

# OAKBROOK CHASE HOMEOWNERS' ASSOCIATION, INC.

## DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

THIS DECLARATION, creating covenants, conditions and restrictions is made on the date hereinafter set forth by Oakbrook Chase Homeowners' Association, Inc., an Ohio not-for-profit corporation, hereinafter referred to as "HOA" or "Association".

All of the Property shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, conditions and assessments, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Property. These easements, covenants, conditions, restrictions and assessments, unless otherwise specifically limited herein, shall run with the Property submitted hereby and shall be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof and additions thereto, and shall inure to the benefit of each Owner.

### ARTICLE I DEFINITIONS

**1.01 General.** The following terms used herein are defined as hereinafter set forth. The singular wherever used shall be construed to mean the plural when applicable.

**1.02 Amendment and/or Amendments** shall mean an instrument executed with the same formalities of the Declaration and Recorded for the purpose of amending the Declaration, the By-Laws, or any other Exhibits.

**1.03 Annual Assessments** shall mean those assessments levied and assessed against all Owners for the purpose of paying the Common Expenses.

**1.04 Articles and Articles of Incorporation** shall mean the articles filed with the Secretary of State of Ohio incorporating the Association as an Ohio not-for-profit corporation under the provisions of Chapter 1702 of the Ohio Revised Code, as the same may be lawfully amended from time to time.

**1.05 Association** shall mean Oakbrook Chase Homeowners' Association, Inc., an Ohio not-for-profit corporation, its successors and assigns.

**1.06 Association Easements** shall mean any easements granted to or reserved by the Association pursuant to the provisions of this Declaration.

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**1.07 Builder** shall mean any Person who has been conveyed a Lot for the purpose of constructing a Dwelling Unit and attendant improvements thereon.

**1.08 By-Laws** shall mean the By-Laws of the Association which also serve as the code of regulations of the Association under and pursuant to the provisions of Chapter 1702 of the Ohio Revised Code.

**1.09 Common Area** shall mean that part of the Property which shall be conveyed to and owned by the Association for the common use, enjoyment, and benefit of the Association and shall include without limitation any detention or retention areas and to the extent applicable any Association Easements.

**1.10 Common Expenses** shall mean those costs and expenses set forth in Section 1.13 of the By-Laws.

**1.11 Declaration** shall mean this instrument and, unless the context prohibits, any and all Amendments hereto.

**1.12 Dwelling Unit** shall mean a building and other improvements situated upon a Lot designed and intended for the use and occupancy by a person or persons as a residence.

**1.13 Eligible First Mortgagee** shall mean any First Mortgagee who has provided the Association with written notice of its right to receive notices or other information from the Association.

**1.14 Exhibit** shall mean any document or instrument attached to the Declaration.

**1.15 First Mortgagee** shall mean the holder of any valid Recorded mortgage on the Property.

**1.16 HOA** shall mean Oakbrook Chase Homeowners' Association, Inc., an Ohio not-for-profit corporation, its Successors and assigns.

**1.17 Landscaping** shall mean the landscaping installed by the HOA on any Landscaping Easement.

**1.18 Landscaping Easement** shall mean a Landscaping Easement depicted on any Plat.

**1.19 Lot** shall mean those parcels of real property on which Dwelling Units are to be constructed as designated in Exhibit "B" hereto.

**1.20 Majority of Owners** shall mean those Owners holding fifty-one percent (51%) of the voting power of the Association.

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- 1.21 Member** shall mean an Owner that is subjected hereto.
- 1.22 Occupant** shall mean any Person who resides in a Dwelling Unit.
- 1.23 Organizational Documents** shall mean this Declaration, the Articles, the By-Laws, the Protective Covenants and Restrictions and the Plat Restrictions, including any amendments thereto.
- 1.24 Owner** shall mean the Owner of any Lot on which Dwelling Units have been or are to be constructed thereon and for purposes thereof shall include any Builder.
- 1.25 Person** shall mean a natural individual, corporation, partnership, Director, or other legal entity capable of holding title to real property.
- 1.26 Plat** shall mean a Recorded plat or subdivision of the Property.
- 1.27 Plat Restrictions** shall mean the covenants and conditions set forth in a Plat.
- 1.28 Property** shall mean the real property subject to this Declaration as described in Exhibit "B" hereto.
- 1.29 Quorum** shall mean the presence in person or by proxy of a Majority of Owners present at the annual meeting.
- 1.30 Recorded** shall mean the filing with the Recorder of Greene County, Ohio.
- 1.31 Signage** shall mean the signage installed by the HOA to identify the Property.
- 1.32 Signage Area Easement** shall mean the Signage Area Easement depicted on any Plat.
- 1.33 Special Individual Lot Assessment** shall mean those assessments levied and assessed against a particular Owner pursuant to Section 5.10.

### ARTICLE II DESCRIPTION OF PROPERTY

- 2.01 General.** The Property is described in Exhibit "B" hereto under the heading Property.
- 2.02 Dwelling Units.** The Dwelling Units are to be constructed on the Lots described in Exhibit "B" hereto under the heading Dwelling Units with one (1) Dwelling Unit per lot.

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**2.03 Common Areas.** The Common Areas shall consist of the Property described in Exhibit "B" attached hereto under the heading Common Areas.

### **ARTICLE III ASSOCIATION**

**3.01 Organization.** The Association was formed as an Ohio not-for-profit corporation pursuant to the provisions of Chapter 1702 of the Ohio Revised Code, by the filing of its Articles with the Secretary of the State of Ohio. On the date of its incorporation, the Association duly adopted a set of administrative operating rules called By-Laws. The By-Laws are attached hereto as Exhibit "A".

