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Kind: PLAT
Recorded: 02/25/2022 at 08:25:19 AM
Fee Amt: \$645.20 Page 1 of 46
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File: 2022-00012879

LABEL NBR: 1 Type: DEE
Kind: SPECIAL INSTRUMENT (DEED)
Recorded: 03/04/2022 at 08:24:19 AM
Fee Amt: \$386.00 Page 1 of 46
Montgomery County, OH
Brandon C. McClain Recorder
File: 2022-00015133

460

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
AND RESERVATION OF EASEMENTS

FOR

WILLOW HILLS OWNERS' ASSOCIATION, INC.

BY

WILLOW HILLS DEVELOPERS, LTD.
an Ohio limited liability company
3445 Newmark Drive
Miamisburg, Ohio 45342

DEVELOPER

OR

TABLE OF CONTENTS

	Page
SECTION 1. DEFINITIONS	1
1.1 Additional Property	1
1.2 Articles of Incorporation.....	1
1.3 Assessments.....	1
1.4 Board.....	1
1.5 Builder	1
1.6 Code of Regulations	2
1.7 Common Elements.....	2
1.8 Common Expenses	3
1.9 Default	3
1.10 Developer.....	3
1.11 Development Period	3
1.12 Director	3
1.13 Dwelling Unit	3
1.14 Improvement.....	3
1.15 Lot.....	3
1.16 Occupant.....	4
1.17 Owner	4
1.18 Property.....	4
1.19 Solar Equipment	4
1.20 Structure.....	4
SECTION 2. MEMBERSHIP, VOTING RIGHTS, DIRECTORS, ETC.....	4
SECTION 3. ASSESSMENTS.....	4
3.1 Covenant of Payment; Creation of Lien	4
3.2 Annual Assessment.....	4
3.3 Purpose of Annual Assessment	5
3.4 Operating Shortfalls/Developer Advances	5
3.5 Amount of Annual Assessment	6
3.6 Initial Assessment.....	6
3.7 Individual Assessment.....	6
3.8 Payment	7
3.9 Personal Obligation	7
3.10 Perfection and Priority of Liens.....	7
3.11 Foreclosure Actions.....	8
3.12 Reserves.....	8
SECTION 4. COVENANTS AND RESTRICTIONS ON USE AND OCCUPANCY.....	8
4.1 Purposes/Use Restrictions	8
4.2 Failure to Comply.....	13
SECTION 5. COMMON ELEMENTS.....	13

TABLE OF CONTENTS
(continued)

	Page
5.1	Rights of Enjoyment in Common Elements13
5.2	Subordination to Mortgage or Other Lien14
5.3	Additional Common Elements Constructed by the Association14
5.4	Maintenance and Management of Common Elements14
5.5	Payment by First Mortgagees of Obligations and Reimbursement for Same15
5.6	Use of Common Elements by Developer15
5.7	Conveyance of Common Elements to Association15
SECTION 6.	MAINTENANCE15
6.1	Adoption of Standards15
6.2	Association Responsibilities15
6.3	Owner Responsibilities16
6.4	Repairs Due to Negligence, Etc16
6.5	Periodic Inspection16
6.6	Right of Entry16
6.7	Optional Additional Services16
SECTION 7.	EASEMENTS17
7.1	Platted Easements17
7.2	Encroachments17
7.3	Maintenance Easements17
7.4	Reservation of Construction, Sewer, and Utility Easements17
7.5	Easements for Certain Utilities; Dedication17
7.6	Easements Reserved by Developer17
7.7	Easements to Run With Land18
SECTION 8.	REVIEW OF ALTERATION PLANS18
8.1	Design Standards18
8.2	Standards for Different Sections19
8.3	Design Review Committee19
8.4	Submission of Plans and Specifications20
8.5	Approval of Plans and Specifications20
8.6	Disapproval of Plans and Specifications20
8.7	Failure to Act20
8.8	Violations21
8.9	Right of Entry21
8.10	Fees21
8.11	Disapproval of Plans21
SECTION 9.	DAMAGE OR DESTRUCTION AND INSURANCE22
9.1	Fire and Extended Coverage Insurance22
9.2	Liability Insurance22
9.3	Other Association Insurance22
9.4	Insurance Premiums22

TABLE OF CONTENTS
(continued)

	Page
9.5 Damage or Destruction and Restoration of Structures	22
SECTION 10. CONDEMNATION.....	23
SECTION 11. ENFORCEMENT.....	23
11.1 Curing Defaults; Lien	23
11.2 Remedies.....	24
11.3 Suits By or Against Association.....	24
11.4 No Waiver.....	24
11.5 Rules and Regulations	24
SECTION 12. DURATION, AMENDMENT AND TERMINATION.....	24
12.1 Duration	24
12.2 Amendment or Termination	25
SECTION 13. COVENANT FOR STAGED DEVELOPMENT	25
13.1 Right of Staged Development.....	25
13.2 Supplemental Declaration for Staged Development.....	25
SECTION 14. MISCELLANEOUS	26
14.1 No Reverter.....	26
14.2 Notices	26
14.3 Invalidity.....	26
14.4 Headings	26
14.5 Gender.....	26

DECLARATION

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND RESERVATION OF EASEMENTS FOR WILLOW HILLS OWNERS' ASSOCIATION, INC. ("Declaration") is made this March 3, 2022 by WILLOW HILLS DEVELOPERS, LTD., an Ohio limited liability company ("Developer"), whose address is 3445 Newmark Drive, Miamisburg, Ohio 45342, under the following circumstances:

A. Developer is the owner of certain property located in the City of Dayton, Montgomery County, Ohio, as more particularly described in Exhibit A attached to this Declaration (the "Property").

B. Developer desires to declare that the Property shall be held, sold and conveyed subject to the provisions of this Declaration.

C. Developer has formed an Ohio not-for-profit corporation known as Willow Hills Owners' Association, Inc. (the "Association"), which shall be responsible for the administration and enforcement of the provisions of this Declaration.

D. Developer owns or may acquire other real property in the vicinity of the Property that may be annexed to the Property and subjected to this Declaration. This other real property is more particularly described below as the "Additional Property."

NOW, THEREFORE, for the purposes of establishing and assuring a uniform plan for the development of the Property, and enhancing and protecting the value, desirability and attractiveness of the Property, Developer declares that the Property shall be held, occupied, sold and conveyed subject to this Declaration.

SECTION 1. DEFINITIONS

In addition to any definitions contained elsewhere in this Declaration, the following terms used in this Declaration shall have the meanings set forth in this Section 1.

1.1 Additional Property. "Additional Property" means the real property described on Exhibit A-1 attached to this Declaration.

1.2 Articles of Incorporation. "Articles of Incorporation" means the articles of incorporation of the Association filed with the Ohio Secretary of State, and any future amendments to those articles.

1.3 Assessments. "Assessments" means the charges established by Section 3 of this Declaration.

1.4 Board. "Board" means the Board of Directors of the Association.

1.5 Builder. "Builder" means an organization identified by the Developer to market, construct and sell homes on the Lots.

1.6 Code of Regulations. "Code of Regulations" means the Code of Regulations adopted by the Association, a copy of which is attached as Exhibit B to this Declaration, and any future amendments to those regulations.

1.7 Common Elements. "Common Elements" means all real and personal property owned, leased or under easement by the Association for the common use and enjoyment of the Owners of the Property. This real and personal property includes, but is not limited to, any of the following types of areas, facilities and amenities now or in the future located on or serving the Property:

(a) areas designated as "Open Space," "Common Area," "Wetland Area," "Detention Basin," or "Reserve Area" or similar designation with reference to the Association on the recorded plat(s) of the Property, or as easement areas in favor of the Association or the Property generally, together with all improvements and amenities associated with each such area, including, for example, landscaping, woods/natural areas, wetland areas, irrigation systems, identification and directional signs, park improvements, playground facilities, benches, and all utilities (electricity, water, sewer, etc.) necessary for the maintenance and operation of these areas, facilities, and amenities;

(b) entrance walls, streetscape (landscaping and fencing), lighting, irrigation and associated utilities for the entrances to the Property and/or at other locations within the Property where the development or its amenities are identified, within easement areas or reserve areas established for the benefit of the Association;

(c) stormwater detention areas or retention areas located on or adjacent to the Property (in areas designated as Open Space, Common Area, Reserve Area, Wetland Area, Detention Basin, or as private drainage easements) or located off-site but serving the Property through recorded easements, including the ponds, pipes, headwalls, ditches, culverts, landscaping and other facilities located in those areas, to the extent not provided and maintained by public authorities;

(d) drainage lines and facilities located within areas designated as private drainage easements on the recorded plat(s) of the Property, including all storm drains, inlets, pipes, headwalls, culverts, outlets and associated improvements and landscaping, to the extent that the Association is the designated holder of the easement or otherwise has accepted responsibility for the same (subject to the obligation of each Owner to maintain the landscaping on his or her own Lot);

(e) trees, plantings, landscaping, lighting and irrigation systems and other improvements within boulevard/island areas of public rights-of-way, to the extent not provided or maintained by a public authority, but only if specifically identified on the plat(s) of the Property or by the Association as Common Elements; otherwise the Owners of individual Lots will be responsible for maintaining the landscaping within the public rights-of-way adjoining the Lots to the extent not provided by a public authority;

(f) fencing, landscaping, mounding and other facilities established on or adjacent to the perimeter of the Property pursuant to recorded easements for the benefit of

the Association; however, unless otherwise indicated on the recorded easement or otherwise assumed by the Association by a duly authorized written agreement, the responsibility for maintaining landscaping, fencing and mounding located on a Lot shall be borne by the Owner of the Lot; and

(g) other areas and facilities identified in this Declaration or in recorded easements or similar documents created for the benefit of the Association, whether presently identified or in future plats, declarations, or similar instruments.

1.8 Common Expenses. "Common Expenses" means those costs and expenses incurred by the Association as described and defined in Section 3.3 of this Declaration.

1.9 Default. "Default" means any violation or breach of, or any failure to comply with, this Declaration or the Code of Regulations, the Rules and Regulations or other standards or regulations adopted pursuant to this Declaration.

1.10 Developer. "Developer" means the Developer named on the first page of this Declaration, its successors and assigns. However, the rights and obligations of Developer under this Declaration shall inure to the benefit of and be binding against only those to whom such rights and obligations are expressly assigned and assumed.

1.11 Development Period. "Development Period" means the period commencing on the date this Declaration is recorded and terminating on the date which is the earlier of (a) the date when Developer has sold and conveyed 100% of the Lots that may be created within both the Property and the Additional Property or (b) the date Developer voluntarily relinquishes control of the Board of Directors by allowing the election of a majority of the Board of Directors by Owners other than Developer, as opposed to Directors appointed by Developer.

1.12 Director. "Director" means any person elected or appointed to the Board of Directors of the Association pursuant to the Code of Regulations.

1.13 Dwelling Unit. "Dwelling Unit" means a detached building or the portion of a building that designed and intended for use and occupancy for residential purposes by a single household or family.

1.14 Improvement. "Improvement" means Structures, fixtures, non-seasonal decorations and ornaments, and other objects (excluding removable tables, chairs and similar items) either temporarily or permanently installed on the exterior of a Lot, including, but not limited to, swimming pools, fences, dog runs, clothes lines, tennis courts, walls, decks, trellises, gazebos, sculptures, fountains, uncovered patios, garden structures such as ponds, garden boxes, bridges, water features and rock formations, outdoor kitchens or fireplaces, and any excavation, fill, ditch, dam or other thing or device that changes the grade of any land by more than six (6) inches or alters the natural flow of waters from, upon or across any Lot or the Common Elements.

1.15 Lot. "Lot" means a parcel or tract of land that is formed when a larger parcel of land is subdivided, has a parcel number assigned by the County Auditor, and is occupied or intended to be occupied by a Dwelling Unit. Unless the context otherwise requires, the term

"Lot" shall be deemed to include both the parcel of land and the residence and other improvements on that land.

1.16 Occupant. "Occupant" means any Owner, tenant, family member or other person lawfully occupying any Lot.

1.17 Owner. "Owner" means, with respect to any Lot, the owner of record from time to time, whether one or more persons or entities, of an interest in fee simple, but shall not include the Association. "Owner" does not include any person that has an interest in a Lot solely as security for an obligation. Developer is an Owner with respect to Lots owned by Developer.

1.18 Property. "Property" means that real property located in the City of Dayton, Montgomery County, Ohio, more particularly described on Exhibit A to this Declaration. When portions of the Additional Property are subjected to this Declaration pursuant to Section 12, those portions shall then be deemed part of the Property.

