

NO TRANSFER
11:22:26 3/26/2024
Reg DTOS Receipt Cashier CO
Montgomery County Auditor
Karl L. Keith

LABEL NBR: 1 Type: DEE
Kind: EASEMENT
Recorded: 03/26/2024 at 12:26:26 PM
Fee Amt: \$465.00 Page 1 of 56
Montgomery County, OH
Stacey Benson-Taylor Recorder
File: 2024-00015107

56

AMENDED AND RESTATED
DECLARATION
OF COVENANTS, RESTRICTIONS,
EASEMENTS, ASSESSMENTS, AND ASSESSMENT LIENS
for
RIVENDELL HEIGHTS

Miami Township, Montgomery County, Ohio

dated March 25, 2024

This Instrument Prepared by:
When recorded, return to:
Charles L. Kidder, Esq.
Kidder Law Firm
5131 Post Road, Suite 101
Dublin, OH 43017



me

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I. DECLARATION/PURPOSE	6
ARTICLE II. DEFINITIONS	8
ARTICLE III. PROTECTIVE COVENANTS AND RESTRICTIONS	11
3.01 Construction.....	12
3.02 Residential Usage.....	12
3.03 Splits Prohibited.....	12
3.04 Improvements on Lots/Temporary Improvements.....	12
3.05 Quiet Enjoyment/Nuisance.....	12
3.06 Vehicle Restrictions and Parking Requirements	13
3.07 Service Screening, Storage Areas	14
3.08 Animal Maintenance	14
3.09 Landscaping and Trees	15
3.10 Vegetable Gardens.....	16
3.11 Fences & Walls.....	16
3.12 Pools.....	17
3.13 Cluster Box Units.....	17
3.14 Lighting	17
3.15 Accessory Buildings, Etc.....	17
3.16 Vehicular Repair	18
3.17 Propane, Fuels, Etc	18
3.18 Driveways	18
3.19 Parking and Roadways	18
3.20 Recreational Play Equipment.....	18
3.21 Drainage and Grading.....	18
3.22 Sump Lines.....	19
3.23 Waste Disposal.....	19
3.24 Debris.....	19
3.25 Utility Service.....	20
3.26 Maintenance of Residences and Lots	21
3.27 Maintenance of Driveways and Sidewalks	22
3.28 Signs.....	22
3.29 Trade or Business.....	22
3.30 Open Fires	23
3.31 Solar Panels.....	23
3.32 Leasing	23
3.33 Notice of Tenancy	24
3.34 Remedies for Breach	24
3.35 Binding Effect.....	24
3.36 Declarant's Rights.....	24

3.37	Improvements in Common Areas.....	24
3.38	Exemption of Declarant.....	24
ARTICLE IV. EASEMENTS AND LICENSES		25
4.01	Easement of Access and Enjoyment Over Common Area.....	25
4.02	Right of Entry for Repair	25
4.03	Easement for Utilities and Other Purposes	25
4.04	Easement for Services.....	26
4.05	Dedication Rights.....	27
4.06	Walkways.....	27
4.07	Landscape Easement	27
4.08	Private Drainage Easements	27
4.09	Reservation of Easements.....	28
ARTICLE V. ARCHITECTURAL CONTROL		28
5.01	Plan Approval Requirement.....	28
5.02	Review Fee.....	29
5.03	Failure to Approve.....	29
5.04	Complete Authority/Architectural Standards	29
5.05	Liability	29
5.06	Scope of Approval.....	29
5.07	Approval Subject to Governmental Regulations.....	30
5.08	Enforcement of Violation.....	30
5.09	Architectural Standards and Requirements.....	30
5.10	Variances	31
ARTICLE VI. ASSOCIATION		32
6.01	Identification, Formation and Membership	32
6.02	Governance	32
6.03	Voting Rights.....	32
6.04	Power; Authority; Duties	32
6.05	Specific Powers	32
6.06	Delegation of Duties.....	34
6.07	Books, Records.....	34
ARTICLE VII. ASSESSMENTS		34
7.01	Assessments.....	34
7.02	Reimbursement of Costs	34
7.03	Operating Fund.....	34
7.04	Types of Assessments	34
7.05	Capital Contribution	34
7.06	Basic Assessments.....	34

7.07	Commencement of Basic Assessments.....	35
7.08	Lot Assessments.....	35
7.09	Special Assessments.....	36
7.10	Property Exempt from Assessments.....	36
7.11	Fees.....	36
7.12	Remedies.....	36
ARTICLE VIII. MAINTENANCE.....		38
8.01	Maintenance by Association.....	38
8.02	Maintenance by Owner.....	38
8.03	Right of Association to Repair Lot.....	38
8.04	Damage to Common Area By Owner or Occupant.....	38
ARTICLE IX. COMMON AREAS.....		39
9.01	Right to Enjoyment of Common Areas.....	39
9.02	Amenities.....	39
9.03	Declarant's Use of Common Areas.....	40
ARTICLE X. MISCELLANEOUS.....		40
10.01	Development Phases.....	40
10.02	Appeal to Board.....	40
10.03	Term.....	40
10.04	Enforcement: Waiver.....	40
10.05	Amendments.....	41
10.06	Declarant's Rights to Complete Development.....	41
10.07	Declarant's Rights to Replat Declarant's Subdivision.....	41
10.08	Mortgagee Rights.....	42
10.09	Assignment of Rights.....	42
10.10	Indemnification.....	42
10.11	No Reliance.....	42
10.12	Severability.....	43
10.13	Addition of Property.....	43
10.14	Captions.....	43
10.15	Notices.....	43

EXHIBIT A – THE PROPERTY

EXHIBIT B – THE SITE PLAN

EXHIBIT C – CHART OF MAINTENANCE RESPONSIBILITIES

**EXHIBIT D – RIVENDELL SUBDIVISION OWNERS' ASSOCIATION, INC. -
COLLECTION AND FEE POLICY**

**EXHIBIT E - RIVENDELL SUBDIVISION OWNERS' ASSOCIATION, INC. -
ENFORCEMENT POLICY**

**RIVENDELL HEIGHTS
AMENDED AND RESTATED**

**DECLARATION OF COVENANTS, RESTRICTIONS,
EASEMENTS, ASSESSMENTS, AND ASSESSMENT LIENS**

This AMENDED AND RESTATED DECLARATION OF COVENANTS, RESTRICTIONS, EASEMENTS, ASSESSMENTS, AND ASSESSMENT LIENS (this 'Amended and Restated Declaration' or "Declaration") for **Rivendell Subdivision Owners' Association, Inc.**, is made as of the 25th day of March, 2024 (the "Effective Date"), by **Corridor Development Company LLC**, an Ohio limited liability company (hereinafter referred to as "Declarant"), whose address is 5131 Post Road, Suite 101, Dublin, Ohio 43017.

WHEREAS, a Declaration of Covenants, Restrictions, Easements, Assessments, and Assessment Liens ("Original Declaration") effective February 10, 2023, was recorded on March 23, 2023 as File No. 2023-00015265, with the Montgomery County Recorder, Montgomery County, Ohio, which subjected the property described in **Exhibit A**, to the Original Declaration.

WHEREAS, pursuant to the Original Declaration, under Section 10.05 Amendments, 'during the Development Period, the Declarant may, in its sole and absolute discretion, unilaterally amend this Declaration at any time and from time to time, without the consent of any other Owners.'

NOW THEREFORE, the Association hereby declares that this Amended and Restated Declaration supersedes the Original Declaration and replaces it, in its entirety, and that the covenants, restrictions, easements, assessments, and assessment liens set forth in this Amended and Restated Declaration are for the purpose of protecting the value and desirability of and which shall run with the real property now and hereafter subjected to this Amended and Restated Declaration and which shall be binding on all parties having any right, title or interest in said real property or any part thereof, and its heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner of all or any party thereof.

ARTICLE I. DECLARATION/PURPOSE

1.01 Declarant is the owner of the approximately 31.742± acres of real property located in Miami Township, Montgomery County, Ohio and more particularly described in **Exhibit A** (the "**Property**"), together with Additional Property (as defined in Section 2.01 below) (the Property and any Additional Property is collectively referred to herein as the "**Subdivision**").

1.02 The Subdivision will initially include approximately 82 single family lots; and the Common Areas (as defined in Section 2.10 below), all of which are created by and delineated on the Site Plan (as defined in Section 2.29 below) or any Subdivision Plat. The Declarant hereby reserves the right within its sole and absolute discretion to create and record any replat or subsequent plat with such terms and conditions as Declarant deems appropriate.

1.03 In order to advance the purposes of this Declaration, **Rivendell Subdivision Owners' Association, Inc.**, an Ohio non-profit corporation (the "**Association**"), has been established to own, operate, maintain, and administer the Common Areas on behalf of the Owners (as defined in Section 2.23 below) of the Lots (as defined in Section 2.17 below). The costs incurred by the Association in connection with the operation, administration, maintenance and repair of the Common Areas shall be assessed to and shared equally by all of the Owners of Lots within the Subdivision, such amounts being an encumbrance upon all such Lots.

1.04 In addition, the Declarant, as such owner of the above-described Subdivision, desires to restrict the use to or for which the Lots of the Subdivision may be put and to establish certain easements and assessments and lien rights upon the Lots in the Subdivision to advance the purposes set out herein.

1.05 Declarant hereby reserves the right within its sole and absolute discretion to create and record such supplementary Declarations or Amendments hereto with such terms and conditions as Declarant deems appropriate.

COVENANTS, RESTRICTIONS, EASEMENTS, ASSESSMENTS AND ASSESSMENT LIENS

NOW, THEREFORE, be it known that the Declarant, as owner of the Subdivision described herein, on behalf of itself, and of its successors and assigns, hereby declares that the Subdivision shall be held, sold, conveyed and occupied subject to the following covenants and restrictions, assessments and assessment liens, and shall be subject to or benefited by, as the case may be, the licenses and easements described herein, which are for the purpose of preserving for the common use of the Owners within the Subdivision and the improvements and amenities located therein, all of which shall run with the title to the land and each part thereof, and be binding on all parties having any right, title or interest in the land and each part thereof, and their respective heirs, successors and assigns, and shall inure to the benefit of and be enforceable by Declarant, its successors and assigns and each Owner of a Lot, and the respective heirs, successors and assigns thereof, and the Association.

ARTICLE II. DEFINITIONS

In addition to other terms that are separately defined in this Declaration or in the Ohio Revised Code, the following words and phrases have the meanings ascribed below:

2.01 **Additional Property** shall mean and refer to the land and any present or future improvements on such land located adjacent or in close proximity to the Property, which may be added to the Subdivision in later phases by amendment of this Declaration in the manner provided by law, but which is not yet submitted to this Declaration.

2.02 **Assessments** shall mean collectively all the assessments set forth in Article VII.

2.03 **Association** shall mean Rivendell Subdivision Owners' Association, Inc., an Ohio non-profit corporation, and its successors and assigns.

2.04 **Association Documents** shall mean the formative documents of the Association, consisting of the articles of incorporation, code of regulations and any and all procedures, rules, regulations or policies adopted by the Association, or comparable formative documents if the Association is not a corporate entity.

2.05 **Basic Assessments** shall have the meaning set forth in Section 7.06.

2.06 **Board** shall mean and refer to the Board of Directors of the Association and includes those persons who as a group serve as the Board of Directors. The phrase has the same meaning as the board of directors of the Association, as that term is used in Chapter 1702 of the Ohio Revised Code.

2.07 **Builder** shall mean a person or entity (other than Declarant) who or which acquires title to any Lot or parcel for the purpose of construction of a residential dwelling thereon with the strict purpose of reselling the improved Lot to an Owner.

2.08 **Capital Contribution Assessment** shall have the meaning set forth in Section 7.05.

2.09 **Code of Regulations** shall mean the Code of Regulations of the Association.

2.10 **Common Areas** shall mean any property owned by the Association, including subdivision amenities, entrance walls, boulevards and identification monuments, signs, landscape mounds, walkways, ponds, Cluster Box Units ("CBUs"), Storm Water Facilities, Landscape Easements (as defined in Section 2.16), landscaping and other improvements constructed for the common use and enjoyment of the Owners,

and such areas designated as "Open Space" on any Subdivision Plat (as defined in Section 2.33 below). The Common Areas shall be for the benefit of the Owners of the Lots, subject to the terms of use of the Common Areas outlined in Article IX of this Declaration. The care and maintenance of the Common Areas is outlined in Article VIII of this Declaration.

2.11 **Common Expenses** shall mean any expenses incurred in maintaining the Common Areas.

2.12 **Declarant** shall mean Corridor Development Company LLC, an Ohio limited liability company, and any person or entity acquiring all of Declarant's then-remaining interests in the Subdivision.

2.13 **Declaration** shall mean and refer to this instrument, including all exhibits attached to this instrument and all future amendments of this instrument or any of the exhibits.

