

**AMENDED AND RESTATED
DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS OF THE POINTE
COVE HOMEOWNERS ASSOCIATION**

THIS AMENDED AND RESTATED DECLARATION is made this 14 day of December 2021 by the Pointe Cove Homeowners Association, Inc., an Indiana Corporation (hereinafter referred to as "PCHOA" or "Association").

WITNESSETH:

WHEREAS, Association is the owner of all of the lands not privately owned in the area known as "Pointe Cove" and which are described as "common areas" on the plats of thereof recorded in the Office of the Recorder of Monroe County, Indiana.

WHEREAS, Association desires to subject to, and impose upon, all real estate within the platted areas of the Pointe Cove Development mutual and beneficial restrictions, covenants, conditions and charges (hereinafter referred to as the "Declaration", "Restrictions" and "Bylaws", and "Rules and Regulations") under a general plan for the benefit of lots and lands in the Development and its future homeowners.

NOW, THEREFORE, Association hereby declares that all of the platted lots and lands located within the Development are held and shall be held, conveyed, hypothecated or encumbered, used, occupied and improved, subject to the following Restrictions, all of which are declared and agreed to be in furtherance the improvement and sale of the lots and lands in the Development, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Development as a whole and of each of the lots in it. All of the Restrictions shall run with the land and shall be binding upon the Association and upon the parties having or acquiring any right, title or interest, legal or equitable, in and to the real property or any of the part or parts subject to such Restrictions.

A. DEFINITIONS

The following are the definitions of the terms used in this Declaration, the Bylaws and Rules and Regulations of the Association.

- 1) **"Association"** shall mean the "Pointe Cove Homeowners Association, Inc. ", an Indiana not-for-profit corporation.

Its membership consists of Lot Owners who pay mandatory assessments for the expense of maintaining the Common Areas and Common Property within the development as well as for providing various services which the Association may determine to provide for Owners from time to time. Members in full compliance with the Association's Covenants, Bylaws and Rules and Regulations shall retain their right to vote and to serve on the Association's Board of Directors, the Development Control Committee or any similar working group appointed by the Board.

- 2) **"Builder"** shall mean the person constructing the first residence on each Lot.
- 3) **"Lot"** shall mean any parcel of real estate, whether residential or otherwise, described by one of the plats of the Development which is recorded in the Office of the Recorder of Monroe County, Indiana. (Lot Number 39 is to be used exclusively for a real estate sales/rental office).

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- 4) "**Mortgagee**" shall mean any holder, insurer or guarantor of any first mortgage on any Lot.
- 5) "**Owner**" shall mean a person who has, or is, acquiring any right, title or interest, legal or equitable, in and to a Lot, but excluding those persons having such interest solely as security for the performance of an obligation. The words "owner" and "member" are used interchangeably.
- 6) The terms "**Easement Area**", "**Common Property**" and "**Common Areas**" shall have the same meaning and describe the streets, sidewalks and entranceway of the Development, swimming pool and clubhouse, and those areas set aside for, and included within, the boundaries of one or more Lots and designated as an easement on the plat of Pointe Cove. This includes the landscaping areas, various easements for utilities, sewers, and storm drainage.
- 7) "**Vote**" In every situation where a vote by the Association membership is required, each Lot, shall provide one vote, so long as the Lot is not delinquent for more than six (6) months in payment of annual and special fees. "Delinquent" means assessed fees remaining unpaid. Any Owner of more than one Lot shall have one vote for each such Lot owned. The term "majority of the vote" shall mean more than fifty percent (50%) of the total vote present or represented at any meeting.
- 8) "**Assessment**" means the share of the common expenses imposed upon each Lot, as determined and levied pursuant to the provisions of this Declaration, the Bylaws, and any Rules and Regulations adopted by the Association.
- 9) "**Common Expense**" means the actual and estimated cost to the Association for maintenance, management, operation, repair, improvement, and replacement of the Association's common areas and any other costs or expense incurred by the Association for the benefit of Owners.
- 10) "**Capital Improvement Fund**" is defined as monies set aside for specific improvements to Common Property. Unless included in the description of the fund's original purpose, its monies are not to be used for ongoing maintenance or repair purposes. This, and any other named fund approved by the membership shall be listed, and accounted for, as separate line items in the annual budget.
- 11) "**Declaration**" means the "Declaration of Covenants, Easements and Restrictions of the Pointe Cove Homeowners Association" and the Plat Declaration, collectively.
- 12) "**Quorum.**" Except where otherwise expressly provided in the Declaration or By-Laws, the presence of Owners or their duly authorized representatives holding in excess of fifty percent (50%) of the total Vote shall constitute a quorum at all meetings.
- 13) "**Restrictions**" means the responsibilities imposed on and accepted by every Owner of any Lot in the Development, including the Declarations, Bylaws, Board-approved Rules and Regulations, and all governmental zoning authority and regulations affecting the Development.