1.19 Solar Equipment. "Solar Equipment" has the meaning set forth in Section 4.1.21 of this Declaration.

1.20 Structure. "Structure" means: any improvement on a Lot or on the Common Elements forming a construction for occupancy or use including, but not limited to, any building, garage, porch, shed, greenhouse, bathhouse, coop, cage or covered patio.

SECTION 2. MEMBERSHIP, VOTING RIGHTS, DIRECTORS, ETC.

The Association shall be governed by its Directors, who shall be appointed or elected by the members of the Association in accordance with the voting rights and the other rights and proceedings set forth in the Code of Regulations. All provisions of the Code of Regulations and the Articles of Incorporation of the Association are incorporated into this Declaration by reference.

SECTION 3. ASSESSMENTS

3.1 Covenant of Payment; Creation of Lien. Each Owner of a Lot, by acceptance of a deed or other instrument of conveyance for that Lot, agrees to pay to the Association the Annual Assessments, Special Assessments, Individual Assessments and Initial Assessments (collectively, the "Assessments") provided in this Section 3. The Assessments (and late charges and costs of collection, as provided below) shall be a charge and lien on each Lot and shall also be the personal obligation of the Owner of each Lot, to the extent and for the period provided in this Section 3.

3.2 Annual Assessment. The Association shall be entitled to collect from all Owners an annual assessment for Common Expenses and other purposes described in Section 3.3 ("Annual Assessments"). The Annual Assessment will not commence until one or more Lots have been sold to a bona fide purchaser for value. Until the first Lot is sold to a bona fide purchaser for value, the charges that would normally be paid by the Association will be paid by the Developer. Upon the initial sale of a Lot to a bona fide purchaser for value, the Annual Assessment shall commence on that Lot, and the Annual Assessment shall commence on each additional Lot when sold to a bona fide purchaser for value. Developer will not be required to

pay Annual Assessments on unsold Lots, but, following the sale of the initial Lot to a bona fide purchaser for value, Developer shall advance funds as necessary to pay any shortfalls in the Common Expenses. Such advances shall be deemed Developer Advances as hereinafter described. Notwithstanding the foregoing, the sale of a Lot to a Builder shall not cause the commencement of the Annual Assessments on that Lot until the earlier of (i) the date the Builder closes on the sale of the Lot to a third party or (ii) ninety (90) days after the date the Lot is conveyed to the Builder. The Annual Assessment for the current year shall be prorated between Developer and the Builder or third party purchaser, as applicable, as of the earlier of the dates provided in clause (i) and clause (ii).

3.3 Purpose of Annual Assessment. The Annual Assessment is established for the benefit and use of the Association and shall be used in covering all of the costs (the "Common Expenses") of the operation, maintenance, and repair of Common Elements and the performance of all other duties and obligations to be performed by the Association under this Declaration. "Common Expenses" include all expenses and financial liabilities of the Association, including allocations the Association designates for reserves and debt service on any indebtedness undertaken by the Association. The Common Expenses may include, but are not limited to, the costs of employees' wages, materials, equipment, supplies, insurance premiums for the insurance of the Common Elements, payment of Developer Advances, rental fees for any Common Elements leased to the Association, the cost of establishing reserves, taxes and assessments on the Common Elements, management fees, legal and accounting fees, and all other costs and liabilities incurred by the Association in the exercise of its powers and duties pursuant to this Declaration or the Code of Regulations. The Annual Assessment may also be used in covering the cost of any capital addition or capital improvement that is authorized by the Board and, if applicable, approved by the members of the Association in accordance with Section 5.3.

3.4 Operating Shortfalls/Developer Advances. If in any year the Common Expenses exceed the income from the Annual Assessments and the Initial Assessments (defined below), the amount of any operating deficit may, at the Board's sole option, be charged to the Owners by means of a special assessment ("Special Assessments"). No consent of the members of the Association shall be required with respect to this Special Assessment. As with the Annual Assessments, any Special Assessments shall not be charged to unsold Lots or to Lots conveyed to Builders (for the first ninety (90) days after the date of such conveyance or until sold by the Builder to a bona fide purchaser for value, whichever occurs first). In the alternative, during the Development Period, Developer may, at its discretion, advance funds to the Association as necessary to cover operating deficits ("Developer Advances"). No consent of the members of the Association shall be required with respect to Developer Advances. Developer Advances shall not bear interest. Developer Advances shall be shown on the books and records of the Association as a loan to the Association by the Developer. Payment of Developer Advances shall be a Common Expense and reflected as a line item on the Association's budget. Developer Advances shall be repaid to Developer by the Association through the collection of Annual Assessments and/or Special Assessments in subsequent years, as determined by the Board of Directors. If at the end of the Development Period, any Developer Advances are still outstanding, the Association shall repay the Developer Advances to Developer on the following basis: an amount equal to 10% of the total budget for Common Expenses (exclusive of the Developer Advances) shall be added to the Annual Assessments each year, and the funds so

collected shall be used for the repayment of Developer Advances for a maximum of ten (10) years after the expiration of the Development Period. If at the end of such ten (10) year period, after having paid Developer the amounts required under the preceding sentence, any Developer Advances remain unpaid, such remaining Developer Advances shall be permanently forgiven and the Association shall have no further obligation to Developer with respect to the Developer Advances.

3.5 Amount of Annual Assessment. The amount of the Annual Assessment shall be determined by the Board based on the estimated budget prepared in accordance with the Code of Regulations and applicable law, such budget to include reserves in an amount adequate to repair and replace major capital items in the normal course of operations without the necessity of Special Assessments, unless on an annual basis Owners exercising not less than a majority of the voting power of the Association waive the reserve requirement for that year. The amount of the Annual Assessment to be charged to the Lots shall be determined by dividing the amount of Common Expenses shown on the budget by the total number of Lots on which Assessments have commenced under Section 3.2 at the time of preparation of the budget, less (a) any amounts collected as Initial Assessments, if and to the extent the Board so elects, and (b) the estimated amount of any Developer Advances, all as determined by the Board in its discretion. The Annual Assessment shall also be charged to Owners of Lots subjected to the Declaration after the preparation of the estimated budget.

3.6 Initial Assessment. Upon the initial conveyance of a Lot by Developer to a bona fide purchaser for value, not including a Builder, the Developer shall require the grantee to pay an initial assessment to the Association in amount of \$350.00 or an amount equal to the Annual Assessment whichever is greater (the "Initial Assessment"). If the grantee is a Builder, payment of the Initial Assessment shall be deferred until the Lot is conveyed to the Builder's grantee. The Initial Assessment shall be used as the initial working capital of the Association and for the payment of capital improvements to the Property, not in lieu of any installments of the Annual Assessment, unless the Board in its discretion so elects. The Initial Assessment is nonrefundable. Except as aforesaid (relating to sales to builders where the Initial Assessment is deferred), no Initial Assessment shall be due on any Lot purchased from an Owner other than the Developer. The Initial Assessment may be waived at the Board's sole discretion.

3.7 Individual Assessment. The Association may assess an individual Lot for any of the following ("Individual Assessments"): (a) enforcement assessments and individual assessments for utility services that are imposed or levied in accordance with this Declaration, as well as expenses the Board incurs in collecting those assessments; (b) costs of maintenance, repair or replacement incurred due to the willful or negligent act of an Owner or Occupant of a Lot or their family, tenants, guests, or invitees, including, but not limited to, attorney's fees, court costs, and other expenses; (c) costs associated with the enforcement of this Declaration or the rules and regulations of the Association against the Owner or an Occupant of the Owner's Lot, including, but not limited to, attorney's fees, court costs and other expenses; and (d) costs or charges permitted by this Declaration or the Code of Regulations as Individual Assessments, including, in the event special services are provided to the Owner of a Lot, beyond those provided to all Owners, the fee or charge established by the Association in providing those special services, as well as the expenses incurred by the Board in collecting those assessments. This Declaration may also provide for other circumstances in which Individual Assessments may

be charged. If the Owner owns more than one Lot, the Individual Assessment may be assessed as a charge against all Lots owned by that Owner (but such charges may not be collected more than once).

Prior to imposing a charge for damages or an enforcement assessment pursuant to this Section, the Board shall give the Owner a written notice and the opportunity for a hearing as provided in Section 8.3 of the Code of Regulations.

3.8 Payment. The Annual Assessment shall be payable in a single annual installment not more than ten (10) days after the due date established by the Board. The Board may, at its option, allow for payment of the Annual Assessment in monthly or quarterly installments. Any other Assessments shall be due not more than 10 days after the due date established by the Board. The Board shall have the power at any time to adopt such billing, collection and payment procedures as it shall deem appropriate. If an Owner is in Default in payment of any installment of the Annual Assessment (or any other type of Assessment that is payable in installments), the Board may accelerate the remaining installments of the Annual Assessment for the year during which the Default occurs (or may accelerate the remaining installments of any other type of Assessment payable in installments) by giving notice to the Owner. The Board may also establish administrative late fees and interest charges for late payments of Assessments. The administrative fees shall not exceed 10% of the overdue amounts, and interest on the past due amounts shall not exceed the lesser of 1% per month or the maximum rate permitted by law.

3.9 Personal Obligation. Any Assessments becoming due and payable during the period that an Owner owns a Lot, together with any related administrative late fees, interest, and costs of collection, shall constitute the personal obligation of that Owner and shall remain the personal obligation of that Owner until paid. This personal obligation shall not pass to an Owner's successor in title unless expressly assumed by the successor in title (but the lien of the Association for unpaid Assessments shall remain). If the obligation is so assumed by a successor in title, the successor and the former Owner shall be jointly and severally liable for payment of the amounts assumed.

3.10 Perfection and Priority of Liens. The Association has a lien upon the estate or interest in any Lot for the payment of any Assessment, including any Individual Assessment levied in accordance with Section 3.7 above and Section 5312.11 of the Ohio Revised Code, as well as any related interest, administrative late fees, enforcement assessments, collection costs, attorney's fees, and paralegal fees, that are chargeable against the Lot and that remain unpaid for ten (10) days after any portion has become due and payable. If the Owner owns more than one Lot, the lien applies in the full amount to all Lots owned by that Owner, but may not be collected more than once. All of the following apply to a lien charged against a Lot pursuant to this Section: (a) the lien is effective on the date that a certificate of lien is filed in the office of the Montgomery County Recorder, pursuant to authorization by the Board of Directors of the Association. The certificate shall contain a description of the Lot, the name of the record Owner of the Lot, and the amount of the unpaid Assessment or charge. It shall be subscribed to by the president of the Board or other designated representative of the Association; (b) the lien is a continuing lien upon the Lot against which each Assessment is made, subject to automatic subsequent adjustments reflecting additional unpaid interest, administrative late fees, enforcement assessments, collection costs, attorney's fees, paralegal fees, and court costs; (c) the

lien is valid for a period of five (5) years from the date of filing, unless it is sooner released or satisfied in the same manner provided by law for the release and satisfaction of mortgages on real property or unless it is discharged by the final judgment or order of a court in an action brought to discharge the lien as provided below in this Section 3.10; and (d) the lien is prior to any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments of political subdivisions and liens of first mortgages that have been filed for record prior to the recording of the lien, and may be foreclosed in the same manner as a mortgage on real property in an action brought by the Association. An Owner may commence an action for a discharge of the lien in the Montgomery County Court of Common Pleas if the Owner believes that the liability for the unpaid Assessment or charge for which the Association filed a certificate of lien was improperly charged. In the action, if it is finally determined that the unpaid amount of the Assessment or charge was improperly charged to the Owner or the Lot, the court shall enter an order that it determines to be just, which may provide for a discharge of record of all or a portion of the lien and an award of attorney's fees to the Owner.

3.11 Foreclosure Actions. In any foreclosure action that the holder of a lien commences, the holder shall name the Association as a defendant in the action. The Association or the holder of the lien is entitled to the appointment of a receiver to collect rental payments due on the Lot. Any rental payment a receiver collects during the pendency of a foreclosure action shall be applied first to the payment of the portion of the Common Expenses chargeable to the Lot during the foreclosure action. The Association or an agent the Board authorizes is entitled to become a purchaser at the foreclosure sale. A mortgage on any Lot may contain a provision that secures the mortgagee's advances for the payment of the portion of the Common Expenses chargeable against the Lot upon which the mortgagee holds the mortgage. In the event of a foreclosure or similar occurrence in which an Owner's obligation to pay Assessments becomes uncollectible and the Association's lien for the Assessments is extinguished, the Association shall have the right to charge a reinstatement fee to the succeeding Owner of the Lot in question in an amount equal to twelve (12) months of Assessments.