2.14 **Development Period** shall mean the period commencing on the date on which this Declaration is recorded and terminating on the earlier of: (a) June 1, 2036, or (b) the day next following the day on which the Declarant or a Builder own no part of the Property, development has been fully developed, all improvements have been completed, and all Owner property has been sold. Declarant or Developer reserves the right, in its sole discretion, to turnover control of the Association at such earlier time(s) as Declarant or Developer may determine.

2.15 **Improvements** shall mean all man-made or man-installed alterations to the Subdivision which cause the Subdivision to deviate from its natural condition, including but not limited to buildings, outbuildings and garages; overhead, aboveground and underground installations, including without limitation, utility facilities and systems, lines, pipes, wires, towers, cables, conduits, poles, antennae and satellite dishes; flagpoles; swimming pools and tennis courts; slope and drainage alterations; roads, driveways, uncovered parking areas and other paved areas; fences, trellises, walls, retaining walls, exterior stairs, decks, patios and porches, trees, hedges, shrubs and other forms of landscaping, and all other structures of every type.

2.16 **Landscape Easement** shall mean and refer to an easement as shown on the record plat or plats for the Property, created for the benefit of the Owners and the Association for the purpose of retaining all wooded areas located within the easement area, predominantly and as nearly as practical, in their natural, scenic and undeveloped condition.

2.17 **Lot** shall mean each separate tract depicted, designated and shown upon the Site Plan, or created by a Lot split of a tract depicted, designated and shown

upon any recorded Subdivision Plat. The term "Lot" shall not include any tract described in this Declaration or the subdivision Plat as Common Area.

2.18 **Lot Assessments** shall have the meaning set forth in Section 7.08.

2.19 **Managing Agent** shall mean and refer to a manager or managing agent retained or employed by the Association for the purposes provided in this Declaration.

2.20 **Member** shall mean and refer to a member of the Association. All Owners are Members, and only Owners may be Members.

2.21 **Occupant** shall mean and refer to any individual who resides in a Residence. An Occupant may also be referred to as a "Resident."

2.22 **Owner** shall mean the holder of record title in fee simple to any Lot, whether or not such title holder actually resides on the Lot. This term excludes those persons or entities holding record title merely as security for the performance of an obligation by the Declarant, any Builder, or any Owner.

2.23 **Owners** shall mean collectively, all Owners of Lots within the Subdivision.

2.24 **Person** shall mean and refer to a natural individual, corporation, general or limited partnership, partnership having limited liability, limited liability company, trustee, fiduciary or other entity legally authorized to hold title to real property.

2.25 **Property** shall have the meaning set forth in Subsection 1.01.

2.26 **Residence** shall mean and refer to any single family home on a Lot.

2.27 **Resident** shall mean and refer to any individual who resides in a Residence. A Resident may also be referred to as an "Occupant."

2.28 **Rules and Regulations** shall mean and refer to those rules and regulations adopted by the Board governing the use and enjoyment of the Subdivision, and including any future amendments to those rules and regulations.

2.29 **Site Plan** shall mean and refer to the concept plan for all initial improvements to the Property attached hereto as **Exhibit B**.

2.30 **Special Assessment** shall mean and refer to an assessment levied or charged by the Board against a Lot which provides that a particular Lot may be responsible for expenses, charges or costs which are not chargeable or assessable against all Lots within the Subdivision.

2.31 **Storm Water Facilities** shall mean and refer to those storm water retention/detention facilities constructed for the common use and enjoyment of the Owners and which are not maintained by a governmental authority.

2.32 **Subdivision** shall have the meaning set forth in Section 1.01.

2.33 **Subdivision Plat** shall mean each and every subdivision record plan of real estate as recorded in the plat records of Montgomery County, Ohio which affects the property of this Subdivision.

2.34 **Tenant** shall mean and refer to the Person(s) or entity that occupies or resides within a single family home on a Lot.

ARTICLE III. PROTECTIVE COVENANTS AND RESTRICTIONS

The following protective covenants and restrictions shall apply to all portions of the Subdivision unless otherwise noted.

3.01 **Construction.**

3.01.1 **Builder/General Contractor.** The builder or general contractor for all single family homes and the Common Area amenities within the Subdivision shall be designated by the Declarant or its assigns.

3.01.2 **Pre-Construction.** Platted, unbuilt Lots shall be maintained by the Owner. Such platted, undeveloped Lots shall remain free of automobiles, trash, yard waste and debris. The grass and/or weeds will be maintained by the Owner.

3.01.3 **Approval.** Prior to commencing any construction, Owners shall obtain written approval of the Declarant if it is prior to the expiration of the Development Period or thereafter, of the Board, in accordance with Article V.

3.01.4 **Construction Period.** Completion of construction of each Residence on a Lot shall be within nine (9) months after the commencement of construction, provided such period may be extended by any causes beyond reasonable control of the Builder and Owner, which shall include strikes, labor disputes, fire and other casualties, adverse weather conditions, acts of God, war or any other governmental authority. When each Residence on a Lot has been substantially completed, the Owner and Builder thereof shall complete the construction of all driveways, approaches and sidewalks on the Lot, remove all trash and debris from, in and around the Lot, restore all damaged ditches to original contour and grade, and complete the grading, shaping, draining terracing, seeding and/or sod and landscaping of the Lot, weather permitting.

3.02 **Residential Usage.** Each Lot shall contain a Residence and a yard for use by a single family and shall be used for no other purpose except such temporary uses as shall be permitted by Declarant while the Subdivision is being developed and Lots are being sold by Declarant; subject to the following exceptions (and other exceptions specifically stated herein):

3.02.1 **Declarant Rights.** Declarant reserves for itself and assigns (including Builder) the following rights, until all Lots are sold (and escrows closed): (i) the right to carry on normal sales activity including the operation of models and sales offices, (ii) the right to farm any undeveloped portions of the Subdivision, including future phases and undeveloped Lots, and (iii) the right to use such undeveloped portions of the Subdivision for staging construction projects and the storage of fill material.

3.02.2 **Sale or Lease.** Promotion of the sale or lease of any Residence or Lot within the Subdivision is permitted and a "for sale" sign may be placed on a Lot. Members may not promote the lease of a Residence by placing a sign on the Lot or in the Subdivision.

3.03 **Splits Prohibited.** No Lot shall be split, divided or subdivided for sale, resale, gift, transfer or otherwise, so as to create a new Lot or building site.

3.04 **Improvements on Lots/Temporary Improvements.**

3.04.1 No building shall be erected, altered, placed or permitted to remain on any Lot other than one (1) detached single family dwelling with a private garage suitable for parking not less than two (2) and no more than four (4) motor vehicles which is to be attached to the principal dwelling.

3.04.2 No temporary building or structures shall be permitted on Lot; provided, however, trailers, temporary buildings, barricades, and the like, shall be permitted for construction purposes during the construction period and for sales purposes during the sale of Lots, on the condition that Declarant has theretofore approved in writing the design, appearance, and location of the same. Any permitted temporary improvements shall be removed not later than fourteen (14) days after the date of completion of the building(s) for which said temporary structure was intended and shall be permitted for no longer than a period of one year, unless otherwise approved by the Declarant.

3.05 **Quiet Enjoyment/Nuisance.** No Owner or Resident shall permit or suffer anything to be done or kept upon such Lot or Residence which will obstruct or interfere with the rights of quiet enjoyment of other Owners, Residents or Occupants, or annoy them by unreasonable noises or otherwise.

3.05.1 No Owner shall commit or permit nuisance on the premises or commit or suffer any immoral or illegal act to be committed thereon.

3.05.2 Each Owner shall comply with all of the requirements of the Board of Health and of all other governmental authorities with respect to its Lot and shall remove all rubbish, trash and garbage from the Lot.

3.05.3 No speakers, horns, whistles, bells, or other sound devices shall be located, used or placed on any Lot except security devices used exclusively for security purposes which are activated only in emergency situations or for testing thereof.

3.05.4 No noxious or offensive trades or activities shall be carried on upon any Lot, nor shall anything be done thereon, which may be or become an annoyance or nuisance to the any other Owner.

3.06 **Vehicle Restrictions and Parking Requirements.**

The Board is granted the power and the authority to create and enforce reasonable rules concerning the placement and the parking of any vehicle permitted on or in the Subdivision, so long as those rules are consistent with, and do not amend any of the terms hereof. In addition to its authority to levy individual Lot Assessments as administrative charges for the violation of the Rules, the Board shall be authorized to cause the removal of any vehicle violating such rules.

Except as specified below, trucks, prohibited commercial vehicles, boats, trailers, campers and mobile homes are not permitted to be parked or stored on any Lot, street, drive or alley, parking lot in the Subdivision or on any part of the Common Areas for any time period longer than twenty-four (24) hours in any thirty (30) day period; provided, however, that nothing contained herein shall prohibit the reasonable use of such vehicles as may be necessary during construction of Improvements within the Subdivision.

For the purpose of this section the terms "truck" and "prohibited commercial vehicle" shall include all vehicles that have a length of more than twenty-one (21) feet and all vehicles that include any visible exterior storage of tools or materials; provided, however, that up to two (2) ladders may be visible. Dump trucks, tow trucks, flat bed car hauling trucks, panel truck and vans larger than one-ton capacity, pickup trucks larger than one (1) ton capacity, and semi type tractors and trailers, shall in every instance be considered to be a prohibited truck and or a prohibited commercial vehicle. For the purpose of this section the word "trailer" shall include landscaping trailer, open bed trailer, trailer coach, house trailer, mobile home, automobile trailer, camp car camper or any other vehicle, whether or not self propelled, constructed or existing in

such a manner as would permit use and occupancy thereof, or for storage or the conveyance of personal property, whether resting on wheels, jacks, tires or other foundation.

Furthermore, no automobile, truck, or other motor-driven vehicle, or trailer, in a condition where it is unlicensed, unregistered, apparently inoperable, extensively damaged, disabled, dismantled, or otherwise not in a condition to be lawfully operated upon the public highway, or any vehicle component or part shall be placed, parked or stored on any Lot, street, drive or alley, parking lot, or driveway within the Subdivision or in the Common Areas. The vehicle, trailer or part so situated shall be deemed to be a nuisance and shall be removed. No parking of any motor vehicle of any kind is permitted in side yards.

3.07 **Service Screening, Storage Areas.** Garbage, trash, or refuse shall be placed in containers that shall be stored within the dwelling unit (garage) or shall be concealed by means of a screening wall of materials similar to and compatible with that of the dwelling unit. The structure may be constructed to the side or rear of the dwelling unit (not in front of the dwelling unit), as long as it is not within a designated building set-back of the Lot and is a maximum height of 54". All trash enclosures must be maintained in good order and condition. No burning or storage of trash of any kind or storage of trash outside the container within the enclosure shall be permitted.

3.08 **Animal Maintenance.**

3.08.1 No animals shall be raised, bred or kept on any Lot or in the Common Area except that common household pets, including dogs, cats, birds or fish may be kept on a Lot; provided, however, that no animal shall be kept, bred or maintained for any commercial purpose or in unreasonable numbers.

3.08.2 Each Owner shall be responsible for cleaning any excrement or other unclean or unsanitary condition caused by said animal on the Lot or Common Area.

3.08.3 Each Owner shall take such all measures necessary to prevent their animals from straying on to any other Lot.

3.08.4 No dog houses, dog runs, kennels or any structure used to house dogs or any other animal shall be permitted to be kept outside on any Lot.

3.08.5 Electric underground pet control fences (invisible fences) shall be at least ten (10) feet from all sidewalks and walkways.

3.08.6 Any person bringing an animal upon or keeping an animal within the confines of the Subdivision shall be liable pursuant to the laws of the State of

Ohio to each and all persons for any injury or damage to persons or property caused by such animal.

3.09 **Landscaping and Trees.** During the Development Period, all landscaping installed on a Lot shall be installed in accordance with the following minimum landscaping requirements:

3.09.1 **Minimum Landscaping Requirements.** Sod is to be placed in the front & side yards of each Lot and seed or sod shall be placed in the rear yards. All landscaping must be in compliance with any applicable municipal, state, or federal regulations, codes, ordinances, and statutes. The foregoing requirement shall be the sole responsibility of the Builders and Owners and at their sole cost. Declarant's approval of any landscaping plans and specifications shall not be deemed an approval or assurance that such landscaping complies with applicable township, municipal, state, or federal regulations, codes, ordinances, and statutes.

3.09.2 **Street Tree Program.** The street tree program is based on two trees per Lot, whether or not the street tree is located in the public right-of-way or on an Owner's Lot. The deciduous trees, as approved by the Declarant, shall be 2.5" caliber in size and include: October Glory Red Maple, Skyline Thornless Honeylocust, Redmond Linden, and Green Vase Zelkova. The maintenance program by the Owner will consist of annual fertilizing and pesticide treatments and trimming. After the initial installation of street trees, the responsibility for maintaining and replacing the street tree shall be borne by the Owner of each Lot.