**3.02 Membership and Voting Rights.** Membership in the Association and voting rights of the members are discussed in the By-Laws.

**3.03 Administration of Property.** The administration of the Property shall be in accordance with the provisions of the Organizational Documents. Each Owner, tenant, or occupant of a Lot shall comply with the provisions of the Organizational Documents, and the decisions and resolutions of the Association or its representative.

**3.04 Board of Directors.** The Board of Directors, elected as provided by the By-Laws, shall exercise the powers, discharge the duties and be vested with the rights conferred by operation of law, the Organizational Documents, except as otherwise specifically provided; provided however, that in the event any such power, duty, or right shall be deemed exercisable or dischargeable by, or vested in a member of the Board of Directors, he shall be deemed to act in such capacity to the extent required to authenticate his acts and to carry out the purposes of the Organizational Documents.

### **ARTICLE IV EASEMENT(S)**

**4.01 Easements for Repair, Maintenance, and Restoration.** The Association shall have a right of access and an easement to, over, and through each Lot during reasonable hours and upon giving reasonable notice for" ingress and egress and all other purposes which enable the Association to perform its obligations, rights and duties with regard to maintenance, repair, restoration or servicing of any items, Lots, things, or areas of or on the Property, including the removal, correction, or abatement of any violation or breach of any attempted violation or breach of the covenants and restrictions herein.

**4.02 Association Easements.** The Owner of any Lot on which Association Landscaping or Signage is located hereby grants, conveys, and assigns to the Association an easement and right-of-way over his Lot for purposes of performing any required or necessary maintenance and/or improvements.

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**4.03 Service Easement.** HOA and each Owner hereby grants a nonexclusive easement to all law enforcement officers, firemen, ambulance operators, mailmen, deliverymen, garbage and trash removal personnel, and all other similar persons, and to local governmental authorities, but not to the public in general, to enter upon the Common Area in the performance of their duties.

**4.04 Consent to Easements.** Each Owner hereby grants, and the transfer of title to an Owner shall be deemed to grant, the Association an irrevocable power of attorney to execute, acknowledge and record, for and in the name of such Owner and his mortgagee or mortgagees, such instruments as may be necessary to effectuate any easements granted or reserved by the HOA in this Article.

**4.05 Easements Shall Run With Land.** All easements and rights described are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on the HOA, and any Owner, purchaser, mortgagee and any other person having an interest in the Property or any part or portion thereof. Failure to refer specifically to any or all of the easements described in this Declaration in any deed of conveyance or in any mortgage or other evidence of obligation shall not defeat or fail to reserve said easement but same shall be deemed conveyed or encumbered along with the Lot.

**4.06 Limitation.** The rights of HOA hereunder are limited to that part of the Property submitted by such HOA.

### ARTICLE V ASSESSMENTS

**5.01 Creation of Lien and Personal Obligation of Assessments.** For each Lot owned within the Property, each Owner, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay the Association: (a) Annual Assessments; and (b) Special Individual Lot Assessments, such assessments to be established and collected as hereinafter provided. Such assessments, together with interest, costs, and reasonable attorney's fees incurred by the Association in the collection thereof shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest and costs, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment became due. The Annual Assessment for members of the Board of Directors will be waived for their term in office. The amount waived be prorated for the months they serve as a board member.

**5.02 Owner's Share of Annual and Special Assessments.** Each Owner's share of the Annual Assessment and any Special Assessment shall be equal to a fraction; the numerator of which is the total number of Lots owned by such Owner, and the denominator of which is the total number of all Lots on the Property.

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**5.03 Fiscal Year.** The fiscal year of this Corporation shall begin on the 1st day of June and end on the 31st day of May. The fiscal year may be changed by a majority vote of the Board of Directors.

**5.04 Preparation of Estimated Budget and Financial Report.**

Estimated Budget. On or before 1 May each year, the Association Treasurer shall prepare an estimate of the total amounts necessary to pay the Association Common Expenses for the ensuing fiscal year, together with a reserve for contingencies. On or before 1 May of each year each Owner shall be notified in writing/email as to the amount of such estimate. Assessments shall commence on the first day of the fiscal year.

Annual Financial Report. The Association shall supply to all Owners an annual Financial Report containing an itemized accounting of expenses actually incurred for the preceding fiscal year, together with a tabulation of the Annual Assessment amounts collected, and showing the net amount over or short of the actual expenditures plus reserves. This report will be included as part of the Annual Meeting minutes.

Any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited according to each Owner's share of the assessments to the next payment due from the Owners during the current year's estimate, until exhausted, and any net shortage shall be added according to each Owner's share of the assessments to the payment next due after rendering of the accounting.

**5.05 Reserve for Contingencies and Replacements.** The Association shall build up and maintain a reasonable reserve of not more than 100% of the total annual assessment for the Association for contingencies and replacement. Extraordinary expenditures not originally included in the annual estimate which may be necessary for the year shall be charged first against such reserve. If said estimated cash requirement proves inadequate for any reason, including non-payment of any Owner's assessment, the same shall be assessed to the Owners according to each Owner's share of the assessments in a Special Assessment. See Section 5.11.

**5.06 Failure to Prepare Annual Budget.** The failure or delay of the Association to prepare or serve the annual or adjusted estimate on the Owner shall not constitute a waiver or release in any manner of such Owner's obligation to pay the Annual Assessment, as herein provided, whether the same shall be determined. In the absence of any annual estimate or adjusted estimate, the Owner shall continue to pay the Annual Assessment at the existing rate established for the previous period until the Owner has been notified that a new Annual Assessment amount has been determined.

