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(Space above reserved for Recorder of Deeds certification)

**Title of Document:** Fully Amended and Restated  
Restrictive Covenants and Conditions for the Indian  
Creek Hills Property Owners Association Subdivision

**Date of Document:** \_\_\_\_\_, 2023

**Grantors:** The Indian Creek Hills Property Owners Association,  
Inc.

**Grantees / Legal Description:** Indian Creek Hills Subdivision of Morgan County  
Missouri Plat Number One; Indian Creek Hills  
Subdivision of Morgan County Missouri Plat Number  
Two; Indian Creek Hills Subdivision of Morgan County  
Missouri Plat Number Amended Plat Number Two;  
Indian Creek Hills Subdivision of Morgan County  
Missouri Plat Number Three; Indian Creek Hills  
Subdivision of Morgan County Missouri Amended Plat  
Number Three; Indian Creek Hills Subdivision of  
Morgan County Missouri Plat Number Four; Indian  
Creek Hills Subdivision of Morgan County Missouri  
Plat Number Five Indian Creek Hills Subdivision of  
Morgan County Missouri Corrected Plat Number  
Five; Indian Creek Hills Subdivision of Morgan County  
Missouri Plat Number Six; Indian Creek Hills  
Subdivision of Morgan County Missouri Plat Number  
Seven; Indian Creek Hills Subdivision of Morgan

County Missouri Correction Plat Number Seven;  
Indian Creek Hills Subdivision of Morgan County  
Missouri Plat Number Eight; Indian Creek Hills  
Subdivision of Morgan County Missouri Correction  
Plat Number Eight

**Reference Book and Page(s):**

Final draft 9/13/23

**FULLY AMENDED AND RESTATED**  
**Restrictive Covenants and Conditions for the**  
**Indian Creek Hills Property Owners Association**  
**Subdivision**

Morgan County, Missouri

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## ARTICLE I - RECITALS

This Declaration is made effective as of the time of its recording in the office of the Morgan County Recorder of Deeds by Indian Creek Hills Property Owners Association, Inc., a Missouri not-for-profit Corporation, the "Association."

**WHEREAS**, Indian Creek Hills, Inc., also referred to herein as "the Developer," planned, developed, and platted a series of eight subdivisions known collectively as Indian Creek Hills, herein after referred to as the "Subdivisions" which are located in Morgan County, Missouri; and

**WHEREAS**, the Association is the homeowners association created by the Developer to govern the Subdivisions, and its members are all of the lot owners in the Subdivisions; and

**WHEREAS**, the Subdivisions were developed in several separate parts with a separate plat for each part thereof; and

**WHEREAS**, on the 9<sup>th</sup> day of April, 1970, Developer recorded an indenture entitled Restrictive Covenants and Conditions for the subdivisions filed as Document No. 30010 in Book 203 at Page 355, in the office of the Recorder of Deeds of Morgan County, Missouri; and

**WHEREAS**, the Developer, did execute and record the plat of "Indian Creek Hills Subdivision of Morgan County Missouri Plat Number One" on the 1<sup>st</sup> day of May 1970, in Plat Book 3 Page 46; and

**WHEREAS**, the Developer, did execute and record the plat of "Indian Creek Hills Subdivision of Morgan County Missouri Plat Number Two" on the 12<sup>th</sup> Day of March, 1970, in Plat Book 3 Page 34; and,

**WHEREAS**, the Developer, did execute and record the plat of "Indian Creek Hills Subdivision of Morgan County Missouri Plat Number Two – Amended Plat" on the 3<sup>rd</sup> Day of May, 1971, in Plat Book 3 Page 76; and

**WHEREAS**, the Developer, did execute and record the plat of "Indian Creek Hills Subdivision of Morgan County Missouri Plat Number Three" on the 23<sup>rd</sup> Day of July 1970, in Plat Book 3, Page 51; and

**WHEREAS**, the Developer, did execute and record the plat of "Indian Creek Hills Subdivision of Morgan County Missouri Plat Number Three – Amended Plat" on the 5<sup>th</sup> Day of October 1970, in Plat Book 3, Page 61; and

**WHEREAS**, the Developer, did execute and record the plat of “Indian Creek Hills Subdivision of Morgan County Missouri Plat Number Four” on the 23<sup>rd</sup> Day of July, 1970, in Plat Book 3 Page 52; and,

**WHEREAS**, the Developer, did execute and record the plat of “Indian Creek Hills Subdivision of Morgan County Missouri Plat Number Five” on the 13<sup>th</sup> day of February 1973, in Plat Book 3, Page 150; and,

**WHEREAS**, the Developer, did execute and record the plat of “Indian Creek Hills Subdivision of Morgan County Missouri Plat Number Five – Correction Plat” on the 1<sup>st</sup> day of June 1973, in Plat Book 3, Page 159; and,