If a street tree is not properly maintained or dies, and is not replaced by the Owner, the Association may enter onto the Lot (if necessary), replace the tree, and charge the costs as an individual assessment against that Owner and the Owner's Lot.

3.09.3 **Tree Removal.** No trees shall be removed from within the Common Areas except as disclosed in plans submitted to and approved by the Declarant or, after the Development Period, the Board. Any tree removed contrary to this provision shall be replaced at a location and with a tree or trees of comparable caliber and species, as approved by the Declarant or, after the Development Period, the Board. The Board may also levy a fine against any Owner who wrongly removes or permits the removal of one or more trees from the Property contrary to the provisions of this section. The amount of such a fine shall be discretionary with the Board, but in any event shall not exceed the greater of two times the measurable economic gain to the Owner of having the tree(s) removed or \$1,500.00.

3.10 **Vegetable Gardens**. Vegetable gardens shall only be located in the rear yard area of a Lot and shall not be located within the rear or side yard setback areas. Vegetable gardens shall not exceed 200 Sq. Ft. in size.

3.11 **Fences & Walls**. Subject to the prior written approval of the Declarant or, after the Development Period, the Board or a designated representative, a fence may be permitted consistent with the following guidelines:

3.11.1 No fence or any portion thereof may be installed on that part of any Lot that is forward of the primary rear wall of the Residence on the Lot (i.e. fences are permitted only in the rear of the residence).

3.11.2 Fences shall be of white or beige vinyl material, decorative aluminum, or wood (including pressure treated) only. No chain link type of fencing will be permitted.

3.11.3 Fences shall be up to 48 inches in height from the finish grade of the Lot and shall not be privacy fences, but shall have a minimum of 40% opening for the boards (i.e., spacing of 2" for every 3" board, or 2½" for every 3½" board).

3.11.4 All fences must be installed with finished side out.

3.11.5 All corner Lots are classified as "double fronting" Lots and shall adhere to the minimum building setback requirements. Fencing shall not extend forward beyond the side/rear house plane, or any closer to the street than the building setback line.

3.11.6 No fence shall obstruct the flow of storm water.

3.11.7 Privacy fences and stockade shadow box fences will not be permitted for perimeter lot line fencing.

3.11.8 In addition to the regulations set forth above, it is the obligation of the Owner to adhere to any Township, City or County building requirements prior to construction.

3.11.9 Additionally, any fence enclosing a swimming pool shall be a minimum of three (3) feet off the property line and conform to state or local regulation and be submitted to the proper governmental authority prior to construction.

Review or architectural fees are set forth in the Association's collection and fee, and enforcement policies, attached hereto as **Exhibits D and E**, subject to any and all future adjustments as determined by the Declarant or the Board.

3.12 **Pools.** No above ground swimming pools of any type shall be constructed on any Lot. In ground pools may not be covered with air inflated covers. The pool location, rigid cover, and design must be approved by the Declarant, if it is during the Development Period, or by the Board, which approval may be withheld by the Declarant or the Board in its sole discretion. Review or architectural fees are set forth in the Association's collection and fee, and enforcement policies, attached hereto as **Exhibits D and E**, subject to any and all future adjustments as determined by the Declarant or the Board.

3.13 **Cluster Box Units.** Declarant shall be responsible for the initial construction and installation of CBUs served by the United States Postal Service (USPS) for the Subdivision. Declarant shall follow the USPS approved specifications for concrete pads and anchoring methods and prepare any agreements necessary to comply with the USPS. Upon final installation, the CBUs shall be managed by either the Declarant or the Association. The management of the CBUs and any fees associated with the maintenance of the CBUs, such as replacement keys, repairs, etc., shall be determined by the Association. Each Owner should be notified by the Builder of the approved mode of delivery at the time of move in. Otherwise, Owner shall be responsible for contacting the Washington Township post office (937-291-1624) to obtain their individual CBU compartment keys.

3.14 **Lighting.** Any lighting used to illuminate yard areas shall be equipped with suitable shielding and designed as to avoid casting direct light on any other Lot in the Subdivision or property adjacent to the Subdivision. Each Owner shall maintain and repair their respective light or lamppost as necessary. Any replacement must be approved by the Declarant or the Board as appropriate. Mercury vapor yard lights in excess of 50 watts are strictly prohibited.

3.15 **Accessory Buildings.** No structure of a temporary character and no secondary building, trailer, mobile home, tent, shack, barn, or outbuilding shall be permanently or temporarily erected, maintained, or installed on any lot at any time. No sheds shall be installed without the prior written approval of the Declarant or, after the Development Period, the Board, or their designated representative.

3.15.1 Subject to prior written approval, a shed may be constructed on a lot, not less than five (5) feet off any property line. Specific design standards for sheds shall be no more than 10 feet by 12 feet (a total of 120 Sq Ft) The shed shall be constructed of wood or vinyl material and painted to match the existing primary structure. The shed shall have roofing material consistent in material and color as that of the existing primary structure. Sheds not in accordance with this section shall be prohibited.

3.16 **Vehicular Repair.** Automotive or other vehicle repair shall not be permitted on any Lot; however, an Owner shall be permitted to make minor repairs to his or her own licensed vehicle in his or her garage. No unusable, worn out or discarded automobiles, machinery, vehicles, or parts thereof shall be stored on any Lot.

3.17 **Propane and Fuels.** No propane gas tanks or other storage drums or tanks (above or below ground), shall be installed unless approved by the Declarant, if it is during the Development Period, or by the Board, which approval may be withheld in the Declarant's or the Board's sole discretion. Fuel storage is limited to personal use containers; e.g. one (1) to five (5) gallon containers for fueling yard maintenance equipment or propane gas grills.

3.18 **Driveways.** All driveways will be concrete, brick or pavers.

3.19 **Parking and Roadways.** "No Parking" signs shall be posted in the appropriate areas. No overnight parking of any vehicle shall be permitted in front of, adjacent to, or on any Common Areas or other property owned by the Association.

3.20 **Recreational and Play Equipment.** Prior to the construction or installation of any improvement, an Owner must obtain written approval from the Declarant, if during the Development Period, or the Board.

3.20.1 Swing sets, jungle-gyms, playhouses or similar yard equipment located in any Lot must be maintained in safe and good condition. Play sets shall be of semi-permanent nature and the structure shall be constructed of wood. Absolutely no metal or plastic structured playground equipment will be permitted. No play sets shall be permitted in the front yards of any Lots and must be located as not to infringe on any rear or side yard setbacks.

3.20.2 Basketball hoops shall be permitted on a Lot provided they are in compliance with the following criteria: (i) they shall be of a semi-permanent or permanent nature and not attached to the Residence on the Lot; (ii) they shall have a clear backboard, and the supporting pole(s) shall be black; and (iii) the pole shall be installed so that the backboard is perpendicular to the adjoining street in front of the Residence. Portable basketball goals may not be left on or in front of any Lot overnight. For the purpose of this section, semi permanent means that the pole is secured in the ground with a concrete footing.

3.21 **Drainage and Grading.** No drainage ditches, swales, streams, impoundments, ponds or lakes; no mounds, knobs, dams, or hills; and no other physical improvements or elements of the landscape or terrain which control or determine the location or flow of surface water and drainage patterns may be destroyed, altered, or modified by or at the direction or with the consent of any Owner without the prior written consent of the Declarant, if it is during the Development Period, or the Board. No improvements to any Lot shall be made in any manner whatsoever that is inconsistent

with the master grading plans established by Declarant, or its successors or assigns, for the Subdivision, as they now exist or may hereafter be modified from time to time, without the prior written consent of the Declarant, if it is during the Development Period, or of the Board. In the event of any destruction, alteration, modification, or improvement made or occurring without such prior consent of the Declarant, if it is during the Development Period, or of the Board, Declarant and/or the Association and their respective representatives shall have the joint and several rights to enter upon any Lot and to remedy or repair any such destruction, alteration, modification, or improvement without being guilty of trespass and without liability to any Owner for such trespass. Storm water must be disposed of in accordance with drainage plans established by the Declarant, the Association, or Montgomery County.

3.22 **Sump Lines**. No person shall install any pump, piping, devise, apparatus or other system for discharging sump pump waste water into any street or Common Area, without the prior consent of the Declarant or the Board.

3.23 **Waste Disposal**.

3.23.1 Sanitary waste and waste water shall be disposed of by sanitary sewer only.

3.23.2 No dumping of waste water, yard waste or trash onto the Common Areas or in the Common Area.

3.23.3 All Owners shall be responsible to contract for trash collection and sanitary sewer services, as required by Miami County. Rumpke Waste and Recycling is contracted through June 30, 2024, with the option of two extension years. Owners can call 1.800.828.8171 or email northwest.market@rumpke.com.

3.24 **Debris**.

3.24.1 No Lot shall be used or maintained as a dumping ground for refuse of garbage or the like.

3.24.2 All equipment used for the storage or disposal of refuse of garbage or other debris shall be kept in a clean and sanitary condition and shall not be visible from the street or neighboring Lots.

3.24.3 During construction, a dumpster of sufficient size to handle all construction debris shall be maintained on site without overflow.

3.24.4 Builders and Owners shall be responsible for the cleaning and removal of mud or debris on the streets caused by construction. If such mud or debris is not cleaned within 24 hours of notice, the Declarant or the Association may charge the Owner all costs associated with such cleaning and removal.

3.25 **Utility Service.**

3.25.1 No lines, wires or other devices for communication purposes, including telephone, television, data and radio signals, or for transmission of electric current or energy shall be constructed, placed, or maintained anywhere in or upon the Subdivision unless the same shall be in or by conduits or cables constructed, placed and maintained underground or concealed in, under, or on a residence or other approved improvements; provided, however, that above ground electrical transformers and electrical equipment may be permitted if properly screened upon approval by the Declarant, if it is during the Development Period, or by the Board. Above-ground power lines that border or cross the Subdivision which exist at the time this Declaration is recorded shall not be required to be relocated underground.

3.25.2 Notwithstanding anything herein to the contrary, no radio or television signals or other forms of electromagnetic radiation shall be permitted to originate from any Lot which may unreasonably interfere with the reception of television or radio signals upon any other Lot.

3.25.3 Each Residence shall have public water. No private wells shall be permitted.

3.25.4 All gas, water, sewer, oil and other pipes for gas or liquid transmission, shall be installed and maintained underground or within or under each Residence at such Owner's expense.

3.25.5 Nothing herein shall be deemed to restrict the erection and use of temporary power or telephone services incident to the construction of improvements or to restrict the overhead distribution of three-phase primary power supply to the Subdivision by any supplier of utilities.

3.25.6 The Subdivision will be serviced by an underground electric distribution system, which underground system will provide electrical service to the Subdivision. Each Builder or Owner shall, at its own cost, furnish, install, own and maintain the underground service cable and appurtenances from the point of metering by the supplier of the electric service to the designated point of attachment of such service to the designated transformers or energized secondary junction boxes located at the property line of each Lot. The supplier of the electric service shall make the necessary connections at the point of attachment. In addition, the Builder or Owner shall, at its own cost, furnish,

install, own and maintain a meter loop (in accordance with the then-current standards and specifications of the electric company supplying the service) for the location and installation of the metering device to be located on the Lot.

3.25.7 Appliances or installations on the exterior of a Residence shall be permitted if they are designed in such a manner that they are not visible from the streets or other Residences and have been approved in writing by the Declarant, if during the Development Period, or by the Board, who shall have the right to approve or disapprove the size, shape, style, noise level, and provisions for screening of any equipment. Heating, ventilation, and air conditioning (HVAC) units are permitted provided they are not attached or placed in the front of any Lot or Residence.

3.25.8 No television, radio or other electrical towers, aerials, antennae, or other device of any type for the reception or transmission of radio or television broadcasts or other means of communication shall be erected, constructed, placed or permitted to remain on any Lot or upon any improvements thereon, except that this prohibition shall not apply to those antennae specifically covered by 37 C.F.R. Part 1, Subpart 5, Section 1.4000 (or any successor provision) promulgated under the Telecommunications Act of 1996, as amended from time to time. The Declarant, if during the Development Period, or the Board shall be empowered to adopt rules governing the types of antennae that are permissible hereunder and establishing reasonable, non-discriminatory restrictions relating to safety, location and maintenance of antennae. To the extent that the reception of an acceptable signal would not be impaired, an antenna or satellite dish may be installed only if it is located within a Residence, or: (i) is not located in the front yard of the Lot or attached to the front of the Residence; (ii) is not visible from any street (whether by location or screening); and (iii) is integrated with the Residence and surrounding landscape.

3.26 **Maintenance of Residences and Lots**. Each Owner shall maintain and repair its Lot, its Residence, and other improvements which are owned by or the responsibility of such Owner so that they do not become unsightly or fall into disrepair. Lots, Residences, and other improvements must be kept in good condition and adequately painted or finished with a trim, neat yard, as may be applicable. In the event of damage or destruction to any Residence or other improvements, the Owner shall cause such Residence or other improvements to be repaired or removed within a reasonable period of time and restored to an orderly and attractive condition.