**5.07 Books and Records of the Association.** The Association shall keep correct and complete books and records of account, specifying the receipts and expenditures relating to common receipts and expenses, together with records showing the allocation, distribution and collection

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of the common profits, losses and expenses among and from the Owners; minutes of the proceedings of the Owners and Board of Directors. Such books and records shall be open for inspection by any Owner or any representative of an Owner duly authorized in writing, at reasonable times and upon request by an Owner. If by terms of a first mortgage an Owner has authorized such mortgagee to inspect such books and records, the presentation to the Secretary of the Association by a representative of such mortgagee of a copy of the mortgage containing such authorization shall constitute written authorization of such inspection. Upon ten (10) days notice to the Board of Directors and upon payment of a reasonable fee, any Owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such Owner.

**5.08 Commencement of Assessments.** Annual Assessments shall begin with respect to each Lot ninety (90) days after the date on which the deed transferring title to such Lot to an Owner is recorded. On such date, the amount payable shall be a pro-rated amount determined as of such date until the next payment date.

**5.09 Payment of Assessments.** Annual Assessments shall be payable on or before 30 June each year.

**5.10 Special Individual lot Assessment.** Notwithstanding anything to the contrary herein, if the Association shall incur any cost or expense for or on account of any item of maintenance, repair, or other matter directly or indirectly occasioned or made necessary by any wrongful or negligent act or omission of any Owner, such cost or expense shall be borne by such Owner and not by the Association, and if paid by the Association shall be paid or reimbursed to the Association by such Owner as a Special Individual Lot Assessment.

**5.11 Special Assessment.** If the Association shall incur any cost or expense for any item of maintenance, repair, insurance, or other matter the cost of which is not covered by the Annual Assessments, the cost shall be borne by the Owners and shall be paid by Special Assessment. The Association shall serve notice of such further assessment on all Owners by a statement in writing giving the amount and reasons therefor. Special Assessments must be approved by the Owners at an Annual or Special Meeting in accordance with the Association By-Laws. Special Assessments shall be payable within thirty (30) days after invoicing. No Special Assessment may be levied by the Board of Directors without the approval of 51% of the HOA members.

**5.12 Abandonment.** No Owner may exempt himself from liability for his contribution toward the Common Expenses by the abandonment of his Lot.

### ARTICLE VI

#### REMEDIES FOR NON-PAYMENT OF ASSESSMENT

**6.01 Late Charges.** If any assessment is not paid when due, the Board of Directors, at its option and without demand or notice, may charge a late charge not to exceed five percent (5%) of any

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unpaid balance for each month the assessment remains unpaid, and/or interest on any unpaid balance at the rate of twelve percent (12%) per annum.

**6.02 Lien of Association.** The Association shall have a lien upon the estate or interest in any Lot of the Owner thereof for the payment of the portion of the assessments chargeable against such Lot which remain unpaid for after the same have become due and payable from the time a certificate therefor, subscribed by the President of the Association, is Recorded pursuant to authorization given by the Board of Directors. Such certificate shall contain a description of the Lot, the name or names-of the record Owner(s) thereof and the amount of such unpaid portion of the assessments. Such lien shall remain valid for a period of five (5) years from the time of filing thereof, unless sooner released or satisfied in the same manner provided by law for the release and satisfaction of mortgages on real property or discharged by the final judgment or order of the court in an action brought to discharge such lien as hereinafter provided.

**6.03 Priority of Association's Lien.** The lien provided for herein shall take priority over any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments and liens of First Mortgages which have been filed for record, and may be foreclosed in the same manner as a mortgage on real property in an action brought by the Association. In any such foreclosure action, the Owner(s) of the Lot affected shall be required by pay a reasonable rental for such Lot during the pendency of such action, and the plaintiff in such action is entitled to the appointment of a receiver to collect the same. In any such foreclosure action, the Association shall be entitled to become a purchaser at the foreclosure sale.

**6.04 Dispute as to Common Expenses.** Any Owner, who believes that the portion of assessments chargeable to his Lot for which a certificate of lien has been filed by the Association has been improperly charged against him or his Lot, may bring an action in the Court of Common Pleas for Greene County, Ohio for the discharge of such lien.

**6.05 Non-liability of First Mortgagee for Past Due Assessments.** When a First Mortgagee acquires title to a Lot as a result of a foreclosure of any lien, such First Mortgagee shall not be liable for the share of assessment by the Association chargeable to such Lot which became due prior to the acquisition of title to such Lot by such First Mortgagee. Such unpaid share of assessments shall be deemed to be assessments collectible from all of the Lots, including that of such First Mortgagee.

**6.06 Liability for Assessments Upon Voluntary Conveyance.** In a voluntary conveyance of a Lot the grantee of the Lot shall be jointly and severally liable with the grantor for all unpaid assessments by the Association against the grantor and his Lot for his share of the assessments up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee and his mortgagee shall be entitled to a statement from the Board of Directors setting forth the amount of all unpaid and current assessments against the grantor due the Association, and



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such grantee shall not be liable for nor shall the Lot conveyed by subject to a lien for any unpaid assessments made by the Association against the grantor in excess of the amount set forth in such statement for the period reflected in such statement.

### ARTICLE VII

#### **REMEDIES FOR BREACH OF COVENANTS AND RESTRICTIONS**

**7.01 Abatement and Enjoinment.** The violation of any provision of the Organizational Documents shall give the Board of Directors the right to enjoin, abate, or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach.

### ARTICLE VIII

#### **MAINTENANCE**

**8.01 General.** The general allocation of maintenance, repair, and replacement between the Association and the Owners are as follows:

- (a) The Association shall maintain, repair, and make all necessary replacements to the Common Area.
- (b) An Owner shall maintain, repair, and make all necessary replacements to his Dwelling Unit and Lot.

