



**Cross-Reference: 9600024666**

**AMENDMENT TO THE**  
**DECLARATION OF COVENANTS, CONDITIONS, COMMITMENTS,**  
**RESTRICTIONS, EASEMENTS, AND ASSESSMENTS OF**  
**CLEAR CREEK SUBDIVISION, SECTION 1, AND**  
**SUBSEQUENT SECTIONS THERETO**  
**DANVILLE, INDIANA**

This Amendment to the Declaration of Covenants, Conditions, Commitments, Restrictions, Easements and Assessments of Clear Creek Subdivision, Section 1, and Subsequent Sections Thereto, Danville, Indiana was made as of the date set forth below.

**WITNESSETH:**

WHEREAS, the Clear Creek residential community located in Hendricks County, Indiana was established by a certain "Declaration of Covenants, Conditions, Commitments, Restrictions, Easements and Assessments of Clear Creek Subdivision, Section 1, and Subsequent Sections Thereto, Danville, Indiana," which was recorded on November 22, 1996 as Instrument No. 9600024666 in the Office of the Recorder of Hendricks County, Indiana, and is referred to herein as the "Declaration"); and

WHEREAS, there has been incorporated under the laws of the State of Indiana a nonprofit corporation under the name Clear Creek Homeowners Association, Inc. ("Association"); and

WHEREAS, Article XVIII Section (K) of the Declaration enables the document to be amended upon achieving a quorum of (60%) of the Owners in Clear Creek at a meeting of the

Association, and subsequently if a quorum is not met, then a second meeting may be called with a quorum of those present in person or by proxy constituting quorum. At either meeting, the amendment shall be approved by a majority of the lots represented; and

WHEREAS, a special meeting of the Association's members was convened on May 5, 2018, at which no quorum was present; therefore a second special meeting of the Association's members was convened on August 21, 2018, at which a quorum was present and the members voted on these amendments to the Declaration; and

WHEREAS, at such meeting, a majority of the quorum of the Owners in the Clear Creek Subdivision voted in favor of amending the Declaration as set forth below; and

NOW, THEREFORE, the Declaration is hereby amended as set forth below:

**New Section (H) shall be added to Article VI of the Declaration as follows:**

**(H). Prohibition on Leasing of Home**

**(1) Prohibition of Leased Homes ("Rental Ban").** In order to ensure that the residents within Clear Creek share the same proprietary interest in and respect of the homes and the Common Areas, there shall be no leasing or rental of any of the homes. Residents of a home shall only consist of the Owner(s) thereof or members of their household.

Notwithstanding the foregoing, the "rental ban" described above shall not apply to any home of an Owner in Clear Creek who, within 60 days of the recording of this provision is renting or leasing said home and provides written proof thereof to the Association's Board of Directors by that date. Such proof shall include a copy of each executed lease by such Owner which identifies the tenant (but which may have the rental amount deleted). The Owners of record of such currently-rented homes shall not be subject to the provisions of this Section (1); but shall be subject to the remaining provisions of this Article IV (H). However, when the legal owners of record of any of the above-described homes sell, transfer or convey such home(s) to another Owner after 60 days from the date of recording, such home(s) shall immediately become subject to this provision.

**(2) Immediate Family, Estate Planning, and Corporate Ownership** For purposes of this Article VI, an Owner's immediate family may reside in the Dwelling Unit without the Owner(s) living in the Dwelling Unit. Immediate family of an Owner and member is defined to include the spouse, parents, children grandparents, grandchildren and partners/significant others. Occupancy by extended family members is prohibited unless they are residing with the Owner occupant.

Any Dwelling Unit owned by a Trustee or by a Fiduciary shall not be deemed to be a rental provided that the resident is the Trustee, the Fiduciary of an Estate, or a beneficiary of the

Trust or Estate. The Trustee or Fiduciary shall submit a certificate to the Association indicating who is authorized to reside in the Dwelling Unit.

Any Dwelling Unit owned by a corporate entity shall submit a certificate of designated representative to the Association. This certificate will indicate both who is authorized to vote on behalf of the corporation as well as who is authorized to reside in the Dwelling Unit. The resident and the designated representative for voting purposes must be the same individual. If they are not the same, the Dwelling Unit will be deemed a rental under the terms of this Article VI.