During the Development Period, if the Declarant or the Board gives notice of any needed alteration, repair, or maintenance, and the Owner fails to timely perform, then the Declarant or the Association, or their agents, may enter onto the Owner's Lot to

perform the necessary alteration, repair, or maintenance. Each Owner shall reimburse the Association for any expenses actually incurred in carrying out the foregoing alteration, repair, or maintenance. The Association may assess and collect such reimbursement (for itself or on behalf of Declarant, as the case may be) as a Lot Assessment.

3.27 **Maintenance of Driveways and Sidewalks.** Each Owner shall be responsible for the maintenance or replacement of all damaged sidewalks and driveways located on or in front of its Lot.

3.28 **Signs.** No sign, poster, display or other advertising device of any kind shall be displayed on or from any of the Common Areas, except that such signs as may be used by Declarant or its assigns (including Builder), in its sole discretion, in connection with the development and Lot sales of the Subdivision. No sign, poster, display or other advertising device of any kind shall be displayed to the public view on or from any Lot except: (i) a single temporary sign not exceeding six (6) square feet in area advertising the sale of a Residence, which sign must be on the Lot where the Residence is located, and (ii) number plates for residence addresses not exceeding 72 square inches in area. Non-standard signs may be used by Declarant or its assigns (including Builder) to advertise a model home or other event anywhere on the Property. For sale signs may be posted on the Lots, but rental signs shall not be permitted in the Subdivision. Upon written notification, non-permitted signs must be removed by the respective Owner within 48 hours from date of letter or Owner will be assessed a fine for the cost of such removal in accordance with Section 7.08.

3.29 **Trade or Business.** An Owner or Occupant may conduct such business activity within a Residence so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from the exterior of the Residence; (ii) the business activity conforms to all zoning requirements for the Subdivision; (iii) the business activity limits persons coming on to the Lot who do not reside in the Subdivision; and (iv) the business activity is consistent with the residential character of the Subdivision and the sales of Lots or Residences in the Subdivision. Business activity produced by the Declarant and/or its assigns (including Builder) is exempt from the provisions of this section. The terms "business" and "trade" as used in this section shall be construed to have their ordinary generally accepted meanings and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether (i) such activity is engaged in full-time or part-time; (ii) such activity is intended to or does generate a profit; and (iii) a license is required.

3.30 **Open Fires.** Burning is not permitted in the Subdivision, except that outdoor fireplaces, grills, and chimneys may be used if equipped with fire screens to prevent the discharge of embers or ashes.

3.31 **Solar Panels.** Solar panels are permitted, except on primary facades or in front or side yards.

3.32 **Leasing.** The following are applicable with respect to leasing the Lots and/or the Residences:

3.32.1 **Limitation on Leasing.** The Declarant, if during the Development Period, or the Board, may limit the number of Residences that may be leased at any given time. If an Owner wishes to lease its Residence, it must submit a request in writing to the Declarant, if during the Development Period, or to the Board. If the Declarant or the Board, as applicable, has chosen to limit the number of Residences that may be leased, then it must approve all leasing requests on a first come, first serve basis. Any requests submitted that exceed the allowable number of leased Residences shall be placed on a waiting list on a first come, first serve basis.

3.32.2 **Liability to the Association.** The Owner of a Lot which is leased shall remain primarily responsible for payment of all assessments and compliance with all terms and conditions of this Declaration, and the Owner of a Lot being leased will be responsible for the acts or omissions of the Occupant to the extent governed by this Declaration.

3.32.3 **Covenants and Restrictions.** Every lease on every Residence is subject to the following covenants and restrictions, whether stated in the lease or not:

3.32.3.1 The lease must be in writing.

3.32.3.2 The lease must be for entire Residence.

3.32.3.3 The lease must be for a minimum and continuous period of not less than twelve (12) months. Renewals can be for any length.

3.32.3.4 The use of the Residence and Lot by a Tenant is subject to the Declaration.

3.32.3.5 The Residence cannot be used as a motel or hotel or otherwise for transient tenants.

3.33 **Notice of Tenancy.** Within thirty (30) days of occupancy of a Residence by a Tenant, the name and telephone number of the Tenant, together with a clear and complete copy of the lease, must be furnished to the Association.

3.34 **Remedies for Breach.** If any Tenant of a Residence violates any of the provisions of the Declaration, the Association may bring an action in its own name and/or in the name of the Owner to have the Tenant evicted and/or to recover damages. If the court finds that the Tenant is or has violated any of the provisions of the Declaration, the court may find the tenant guilty of forcible detainer notwithstanding the facts that the Owner is not a party to the action and/or that the Tenant is not otherwise in violation of Tenant's lease or other rental agreements with Owner. For purposes of granting the forcible detainer against the Tenant, the court may consider the Owner a person in whose name a contract (the lease or rental agreement) was made for the benefit of another (the Association). The remedy provided by this subsection is not exclusive and is in addition to any other remedy or remedies available at law or in equity. The Association may recover all of its costs, including court costs and reasonable attorney's fees. The Association will give the tenant and the Owner notice in writing of the nature of the violation, and ten (10) days from the mailing of the notice in which to cure the violation before the Association may file for eviction.

3.35 **Binding Effect.** By becoming a Tenant, each Tenant agrees to be bound by the Declaration, and recognizes and accepts the right and the power of the Association to evict the Tenant for any violation by the Tenant of the Declaration.

3.36 **Declarant's Rights.** Notwithstanding anything to the contrary set forth in this subsection, the covenants and restrictions on leasing set forth in this subsection shall not apply to the Declarant, in its capacity as an Owner of unsold Lots, and Declarant shall have the right to lease to a tenant any unsold Lot or Residence without compliance with such covenants and restriction.

3.37 **Improvements in Common Areas.** Except for improvements constructed by the Declarant in connection with the development of the Subdivision, no improvement of any kind shall be erected, altered, placed or permitted to remain on the Common Areas. Additionally, no improvement constructed by the Declarant in connection with the development of the Subdivision shall be removed from the Common Areas without the prior written consent of the Declarant, if it is during the Development Period, or the Board.

3.38 **Exemption of Declarant.** Nothing in this Article or elsewhere in this Declaration shall limit in any manner whatsoever the rights of Declarant to complete the planning, development, grading, construction, advertising, marketing, leasing and sales of the Lots, and all other property within the Subdivision (including any property which may be annexed thereto pursuant to the provisions of this Declaration), during the Development Period.

ARTICLE IV. EASEMENTS AND LICENSES

4.01 **Easement of Access and Enjoyment Over Common Area.** Every Owner shall have a right of access to his/her Lot through the designated public and private roadways, walkways, and sidewalks. Each Owner shall have an easement (in common with all other Owners) of enjoyment in, over, and upon the Common Areas. These rights shall be appurtenant to, and shall pass with, the title to the Lot, subject to the terms and limitations set forth in Article IX, otherwise in this Declaration, and in the Rules and Regulations. An Owner may delegate his/her rights of access and enjoyment to family members, Occupants, guests and invitees. All such easements are limited by such restrictions as may apply to the Common Area affected thereby, and no person shall have the right by virtue of such easements to engage in activities on the Common Areas which are not permitted according to this Declaration, the Rules and Regulations, the provisions of the Subdivision Plat, or under agreements with any governmental entities or other third parties.

4.02 **Right of Entry for Repair.** The duly authorized agents, officers, contractors, and employees of the Association shall have a right of entry and access to the Subdivision, including, without limitation, the Lots, for the purpose of performing the Association's rights or obligations set forth in this Declaration. The Association may enter any Lot to remove or correct any violation of this Declaration or the Rules and Regulations, but only during reasonable hours and after providing twenty-four (24) hours advance notice to the Owner, except in cases of emergency, or to maintain, repair, and replace the Common Areas.

4.03 **Easement for Utilities and Other Purposes.** Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the Subdivision Plat. Within these easements, no structures, plantings or other material that may damage or interfere with the installation and maintenance of utilities, may change the direction of flow of drainage channels in the easements, or may obstruct or retard the flow of water through drainage channels in the easements shall be placed or permitted to remain. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner, except for those improvements for which a public authority or utility company is responsible. The Declarant shall have the absolute right within (i) areas designated as drainage courses on the recorded plat of the subdivision, (ii) all areas encumbered by general utility or specific storm drainage easements, and (iii) areas determined by sound engineering practice to be necessary to the proper drainage of all or part of the subdivision, to enter upon an Owner's property and perform grading and other construction activities deemed appropriate in the exercise of Declarant's judgment to install, modify, alter, remove or otherwise work on storm water drainage facilities and conditions (including both surface grading and subsurface structures). If any such entry and/or work performed by Declarant results in

damage to other portions of an Owner's Lot, or to any improvements thereon, Declarant shall be responsible for the restoration of such portions or improvements at Declarant's sole cost.

The Owners shall have an easement over all property adjoining his/her Lot and over and upon the Common Areas to discharge over such property and Common Areas all surface waters that naturally rise in or flow or fall upon his/her Lot. All property within the Subdivision is subject to such an easement in favor of the Owners of adjoining property and their successors and assigns, which easement shall be a covenant running with the property. An Owner shall not institute any legal proceeding against any other Owner for discharge of surface waters over his Lot, unless the other Owner has altered the grade or drainage pattern of his Lot to the detriment of other Lots. If a legal proceeding is brought in violation of this section, the Owner instituting the action shall indemnify and hold harmless the Owner against whom the proceeding was instituted from any attorneys' fees, damages, and other expenses or costs incurred in its defense.

The Board or Declarant, as applicable, may convey additional easements over the Common Areas to any entity for the purpose of constructing, installing, maintaining, and operating poles, pipes, conduit, wires, swales, land contours, ducts, cables, and other equipment or conditions necessary to furnish electrical, gas, sanitary or storm sewer, water, telephone, cable television, and other similar utility or security services, whether of public or private nature, to the Subdivision and to any entity for such other purposes as the Board or Declarant deems appropriate; provided that such equipment or condition(s), or the exercise of such easement rights shall not unreasonably interfere with any Owner's use and enjoyment of his/her property. The Board or Declarant may grant such easements over all portions of the Subdivision for the benefit of adjacent properties as the Board or Declarant deems appropriate; provided that the grant of such easements imposes no undue, unreasonable, or material burden or cost upon the Subdivision. Each Owner, by acceptance of a deed to its Lot, appoints the Declarant and/or the President of the Association his, her or its Attorney-in-Fact to execute, deliver, acknowledge and record, for and in the name of such Owner, deeds of easement, licenses, permits and other instruments as may be necessary or desirable, in the sole discretion of the Declarant or the Board, to further establish or effectuate the foregoing easements and rights, which power is for the benefit of each and every Owner, the Association, and the Subdivision and runs with the land, is coupled with an interest, and is irrevocable.

4.04 **Easement for Services**. A non-exclusive easement is hereby granted to all police, firemen, ambulance operators, mailmen, deliverymen, garbage removal personnel and all similar persons, and to the local governmental authorities and the Association (but not to the public in general) to enter upon the Common Areas to perform their duties.

4.05 **Dedication Rights.** The Declarant and/or the Association hereby specifically reserve the right to "Dedicate to the Use of the Public" any part of or all of the streets, detention areas and easements, in part or in full.

4.06 **Walkways & Sidewalks.** Every Owner shall have a right and easement (in common with all other Owners) of enjoyment in, over, and upon the walkways and sidewalks located within the Subdivision, which rights shall be appurtenant to, and shall pass with, the title to property, subject to the terms and limitations set forth in Article IX, otherwise in this Declaration, and in the Rules and Regulations. An Owner may delegate his/her rights of access and enjoyment to family members, occupants, guests and invitees. No person shall have the right by virtue of such easements to engage in activities on the walkways or sidewalks which are not permitted according to this Declaration, the Rules and Regulations, the provisions of the Subdivision Plat, or under agreements with any governmental entities or other third parties.

4.07 **Landscape Easement.** As set forth on the Subdivision Plats, certain Lots may be subject to the Landscape Easements. Within such Landscape Easement, no building, structure, or other improvement, including fences or play equipment, shall be erected. No live trees may be removed from a Landscape Easement without the prior written permission of the Declarant, if it is during the Development Period, or the Board.

The Declarant or the Board, as applicable, shall have the right to enter upon a Landscape Easement for the purpose of installing or maintaining any utility or drainage system. All parties benefited by the Landscape Easement shall be entitled to injunctive relief for damages in the event of the breach of this section.

The foregoing restrictions do not apply to limited cutting and non-substantial clearing by the Owner of the Lot encumbered by such easements required for: (i) the maintenance of utility or drainage facilities, (ii) the cutting and removal of weeds and noxious plants, (iii) the trimming of dead, dying and/or decaying branches and limbs, (iv) the erection of impermanent and/or portable feeders, licks and baths for wildlife, and (v) to the planting of trees, flora and similar pursuits.