3.12 Reserves. In addition to the capital reserve contemplated by Section 3.5, the Board may establish and maintain reserves in amounts for contingencies and working capital in such amounts as it may determine from time to time in its discretion. The Board shall have sole discretion as to the expenditure of any reserve funds.

SECTION 4. COVENANTS AND RESTRICTIONS ON USE AND OCCUPANCY

4.1 Purposes/Use Restrictions. In order to promote the health, safety and welfare of all Owners and Occupants and to preserve, beautify and maintain the Property and all Improvements as a subdivision of high quality, and to preserve and promote environmental quality, the following covenants, restrictions and limitations as to use and occupancy of the Property are declared and established.

4.1.1 Permitted Uses. Except as otherwise provided in this Declaration, no Lot shall be used for any purposes except as a residence for a single family or a family-sized group. To the extent permitted by law, an Owner may use a portion of a residence for his or her office or studio as long as those activities do not interfere with the quiet enjoyment or comfort of any other Owner or Occupant, and as long as those activities do not increase the normal flow of

traffic or individuals in and out of the Property or in and out of that Owner's residence. Except as permitted by the preceding sentence, no industry, business, trade, occupation or profession of any kind, whether commercial, religious, educational or otherwise designated for profit, altruism, exploration or otherwise, shall be conducted, maintained or permitted on any part of the Property.

4.1.2 Structures. No Structures or other Improvements shall be maintained on any Lot except in accordance with the provisions of Section 6 and no Structure or Improvement shall be constructed, remodeled, altered, repaired, reconstructed, and/or restored on any Lot except in accordance with the provisions of Section 8.

4.1.3 Exterior Surfaces; Signs. Owners shall not cause or permit anything to be hung or displayed on the outside walls or windows of a residence or other Structure on a Lot, and no signs shall be affixed to or placed upon the exterior of a Structure, or upon any other area of a Structure or Improvement that is visible from the street, or upon any other part of a Lot, without the prior consent of the Board, except for (a) one (1) real estate sign as permitted by the City of Dayton Zoning Code, or (b) no more than a total of two (2) political signs endorsing either candidates for public office or issues on the ballot, during the period commencing no more than thirty (30) days prior to the election date in which the issue or candidate is on the ballot and continuing for no more than two (2) days after the election in which the issue or candidate is on the ballot, subject to applicable requirements of the sign code of the jurisdiction in which the Property is located. Without limiting the foregoing, signs addressing social, political, business and personal issues, except those specifically permitted by clauses (a) and (b) of the preceding sentence, are prohibited. Further, Owners shall not permit any curtains, shades or other window coverings to be hung inside or outside any windows that will show any colors other than white, cream, wood-stained finishes or other colors approved by the Board. Notwithstanding anything to the contrary herein, Developer, any Builder (to the extent authorized by Developer) and their agents shall have the unrestricted right to place "For Sale" or "For Rent" signs on any unsold or unoccupied Lots, the Common Elements, or other Structures on the Property, and to use unsold Lots or Structures as models, for promotional purposes and/or as offices in connection with the construction, sale, management, maintenance, repair, remodeling and/or rental of Lots.

4.1.4 Parking. No inoperative or unlicensed vehicles may be parked on the Property or on the streets in violation of the ordinances of the jurisdiction in which the Property is located. No part of the Property, except enclosed garages, if any, shall be used for parking any trailer, truck, boat or anything other than operative automobiles, motorcycles, bicycles, scooters or other vehicles permitted under this Section. The word "trailer" shall include any trailer coach, house trailer, boat trailer, mobile home, automobile trailer, camp car, camper, recreational vehicle or any other similar vehicle. The word "truck" shall include every type of motor vehicle other than (a) passenger cars and (b) pickup trucks, sport utility vehicles and vans that are used as a primary source of transportation by an Owner or Occupant of a Lot and that are not identified and used as a commercial vehicle. Vehicles being used for the purpose of construction, delivery to or repair work upon any Lot shall be permitted to park on the Property during the time(s) that services are being provided. Short-term visitor parking (less than one week) of prohibited vehicles is permitted. The Board shall have the right to tow away vehicles parked in violation of these provisions after 24 hours notice to the affected Owner or Occupant or by placing a 24-hour notice of intent to tow on the vehicle itself. The costs of towing shall be

borne by the Owner, Occupant or other person responsible for the vehicle and charged as an Individual Assessment to the Lot(s) owned by the Owner or whose Lot the violation occurs.

4.1.5 Hazardous Uses and Waste. Nothing shall be done or kept on any Lot or on the Common Elements that is unusually hazardous in relation to ordinary residential uses, or that increases the rate of insurance on the buildings or their contents, without the prior written consent of the Board. No Owner shall permit anything to be done or kept in his or her Lot or on the Common Elements that will result in the cancellation of insurance on the buildings or their contents, or will be in violation of any law. No waste shall be committed on the Common Elements.

4.1.6 Animals and Pets. The maintenance, keeping, boarding or raising of animals, livestock or poultry of any kind, regardless of number, is prohibited on any Lot, except that this shall not prohibit the keeping of dogs, cats, caged birds or aquarium fish or other domestic pets provided they are not kept, bred, or maintained for commercial purposes, and provided they are kept according to the Rules and Regulations of the Association. No more than a total of four dogs and/or cats shall be permitted as pets on any Lot. Any pet causing or creating a nuisance or unreasonable disturbance or that is kept in violation of this Declaration or the Rules and Regulations promulgated by the Board shall be permanently removed from the Property upon seven days written notice from the Board. No pet shall be allowed to run unattended. No device or apparatus to which a line, wire or rope is connected for the restraint of animals or pets shall be constructed or permitted upon any part of a Lot or the Common Elements.

4.1.7 Nuisances. No activity that may be considered noxious or offensive by reason of odor, sound, appearance or sight shall be conducted on any Lot or any part of the Common Elements, nor shall anything be done on any Lot either willfully or negligently, that may be or become an annoyance or nuisance to the other Owners or Occupants.

4.1.8 Trash. Trash, garbage or other waste shall not be kept upon any part of the Property except in sanitary containers and screened from visibility from the streets of the Property.

4.1.9 Satellite Dishes. Owners shall be permitted to place over-the-air reception devices (such devices and their supporting apparatus being referred to herein as "satellite dishes") on their Lots upon compliance with the following criteria: (i) any satellite dish must be one meter or less in diameter; (ii) the preferred location of any satellite dish shall be in the rear yard, not visible from the street, unless the placement in the rear yard would unreasonably delay or prevent, or unreasonably increase the cost of installation, maintenance or use of such satellite dish or preclude the reception or transmission of an acceptable quality signal; (iii) installation of equipment that is merely duplicative and not necessary for the reception of video programming is prohibited; (iv) where the satellite dish is located on or immediately adjacent to the residence, the satellite dish shall be painted to blend with the color of the residence, unless painting the satellite dish would result in voiding the manufacturer's warranty, would unreasonably delay or prevent, or unreasonably increase the cost of installation, maintenance or use of such satellite dish or preclude the reception or transmission of an acceptable quality signal; (v) where the satellite dish is not attached to or immediately adjacent to the residence, the Owner shall take reasonable measures to screen or camouflage the satellite dish from view by the installation of shrubbery or

other screening measures that do not unreasonably delay or prevent, or unreasonably increase the cost of installation, maintenance or use of such satellite dish or preclude reception or transmission of an acceptable quality signal; and (vi) satellite dishes shall not be placed on any Common Elements.

4.1.10 Swimming Pools. No above-ground swimming pools shall be permitted on any Lot. Inground swimming pools are permitted only with the written approval of the Design Review Committee as provided in Section 8.

4.1.11 Fences. No fence or any portion thereof may be installed on any Lot, except in compliance with the Design Standards and the Rules and Regulations.

4.1.12 Mailboxes, Numerals, and Letters. If a standard mailbox or numerals for house numbers are established by the Developer, all residences shall include the standard items. If standards are not established, the design, size, shape and color of mailboxes, the numerals and letters on the mailboxes, and the numerals and letters identifying residences on the Lots shall be subject to approval as to design, style, location, color and size by the Board.

4.1.13 Basketball Goals. Basketball goals may be placed on a residence, or on a Lot, in any area behind the front plane of the house. Residences with a front entry garage may not affix a basketball goal to the garage or house; in such cases, however, a free-standing basketball goal may be installed perpendicular to the street (and may be located in the front yard). In all cases, any basketball goal shall be of high quality backboard material.

4.1.14 Swingsets and Play Equipment. Swingsets, treehouses, jungle gyms, and other outdoor play equipment placed on or affixed to a Lot shall be considered Improvements and shall be permitted only in compliance with the provisions of the Design Standards and the Rules and Regulations.

4.1.15 Laundry on Parcels. No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out or exposed on any Lot or on the Common Elements.

4.1.16 Sheds. A maximum of one (1) storage shed shall be permitted on Lots that are in excess of .20 acres. The shed shall be no more than 120 square feet total, shall have a maximum height of ten (10) feet 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 shall be located in the rear yard or in the farthest corner from the roads on corner Lots. Sheds not in accordance with this Section 4.1.16 (including sheds on corner Lots or Lots smaller than .20 acres) shall be prohibited unless the size, design, materials, location and other features of the shed are reviewed and approved by the Design Review Committee prior to construction of the shed.

4.1.17 Decks. Decks shall not extend into side yards (i.e., beyond the artificial line extended from the side plane of each house).

4.1.18 Rental of Lots. No Owner shall lease to another person or entity any Dwelling Unit on a Lot unless the lease is in writing, is for a period of at least one year, is of the entire Dwelling Unit and expressly provides that the terms of the lease are subject in all respects

to the provisions of this Declaration and the Code of Regulations. Without limiting the one year minimum term of Leases, Dwelling Units shall not be rented for transient or hotel purposes.

4.1.19 Impairment of Structural Integrity of Building. Nothing shall be done on any Lot that will impair the structural integrity of any Structure on that Lot or an adjoining Lot.

4.1.20 Use of Common Elements. The Common Elements shall be used only in accordance with the purposes for which they are intended and no Owner or Occupant shall hinder or encroach upon the lawful rights of other Owners or Occupants. This restriction includes, but is not limited to, the following:

(a) Except as provided in this Declaration, there shall be no obstruction of the Common Elements, nor shall anything be stored in the Common Elements, without the prior consent of the Board.

(b) In using the Common Elements, no Owner or Occupant shall violate any provisions of this Declaration, the Code of Regulations, or the Rules and Regulations.

(c) Nothing shall be altered, constructed in or removed from the Common Elements except as otherwise provided in this Declaration or except with the prior consent of the Board.

(d) The Common Elements shall be kept free of rubbish, debris and other unsightly materials.

4.1.21 Solar Equipment. No solar heating equipment, panels or devices (collectively, the "Solar Equipment") are permitted outside of any enclosed structure on any Lot except to the extent that the installation and use of such Solar Equipment is (x) protected by applicable law or (y) otherwise approved pursuant to this Section 4.1.21. To the extent permissible by applicable law, an application for the installation and maintenance of any Solar Equipment on a Lot must be submitted to the Design Review Committee for approval prior to installation. The exact design and location of the Solar Equipment shall be determined by the Design Review Committee only if: (i) the Solar Equipment is designed for minimal visual intrusion when installed (as an illustration, but not as a limitation, is located in a manner which minimizes visibility from the street or any adjacent Lot), and (ii) the Solar Equipment is architecturally harmonious with the existing improvements on the Property.

Except to the extent same is protected by applicable law, an Owner may install Solar Equipment on its Lot only after its receipt of written approval of same by the Design Review Committee. Installation shall be performed by the Owner or its duly-licensed contractor (x) in a good and workmanlike manner using new materials, (y) in conformity with the application approved by the Design Review Committee (or such modifications thereto required by the Design Review Committee as a condition to Owner's installation and maintenance of the Solar Equipment), and (z) in accordance with all applicable laws, rules, codes, ordinances, regulations and requirements and all terms and conditions set forth in this Declaration.