**WHEREAS**, the Developer, did execute and record the plat of “Indian Creek Hills Subdivision of Morgan County Missouri Plat Number Six” on the 9<sup>th</sup> day of July, 1971, in Plat Book 3, Page 86; and,

**WHEREAS**, the Developer, did execute and record the plat of “Indian Creek Hills Subdivision of Morgan County Missouri Plat Number Seven” on the 30<sup>th</sup> Day of August, 1972 in Plat Book 3, Page 125; and,

**WHEREAS**, the Developer, did execute and record the plat of “Indian Creek Hills Subdivision of Morgan County Missouri Plat Number Seven – Corrected Plat” on the 1<sup>st</sup> day of June, 1973, in Plat Book 3, Page 158; and,

**WHEREAS**, the Developer, did execute and record the plat of “Indian Creek Hills Subdivision of Morgan County Missouri Plat Number Eight” on the 1<sup>st</sup> Day of June, 1973, in Plat Book 3, Page 160; and

**WHEREAS**, the Developer, did execute and record the plat of “Indian Creek Hills Subdivision of Morgan County Missouri Plat Number Eight – Correction Plat” on the 1<sup>st</sup> Day of June, 1973, in Plat Book 3, Page 160; and

**WHEREAS**, the Developer subjected the Subdivisions to certain Restrictive Covenants and Conditions as recorded at Book 207, Page 445; and

**WHEREAS**, on the 21<sup>st</sup> day of January, 1985, the Association adopted Article I Amended Bylaws of Indian Creek Hills Owners Association, Inc. which were recorded in Book 330, Page 116 in the Office of the Morgan County Recorder of Deeds, Morgan County, Missouri; and

**WHEREAS**, on the 8<sup>th</sup> day of October, 1988, the Association adopted the First Amended Restrictive Covenants and Conditions for the subdivision pursuant to Article VIII, Paragraph 3, which was recorded on March 5, 1996, as part of the proposal to terminate the effect of the above-described indenture and establish new and revised Subdivision restrictive covenants and conditions were approved by a vote of fifty-eight



percent (58%) of the property owners at said meeting. Said Indian Creek Subdivision First Amended Restrictive Covenants and Conditions were recorded in Book 452, Page 163 in the Office of the Morgan County Recorder of Deeds, Morgan County, Missouri; and

**WHEREAS**, on the 29<sup>th</sup> day of December 1992, the Association adopted Amended Bylaws and Restrictive Covenants and Conditions of Indian Creek Hills Owners Association, Inc. which were recorded in Book 410, Page 218, 219, and 221 in the Office of the Morgan County Recorder of Deeds, Morgan County, Missouri; and

**WHEREAS**, on the 20<sup>th</sup> day of October 2014, the Association adopted the Amended and Restated Declaration of Covenants and Conditions of Indian Creek Hills Subdivision, which were recorded in Instrument No. 201400004769 in the Office of the Morgan County Recorder of Deeds, Morgan County, Missouri; and

**WHEREAS**, the Subdivisions were developed for residential and recreational purposes and included the construction of a lake known as Lake Pocahontas; and

**WHEREAS**, the current Association desires to amend and fully restate the Restrictive Covenants and Conditions to modernize the development and to ensure that it remains a first-class residential subdivision; and

**WHEREAS**, said Restrictive Covenants and Conditions ("Declarations") for Indian Creek Hills provides that the Declarations may be amended in whole or in part by a majority vote of the Association; and

**WHEREAS**, the Association does hereby declare that the Restrictive Covenants and Conditions for Indian Creek Hills Subdivision, together with all previous amendments thereto, are hereby removed, replaced, and fully restated as set forth in this document. These Fully Amended and Restated Declarations shall become effective upon their recording in the Office of the Morgan County Recorder of Deeds; and

**WHEREAS**, the Association declares that all of the properties within the subdivisions described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability thereof and which shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, and their heirs, successors and assigns, and shall inure to the benefit of each owner thereof; and

**WHEREAS**, the Association presently owns and maintains the water system serving the Subdivision; and

**WHEREAS**, the Association retains the right to declare any real property as shown on the plat of the Indian Creek Hills Property Owners Association Subdivision, a common area.