4.08 **Private Drainage Easements.** Except as otherwise set forth on the Subdivision Plat, all Lots are subject to private drainage easements in favor of the Declarant, the Builder, and the Association. Such private drainage easements shall be ten feet (10') in width (five feet (5') on each Lot) and shall exist along all common Lot lines, with the common Lot line being the center line of said easement. In those cases where the rear Lot line is not a common Lot line, the private drainage easement shall be ten feet (10') in width along such rear Lot line. The Declarant, if it is during the Development Period, or the Board shall have the right to enter upon a private drainage easement for the purpose of establishing or reestablishing drainage swales in order to control and direct storm water to collection facilities.

4.09 **Reservation of Easements.** The Declarant shall have and hereby reserves easements in favor of itself, the Association, their successors and assigns, and such other persons or entities, as it may designate as follows:

4.09.1 In, on, and over that portion of the publicly dedicated rights of way outside of the actual roadway, as well as over a twenty foot (20') wide strip of land on either side of such publicly dedicated rights of way on the Property for the purposes of: (i) access to construct, use and maintain utilities (including, but not limited to, internet, telephone and cable television), sidewalks, signage, lighting, landscaping and recreational uses; (ii) removing any obstructions including landscaping from such areas; and (iii) such other uses deemed appropriate for or necessary to integrate the Property into other real estate.

4.09.2 In, on, and over all utility and drainage easements set forth on the Property for the installation and maintenance of utility and drainage systems.

ARTICLE V. ARCHITECTURAL CONTROL

5.01 **Plan Approval Requirement.** No improvement, change, (including, without limitation, change in exterior color) construction, addition, excavation, landscaping, fencing, tree removal or other work or action which in any way alters the exterior appearance of the Subdivision from its theretofore natural or improved state (and no change, alteration or other modification of any of the foregoing previously approved hereunder), and no addition to or modification of any improvement or landscaping (whether or not theretofore approved hereunder) shall be commenced or continued until the same shall have first been approved in writing by the Declarant, if during the Development Period, or the Board.

No Residence, structures or other improvements of any kind shall be erected or placed on any Lot without the Declarant, if during the Development Period, or the Board, approving, in writing, a detailed site plan showing the Residence, structures, and other improvements and a separate building plan. All building and site plans are to be reviewed and approved by the Declarant, if during the Development Period, or the Board, for square footage, outside elevations, materials, colors, building location, paving location and other site improvements of any kind. In reviewing such plans, the Declarant or the Board, as applicable, may take into consideration, in their sole discretion: (i) conformity and harmony of the proposed plans with the development plans for the Subdivision, (ii) other structures on the Subdivision, (iii) the effect of the location and use of improvements on neighboring property, and (iv) conformity of the plans and specifications to the general intent of and specific provisions of this Declaration.

Builders receiving approval of plans pursuant to this section may build multiple Residences according to said plans (subject to all other provisions of this Declaration, and permitting mirror image versions of approved Residences), without the need to

obtain approval for each such home to be constructed; however, all site-specific changes and any further change to materials and/or colors must be individually approved pursuant to this section.

5.02 **Review Fee.** The Declarant or the Board, as applicable, may charge and collect review fees whenever plans are submitted for review. The review fee, as established by the Declarant or the Board in their sole discretion, may be amended from time to time. The Builder is not subject to review fees. Review fees are set forth in the Association's collection and fee, and enforcement policies, attached hereto as **Exhibits D and E**, subject to any and all future adjustments as determined by the Declarant or the Board.

5.03 **Failure to Approve.** In the event the Declarant or the Board, as applicable, fails to approve any plans and specifications within thirty (30) days after their submission in complete form, said plans and specifications shall be deemed to have been disapproved and rejected.

5.04 **Complete Authority/Architectural Standards.** The Declarant or the Board, as applicable, has total, complete, absolute, and final discretion and authority to approve or disapprove all plans as submitted. In addition to the architectural standards and requirements set forth in Section 5.09 below, the Declarant or the Board may, but are not obligated to, establish additional architectural standards and requirements to help Owners and Builders plan development. No improvements may be made which are in any manner inconsistent with, or in violation of, the architectural standards and requirements without the written approval of the Declarant or the Board, as applicable. The Declarant and the Board shall have the right to amend or supplement the architectural standards and requirements at any time, in their sole discretion, but any such amendments or supplements shall not apply to existing improvements or approved plans.

5.05 **Liability.** Neither the Declarant, the Association, the Board, nor any member thereof, nor any of their respective heirs, personal representatives, successors or assigns shall be liable to anyone submitting plans for approval by reason of mistakes in judgment, negligence or nonfeasance arising out of or in connection with the approval, disapproval or failure to approve any plans. Every person and entity submitting plans to the Declarant or the Board agrees by said submission that he or it will not bring any action or suit against the Association, the Board, or Declarant to recover any damages.

5.06 **Scope of Approval.** No approval of plans and specifications shall ever be construed as representing or implying that such plans, specifications or standards will, if followed, result in a properly designed Residence. Such approvals and standards

shall in no event be construed in representing or guaranteeing that any Residence will be built in a good and workmanlike manner.

5.07 **Approval Subject to Governmental Regulations.** Approval of any plans shall not be interpreted or construed as an acceptance of plans that violate any applicable township, municipal, state or federal regulations, codes, ordinances, and statutes applicable to standards of building. The terms and conditions of this Article V are deemed subordinate to any and all such applicable regulations, codes, ordinances, and statutes.

5.08 **Enforcement of Violation.** Any construction or improvements which were not approved by the Declarant or the Board, as applicable, and any failure to comply with the plans and specifications as submitted and approved by the Declarant or the Board, as applicable, shall be the subject of a registered notice from the Declarant or the Board directing the Owner and/or Builder to remove all such violating work at once. Removal shall commence within seven (7) days of registered notice and shall progress until completion within thirty (30) days. Such removal shall be at the expense of the Owner and/or Builder on whose Lot the construction and improvement is situated. In the event removal is not instituted and completed according to the terms and conditions set forth herein, the Declarant, the Association, and their delegates or assigns may enter upon the Lot involved to affect the removal, with the cost thereof assessed against the Owner of such Lot.

5.09 **Architectural Standards and Requirements.** Declarant has established the following architectural standards and requirements to help Owners and Builders plan development within the Subdivision, and all improvements to property within the Subdivision are subject to these standards. The Declarant, if during the Development Period, or the Board shall confirm compliance to these standards.

5.09.1 **House Placement and Yard Grading.** Residences and Lots shall conform to existing grade and drainage patterns as set forth on the grading plan for the Subdivision filed with the appropriate governmental authorities. Existing grades at Lot lines shall not be altered more than one (1) foot without the written consent of the Declarant, if it is during the Development Period, by the Board, or the appropriate governmental authorities.

5.09.2 **Building Architecture.** The Residences will have a consistent look and feel within each section of the Subdivision and will conform with the following criteria: (i) any combination of siding, brick, stone, manufactured stone, wood, Exterior Insulation Finish System (EFIS), cementitious fiberboard, insulated acrylic vinyl and stucco as well as other comparable materials shall be used; (ii) all colors utilized will be earth tones or subdued in nature; (iii) all homes will have a total of 80% brick/stone material on the combined façade totals for all sides and floors (to be calculated by taking the façade area of each elevation and adding

them all together, with 80% of the number calculated to be constructed of brick or stone); and no vinyl siding is permitted on any façade. This does not include fascia and soffits. Similar architectural treatments shall be utilized throughout the Subdivision.

5.09.3 Home Size. The minimum square footage of finished livable space shall be 1,550 square feet. Eight (8) homes are permitted to be constructed below 1,550 square feet of finished livable space but must be a minimum of 1,400 square feet of finished livable space. The height of the buildings to be built will comply with the Miami Township Zoning Code. The setbacks and lot sizes for the homes shall be as follows:

Lot width at front building line	70 feet minimum
Front yard setback	25 feet minimum
Side yard setback	6 feet min
Rear yard setback	25 feet minimum

5.09.4 Air Conditioning and Heat Pump Equipment. Such equipment shall be located only in side or rear yards.

5.09.5 Awnings. No metal or plastic awnings for windows or doors may be erected or used. Canvas awnings may be used on a Lot, subject to prior written approval of the Declarant, if it is during the Development Period, or the Board.

5.09.6 Fences. See Section 3.11 for fencing restrictions for Lots.

5.09.6.1 Unless otherwise approved by the Declarant or the Board, no fence or wall of any kind, specifically including the use of a hedge or other growing plants as a fence, and for any purpose, excepting a retaining wall, shall be erected, placed or suffered to remain upon the Common Area or a Landscape Easement.

5.09.6.2 This section shall not apply to: (i) underground invisible dog-type fences; or (ii) decorative fences or retaining walls installed by a Declarant or a Builder in connection with the development of the Property or original construction of a residence.

5.09.7 Zoning. All improvements shall be constructed in accordance with and subject to all applicable zoning regulations and buildings codes.

5.10 Variances. In order to avoid unnecessary hardship and/or to overcome practical difficulties in the application of certain provisions of this Declaration, the Declarant, if it is during the Development Period, or the Board shall have the authority to

grant reasonable variances from the provisions of Section 5.10. No variance shall materially injure or materially adversely affect any other Lot. No variance granted pursuant to the authority of this section shall constitute a waiver of any provision of this Declaration as applied to any other party or other Lot, and no variance may be granted to permit anything that is prohibited by applicable law. All provisions of this Declaration not affected by the grant of a variance shall continue to apply with full force and effect to the Lot for which the variance is granted and to the balance of the Subdivision.

ARTICLE VI. ASSOCIATION

6.01 **Identification, Formation and Membership.** The name of the Association is: "Rivendell Subdivision Owners' Association, Inc." The Association has been formed as an Ohio non-profit corporation pursuant to the provisions of Chapter 1702 of the Ohio Revised Code. The membership of the Association shall consist of the Owners of Lots and, during the Development Period, the Declarant.

6.02 **Governance.** The Association shall be governed by a Board of Directors, consisting of at least three (3) persons. During the Development Period, the members of the Board shall be appointed by the Declarant, or the Declarant may elect to act as the Board, or it may appoint a Managing Agent to act as the Board on its behalf. The Developer shall appoint the new Board of Directors prior to the expiration of the Development Period. All persons appointed to the Board must be an Owner. Voting and all other matters regarding the governance and operation of the Association after expiration of the Development Period shall be set forth in the Association Documents.

6.03 **Voting Rights.** Voting rights of the Members of the Association shall be as provided in the Code of Regulations.

6.04 **Power; Authority; Duties.** The Association shall have all the rights, powers, and duties established, invested, or imposed by its Association Documents and the laws of the State of Ohio applicable with respect to Ohio not-for-profit corporations. In addition, the Association is hereby delegated the power and authority to enforce the protective covenants and restrictions and other provisions of this Declaration.

6.05 **Specific Powers.** With respect to the ownership, maintenance, management and care of the Common Areas, the Association shall have the following specific powers:

6.05.1 Acquire title to, manage, maintain, repair and replace all Common Areas.

6.05.2 To pay all costs of utilities, operation, maintenance, repairs, replacement, gardening and other necessary or desirable services for the Common Areas.

6.05.3 To procure and maintain appropriate public liability and casualty insurance (if applicable) for the Common Areas.

6.05.4 Grant easements or licenses where necessary or desirable for utilities and other service facilities over, on and across the Common Areas and within platted easements across Lots.

6.05.5 Levy and collect assessments from the Owners and enforce payments of such assessments.

6.05.6 Pay all taxes and special assessments that would be a lien upon the Common Areas, and discharge any lien or encumbrance levied against the Common Areas.

6.05.7 Pay for reconstruction of any portion of the Common Areas which are damaged or destroyed.

6.05.8 Employ and retain a professional manager and/or management company and/or other administrative staff to perform all or any portion of the duties and responsibilities of the Board with respect to maintenance of the Common Areas.

6.05.9 After expiration of the Development Period, make and enforce reasonable Rules and Regulations governing the use of the Common Areas, which shall be consistent with this Declaration. After expiration of the Development Period, the Board shall have the power to impose sanctions on Owners for violations of this Declaration or the Rules and Regulations, including without limitation: (i) reasonable monetary fines which shall be considered Lot Assessments, and (ii) suspension of the right to use the Common Area. In addition, the Board shall have the power to seek relief in any court of competent jurisdiction for violations or to abate unreasonable disturbances. If the Board expends funds for attorneys' fees or litigation expenses in connection with enforcing this Declaration, the Association Documents, or the Rules and Regulations against any Owner, tenant, guest or invitee of any Owner, the amount shall be due and payable by such Owner and shall be a Lot Assessment against such Owner's Lot.

6.05.10 Retain and pay for legal and accounting services necessary or desirable for the efficient operation of the Association.