### ARTICLE IX

#### **LIABILITY AND OTHER INSURANCE**

**9.01 Liability Insurance.** The Association, as a Common Expense, shall insure itself, the Board of Directors, all Owners and Members of their respective families and other persons residing with them in the Property, their tenants, and all persons lawfully in the possession or control of any Dwelling Unit, against liability for bodily injury, disease, illness or death and for injury to or destruction of property occurring upon, in or about, or arising from destruction of property occurring upon, in or about, or arising from the Common Area, such insurance to afford protection to a limit of not less than One Million Dollars (\$1,000,000.00) in respect to bodily injury, disease, illness or death suffered by anyone person, and to the limit of not less than One Million Dollars (\$1,000,000.00) in respect to any one occurrence, and to the limit of not less than One Hundred Thousand Dollars (\$100,000.00) in respect to damage to or destruction of property arising out of any one accident.

Such policy shall not insure against liability for personal injury or property damage arising out of or relating to the individual Lots or Dwelling Units located thereon.

**9.02 Other Insurance.** As a Common Expense, the Association shall obtain such insurance as the Board of Directors considers necessary, including without limitation, fidelity bonds for anyone who either handles or is responsible for funds held or administered by the Association. The amount of such fidelity bond shall be equal to, at a minimum, the maximum funds that will be

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in the custody of the Association at any time such bond is in effect. In addition, such fidelity bond coverage must equal one-quarter (1/4) of the Annual Assessments, together with the reserve funds, if any.

**9.03 Notice of Cancellation or Substantial Changes.** Any insurance coverage obtained by the Association shall contain a provision requiring the insurer to notify the Association and any mortgagee named in the mortgage clause, if applicable, in writing of the cancellation or a substantial change of coverage at least thirty (30) days prior to such cancellation or substantial change.

**9.04 Annual Review.** The amounts and coverage of each insurance policy obtained by the Association shall be reviewed annually.

### **ARTICLE X AMENDMENT**

**10.01 General.** Unless otherwise provided, this Declaration may be amended only with the approval of Owners exercising not less than Fifty One percent (51%) of the voting power of the Association. Any such Amendment shall be in writing and effective on the date when it is recorded.

### **ARTICLE XI GENERAL**

**11.01 Covenants Running with Land.** The covenants, conditions, restrictions, easements, reservations, liens, and charges created by this Declaration shall run with and bind the land, and each part thereof, and shall be binding upon and inure to the benefit of all parties having any right, title or interest in or to all or any part of the Property, and their respective heirs, executors, administrators, successors and assigns, for the term set forth in the Plat Restrictions.

**11.02 Enforcement.** In addition to any other remedies provided in this Declaration, the Association or any Member shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens and charges set forth herein or now or hereafter imposed by or through the Plat Restrictions. Failure by the Association or by any Member to proceed with such enforcement shall in no event be deemed a waiver of the right to enforce at a later date the original violation or a subsequent violation nor shall the doctrine of laches nor any statute of limitations bar the enforcement of any such restriction, condition, covenant, reservation, easement, lien or charge. The Association shall not deliberately refuse to enforce the provisions hereof or discontinue operations, or attempt to terminate its operation without giving thirty (30) days prior written notice to all Eligible First Mortgagees.

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**11.03 Severability.** Invalidation of anyone or more of these covenants, conditions, restrictions or easements or any provision of the By-Laws by judgment or court order shall not in any way affect any other provisions hereof, all of which shall remain in full force and effect.

**11.04 Gender and Grammar.** The singular wherever used herein shall be construed to mean the plural when applicable, and any necessary grammatical changes required to make the provisions hereof apply either to corporations, partnerships or individuals, male or female, shall in all cases be assumed as though in each case fully expressed herein.

**11.05 References.** Unless otherwise specified, all references to a particular Article or Section shall refer to such Article or Section of the Declaration or the By-Laws, whichever the case may be.

**11.06 Compliance with Requirements.** The Declaration and the plan of ownership created hereby has been created and is existing in full compliance with all applicable requirements of local, state and all other applicable ordinances and laws.

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### **OAKBROOK CHASE HOMEOWNERS' ASSOCIATION PROTECTIVE COVENANTS AND RESTRICTIONS**

1. The property within the subdivision will be subject to the Declaration of Covenants, Conditions and Restrictions for Oakbrook Chase which is recorded in Official Record Volume 693, Page 898 Greene County, Ohio records and exhibits attached thereto and amendments thereof which among other things, provides the owner of any lot within the subdivision shall be a member of Oakbrook Chase Homeowner's Association, Inc.
2. All numbered lots in this subdivision shall be single family residences. No tract shall be re-subdivided into smaller tracts for additional residences.
3. No residence building having less than 2300 square feet of floor space for single-story or 2600 square feet for two-stories shall be erected on any tract in this subdivision. Dwellings shall not exceed two (2) stories high.
4. All residences shall have an attached or enclosed garage, with not more than three garage doors, either directly attached or by a connecting breezeway and shall be of like design and material as the main residence.
5. No house trailer, defense cabin, tent, or shack is permitted on this land, nor is any garage or other outbuilding at any time to be used as a temporary or permanent residence. All sheds must be maintained (painted, roofing, etc.) to keep the structure in presentable condition and consistent with the look of the house (esthetics). No type of aluminum sheds are allowed on any HOA property from May 2022 forward. All sheds must be approved by the Homeowners Association Board of Directors. Sheds larger than 200 sq/ft also require an approved Beaver creek city permit.
6. No business vehicles shall be parked on the street overnight. Business vehicles of reasonable size and appearance may be parked in driveways with approval of the Homeowners Association Board of Directors.
7. No RVs, boats, or utility trailers may be parked on the street except with approval of the Homeowners Association Board of Directors. No vehicles may be parked on the street routinely or for a long period of time.
8. No noxious or offensive trade or business shall be carried on this land, nor shall anything be done thereon which may be or become an annoyance to the neighborhood.
9. No worn out or discarded automobiles, machinery or vehicles or parts thereof shall be stored on any tract and no portion thereof shall be used for automobile junk piles or the storage of any kind of junk or waste material.
10. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Any lot area designated for the natural flow of surface water shall at all times be kept free from any obstructions to the natural flow surface

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water, and any improvements made on or under easement by the property owner are at the risk of the property owner.