B. CHARACTER OF THE DEVELOPMENT

- 1) In general, every numbered Lot in the Development is a residential Lot and shall be used exclusively for single family residential purposes, except Lot Number 39, which is a commercial Lot and shall be used exclusively for a real estate sales/rental office.
- 2) No structure shall be erected or permitted to remain upon any of the residential Lots except a single family dwelling house. All tracts of land located within the development not designated by numbering as residential building Lots in the recorded plat shall be Common Area and shall be used consistent with all applicable zoning requirements and the terms and provisions of the Association Declaration, Bylaws, and Rules and Regulations

C. EFFECT OF BECOMING AN OWNER

The Owners of any Lot subject to these Restrictions, by acceptance of a deed conveying title to the Lot, or the execution of a contract for the purchase of the Lot, shall accept such deed and execute such contract subject to each and every Restriction and agreement contained in the Declaration, Bylaws and the Rules and Regulations. By acceptance of such deed or execution of such contract, the Owner acknowledges the rights and powers of the Association's Board of Directors with respect to these Restrictions, and also, for themselves, their heirs, personal representatives, employees, successors and assigns. Such Owners, covenant and agree and consent to the Owners and subsequent Owners of each of the Lots affected by these Restrictions to keep, observe, comply with and perform such Restrictions and agreements.

D. EASEMENTS AND PROPERTY RIGHTS

- 1) **Easements:** A perpetual easement is established for the installation and maintenance of municipal and public utility facilities and for such other purposes incidental to real estate development. The Board of Directors has the right and authority to lay, operate and maintain such drainage facilities, sanitary sewer and water lines, gas and electric lines, communication lines (which shall include cable television), signage, landscaping, swimming pool, bathhouse and public restrooms, and such other further facilities as the Board deems necessary in the community's Common Areas.

A landscape easement is established by the Association which it shall maintain in accordance with good husbandry practices.

The Association reserves an easement across any and all Lots for the limited purpose of accessing Common Areas for maintenance and repair of their landscaping, utilities and other facilities. Any one entering a Lot under such rights shall be responsible for the repair of any resulting damage.

- 2) **Rights to Common Property:** Owners have a non-exclusive, reciprocal easement for their Lots and a right of access to such Lots over all streets.
- 3) **Owner's Use of the Common Areas:** Owners have the right to use the Common Areas for their intended purposes. Owners, their guests or invitees use these areas at their sole risk, no Owner's use of the Common Area shall materially interfere with any other Owner's rights. The Association reserves the right:

- (a) to establish reasonable rules and regulations for the use of any such Common Areas.
 - (b) to suspend the voting rights and right to use of the Common Areas by any Owner for any period during which any assessment against such Owner's Lot remains unpaid for a period in excess of six (6) months.
 - (c) to dedicate or transfer any part of the Easement Area if agreed by a majority of the eligible votes.
 - (d) to permit any Owner to grant access to the Association's Common Areas to their children, subject to the Bylaws and the Rules and Regulations of the Association.
- 4) **Deckard Family Cemetery:** The Deckard family members are given free access to and from the Deckard family cemetery. The Association shall permanently maintain, at its expense, the cemetery grounds and the fence enclosing the cemetery, and provide suitable landscaping (excluding the maintenance, repair and replacement of gravestones, markers, monuments and headstones, which shall be the responsibility and at the expense of the Deckard family). Such maintenance shall be for the sole purpose of providing for the perpetual care of the cemetery in accordance with, and only to the extent of, the terms provided herein. No additional burials in the cemetery shall be permitted.

E. RESPONSIBILITIES OF THE ASSOCIATION

The Association shall act on behalf of, and in the name, place, and stead of, the individual Owners:

- 1) in the maintenance, repair, and replacement of the Common Area, Common Property, the determination of common expenses, the collection of annual and special assessments, and the granting of any approvals called for by the Declaration for the benefit of all Owners.
- 2) in seeking enforcement of the terms, covenants, contained in the Declaration, Bylaws, and Rules and Regulations. Neither the Association, its officers or authorized agents shall have any liability to any Owner for any action taken, or failed to be taken, under the authority of the Declaration, unless such act or failure to act is in the nature of a willful or reckless disregard of the rights of the Owners or is conduct deemed to be intentional, fraudulent, or reckless.

F. BOARD OF DIRECTORS

The members shall elect a Board of Directors ("Board") of the Association as prescribed by the Association's Bylaws. The Board of Directors shall manage the affairs of the Association, including, but not limited to, the establishment of rules and regulations for the construction and maintenance of any homes built or placed on any Lot, the setting and collection of any assessments, and the use of all elements of the Common Areas. All required approvals, determinations, permissions or consents shall be deemed given if they are presented in writing and signed by an authorized officer of the Board of Directors.