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## ARTICLE II - DEFINITIONS

1. "Association" shall mean and refer to The Indian Creek Hills Property Owners Association Subdivision Property Owners Association, Inc., a Missouri Not for Profit corporation, and its successors and assigns.
2. "Board" shall mean the Board of Directors of the Association.
3. "Common Area" shall mean real property owned by the Association for common use and enjoyment of the owners. The common area to be owned by the association at the time of the conveyance of the first lot shall include the following portions shown in the recorded plat for The Indian Creek Hills Property Owners Association Subdivision:
  - A. Roadways as shown on the recorded plat as dedicated to the lot owners in this subdivision for ingress and egress and the installation of utilities;
  - B. All areas labeled as "common area" on the recorded plat or in another recorded instrument;
  - C. All areas subsequently declared to be "common area" by the Association in a recorded plat, deed, declaration, or instrument.
4. "Declaration" or "Restrictive Covenants" means this Fully Amended Restrictive Covenants and Conditions and any amendments thereto or supplemental declarations.
5. "Development" means all numbered lots, common areas, roads, amenities and easements situated and depicted on the recorded plat of The Indian Creek Hills Property Owners Association Subdivisions and all other real property which may be annexed thereto.
6. "Improvements" shall mean all buildings, outbuildings, sewers, water systems, roads, driveways, parking lots, fences, retaining and other walls, docks, piers, hedges, poles, antenna and any other structures of any type or kind.
7. "Lot" means any numbered lot shown in the plats of the development.
8. "Owner" shall mean any person or legal entity including the Association who holds fee simple title to any lot.
9. "Plat" means the plat(s) of The Indian Creek Hills Property Owners Association Subdivisions and any additions or annexations thereto as they are from time to time recorded.

10. "Single family dwelling" shall mean a residential dwelling usually intended for one or more persons, each related to the other by blood, marriage, or legal adoption together with his or their domestic employees, maintaining a common household in such dwelling.

### **ARTICLE III - PROPERTY RIGHTS**

1. **Owner's Easement of Enjoyment.** Every owner shall have a right and easement of enjoyment in and to the common areas which shall be appurtenant to and shall pass with the title to every lot subject to the following provisions:
  - A. The right of the Association to suspend voting rights and the right to use the common area by an owner for any period during which any assessment against his lot remains unpaid;
  - B. The right of the Association to dedicate or transfer all or any part of the common area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed upon by the members. No such dedication or transfer shall be made unless an instrument signed by two-thirds of each class of members agreeing to such dedication or transfer has been recorded.
  - C. The Association's reserved right to close, shutdown, restrict, or otherwise impede the use of roadways and utilities within the Subdivision for the purpose of completing improvements within the Subdivision or upon any Lot.
  - D. The rights, privileges, easements, reservations and exceptions in favor of the Association, as set out herein.
2. **Delegation of Use.** Any owner may delegate in accordance with the By-Laws of the Association, his or her right of enjoyment to the common area and facilities to the members of his or her family.
3. **Right to Lease.** Each owner may rent or lease his or her lots for residential purposes and may charge therefore. Such rental or leasing activity shall not be considered a commercial activity so long as the use of the property by the lessees or tenants is residential in nature. Lease terms for less than thirty (30) days are prohibited.

### **ARTICLE IV - THE ASSOCIATION**

1. **General.** The Association is a Missouri Not-For-Profit corporation organized to further and promote the common interest of property owners in the

Development. The Association shall have such powers in the furtherance of its purposes as are set forth in its Articles of Incorporation and By-Laws.

2. **Formation of the Association.** This Association was formed on or about April 11, 1970. The Association has adopted fully amended and restated Bylaws contemporaneously with this Amendment and Restatement of the Declarations.
3. **Membership.** Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment. Each owner shall be entitled to one vote. When more than one person holds an interest in any lot all such persons shall be members, the vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot.
4. **Board of Directors; Association Control.** The Association shall act by and through its Board of Directors, who shall be bonded and insured. The Board, acting in good faith, shall be held harmless in the performance of its duties. The officers and directors of the Association shall be selected as set forth in its Bylaws.

#### **ARTICLE V - ASSESSMENTS**

1. **Authority of the Association to Make Assessments.** The Association shall have the power to levy the following kinds of assessments:
  - A. **Regular Yearly Assessments.** The regular Yearly assessments shall be used exclusively to promote the improvements, maintenance, operation and supervision of the common area and facilities located thereon, for the purposes of recreation, health, safety, and welfare of the residents and the properties and property owners.
  - B. **Special Assessments.** In addition to the yearly assessments authorized above, the Association may levy in any assessment year a special assessment applicable to that year only for the purpose of defraying in whole or in part the cost of any repair or replacement of a capital improvement upon the common area including fixtures and personal property related thereto.
2. **Creation of Lien and Personal Obligation for Assessments.** Each owner of any lot, or other subdivision of any lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Association the assessments identified in this Declaration, such assessments to be established and collected as hereinafter provided. All assessments identified in this Declaration together with interests,

costs and reasonable attorney fees shall be a charge on the land and shall be a continuing lien upon the property against which such assessment is made, and such lien shall survive conveyance of said land until paid in full. Each such assessment together with interest, administrative fees, and reasonable attorney fees shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them. If someone passes, their estate shall hold the obligation. The lien may be enforced by suit brought by the Association or the Association.