The Owner shall pay for all costs and expenses to install, repair and maintain the Solar Equipment on the Owner's Lot. In the event that an Owner (1) installs any Solar Equipment

without the prior written approval of the Design Review Committee (except to the extent same is protected by applicable law), or (2) otherwise violates any terms or conditions set forth in this Section 4.1.21, Developer and the Association shall each have the right to immediately remove and dispose of the Solar Equipment installed in violation of this Section 4.1.21 and all costs incurred thereby shall be paid by the Owner within thirty (30) days after receipt of an invoice therefor. Such costs, if unpaid, may be assessed against the Owner's Lot as an Individual Assessment.

4.2 Failure to Comply. Failure to comply with any of the requirements of this Section 4 shall constitute a Default. A Default by any Occupant or other person residing in, occupying or visiting a Lot or Common Elements at the request or with the implied or express permission of the Owner or any other Occupant of the Lot, or committed by any agent, employee, business invitee or contractor of the Owner or Occupant of a Lot, shall be attributed to that Owner and Lot. Defaults may be enforced against Owners and Occupants pursuant to the provisions of Section 11.

SECTION 5. COMMON ELEMENTS

5.1 Rights of Enjoyment in Common Elements. Each Owner shall have a right and nonexclusive easement for the use and enjoyment of the Common Elements for their intended purposes. This right and easement shall be appurtenant to, and shall pass with, the title to his or her Lot. Each Owner shall have a perpetual right of ingress and egress across the Common Elements to that Owner's Lot, which shall be appurtenant to the ownership of the Lot. Each Occupant shall have a nontransferable right to use and enjoy the Common Elements, which right shall terminate when that person ceases to have the status of an Occupant. These rights and privileges shall be subject, however, to the following:

5.1.1 The right of the Board, with the approval by (a) 75% of the votes cast by Members (as defined in the Code of Regulations) who are voting in person or by proxy at a meeting of the Association at which a quorum is present in person or by proxy, and (b) so long as it is the Owner of at least one Lot, the Developer, (i) to borrow money for the purpose of constructing, equipping, improving and maintaining the Common Elements (except that the Developer Advances shall not require a vote of the Members), (ii) to assign the right to common Assessments, or the future income from those Assessments (except as contemplated in this Declaration as to the Developer Advances), and (iii) to convey any fee interest or any security in any portion of the Common Elements. No contract to convey or subject a Common Element to a security interest is enforceable against the Association unless it complies with this Section. The Board, on behalf of the Association, has all powers necessary and appropriate to effectuate a conveyance or encumbrance permitted by this Section, including the power to execute a deed or other instrument.

5.1.2 The right of the Board to adopt, enforce and amend reasonable Rules and Regulations pertaining to the use of the Common Elements.

5.1.3 The right of the Board to establish and charge reasonable admission and other fees for the use of any of the Common Elements that is in the nature of recreational facilities (as determined by the Board). In establishing any fee, the Board may establish

reasonable classifications of Owners, Occupants and other persons. Each fee must be uniform within each class but need not be uniform between classes.

5.1.4 The right of the Board to suspend the right of any Owner or the privilege of any Occupant to use any of the Common Elements that is recreational in nature for any infraction of the Rules and Regulations relating to the Common Elements.

5.1.5 The right of the Board to suspend the right of any Owner and the privilege of any Occupant claiming through that Owner to use any of the Common Elements that is recreational in nature for the nonpayment or delinquency of any Assessments.

5.1.6 All other easements, restrictions, and rights to which the Property is subject, including, but not limited to, any easements granted or reserved pursuant to Section 7.

5.2 Subordination to Mortgage or Other Lien. Except as set forth in Section 5.1.1, the rights and privileges provided in this Section shall be subordinate to any mortgage or other lien given by the Association for the purposes of acquiring, improving or maintaining the Common Elements.

5.3 Additional Common Elements Constructed by the Association. The Association shall not construct any capital addition or capital improvement to the Common Elements or any Lot if the cost to the Association of the addition or improvement exceeds \$10,000 unless the addition or improvement has been authorized by (a) 60% of the votes cast by Members (as defined in the Code of Regulations) who are voting in person or by proxy at a meeting of the Association at which a quorum is present in person or by proxy, and (b) so long as it is the Owner of at least one Lot, the Developer. This Section shall not limit Developer's right, at its cost, to perform the initial construction of the capital improvements constituting the Common Elements and to construct and annex to the Property additional Lots and Common Elements in accordance with Section 13. Capital expenditures for repairs or replacements of Common Elements and/or other Structures that the Association is required to maintain shall not be subject to approval of the Owners under this Section. Capital expenditures for Improvements that the Association is able to fund through its normal budget or other available funds (including Initial Assessment funds) without Special Assessments are not required to be submitted to a vote of the Owners.

5.4 Maintenance and Management of Common Elements. Except as provided in Section 6, the Association shall provide for the maintenance, repair, replacement and management of all Common Elements. The Association may fulfill this responsibility and any other duties and obligations of the Association under this Declaration by contracting with any professional management company (including Developer or an affiliate of Developer) upon such terms and conditions as shall be agreed upon by the Board and the manager. Any contract with Developer or an affiliate of Developer shall be terminable by the Association within one year after the expiration of the Development Period. Each Owner shall permit agents or employees of the Association (including any property manager) and other Owners access through the Owner's Lot for the purpose of fulfilling the Associations duties and obligations.

5.5 Payment by First Mortgagees of Obligations and Reimbursement for Same. If the Association (a) defaults with regard to payment of taxes or other obligations which become a charge against the Common Elements, or (b) fails to pay premiums for insurance in accordance with Section 9, and does not in good faith contest liability for payment of the same, any first mortgagee of a Lot may, after giving prior written notice of its intent to do so to the Association, pay those amounts. The first mortgagee shall then be entitled to immediate reimbursement from the Association of the amount so paid.

5.6 Use of Common Elements by Developer. In addition to the rights described in Section 5.1, Developer and its affiliates shall have the right during the Development Period to use the Common Elements, free of charge, for promotional, construction, management, maintenance, repair, remodeling, rental and sales purposes.

5.7 Conveyance of Common Elements to Association. No later than the expiration of the Development Period, Developer shall transfer ownership of the Common Elements to the Association by deed or other instrument of conveyance, free from liens except as permitted by this Declaration.

SECTION 6. MAINTENANCE

6.1 Adoption of Standards. In furtherance of the purposes outlined in Section 8.1, the Board may adopt maintenance standards pertaining to the maintenance, repair and appearance of all Lots, and the exterior of all Structures and Improvements. The maintenance standards shall be adopted in the same manner and be enforceable in the same manner as the Rules and Regulations. If any provision of any applicable building inspection, housing inspection or similar maintenance statute, ordinance, resolution, regulation or order of the State of Ohio, or any other governmental instrumentality, is more stringent with regard to a Lot than a comparable provision of the maintenance standards, the more stringent provision shall be deemed incorporated in the maintenance standards. The Association shall comply with the maintenance standards with respect to the Common Elements, and the costs of the Association in meeting the maintenance standards and its responsibilities pursuant to Section 6.2 below, shall be Common Expenses of the Association.

6.2 Association Responsibilities. Except as otherwise provided below, the Association shall be responsible for (a) maintenance, repair and replacement of the Common Elements; and (b) cutting, spraying, trimming and maintaining all landscaping, shrubs and trees located on the Common Elements. Notwithstanding the foregoing, the Association shall not be required to mow, trim or provide similar types of maintenance of drainage and utility easement areas that are located upon the Lots; that responsibility shall be borne by the Owners of the affected Lots, as provided in Section 6.3. However, the Board's right of entry as provided in Section 6.6 shall include the right to enter upon any Lot to provide needed maintenance for any drainage or utility easement area, or any other swales or similar areas that have an impact on the neighbor drainage pattern, as conditions dictate in order to address drainage issues affecting other areas of the Property. In addition, the Association's responsibility shall include the maintenance of any pipes, culverts, headwalls and other drainage facilities within a drainage easement unless such responsibility has been assumed by a public authority having jurisdiction. Except for the maintenance of drainage or utility easement areas provided by the Association due

to the failure of an Owner to fulfill its responsibilities set forth in Section 6.3, the costs incurred by the Association pursuant to this Section shall be a Common Expense.

6.3 Owner Responsibilities. Each Owner shall maintain, repair and replace, and keep in good condition and repair, at his or her expense, all portions of that Owner's Lot, including the residence and all other Structures and Improvements on the Lot. The Owner's maintenance responsibilities include the exterior and structural portions of all Structures on the Lot, all internal and external installations of the Lot such as appliances, heating, plumbing, electrical and air conditioning fixtures or installations, and also any portion of any other utility service facilities exclusively serving the Lot (whether located on the Lot or on the Common Elements). Such obligations include keeping all yards manicured with turf in place, landscaping through the use of shrubs, trees, plants and flowers, and regular maintenance. The Board may adopt more specific maintenance standards as provided in Section 6.1. The cost of mowing, trimming and providing similar maintenance of drainage and utility easement areas located upon a Lot shall be borne by the Owner of that Lot. Owners also have the obligation to maintain and replace any trees in the right-of-way of any public street in any "tree lawn" area adjoining the Owner's Lot.

6.4 Repairs Due to Negligence, Etc. Any damage to the Common Elements, Lot, or Dwelling Unit due to the right of access provided under Section 5.4 or Section 6.6 is the responsibility of the Owner that caused the damage or the Association if it is responsible for the damage. That Owner, or the Association, is liable for the prompt repair of the damage and, if not repairable, for the value of the damaged property or item as it existed immediately prior to that damage.

6.5 Periodic Inspection. Periodically, as needed, the Association may inspect each Lot to determine whether the Lot and any other Structures or Improvements comply with the maintenance requirements in this Declaration.

6.6 Right of Entry. The Board, through its authorized officers, employees and agents, shall have the right to enter upon any Lot at all reasonable times and upon reasonable advance notice for the purpose of making inspections or repairs, maintenance and replacements as required by this Section 6. To the extent that an Owner fails to make a repair or replacement that is the Owner's responsibility under this Section 6, the Association shall have the right to enter upon the Owner's Lot and provide the necessary maintenance, repairs and replacements, and assess the costs so incurred as an Individual Assessment against that Owner and the Owner's Lot(s).

6.7 Optional Additional Services. The Association may, from time to time, establish special services available to Owners (at the Owner's option) for an additional charge. The costs incurred by the Association in providing these additional services will be assessed as an Individual Assessment against that Owner and the Owner's Lot(s).

SECTION 7. EASEMENTS

7.1 Platted Easements. Easements for installation, maintenance and location of utilities and drainage facilities may be reserved on the recorded plat(s) for the Property. Owners and Occupants shall not (i) obstruct or interfere with any easements or the natural flow of surface water, which shall, at all times, be kept free from obstruction, or (ii) alter the location or grade of open storm water drainage ways.

7.2 Encroachments. If, by reason of the construction, reconstruction, repair, settlement, shifting or other movement of any of the Structures or by reason of the partial or total destruction and rebuilding of the Structures, any part of the Common Elements encroaches upon any part of a Lot or any part of a Structure on a Lot encroaches upon any part of the Common Elements or on another Lot; or, if by reason of the design or construction of utility systems, any main pipes, ducts or conduits serving one Lot encroach upon any part of any other Lot, valid easements for the maintenance of such encroachments are established. These easements shall exist for the benefit of the affected Lot(s) and the Common Elements, as the case may be, so long as the encroachments exist. However, in no event shall a valid easement for any encroachment be created in favor of any Owner if the encroachment occurred due to the willful conduct of that Owner.

7.3 Maintenance Easements. Each Lot shall be subject to easements for access arising from necessity of maintenance or operation of the Property pursuant to the provisions of this Declaration. The Owner of each Lot shall have the permanent right and easement to and through the Common Elements for the use of water, sewer, power, television and other utilities now or in the future existing within the Common Elements.

7.4 Reservation of Construction, Sewer, and Utility Easements. Developer reserves easements across the Common Elements for the construction, installation, and maintenance of utilities, drainage facilities, and storm and sanitary sewers, and to cut and grade slopes in and along parcel boundaries at streets built within the Property.

7.5 Easements for Certain Utilities; Dedication. The Association may grant easements through the Common Elements for utility purposes for the benefit of the Property or other land in the vicinity (including land owned by Developer), including, but not limited to, the right to install, lay, maintain, repair and replace water mains and pipes, sewer lines, gas mains, telephone wires and equipment, and electrical conduits and wires over, under, along and on any portion of the Common Elements. The Association may also elect to dedicate to public use any utility and/or drainage areas, or may dedicate to the public or convey to any public park authority any park areas established as Common Elements under this Declaration. Each Owner grants the Association an irrevocable power of attorney to execute, acknowledge and record, for and in the name of the Owner, such instruments as may be necessary to effectuate the foregoing.