G. DEVELOPMENT CONTROL COMMITTEE

- 1) **The Committee:** The Development Control Committee ("DCC") shall consist of three (3) Owners appointed by the Board of Directors. The DCC is established to assist the Board in enhancing and protecting the value, desirability and attractiveness of the Development as a whole and of each of the Lots in it. No dwelling, building structure or improvement of any type or kind shall be constructed or placed on any Lot in the Development without the initial prior review of the DCC and the ultimate approval by the Board based on such review. Neither the DCC nor the Board shall be responsible for any defects in any plans, specifications or other materials submitted, nor for any defects in any work done in according with them.
- 2) **Failure to Obtain Approval:** If any changes or improvements are made to any structures or any Lot without prior approval of the Board, the Board shall have the enforcement rights set forth in the Declaration, Bylaws and Rules of the Association and may require any changes or improvements undertaken or installed without the Board's approval to be removed or renovated by whatever means the Board deems appropriate. Any resulting costs, including reasonable attorney fees, will become a lien against the defaulting Owner's Lot as described in the Declaration, Bylaws and Rules of the Association.

H. INSURANCE

The Board of Directors is authorized and empowered to purchase insurance covering the Corporation's liabilities and obligations and insurance protecting the Association's directors, officers and other persons.

I. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

Every Owner of a Lot shall be a member of the Association. All Owners shall be entitled to one vote for each such Lot owned. In no such event shall more than one vote be cast with respect to any Lot. Additionally, the Association, and its members shall be members of The Pointe Services Association, Inc. ("PSA"). The Board of Directors and each Owner agrees to be bound by the covenants and restrictions of the PSA's Declaration of Covenants, Conditions and Restrictions.

J. COVENANT FOR MAINTENANCE ASSESSMENTS

- 1) **Purpose of the Assessments.** The assessments levied by the Association shall be used exclusively for the purpose of preserving the values of the Lots within Pointe Cove, promoting the health, safety, and welfare of the Owners, users, and occupants of these Lots and for the improvement, repair, operation and maintenance of the Common Areas. Such actions include, but are not limited to, the payment of taxes and insurance and all other common expenses. Each Owner hereby agrees to pay to the Association:
 - (a) **An equal share** of the annual Assessments fixed, established, and determined from time to time as provided in this Declaration and in the Bylaws.
 - (b) **Liability for Assessments:** Each assessment, together with any interest and any costs of its collection, including attorney fees, shall be a charge, personally guaranteed by the Lot Owner, on each Lot and shall constitute the basis for a continuing lien upon such Lots in favor of the Association if such assessment

remains unpaid thirty (30) days after the date on which such assessment is due. Each such assessment, together with any associated interest and costs of collection, including attorney fees, shall be the personal obligation of the Lot's Owner of record.

The sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu of it shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. The lien for any assessment shall for all purposes be subordinate to the lien of any mortgagee whose mortgage was recorded prior to the date such assessment first becomes due and payable.

No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof, nor shall any sale or transfer relieve any Owner of the personal liability imposed. The personal obligation for delinquent assessments shall not pass to any successor in title unless such obligation is expressly assumed by such successor.

Lot Owners absolutely and unconditionally personally guarantee all obligations to the Association pursuant to this Agreement. The death or incompetence of Lot Owner shall not revoke this guarantee. Lot Owners waive presentment, demand for payment, and notice of dishonor or nonpayment. Association shall not be required to first resort for payment of obligations of the Lot Owner to the Lot Owner or other persons or their properties, or first to enforce, realize upon or exhaust any collateral or security for any of the obligations, before enforcing this guarantee. This guarantee cannot be revoked prior to the time the loan and all interest and other compensation due under this agreement by the Lot Owner to Association has been paid in full.

- (c) **Annual Assessments:** The Board of Directors of the Association shall establish an annual budget prior to the beginning of each fiscal year, stating all anticipated common expenses for the coming fiscal year.
- (d) **Special Assessments:** The Board of Directors may at any time call a special meeting of the Association to consider imposing a special Assessments needed to meet the common expenses.
- (e) **Fiscal Year:** The fiscal year of the Association shall be the calendar year and may be changed from time to time by action of the Association.

K. REMEDIES:

- 1) **In General:** Any party to whose benefit these Restrictions inure, including the Association and any Owner within Pointe Cove, may proceed at law or in equity to prevent the occurrence or continuation of any violation of these Restrictions. The Association shall not be liable for damages of any kind to any person for failing to abide by, enforce or carry out any of these Restrictions.
- 2) **Owner's failure to act:** Should any Owner fail in the obligation to meet the responsibilities defined in the Declaration, Bylaws, or Rules and Regulations after being given written notice by the Board describing such failure, the Association and any Owner shall have the right to commence judicial proceedings at law or in equity to correct such failure. If such failure causes, or threatens to cause, immediate and

substantial harm to any property outside of such defaulting Owner's Lot or to any person, the Association shall have the right to enter upon such Lot to correct any harm or damage caused. The Association will suffer no liability as a result of such corrective actions. All costs incurred by the Association in connection with any act or proceeding undertaken to abate, enjoin, or correct such failure, including attorney fees and court costs, shall be payable by the defaulting Owner upon demand by the Association, and shall immediately become a lien against Owner's Lot, subject to payment and collection in the manner provided for collection of assessments by the Association.