6.05.11 Perform any and all other acts and things that a nonprofit, mutual benefit corporation organized under the law of the State of Ohio is empowered to do, which may be necessary, convenient, or desirable in connection with the ownership and maintenance of the Common Areas and the carrying out of the Association's duties as set forth in this Declaration.

The Declarant also retains the power and authority to perform all such powers identified above and in this Declaration at all times during the Development Period.

6.06 **Delegation of Duties.** In the event the Association shall delegate any or all of its duties, powers or functions, to any person, corporation or firm to act as manager, neither the Association, the Board, nor the Owners shall be liable for any omission or improper exercise by the manager of any such duty, power or function so delegated.

6.07 **Books, Records.** Upon reasonable request of any Owner, the Association shall be required to make available for inspection all books, records, and financial statements of the Association. A reasonable fee may be charged to cover the costs of handling, copying and/or delivering such books and records to the Member who requests the same.

ARTICLE VII. ASSESSMENTS

7.01 **Assessments.** The costs incurred by the Association in connection with the operation, administration, maintenance and repair of the Common Areas shall be assessed to and shared equally by all of the Owners of Lots within the Subdivision, such amounts being an encumbrance upon all such Lots. The Declarant and the Builder will not be responsible for paying any Assessment.

7.02 **Reimbursement for Costs.** Any money expended by the Declarant to cover the costs of the Association shall be deemed a loan to the Association, which loan shall bear simple interest at the applicable federal rate at (the lowest rate available to avoid imputed interest). The loan shall be payable upon request.

7.03 **Operating Fund.** The Board shall establish a Common Area operating fund for paying necessary costs and expenses of owning, maintaining, operating, and managing the Common Area.

7.04 **Types of Assessments.** Each Owner, by accepting a deed to a Lot, is deemed to covenant and agree to pay to the Association the following assessments: (i) Capital Contribution Assessment, (ii) Basic Assessments, (iii) Lot Assessments, as applicable, and (iii) Special Assessments. No Owner may gain exemption from liability for any Assessment by waiving or foregoing the use or enjoyment of any of the Common Area or by abandoning his/her Lot. Basic and Special Assessments shall be fixed at a uniform rate for all Lots.

7.05 **Capital Contribution Assessments at Closing.** Unless otherwise adjusted by the Declarant or the Association, at the time of the closing on the purchase of a Lot on which a Residence is constructed, the Owner of such Residence will be required to pay the Association or Declarant, as the case may be, an assessment in an amount of Eight Hundred Dollars (\$800) as purchaser's capital contribution. The capital

contributions will be placed into a capital account fund, which fund may be used for any and all expenses of the Association, including, but not limited to, reimbursing the Declarant in accordance with Section 7.02.

7.06 **Basic Assessments.** The initial Basic Assessment will be Six Hundred Forty Dollars (\$640). This assessment may be billed on a monthly, quarterly, semi-annual or annual basis, as determined by the Association or Declarant. The Board shall estimate annually the Common Expenses and the expenses, if any, it expects the Association to incur for the ownership, maintenance, operation and management of the Association (which may include amounts, if any, for a reserve fund, as may be determined by the Board), and shall assess each Owner a Basic Assessment equal to such estimated expenses, plus the difference between the estimated assessments for the prior assessment year and the actual expenses for such year, divided by the sum of the total number of Lots in the Subdivision. The Basic Assessments shall be paid in accordance with the procedures set forth in the Rules and Regulations.

7.07 **Commencement of Basic Assessments.** The Basic Assessments shall be due and payable on January 1 of each year (unless the Board or Declarant determines to bill such assessments monthly, quarterly, or semi-annually). The first Basic Assessment for each Lot shall be prorated for the balance of such assessment year and shall become due and payable and a lien on the date an Owner acquires title to its Lot. The Board or the Declarant may from time to time determine the manner and schedule of payments. The Board or the Declarant shall make reasonable efforts to fix the estimated amount of the Basic Assessment in accordance with Section 7.06 above at least thirty (30) days in advance of the date such Basic Assessment is due and payable. The Board or Declarant shall send each Owner written notice of the Basic Assessment for each assessment year.

7.08 **Lot Assessments.** The Board may levy a Lot Assessment against any Lot(s) and the Owner(s) thereof to reimburse the Association for costs incurred on behalf of the Lot(s), including without limitation: (i) costs associated with making repairs to the Common Areas that are the responsibility of the Owner; (ii) costs of enforcement (including court costs and the Association's legal fees, if applicable) relative to any deed restriction violation which exists on any Lot(s); (iii) costs of additional insurance premiums specifically allocable to an Owner; (iv) costs of any utility expenses chargeable to an Owner but not separately billed by the utility company; and (v) all other fines and charges reasonably determined to be a Lot Assessment by the Board. Upon its determination to levy a Lot Assessment, the Board shall give the affected Owner(s) written notice and the right to be heard by the Board or a duly appointed committee thereof in connection with such Lot Assessment ten (10) days prior to the effective date of the levy of any Lot Assessment. The Board may levy a Lot Assessment in the nature of a fine reasonably determined by the Board against the Lot of any Owner who violates

the Rules and Regulations, the Association Documents or any provision of this Declaration, or who suffers or permits his/her family members, guests, invitees or tenants to violate such Rules and Regulations, the Association Documents, or provisions of this Declaration. Owners may desire to obtain Loss Assessment Insurance Coverage on their Homeowners' policy.

7.09 **Special Assessments.** The Board shall have the right from time to time to levy Special Assessments to cover the cost of any improvement which may be necessary, in the Board's discretion, to the amenities or Common Areas of the Subdivision. The reserve fund, if any, shall not be used in place of a Special Assessment.

7.10 **Property Exempt from Assessments.** The following property shall be exempt from the foregoing described assessments: (i) all Common Areas and (ii) all unsold Lots and undeveloped areas held by the Declarant.

7.11 **Fees.** The Declarant or the Board, as applicable, may choose to enact fees to reimburse itself for costs when necessary. These fees may include, but are not limited to, fees for review of the following: building plans, landscape plans, exterior design plans, exterior building or improvement plans (including remodeling, additions, sheds, in-ground swimming pools, patios and decks). Fees shall also be set forth in the Association's collection and fee, and enforcement policies, attached hereto as **Exhibits D and E**, subject to any and all future adjustments as determined by the Declarant or the Board. The Association may also enact fees for inspection of installed sidewalks and grading to ensure compliance with the sidewalk plan and the grading plan.

7.11.1 Any fee paid to the Association shall be paid at or before the time of review or inspection.

7.11.2 In the event that a plan is rejected, or an inspection is failed, a re-inspection or re-review fee shall be charged. Said fee shall be half the original fee.

7.11.3 Reviews and inspections done simultaneously may result in reduced fees in the discretion of the Declarant or the Board, as applicable.

7.11.4 Construction without approval or failure to obtain the proper inspections shall result in the \$1,000.00 fine.

7.12 **Remedies.**

7.12.1 **Interest; Late Charge.** If any Assessment remains unpaid for ten (10) days after all or any part thereof shall become due and payable, the Board may

charge interest at the lesser of the rate of twelve percent (12%) per annum or the highest rate permitted by law, and the Board, or the Declarant, if applicable, may collect an administrative collection charge in an amount to be established from time to time by the Board or Declarant, as appropriate.

7.12.2 Liability for Unpaid Assessments. Each Assessment or installment of an Assessment, together with interest thereon and any costs of collection, including reasonable attorneys' fees, shall become the personal obligation of the Owner(s) beginning on the date the Assessment or installment thereof becomes due and payable. The Board may authorize the Association to institute an action at law on behalf of the Association against the Owner(s) personally obligated to pay any delinquent assessment. An Owner's personal obligation for a Lot's delinquent Assessments shall also be the personal obligation of his/her successors in title who acquire an interest after any Assessment becomes due and payable and both such Owner and his/her successor in title shall be jointly and severally liable therefore. Except as otherwise provided herein, the transfer of an interest in a Lot shall neither impair the Association's lien against that Lot for any delinquent Assessment nor prohibit the Association from foreclosing that lien.

7.12.3 Liens and Foreclosures. All unpaid Assessments, together with any interest and charges thereon or costs of collection, including without limitation all administrative fees and expenses and all legal fees and expenses, shall constitute a continuing charge in favor of the Association and a lien on the Lot against which the Assessment was levied. If any Assessment remains unpaid for ten (10) days after it is due, then the Board may authorize any officer or appointed agent of the Association to file a certificate of lien for all or any part of the unpaid balance of that Assessment, together with interest and costs with the appropriate governmental office containing a description of the Lot which the lien encumbers, the name(s) of the Owner(s) of that Lot, the amount of the unpaid portion of the Assessment, and such other information as the laws of the State of Ohio may require. The certificate may be signed by any officer or authorized agent of the Association. Upon the filing of the certificate, the subject Lot shall be encumbered by a continuing lien in favor of the Association. The Assessment lien shall remain valid for a period of five (5) years from the date such certificate is duly filed, and may thereafter be renewed for like consecutive terms, until and unless the lien is released earlier or satisfied in the same manner provided by the law of the State of Ohio for the release and satisfaction of mortgages on real property, or unless the lien is discharged by the final judgment or order of any court having jurisdiction. Notwithstanding the foregoing, the lien for Assessments provided for in this section shall be subordinate to the lien of any bona fide first mortgage on a Lot. The Association may avail itself of all legal remedies in

pursuit of delinquent accounts and unpaid assessments with legal action, including but not limited to, civil collection and foreclosure

ARTICLE VIII. MAINTENANCE

8.01 **Maintenance by Association.** The Association shall maintain and keep the Common Areas in good repair. This shall include all private alleyways shown within certain "Reserve" areas on the record plan that provide access to certain Lots within the community. This maintenance shall include, without limitation, maintenance, repair, and replacement of all landscaping and other flora, structures, non-standard traffic signs and improvements situated upon the Common Areas, and all personal property used in connection with the operation of the Common Areas. **Exhibit C** attached hereto outlines the responsibilities for maintenance applicable to the Association.

8.02 **Maintenance by Owner.** Each Owner or occupant shall repair, replace, and maintain in good order and safe and sanitary condition, at his/her expense, his/her Lot, and all portions of, improvements to, structures on, and equipment and components used in connection with, his/her Lot. This maintenance responsibility includes, without limitation, promptly furnishing all necessary materials and performing or causing to be performed at his/her own expense all maintenance, repairs and replacements within such Lot that, if omitted, would adversely affect the safety and usefulness of the Common Areas. Each Owner shall maintain those portions of his/her Lot that are adjacent to any portion of the Common Area in accordance with the Rules and Regulations and the requirements set forth in this Declaration. **Exhibit C** attached hereto outlines the responsibilities for maintenance applicable to the Owners.

8.03 **Right of Association to Repair Lot.** If any Owner fails to maintain his/her Lot in the manner required herein, and if the Board determines that any maintenance of that Lot is necessary to ensure public safety, to permit reasonable use or enjoyment of the Common Area by Owners, to prevent damage to or destruction of any other part of the Common Area, or to comply with the Rules and Regulations or the terms of this Declaration, then the Board may authorize its employees or agents to enter the Lot at any reasonable time to complete the necessary maintenance, subject to Section 4.02, and the Board may levy a Lot Assessment for all reasonable expenses incurred.

8.04 **Damage to Common Area by Owner or Occupant.** If the Common Area is damaged by any Owner or Occupant, his/her family, guests, or invitees, then the Board may levy a Lot Assessment against such Owner for the cost of repairing or replacing the damaged property. The Association shall be entitled to enter a Lot to repair or maintain any Common Area adjacent to such Lot, subject to Section 4.02.

ARTICLE IX. COMMON AREAS

9.01 **Right to Enjoyment of Common Areas**. Each Owner shall have the right and a nonexclusive easement for use and enjoyment of all Common Areas subject to any rules and restrictions set forth in Section 9.02 of this Article. The foregoing right and easement shall be appurtenant to, and shall pass with, title to such Owner's Lot.

9.02 **Amenities**. The below described amenities shall be for the benefit and use of the Owners and Occupants and their guests.

9.02.1 **General Rules.**

9.02.1.1 Neither the Declarant nor the Association assumes any liability for any person who chooses to utilize any the Common Areas or amenity. Any person who chooses to utilize the Common Areas or any amenity shall do so at their own risk.

9.02.1.2 No person shall attempt to access any amenity by crossing the private property of another Owner.

9.02.1.3 Not all amenities may be immediately available. The amenities shall be constructed with future phases.

9.02.1.4 Hunting on the property within the Subdivision is strictly prohibited.

9.02.2 **Walkways/Sidewalks**. The walkways/sidewalks are intended to be used as walking/running paths.

9.02.3 **Ponds/Storm Water Facilities.**

9.02.3.1 Swimming, skating, and boating are strictly prohibited.

9.02.3.2 Fishing shall be permitted but limited to the Residents and their guests. Any person who chooses to utilize the ponds in this manner does so at their own risk.

