

# BY-LAWS

Lake Ogemaw Summer Resort Association  
(LOSRA)

November 25, 2017

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# Lake Ogemaw Association Bylaws

## ARTICLE 1

### THE ASSOCIATION

- 1.1 The "Lake Ogemaw Summer Resort Association" was incorporated as a summer resort association on November 14, 1969, and is hereinafter referred to as the "Association".
- 1.2 The Association is incorporated under Act No. 137, P.A. 1929, as amended, being sections 455.201 through 455.220 of Michigan Compiled Laws, as amended, hereinafter referred to as the "Act".
- 1.3 The office of the Association is at the Clubhouse, 2916 Rifle River Trail, Business Loop, West Branch, Michigan, 48661. The mailing address is P.O. Box 472, West Branch, Michigan, 48661, which can be changed when necessary by the Association's Board of Trustees.
- 1.4 The Association was formed and continues to exist to exercise jurisdiction over all lands embraced within its corporate jurisdiction (Article 3.1) and to assume all of the rights and powers granted and all of the obligations imposed by the Act, as well as all ordinances and applicable laws of Churchill and Mills Townships, the County of Ogemaw, the State of Michigan and the United States of America.
- 1.5 Association The has four (4) principal missions:
  - 1.5.1 To continuously maintain the structural and functional integrity of the dam and spillway.
  - 1.5.2 To continuously protect, preserve, and enhance Lake Ogemaw.
  - 1.5.3 To require that all property within the corporate jurisdiction of the Association be kept in a decent, safe, sanitary and blight-free condition.
  - 1.5.4 To use the powers granted by the Act, to preserve and enhance the health, safety and welfare of all Association members.
- 1.6 Unless expressly stated otherwise, in these by-laws, the Act, or any of the deed restrictions or covenants binding the properties within the corporate jurisdiction of the Association, any member of the Association who shall violate any provision of these by-laws shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine and/or confinement in the discretion of the court. Upon conviction, the court may also assess reasonable attorney fees and court costs against the member. All fines and costs are payable to the Association and if delinquent shall become a lien upon the land of the delinquent member's property and is subject further to collection by foreclosure and/or suit for monetary judgment.

## ARTICLE 2

### DEFINITIONS

The following words and terms shall have the following meanings for purposes of these by-laws.

- 2.1 **Act:** is P.A. 1929, No. 137, as amended, also being 455.201 through 455.220 of Michigan Compiled Laws, as amended.
- 2.2 **Annual Meeting:** is the annual meeting of the Association as specified in 455.208 of the Act.
- 2.3 **Articles:** are the articles of the Association which established the corporation and are filed with the Commerce Department of the State of Michigan (or its successor Agency).
- 2.4 **Assessment:** is a monetary charge or dues imposed on each lot within the corporate jurisdiction of the Association and which is based on the pro-rated cost per lot, parcel or condominium unit determined by the Board to meet the monetary demands of the Association for operating expenses and necessary projects as outlined in the budget.
- 2.5 **Association:** is the Lake Ogemaw Summer Resort Association.
- 2.6 **Blight** is a nuisance or combination of nuisances existing within the property lines of the offending property which has one or more of the following characteristics: (a) adversely affects adjoining properties, (b) does not meet reasonable public standards, (c) reduces neighborhood property values, and/or (d) is offensive to the health and comfort of the Association members and others.
- 2.7 **Board:** is the Board of Trustees of the Association
- 2.8 **By-laws:** this document (as it may be amended from time to time) and which by-laws are also Association rules by which both the Board and members are required to operate, adopted chiefly for governing Association members and the regulation of its affairs.
- 2.9 **Clerk:** a clerical employee of the Association, whose primary responsibility is to keep records or accounts and to perform general office work for the Association.
- 2.10 **Clubhouse:** is the Association building housing the office and social center.
- 2.11 **Common areas:** are all the lands and property owned, leased, and /or controlled by the Association, including platted road rights-of-way, parks, boat launch, club house and certain platted lots and/or parcels.
- 2.12 **Condominium:** is a housing project allowing an owner to purchase a unit in a multiunit structure or on land owned in common. It can also be a unit as defined in the Michigan Condominium Act.
- 2.13 **Corporate jurisdiction:** is the geographical area over which the Association exercises jurisdictional rights (including Lake Ogemaw) and over its freeholders and all real property owned by its freeholders.

- 2.14 **Corporate powers:** is the Associations power of jurisdiction and police power over all freeholders and their real property.
- 2.15 **County:** is Ogemaw County, Michigan.
- 2.16 **Disorderly conduct:** is any act or action which disturbs the peace and/or is offensive to the health and comfort of freeholders and occupants of real property located within the corporate jurisdiction of the Association.
- 2.17 **Dues:** Each freeholder's pro-rated cost of the annual or ordinary and routine expenses in operating the Association. Dues and assessments may be collected jointly for bookkeeping purposes at the discretion of the Board.
- 2.18 **Entirety :** is a freeholder's one hundred percent (100%) ownership of real property
- 2.19 **Fee simple:** is real property owned in its entirety as evidenced by a warranty deed and/or marketable title under which the owner is entitled to unrestricted powers to dispose of the property, and which can be left by will or inherited.
- 2.20 **Freeholder:** is a member, his/her spouse, or the trustee of a living will owning an inheritable interest in real property in its entirety, located within the corporate jurisdiction of the Association. Freeholders may also include a mortgagee, land contract vendee, condominium owner or one (1) designee of a group of multiple co-owners owning an inheritable interest or marketable title in its entirety to real property located within the corporate jurisdiction of the Association. Renters and persons leasing are not freeholders.
- 2.21 **Guest:** is a person or persons gratuitously visiting a member of the Association. Members are held strictly accountable for the actions of their guest(s) who must obey all applicable Association orders and by-laws while visiting.
- 2.22 **Lien:** is a recorded instrument filed by the Association with the county register of deeds records notifying the public and encumbering the real property of the member resulting from debt(s) owed to the Association. A lien is normally filed prior to foreclosure proceedings.
- 2.23 **Lot:** a parcel, condominium unit, or lot located within the corporate jurisdiction of the Association.
- 2.24 **Majority:** is a simple majority of any number of members present at a meeting.
- 2.25 **Marshal:** is a police officer with arrest powers. (See MCL 455.215 and 455.216)
- 2.26 **May:** is discretionary.
- 2.27 **Member:** is a qualified freeholder who has voluntarily or been compelled to join the Association.
- 2.28 **Member in good standing:** is any member of the Association whose dues, assessments, fines, interest and penalties have been paid and whose account is current and whose property complies with all Association orders and requirements.