- 3) **Government Enforcement:** The Planning Commission of Monroe County, Indiana, its successors and assigns, shall have no right, power, or authority, to enforce any of the Covenants, commitments, restrictions, or other limitations contained in the Declaration or Bylaws other than those that expressly run in favor of the Planning commission. Nothing in such documents shall be construed to prevent the Planning Commission from enforcing any provisions of the Subdivision Control Ordinance, as amended, or any conditions attached to the Planning Commission's approval of the plat of the Pointe Cove Subdivision.
- 4) **Delay or Failure to Enforce.** No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to a violation of any one or more of these Restrictions shall be held to be a waiver by that party (or an estoppel of that party to assert) of any right available to him upon the occurrence, recurrence or continuation of such violation or violations of these Restrictions.

L. RIGHTS OF MORTGAGEES

Except to the extent otherwise provided herein, no breach of these Restrictions shall defeat or render invalid the lien of any mortgage now existing or hereafter executed upon any portion of a Lot; provided, however, that if all or any portion of such Lot is sold under a foreclosure of any mortgage, any purchaser at such sale and his successors and assigns shall hold any Lot so purchased subject to these Restrictions. Notwithstanding any other provision of these Restrictions, neither the Owners nor the Association shall have any right to make any amendment to these Restrictions which materially impairs the rights of any Mortgagee holding, insuring, or guaranteeing any mortgage on all or any portion of the Lot at the time of such amendment.

M. CONSTRUCTION REQUIREMENTS

This section provides a list of the actions needed to be completed approved prior to moving to the CONSTRUCTION PHASE. The requirements of the PRE-CONSTRUCTION SECTION include a mandatory pre-construction meeting between the prospective homeowner, the new home builder and a representative from the PCHA Board of Directors.

1) GENERAL REQUIREMENTS AND RULES

- (a) All new homes shall be built in accordance with all state and local building codes.
- (b) All new homes will be single family dwellings and used for that purpose only.

- (c) From the date of groundbreaking, all new homes shall be built and finished within nine (9) consecutive months, including completion of the primary landscape plan.
- (d) A construction security deposit must be paid prior to plan approval. This deposit is to be paid by cashier's check in the amount of four thousand dollars (\$4,000.00) which will be held until the PCHOA Board has determined that construction has been satisfactorily completed, that lawn seeding or sodding has been finished, that the landscaping is completed according to submitted and approved plans, and any construction related fines and the costs of infrastructure repairs have been reconciled and collected.
- (e) All new construction requires collection of a non-refundable road reserve fee of One Thousand Five Hundred Dollars (\$1,500.00) paid by cashier's check prior to plan approval.

2) DESIGN STANDARDS:

- (a) The design of all proposed homes shall be visibly appealing, with the intent of blending in with existing homes in the immediate proposed construction location and the community.
- (b) Homes are to use construction materials as used by surrounding homes. (i.e. Roofing, Exterior Siding, Trim, Stone and Brick) There can be no exposed block or poured foundation. Foundation must be faced with Stone, Brick, or other approved Masonry. No concrete slab or wood foundations will be permitted. All windows will be factory-finished, no raw aluminum windows will be permitted, all windows will have a thermal break.
- (c) All homes will have a minimum of a two-car attached garage with electrically operated garage doors. Garage doors should, if possible, face away from the street. Each home must have two (2) exterior lights, which must be illuminated from dusk to dawn.
- (d) All utilities in the Development will be underground, except where required to be placed above ground by the individual utility supplier.
- (e) Each dwelling shall have a continuous solid surface sidewalk (concrete, brick or similar material) from the driveway to the front porch.
- (f) All driveway will be of concrete.
- (g) Roof slopes will be 6/12 or higher pitch.
- (h) The exteriors of the all newly constructed, renovated or improved homes shall be of brick, stone, fiber cement or other natural material siding. No aluminum or

vinyl siding will be permitted, except aluminum or vinyl material may be used for eaves, soffits, fascia board and other trim.

- (i) All homes must have a street addresses displayed and clearly visible from the street.
- (j) Every dwelling in the development must contain a HVAC installed in compliance with the required codes and capable of providing adequate heat for year-round human habitation of the dwelling. HVAC shall have ductwork capable of handling central air conditioning.
- (k) The use of alternative energy sources for permanent home use will be evaluated on a case by case basis by the Board.
- (l) Decks are permitted when they are attached to the back of the home. Decks must be constructed with the same materials and under the same requirements of home construction. Composite decking is permitted. Gazebos designed in conjunction with the deck and attached to the back of the single-family dwelling or deck and constructed using the same materials and under the same construction guidelines as the deck are permitted.
- (m) Whenever possible, all utility meters and HVAC units are to be located in places unseen or screened from the fronts of the dwellings.
- (n) All roofing shingles of all homes will be of architectural design and quality. No flat shingles or metal roofing is to be used.
- (o) The prospective homeowner shall provide and submit two (2) complete sets of professionally prepared and specific blueprints/elevations of the proposed home to the PCHOA Board of Directors for compliance review and approvals. These blueprints/elevations shall include:
 - (1) A stake survey: A licensed surveyor-prepared survey of the property's boundaries and a plat plan showing how the proposed home will be situated on the property, including setback details, culvert placement, depth/fall of water for drainage, drainage ditches and swales.
 - (2) A foundation plan showing the placement of driveway and sidewalk(s), any proposed encroachment on the building setback lines for fronts and backs of properties, side setbacks of 10ft. on each side of the property.
 - (3) The floor plans of the proposed house that show all interior and exterior views, and its total square footage. Single story homes erected on any lot must have a minimum ground floor area of one thousand eight hundred (1,800) square feet. A multistory structure must have a minimum ground