9.02.3.3 It shall be strictly prohibited for any Owner to utilize any pond as a water source or a wastewater disposal site for any Lot for any reason.

9.02.4 **Other Amenities**. Rules for use and hours of operation for any other amenities shall be at the discretion of the Board.

9.03 **Declarant's Use of Common Areas**. The Declarant and its assigns shall have the right during the Development Period to use the Common Areas free of charge, for the purposes of promotion, sales, rental or rental management and for construction, construction management, maintenance, repair or remodeling.

ARTICLE X. MISCELLANEOUS

10.01 **Development Phases**. The Subdivision shall be constructed in phases throughout the Development Period. The Declarant shall reserve the right to amend, change, or abandon its phasing plan at any time. Subsequent phases shall meet the basic objectives of all regulations and requirements of the approved Subdivision and this Declaration.

10.02 **Appeal to Board**. In the event of any dispute or complaint by an Owner or by Owners as to the application of any Rules and Regulations promulgated by the Board, any enforcement action by the Board against a Lot with respect to this Declaration, or with respect to the maintenance and operation of the Common Areas or costs and Assessments associated therewith, the party or parties aggrieved shall submit a complaint in writing to the Board specifying the nature of the dispute or complaint. The Board shall set a time, date, and place for a hearing thereon within sixty (60) days after receipt of the complaint and give written notice to each affected party no less than ten (10) days in advance. The Board shall hear such evidence on the dispute as the Board deems proper and render a written decision on the matter to all of the parties within thirty (30) days after the hearing.

10.03 **Term**. This Declaration shall bind and run with the land for a term of thirty (30) years from and after the date that this Declaration is filed for recording with the appropriate governmental office and thereafter shall automatically renew forever for successive periods of ten (10) years each, unless earlier terminated by a majority of the Members.

10.04 **Enforcement and Waiver**. This Declaration may be enforced by any proceeding at law or in equity by the Declarant, any Owner, or the Association, and their respective heirs, successors and assigns, by bringing an action including, but not limited to, the following: (i) against any person(s) violating, or attempting to violate, any covenant or restriction, (ii) to restrain and/or to enjoin violations, (iii) to obtain a decree for specific performance as to removal of any nonconforming improvement, and (iv) to recover all damages, costs of enforcement and any other costs incurred (including without limitation reasonable attorneys' fees). Failure of the Declarant, the Association, or any Owner to enforce any provision of this Declaration or the Rules and Regulations shall not constitute a waiver of any right to enforce any violation of such provision. By accepting a deed to a Lot, each Owner is deemed to waive the defenses of laches and statute of limitations in connection with the enforcement of this Declaration or the Rules and Regulations.

10.05 **Amendments.** During the Development Period, the Declarant may, in its sole and absolute discretion, unilaterally amend this Declaration at any time and from time to time, without the consent of any other Owners. Any such amendment may modify the provisions hereof and/or impose covenants, conditions, restrictions and easements upon the Subdivision, in addition to those set forth herein including, without limitation, restrictions on use and covenants to pay additional charges with respect to the maintenance and improvement of the Subdivision. Declarant shall have the right and power, but neither the duty nor the obligation, in its sole and absolute discretion and by its sole act, to subject additional property to this Declaration at any time and from time to time by executing and recording in the appropriate governmental office an amendment to this Declaration specifying that such additional property is part of the Subdivision. An amendment to this Declaration done by Declarant shall not require the joinder or consent of the Association, other Owners, mortgagees or any other person. After expiration of the Development Period, this Declaration may be amended by a majority vote of all Owners, excluding the Association. This section may only be amended with the written consent of the Declarant.

10.06 **Declarant's Right to Complete Development.** Declarant or assigns shall have the right to: (i) complete the development, construction, promotion, marketing, sale, resale and leasing of Lots; (ii) construct or alter improvements on any property owned by Declarant; (iii) maintain model homes, offices for construction, sales, or leasing purposes, storage areas, construction yards or similar facilities on any property owned by Declarant or the Association; or (iv) post signs incidental to the development, construction, promotion, marketing, sale and leasing of property within the Subdivision. Further, Declarant or its assigns shall have the right of ingress and egress through the streets, paths, and walkways located in the Subdivision for any purpose whatsoever, including, but not limited to, purposes related to the construction, maintenance and operation of Improvements. Nothing contained in this Declaration shall limit the rights of Declarant or require Declarant or its assigns to obtain approval to: (i) excavate, cut, fill or grade any property owned by Declarant, (ii) to construct, alter, remodel, demolish or replace any improvements on any Common Area or any property owned by Declarant as a construction office, model home or real estate sales or leasing office in connection with the sale of any property; or (iii) require Declarant to seek or obtain the approval of the Association for any such activity or improvement on any Common Area or any property owned by Declarant. Nothing in this section shall limit or impair the reserved rights of Declarant as elsewhere provided in this Declaration.

10.07 **Declarant's Rights to Replat the Subdivision.** Declarant reserves the right, at any time and from time to time, to amend, alter or replat any plat or development plan which affects all or any portion of the Subdivision; provided, however, that only real property owned by Declarant and Owners consenting to such amendment, alteration, or replatting shall be the subject of any such amendment, alteration, or

replatting. The Association hereby consents to and approves any such amendment, alteration, or replatting and shall be deemed to have joined in the same.

10.08 **Mortgagee Rights**. A holder or insurer of a first mortgage upon any Lot, upon written request to the Association (which request shall state the name and address of such holder or insurer and a description of the Lot) shall be entitled to timely written notice of: (i) any proposed amendment of this Declaration; (ii) any proposed termination of the Association; and (iii) any default under this Declaration which gives rise to a cause of action by the Association against the Owner of the Lot subject to the mortgage of such holder or insurer, where the default has not been cured in sixty (60) days. Each holder and insurer of a first mortgage on any Lot shall be entitled, upon request and at such mortgagee's expense, to inspect the books and records of the Association during normal business hours.

10.09 **Assignment of Rights**. All or any portion of the rights of Declarant herein and elsewhere in this Declaration may be assigned by Declarant to any successor-in-interest in the Subdivision, by an express written assignment recorded in the Records of Montgomery County, Ohio.

10.10 **Indemnification**. The Association shall indemnify every Board member, officer and trustee of the Association against any and all claims, liabilities, expenses, including attorneys' fees, reasonably incurred by or imposed in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the Board) to which he/she may be a party by reason of being or having been an Board member, officer, or trustee. The Board members and officers shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misconduct, bad faith or gross negligence. The Board members, and officers shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such Board members and officers may also be Members of the Association), and the Association shall indemnify and forever hold each such Board member, officer, and trustee free from and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided herein shall not be exclusive of any other rights to which any Board member, officer or trustee, or former Board member, officer or trustee, may be entitled. The Board may obtain professional liability insurance coverage for the Board members and officers.

10.11 **No Reliance**. Any Owner shall rely solely on its own review of this Declaration and inspections of the Lot and the Subdivision in determining whether to purchase a Lot. An Owner shall not be entitled to rely on any statements or representations made by the brokers, employees, agents and/or representatives of Declarant. Except for any representations or warranties of Declarant expressly set forth in this Declaration, Declarant makes no representation or warranty as to the truth, accuracy or completeness of any materials, data or information delivered by Declarant

or its brokers, builder agents or representatives, to an Owner in connection with the purchase of a Lot. Any reliance on or use of such materials, data or information by Owner shall be at the sole risk of Owner, except as otherwise expressly stated herein.

10.12 **Severability.** If any article, section, paragraph, sentence, clause or word in this Declaration is held by a court of competent jurisdiction to be in conflict with any law of the State, then the requirements of such law shall prevail, and the conflicting provision or language shall be deemed void in such circumstance, provided that the remaining provisions or language of this Declaration shall continue in full force and effect.

10.13 **Addition of Property.** From time to time, the Declarant, or any successor or assign, may subject land adjacent or in close proximity to the Subdivision to the terms and conditions of this Declaration without the assent of the Association or the Owners of Lots already included in the Subdivision, and after each subjection, such annexation property shall thereafter be included in the defined term Subdivision as used in this Declaration. Declarant reserves the sole and absolute discretion to add land adjacent to the Subdivision to this Declaration.

10.14 **Captions.** The caption of each Article, section and paragraph of this Declaration is inserted only as a matter of reference and does not define, limit or describe the scope or intent of the provisions of this Declaration.

10.15 **Notices.** Notices to an Owner shall be given in writing, by personal delivery, at (i) the Lot, if a Residence has been constructed on such Lot, (ii) by depositing such notice in the United States Mail first class, postage prepaid, to the address of the Owner of the Lot as shown by the records of the Association, or (iii) as otherwise designated in writing by the Owner.

[The remainder of this page is intentionally left blank. The signature page follows.]

EXHIBIT A
Legal Description of Property

PARCEL I:

Situate in Section 7, Town 1, Range 6, M.Rs., Miami Township, Montgomery County, Ohio and being all of a 31.787 acre tract conveyed to Francis S. Chamberlin & Kathleen C. Wertz as described in M.F. #74- 173C10 and to Edward Chamberlin, et al as described on M.F. #99-287E01 and being more particularly described as follows:

Beginning at a #5 rebar set at the southeast corner of Vienna Estates, Section 1 as recorded in Plat Book 147, Page 26;

Thence with the west line of Vienna Park, Section 18 as recorded in Plat Book 132, Page 3 and becoming the west line of Vienna Park, Section 17 as recorded in Plat Book 127, Page 22, South 00° 18' 40" West for a distance of 809.20 feet to a stone found at the northwest corner of Penbrooke, Section 15 as recorded in Plat Book 82, Page 11;

Thence with the west line of the said Penbrooke, Section 15, South 00° 18' 00" East for a distance of 614.33 feet to a 1" pinchtap found at the west end of the south right of way line of Fox Run Road (50' R/W) and being a northeast corner of Lot No. 5716 of the consecutive lots of the City of Miamisburg;

Thence with said Lot No. 5716 the following two courses:

North 84° 41' 20" West for a distance of 975.07 feet to a 3/4" rebar found;

North 00° 18' 40" East for a distance of 1,443.18 feet to a 3/4" rebar found on the south line of Vienna Estates, Section 2 as recorded in Plat Book 155, Page 52 and being the north line of said Section 7;

Thence with the south line of said Vienna Estates, Section 2 and becoming the south line of the aforementioned Vienna Estates, Section 1 and being the north line of said Section 7, South 83° 29' 51" East for a distance of 970.47 feet to the point of beginning;

Containing 31.787 acres more or less and being subject to all easements, restrictions and right of ways of record.

This description is based on a field survey performed by Norfleet, Brown & Petkewicz, Inc, in March, 2001 and noted references.

North is based on the west line of said 31.787 acre tract (North 00° 18' 40" East) as recorded on M.F. #99-287E01.

Parcel No. K45 02401 0003

Commonly known as: 0 Mohawk Trail Road, Dayton, OH 45459

Prior Instrument Ref: 2021-000057735 of the Deed Records of Montgomery County, Ohio

EXHIBIT B
Overall Site Plan

(on following page)

EXHIBIT C
Chart of Maintenance Responsibilities

Item of Maintenance	Association Responsibility	Owner Responsibility
Driveways/Sidewalks	None, except within Common Areas	All on or in front of Lots
Optional Lot Post lights, including electric lines	None, except within Common Areas	All within Lots
Snow Plowing *	None	All within Lots and Sidewalks
Utility Lines	None	All within Lots
Street Lighting	None	None
Entrance Feature including Monument & Landscaping	All within Common Areas	None, except on Lots
Surface Water Management System: retention basins, including any pipes, fountains, concrete gutters or mechanical devices	All	None
Surface Water Management System: drainage swales	None, except within Common Areas	Keeping clear of obstruction within Lot
Grass Mowing	Only within Common Areas	All within Lots
Landscaping and Yard Buffer areas	Only within Common Areas	All within Lots
Irrigation	Only within Common Areas	All within Lots
Sump Lines	Main Sump Line within Utility Easement	Tap or connection and all lines within Lot

* All public streets will be maintained by local jurisdiction

EXHIBIT D

Rivendell Subdivision Owners' Association, Inc.