- 2.29 **Must:** is mandatory.
- 2.30 **Nolo contendere:** (literally, "I do not wish to contest." A plea in a criminal prosecution that without admitting guilt subjects the defendant to conviction but does not preclude denying the truth of the charges in a collateral proceeding.
- 2.31 **Non-profit corporation:** is a corporation that is classified as non-profit by the State of Michigan. The Association is generally so classified, but it is also a summer resort association under the Act.
- 2.32 **Nuisance:** is a condition that is offensive to the health and comfort of the members, and/or any unsanitary condition of any lands owned by Association members. A blight is also a nuisance. Also, any condition within the corporate jurisdiction of the Association which adversely affects contemporary community standards of morality, decency or conduct.
- 2.33 **Owner:** is a freeholder.
- 2.34 **Office:** is the office of the Association.
- 2.35 **Order:** are published rules and regulations of the Association.
- 2.36 **Proxy:** is a vote for a trustee(s) filed with the Secretary of the Association prior to the annual meeting. The Act does not authorize any other use of a proxy in the Association.
- 2.37 **Perpetual:** is authorization by Michigan law for domestic corporations to exist indefinitely if stated in its articles. The Association is perpetual.
- 2.38 **President:** is the President of the Association.
- 2.39 **Police power:** is the power granted to the Association by the Act to exercise jurisdiction and to enact and enforce by-laws and orders over its members based upon enhancing their health, safety and welfare, and includes the abatement of nuisances and unsanitary conditions within the corporate jurisdiction of the Association.
- 2.40 **Quorum:** is the minimum number of trustees who must be present for voting on motions at the meeting.
- 2.41 **Property:** is all real and personal property owned by Association members including lots, parcels and condominium units.
- 2.42 **Referendum:** is an action by members to overrule or by-pass the Board.
- 2.43 **Regular meeting:** is a regularly scheduled monthly Board meeting.
- 2.44 **Secretary:** is the Secretary of the Association.
- 2.45 **Shall:** is mandatory.

- 2.46 **Super majority:** is a majority of two-thirds (2/3) of the votes cast on an issue where quorum is present.
- 2.47 **Treasurer:** is the Treasurer of the Association. The office of secretary and treasurer may be combined by the Board.
- 2.48 **Trustee:** is one of seven (7) representatives elected by the freeholders of the Association.
- 2.49 **Vice-president:** is the Vice-president of the Association.

### ARTICLE 3

#### CORPORATE JURISDICTION

- 3.1 **DESCRIPTION** The following described area comprises the corporate (territorial) jurisdiction of the Association: of said Section 34 Part of Sections 34 and 35, T22N, R3E, Churchill Township and part of Sections 2 and 3, T21N, R3E, Mills Township, Ogemaw County, Michigan, described as: Beginning at the Southwest corner of said Section 34; thence NORTH along the West line of said Section 34, approximately One-half mile to the West One-quarter corner of said Section 34; thence EAST, along the East-West One-quarter line of said Section 34, approximately 1 mile to the One-quarter corner common to said Sections 34 and 35; thence continuing EAST, along the East-West One-quarter line of said Section 35, approximately One half mile to the center of said Section 35; thence SOUTH along the North-South One quarter line of said Section 35, approximately One-half mile to the South One-quarter corner of said Section 35; thence along the line common to said Sections 35 and 2 to the North One-quarter corner of said Section 2; thence SOUTH, along the North-South One-quarter line of said Section 2, approximately One-half mile to the center of said Section 2; thence WEST along the East-West One-quarter line of said Section 2, approximately One-quarter mile to the West-One-eighth line of said Section 2; thence SOUTH, along said West One-eighth line, approximately One-half mile to the South line of said Section 2; thence WEST, along the South line of said section 2, approximately One-quarter mile to the Southwest corner of said Section 2; thence NORTH, along a line common to said Sections 2 and 3, approximately One-quarter mile to the South One-eighth line of said Section 3; thence WEST, along said South One-eighth line, approximately One-quarter mile to the East One-eighth line of said Section 3; thence SOUTH, along said East One-eighth line, approximately One-quarter mile to the South line of said Section 3; thence WEST, along the South line of said section 3, approximately One-half mile to the West One-eighth line of said section 3; thence NORTH, along said West One-eighth line, approximately One-half mile to the East-West One-quarter line of said section 3; thence WEST along said East-West One-quarter line, approximately 600 feet to the Southwest corner of the Plat of Lake Ogemaw No. 6, as recorded in Liber 4 of Plats on Page 45 of the Ogemaw County, Michigan Public Records; thence NORTH, along the West line of said Plat of Lake Ogemaw No. 6 and the Plat of Lake Ogemaw No. 4, as recorded in Liber 4 of Plats on Page 37 of the Ogemaw County, Michigan Public Records, 1050 feet, more or less to the South line of South Ogemaw Trail; thence WEST, along the South line of South Ogemaw Trail, 283 feet, more or less to the West line of Rifle River Trail; thence on the following three courses along said West line , parallel to and 50 feet West of the centerline of Rifle River Trail as presently constructed, NORTHERLY, approximately 400 feet to the PC of a curve; thence N30 W 625 feet to the PT of a curve; thence NORTHWESTERLY along a curve to the right, approximately 100 feet to the West line of said Section 3; thence NORTH, along said West line of Section 3, 378 feet to the Northwest corner of said Section 3, also being the Southwest corner and back to the point of beginning.