floor area of one thousand eight hundred (1,800) square feet and a total area of not less than two thousand four hundred (2,400) square feet (all such totals exclusive of porches, terraces, finished or unfinished basements and garages). A smaller ground-floor area may be allowed by the Board of Directors for any lot where topography renders such restrictions impracticable.

(4) A description of the structure's exterior materials and their placement on the house. Samples of brick or stone and exterior paint or stain are to be provided. All soffits, gutters and downspouts shall be color-coordinated with the exterior paint or stain color.

(5) A primary and secondary landscape plan. Primary landscaping includes the initial and finish grading and placement of grass seed and straw and/or sod. (Immediately after exterior construction is completed, sod application or finish grading with seeding and straw is to be completed). Secondary (finish) landscaping includes placement of trees, shrubs, gardens and other vegetation.

(p) The following are expressly prohibited:

(1) Non-custom homes including trailers or other mobile homes, pre-fabricated homes, relocated homes, any other types of outbuildings, tree-houses, gazebos, or buildings not attached to the approved single-family dwelling.

(2) Homes built for rental income properties.

(3) Any structure that is to be used as a model or exhibit home.

(4) Outdoor pet pens, houses or kennels of any type.

(5) Private tennis courts, above-ground swimming pools, or non-retractable metal and fiberglass awnings or patio covers.

(6) Homes inhabited before receiving an occupancy permit.

(7) Satellite dishes that are not attached to the home or within three (3) feet of the home on the sides or back or are more than twenty-four (24) inches across at its widest point.

(8) Outside fuel storage tanks or gasoline storage tanks above or below ground.

(9) Fence - No fences are allowed except for invisible pet fences.

(10) No double family houses shall be constructed in the development.

- (q) The Development Control Committee (DCC) shall complete its review and three (3) members of the Board of Directors shall approve or disapprove submitted construction plans within fifteen (15) calendar days from the date the home builder submits such plans.
 - (1) Approved plans and any attendant documents are to be signed on each page of each set of plans. The homeowner will submit one copy of the plans to the County and a copy of the plan to each set of transmittals sent to the County.
 - (2) Disapproved plans are to be returned to the prospective homeowner with the reason(s) for the disapproval in writing by the PCHOA Board of Directors.
 - (3) The fifteen (15) day calendar rule will begin anew when new plans are altered and re-submitted.
 - (4) Waivers granted by the Board of Directors must be in writing and attached to all sets of plans.

3) CONSTRUCTION:

- (a) This section governs all construction activities after all approvals for construction have been obtained from the PCHOA Board of Directors. Compliance will be monitored by the Developmental Control Committee (DCC) who will:
 - (1) Review submitted construction plans for compliance with PCHOA guidelines, assist homeowner understanding of such requirements and recommend changes that will allow approval of previously unapproved construction plans.
 - (2) Recommend approval or disapproval of submitted construction plans to the Board.
 - (3) Monitor all phases of an owner's approved construction, reporting any violations of these construction standards and recommending corrective actions to the PCHOA Board.
 - (4) Review and recommend to the Board any needed revisions to the construction standards.

(b) CONSTRUCTION STANDARDS

- (1) Construction is allowed between 7:00 a.m. to 7:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. on Saturdays. No construction work is to take place on Sunday. The homeowner and builder shall ensure that their

sub-contractors and workers observe this restriction. Violations of this rule may result in assessments against the security deposit. After first warning any violation of this rule will result in a \$250 per occurrence assessment against the security deposit.