3. **Regular Annual Assessment.** The Association does hereby set the yearly assessment annually for each Lot as written in the bylaws. The regular yearly assessment shall thereafter be set as follows:
  - A. From and after November 1 of the year after this Declaration is recorded, the yearly assessment may be set each year by the Board at an amount not more than 15% above the assessment for the previous year.
  - B. From and after November 1 of the year after this Declaration is recorded, the maximum annual assessment may be increased above the amount set forth in subparagraph A above by a vote of a majority of the members of the Association in attendance at a meeting duly called for this purpose.
4. **Special Assessments for Capital Improvements.** In addition to the yearly assessments authorized above, the Board may levy in any assessment year one or more special assessments for the purpose of defraying in whole or in part the cost of any repair or replacement of a capital improvement upon the common area including fixtures and personal property related thereto. The board shall transmit in writing to the owners of lots for approval, an outline of the plan for a project contemplated and the estimated amount required for completion of the same and the total balances required. If said project and the balances so stated be approved at a meeting of the lot owners duly called and held in the manner provided herein by a fifty-one percent (51%) majority vote of the property owners attending any annual or special meeting, the Board of Directors shall notify all owners of the additional dues.
5. **Uniform Rate of Assessment.** All regular yearly assessments shall be assessed at a uniform rate. However, no assessments shall be due upon any lot owned by the Association.
6. **Date of Commencement of Regular Annual Assessment; Due Dates.** The regular yearly assessments shall be made on or before November 1 of each year and shall be due by November 30 of the same year.

Written notice of the yearly assessment shall be sent to every owner subject thereto. It is the responsibility of the owner to ensure that the Association has an updated address to which notices are sent. The Association shall upon demand and for a reasonable charge, furnish a certificate signed by the owner setting forth whether the assessments on a specified lot have been paid.

7. **Effect of Non-Payment of Assessments: Remedies of the Association.** Any assessment (whether it be regular, quarterly, or special) if not paid within 30 days after the due date, shall bear interest from the due date at the rate as listed in the bylaws per annum and a \$2 per month administrative fee. The Association may bring an action at law or equity against the owner personally obligated to pay the same, or foreclose the lien against the property, and shall be entitled to recover its reasonable attorneys fees associated with all collection and enforcement action. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the common area or abandonment of lots. The terms foreclosure and abandonment shall be construed in accordance with Missouri Law. Such actions shall be done in accordance with Missouri Statute.
8. **Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to a first mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.
9. **Assessments Against Association.** No charge or assessment shall be made against the Association for any lots or common area or any portion or subdivision thereof owned by them.

#### **ARTICLE VI - MAINTENANCE OF COMMON AREAS BY THE ASSOCIATION**

1. **Conveyance.** The Association shall maintain all common areas which it already has accepted. The Association may receive additional properties within the Subdivisions as common areas, but the Board shall have the power to refuse to accept any such areas, in its sole discretion.
2. **Use.** The use and enjoyment of the common areas and the improvements thereon, shall be subject to the powers of the Association and the rules adopted by it regulating and governing the use of such property and improvements.

3. **Maintenance.** Maintenance of the common areas and repairs to any improvements thereon shall be the obligation and responsibility of the Association.

## ARTICLE VII - LAND USE RESTRICTIONS

1. **Generally.** At the time of the recording of these Declarations, there are no applicable municipal or county zoning codes which apply to the Subdivisions.
2. **Permissible Uses.** Lots within the subdivision may be improved with single family homes or such other uses and structures as the Association may from time to time deem appropriate. The restrictions contained in this declaration shall apply specifically to any construction on said lots. The Association reserves at all times the right to approve the actual location of any structure and outbuildings, if any, upon any lot within the development. If any such structure or outbuilding is constructed without the prior approval of the Association, it shall be deemed approved five (5) years after the completion of its construction.
3. **Dwelling House.** For each dwelling house no part thereof shall be nearer than twenty-five (25) feet from the front lot line.
4. **Setbacks.** No dwelling or outbuilding may be constructed within any setback of any Lot Line, ten (10) feet, as shown on the Plat without the express written consent of the Board and the express written consent of the adjoining lot owner of the nearest lot line to the proposed dwelling or outbuilding.
5. **Construction and Area Size.** All improvements constructed within the subdivision must be approved in advance by the Board and must be permanent in nature and in harmony with the development or with the improvements erected on the other lots. They shall be done in accordance with the building codes applicable to the area.
6. **Type of Construction.** Subject to the approval of the Board, improvements may be of single or multiple story construction.
7. **Accessory Outbuildings.** All Outbuildings, including, but not limited to, boat houses, garages, storage buildings, are improvements which must be approved by the Board. They shall be done in accordance with the building codes applicable to the area.
8. **Campers, Trailers, Tents.** Campers, trailers, and tents must be no less than ten (10) feet from the front of the lot, facing the road. All must be kept in good repair and the grounds tended on a regular basis. In the event that a camper, trailer, or tent appears to be in disrepair, unattended, or abandoned, the Board of Directors will notify the owner in writing to the address on file that



the entity must be repaired or removed within thirty (30) days. Failure to repair or remove within thirty (30) days, shall lead to removal of said entity at the cost of the owner. Any owner leaving said entity on their lot assumes all risks related thereto.