11. These covenants and restrictions are to run with the land and shall be binding on all parties and all persons claiming under them.
12. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than six (6) square feet, three (3) election signs of not more than six (6) square feet, and one sign of not more than nine (9) square feet advertising the property for sale or rent. Election signs shall not be displayed longer than 3 months and will be removed on Election Day.
13. All fences must be approved by the Homeowners Association Board of Directors. No wire fences will be permitted. All fences must be maintained in a presentable condition. Any fence that is broken, falling down, etc. must be repaired within 9 months from notification by the HOA (either email or written).
14. No fence shall be erected any nearer the road than the building set-back line unless same shall be a hedge or shrub. No garden shall be planted any nearer the road than the building set-back.
15. Professional builders or sub-contractors must be used in new home construction and for major modifications to existing homes. Any structure permanently attached to the main home must have an approved Beaver Creek city permit.
16. Minimal amounts of vinyl or aluminum siding may be permitted, with the Homeowners Association Board of Directors approval.
17. No temporary, semi-permanent, or permanent item/structure may be placed within the lot setback zone.
18. All yards, shrubs, trees, landscaping or hardscaping must be maintained in a presentable condition. Shrubs/landscaping should be trimmed at least once during the growing season.
19. At any time these covenants may be amended in accordance with the provisions in the Declaration of Covenants, Conditions, and Restrictions.
20. Invalidation of any one of the covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

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## EXHIBIT "A" OAKBROOK CHASE HOMEOWNERS' ASSOCIATION HOMEOWNERS' ASSOCIATION BY-LAWS

The within By-Laws are executed and attached to the Declaration creating covenants, conditions and restrictions for Oakbrook Chase. Their purpose is to provide for the establishment of an Association for the administration of the Property in the manner provided by the Declaration and these By-Laws. All present or future Owners or tenants or their employees, and any other person who might use the facilities of the Property in any manner, shall be subject to any restrictions, conditions, or regulations hereafter adopted by the Board of Directors of the Association. The mere acquisition or rental of any of the Dwelling Units located on the Lots within the Property or the mere act of occupancy of any of the Dwelling Units will constitute acceptance and ratification of the Declaration and of these By-Laws. The terms used herein shall have the same meaning as defined in Article I of the Declaration. This document replaces the Code of Regulations which becomes null and void when this document is approved by the Members.

### ARTICLE I THE ASSOCIATION

**1.01 Name of the Association.** The Association shall be an Ohio not-for-profit corporation and shall be called Oakbrook Chase Homeowners' Association, Inc.

**1.02 Membership.** Each Owner upon acquisition of title to a Lot shall automatically become a member. Such membership shall terminate upon the sale or other disposition by such Member of his Lot at which time the new Owner of such Lot shall automatically become a Member. Membership in the Association is limited to Owners within the Property.

**1.03 Voting Rights.** There shall be one vote for each of the Lots within the Property. The Owner or Owners of each lot shall be entitled to one vote for their Lot. In the event a lot has been acquired by the Association in its own name or in the name of its agent, designee or nominee on behalf of all Owners, the voting rights of such a Lot shall not be exercised so long as it continues to be so held. If two or more Persons, whether fiduciaries, tenants in common or otherwise, own undivided interests in a lot, each may exercise the proportion of the voting power of all the Owners of his Lot that is equivalent to his proportionate interest in the Lot

**1.04 Proxies.** Votes may be cast in person or by proxy. The person appointed as proxy need not be an Owner. Proxies must be in writing and filed with the Secretary of the Association before the appointed time of each meeting or action taken. Unless otherwise provided, all proxies shall be revocable at any time by delivering written notice of such revocation to the Secretary of the Association. Emails are considered "in writing" for the purposes of this document. For the purpose of calculating the percentages required for passage, votes cast in person, proxies voted

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in person by the proxy holder, and proxies received by the Secretary prior to the meeting will be considered the total votes.

**1.05 Place of Meetings.** Meetings of the Association shall be held at such place upon the Property or at such other place as may be designated by the Board of Directors and specified in the notice of the meeting, at 7:00 P.M., or at such other time as may be designated by the Board of Directors and specified in the notice of the meeting.

**1.06 Annual Meetings.** The annual meeting of the Members of the Association shall be held during the 2nd full week of May in each year for the purpose of electing Officers and for the transaction of such other business as may come before the meeting.

**1.07 Special Meetings.** It shall be the duty of the President of the Association to call a special meeting of the Owners as directed by resolution of the Board of Directors or upon a petition signed by a majority of the Owners and having been presented to the Secretary. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice unless by consent of four-fifths (4/5) of the Owners present, either in person or by proxy.

**1.08 Notice of Meeting.** It shall be the duty of the Secretary of the Association to mail/email a notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Owner of record at least thirty (30) days prior to such meeting. The Owners of record will be determined as of the day preceding the day on which notice is given.

**1.09 Waiver of Notice.** Notice of the time, place, and purpose of any meeting may be waived in writing by Members, either before or at the commencement of the meeting. , The waivers shall be part of the records of the meeting. Any Member attending any such meeting shall be deemed to have waived proper notice of such meeting unless the Member protests the lack of proper notice prior to or at the commencement of the meeting. No business shall be transacted at a special meeting unless Waiver of Notice is approved by four-fifths (4/5) of the Owners present, either in person or by proxy.