- (2) Before starting construction, a solid rock base driveway, with culvert appropriately installed, will be established to minimize dirt and mud being transferred from the building site to the PCHOA's roads by construction vehicles.
- (3) All construction materials will be new and of grade and character consistent with existing homes, approved professional practice, and in compliance with all state and local building codes.
- (4) The removal of trees from the building site is permitted within standards of Monroe County. Removal of trees with a diameter of twelve (12) inches or larger outside of the building envelope requires Developmental Control Committee (DCC) approval.
- (5) Drainage will be away from the home at a five (5) percent grade for fifteen (15) feet in front and back and seven and one half (7 1/2) feet on the sides of new homes.
- (6) Appropriate and adequate swales will be created between adjoining lots on the sides of homes that permits water drainage to drainage ditches.
- (7) Erosion control will be placed and maintained so as not to impact the site under construction or the adjoining properties.
- (8) Primary and secondary (finish) landscaping plans will be implemented and completed within twelve (12) months of the start of exterior new home construction date.
- (9) During all phases of construction, trash on/from the building site will be kept in an orderly manner. All dumpsters used are to be kept off roadways and on the owner's lot and emptied regularly. Wind-blown trash will not be tolerated. Board-cited violations are to be cleaned up within 24 hours. If the clean-up does not happen after such notification the homeowner will be assessed a \$500 fine per occurrence.
- (10) No construction related or caused fires are permitted. Brush and excess or discarded construction related materials are not to be dumped, buried or discarded but must be hauled away.

- (11) Construction related vehicles and traffic will not block any PCHOA roadway at any time during construction.
- (12) Construction related vehicles are to park on only one side of the Association's roads. Should damage occur to the drainage ditches or swales, the owner and builder bear responsibility for their repair to the satisfaction of the Board.
- (13) Concrete trucks are limited to 3/4 loads.
- (14) All brick, stone or siding for exterior placement shall be approved by the Developmental Control Committee (DCC) prior to placement and be in accordance with the approved exterior design plan.
- (15) A commercial portable toilet will be placed on all construction sites for mandatory use by building crews prior to the approved groundbreaking date and shall remain until operable toilet facilities are in place in the newly constructed house. Placement of the portable toilet will be away from the roadways and in a location approved by the Developmental Control Committee (DCC).
- (16) All applicable environmental laws and rules will be adhered to during the phases of construction.
- (17) No house constructed on any lot shall be occupied or used for residential purposes or human habitation until it has been substantially completed for occupancy in accordance with the approved building plan and the approved occupancy permit issued by Monroe County. The determination of whether the house is substantially completed shall be made by the PCHOA Board. Such decision shall be binding on all parties.

(c) RIGHTS OF THE PROSPECTIVE HOMEOWNER/ BUILDER

- (1) All rights provided by applicable laws.
- (2) The right to receive and have all construction-related documents explained.
- (3) The right to a timely construction approval process.
- (4) The right to consult with the Developmental Control Committee (DCC) in any construction related matter.
- (5) The right to request construction related waivers.

(d) RIGHTS OF POINTE COVE HOMEOWNERS ASSOCIATION

The PCHOA Board of Directors maintains certain rights in all construction matters, including the following:

- (1) As provided by applicable laws.**
- (2) To require homeowner and builder signatures on all construction-related documents that certifies their receipt, understanding of and compliance with all such documents.**
- (3) To enforce all the PCHOA's governing documents.**
- (4) To approve/disapprove proposed new home plans in part or in full within fifteen (15) calendar days of receipt.**
- (5) To approve/disapprove proposed plans for exterior renovation of existing homes.**
- (6) To grant or refuse to grant construction waivers requested by owners.**
- (7) To inspect the exterior construction and landscaping at any time.**
- (8) To require any surveys or inspections by appropriate, licensed professionals to ensure construction compliance with state and local codes and the PCHOA construction standards.**
- (9) To halt construction at any time and for any period, by written notice, when any inspection or review of the project finds an owner or builder-caused condition or action that jeopardizes the safety and integrity of the home under construction, the residents of the community and/or community assets, or any deviation from approved plans.**
- (10) Construction will be permitted to resume when the PCHOA Board determines that such conditions or actions have been satisfactorily resolved. In such circumstances the owner must bear the costs of all inspections, any corrective actions, and any PCHOA related costs.**
- (11) To collect a construction security of four thousand (\$4,000.00) and a non-refundable One Thousand Five Hundred Dollar (\$1,500) construction road usage fee prior to the beginning of construction.**

(12) To assess and collect a Fifty Dollar (\$50.00) extended building fee for every day that construction continues beyond the allotted nine (9) consecutive month construction period, unless the Board grants a waiver based on circumstances beyond the control of the owner and/or contractor.

(13) To collect from the homeowner all costs for damages to PCHOA infrastructure.

(14) To compile photographic data at any construction site at any time.

N. NEIGHBORHOOD STANDARDS

- 1) **Accessory Outbuildings Prohibited.** No accessory outbuildings shall be erected on any of the residential Lots.
- 2) **Light Fixtures, Etc., Mailboxes. Lawns and Trees.** To preserve the natural quality and aesthetic appearance of the Development's areas, exterior light fixtures, basketball goals, hot tubs or other exterior structures must be approved by the Board as to size, location, height and composition before installation.
- 3) **Tree Removal.** Removal of any existing trees 12 inches in diameter or larger shall require Developmental Control Committee (DCC) approval.
- 4) **Damaged Structures.** No improvement which has partially or totally been destroyed shall be allowed to remain in such state for more than three (3) months from the time of such destruction or damage. Homeowner will be fined Fifteen Dollars (\$15.00) per day unless otherwise approved by Developmental Control Committee (DCC).
- 5) **Lot Access.** Except for Lot 39, all Lots shall be accessed from the interior streets of the Development.
- 6) **Maintenance of Lots and Improvements.** The Owner of any Lot in the Development shall at all times maintain the Lot and any improvements on it in a manner that prevents the Lot or improvements from becoming unsightly. Specifically, such Owner shall:
 - (a) Mow, fertilize and water the Lot at such times as may reasonably be required in order to prevent the unsightly growth of vegetation and weeds.
 - (b) Remove all debris or rubbish.
 - (c) Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Development.