<sup>1</sup>Description provided by Paul B. Lapham & Associates Inc., year 2001. If the original documents for the

Association describe a larger geographical area than the above or additional properties than are included in the above, the original Association documents shall be applicable and such larger geographical area and additional areas shall apply in addition to the above properties. The above description is for general identification purposes only and is not intended to be a definitive legal description for purposes of these by-laws.

#### ARTICLE 4

##### MEMBERSHIP, ANNUAL MEETING AND ELECTIONS

#### 4.1 MEMBERS

4.1.1 Members must be Freeholders of land within the corporate jurisdiction of the Association as described in Article 3.1. All owners of real property within the corporate jurisdiction must be members of the Association.

4.1.2 Shall have membership terminated upon the alienation of their property within the corporate jurisdiction.

4.1.3 Must abide by the rules and regulations, orders, and by-laws of the Association, as well as the Act.

4.1.4 Are responsible for the actions of their guests and informing them of applicable orders and by-laws of the Association.

4.1.5 Have the right to demand a referendum vote pursuant to procedures specified by these by-laws.

4.1.6 Have the privilege of running for election to and (if elected) serving on the Board of Trustees.

#### 4.2 ANNUAL MEMBERSHIP MEETING

4.2.1 The Annual meeting will be held in Ogemaw County, Michigan, between June first and August thirty-first, unless members are informed beforehand by the Board. The Board may vary the date and location of the annual meeting upon advance notice to the members. .

4.2.2 May adjourn from day to day.

4.2.3 Trustees will be elected to fill all vacancies and the results announced.

4.2.4 Will be presided over by the President of the Association, with the Secretary recording minutes of the meeting.

4.2.5 Trustees will submit a written report of the management of the business of the Association, the condition of its property, its assets and liabilities and upon such other matters as may be proper and of general interest to the members. This report must include progress on the short and long range plans of the Association.

4.2.6 Will transact any other business mentioned in the notice for the meeting.



4.2.7 Immediately following the annual membership meeting, the Board will meet to elect officers for the current year and conduct any other appropriate business.

4.2.8 Primarily intended for members to voice their opinion(s) in matters concerning the Association.

### 4.3 ELECTIONS

#### 4.3.1 VOTING AT THE ANNUAL MEETING

4.3.1.1 Members of the Association shall be entitled to one (1) vote.

4.3.1.2 Couples, owning property by entireties, shall be entitled to one (1) vote each.

4.3.1.3 Ownership of land by a legal entity, other than an individual or as a couple, is entitled to only one (1) vote. The Secretary of the Association must be notified as to the name of such a voter at least two (2) days prior to the annual membership meeting.

4.3.1.4 Choice of trustees, budget approval and referendum items will be by a majority of all votes cast.

4.3.1.5 In the event of a tie for trustee, an officer from the Board will draw the winning name from a container containing the names of the tied candidates.

4.3.1.6 Membership voting will be by mail in ballots or delivery of ballots to the Association clerk until such time that the Board authorizes the inclusion of electronic voting or other acceptable methods.

4.3.1.7 Member's ballots shall be received by 9:30 a.m. at the annual membership meeting.

#### 4.3.2 REFERENDUM VOTE

4.3.2.1 When members disagree with the Board on any issue affecting the Association, they have the right to initiate a referendum vote.

4.3.2.2 A petition detailing the actions of the Board that they object to may be given to any Board member once the petition receives the signatures of 25% of the total number of ballots cast in the last annual membership meeting election.

4.3.2.3 All actions being objected to on the petition must cease upon receipt of the petition by the Board member.

4.3.2.4 The Board member then has 10 days to notify the entire board, have the Clerk validate the names on the petition, and ensure the petition is mailed to the entire membership for a vote.

4.3.2.5 The members have 20 days from the mailing date to return their vote to the Association Clerk by mail

or in person.

4.3.2.6 The mailing must contain the original petition for voting and the date, time and location of the Special Meeting. The board may choose to include material in the mailing to refute the petition.

4.3.2.7 The votes will be opened and counted by the Election Committee at an open Special Meeting. The Special Meeting must be held within 21 days of the due date for the return of the ballots (Ref 4.3.2.5).

4.2.3.8 At the Special Meeting, the results will be determined by a majority of all votes cast.

4.2.3.9 The Board is bound by the results of the referendum.

### 4.3.3 CANDIDATES FOR TRUSTEE

4.3.3.1 Must be a voting member of the Association.

4.3.3.2 Must be current in all payments to the Association.

4.3.3.3 Only one (1) member of any immediate family (i.e., mother, father, spouse, brother, sister, son, daughter, mother-in-law, father-in-law, grandparents, and legal dependents, including adopted children), may hold office on the Board.