9. **Streets, Roadways, and Trails.** The Board of Directors shall have the power to construct, reconstruct, improve, contract for, maintain, or repair streets or roadways of any kind or qualities upon the several strips of land held by the Association which are designated on said plats such as streets, drives, lanes, trails, roads, or walkways and repair and maintain the dam and lake to be constructed on said above-described property.
  - A. **Maintenance.** The Board of Directors shall have the right and power to provide for plowing, including removal of snow from said streets, roads, or trailways.
  - B. **Lights.** The Board of Directors shall have the right and power to provide lights in or on all drives, lanes, circles, streets, and roads and on or at all gateways or entrances or in such other places in or about the area covered by this agreement as they may in their judgment determine.
10. **Completion of Construction.** Construction of any improvement once commenced shall be completed within twelve (12) months. At the end of twelve (12) months, the owner must come before the board for an extension until completed per local code. Any extension of time for the completion must be approved in writing by the Board of Directors. The Board may remove any such nuisance or repair or complete the same, all at the cost of the owner.
11. **Maintenance of Lots.** All lots and parcels, whether occupied or unoccupied, and any improvements placed thereon shall at all times be maintained in such manner as to prevent their becoming unappealing, unsanitary, or a hazard to health. If not so maintained, the Association shall have the right through their agents and employees, to do so; the cost of which shall be added to and become a part of the assessment to which each such lot is subject. Neither the Association nor its agents, employees or contractors shall be liable for any damage which may result from any maintenance work performed. In particular, without the express written consent of the Board, none of the following shall be allowed upon any lot within the subdivision:
  - A. Trees, shrubs, and bushes that overhang roadways or sidewalks;
  - B. Machinery or appliances in plain view from either the roads, Lake Pocahontas or adjoining lots;
  - C. Automobiles, boats and equipment of all sorts being repaired, salvaged or constructed in plain view from either the roads, Lake Pocahontas or adjoining lots.

12. **Disposal of Sanitary Waste.** Each lot owner shall be responsible for ensuring that wastewater from their Lot is disposed of in a sanitary and lawful manner that complies with any applicable laws and regulations, including but not limited to, the statutes, rules, regulations, and ordinances of the State of Missouri, Morgan County, the health department, and the Missouri Department of Natural Resources. The Board shall have the power to enter into any Lot upon which wastewater is not being properly disposed of as described in this paragraph and take remedial measures and to assess the cost therefor against the Lot owner and the Lot as a special assessment as set forth in this document.
13. **Nuisances.** No noxious or offensive activities or nuisances shall be permitted on any lot.
14. **Signs or advertisements.** No signs may be placed or maintained on any lots other than the name or address of the owner upon whose property the sign resides. Said sign shall be no longer than three (3) ft and one (1) foot in height.
15. **Conduct of Business.** No commercial business shall be operated in or on any lots not specially approved for commercial use without the written consent of the Board of Directors.
16. **Animals.** Household pets shall be kept reasonably confined so as not to become a nuisance. "Household pets" as used herein shall include dogs, cats, and similar domestic animals. No livestock or pets shall be kept within the development for commercial purposes. One horse may be stabled on any lot containing at least one (1) acre in area. Rabbits and chickens may be kept, maintained, or raised, but no more than a dozen (12) chickens and one (1) rooster per voting owner. All livestock and accommodations for said animals must be approved by the Board. Dogs shall be kept on a leash while at the park or on common ground. Cats shall not be allowed to roam freely so as to become a nuisance or a hazard. Exotic animals are expressly prohibited unless approved by the Board of Directors.
17. **Garbage and Refuse Disposal.** Trash shall be properly disposed of in the appropriate receptacles.
18. **Fuel Storage Tanks and Trash Receptacles.** Fuel storage tanks including diesel and gasoline on any lot shall be prohibited. Every receptacle for ashes, rubbish or garbage shall be so placed and kept as not to be visible from any street, lake or common area within the Development, except at the times when refuse collections are made.