**1.10 Action by Unanimous Written Consent of the Owners.** Any action which may be authorized or taken at a meeting of the Owners may be authorized or taken without a meeting in a writing or writings signed by all of the Owners. The writing or writings evidencing such action taken by the unanimous written consent of the Owners shall be filed with the records of the Association. Written notice of any action proposed to be taken by the unanimous written consent of the Owners shall be sent to all persons entitled to notice at least five (5) days prior to the circulation of the action for unanimous written consent among the Owners and shall specify the action proposed to be so taken.

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**1.11 Order of Business.** The order of business at all meetings of the Owners shall be as follows:

- (a) Roll call
- (b) Proof of notice of meeting or waiver of notice
- (c) Reading of minutes of preceding meeting
- (d) Reports of officers
- (e) Reports of committees
- (f) Election of Inspectors of Election
- (g) Election of Officers
- (h) Unfinished business
- (i) New business
- (j) Adjournment

**1.12 Quorum.** A majority of the Members of the Association present at the meeting in person or by proxy shall constitute a quorum for the transaction of any business at any annual or special meeting of the Members.

**1.13 Annual Assessment.** The Annual Assessments shall be used exclusively to promote the recreation, health, safety, and welfare of the residents of the Property and the enforcement of these restrictions. The assessments shall include, without limitation, the following Common Expenses:

- (a) Maintenance and repair of those items which have been assigned to the Association hereunder.
- (b) Insurance premiums for insurance obtained by the Association.
- (c) Taxes and assessments on the Common Area.
- (d) Costs for the operation, management, and administration of the Association, including without limitation, fees for property management, fees for legal and accounting services, fidelity bonds, cost of mailing and postage.
- (e) A general operating reserve to assure the availability of funds for the purposes hereunder.

### ARTICLE II OFFICERS AND BOARD OF DIRECTORS

**2.01 Designation.** The principal officers of the Association shall be a President, Vice President, Secretary, Treasurer, and Communications Officer, all of whom shall be elected by and from the Members. Each principal officer of the Association shall also be a Director and together shall form the Board of Directors which shall govern the affairs of the Association. The number of Officers may be changed by resolution at any meeting or any special meeting called for that purpose, adopted by a majority vote of the Members, but no reduction shall have the effect of removing any Officer prior to the expiration of his term of office.



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**2.02 Election of Officers.** The required Officers shall be elected at each annual meeting of Members. Only persons nominated as candidates shall be eligible for election as Officers and the candidates receiving the greatest number of votes shall be elected.

**2.03 Term of Office.** The term of office for the officers of the Association is two (2) years, and elections of the officers will be staggered so that at least two officers are elected each year, if possible. The officers of the Association shall hold office until the next annual meeting of the Members and until their successors are elected, except in case of resignation, removal from office, or death. Any Officer may resign at any time by oral statement to that effect made at a meeting of the Board of Directors or in writing to that effect delivered to the Secretary of the Association; such resignation to take effect immediately or at such other time as the Officer may specify.

**2.04 Vacancies During the Term.** In the event of the occurrence of any vacancy or vacancies in the Board of Directors during the term of such Director or Directors, the remaining Officers though less than a majority of the whole authorized number of Officers may, by the vote of a majority of their number, fill any such vacancy for the unexpired term or until an election to fill such vacancy is held. Members shall have the right to fill any vacancy on the Board of Directors (whether the same has been temporarily filled by the remaining Directors or not) at any meeting of the Members called for that purpose. Any Officer elected at such meeting of Members shall serve until the next annual election of Officers.

**2.05 Removal of Officers.** At any regular or special meeting duly called, any one or more of the Officers may be removed with or without cause by the vote of at least seventy-five percent (75%) of the Members of the Association present in person or by proxy. Any Officer whose removal has been proposed by the Members shall be given the opportunity to be heard at such meeting. In the event that an Officer is removed by such vote, his successor shall then and there be elected to fill the vacancy thus created.

**2.06 Regular Meetings.** Regular meetings of the Board of Directors may be held at such times and places as shall be determined by a majority of the Directors, but at least two (2) such meetings shall be held during each year. The Secretary shall distribute to HOA members the Minutes of all Board of Directors' meetings by email promptly.

**2.07 Special Meetings.** Special meetings of the Board of Directors may be held at any time upon call by the President, or any two (2) Directors. Written notice of the time and place of each such meeting shall be given to each Director either by personal delivery, mail, telegram, email, or telephone at least ten (10) days before the meeting, which notice shall specify the purpose of the meeting. Notice of the time, place, and purpose of any meeting may be waived in writing by Directors, either before or at the commencement of the meeting. The waivers shall be part of the records of the meeting. Any Director attending any such meeting shall be deemed to have waived proper notice of such meeting unless the Director protests the lack of proper notice prior to or at the commencement of the meeting. No business shall be transacted

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at a special meeting unless Waiver of Notice is approved by a majority of the Directors present. If all the Directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

**2.08 Board of Directors Quorum.** At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If at any meeting of the Board of Directors there be less than a quorum present, the majority of those present may adjourn the meeting.

**2.09 Action by Unanimous Written Consent of the Board of Directors.** Any action which may be authorized to be taken at a meeting of the Board of Directors may be taken or authorized without a meeting in a writing or writings signed by all of the members of the Board of Directors. The writing or writings evidencing such action taken by the unanimous written consent of the Board of Directors shall be filed with the records of the Association.

**2.10 Fidelity Bonds.** The Board of Directors shall require that all officers and employees of the Association handling or responsible for Association funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Association.