- (d) Cut down and remove dead trees.
 - (e) Keep the exterior of all improvements in such a state of repair or maintenance as to avoid their becoming unsightly.
 - (f) Not repaint the exterior of the home in a color different from the original unless given approval by the Board.
 - (g) No construction or landscaping materials shall be placed on the roads in Pointe Cove.
- 7) **Sight Obstructions.** No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the adjoining street shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street lot lines and a line connecting points twenty-five (25) feet from the intersection of said street lot lines (or in the case of a rounded property corner, from the intersection of the street lot lines extended to form a corner). The same sight-line limitations shall apply to any Lot within ten (10) feet from the intersection of a street lot line with the edge of a driveway pavement or alley line. The Owner shall maintain the foliage of any trees or other plants located within such sight line areas, keeping them at a sufficient height to prevent obstruction.
- 8) **Rentals.** No long- or short-term rentals of any type are allowed including short term rental companies Airbnb, VRBO or similar rental programs. Owners may allow use of their homes by a third party on a temporary basis. If the temporary use is expected to reach 7 (seven) or more consecutive calendar days, then the Owner must notify the Pointe Cove Homeowners Association and provide phone number and email contact information of the temporary third party.
- 9) **Nuisances.** No obnoxious or offensive activities shall be carried on any Lot in the Development, nor shall anything be done on any of the Lots that shall become or be an unreasonable annoyance or nuisance to any Owner of another Lot in the Development.
- (a) No sanitary waste or other wastes, including discharges from any floor drain shall be permitted to enter the storm drainage system.
- 10) **Signs.** No signs or advertisements shall be placed on any Lot or on any structures in the Development, other than Lot 39, except such signage as permitted by PCHOA Board for real estate open houses.
- 11) **Animals.** No animals shall be kept or maintained on any Lot in the Development except the usual household pets, and, in such case, such household pets shall be

kept reasonably quiet and contained, either on a leash or in an invisible fenced area whenever outside, so as not to become a nuisance.

- 12) **Vehicle Parking.** All campers, trailers, recreational vehicles, boats, commercial vehicles or similar vehicles, other than ordinary family passenger vehicles (including vans), shall be parked in the garage with the garage door closed such that it is not visible to the occupants of other Lots in the Development or the users of any street in the Development. All passenger vehicles shall be parked in the garage or on a driveway. Vehicles of guests may be parked on a street for a temporary period not exceeding six (6) hours.
- 13) **Garbage. Trash and Other Refuse.** No Owner of a Lot in the Development shall burn or permit the burying out-of-doors of garbage or other refuse, nor shall any such Owner accumulate or permit the accumulation out-of-doors of such refuse on the Lot.
- 14) **Trash Receptacles.** Every outdoor receptacle for ashes, trash, rubbish or garbage shall be so placed and kept as not to be visible from any street within the Development at any time, except at the times when refuse collections are being made. All receptacles will be kept out of the street on designated pick-up day.
- 15) **Temporary Structure.** No temporary house, trailer, tent, garage or other outbuilding shall be placed or erected on any lot. No overnight camping is permitted on any Lot.
- 16) **Ditches and Swales.** Every Owner in the Development having any part of an open storm drainage ditch or swale is situated to keep the portion on his Lot continuously unobstructed and in good repair, and to provide for the installation of such culverts upon the Lot as may be reasonably needed. The Association reserves a perpetual easement for all such drainage facilities that now or may now exist over all Lots in the Development. All Owners, if necessary, shall install dry culverts between the road rights-of-way and their Lots in conformity with specifications and recommendations of the Board.
- 17) **Utility Services.** No utility services shall be installed under finished streets except by jacking, drilling or boring unless specifically approved by the Board. All utility facilities in the Development will be underground, except where required to be placed above ground by the individual utility supplier.
- 18) **Wells and Septic Tanks.** No water wells shall be drilled on any of the lots in the Development without the approval of the Board. No septic tanks shall be installed on any of the lots.
- 19) **Antennas and Satellite Receiver Antennas.** Satellite receiver antennas which are more than two (2) feet in diameter and exposed antennas shall not be permitted in the Development.

- 20) **Solar Heat Panels.** Unless otherwise approved by the Board, no solar heat panels shall be allowed in the Development.