7.6 Easements Reserved by Developer. Developer reserves the right and easement for itself, its successors and assigns, to enter upon the Common Elements in order to install, maintain, repair, replace and use pipes, wires, antennas, cables, towers, conduits and other lines and facilities for the purpose of providing water, sanitary sewer, storm sewer, electrical, gas, telephone, television and other utility or quasi-utility services to part or all of the Additional

Property; to enter upon the Common Elements to the extent necessary in order to construct residential units and/or other improvements on the Additional Property; and to use all streets and drives within the Common Elements for purposes of ingress and egress to the Additional Property. Developer shall have the right to grant to any party having any interest in the Additional Property the right to use, maintain, repair and replace any of the items listed above which now or in the future serve the Additional Property or are located on the Common Elements, without the consent of any party having any interest in the Common Elements, whether or not the benefited portions of the Additional Property are ever annexed to this Declaration. However, any utilization of the foregoing rights and easements shall not unreasonably interfere with the use and enjoyment of the Common Elements; and, if any damage, destruction or disturbance occurs to the Common Elements as a result of this utilization, the Common Elements shall be restored promptly to the condition that existed immediately prior to the utilization at the sole expense of the person or persons making the utilization. In the event that pursuant to the easements created under this Section any portion of the Additional Property is served by roads, utility facilities or the like located on the Common Elements, the costs of using, maintaining, repairing and replacing those facilities shall be equitably apportioned between the Owners of parcels of the Property and the owners of the benefited portions of the Additional Property. The annexation of the Additional Property to the Property shall be deemed to satisfy this latter requirement.

7.7 Easements to Run With Land. All easements and rights described in this Declaration 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 Developer, the Association, and any Owner, purchaser, Occupant, mortgagee and other person now in the future having an interest in any part of the Property or, to the extent applicable, the Additional Property.

SECTION 8. REVIEW OF ALTERATION PLANS

8.1 Design Standards.

8.1.1 Purposes. In order to establish and assure the continued existence of the Property pursuant to the uniform plan for the development of the Property by Developer, the Board shall adopt and may amend design standards (the "Design Standards") for the Property and all Structures and Improvements in furtherance of the following purposes:

- (a) the continued existence on the Property of a community consisting of well-planned residential, open space and service areas, Structures, Improvements, and Common Elements;
- (b) the promotion of the health, safety and welfare of all Owners and Occupants;
- (c) the preservation, beautification and maintenance of the Property and all Structures and Improvements as a community of high quality;
- (d) the creation and preservation of adequate open space for the use and enjoyment of all Owners and Occupants;

- (e) the preservation and promotion of environmental quality; and
- (f) the assurance of adequate water, sewage and drainage facilities and other utilities and services.

8.1.2 Subject Matter. The Design Standards may establish requirements relating to land use, architectural features, site planning, lighting, landscaping and signage. The Design Standards may include, but are not limited to, provision as to the following subject matters:

- (a) the specification of materials, design, architectural style, color schemes and other details affecting the exterior appearance of Structures and Improvements;
- (b) the reservation of utility, visual and other easements;
- (c) the installation, location and maintenance of utility lines and facilities, including water, gas, electricity, sanitary and storm sewage, telephone, cable television and other communication systems;
- (d) the control of slopes to prevent erosion or sliding problems;
- (e) the planting and preservation of trees and other natural resources;
- (f) the size, minimum cost and location of Structures on the Lots;
- (g) the size, material and location of driveways and parking facilities;
- (h) the size and location of fences, walks and other Improvements; and
- (i) the character, location and direction of exterior lighting and street hardware.

8.2 Standards for Different Sections. In order to establish a variety of housing alternatives, Developer may elect to modify the Design Standards for different Sections of the Property to accommodate several sizes, types and styles of homes as well as other design features specific to that Section. The Association shall keep a record of the Design Standards for each section of the Property, and shall make a copy of those Design Standards available upon request to the Owner or prospective purchaser of any Lot. Accordingly, the Board may approve separate Design Standards on a Section by Section basis, provided that, in the Board's judgment, the variations will not materially adversely affect the purposes outlined in Section 8.1.1.

8.3 Design Review Committee. There shall be a design review committee composed of three members who shall be appointed by the Board (the "Design Review Committee"). The members of the Design Review Committee need not be Directors, Owners or Occupants and may be outside professionals. In the event the Board fails to appoint members to the Design Review Committee, the Board shall constitute the Design Review Committee. Each member of the Design Review Committee shall serve at the pleasure of the Board. Any action taken by a majority of the members of the Design Review Committee, whether at a meeting or (if in writing signed by such a majority) without a meeting, shall constitute the official action of the Design

Review Committee and shall be binding on the Association. The Design Review Committee shall act in connection with granting any approvals contemplated in Section 4 of this Declaration and/or reviewing plans and specifications, as set forth in this Section 8.

8.4 Submission of Plans and Specifications. No Structure or Improvement on any Lot shall be (a) original installed or constructed or (b) thereafter remodeled, altered, repaired, reconstructed, and/or restored in any way that affects a matter covered by the Design Standards and materially changes the exterior appearance, unless plans and specifications shall have been submitted to and approved by the Design Review Committee. Those plans and specifications shall be in such form and shall contain such information as the Design Review Committee may reasonably require.

Prior to submission of plans and specifications for any Structure or Improvement proposed for any Lot, the Design Review Committee may require, and any applicant may submit for tentative approval by the Design Review Committee, schematic or preliminary plans and specifications. The Design Review Committee shall either (i) approve the plans and specifications, (ii) disapprove them, or (iii) approve them with conditions or qualifications.

The provisions of this Section 8 do not apply to any construction by Developer.

8.5 Approval of Plans and Specifications. The Design Review Committee shall approve plans and specifications (whether schematic, preliminary, or detailed) submitted to it with respect to any Lot if it finds that they (a) comply with the requirements of this Section, and (b) conform to any Design Standards promulgated by the Board. Upon final approval, a copy of the plans and specifications shall be deposited for permanent record with the Design Review Committee. After the receipt of final approval by the applicant, the Design Review Committee shall not revoke its approval (except as provided in Section 8.7). Approval by the Design Review Committee of plans and specifications with respect to any Lot shall not impair the Design Review Committee's right subsequently to approve a requested amendment of such plans and specifications (in accordance with the requirements of this Section). Any improvement approved by the Design Review Committee shall be constructed within six (6) months after the date of such approval, or such longer period of time as is reasonably required to complete construction so long as construction commences within such 6-month period and is thereafter completed with due diligence. Notwithstanding the foregoing, the 6-month time limitation shall not apply to the approval of plans and specifications submitted by a builder in conjunction with the purchase of multiple Lots by that builder.

8.6 Disapproval of Plans and Specifications. If plans and specifications (whether schematic, preliminary or detailed) submitted to the Design Review Committee with respect to any Lot do not comply with the Design Standards or the requirements of this Section as to the information required to be included in the plan and specification, the Design Review Committee shall either disapprove the plans and specifications or approve them subject to such conditions and qualifications as the Design Review Committee may deem necessary to achieve compliance.

8.7 Failure to Act. If the Design Review Committee fails to act upon any plans and specifications submitted to it within 30 days after a satisfactory submission complying with the requirements of Section 8.4, those plans and specifications shall be deemed to have been

approved as submitted, and no further action by the Design Review Committee shall be required. This 30-day period may be extended with the consent of the applicant. If construction, remodeling, alteration, repair, reconstruction, and/or restoration of a Structure or Improvement is not commenced on a Lot on or before 6 months from the date of approval of plans and specifications and completed within a reasonable time after the construction is begun, then any approval shall be automatically cancelled and a new submission shall be required. Notwithstanding the foregoing, the 6-month time limitation shall not apply to the approval of plans and specifications submitted by a builder in conjunction with the purchase of multiple Lots by that builder.

8.8 Violations. If any Structure or Improvement situated upon any Lot shall have been constructed, remodeled, altered, reconstructed, repaired and/or restored other than in accordance with the approved plans and specifications, the Board shall declare in Default the Owner of the Lot. However, the Board may, upon such conditions as it may determine, waive any such Default if it finds that such Default does not substantially conflict with the policies of the Board.

8.9 Right of Entry. The Board and the Design Review Committee, through their authorized officers, employees, and agents, shall have the right to enter upon any Lot at all reasonable times for the purpose of ascertaining whether such Lot or the construction, remodeling, alteration, repair, reconstruction, or restoration of any Structure or Improvement is in compliance with the provisions of this Section.

8.10 Fees. The Design Review Committee may charge reasonable fees for the processing of plans and specifications. Such fees may cover the cost of such processing, including inspection costs. The fees shall be payable at the time of submission of the item for approval and shall be paid to the Design Review Committee.

8.11 Disapproval of Plans. If the Design Review Committee disapproves plans and specifications submitted to it, the party submitting the disapproved plans and specifications may, within 10 days after the date of disapproval, appeal the Design Review Committee's decision to the Board. The Board, by a majority vote, may overrule the Design Review Committee's decision to disapprove the appealing party's plans and specifications if the Board determines that the Design Review Committee's disapproval was arbitrary or unreasonable. The Board's decision on any appeal shall be final and shall be rendered within 60 days after the date the appeal is filed.

SECTION 9. DAMAGE OR DESTRUCTION AND INSURANCE

9.1 Fire and Extended Coverage Insurance. To the extent reasonably available and applicable, the Association shall maintain property insurance coverage on any Structures now or at any time in the future constituting a part of the Common Elements, including fixtures and equipment to the extent they are part of the Common Elements, all against loss or damage by fire, lightning, cost of demolition, cost of debris removal, vandalism, malicious mischief, windstorm, sprinkler leakage (if applicable) and such other risks as are customarily covered with respect to projects similar in construction, location, and use. The Association shall not be responsible for, and each Owner shall separately obtain, appropriate casualty insurance for the Structures on that Owner's Lot.

9.2 Liability Insurance. To the extent reasonably available and applicable, the Association shall insure itself, the Owners and their Occupants, and/or persons lawfully in possession of or in control of any part of the Property, against liability for bodily injury, disease, illness, or death and for injury to or destruction of property occurring in connection with the operation, maintenance, or use of the Common Elements in such amount and upon such terms and conditions as the Board may determine. The policy shall not insure against liability for personal injury or property damage arising out of or relating to the individual Lots. The Association may also be required to maintain liability insurance (or include under its general policy) for boulevard/island areas maintained by the Association by agreement with the applicable authority, for the benefit of the public and the public authority.

9.3 Other Association Insurance. To the extent reasonably available and applicable, the Board shall maintain directors and officers liability insurance in such amount and upon such terms and conditions as the Board may determine. The Board in its discretion also may purchase and maintain contractual liability insurance, fidelity bonds for Directors, officers, employees and managers, and such other insurance as the Board may determine.

9.4 Insurance Premiums. Insurance premiums for the policies of the Association referred to above and for such other policies as the Association shall determine to be desirable shall be Common Expenses paid from the Annual Assessment established in Section 3.

9.5 Damage or Destruction and Restoration of Structures.

9.5.1 Sufficient Insurance. If any part or all of a Structure that is insured by the Association as part of the Common Elements shall suffer damage or destruction from any cause or peril insured against, and the proceeds of any policy carried by the Association shall be sufficient as determined by the Board to pay the cost of repair, restoration or reconstruction, then the Association shall undertake the repair, restoration or reconstruction, in which case the insurance proceeds may be applied by the Association for that purpose. When the proceeds of insurance are sufficient to substantially restore the damage, the Board shall effect the repairs, restoration or reconstruction unless, by vote of the Members (as defined in the Code of Regulations) meeting the same criteria as are set forth in Section 5.3 for the approval of capital improvements, the Members authorize the Board not to effect the repairs, restoration or reconstruction.

9.5.2 Insufficient Insurance. If any part or all of a Structure that is insured by the Association as part of the Common Elements shall suffer damage or destruction from any cause or peril that is not insured against, or, if insured against, the insurance proceeds from which shall not be sufficient to pay the cost of repair, restoration or reconstruction, then, unless otherwise provided in this Declaration, the repair, restoration or reconstruction of the improvements may be undertaken by the Association and shall be considered a capital improvement. Without limiting the right of the Association to charge the cost to any responsible Owner, as provided elsewhere in this Declaration, the costs incurred by the Association may be assessed to the Owners as a Special Assessment. No membership vote under Section 5.3 shall be required with respect to this capital improvement or the resulting Special Assessment.

