If such assessment or charge is in default for more than **thirty days**, the Association shall charge interest thereon at the rate of 18% per annum from the date it was due until paid, together with reasonable attorney's fees and costs of collection.

## ARTICLE VII

### Common Expenses

In addition to those enumerated in the Declaration, the following shall be common expenses:

- a. Expenses for utilities for services to the common areas and facilities and for service to the units when not metered separately; provided that water and sewer services shall not be a common expense.



- b. All expenses incurred in connection with the exercise of any power or duty referred to in Article III, Section 6 of these By-laws.

## ARTICLE VIII

### Business Management

**Section 1. Contracts.** The Board of Directors may authorize any officer or agent to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances.

**Section 2. Limitation on Debt.** After its first year of operation the Association may not borrow money or enter into contracts resulting in a total indebtedness in excess of 150 percent of its gross revenues for the previous fiscal year provided that additional amounts may be authorized by the assent of two-thirds (2/3) of the membership; and provided further that a long-term contract for the management of the property shall not be considered in violation of this Section.

**Section 3. Loans.** No loans shall be contracted on behalf of the Association and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

**Section 4. Vouchers.** All vouchers for payment of Association expenses shall be approved in writing prior to payment by such officer or agent and in such manner as shall from time to time be determined by the Board of Directors.

**Section 5. Checks, Drafts, etc.** All checks, drafts or other orders for the payment of money, notes or otherwise evidences of indebtedness issued in the name of the Association, shall be signed by such officer or agent of the Association and in such manner as shall from time to time be determined by the Board of Directors.

**Section 6. Deposits.** All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Board of Directors may select.

**Section 7. Books and Papers.** The books, records and papers of the Association shall at times, during reasonable business hours, be subject to inspection by any member for any proper purpose.

**Section 8. Insurance.** Subject to the provisions hereof the Association, as a common expense, shall keep the buildings insured against loss or damage by fire with extended coverage in an insurance company authorized to do business in the State of Indiana in an amount as near as practicable to the full replacement value thereof without deduction for depreciation, in the name of the Association as trustee for all owners and mortgagees according to the loss or damage to their respective units and percentage ownership of the common areas and facilities. Copies of such policies or current certificates shall from time to time upon receipt thereof be deposited

promptly with the owners and mortgagees of the units. In case of loss or damage, all insurance proceeds shall be used and disbursed in accordance with the Declaration. Every policy of insurance shall:

1. Provide that the liability of the insurer thereunder shall not be affected by, and that the insurer shall not claim any right of set-off, counterclaim, apportionment, proration, or contribution by reason of any other insurance obtained by or for any unit owner;
2. Contain no provision relieving the insurer from liability for loss occurring while the hazard to such building is increased, whether or not within the knowledge or control of the Association, or because of any breach of warranty or condition or any other act neglect by the Association or any owner or any other person acting under either of them;
3. Provide that such policy may not be canceled (whether or not requested by the Association) except by the insurer giving at least **thirty days' prior written notice** thereof to the Association, owners, and every other person in interest who shall have requested such notice in the insurer;
4. Contain a waiver by the insurer of any right of subrogation to any right of the Association or owners against any of them or any other person under them;
5. Contain a standard mortgage clause which shall:
  - a. Provide that any reference to a mortgagee in such policy shall mean and include all holders of mortgages of any unit of the project, in their respective order and preference, whether or not named therein;
  - b. Provide that such insurance as to the interest of any mortgagee shall not be invalidated by any act or neglect of the Association or owners or any persons under any of them;
  - c. Waive any provision invalidating such mortgagee clauses by reason of the failure of any mortgagee to notify the insurer of any hazardous use or vacancy, and requirement that the mortgagee pay any premium thereon, and any contribution clause; and
  - d. Provide that without affecting any protection afforded by such mortgagee clause, any proceeds payable under such policy shall be payable to the Association or the insurance trustee in accordance with the Declaration.

The Association, as a common expense, shall also effect and maintain at all times comprehensive general liability insurance covering the Association, its directors, officers, employees, agents, manager and all owners with respect to the property with minimum limits of **not less than \$1,000,000** for injury and property damage, and from time to time upon receipt thereof deposit



promptly with the owners current certificates of such insurance, without prejudice to the right of any owner to maintain additional liability insurance.

The Association shall, at least **annually, review insurance** coverage with its insurer to ascertain the full insurable replacement cost of the property. If it conducts such review at least annually, the Association shall not be liable for failure to carry sufficient amounts of insurance on any unit or on the property.

The Association shall not be responsible for obtaining insurance on any additions, alterations or improvements made by any owner to his unit unless and until such owner shall request the Association in writing so to do, and shall make arrangement satisfactory to the Association to reimburse the Association for any additional premiums attributable thereto.

**Section 9. Disputes.** In the event of any dispute or disagreement between any owners relating to the property, or any question of interpretation or application of the provisions of the Declaration, the determination thereof by the Board of Directors shall be binding and final as to each of said owners.

**Section 10. Fiscal Year.** The fiscal year of the Association shall commence on **January 1 and end on December 31** of each year.

## ARTICLE IX

### First Mortgagees

#### **Section 1. Notices.**

The association shall:

- a. Notify a first mortgagee of any change in the Declaration, Articles of Incorporation, By-laws or rules and regulations at least 30 days prior to the effective date thereof.
- b. Notify a first mortgagee of any default by its mortgagor of any obligation under the Declaration, Articles of Incorporation, By-laws or rules and regulations, which is not cured within 30 days.

## ARTICLE X

### Amendment

These By-laws may be altered, amended or repealed and new By-laws adopted at any meeting of the members of the Association by a majority vote of the members present at the meeting, in person or by proxy.

## ARTICLE XI

### Pets

No animals of any kind shall be raised, bred, or kept in any unit or in the common areas and facilities except that dogs, cats or other household pets may be kept in units, subjects to rules and regulations adopted by the Association, provided they are not kept, bred or maintained for any commercial purpose; and provided further that any such pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the property upon **three (3) days' written notice** from the Association.