In accordance with this section (2), a Dwelling Unit may be occupied by an Owner's immediate family without the Owner in residence. In the event an Owner's immediate family, as defined herein, or a Trustee, Fiduciary or beneficiary of a Trust or Estate resides within any Dwelling Unit without the Owner, both the Owner and the Occupants must sign affidavits setting forth the names of the occupants and their relation to the Owner, along with verification of the relationship that meets with the satisfaction of the Board. All Occupants shall be required to abide by all governing documents of the Association as well as provide proof of adequate insurance, in the amounts and type required by this Declaration for the Dwelling Unit.

**(3) Hardship Exceptions and Waiver.** Notwithstanding (1) above, if an Owner wishes to rent or lease his or her home, the Owner may request the Board of Directors to waive the "rental ban" and approve a proposed lease if the Owner establishes to the Board's satisfaction that the "rental ban" will cause undue hardship. If a majority of the entire Board of Directors approves in writing of the Owner's request, the Board of Directors shall permit the Owner to rent or lease said home, subject to any further conditions or limitations imposed by the Board in the Board's discretion, but only if the Owner satisfies all other requirements of this Paragraph (H). Such decision shall be at the sole discretion of the Board. Examples of an undue hardship include:

- (1) death, dissolution or liquidation of an Owner;
- (2) divorce or marriage of an Owner;
- (3) necessary relocation of the residence of an Owner to a point outside of a fifty (50) mile radius of the perimeter of Clear Creek due to a change of employment or retirement of at least one (1) of such Owners;
- (4) necessary relocation of the residence of an Owner due to mental or physical infirmity or disability of at least one (1) of such Owners;
- (5) other similar circumstances.

**(4) General Lease Conditions.** All permitted leases, including renewals, shall be in writing, and no lease shall be entered into for a term of less than one (1) year without the prior written approval of the Board of Directors. No portion of any home other than the entire home shall be leased for any period. No subleasing shall be permitted. All leases shall be made

expressly subject and subordinate in all respects to the terms of this Declaration, the By-Laws, Articles of Incorporation, and any rules and regulations promulgated by the Board of Directors, as amended, to the same extent as if the tenant were an Owner and a member of the Association; and shall provide for direct action by the Association and/or any Owner against the tenant with or without joinder of the Owner of such home. If such provision is not in the lease, it will be deemed to be in such lease. The Owner shall supply copies of such legal documents to the tenants prior to the effective date of the lease. In addition, the Board of Directors shall have the power to promulgate such additional rules and regulations as, in its discretion, may be necessary or appropriate concerning leasing. All Owners who do not reside in the home shall provide the Board of Directors with the name of the tenant(s) and any other residents living in the home.

(5) **Owner is Still Liable.** No lease shall provide, or be interpreted or construed to provide, for a release of the Owner from his or her responsibility to the Association and the other Owners for compliance with the provisions of this Declaration, the Articles of Incorporation, the By-Laws, and any rules and regulations promulgated by the Board of Directors, or from the Owner's liability to the Association for payments of assessments or any other charges.

(6) **Association's Copy of Lease.** A copy of each executed, permitted lease by an Owner which identifies the tenant (but which may have the rental amount deleted) shall be provided to the Board of Directors by the Owner within thirty (30) days after execution.

(7) **Violations.** Any lease or attempted lease of a home in violation of the provisions of this Paragraph H shall be voidable at the election of the Association's Board of Directors or any other Clear Creek Owner, except that neither party to such lease may assert this provision of this Paragraph H to avoid its obligations thereunder. In the event of a violation, the Board of Directors, may provide notice to the Owner under the grievance procedures provided for by law. The Board of Directors, on behalf of the Association, or any Clear Creek Owner, shall have the right to exercise any and all available remedies at law or equity, including, but not limited to an injunction action seeking an order to remove any tenant in violation of the Paragraph H.