19. **Ditches and Swales.** Each owner shall keep drainage ditches and swales located on such owner's lot free and unobstructed and in good repair and shall provide for the installation of such culverts upon the lot as may be reasonably required for proper drainage.
20. **Subdivision of Lots.** No lot or parcel shall be further subdivided by the owners without prior written approval of the Board. Any additional lots created shall be added to the subdivision and the Owners thereof shall become members of the Association.
21. **Combination of Lots.** Lots or parcels may be combined without prior written approval of the Board. Any lots that are combined shall nonetheless be assessed as though they had not been so combined and remained separate and apart.
22. **Drilling and Mining.** No drilling, refining, quarrying or mining operation of any kind shall be permitted on any lot, except that for drilling a well.
23. **Outside Lighting and Noise.** There shall be no outside lighting or electrical speakers allowed in any construction on any lot, or free standing on any lot, in a manner which unreasonably interferes with the use and enjoyment of any other lot in the subdivision.
24. **Access to Lots.** The Association shall have the right of access to the lots at reasonable times and in such a reasonable manner as to minimize inconvenience to the lot owners for the purpose of constructing, maintaining or inspecting facilities owned by the Association or essential to the development as a whole, or for the purpose of furthering or enforcing the restrictions within this declaration. Association shall make a good faith effort to provide notice prior to accessing.
25. **Water Wells.** Each lot owner shall be responsible for payment of the usual and customary charges for their water services provided by the Association, and the charges therefore shall be assessed against their Lot. Any private wells within the Subdivision must comply with any applicable laws and regulations, including but not limited to, the statutes, rules, regulations, and ordinances of the State of Missouri, Morgan County, and the Missouri Department of Natural Resources.
26. **Use of Roadways.** No parking of trailers or storage of any items shall be permitted upon common roadways.

## **ARTICLE VIII – BOAT DOCKS**

1. **Generally.** The Association retains an easement to construct and install one or more floating docks to the shoreline of Lake Pocahontas within the

Development for the use and enjoyment of the Owners. The Association further retains an easement for ingress and egress to and from said boat docks. The Association may designate any parcel of land to which the docks are attached as a common area. The Association shall hold ownership and title to the docks and shall manage, insure, and maintain them as common property in accordance with this Declaration, the Bylaws, and the Rules and Regulations of the Association and ensure they are up to code and follow the local statutes and regulations and those of the state of Missouri. No boat docks may be constructed without the express permission of the board.

2. **Boat Dock Assessments.** The cost of use, utility service, maintenance, insurance, taxes, repair, and replacement of the community boat docks shall be paid as a common expense of the Association and made a part of the regular yearly assessment.
3. **Reserves.** The Board shall establish reasonable reserves for the costs of maintenance and replacement of the common-use boat docks and include those reserves in the amount of its yearly assessments. This expressly does not include any privately owned boat docks on Lake Pochahontas.
4. **Rules and Regulations.** The Board may, at its option, establish from time-to-time rules and regulations for the use of the common boat docks and boat slips in order to preserve them for the use and enjoyment of the Owners. Examples include restrictions on the installation and use of boat lifts, dock boxes, lockers, furniture and decking, lighting, boat covers mounted to the dock framing, sun shades, umbrellas, cleats and attachment points, and similar items, and restrictions against swimming or fishing from the docks, or setting permissible hours for those uses. Any rules and regulations established by the Board shall be made available to all members of the Association upon reasonable request.
5. **Size of Motors.** The Board of Directors shall further have the power to regulate and determine the size of motor(s) to be used on Lake Pochahontas, but in no case shall a motor over 9.9 horsepower be allowed to operate. All boating shall conform to the laws, rules, and regulations of the State of Missouri and the Missouri State Highway Patrol and at the sole discretion of the Board of Directors, a violator of such rule may be denied the right to use Lake Pochahontas.
6. **Dock Construction.** New boat docks will be permitted to be constructed on Lake Pochahontas with the following restrictions:
  - i. Dock size may be no larger than 12ft x 12ft.
  - ii. Length of ramps can be no longer than 20ft.
  - iii. Docks must be securely attached to the owner's property by concrete piers and/or steel wire cabling.
  - iv. Electrical wiring on docks is prohibited.

- v. All floatation must be by encapsulated foam. No barrels of wood, plastic, or other materials shall be permitted to be used as a floatation device to support any dock.
- vi. Docks must have a solid framing with wood or concrete decking.
- vii. Docks must be a minimum of 10' away from the extended side property lines and may not impede property lines of other property owners.
- viii. All docks must stay maintained and kept in good maintenance and repair. Any dock that presents a hazard may be removed by the Board, and the cost therefore shall be charged as a special assessment against the Lot owner.
- ix. Any existing docks must be in accordance with the Bylaws and Regulations of this Association when repaired or replaced or on or before November 6, 2027, whichever occurs soonest; existing dock size is grandfathered in but upon replacement restrictions must meet restrictions above.
- x. No trout lines or jug lines are permitted on Lake Pocahontas. Any found will be cut and removed and any person putting out such lines can lose their privileges to use Lake Pocahontas following proper written notice from the Board of Directors.

#### **ARTICLE IX – RECREATIONAL VEHICLES**

1. **Usage.** Only property owners and family members of their immediate household may use motorized sport vehicles in the Subdivisions.
2. **Type of Vehicles.** All motorized sport vehicles, ATVs, side-by-sides, UTVs, golfcarts, are allowed in parks and on the roads and trails and must obey the speed limits and quiet time rules established by the Board of Directors and regulations of the parks and must be operated in a safe manner which would not cause damage to the roads. No vehicle shall be allowed with excessive noise. Cutoff time for all ATV's or side by side's to drive on any road within Indian Creek Hills Property Owners Association is controlled by the Association's bylaws and regulations.