O. ADMINISTRATIVE STANDARDS

- 1) **Notice to Association.** Any Owner placing a first mortgage lien upon his Lot shall notify the Secretary of the Association and provide the name and address of the Mortgagee. A record of such Mortgagee and name required to be given to the Mortgagee shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record in the time provided. Unless notification of any such mortgages and the name and address of the Mortgagee are furnished to the Secretary, either by Owner or by the Mortgagee, no notice to any Mortgagee as may be otherwise required by the Declaration or the Bylaws shall be required, and no Mortgagee shall be entitled to vote on any matter on which it otherwise may be entitled to vote by virtue of the Declaration or Bylaws or proxy granted to such Mortgagee in connection with the mortgage.
- 2) **Notice of Assessments.** Upon ten (10) days' written notice to the Association and the payment of a reasonable fee, the Association shall deliver to any Owner, Mortgagee, prospective Mortgagee, title insurance company, purchaser or other prospective transferee of a Lot, a written statement setting forth the amount of all unpaid assessments, if any, with respect to the subject Lot, together with the amount of the current assessments for common expenses and the date(s) such assessments become due and payable. Any such written statement shall be binding upon the Association in favor of any person relying on it in good faith.
- 3) **Notices to Mortgagees.** The Association shall promptly provide notice of any of the following to any Mortgagee of record:
 - (a) Any condemnation or casualty loss that affects either a material portion of the Common Property or the building(s) or improvements on any Lot securing its mortgage.
 - (b) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.
 - (c) Any proposed action that requires the consent of a specified percentage of Mortgagees.
- 4) **Trash Removal.** In order to preserve the value of Lots in the development and to promote the health and safety of the Owners, the Association may designate a trash collection day and/or designate a trash collection service to be used by the Owners. The cost of such trash collection service shall be borne by the individual Owners in the Development, although the Owners may agree to a master contract for such service by the Association with such costs paid through regular assessments.
- 5) **Snow Removal.** The Association shall provide snow removal services from the streets and common areas as required. Costs of snow removal in excess of amounts budgeted shall be paid by the Association through a special assessment.
- 6) **Easement Areas.** The Association shall be primarily responsible for the maintenance of the common areas in a clean, orderly and well-groomed condition. The Association

and its agents shall have the right to enter upon the common areas at any time in order to fulfill this responsibility.

P. SEVERABILITY

Every one of the Restrictions is hereby declared to be independent of, and severable from, the rest of the Restrictions and of and from every other one of the Restrictions, and of and from every combination of the Restrictions. If any of the Restrictions shall be held to be invalid or unenforceable or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability or "running" quality of any other one of the Restrictions.

Q. TITLES

The titles preceding the various paragraphs and subparagraphs of the Restrictions are for reference only, and none shall be used as an aid to the construction of any provisions of the Restrictions. Wherever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

R. DURATION AND AMENDMENT

- 1) **Renewal/Termination:** This Declaration shall automatically renew for additional terms of ten (10) years each, in perpetuity, unless at the end of any such term two-thirds (2/3rds) of the vote-eligible Lots vote to terminate this Declaration, in which case this Declaration shall terminate as of the end of the term during which such vote was taken. Notwithstanding the preceding sentence, all easements created or reserved by this Declaration shall be perpetual.
- 2) **Amendment of the Declaration/Bylaws:** The Association shall have the right to amend this Declaration and/or Bylaws at any time upon the recommendation of any amendment to the Association by its Board of Directors, and the subsequent approval of such amendment by at least two-thirds (2/3rds) of the vote-eligible Lots. Each such amendment must be presented in writing, signed and acknowledged by authorized officers of the Association. The amendment must set forth facts showing compliance with this paragraph, and include a certified copy of the minutes of the Association meeting at which the necessary actions were taken. Such amendment shall not be effective until recorded in the office of the Recorder of Monroe County.
- 3) **Specific changes:** Subject to the other requirements of this paragraph, unless at least two-thirds (2/3rds) of the Owners of the vote-eligible Lots have given their prior written approval, the Association shall not be entitled to:
 - (a) change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner.
 - (b) change, waive or abandon the regulations, or enforcement of the maintenance of the Easement Area, or the upkeep of lawns and plantings in the Development.
 - (c) use hazard insurance proceeds for losses to the Easement Area other than for the repair, replacement or reconstruction of the Easement Area.

Witness

In witness whereof, the undersigned has caused this Amended and Restated Code of Covenants, Easements, Construction Requirements and Restrictions of the Pointe Cove Homeowners Association, Inc., An Indiana Not-for-Profit Corporation 2021 version to be executed as of the date first written below.

In witness whereof, witness the signature of the 2021 President of the Pointe Cove Homeowners Association Board of Directors.

Signed: Michael L Cox

Date: 12/14/2021

Signed By: Michael L. Cox

State of Indiana

County of Monroe

Signed and sworn affirmed before me on this 14th day of December, 2021, by Angela D. Kirby.

Angela D Kirby
Signature of Notary Public

My Commission Expires: July 21, 2024



I affirm under penalties of perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law.

Michael L Cox
Name

Michael L Cox
Instrument was prepared