4.3.3.4 Must file a written notice of their desire to be a candidate with the clerk.

4.3.3.5 Only those candidates whose names have been printed on the ballot will be eligible for election.

### 4.3.4 NOTICE OF ELECTION

4.3.4.1 Ballots for election shall be mailed by the Association to members along with the notice of the Annual Meeting.

4.3.4.2 Ballots must be mailed to members a minimum of (15) days prior to the Annual Meeting.

4.3.4.3 Ballots may be picked up at the clubhouse and the remainder must be mailed to each member at their address as it appears on the records of the Association.

4.3.4.4 Members shall be deemed duly served when the same has been picked up or deposited by the Association in the U.S. mail with postage fully prepaid and plainly addressed to the member.

4.3.4.5 Proof of such mailing will be given by the person mailing the ballots in the form of a signed statement.

### 4.3.5 ELECTION RULES AND PROCEDURES

4.3.5.1 The Board is authorized to adopt reasonable rules and regulations regarding

Association elections and procedures, so long as such rules and regulations are consistent with these by-laws and the Act.

## ARTICLE 5

### BOARD OF TRUSTEES

#### 5.1 REQUIREMENTS

5.1.1 The Board of Trustees shall be composed of seven (7) members. Each Trustee must be a member of the Association.

5.1.2 Each Trustee's term of office shall be for three (3) consecutive years.

5.1.3 A Trustee, appointed by the Board, to fill a vacancy will serve until the next Annual meeting. A Trustee being elected at the next Annual meeting will serve for the remainder of the original term and not for a new three (3) year term, (unless the balance of the three-year term which was vacant expires at that election).

5.1.4 A newly-elected Trustee shall take office after being sworn in by the current Secretary.

#### 5.2 RESTRICTIONS

5.2.1 The Board and all members must abide by all local, state and federal laws.

5.2.2 The Board and all members must abide by the Association's Articles of Incorporation, by-laws and any Association order or rule, and any referendum item approved by the membership.

5.2.3 The Board must obtain approval from the membership for any expenditures exceeding the approved fiscal year budget by more than 10% of the total approved budget, except any dam repairs, spillway repairs or lake pollution cleanup.

5.2.4 The Board may transfer amounts up to and including \$10,000.00 from one budget category to another with a majority vote of the Board. If the amount to be transferred to a different budget category exceeds \$10,000, the Board must unanimously approve the transfer.

#### 5.3 DUTIES AND POWERS OF THE BOARD

5.3.1 The Board shall annually establish, publish and amend a Long Range Plan (10 years) a Short Range Plan (5 years) and an annual plan, which shall become a part of the permanent record of the Association.

5.3.2 The Board shall establish and implement an inspection and maintenance program for the Association dam and spillway including the keeping of accurate records to create a permanent history properly filed and

maintained at the Clubhouse office.

5.3.3 The Board shall annually review and update, as required, the Emergency Action Plan for the Association dam.

5.3.4 The Board shall establish and implement a program to regularly monitor water quality and weed control of Lake Ogemaw, including the keeping of accurate records to create a permanent history properly filed and maintained at the Clubhouse office.

5.3.5 To manage and control all property, real and personal, of the Association

5.3.6 To represent the Association with full power and authority to act in all matters subject only to Article 5.2 and the Act.

5.3.7 To elect officers of the Association from the Board.

5.3.8 To appoint and/or employ such employees, agents, and personnel, as it deems necessary to carry out Association business.

5.3.9 To utilize the proceeds of assessments for the purposes set forth in the budget.

5.3.10 To maintain, enhance, protect, improve, operate and purchase insurance for the properties of the Association and to inspect and identify damaged Association property and repair or replace as needed.

5.3.11 To enforce by legal means the provisions of the Act and the by-laws, orders, and rules of the Association.

5.3.12 The Board may require any officer or agent to file with the Association a satisfactory bond conditioned for faithful performance of his/her duties when in the best interest of the Association.

5.3.13 To negotiate for and authorize the borrowing of money and the issuance of evidence of indebtedness up to the anticipated income as authorized by the Association budget. The exception would be a catastrophic event involving the dam and/or spillway, which would permit borrowing in excess of the budget.

5.3.14 To report to the state and/or local agencies, any and all owners violating safety or health codes.

5.3.15 The Board may conduct advisory membership surveys and/or hold hearings to assist it in deciding issues.

5.3.16 The Board shall have the power to adopt orders, as well as rules and regulations, governing the use of Lake Ogemaw, the common areas, and such other topics as are authorized by these by-laws and the Act.

#### 5.4 RESIGNATIONS AND REMOVAL

5.4.1 If a Trustee vacates their position within 30 days of their election, the non-elected candidate who received

the next highest number of votes will complete the Trustee's term.

5.4.2 A Trustee position will become vacant:

5.4.2.1 By death.

5.4.2.2 Upon the sale of their property within the corporate jurisdiction of the Association.

5.4.2.3 By submitting a letter of resignation.

5.4.2.4 By being more than 60 days in default regarding any dues or assessments owed to the Association.

5.4.2.5 By referendum vote of the members.

5.4.2.6 By failing to attend three- (3) successive regularly scheduled meetings of the Board.

## 5.5 BOARD OF TRUSTEES MEETING

5.5.1 Regular meetings are scheduled for 9:00 a.m. on the third Saturday of each month in the Clubhouse, subject to change by the Board.