#### **ARTICLE X - ASSOCIATION APPROVAL OF CONSTRUCTION AND IMPROVEMENT**

1. **Architectural Control.** No building, fence wall or other structure shall be commenced, erected or maintained upon the properties, nor shall any exterior addition to, change or alteration therein, be made until the plans and

- specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to the harmony of exterior design and location in relation to the surrounding structures, quality of materials and workmanship, and topography by the Board. The Board may delegate its right of approval to an architectural committee composed of three or more representatives appointed by the Board. In the event the Board (or its designated committee) fails to approve or disapprove such design and location within thirty (30) days after the plans and specifications have been submitted to it, approval will not be required and this section will be deemed to have been fully complied with. The Association reserves the right to approve plans and specifications in connection with the construction of improvements on property owned by the Association, or at the time of sale thereof by the Association.
2. **Grounds for Disapproval.** The Board may disapprove any application if such application does not comply with this Declaration or for the following reasons:
    - A. Failure to comply with the codes identified herein or designated by the Board as supplementary or replacing the Codes identified herein.
  3. **Rules and Regulations.** The Board may from time to time adopt written rules and regulations of general application governing its procedures which may include among other things provisions for the form and content of the applications, required provisions for notice of approval or disapproval.
  4. **Variances.** The Board may grant reasonable variations or adjustments from the provisions in this Declaration where literal application thereof results in unnecessary hardship and if the granting thereof will not be materially detrimental or injurious to the owners of the other lots.
  5. **Liability.** Notwithstanding the approval by the Board of plans and specifications or its inspection of the work in progress, neither the Association, the Board, the Association nor any person acting on behalf of any of them shall be responsible in any way for any defects and any plans and specifications or other materials submitted to the Board nor for any defects in any work done pursuant thereto. Each person submitting such plans or specifications shall be solely responsible for the sufficiency thereof and the adequacy of improvements constructed pursuant thereto.
  6. **Building Codes.** All improvements constructed on the property shall conform to all building, fire, and safety codes adopted in any jurisdiction in which the property is located at the time the improvements are constructed.

## ARTICLE XI - EASEMENTS

1. **Easements Generally.** The Board of Directors shall have the right and power to grant easements in, over or under the streets, drives, lanes, trails, or roads conveyed to them for any approved purpose. Walkways and trailways may be set up and established and maintained by the Board of Directors for the use of Lot owners. Said easements shall not modify, impact, or impede upon property lot owners' right, title, or interest without said owners' consent and agreement. I.C.H. lots shall not be used as easements for neighboring properties unless expressly permitted by the Association.
2. **Easements for Utilities.** The Board of Directors shall have the right and power to construct, to lease, to purchase or in any other manner to construct for or provide for sewers or sewerage disposal facilities, drainage, water, gas, electricity, street lighting, telephone service or fire protection facilities to serve all or any part of said above-described tracts, either in their present state or as subdivided. In providing for said services or facilities, the Board of Directors may convey, transfer, or assign whole or partial rights in and to the easements created by this Instrument or easement created and set out on the plats of the subdivision within the described tract.
3. **Other Easements.** Other easements shown on the plat or which are otherwise of record are reserved.
4. **Use of and Maintenance by Owners.** The areas of any lots affected by the easements reserved herein shall be maintained continuously by the owner of such lot but no structures, plantings or other materials shall be placed or permitted to remain or other activities undertaken thereon which may damage or interfere with the use of said easements for the purpose herein set forth. Improvements within such areas shall be maintained by the owner except those for which a public authority or utility company is responsible.
5. **Liability for Use of Easement.** No owner shall have any claim or cause of action against the Association arising out of the exercise or non-exercise of any easement reserved hereunder or shown on the plat, except in cases of willful or wanton misconduct.

## **ARTICLE XII - REMEDIES**

1. **Enforcement.** Association and each person to whose benefit this Declaration inures, including the Board and any member of the Association, may proceed at law or in equity to prevent the occurrence, continuation, or violation of any provision of this Declaration and the Court in such action shall award the

successful party reasonable expenses in prosecuting such action, including attorney fees, court costs, and expert witness fees.

2. **Suspension of Privileges.** The Board may suspend all voting rights and rights to use the Association's common area of any owner for any period during which any Association assessment against such owner remains unpaid or during the period of any continuing violation of the provisions of this Declaration by such owner after the existence thereof has been declared by the Board.
3. **Cumulative Rights.** Remedies specified herein are cumulative and any specifications of them shall not be taken to preclude an aggrieved party's resort to any other remedy at law or in equity. No delay or failure on the part of an aggrieved party to invoke an available remedy in respect of a violation of any provision in this Declaration shall be held to be a waiver by that party of any right available to him upon the recurrence or continuance of said violation or the occurrence of a different violation.