**2.11 President.** The President shall be the Chief Executive Officer of the Association and shall preside at all meetings of the Association and of the Board of Directors. Subject to directions of the Board of Directors, the President shall have general operation supervision over the business and affairs of the Association. The President may execute all authorized deeds, contracts, and other obligations of the Association and shall have such other authority and shall perform such other duties as may be determined by the Board of Directors, or otherwise provided for in the Declaration or in these By-Laws.

**2.12 Vice President.** The Vice President shall perform all of the duties of the President in case of the President's absence or as may be assigned to him from time to time by the President or the Board of Directors, and when so acting, shall have the same power and authority as the President.

**2.13 Secretary.** The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the Association. The Secretary shall have charge of such books and papers as the Board of Directors may direct and in general, perform all the duties incident to the office of secretary. The Secretary shall distribute to HOA members the Minutes of all Association meetings by email promptly.

**2.14 Treasurer.** The Treasurer shall have responsibility for Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. The Treasurer shall be responsible for the deposit of all

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monies and other valuable effects in the name and to the credit of the Association, in such depositories as may, from time to time, be designated by the Board of Directors. The Treasurer shall prepare a financial report every 6 months and provide to the President for posting on the website.

**2.15 Communications Officer.** The Communications Officer shall have responsibility for the Association website, maintaining the email list, and related activities including electronic and paper communications to the membership as directed by the President.

**2.16 Powers and Duties.** The powers of this Corporation shall be exercised, its business and affairs conducted, and its property controlled by the Board of Directors, except as otherwise provided in the Articles of Incorporation, or the applicable laws of the State of Ohio.

### ARTICLE III GENERAL POWERS OF THE ASSOCIATION

**3.01 Payments from Annual Assessment Funds.** The Association shall establish and shall pay for out of the annual assessment funds those expenses which the Association is required to secure or pay for, pursuant to the terms of the Declaration or which in its opinion, shall be necessary or proper for the maintenance and operation of the Property, or for the enforcement of the Declaration and these By-Laws. No expenditure may be authorized by Board of Directors beyond \$500 except for the items listed in paragraph 1.13 above.

**3.02 No Expenditures to be Made Without Sufficient Funds.** Notwithstanding any other section or paragraph in these Association official documents, no commitment to spend nor any expenditure of Association funds will be made unless sufficient funds are available to cover the expenditure.

**3.03 No Active Business to be Conducted for Profit.** Nothing herein shall be construed to give the Association authority to conduct active business for profit on behalf of the Owners or any of them.

**3.04 Delegation of Duties.** The Association, through its Board of Directors, has the authority to delegate to persons, firms, or corporations of its choice such duties and responsibilities of the Association as the Board of Directors shall from time to time specify, and to provide for reasonable compensation for the performance of such duties and responsibilities.

### ARTICLE IV COMMITTEES

**4.01 General.** The Board of Directors may appoint an architectural control committee as provided in the Declaration, and shall appoint other committees as deemed appropriate in

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carrying out its purpose. Each committee will provide reports to the President after meetings or other activity.

### **ARTICLE V** **AMENDMENT**

**5.01 General.** These By-Laws may be amended at a regular or special meeting, if such intention is included in the meeting notice, of the members by a majority vote of Members present in person or by proxy or without a meeting by the written consent of a majority of the Members of this Association.

### **ARTICLE VI** **GENERAL PROVISIONS**

**6.01 Service of Notices on the Board of Directors.** Notices required to be given to the Board of Directors or to the Association may be delivered to any member of the Board of Directors or officer of the Association, either personally or by mail, addressed to such member or officer at his Dwelling Unit.

**6.02 Non-Waiver of Covenants.** No covenants, restrictions, conditions, obligations, or provisions contained in the Declaration or these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

**6.03 Agreements Binding.** All agreements and determinations lawfully made by the Association in accordance with the procedure established in the Declaration and these By-Laws shall be deemed to be binding on all Owners, their successors, heirs, and assigns.

### **ARTICLE VII** **INDEMNIFICATION**

**7.01 Definition of Person.** As used in this Article, the term "Person" shall mean any individual who is or was serving as a Director, officer, employee, or agent of the Association, or who is or was serving at the request of the Association as a Director, officer, employee, or agent.

**7.02 Limitation of Liability.** No Person shall be liable to the Association for any loss or damage suffered by it on account of any action taken or omitted to be taken by him on behalf of the Association, if such Person (1) in good faith exercised or used the same degree of care and skill as a prudent man would have exercised or used under the circumstances in the conduct of his own affairs, or (2) in good faith took, or omitted to take, such action in reliance upon advice of counsel for the Association or in reliance upon the books and records of the Association, upon reports made to the Association by an officer or employee or by any other Person selected for

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the purpose with reasonable care by the Association, or upon financial statements or written reports prepared by an officer or employee of the Association in charge of its accounts or certified by a public accountant or firm of public accountants, or (3) in good faith considered the assets to be of their book value or followed what he believed to be sound accounting and business practice

### **7.03 Provisions Relating to Indemnification**

(a) Suits by third parties. In case any Person was or is a party, or is threatened to be made a party, to any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative or investigative, other than an action by or in the right of the Association, by reason of his association with the Association, the Association shall indemnify such Person against all costs and expenses if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the Association. Such costs and expenses shall include attorneys' fees, judgments, decrees, fines, penalties and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit, or proceeding. With respect to any criminal action, suit, or proceeding, such indemnification shall occur if the Person had no reasonable cause to believe that his conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, or conviction, or upon a plea of nolo contendere or its equivalent, shall not, itself, create a presumption that the Person did not act in conformity with the standards set forth in the preceding sentence.