9.5.3 Responsibility of Owners. If any part or all of a Dwelling Unit or other Structures or Improvements on a Lot shall suffer damage or destruction from any cause or peril, the Owner shall be responsible for the cost of repair, restoration or reconstruction. If, as part of the repair or reconstruction, the Owner desires to alter or modify the Dwelling Unit or other Structures or Improvements in a manner that was not approved by the Design Review Committee at the time of the initial construction, approval of the Design Review Committee shall be required. The Owner shall have the right to demolish and remove the Dwelling Unit and other structures damaged by fire or other casualty, and shall not be required to rebuild. However, any such demolition and removal shall be completed in a safe and sanitary manner, the Lot shall be placed in a clean and level condition, and the Owner shall place grass and/or other landscaping on the Lot so that the Lot, in its vacant condition, is clean, safe and sightly.

SECTION 10. CONDEMNATION

The Association shall represent the Owners in any condemnation proceedings or in negotiations, settlements, and agreements with the condemning authority for acquisition of the Common Elements. Each Owner, by acceptance of delivery of a deed for a Lot, appoints the Association as his or her attorney in fact for this purpose.

If part or all of the Common Elements is taken or acquired by a condemning authority, the award or proceeds of settlement shall be payable to the Association for the use and benefit of Owners and their mortgagees as their interests may appear.

SECTION 11. ENFORCEMENT

11.1 Curing Defaults; Lien. If any Default occurs with respect to any Lot under the provisions of this Declaration, the Board shall give written notice to the Owner, with a copy of the notice to any Occupant in Default and a copy to any first mortgagee of the Lot who has requested copies of default notices, setting forth in reasonable detail the nature of the Default and the specific action(s) required to remedy the Default, except that the provisions of Section 3 shall govern the procedures and remedies of the Association for nonpayment of Assessments. If the Owner or Occupant shall fail to take the specific action(s) within 30 days after the mailing of the notice, the Board may, but shall not be required to, exercise any or all of its rights in this Declaration or otherwise available at law or in equity. The Board may exercise without notice any of its rights with respect to any Default if it determines that an emergency exists requiring immediate action.

Costs incurred by the Association in exercising any of its rights with respect to any Lot, together with court costs, reasonable attorneys' fees and other expenses of enforcement, shall be a binding personal obligation of the Owner and shall be payable on demand. If the Owner fails to pay costs within 30 days after demand, the Association may file a notice of lien in the same manner and which shall have the same priority as the liens for Assessments provided in Section 3.

11.2 Remedies. Nothing contained in this Section shall be deemed to affect or limit the rights of Developer, the Association, any Owner or Occupant, or their legal representatives, heirs, devisees, successors or assigns, by appropriate judicial proceedings, to enforce the provisions of this Declaration or recover damages for any Default. It is declared that irreparable harm will result to beneficiaries of this Declaration by reason of a Default, and, therefore, each beneficiary shall be entitled to relief by way of injunction or specific performance to enforce the provisions of this Declaration as well as any other relief available at law or in equity.

11.3 Suits By or Against Association. In any action relating to the Common Elements or to any right, duty, or obligation possessed or imposed upon the Association by statute or otherwise, the Association may sue or be sued as a separate legal entity. Service of summons or other process may be made upon the Association by serving the process personally upon the president of the Board of Directors or the person named as statutory agent of the Association. An action brought by or on behalf of the Association shall be pursuant to authority granted by the Board of Directors.

11.4 No Waiver. The failure of Developer, the Association, any Owner or Occupant, or their legal representatives, heirs, devisees, successors or assigns, in any one or more instances, to exercise any right or privilege conferred in this Declaration, shall not constitute or be construed as the waiver of such right or privilege, including the right to cure any Default, but the same shall continue and remain in full force and effect as if no forbearance had occurred.

11.5 Rules and Regulations. The Board may adopt and enforce, and from time to time amend, reasonable rules and regulations (the "Rules and Regulations") regarding the administration, interpretation, and enforcement of this Declaration and the Code of Regulations. Each Rule and Regulation shall be consistent with and designed to further the purposes outlined in this Declaration. The Rules and Regulations may include, if the Board so elects, establishment of monetary fines for violations of this Declaration, the Code of Regulations or the Rules and Regulations, in such amounts as the Board may deem appropriate.

SECTION 12. DURATION, AMENDMENT AND TERMINATION

12.1 Duration. This Declaration shall be deemed to create covenants running with the land and shall bind the Property and shall inure to the benefit of and be binding upon Developer, the Board, the Association, and each Owner, Occupant and their legal representatives, heirs, successors and assigns, and shall continue in full force and effect for twenty (20) years from the date on which this Declaration is recorded. Thereafter this Declaration shall be automatically renewed for successive ten-year periods unless amended or terminated as provided in this Section.

12.2 Amendment or Termination. Except as provided in this Declaration, any provision of this Declaration may be amended in whole or in part by a recorded instrument approved by (i) the Members (as defined in the Code of Regulations) representing at least 67% of the total votes of the Association and (ii) so long as it is the Owner of at least one Lot, the Developer. This Declaration may be terminated and the planned community contemplated hereby may be dissolved by a recorded instrument approved with the unanimous consent of the Members.

The President of the Board shall determine whether the persons who have approved of any amendments or the termination of this Declaration constitute the Owners of the required percentage of Members. Promptly after the approval of any amendment or termination of this Declaration, the President of the Board shall cause to be recorded (a) the written instrument of amendment or termination executed in properly recordable form by the President of the Association (and the Developer, if the Developer owns at least one Lot), and (b) the certificate of the President of the Association that the Members representing at least 67% of the total votes of the Association have approved such instrument (in the case of an amendment) or 100% of the total votes of the Association (in the case of a termination of this Declaration in its entirety).

Notwithstanding the above, this Declaration may be amended at any time during the Development Period, without the vote of Owners, by a written instrument executed by the Developer for any of the following purposes: eliminating or correcting any typographical or other inadvertent errors; eliminating or resolving any ambiguity; making minor or non-substantial changes; clarifying or modifying the use restrictions in Section 4.1; clarifying Developer's original intent; and/or making any changes necessary or desirable to meet the requirements of any institutional lender, the Veteran's Administration, the Federal Housing Administration, the Federal National Mortgage Association, the Mortgage Corporation, or any other agency that may insure or purchase loans on a Lot. No amendment for these purposes shall materially adversely affect any Owner's interest in his or her Lot, the Association or the Common Elements without that Owner's written consent. Each Owner and his or her mortgagees, by acceptance of a deed to a Lot or a mortgage encumbering a Lot, shall be deemed to have consented to and approved of the provisions of this paragraph and the amendment of this Declaration by Developer as provided in the immediately preceding sentence. All such Owners and their mortgagees, upon request of Developer, shall execute and deliver from time to time all such instruments and perform all such acts as may be deemed by the Developer to be necessary or proper to effectuate the provisions of this paragraph.

SECTION 13. COVENANT FOR STAGED DEVELOPMENT

13.1 Right of Staged Development. During the period that commences on the date of recordation of this Declaration and ends on the twentieth anniversary of that date, the Developer may submit, make subject to or annex to this Declaration, in one or any number of additional phases, part or all of the Additional Property.

13.2 Supplemental Declaration for Staged Development. The Additional Property may be subjected, annexed, or submitted to this Declaration during the period stated above by filing of record a supplemental declaration executed by Developer with the same formalities as this Declaration which shall incorporate and extend this Declaration to the affected portion(s) of the

Additional Property. After the expiration of the twenty-year period provided in Section 13.1, the Additional Property may be subjected, annexed or submitted to this Declaration only by filing of record an amendment to this Declaration executed by the Developer and the President of the Board certifying that the required percentage of Owners has approved the amendment. Upon annexation of all or part of the Additional Property, the portion of the Additional Property so annexed shall be deemed part of the "Property" for purposes of this Declaration and the Code of Regulations.

SECTION 14. MISCELLANEOUS

14.1 No Reverter. No covenant, condition, restriction, or reservation of easement contained in this Declaration is intended to create, or shall be construed as creating, a condition subsequent or a possibility of reverter.

14.2 Notices. Any notice required or permitted to be given to an Owner or Occupant by the Board pursuant to the provisions of this Declaration shall be deemed given when (i) mailed by United States mail, postage prepaid, addressed to that person's last address as it appears on the records of the Association, or (ii) emailed to the address furnished by an Owner or Occupant to the Board.

14.3 Invalidity. The determination by a court of competent jurisdiction that any provision of this Declaration is invalid for any reason shall not affect the validity of any other provision.

14.4 Headings. The headings of the Sections and subsections are for convenience only and shall not affect the meaning or construction of the contents of this Declaration.

14.5 Gender. Throughout this Declaration, where the context so requires, the masculine gender shall be deemed to include the feminine and neuter, and the singular shall include the plural, and vice versa.

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SIGNED as of the day and year first above written.

WILLOW HILLS DEVELOPERS, LTD., an Ohio limited liability company

By: *George R. Oberer, Jr.*
George R. Oberer, Jr., Manager

STATE OF OHIO)
) SS:
COUNTY OF MONTGOMERY)

The foregoing instrument was acknowledged before me this 3rd day of March, 2021, by George R. Oberer, Jr., Manager of Willow Hills Developers, Ltd., an Ohio limited liability company, on behalf of the limited liability company.

Nancy A. Raglin
Notary Public

Exhibit A – Property
Exhibit A-1 – Additional Property
Exhibit B – Code of Regulations



NANCY A. RAGLIN
Notary Public, State of Ohio
My Commission Expires:
May 16, 2026

This Instrument Prepared By:

Robert M. Curry, Esq.
THOMPSON HINE LLP
10050 Innovation Dr., Suite 400
Dayton, Ohio 45342
(937) 443-6511

Exhibit A

**DESCRIPTION FOR
LIBERTY-BRAVO III, LLC
WILLOW HILLS-SECTION ONE LOTS**

Being all of Lots 85174-85231 of the Willow Hills-Section One Record Plan as shown in Plat Book 238 Page 42-42B, of the consecutive Lots in the City of Dayton, situated in Section 26, Town 2, Range 8 M.R.s., City of Dayton, Montgomery County, Ohio.


Wesley D. Goubeaux, PS #8254



03/03/2022
Date

Exhibit A-1

**DESCRIPTION FOR
LIBERTY-BRAVO III, LLC
LOT 85157**

Being all of Lot 85157 of the Liberty-Bravo III-A Record Plan as shown in Plat Book 237 Page 22-22A, of the consecutive Lots in the City of Dayton, situated in Section 26, Town 2, Range 8 M.R.s., City of Dayton, Montgomery County, Ohio.


Wesley D. Goubeaux, PS #8254



03/03/2022
Date

EXHIBIT B

CODE OF REGULATIONS

SECTION 1. DECLARATION; APPLICABILITY; OFFICE

1.1 Declaration. Willow Hills Owners' Association, Inc., an Ohio nonprofit corporation, is the Association to which reference is made in the Declaration of Covenants, Conditions and Restrictions, dated March 3, 2021, recorded at Official Record Book _____, beginning at Page N/A, Montgomery County, Ohio, Records (that Declaration, as it may be amended from time to time, the "Declaration"). The terms, provisions, conditions and restrictions of the Declaration, as they relate to the Association and the members, (as defined below) Board of Directors, officers and committees, are incorporated by reference with the same force and effect as if fully set out in this Code of Regulations.

1.2 Applicability. This Code of Regulation is binding on all present or future Owners or Occupants (each as defined in the Declaration) of the Property (as defined in the Declaration) or other persons using any improvements or facilities located on the Property in any manner. Upon the acquisition, rental, use or other act of occupancy of any Lot (as defined in the Declaration), or any other portion of the Property by any person, this Code of Regulations shall be deemed accepted and ratified by that person.

1.3 Office. The principal office of the Association shall be at such place within reasonable proximity to the Property as the Board of Directors may designate.

SECTION 2. DEFINITIONS

All terms used at any place in this Code of Regulations that begin with capital letters, other than words that would normally be capitalized, unless the context otherwise requires, shall have the meanings set forth in the Declaration.

SECTION 3. MEMBERSHIP AND VOTING RIGHTS

3.1 Membership. The Members of the Association shall include, and shall be limited to, the Owners (including Developer).

3.2 Voting Rights.

(a) Except as provided in the next paragraph, each Member shall be entitled to vote, with regard to matters submitted to the Members for a vote, a number of votes equal to the number of Lots owned by that Member at the time of the vote. If co-Owners of a particular Lot cannot mutually agree on how their vote shall be cast, no vote shall be cast with respect to that Lot.