5.5.2 Regularly scheduled meetings may be cancelled for the months of November, December, January, and February at the Board's discretion.

5.5.3 Trustees may participate in a meeting by means of telecommunication conference provided all participants can hear and communicate with each other and are party to all available information. Such participation shall constitute presence in-person.

5.5.4 Four (4) Trustees may call an unscheduled meeting of the Board by notifying each Trustee personally or by mail, telephone, telegram or E-mail.

5.5.5 Five (5) members of the Board shall constitute a quorum.

5.5.6 A proposal must receive a minimum of four (4) votes to be approved as an act of the Board.

5.5.7 In the absence of the President and Vice President, such trustee as designated by the Board members shall preside.

## ARTICLE 6

### OFFICERS

#### 6.1 PRESIDENT

6.1.1 Shall be the chief executive officer of the Association.

6.1.2 Shall preside at all meetings of the membership and the Board.

6.1.3 Shall assist in ensuring that all orders and resolutions of the Board are carried into effect.

6.1.4 Shall have the power, with the approval of the Board, to appoint a committee chairperson for each authorized committee from the membership.

6.1.5 Shall have all powers and duties that are traditionally vested in the office of President of this type association as well as those duties specifically defined in other articles and sections of these by-laws.

6.1.6 Shall have the door locks of the Association building changed as necessary to ensure the security of the building by an approved lock smith and distribute keys as directed by the Board.

#### 6.2 VICE-PRESIDENT

6.2.1 Shall perform and exercise the powers of the President when absent or disabled.

6.2.2 Shall perform the duties of the office of Vice-President or as may be prescribed by the Board.

#### 6.3 SECRETARY

6.3.1 Shall be responsible for all notices required by statute, these by-laws, or any Board resolution, including membership and Board meetings..

6.3.2 Shall attend and record the true minutes of all membership and Board meetings.

6.3.3 Shall be responsible for all books and records of the Association except those of the Treasurer.

6.3.4 Shall perform such other duties as are normally associated with the office or as may be directed by the Board

6.3.5 Shall be responsible for all communications outside of the Association except those of the Treasurer. .

#### 6.4 TREASURER

6.4.1 Shall be responsible for all Association funds, securities and evidence of indebtedness.

6.4.2 Shall be responsible for keeping in the books of the Association, a full, accurate, and detailed account of all receipts and disbursements.

6.4.3 Shall be responsible for depositing all monies, securities and other valuable effects in the name of the Association, in such depositories as may be designated by the Board.

6.4.4 Shall be responsible for keeping accurate records of all disbursement of funds of the Association and as may be ordered by the Board.

6.4.5 Shall be responsible for reporting to the President and the Trustees an account of any or all transactions by the Treasurer at regular meetings, or whenever requested by them.

6.4.6 May be required to keep in force a bond in an amount and with such financial institution as is satisfactory to the Board.

## ARTICLE 7

### FISCAL MANAGEMENT

7.1 FISCAL YEAR The fiscal year of the Association shall be from July 1 thru June 30 of each year.

7.2 ANNUAL BUDGET

7.2.1 The Board shall prepare a budget of the estimated expenses necessary for the management and control of all business and property, real and personal, of the Association for the next fiscal year. The Budget will consist of two (2) funds- the Operating Fund and a Dam & Spillway Fund.

7.2.1.1 Each fund shall maintain and keep separate accounts, records and bank accounts, deposit applicable assessments, and pay appropriate expenses from said bank accounts.

7.2.1.2 The Dam & Spillway Fund budgeted amount to be assessed to members shall be determined in accordance with the Long and Short Range plans published by the Board as set forth in Article 5.3.1 hereof.

7.2.1.3 The Operating Fund Budget will consist at a minimum, of at least three (3) categories:

7.2.1.3.1 Lake Maintenance

7.2.1.3.2 Property Maintenance

7.2.1.3.3 General Operations

7.2.1.3.4 These three categories are intended to provide funding for Building Utilities, Building Maintenance, Taxes, Property Maintenance, Wages, Legal Fees, Insurance, Lake Treatment, Dam and Spillway Maintenance,

Fish Sustainability, etc.

7.2.1.3.5 Allocation of funds must be included in the budget for future expenditures that are on the Strategic Plan and approved by the Board.

7.2.1.4 The Operating Fund Budget is not intended to be a line item budget but is intended to be a category budget.

7.2.1.5 Any category budgeted funds unexpended at the end of the fiscal year shall be given consideration in budget planning for the next fiscal year budget categories.

7.2.2 The budget will be completed in February and posted each year in the month of March.

7.2.3 At the regularly scheduled Board meeting in April, the Board shall have an open meeting for the discussion of the proposed budget by all members present. At this meeting the proposed budget may be amended and put in final form for submission to the membership at-large for approval by member vote.

7.2.4 If the members approve the budget as proposed, the Board may assess the appropriate annual dues and special assessments against its members for the purpose of raising those funds to carry out the business of the Association.

7.2.5 If the members do not approve the budget as proposed, the Board may assess annual dues and special assessments equal to amounts assessed for the immediate past fiscal year for the purpose of raising those funds necessary to carry out the business of the Association for the next fiscal year.