(b) Suits brought by the Association. In case any Person was or is a party, or is threatened to be made a party, to any threatened, pending or completed action, suit, or proceeding by or in the right of the Association to procure a judgment in its favor by reason of his association with the Association, the Association shall indemnify such Person against all costs and expenses if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the Association. Such costs and expenses shall include, among other items, attorneys' fees actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit. However, no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Association, unless and only to the extent that the Court of Common Pleas, or the Court in which such action the suit was brought shall determine upon application that, despite the adjudication of liability, and in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses as the Court of Common Pleas or such other Court shall deem proper.

(c) Authorization for payment of indemnity. Any indemnification under paragraphs (a) and (b) of this Section 7.03, unless ordered by a court, shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the Person is proper in the circumstances because he has met the applicable standard of conduct set forth in paragraphs (a) and (b) of this Section 7.03. Such determination shall be made:

## DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

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(i) by a majority vote of a quorum consisting of Directors of the Association who were not and are not parties to or threatened with any such action, suit or proceeding (i.e. disinterested Directors); or

(ii) if such a quorum is not obtainable or if a majority vote of a quorum of disinterested Directors so directs, in a written opinion by independent legal counsel other than an attorney, or a firm having associated with it an attorney, who has been retained by or who has performed services for the Association or any person to be indemnified by the Association within the past five years; or

(iii) by the members; or

(iv) by the Court of Common Pleas or the Court in which such action, suit, or proceeding was brought.

**7.04 Prepayment of Expenses.** Expenses, including attorneys' fees, incurred in defending any action, suit, or proceeding referred to in paragraphs (a) and (b) of this Section 7.03, may be paid by the Association in advance of the final disposition of such action, suit, or proceeding if authorized by the Directors in the specific case. Such Director authorization shall be given only upon the receipt of an undertaking, by or on behalf of the Person, to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this Subsection.

**7.05 Nature of Indemnity.** The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under the Articles or the By-Laws of the Association, or under applicable federal or state laws, or any agreement or vote of members or disinterested Directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. Indemnification shall continue as to a Person who has ceased to be a Director, Director, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of such a Person. Notwithstanding any repeal of this Article or other amendment thereof, the indemnification provided for in this Article shall be binding upon the Association in accordance with the provisions thereof as to, all actions, suits or proceedings instituted or threatened which arise out of matters occurring during, or referable to, the period prior to any such repeal or amendment.

**7.06 Maximum Indemnification.** Notwithstanding the foregoing, the provisions of this Article shall be automatically amended to provide for the maximum indemnification permitted under the Ohio Revised Code, including amendments thereto, or any comparable provisions of any future Ohio statute. In order to implement the foregoing, the Directors of the Association are authorized to amend the provisions of this Article to provide for such indemnification.

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## EXHIBIT "B" LEGAL DESCRIPTION

### PROPERTY

**Section 1.** Situated in the City of Beavercreek, County of Greene, State of Ohio and being Lots 1 through 31 inclusive of Oakbrook Chase, Section One, as recorded in Plat Cabinet Volume \_\_\_\_\_, Page(s) \_\_\_\_\_ of the Plat Records of Greene County, Ohio.

**Section 2.** Situated in the City of Beavercreek, County of Greene, State of Ohio and being Lots 32 through 53 inclusive of Oakbrook Chase, Section Two, as recorded in Plat Cabinet Volume \_\_\_\_\_, Page(s) \_\_\_\_\_ of the Plat Records of Greene County, Ohio.

**Section 3.** Situated in the City of Beavercreek, County of Greene, State of Ohio and being Lots 54 through 86 inclusive of Oakbrook Chase, Section Three, as recorded in Plat Cabinet Volume \_\_\_\_\_, Page(s) \_\_\_\_\_ of the Plat Records of Greene County, Ohio.

### LOTS

**Section 1.** Situated in the City of Beavercreek, County of Greene, State of Ohio and being Lots 1 through 30 inclusive of Oakbrook Chase, Section One, as recorded in Plat Cabinet Volume \_\_\_\_\_, Page(s) \_\_\_\_\_ of the Plat Records of Greene County, Ohio.

**Section 2.** Situated in the City of Beavercreek, County of Greene, State of Ohio and being Lots 32 through 35 and Lots 37 through 53 of Oakbrook Chase, Section Two, as recorded in Plat Cabinet Volume \_\_\_\_\_, Page(s) \_\_\_\_\_ of the Plat Records of Greene County, Ohio.

**Section 3.** Situated in the City of Beavercreek, County of Greene, State of Ohio and being Lots 54 through 57 and Lots 59 through 86 of Oakbrook Chase, Section Three, as recorded in Plat Cabinet Volume \_\_\_\_\_, Page(s) \_\_\_\_\_ of the Plat Records of Greene County, Ohio.

### COMMON AREAS

**Section 1.** Situated in the City of Beavercreek, County of Greene, State of Ohio and being Lot 31 of Oakbrook Chase, Section One, as recorded in Plat Cabinet Volume \_\_\_\_\_, Page(s) \_\_\_\_\_ of the Plat Records of Greene County, Ohio.

**Section 2.** Situated in the City of Beavercreek, County of Greene, State of Ohio and being Lot 36 of Oakbrook Chase, Section Two, as recorded in Plat Cabinet Volume \_\_\_\_\_, Page(s) \_\_\_\_\_ of the Plat Records of Greene County, Ohio.

**Section 3.** Situated in the City of Beavercreek, County of Greene, State of Ohio and being Lot 58 of Oakbrook Chase, Section Three, as recorded in Plat Cabinet Volume \_\_\_\_\_, Page(s) \_\_\_\_\_ of the Plat Records of Greene County, Ohio.