Collection and Fees Policy for Rivendell Heights HOA Members

The Rivendell Subdivision Owner's Association, Inc. (the "Association") has an obligation to ensure that payments have been received from all Members who reside within the Rivendell Heights subdivision. In the event that assessments are not timely paid, per the Covenants, Conditions and Restrictions (hereinafter "CC&Rs"), the Association will aggressively pursue collection of all delinquent accounts and unpaid assessments. The Collection Policy is as follows:

- All assessments and fees are subject to any and all future adjustments as determined by the Association.
- The initial Member basic assessment shall be \$640 to be paid quarterly or annually to the Association, as defined in the CC&Rs. All basic assessments are due on the first (1st) day of each quarter (1/4 of the annual assessment).
- A one-time Member capital contribution in the amount of \$800 shall be assessed at the time of Member's closing of their Lot, upon which a residence is constructed, and said amount shall be payable directly to the Developer or Declarant as defined in the CC&Rs.
- Any architectural and compliance review (i.e., remodeling, additions, fences, sheds, in-ground swimming pools, patios, decks), shall require a fee of \$50 per review, paid by Member. Any architectural construction without the Association's approval or failure to obtain the proper inspections shall result in a \$1,000 fine.
- The Member shall be assessed a fee of \$35 per occurrence for any returned check(s).
- Upon the sale of Member's residence, any new Member shall be assessed a new owner account set-up fee of \$75.
- Assessments that are not paid when due will result in the account having an "outstanding balance due" on the first day after the due date.
- An account becomes "delinquent" on the 16th day the account has an outstanding balance due ("first date of delinquency"). Once deemed "delinquent", an account remains in "delinquent" status until it is paid in full including all assessments of any kind as well as collection costs, late fees, attorney fees if applicable, etc. A recurring quarterly late fee of 10% will be charged to any Member's account that is delinquent. Please note that an account can remain in "delinquent" status even when assessments have been paid if all other costs (collection costs, late

fees, attorney fees, etc. have not also been paid in full. On or after the first date of delinquency, the Association may send a "Reminder Letter" to a Member whose account has fallen into "delinquent" status. All members are responsible for knowing whether their respective accounts are paid current or are delinquent. Inquiries should be directed to the Association.

- A quarterly fee of eight dollars and fifty cents (\$8.50) shall be charged as a "Collection Cost" or "Handling Charge" against any Member's account that is more than fifteen (15) days late in the payment of any assessment. Please note that the "Collection Cost" or "Handling Charge" is a charge for each quarterly assessment that is not paid when due. Multiple Collection Costs may be charged to a Member's account if more than one assessment is unpaid. This fee will be included in the "Reminder Letter" from the Association.
- Upon the thirty (30) days of an account becoming delinquent, the Association will inform legal counsel to send an "Attorney Demand Letter" to the Member(s), which will include a notice of the Member of the Member's right to a hearing before the Board in regard to the proposed charges, pursuant to Ohio law and the governing documents. The letter will specify that the Member has ten (10) days from receipt of the letter to request a hearing before the Board and will further outline the procedure for requesting the hearing.
- Upon expiration of the time period specified in the Attorney Demand Letter set forth above and if a Hearing has not been requested by Member, the Association may direct legal counsel to prepare and record a Certificate of Lien against the respective property in compliance with Ohio law and the governing documents.
- The Association may avail itself of all legal remedies in pursuit of delinquent accounts and unpaid assessments with legal action, including but not limited to, civil collection and foreclosure.
- In accordance with Ohio law and the governing documents, Members are responsible for fees/costs incurred by the Association to collect outstanding assessments, including but not limited to, attorneys' fees, court costs, recording fees, etc. associated with collection of respective accounts.

APPROVED:



William W. Keethler II, Board Director

EXHIBIT E

Rivendell Subdivision Owners' Association, Inc. Enforcement Policy for Rivendell HOA Members

ARTICLE XI.PURPOSE

To assure that covenant and rule enforcement is conducted pursuant to the requirements of statute [O.R.C. §5312.11] and the Rivendell Subdivision Owners' Association, Inc.'s ("Association") governing documents. This Policy shall describe and clarify how enforcement is performed for the preservation of the Member's investment and lifestyle.

ARTICLE XII.INSPECTIONS

- A. **Purpose:** The Association shall perform a visual inspection of the property and exterior of the dwellings to determine if any Members are in violation of the Association's governing documents. The Association's findings during the inspections shall serve as evidence of the existence or nonexistence of alleged violations.
- B. **Frequency:** Inspections shall occur with the frequency established by the Association.
- C. **Attendees:** Inspections shall be conducted by the Association and the current property management staff.
- D. **Method:** Inspections may be conducted by any method that allows for the property and exterior of the dwellings to be adequately reviewed and adequate notes taken.

ARTICLE XIII.REPORTED VIOLATIONS

It is understood that due to the nature of some violations that management is unable to note or verify all alleged violations. Therefore, Members may report alleged violations.

- A. Reported violations must be in written form via email to: info@rivendellheights.net, letter, or fax to 614-717-4440 and delivered to the Board of Directors ("Board").
- B. Reported violations must state the date, time and frequency of the alleged violation(s).
- C. Reported violations may include evidence such as photographs, video recordings, audio recordings, or listings of separate incidents of the alleged violation(s).

- D. The person reporting the violation ("complainant") must be identified in the report.
- E. The Association, in its discretion, may postpone enforcement action for a reasonable amount of time to confirm the existence of the alleged violation(s) by visual inspection, review of other evidence, or additional violation reports.
- F. The complainant may be called to testify and present evidence at hearings regarding the alleged violation.
- G. In the spirit of due process, it may not be possible to protect the complainant's identity from the alleged violator during the enforcement process. Complainants will not be provided with copies of enforcement actions against other Members.

ARTICLE XIV. PROCESS

- A. Notice of Violation:** Upon confirmation of the existence of a violation of the Association's governing documents, a Notice of Violation will be sent to the Member stating:
 - 1. The nature of the alleged violation;
 - 2. The action requested to cure the alleged violation;
 - 3. That failure to cure the alleged violation within 10 days of receipt of the notice of violation, may result in an assessment of \$50.00 plus reasonable attorneys' fees or the reasonable costs of the Association to cure the violation plus reasonable attorney fees;
 - 4. That a Member has a right to a hearing before the Board to contest the allegations or request a reasonable extension of time to cure the violation; and
 - 5. That a Member must submit a request for such hearing within 10 days of receipt of the notice via email to: info@rivendellheights.net, letter, or fax to 614-717-4440, otherwise such right to hearing will be deemed waived.
- B. Second Notice of Violation:** If the alleged violation persists past the period for remedy of the violation stated in the Notice of Violation, a Second Notice of Violation will be sent to the Member stating:
 - 1. A description of the initial Notice of Violation;
 - 2. The nature of the alleged violation;
 - 3. The action requested to cure the alleged violation OR notice of the action taken by the Association to cure the alleged violation;

4. **A one-time violation assessment of \$50.00 plus reasonable attorneys' fees will be imposed OR the reasonable costs of the Association to cure the violation plus reasonable attorney fees will be imposed;**
5. That a Member has the right to request a hearing before the Board as to the imposition of such violation assessments. The Member must submit a written request to the Board within 10 days of receipt of the notice. Failure to request a hearing in writing, within 10 days shall be a waiver of the opportunity for said hearing;
6. That a Member must submit a request for such hearing within 10 days of receipt of the notice via email to: info@rivendellheights.net, letter, or fax to 614-717-4440, otherwise such right to hearing will be deemed waived; and
7. Failure to correct the violation or cease work on any improvement will result in additional violation assessments OR the Association electing to pursue any one of the remedies available to the Association under the CCR's, by-laws or this enforcement policy.

C. Subsequent Notices of Violation: If the alleged violation persists, Subsequent Notices of Violation may be sent to the Member stating:

1. A description of the prior Notices of Violation;
2. The nature of the alleged violation;
3. The action requested to cure the alleged violation;
4. **A subsequent violation assessment of \$100.00 plus reasonable attorneys' fees will be imposed;**
5. That a Member has the right to request a hearing before the Board as to the imposition of such violation assessments. The Member must submit a written request to the Board within 10 days of receipt of the notice. Failure to request a hearing in writing, within 10 days shall be a waiver of the opportunity for said hearing;
6. That a Member must submit a request for such hearing within 10 days of receipt of the notice via email to: info@rivendellheights.net, letter, or fax to 614-717-4440, otherwise such right to hearing will be deemed waived; and

7. Failure to correct the violation or cease work on any improvement will result in additional violation assessments OR the Association electing to pursue any one of the remedies available to the Association under the CCR's, by-laws or this enforcement policy.

D. REPEAT VIOLATIONS: If a violation of the same nature is repeated within any one (1) year period after the last violation letter was sent, the violation letter process will continue uninterrupted. If a violation of the same nature occurs one (1) year or more after the last violation letter was sent, the violation will be considered new and the process will start from the beginning.

E. Hearing:

1. To request a hearing, the Member shall deliver a written notice to the Board not later than the 10th day after receiving the notice. If the Member fails to make a timely request for a hearing, the right to that hearing is waived, and the Board immediately may impose a charge for damages or an enforcement assessment pursuant to this section.
2. If a Member requests a hearing, at least seven (7) days prior to the hearing the Board shall provide the Member with a written notice that includes the date, time, and location of the hearing.
3. The Board shall not levy a charge or assessment before holding any hearing requested pursuant to this section.
4. Within 30 days following a hearing at which the Board imposes a charge or assessment, the Association shall deliver a written notice of the charge or assessment to the Member.
5. Any written notice that this section requires shall be delivered to the Member or any occupant of the dwelling unit by personal delivery, by certified mail, return receipt requested, or by regular mail.

F. Sanctions: Sanctions may be levied as allowed by statute and the governing documents. Sanctions may include monetary fines and/or suspension of membership privileges such as voting rights; however, the Board may not prevent a Member from accessing his or her home. If monetary fines are levied, the following schedule shall be used:

1. First Violation - Written Warning;
2. Second Violation - \$50 One-Time Violation Assessment plus reasonable attorneys' fees OR the reasonable costs of the Association to cure the violation plus reasonable attorney fees;

3. Subsequent Violations - \$100.00 Violation Assessment per month plus reasonable attorneys' fees until violation has been cured;
4. If any Assessment, or portion thereof, remains unpaid for thirty (30) days after it becomes due, then the delinquent Member's voting rights, as a Member of the Master Owners Association, shall be suspended until such Assessment is paid. In any case, suspension of any such rights shall be subject to the right of an Member, Occupant, or their licensees or invitees, to necessary ingress and egress to and from that Member Property.

G. Other Remedies:

1. Assessing the Member for related fines, costs and fees for enforcement
2. Charging the Member for all related legal fees and cost the Association incurred
3. Recording a notice of assessment lien against a non-compliant Member's property
4. Assessing the Member for all fines, cost and fees described above
5. Placing a lien on the Member's property for all items assessed
6. Bringing a lawsuit to foreclose the lien against the property
7. Bringing a lawsuit for a court order requiring compliance, as well as a judgement for all damages, attorney's fees and costs incurred

H. Unauthorized but Completed Activities: Where any person completes work on an Unauthorized Activity, the Board may issue a compliance request that requires the Member to submit a complete application for approval of the improvement that resulted from the Unauthorized Activity.

I. Paying Fine does not "Cure" a violation: Paying a fine does not relieve an Member from responsibility to cure a violation. Likewise, exercise of any hearing or appeal rights does not waive or suspend a duty to immediately cure a violation.

J. Voluntary Compliance Agreement: The Board may reach a Voluntary Compliance Agreement with a Member in which the Member admits the violation exists, agrees to take specific actions to cure the violation within a specific time frame acceptable to the Board and agrees that failure to perform the specified actions within the specified time frame will entitle the Board to impose a fine or fines in a specified amount.

K. The Board's Limited Discretion to Waive Fines. Fine(s) imposed under this Policy may be partly or entirely waived by the Board upon its determination that

special circumstances exists in the instance to warrant the granting of such a waiver.

L. Protection of Board Members: Persons exercising authority of the Board or a Committee are not liable for action or inaction done in good faith. Association action under this Policy shall not create any liability of the Board, Association, or Committee, or any employee or member of the Board, Association, or the Committee.

M. Delivery and Form of Notices

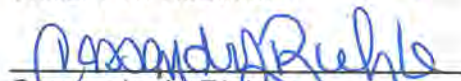
1. Notices described in this Policy may be delivered by first-class mail, email, personal delivery, or any other method allowable under statute and the governing documents. A notice shall be considered delivered and received one (1) business day following the action to initiate the delivery unless the Notice is returned undelivered.
2. Notices shall be addressed to the Member using the mailing address shown on the Association's Member Listing. In the case of non-Member-occupied properties, residents will be provided with copies of Notices.
3. Form and verbiage of all Notices described in this Policy shall be determined by the Association subject to review by the Board of Directors.
4. Notices described in this Policy shall include a response form and/or a listing of methods.
by which the Member may respond to the Notice. All methods of response must be in writing and may include a response form, letter, email, fax, or online form submission. Residents wishing to respond to the Notice shall do so through the Member.

N. Member Response: Members may respond to Notices by any of the methods allowed in the Notice. All responses must be in writing. The Association and the Board may suspend a period for remedy of a violation for a reasonable amount of time based upon request by the Member due to hardship or statement of intent to remedy by a date specified by the Member.

APPROVED by the Board of Directors:


William W. Keethler II


Kenneth M. Conaway


Cassandra L. Rieble

Dated this 25th day of March, 2024.