### 7.3 ASSESSMENTS

7.3.1 The board may prescribe the time and manner of payment and collection.

7.3.2 Annual dues are to be levied one (1) general assessment per lot or parcel.

7.3.3 Special assessments are to be levied per lot or parcel.

7.3.4 Delinquent dues and assessments shall become a lien upon the land of the delinquent member, under authority granted by MCLA 455.2219, and the Board may provide the manner and method of enforcing such lien.

7.3.5 Any special assessment approved by the membership shall be used only for the purpose approved and all special assessment funds collected and disbursed shall be controlled in accordance with standard accounting procedures and published with any and all audit reports and financial statements.

### 7.4 BILLING AND PAYMENT

7.4.1 The Board shall set the due date of dues and assessments.

7.4.2 It is the responsibility of the Treasurer to oversee the mailing or to present a statement of the assessments



to each of the members

7.4.3 All dues and assessments shall be payable to the Association, and upon request, a receipt for each payment shall be given to the member.

## 7.5 DEFAULT

7.5.1 Any assessment shall be in default if such assessment is not paid to the Association in full on or before the due date for such payment as set by the Board.

7.5.2 If any assessment is in default, a 10% late fee and 8% per annum interest shall be added while in default.

7.5.3 The assessment in default, plus the late fee and interest, shall become a lien upon the land of the delinquent member prior to all other liens except a tax lien in favor of any taxing authority and all sums unpaid on any first mortgage of record.

7.5.4 The lien may be foreclosed by suit brought by the Association in the same manner as a real estate mortgage foreclosure.

7.5.5 The Association may bid upon the property at a foreclosure sale and acquire, hold, lease, mortgage or convey the property.

7.5.6 A suit to recover a money judgment for unpaid assessments may be maintained without foreclosing or waiving the lien securing the same.

7.5.7 The member in default shall also be responsible for reimbursing the Association for all reasonable attorney fees and costs associated with enforcing or prosecuting the Association's interests (liens, court costs, filing fees, recording fees or any other fees) connected with legal action for collection of assessments.

## 7.6 AUDITS

7.6.1 Except for privileged items, the books of account of the Association shall be open for inspection by the members during reasonable working hours.

7.6.2 The books of account shall be audited no less than every second year by an independent outside certified public accountant as designated by the Board.

## ARTICLE 8

### EXECUTION OF INSTRUMENTS, ETC.

#### 8.1 CHECKS, ETC.

8.1.1 All bank accounts, investments, checks, drafts and orders for payment of monies shall be signed in the name of the Association.

8.1.2 Two (2) signatures of Board members shall be required on all checks, savings accounts, certificates, investments, etc.

8.2 CONTRACTS, ETC. When the execution of any contract or instrument has been authorized by the Board without specification of the executing officers, the President or Vice-President and the Secretary or Treasurer may execute the same in the name and on behalf of the Association. Two (2) signatures will be required.

## ARTICLE 9

### INDEMNIFICATION

9.1 POWER TO INDEMNIFY – NON-DERIVATIVE ACTION The Association shall have the power to indemnify any person who was or is a party or threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association) by reason of the fact that he/she is or was a member, employee, agent, officer or trustee of the Association, or is or was serving at the request of the Association, as an agent, employee, officer or director of another corporation, partnership, joint venture, trust or enterprise, against expenses, including attorney's fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him/her in connection with such action, suit or proceeding if he/she acted in good faith and in a manner he/she reasonably believed to be in or not opposed to the best interest of the Association, and with respect to any criminal action or proceeding, had no reasonable cause to believe his/her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not of itself create a presumption that the person did not act in good faith and in a manner to the best interest of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his/her conduct was unlawful.

#### 9.2 POWER TO INDEMNIFY – DERIVATIVE ACTION

The Association shall have the power to indemnify any person who has or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he/she is or was a member, employee, agent, officer or trustee of the Association, or is or was serving at the request of another corporation, partnership, joint venture, trust or other enterprise, against expenses, including attorney's fees, actually and reasonably incurred by him/her in connection with the defense and settlement of such action or suit if he/she acted in good faith and in a manner he/she believed to be in or not opposed to the best interest of the Association, and except that no indemnification shall be made in respect to any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his/her duty to the Association unless

and only to the extent that the court in which action or suit was brought shall determine upon application that, despite the adjudication of liability, but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

### 9.3 INDEMNIFICATION OF EXPENSES

To the extent that a member, agent, employee, officer or trustee of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in the aforementioned Article 9.1 and 9.2, or in defense of any claim, issue or other matter therein, he/she shall be indemnified against expenses, including attorney's fees actually and reasonably incurred by him/her in connection therewith.

### 9.4 AUTHORIZATION OF INDEMNIFICATION

Any indemnification under above mentioned Articles 9.1 and 9.2, unless ordered by a court, shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the member, agent, employee, officer or trustee is proper in the circumstances because he/she has met the applicable standard of conduct set forth in Articles 9.1 and 9.2. Such determination shall be made:

by the Board of Trustees, by a simple majority vote of a quorum consisting of trustees who were not parties to such action, suit or procedures; or,

if such a quorum is not obtainable, or even if obtainable, a quorum of disinterested trustees so directs, by independent legal counsel in a written opinion.

### 9.5 PAYMENT OF EXPENSES BEFORE LEGAL DISPOSITION

Expenses, including attorney's fees, incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized in the manner provided in above Article 9.4 upon receipt of an undertaking by or on behalf of the trustee, officer, employee or agent to repay such amount unless it shall ultimately be determined that he/she is entitled to be indemnified by the Association as authorized herein.