(b) During the Development Period, Developer shall be entitled to five votes for each Lot owned by Developer. In addition, during the Development Period, Developer shall have an additional number of votes equal to five times the total number of Lots that could be placed on the Additional Property and subjected to the Declaration pursuant to Section 13.1 of

the Declaration but have not yet been so added. After the Development Period, Developer's voting rights shall be the same as other Owners.

3.3 Revocation of Voting Rights. Any Member who has been issued a notice of Default pursuant to Section 11.1 of the Declaration, or who has had his or her right or privilege of use and enjoyment of the Common Elements suspended pursuant to Section 5.1 of the Declaration, or who is otherwise in Default, shall not be in good standing and shall not be entitled to vote during any period in which the Default or suspension continues.

3.4 Actions by Members. Unless otherwise prescribed by law, the Declaration or this Code of Regulations, the affirmative vote of a majority of the votes present at a meeting at which a quorum is present shall be necessary for the authorization or taking of any action voted upon by the Members.

SECTION 4. MEETINGS OF MEMBERS; QUORUM; PROXIES

4.1 Time and Place of Meeting. Meetings of the Members shall be held at the principal office of the Association, unless the Directors determine that a meeting shall be held at some other place and cause the notice of meeting to so state. The date and time of all meetings shall be as specified by the Board in its notice of the meeting. In exercising its authority to determine the date, hour, place and purposes of the annual meeting of the Members or of a special meeting of the Members pursuant to Section 4.3, the Directors may determine that the meeting of the Members will not be held solely at any physical place, but instead may be held by means of communications equipment, as follows: The Directors may authorize Members who are not physically present at a meeting of Members to attend the meeting by use of communications equipment that enables the member an opportunity to participate in the meeting and to vote on matters submitted to the Members, including an opportunity to read or hear the proceedings of the meeting and to speak or otherwise participate in the proceedings contemporaneously with those physically present (if a physical meeting is also being conducted). Any Member using communications equipment as so provided will be deemed present in person at the meeting whether the meeting is to be held at a designated place or solely by means of communications equipment. The Board may adopt procedures and guidelines for the use of authorized communications equipment to verify that a person is a voting Member or proxy holder and to maintain a record of any vote or other action taken at the meeting.

4.2 Annual Meeting. The annual meeting of Members for the purpose of electing Directors and for the transaction of such other business as may properly come before the meeting shall be held at such date as may be determined by the Directors. Annual meetings of the Members shall not be required during the Development Period.

4.3 Special Meetings. The Secretary of the Association shall call a special meeting of the members (i) when directed by the President of the Association, (ii) upon the resolution of a majority of the Board of Directors, (iii) upon the presentation to the Secretary of the Association of a petition signed by members holding at least fifty percent (50%) of the total votes of the Association, and (iv) on or before the date when the Development Period expires.

4.4 Quorum; Adjournment. Members present in person or by proxy shall constitute a quorum for any annual meeting or special meeting. Whether or not a quorum is present, the Members entitled to exercise a majority of voting power represented at a meeting may adjourn that meeting without notice other than by announcement at the meeting.

4.5 Notice of Meeting; Waiver. Written notice of each meeting of Members shall be given not less than 7 days nor more than 30 days before it is to be held. Each notice shall specify the date, time and place of the meeting, and, in the case of a special meeting, shall specify the purposes of the meeting. The notice shall be posted in a visible place on the Common Elements and shall be given to all Members of record as follows: (i) delivered personally, (ii) emailed, or (iii) mailed postage prepaid. Any Member may waive notice of a meeting by doing so in writing before or after the meeting. Attendance at a meeting, either in person or by proxy, shall constitute a waiver of notice and of any and all objections to the place or time of such meeting or the manner in which it has been called or convened, unless a Member attends the meeting solely for the purpose of stating, at the beginning of such meeting, any objection or objections relating to such meeting.

4.6 Action by Association Without Meeting. Any action that may be taken at a meeting of the Members may be taken without a meeting if written approval and consent, setting forth the action authorized, shall be signed by Members having a majority of the total votes of the Association. This written consent shall be filed with or entered upon the books of the Association.

4.7 Proxies. Members may vote or act in person or by proxy. The person designated a proxy need not be a Member. A Member shall designate a proxy by written notice to the Board of Directors and, except as otherwise provided in these Code of Regulations, may revoke the designation at any time upon written notice to Board. A proxy shall be revoked automatically upon the Member's conveyance of all Lots owned by him or her. If a first mortgagee has been designated a proxy under the terms of a first mortgage covering a Lot, the presentation to the Board of a copy of the mortgage containing the proxy designation shall be notice of that designation, and, if the mortgage so states, of the irrevocability of that designation. Written notice to the Board or notice in a meeting of the revocation of a proxy designation shall not affect any vote or act previously taken. Each proxy shall have the power of substitution.

SECTION 5. BOARD OF DIRECTORS; POWERS; NUMBER; MEETINGS

5.1 General Powers. Except where the law, the Declaration, the Articles of Incorporation or the Code of Regulations require that action be otherwise authorized or taken, all of the authority of the Association shall be exercised by or under the direction of the Board of Directors, and the Board may act in all instances on behalf of the Association.

5.2 Number of Directors. Initially there shall be three Directors of the Association. The Board shall have the power on its own authority to expand the Board to five or seven Members. Any other number of Directors, or any contraction of the size of the Board, shall be made only by amendment to this Code of Regulations.

5.3 Election; Term of Office; Qualifications. The initial Board of Directors appointed by Developer, or their successors appointed by Developer, shall continue as the Board of Directors during the Development Period. In order to facilitate the transition of the Board from Developer-appointed Directors to elected Directors at the end of the Development Period, Developer in its discretion (without obligation to do so) may appoint an Owner to serve as one of the three appointed Directors during the year prior to the expected expiration of the Development Period. On or before the end of the Development Period, the Secretary of the Association shall call a special meeting of the Members of the Association. The term of the initial Board of Directors shall expire as of the date of that special meeting and three new Directors shall be elected. One Director shall be elected for a term of one year and until his or her successor is elected and qualified, one Director shall be elected for a term of two years and until his or her successor is elected and qualified and the third Director shall be elected for a term of three years and until his or her successor is elected and qualified. Thereafter, all successor Directors shall be elected for a term of three years. Each of the elected Directors shall be a Member, a spouse of a Member, or a principal, member of a limited liability company, partner, director, officer, trustee or employee of an Owner that is not an individual. If the Board elects to expand the number of members to five or seven, then, unless a special meeting is called for such purpose, the additional Directors shall be elected at the next annual meeting, along with any Director whose term is expiring. Thereafter, if the Board has been expanded to five members, two Directors will serve for a term of one year, two for a term of two years and one for a term of three years. If the Board of expanded to seven members, two shall serve for a term of one year, two for two years, and three for three years. After the initial terms have expired, all subsequent terms shall be three years. The Board shall have the right to determine which of the initial or expanded Board members will serve for the shorter or longer terms, giving preference for the most recently elected Directors to serve for the longer terms.

5.4 Procedure for Election. At each annual meeting, the Members shall elect a Director (or, if applicable, Directors) to succeed to the office of the Director(s) whose term is scheduled to expire at that meeting.

5.5 Removal or Resignation. Any Director may be removed at any time, with or without cause, by the affirmative vote of Members holding at least 67% of the total votes of the Association, and, with cause, by the Board of Directors, and in either case a successor shall be elected by the Board of Directors to fill the unexpired portion of such Director's term. Any Director may resign at any time by giving written notice to the Board of Directors. The resignation shall take effect on the date of receipt of the notice or at any later time specified in the notice, and, unless otherwise specified, the acceptance of the resignation shall not be necessary to make it effective. Within thirty (30) days after the appointment of a Director to serve in the place of a Director has resigned or been removed, the Board shall notify the Members of the removal or resignation, and the name of the Director appointed in that person's place.

5.6 Fees and Compensation. No fee or compensation shall be paid by the Association to Directors for their services as Directors.

5.7 Meetings. The annual meeting of the Board of Directors shall be held without notice at the same place and immediately after the annual meeting of the Members. The annual

meeting shall be held for the purpose of electing officers and transacting any other business. Special meetings of the Board of Directors may be called by the President of the Association or a majority of the Directors on at least three days notice to each Director, given personally or by mail, telephone, telecopy, or email, which notice shall state the time and place of the meeting. The Board may hold a meeting by any method of communication, including electronic or telephone communication, provided that each member of the Board can hear or read in real time and participate in and respond to every other member of the Board. No Owner other than a Director may attend or participate in any discussion or deliberation of a meeting of the Board unless the Board expressly authorizes that Owner to attend or participate.

5.8 Waiver of Notice. Any Director may waive notice of a meeting by doing so in writing before or after the meeting. Attendance at a meeting of the Board of Directors shall constitute a waiver of notice and of any and all objections to the place or time of such meeting or the manner in which it has been called or convened, unless a Director attends the meeting solely for the purpose of stating, at the beginning of such meeting, any objections or objections relating to the meeting.

5.9 Board of Directors Quorum. At all meetings of the Board of Directors, a majority of the Directors then in office shall constitute a quorum for the transaction of business.

5.10 Action Taken by Directors. Except as otherwise provided in the Declaration, this Code of Regulations or by law, every act or decision by a majority of the Directors present in person at a duly-held meeting at which a quorum is present shall be regarded as the act of the Board of Directors.

5.11 Action by Unanimous Written Consent Without Meeting. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting if written consent, setting forth the action so taken, is signed by all members of the Board of Directors and that written consent is filed with or entered upon the books of the Association.

5.12 Powers. The Board shall exercise all powers and authority, under law, and under the provisions of the Declaration and these Code of Regulations, that are not specifically and exclusively reserved to the Owners by law or by other provisions thereof, and without limiting the generality of the foregoing, the Board shall have the right, power and authority to:

(a) Hire and fire managing agents, attorneys, accountants, and other independent professionals and employees that the Board determines are necessary or desirable in the management of the Property and the Association;

(b) Commence, defend, intervene in, settle, or compromise any civil, criminal, or administrative action or proceeding that is in the name of, or threatened against, the Association, the Board of Directors, or the Property, or that involves two or more Owners and relates to matters affecting the Property;

(c) Enter into contracts and incur liabilities relating to the operation of the Property;

(d) Enforce all provisions of the Declaration, Code of Regulations, covenants, conditions, restrictions and Articles of Incorporation governing the Lots and Common Elements.

(e) Adopt and enforce rules that regulate the maintenance, repair, replacement, modification, and appearance of the Common Elements, and any other rules the Declaration provides;

(f) Acquire, encumber, and convey or otherwise transfer real and personal property, subject to Section 5312.10 of the Ohio Revised Code;

(g) Hold in the name of the Association the real property and personal property;

(h) Grant easements, leases, licenses, and concessions through or over the Common Elements;

(i) Levy and collect fees or other charges for the use, rental, or operation of the Common Elements or for services provided to Owners;

(j) Pursuant to Section 5312.11 of the Ohio Revised Code, levy the following charges and assessments: interest and charges for the late payment of assessments; returned check charges; enforcement assessments for violations of the Declaration, the Code of Regulations, and the Rules and Regulations of the Association; and charges for damage to the Common Elements or other property;

(k) Adopt and amend Rules and Regulations that regulate the collection of delinquent assessments and the application of payments of delinquent Assessments;

(l) Impose reasonable charges for preparing, recording, or copying the Declaration, Code of Regulations, amendments to the Declaration and Code of Regulations, resale certificates, or statements of unpaid Assessments;

(m) Authorize entry into any portion of the Property by designated individuals when conditions exist that involve an imminent risk of damage or harm to Common Elements, another Dwelling Unit, or to the health or safety of the Occupants of that Dwelling Unit or another Dwelling Unit;

(n) Subject to Section 5.1.1 of the Declaration and division (A)(1) of Section 5312.09 of the Ohio Revised Code, borrow money and assign the right to Assessments or other future income to a lender as security for a loan to the Association;

(o) Suspend the voting privileges and use of recreational facilities of an Owner who is delinquent in the payment of Assessments for more than thirty days;

(p) Purchase insurance and fidelity bonds the Directors consider appropriate or necessary;

(q) Invest excess funds in investments that meet standards for fiduciary investments under Ohio law; and

(r) Exercise powers that are:

(i) Conferred by the Declaration or the Code of Regulations;

(ii) Necessary to incorporate the Association as a nonprofit corporation;

(iii) Permitted to be exercised in this state by a nonprofit corporation;

(iv) Necessary and proper for the government and operation of the Association.