### **ARTICLE XIII - OWNER'S ACCEPTANCE**

1. **Acceptance By Deed.** Each grantee or purchaser of any lot or parcel, or portion of any lot or parcel, shall by acceptance of a deed conveying title thereto or the executing of a contract for the purchase thereof, whether from Association or a subsequent owner of such lot or parcel, accept such deed of contract upon and subject to each and all of the provisions of this Declaration and to the jurisdiction, rights, powers, privileges and immunities of the Association. By such acceptance such grantee or purchaser shall for himself, his heirs, devisees, personal representatives, grantees, successors and assigns, lessees, and/or lessors, covenant, consent and agree to and with Association and the grantee or purchasers of each other lot to keep observe, comply with and perform the covenants, conditions and restrictions contained in this Declaration. Such acceptance shall further constitute an acceptance of the property therein conveyed "as is" and an acknowledgment that the Association has fully performed all of its obligations with respect to said property or the Owner thereof. No Owners shall have any cause of action against Association subsequent to the acceptance of such Owner's deed for any act, omission, or representation occurring prior to the delivery of said deed, unless said representation is in writing and expressly states that it is to survive the acceptance and recording of such owner's deed.
2. **Severability.** Invalidation of any of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.
3. **Term of Declaration.** The covenants and restrictions of this Declaration, and any amendments thereto, shall run with and bind the land and be binding



upon all parties claiming an interest in the land until twenty-five (25) years has passed from the date and time this Declaration is recorded in the Office of the Morgan County Recorder of Deeds, after which the same shall automatically renew for successive periods of ten (10) years each unless terminated by a 2/3 vote of the Association, as determined by the previous years' active and eligible voter number.

4. **Equitable Servitudes.** The Association specifically denies that the imposition of these restrictive covenants, or any amendments or supplements thereto, upon the real property known as the Indian Creek Hills Property Owners Association Subdivision creates any equitable servitudes upon any other real property owned by Association or any of its partners and each lot owner, successor in interest and transferee of any lot or tract shall be deemed to deny the existence of any equitable servitudes by acceptance of any conveyance of any real property interest in the Indian Creek Hills Property Owners Association Subdivision.
5. **Amendment.** The right of amendment of this Declaration is vested in the Association, upon fulfilling the following conditions:
  - A. Amendments shall require a majority vote of all of the Association's membership present at a special meeting duly called for that purpose.
  - B. All amendments by the Association shall have attached to them a resolution of the Board attesting that:
    - i. Notice of the vote was sent in accordance with the Association's Bylaws, and a copy of all notice(s) shall be attached; and
    - ii. At least a simple majority (51%) of all of the Association's members present at the meeting voted in favor of the amendment.
  - C. All amendments shall be prepared in form suitable for filing and shall be recorded in the Office of the Recorder of Deeds of Morgan County, Missouri. Any purported amendment which is not so recorded shall be of no effect until such time as it is recorded.
  - D. All amendments must be prepared by an attorney licensed in the State of Missouri. Any amendments not prepared by such a licensed attorney shall not be effective.

**IN WITNESS WHEREOF**, the undersigned being the current Officers and Directors of the Association do hereby certify that the foregoing document was presented to its Membership through proper notice, and that at a meeting held on \_\_\_\_\_ duly called for the purpose of voting on whether or not to adopt this document, a vote was held, and that 51% or more of the Association's membership then in attendance voted in favor thereof.

INDIAN CREEK HILLS PROPERTY OWNERS  
ASSOCIATION, INC.

By:

\_\_\_\_\_  
President, Toni Westbrook

\_\_\_\_\_  
Vice President, Amy Schwartze

\_\_\_\_\_  
Treasurer, Nina Kilson

\_\_\_\_\_  
Secretary, Jonathen Morris

\_\_\_\_\_  
Randy Blalock

\_\_\_\_\_  
Brandy Benke

\_\_\_\_\_  
Doug Taylor

\_\_\_\_\_  
Dave Husereau

\_\_\_\_\_  
Josh Smith

\_\_\_\_\_  
John Selby

**STATE OF MISSOURI    )**  
**)**  
**COUNTY OF MORGAN    )**

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before a notary public in and for the state and county before me personally appeared: Toni Westbrooks, President, Amy Schwartze, Vice President, Nina Kilson, Treasurer, Jonathen Morris, Secretary, Randy Blalock, Brandy Benke, Doug Taylor, Dave Husereau, Josh Smith, and John Selby, who acknowledged that they executed the aforesaid Amendment and acknowledged that they executed the foregoing instrument and acknowledged that they executed the same as their free act and deed in their capacities as Directors or Officers of the Indian Creek Hills Property Owners Association, Inc.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed Name

My Commission Expires:

