

<b>MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS CORPORATIONS, SECURITIES &amp; COMMERCIAL LICENSING BUREAU</b>		
Date Received	(FOR BUREAU USE ONLY)	
NOV 15 2022	This document is effective on the date filed, unless a subsequent effective date within 90 days after received date is stated in the document TranInfo:1 25200742-1 11/14/22 Chk#: 24558 Amt: \$10.00 ID: 800899389	
Name	<b>FILED</b>  <b>NOV 17 2022</b>  EFFECTIVE DATE: ADMINISTRATOR CORPORATIONS DIVISION	
Gregory J. Fioritto, Esq.		
Address		
44670 Ann Arbor Road, Suite 170	City	State
Plymouth	Plymouth	Michigan
	ZIP Code	48170

Pursuant to the provisions of the Michigan Nonprofit Corporation Act, being Act 162, Public Acts of 1982, as amended, the undersigned executes the following Amended and Restated Articles of Incorporation:

1. The present name of the Corporation is: RIVER BEND PLYMOUTH CONDOMINIUM ASSOCIATION.
2. The Old ID# was 785993 and the New ID# assigned by the Department is 800899389.
3. All former names of the Corporation are: Not applicable.
4. The filing date of the original Articles of Incorporation was: June 4, 2004.

*The following Amended and Restated Articles of Incorporation supersede the Articles of Incorporation as amended and shall be the Articles of Incorporation for the Corporation:*

**ARTICLE I**

**NAME OF CORPORATION**

The name of the Corporation is RIVER BEND PLYMOUTH CONDOMINIUM ASSOCIATION.

The Corporation may also be referred to herein from time to time as the "Association."

## ARTICLE II

### PURPOSES OF CORPORATION

The purposes for which the Corporation is formed are as follows:

- (a) To manage and administer the affairs of and to maintain River Bend Condominiums, a condominium (hereinafter called the "Condominium");
- (b) To administer and operate the Condominium in such a manner as might be required by all applicable local, state and federal laws, including, but not limited to, the National Fair Housing Act (Title VIII of the Civil Rights Act of 1968, as amended), and the Michigan Civil Rights Act;
- (c) To levy and collect assessments against and from the members of the Corporation and to use the proceeds thereof for the purposes of the Corporation;
- (d) To carry insurance and to collect and allocate the proceeds thereof;
- (e) To rebuild improvements after casualty;
- (f) To contract for and employ persons, firms, or corporations to assist in management, operation, maintenance and administration of said Corporation;
- (g) To make and enforce reasonable regulations concerning the use and enjoyment of said Condominium;
- (h) To own, maintain and improve, and to buy, sell, convey, assign, mortgage, or lease (as landlord or tenant) any real and personal property, including, but not limited to, any Unit in the Condominium, for any purpose of providing benefit to the members of the Corporation and in furtherance of any of the purposes of the Corporation;
- (i) To borrow money and issue evidences of indebtedness in furtherance of any or all of the objects of its business; to secure by mortgage, pledge or other lien;
- (j) To enforce the provisions of the Master Deed and Bylaws of the Condominium and of these Amended and Restated Articles of Incorporation and such Bylaws and Rules and Regulations of this Corporation as may hereinafter be adopted;
- (k) To do anything required of or permitted to it as administrator of said Condominium by the Condominium Master Deed or Bylaws or by Act No. 59 of Public Act of 1978, as amended;
- (l) To sue in all courts and to defend against any actions or suits brought against the Corporation or its Directors and Officers by any member of the Corporation or by any third

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party, and to participate in any and all actions and proceedings whether judicial, administrative, arbitrative, or otherwise; and

- (m) In general, to enter into any kind of activity, to make and perform any contract and to exercise all powers necessary, incidental or convenient to the administration, management, maintenance, repair, replacement and operation of said Condominium and to the accomplishment of any of the purposes thereof.

### **ARTICLE III**

#### **RESIDENT AGENT**

The name of the resident agent is Dennis Nagy (as of September 27, 2022).

### **ARTICLE IV**

#### **REGISTERED OFFICE**

The address of the registered office is: 768 West Hills Dr., South Lyon, MI 48178 (as of September 27, 2022).

The mailing address of the registered office is: P.O. Box 700103, Plymouth, MI 48170 (as of September 27, 2022).

### **ARTICLE V**

#### **ORGANIZATION**

The Corporation is organized on a nonstock, membership basis.

If organized on a nonstock basis, the description and value of its real property assets are: (if none, insert "none")

None

The Corporation is to be financed under the following general plan:

Assessment of members

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## ARTICLE VI

### EXISTENCE

The term of corporate existence is perpetual.

## ARTICLE VII

### MEMBERSHIP AND VOTING

The qualifications of members, the manner of their admission to the Corporation, the termination of membership, and voting by such members shall be as follows:

- (a) Each Co-owner of a Unit in the Condominium shall be a member of the Corporation, and no other person or entity shall be entitled to membership.
- (b) Membership in the Corporation shall be established by acquisition of fee simple title or the interest of a land contract vendee as per MCL 559.106(1) to a Unit in the Condominium and by recording with the Register of Deeds of Wayne County Michigan, a deed or other instrument establishing a change of record title to such Unit and the furnishing of evidence of same satisfactory to the Corporation, the new Co-owner thereby becoming a member of the Corporation, and the membership of the prior Co-owner thereby being terminated.
- (c) The share of a member in the funds and assets of the Corporation cannot be assigned, pledged, encumbered or transferred in any manner except as an appurtenance to his Unit in the Condominium.
- (d) Voting by members shall be in accordance with the provisions of the Bylaws of this Corporation.

## ARTICLE VIII

### NONLIABILITY AND ASSUMPTION OF LIABILITY FOR DIRECTORS AND OFFICERS

**Section 1. Elimination of Personal Liability for Volunteer Officers and Directors.** To the extent permitted by law, a director or volunteer Officer of the Corporation shall not be personally liable to the Corporation or its members for monetary damages for any action taken or any failure to take any action as a Director or volunteer Officer, except liability for any of the following:

- (a) for any breach of an Officer's or Director's duty of loyalty to the Corporation or its members;

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- (b) for acts or omissions not in good faith or which involve intentional misconduct, a knowing violation of the law, or which involve the intentional infliction of harm on the Corporation, its shareholders, or members;
- (c) resulting from a violation of MCL 450.2551;
- (d) the amount of a financial benefit received by a director or volunteer officer to which he or she is not entitled;
- (e) for any act or omission that is grossly negligent;
- (f) an intentional criminal act;
- (g) a liability imposed under section MCL 450.2497 (a).

Nothing contained in this Section 1 will be construed to extend the periods for the bringing of an action under any existing statutes of limitation, nor as a waiver of any defense which may be asserted on behalf of any volunteer.

**Section 2. Association's Assumption of Liability.** The Corporation assumes liability for all acts or omissions of a volunteer Director, volunteer Officer or other volunteer occurring on or after the effective date of these Amended and Restated Articles if all of the following are met:

- (a) The volunteer was acting or reasonably believed he or she was acting within the scope of his or her authority.
- (b) The volunteer was acting in good faith.
- (c) The volunteer's conduct did not amount to gross negligence or willful and wanton misconduct.
- (d) The volunteer's conduct was not an intentional tort.
- (e) The volunteer's conduct was not a tort arising out of the ownership, maintenance, or use of a motor vehicle for which tort liability may be imposed as provided in Section 3135 of the insurance code of 1956, Act No. 218 of the Public Acts of 1956, being Section 500.3135 of the Michigan Compiled Laws.

Nothing contained in this Section 2 will be construed to extend the periods for the bringing of an action under any existing statutes of limitation, nor as a waiver of any defense which may be asserted on behalf of any volunteer.

To the extent permitted by law, no person or entity may bring or maintain a claim for monetary damages against a volunteer Director or volunteer Officer for any liability assumed by the Corporation for that Director or Officer under Section 2 above; any such claims must be brought and maintained against the Corporation.

**Section 3. Amendments to Michigan Nonprofit Corporation Act.** If the Michigan Nonprofit Corporation Act is amended to authorize corporate action further eliminating or limiting the personal liability of Officers or Directors, then the liability of the Officers and Directors of the Corporation shall be eliminated or limited to the fullest extent permitted by the Act, as so amended.

**Section 4. Volunteer Liability in the Event of Amendment or Repeal of this Article.** Any repeal, modification or adoption of any provision in these Amended and Restated Articles of Incorporation inconsistent with this Article shall not adversely affect any right or protection of the volunteer Officers and volunteer Directors of the Corporation existing at the time of such repeal, modification or adoption.

**Section 5. Definition of "Volunteer."** For purposes of this Article, "volunteer Director" means a Director who does not receive anything of more than nominal value from the Corporation for serving as a Director other than reimbursement for actual, reasonable and necessary expenses incurred by the Director in their capacity as a Director.

For purposes of the Article, "non-Director volunteer" or "volunteer" means an individual, other than a volunteer Director, performing services for a nonprofit corporation at the request or appointment of the Board of Directors who does not receive compensation or any other type of consideration for the services other than reimbursement for reasonable and necessary expenses actually incurred.

## ARTICLE IX

### INDEMNIFICATION

In addition to the provisions of Article VIII, the Corporation may indemnify its volunteer Directors, volunteer Officers, non-Director volunteers or agents in the following manner:

**Section 1. Corporation's Power to Indemnify.** The Corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, and whether formal or informal including all appeals (including an action, suit, investigation or proceeding by or in the right of the Corporation), by reason of the fact that such person is or was a Director, Officer, volunteer, employee or agent of the Corporation, against expenses including actual and reasonable attorneys' or other professionals' fees, judgments, decrees, fines, penalties, costs and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit, investigation or proceeding. Notwithstanding the above, a volunteer Director, volunteer Officer, volunteer, employee or agent of the Corporation will not be entitled to

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indemnification for any claims that were brought by the Corporation, against a volunteer Director, volunteer Officer or other volunteer, except pursuant to MCL 450.2564a.

The Corporation may indemnify a person that was or is a party or is threatened to be made a party to a threatened, pending, or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that the person is or was a director, officer, employee, nondirector volunteer, or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, partner, trustee, employee, nondirector volunteer, or agent of another foreign or domestic corporation, business corporation, partnership, joint venture, trust, or other enterprise, whether for profit or not, for expenses, including attorneys' fees and amounts paid in settlement actually and reasonably incurred by the person in connection with the action or suit if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the Corporation or its shareholders or members. The Corporation shall not indemnify a person for a claim, issue, or matter in which the person is found liable to the Corporation except to the extent authorized under section 564c.

**Section 2. Determination of Right to Indemnification.** Any indemnification under Section 1 will be made by the Corporation upon the determination that indemnification of the volunteer Director, volunteer Officer, volunteer, employee or agent is proper under the circumstances. Such determination must be made in at least one of the following manners:

- (a) By a majority vote of Directors acting at a meeting at which a quorum consisting of Directors who were not parties or threatened to be parties to such action, suit, investigation or proceeding is present;
- (b) If the Board is unable to obtain a quorum under subdivision (a), then by majority vote of a committee that is duly designated by the Board and that consists solely of 2 or more Directors who are not at the time parties or threatened to be made parties to the action, suit, investigation or proceeding;
- (c) By independent legal counsel in a written opinion. The Corporation must select counsel to prepare the opinion in 1 of the following ways:
  - (i) By the Board or a Committee of Directors in the manner described in subdivision (a) or (b).
  - (ii) If the Board is unable to obtain a quorum under subdivision (a) and the Board is unable to designate a committee under subdivision (b), by the Board.
- (d) By the members, except those that are parties or threatened to be made parties to the action, suit, investigation or proceeding;
- (e) All Directors may participate in designating a committee under subsection (2) (b) or in selecting independent legal counsel under subsection (2)(c)(ii);

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- (f) If a person is entitled to indemnification under MCL 450.2562 or a portion of expenses, including reasonable attorneys' and other professional fees, judgments, penalties, fines, and amounts paid in settlement, but not for the total amount, the Corporation may indemnify the person for the portion of the expenses, including reasonable attorneys' and other professional fees, judgments, penalties, fines, or amounts paid in the settlement for which the person is entitled to be indemnified.

**Section 3. Authorization of Payment of Indemnification.** The Corporation shall authorize payment of indemnification under this Article in any of the following ways:

- (a) By the Board in 1 of the following ways:
  - (i) If there are 2 or more Directors who are not parties or threatened to be made parties to the action, suit, investigation, or proceeding, by a majority vote of all Directors who are not parties or threatened to be made parties, a majority of whom shall constitute a quorum for this purpose.
  - (ii) By a majority of the members of a committee of 2 or more Directors who are not parties or threatened to be made parties to the action, suit, investigation, or proceedings.
  - (iii) If there are fewer than 2 Directors who are not parties or threatened to be made parties to the action, suit, or proceeding, by the vote necessary for action by the Board under MCL 450.2523. All Directors may participate in authorization under this subparagraph.
- (b) By the members, except those that are parties or threatened to be made parties to the action, suit, investigation, or proceeding may not vote on the authorization.

**Section 4. Expenses.**

- (a) Expenses of each person indemnified hereunder incurred in defending civil, criminal, administrative, or investigative action, suit, investigation, or proceeding including all appeals, or threat thereof, may be paid by the Corporation in advance of the final disposition of such action, suit, investigation, or proceeding as authorized by the Board of Directors, notwithstanding whether a disinterested quorum exists, upon receipt of an undertaking by or on behalf of the Director, Officer, or volunteer to repay such amount unless it will be determined that such person is not entitled to be indemnified by the Corporation. The undertaking will be an unlimited general obligation of the person on whose behalf advances are made, but need not be secured.
- (b) All such assumption of liability, indemnity and payment of all expenses for any person shall be to the extent authorized in MCL 450.2564a, 450.2564b and 450.2564c unless such person:

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- (i) received a benefit to which they were not entitled;
- (ii) intentionally inflicted harm on the Corporation or its members;
- (iii) violated MCL 450.2551; or
- (iv) intentionally committed a criminal act.

**Section 5. Advance Payment of Expenses.**

- (a) The assumption of liability under Article VIII or the indemnification or advancement of expenses provided by this Article IX will not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses might be entitled as a matter of law or under the Amended and Restated Articles of Incorporation, the Condominium Master Deed, Condominium Bylaws, or any contractual agreement.
- (b) The total amount of expenses for indemnification from all sources combined will not exceed the amount of actual reasonable and necessary expenses incurred by the person seeking indemnification or advancement of expenses.
- (c) The indemnification provided for in this Article will continue as to any person who has ceased to be a Director, Officer, or volunteer and will inure to the benefit of heirs, executors, and administrators but not assigns of such a person.
- (d) All persons/entities for whom liability was assumed or expenses, costs, attorneys' or other professional fees were advanced for purposes of assumption of liability pursuant to Article VIII or paid for purposes of indemnification pursuant to Article IX, shall furnish the Corporation a written agreement, executed personally or on the person's behalf, to repay any and all advances or expenses or fees if it is ultimately determined that the person did not meet the standard of conduct required under the Condominium Documents.

**Section 6. Directors and Officers Liability Insurance.** The Corporation may purchase and maintain insurance on behalf of any person who is, or was, a Director, Officer, or Volunteer of the Corporation, or is, or was, serving at the request of the Corporation as an unpaid, Volunteer Director, Officer, or Volunteer of another corporation whether nonprofit or for profit, partnership, joint venture, trust, or other enterprise against any liability asserted against said person and incurred by said person in any such capacity or arising out of their status as such, regardless of whether the Corporation would have the power to indemnify them against such liability under the provisions of this Article or the Michigan nonprofit Corporation Act, Act 162 of 1982, MCL 450.2101, et al., as amended.

## ARTICLE X

### FAIR HOUSING LAWS

**Section 1. General.** The National Fair Housing Act (Title VIII of the Civil Rights Act of 1968, as amended) and the Michigan Elliott-Larsen Civil Rights Act (Public Act 453 of 1976) generally prohibit certain types of discrimination in sale, rental, and in other housing-related transactions, based on race, color, national origin, religion, sex, sexual orientation, gender identity, familial status, and disability.

**Section 2. Administrative Responsibility.** The Association shall be responsible for administering the Condominium in full compliance with the National Fair Housing Act, the Michigan Elliott-Larsen Civil Rights Act and any other applicable federal, state and local fair housing laws, as well as any and all regulations and administrative rules issued pursuant thereto.

## ARTICLE XI

### AMENDMENTS TO ARTICLES OF INCORPORATION

These Amended and Restated Articles of Incorporation may be amended by the affirmative vote of a majority of the Members of the Corporation qualified, eligible and entitled to vote.

## ARTICLE XII

### ENFORCEABILITY

The invalidity or unenforceability of any provision of these Amended and Restated Articles of Incorporation will not affect the validity or enforceability of the remaining provisions of these Articles.

## ARTICLE XIII

### ACTION WITHOUT MEETING

Subject to any specific provisions of these Articles, the Condominium Master Deed or the Bylaws that might expressly provide otherwise, any action that may be taken at an Association membership meeting (other than the election or removal of Directors) may be taken without a meeting by a written vote or ballot of the members. Written votes or ballots shall be solicited in the same manner as provided in the Corporation's Condominium Bylaws for the giving of notice of Corporation meetings. Such solicitations shall specify:

- (1) the proposed action;

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- (2) that the member can vote for or against any such proposed action;
- (3) the percentage of approvals necessary to approve the action; and
- (4) the time by which written votes must be received to be counted.

Approval by written vote or ballot shall be constituted by receipt, within the time specified in the written vote or ballot, of a number of approvals that equals or exceeds the number of votes that would be required for approval if the action were taken at a meeting.

## ARTICLE XIV

### REMOVAL OF DIRECTORS

Subject to the provisions and procedures set forth in the Condominium Bylaws regarding the removal of Director by a vote of the Co-owners, at any special meeting of the Association duly called and held, any one or more of the Directors may be removed with or without cause by the affirmative vote of those Co-owners who represent more than 50% of all of the Units in the Condominium (not just 50% of those Units who are present at the meeting, or who might be entitled to vote at the meeting), and a successor may then and there be elected to fill any vacancy created.

The quorum required to elect any successor of a removed Director shall be the normal quorum requirement set forth in the Bylaws. Any Director whose removal had been proposed shall be given an opportunity to be heard at the meeting. A vote to remove a Director must be held at a special membership meeting and cannot be held solely by written ballot or consent without a meeting.

*These Amended and Restated Articles of Incorporation were duly adopted on April 5, 2022 by a vote of the members in accordance with the provisions of Section 641 of the Michigan Nonprofit Corporation Act, MCL 450.2641.*

*The necessary votes were cast in favor of these Amended and Restated Articles of Incorporation.*

**RIVER BEND PLYMOUTH  
CONDOMINIUM ASSOCIATION, a  
Michigan nonprofit corporation**

By: \_\_\_\_\_

  
Jeff Horka

Its: President

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