5.13 Duties. It shall be the duty of the Board to:

(a) Cause to be kept a complete record of all its acts and corporate affairs, including the following:

(i) Correct and complete books and records of account that specify the receipts and expenditures relating to the Common Elements and other common receipts and expenses;

(ii) Records showing the collection of Common Expenses from the Owners;

(iii) Minutes of the meetings of the Association and the Board of Directors;

(iv) Records of the names and addresses of the Owners.

(b) Annually adopt and amend an estimated budget for revenues and expenditures. Any budget shall include reserves in an amount adequate to repair and replace major capital items in the normal course of operations without the necessity of special assessments, unless the reserve requirement is waived annually by the Owners exercising not less than a majority of the voting power of the Association;

(c) Collect Assessments for Common Expenses from Owners in accordance with Section 5312.10 of the Ohio Revised Code;

(d) Comply with all applicable state and federal laws concerning prohibitions against discrimination on the basis of race, color, religion, sex, military status, national origin, disability, age, or ancestry, including, but not limited to, Chapter 4112 of the Ohio Revised Code. No private right of action additional to those conferred by the applicable state and federal anti-discrimination laws is conferred on any aggrieved individual by the preceding sentence.

SECTION 6. COMMITTEES

With the exception of the Design Review Committee, which is governed by the Declaration, the Board of Directors may appoint three or more Directors to constitute one or more other committees of the Association. The resolution establishing each committee shall specify a designation by which it shall be known and shall fix its powers and authority. The Board of Directors may delegate to any committee any of the authority of the Board of Directors, however conferred.

Each committee shall serve at the pleasure of the Board of Directors, shall act only in the intervals between meetings of the Board of Directors, and shall be subject to the control and direction of the Board of Directors. All actions by any committee shall be subject to revision and alteration by the Board of Directors.

Any committee may act by a majority of its members at a meeting or by a writing or writings signed by all of its members.

SECTION 7. OFFICERS

7.1 Enumeration and Election of Officers. The officers of the Association shall be a President, a Secretary, a Treasurer and such other officers as the Board of Directors may from time to time by resolution create. The Board of Directors shall elect the officers of the Association at each annual meeting. All officers shall be members of the Board of Directors. Directors may hold more than one office. The Board of Directors may remove any officer at any time, with or without cause, by a vote of the majority of Directors at a meeting at which a quorum is present. The Board of Directors may fill any vacancy in any office occurring from whatever cause.

7.2 Compensation. No fee or compensation shall be paid by the Association to any officer for his or her services as an officer.

7.3 Duties of Officers. The duties of the officers of the Association shall be as set forth below:

(a) President. The President shall preside at all meetings of the Board of Directors and Members and shall sign any contracts, notes, deeds or other papers requiring the President's signature, and shall have such other duties as may from time to time be required of the President by the Board of Directors.

(b) Secretary. The Secretary shall keep minutes of all the proceedings of the Board of Directors and the members, make proper record of the same and furnish copies of such minutes to the President prior to the next meeting of the Board of Directors or the members, as the case may be; sign all bonds, contracts, notes, deeds and other papers executed by the Association requiring such signature; give notice of meetings of Directors and members; keep such books as may be required by the Board of Directors; and perform such other and further duties as may from time to time be required by the Board of Directors.

(c) Treasurer. The Treasurer shall have general supervision of all finances. The Treasurer shall receive and have in charge all money, bills, notes, deeds, leases, mortgages, insurance policies and similar property belonging to the Association and shall do with the same such as may, from time to time, be required by the Board of Directors. The Treasurer shall cause to be kept adequate and correct accounts of the business transactions of the Association and on the expiration of his or her term of office shall turn over to the succeeding Treasurer or to the Board of Directors the property, books, papers and money of the Association.

SECTION 8. ASSESSMENTS

8.1 Budget; Annual Assessments. Not later than December 1 of each year, the Board of Directors shall estimate the amount of the Common Expenses of the Association for the next calendar year and prepare a budget based upon those estimates and the requirements of the Declaration and Code of Regulations. Based upon the estimated budget, the Board of Directors shall fix the amount of the Annual Assessment for each Lot, taking into account the rate of Assessment provided in Section 3.4 of the Declaration. The Annual Assessment shall be payable in the manner provided in Section 3.9 of the Declaration.

8.2 Special Assessments. The Board of Directors may levy, in any year, Special Assessments for the purposes described in the Declaration, subject to obtaining the vote of the Members as may be required. Special Assessments shall be due and payable on the dates fixed by the Board of Directors, and shall be payable in a single installment unless the Board of Directors permits payment in more than one installment.

8.3 Individual Assessments. The Association may assess an Individual Assessment on an Owner's Lot(s) for any of the costs and expenses described in Section 3.8 of the Declaration.

Prior to imposing a charge for damages or an enforcement assessment pursuant to Section 3.8 of the Declaration, the Board shall give the Owner a written notice that includes all of the following:

- (i) A description of the property damage or violation;
- (ii) The amount of the proposed charge or assessment;
- (iii) A statement that the Owner has a right to a hearing before the Board to contest the proposed charge or assessment;
- (iv) A statement setting forth the procedures to request a hearing; and
- (v) A reasonable date by which the Owner must cure a continuing violation to avoid the proposed charge or assessment, if such an opportunity to cure is applicable.

To request a hearing, the Owner shall deliver a written notice to the Board not later than the 10th day after receiving the notice required by this Section. If the Owner fails to make a timely request for a hearing, the right to that hearing is waived, and the Board may immediately

impose a charge for damages or an enforcement assessment pursuant to this Section. If Owner requests a hearing, at least 7 days prior to the hearing the Board shall provide the Owner with a written notice that includes the date, time and location of the hearing. The Board shall not levy a charge or assessment before any hearing requested pursuant to this Section. 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 of assessment to the Owner. Any written notice that this Section requires shall be delivered to the Owner or any Occupant of the Owner's Lot by personal delivery, by certified mail, return receipt requested, or by regular mail.

8.4 Status of Amounts Collected. The amounts collected through Annual Assessments and Special Assessments shall be held and expended for the purposes designated in the Declaration and this Code of Regulations. Any amount assessed against a Lot that is allocated to reserves shall be a contribution to capital, and shall be designated for that purpose on the Association's books and on any assessment notice. The Board of Directors may collect, hold, disburse or categorize the amounts allocated to the reserve fund in any manner necessary to insure their noninclusion in the Association's taxable income under the Internal Revenue Code, Treasury Regulations and/or rulings of the Internal Revenue Service.

8.5 Board Inaction. The Board of Director's failure or delay to prepare an annual estimated budget or to give timely notice of an Assessment shall not release any Owner from the obligation to pay the Assessment whenever the amount of the Assessment has been determined and written notice has been given. In the absence of any notice to the contrary, the Owner shall continue to pay the monthly installment of the Assessment at the existing rate established for the previous year until notice of the Assessment for the next year shall have been mailed or delivered to the Owner.

SECTION 9. ANNUAL AUDIT

The Board of Directors may cause the books of the Association to be audited once a year by an independent certified public accountant at the Association's expense. Copies of any such audit shall be made available upon request to any Owner and any holder, insurer or guarantor of a first mortgage.

SECTION 10. INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES, AGENTS AND VOLUNTEERS

To the extent permitted by law, the Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed civil, criminal, administrative or investigative action, suit or proceeding, other than an action by or in the right of the Association, by reason of the fact that he or she is or was a Director, officer, employee, agent or volunteer of the Association, or is or was serving at the request of the Association as a Director, officer, employee, agent or volunteer of another corporation, domestic or foreign, nonprofit or for profit, or a partnership, joint venture, trust or other enterprise, against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with the action, suit or proceeding, if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the

best interests of the Association, and, with respect to any criminal action or proceeding, if he or she had no reasonable cause to believe his or her conduct was unlawful.

The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he or she is or was a Director, officer, employee, agent or volunteer of the Association, or is or was serving at the request of the Association as a Director, officer, employee, agent or volunteer of another corporation, domestic or foreign, nonprofit or for profit, or a partnership, joint venture, trust or other enterprise against expenses, including attorneys' fees, actually and reasonably incurred by him or her in connection with the defense or settlement of the action or suit if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Association, except that no indemnification shall be made in respect of any claim, issue or matter as to which the person shall have been adjudged to be liable for negligence or misconduct in the performance of his or her duty to the Association unless, and only to the extent that, the court of common pleas or the court in which the action or suit was brought determines upon application that, despite the adjudication of liability but in view of all the circumstances of the case, the person is fairly and reasonably entitled to indemnity for such expenses as the court of common pleas or such other court deems proper.

Any indemnification under this Section 10, 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 Director, officer, employee, agent or volunteer is proper in the circumstances because he or she had met the applicable standard of conduct set forth above. This determination shall be made (a) by a majority vote of a quorum consisting of Directors of the Association who were not and are not parties to or threatened with the action, suit or proceeding, or (b) whether or not a quorum is obtainable, and if a majority 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 within the past five years, or (c) by the Members, or (d) by the court of common pleas or the court in which the action, suit or proceeding was brought. Any determination made by the disinterested Directors or by independent legal counsel as described above shall be promptly communicated to the person who threatened or brought the action or suit by or in the right of the Association and within ten days after receipt of such notification, that person shall have the right to petition the court of common pleas or the court in which the action or suit was brought to review the reasonableness of this determination.

The indemnification provided by this Section 10 shall not be deemed exclusive of any other rights to which the person seeking indemnification may be entitled under the Articles of Incorporation, these Code of Regulations or any agreement, vote of members or disinterested Directors, or otherwise, both as to actions in his or her official capacity and as to actions in another capacity while holding office, and shall continue as to a person who has ceased to be a Director, officer, employee, agent, or volunteer and shall inure to the benefit of the heirs, executors and administrators of that person.

SECTION 11. CONFLICTS; AMENDMENTS

11.1 Conflicts. If there are conflicts or inconsistencies between the provisions of Ohio law, the Articles of Incorporation of the Association or the Declaration and this Code of Regulations, the provisions of Ohio law, the Articles of Incorporation, the Declaration and this Code of Regulations, in that order, shall prevail.

11.2 Amendment. The Code of Regulations may be amended at any meeting of the Members duly called and held for that purpose. During the Development Period, the amendment must be adopted by Developer and members holding at least sixty-seven percent (67%) of the total votes of the Association; at all other times, the amendment must be adopted by the members holding at least sixty-seven percent (67%) of the total votes of the Association.

SECTION 12. RECORDING

12.1 Recording. This Code of Regulations shall be recorded in the office of the county recorder in the county in which the Property is located. The Association shall file and record any amendment to the Code of Regulations in the same office within 60 days after the adoption of the amendment.

SECTION 13. BOOKS AND RECORDS

13.1 Books and Records of the Association. Until otherwise prohibited by this Section, any Owner may examine and copy the books, records, minutes and financial statements of the Association required by Section 5312.06(C) of the Revised Code, during normal business hours or under other reasonable circumstances upon request to the Association. The rights set forth in this Section 13.1 shall be subject to reasonable standards set forth in Rules and Regulations the Board promulgates, which may include, but are not limited to, standards governing the type of documents that are subject to examination and copying, the times and locations at which those documents may be examined or copied, and the specification of a reasonable fee for copying the documents. Without limiting the foregoing, unless approved by the Board, an Owner may not examine or copy any of the following from books, records, and minutes:

- (i) Information that pertains to Property-related personnel matters;
- (ii) Communications with legal counsel or attorney work product pertaining to potential, threatened or pending litigation, or other Property-related matters;
- (iii) Information that pertains to contracts or transactions currently under negotiation, or information that is contained in a contract or other agreement containing confidentiality requirements and that is subject to those requirements;
- (iv) Information related to the enforcement of the Declaration, Code of Regulations, or Rules and Regulations of the Association against other Owners;
- (v) Information the disclosure of which is prohibited by state or federal law.

Adopted this 24th day of February, 2022.

WILLOW HILLS DEVELOPERS, LTD., an Ohio
limited liability company

By: 
George R. Oberer, Jr., Manager

DEVELOPER

The foregoing instrument was acknowledged before
me this 24th day of February, 2022, by George Oberer, Jr.


NANCY RAGLIN

My notary expires:
5-16-2026



prepared by:
Willow Hills Developers, Ltd.