### 9.6 NOT EXCLUSIVE RIGHT

The indemnification provided herein shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any agreement, vote of disinterested trustees or otherwise, both as to action in his/her official capacity as to action in another capacity while holding office, and shall continue as to a person who has ceased to be a trustee, officer, employee or agent and shall inure to the benefit of heirs, fiduciaries and devisees of such person.

### 9.7 LIABILITY INSURANCE

The Association may purchase and maintain insurance on behalf of any person who is or was a trustee, officer, employee or agent of the Association, of, is or was serving at the request of the Association as a trustee, officer, employee or agent of another corporation partnership, joint venture, trust or other enterprise against any liability asserted against him/her and incurred by him/her in any such capacity or arising out of his/her status as such, whether or not the Association would have the power to indemnify him/her against such liability under

these by-laws.

## 9.8 INDEMNIFICATION OF FREEHOLDERS

In as much as all freeholders of land within the corporate jurisdiction of the Association are compelled either by deed restrictions or jurisdiction of the Association to become and remain members of the Association, they must be duly notified by the Association that by virtue of said ownership of such real property they may be exposed to liability for property damages or loss of life in a legal proceeding or suit following a failure of the Association dam. Although the Board is empowered under Article 9.1 and 9.2 to indemnify each individual Association member from liability in the event of a catastrophic dam failure, it may in addition encourage each member to assume the obligation of indemnification on him/herself through increased liability limits of his/her homeowner's insurance policy and/or by adding an umbrella endorsement.

## ARTICLE 10

### COMMITTEES

#### 10.1 STANDING COMMITTEES

10.1.1 Will be created by the Board and its members will be appointed by the Board.

10.1.2 Will report to the Board and will be advisory only.

10.1.3 Will serve at the convenience of the Board.

10.1.4 The Board shall specify the following:

Responsibilities.

Authority.

Term.

Tenure.

Budget.

#### 10.2 SPECIAL COMMITTEES

10.2.1 The Board may appoint a special committee or committees (and its members) when deemed appropriate or advisable.

10.2.2 May be used to carry out any function as may be directed by the Board

10.3 COMMITTEE CHAIRPERSON

10.3.1 Shall be appointed by the President, subject to approval of the Board.

10.3.2 A person who is not a member of the Association may be included on a committee if they are deemed by the Board to offer resources or counsel that further the purpose of the committee.

10.3.3 Each Chairperson shall be responsible for the minutes kept at their committee meetings and shall report to the Board at Board meetings.

10.4 ELECTION COMMITTEE

10.4.1 Will post a notice prominently in the Clubhouse concerning vacancies on the Board not less than ninety-(90) days preceding the next annual meeting.

10.4.2 Such notice will include the name and address of the person to whom any written notice of candidacy shall be directed.

10.4.3 Will accept the written notice of any qualified member desiring to be a candidate for the Board up to sixty (60) days preceding the next annual meeting.

10.4.4 Will place the names of all candidates on the ballot in the order that the names are drawn by lot.

10.4.5 Shall count all votes and make the results known.

10.4.6 Members' of the Election Committee shall not be an immediate family member of anyone on the Board of Trustees or of any of the candidates.

10.4.7 May begin counting votes for Trustee candidates on the day before the Annual Membership meeting and continue make count votes submitted up until 9:30 am the day of the Annual Meeting.

10.4.8 Are responsible for counting referendum and budget approval votes.

Its members shall be appointed by the Board.

## ARTICLE 11

### COMMON PROPERTIES

- 11.1 COMMON AREAS All areas designated as Common Areas within the corporate jurisdiction of the Association and which may be owned, leased or controlled, are to be considered as owned by the Association. They include, but are not necessarily limited to:
- 11.1.1 The Lake Ogemaw dam and spillway.
  - 11.1.2 The right-of way of roads dedicated in all Lake Ogemaw plats.
  - 11.1.3 Parks dedicated in all plats.
  - 11.1.4 The Clubhouse and grounds.
  - 11.1.5 The boat launch and guardhouse located in Tern Park and the nearby seven and one-half (7-1/2) acres.
  - 11.1.6 Lots acquired for a special purpose such as, but not limited to, enlarging parks.
  - 11.1.7 Property acquired by the Association for investment, resale or future projects.
- 11.2 AUTHORITY TO ACQUIRE
- 11.2.1 The Board has the authority, under MCLA 455.204 of the Act, to acquire real and personal property in the name of the Association by dedication, purchase or gift, subject to a maximum of three hundred-twenty (320) acres as imposed by the Act.
  - 11.2.2 The Board has the authority to refuse any gift of real or personal property.
  - 11.2.3 The Board has the authority to lease real and personal property of others in the name of the Association.
- 11.3 AUTHORITY TO DISPOSE OF REAL PROPERTY The Board cannot sell, mortgage, give, grant, convey or lease any lands or any portion of any Common lands owned by the Association unless authorized by a majority vote of the membership at an annual or special meeting. This requirement does not include land acquired by the Association outside 11.2. i.e. land reverting to the Association due to default of payments
- 11.4 AUTHORITY OVER COMMON AREAS The Board has the power to impose its orders rules and regulations which govern its member's use and enjoyment of the common areas and all real property owned or managed by the Association. These orders, rules and regulations are published separately from these by-laws and are available to members of the Association.
- 11.5 AUTHORITY TO PROSECUTE TRESPASSERS The Board shall have full property owner's rights over all common areas owned or leased by the Association and may, at its discretion, prosecute all non-members or the general public who are unlawfully trespassing on Association property.