(8) **Institutional Mortgagees.** The provisions set forth in this Paragraph H shall not apply to any institutional mortgagee of any home which comes into possession of the home by reason of any remedies provided by law or in equity or in such mortgage or as a result of a foreclosure sale or other judicial sale or as a result of any proceeding, arrangement, or deed in lieu of foreclosure. However, when a home is sold or conveyed by such an institutional mortgagee to a subsequent purchaser, that subsequent purchaser shall be bound by the provisions of this Paragraph H.

(9) **Severability Clause.** The invalidity of any covenant, restriction, condition, limitation or other provision of this Paragraph H shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Paragraph H, and each shall be enforced to the greatest extent permitted by law.

(10) **Burden of Proof.** Anything to the contrary herein notwithstanding, if at any time a Dwelling Unit is not occupied by one of the Owners thereof, there shall be a presumption that the Dwelling Unit is being leased and subject to the provisions of this Article VI and the Owners

shall have the burden of proving to the satisfaction of the Board of Directors that the occupancy is not in violation of the terms of this Article VI, including but not limited to the delivery to the Board of directors of a written statement of the nature, and circumstances of the occupancy and any written document or memorandum that is the legal basis for the occupancy. For purposes of this Article VI and this Section (10), any occupancy (including occupancy pursuant to a rent-to-buy contract or similar arrangement or pursuant to any option to purchase) by anyone other than an Owner shall be deemed to be a lease, rental or other similar arrangement, unless the Owner delivers to the Board of Directors a written purchase contract, conditional sales contract or similar contract whereby the occupant is unconditionally and presently legally obligated to purchase the Dwelling Unit. The contract must be recorded with the County Recorder to be deemed valid. Failure to record the contract will automatically deem the document to be a lease for purposes of this Declaration.

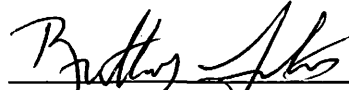
\*\*\*\*\*

Full Force and Effect. To the extent not amended by this Amendment, all other provisions of the Declaration and prior amendments thereto shall remain in full force and effect.

Certification. The undersigned persons hereby represent and certify that all requirements for and conditions precedent to this Amendment to Declaration of Covenants. Conditions, Commitments, Restrictions, Easements and Assessments of Clear Creek Subdivision, Section 1, and Subsequent Sections Thereto, Danville, Indiana have been fulfilled and satisfied.

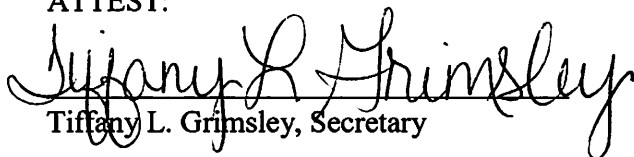
IN WITNESS WHEREOF, I, the undersigned, do hereby execute this Amendment to the Declaration of Covenants. Conditions, Commitments, Restrictions, Easements and Assessments of Clear Creek Subdivision, Section 1, and Subsequent Sections Thereto, Danville, Indiana and certify the truth of the facts herein stated this 30<sup>th</sup> day of August, 2018.

Clear Creek Homeowners Association, Inc.



Brittany N. Titus, President

ATTEST:



Tiffany L. Grimsley, Secretary

STATE OF INDIANA     )  
  )  
COUNTY OF MARION    )

Before me a Notary Public in and for said County and State, personally appeared Brittany N. Titus and Tiffany L. Grimsley, President and Secretary of Clear Creek Homeowners Association, Inc., who acknowledged execution of the foregoing Amendment to Declaration of Covenants, Conditions, Commitments, Restrictions, Easements and Assessments of Clear Creek Subdivision, Section 1, and Subsequent Sections Thereto, Danville, Indiana, for and on behalf of said Association, and who, having been duly sworn, state that the representations herein are true.

Witness my hand and Notarial Seal this 20<sup>th</sup> day of August, 2018.

My Commission Expires:  
2/15/2020

Residence County:  
Hendricks

Danielle Marie Spence  
Notary Public

Danielle Marie Spence  
Signature



"I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law." Kimberly M. Sutter

This instrument prepared by, and should be returned to, Kimberly M. Sutter  
EADS MURRAY & PUGH, P.C., Attorneys at Law, 9515 E. 59<sup>th</sup> St., Suite B, Indianapolis, IN  
46216