## ARTICLE 12

### AMENDMENTS : ENFORCEMENT

- 12.1 The Association by-laws may be amended by referendum by the membership.
- 12.2 The Board also has the power to amend the by-laws as described by MCLA 455.212.
- 12.3 All approved amendments will take effect 10 days after approval as provided in MCLA 455.212 and 455.213.
- 12.4 If the Association, through its Board, initiates court action to enforce these by-laws, the Act, or any of the Association's Orders, rules or regulations, and the Association prevails in whole or in part, the member or members found to be in violation of (or who advocated an erroneous interpretation of) the Act, these by-laws, or any Order, or any rules or regulations of the Association shall pay the reasonable attorney fees and costs of the Association in pursuing or defending such court action.

## ARTICLE 13

### ROBERT'S RULES OF ORDER

- 13.1 All meetings of the Association, the Board of Trustees and committees shall be conducted under Robert's Rules of Order provided that any specific provision in these by-laws or the Act which conflict with the Robert's Rules of Order will be deemed to override Robert's Rules as to the by-laws specific provision of the by-laws or the Act.

## ARTICLE 14

### DISSOLUTION

- 14.1 Concurrence shall be obtained from the membership for dissolution for any reason by a referendum vote that conforms to the Act and the Association's by-laws. Additionally, a super majority is required.
  - 14.1.1 In the event the State of Michigan exercises the power to enact dissolution, the above article 14.1 is invalid.
- 14.2 Upon dissolution of the Association, unless it is re-incorporated under a different Michigan statute and the name is changed, the existing assets remaining after all outstanding debt is satisfied, shall be distributed to the membership on a per lot basis.
- 14.3 All Association records shall be kept for the period of time as may be specified by local, state or federal government requirements.

- 14.4 The right to re-apply for incorporation shall be available should fifty-one percent (51%) of the landowners agree to implement this action, and the requirements of the State of Michigan are met.

## ARTICLE 15

### SEVERANCE

- 15.1 These by-laws shall be deemed severable and should any word, phrase, sentence or greater portion be held unenforceable by a Court of competent jurisdiction, that word, phrase, sentence or greater portion shall be deemed void and the remaining by-laws shall remain effective.

## ARTICLE 16

### ORDERS OF THE ASSOCIATION

#### 16.1 AUTHORITY, PURPOSE AND ADMINISTRATION

16.1.1 The Association, acting by and through its Board, is authorized by MCLA 455.209 and the by-laws to enact Orders in addition to these by-laws.

16.1.2 Orders are rules, regulations and/or policies of the Board enacted to lawfully govern the Association and to achieve the goals and objectives and to discharge its responsibilities as stated in Article 1 of the by-laws.

16.1.3 The Board shall have the authority to enact only Orders that are reasonably necessary to exercise jurisdiction and police power over its membership and their lands as granted to the Association by the Act or these by-laws, and only to the extent that such Orders help to promote the health, safety and welfare of its members.

16.1.4 Pursuant to Article 5 of the by-laws, wherein the Board is responsible to manage the affairs of the Association in all matters whatsoever, the Board therefore, has the power to enact, modify amend or repeal and to enforce any and all.

16.1.5 Orders shall apply equally to all members and all properties located within the corporate jurisdiction (Article 3), whether or not they are owned by the Association or private property owned by its members.

16.1.6 Where Association Orders are more strict, restrictive, or comprehensive than applicable state, county or township laws, codes or ordinances, Orders of the Association shall govern; however, it shall be the responsibility of the Association to enforce its own Orders by any suitable means.

16.1.7 The Association hereby incorporates by reference in its Orders all deed restrictions, covenants running with the land, land use regulations, subdivision regulations and similar restrictions which benefit the Association that are of record and as they become of record in the future at the Ogemaw County Register of Deeds office. The Association shall not, however, be obligated to enforce any deed restrictions, covenants, land



use restrictions, subdivision regulations, and similar restrictions which the Association did not consent to and which the Board does not believe are in the best interest of the Association.

16.1.8 Where legally authorized, the Board may elect to assist in forcing or prosecuting the laws, codes or ordinances of the public agencies sharing jurisdiction within the corporate jurisdiction of the Association.

## ARTICLE 17

### ADOPTION

17.1 CERTIFICATION I, Mary Buyze, being the duly elected Secretary of the current Board of Trustees of the Lake Ogemaw Summer Resort Association, do hereby certify the following:

17.1.1 These by-laws shall take effect ten (10) days after passage, subject to MCLA 455.212.

17.1.2 The aforementioned By-Laws were duly adopted by the aforementioned Board of Trustees and thus replacing the prior by-laws at a meeting on **October 21, 2017**

by a majority vote (regular, special or annual)

MOTION TO ADOPT BY TRUSTEE **Ron Atkinson**

MOTION SECONDED BY TRUSTEE **Frank Barretta**

AYES: 6

NAYS: 0

MOTION CARRIED.

17.1.3 That the aforementioned By-Laws were duly ratified by a majority vote of members of the Association on, November 25, 2017 following proper notice as advised by counsel.

17.1.4 That the aforementioned updated By-Laws takes full force and effect on, December 6, 2017

**NOTE: Signed copy available at LOSRA Office.**

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Mary Buyze, Secretary

## ACKNOWLEDGEMENTS

Dave Galbreath, Chairman, Trustee

Mary Buyze, Trustee (legal advisor)

Rick Rodau, Trustee (commentary)

Ron Atkinson, Trustee (writing, editing, typing)

Deb Seabolt (commentary)

Ron Cass (commentary)

Charles Delorey (writing, commentary)