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CUYAHOGA COUNTY FISCAL OFFICE

**AMENDED AND RESTATED**  
**DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS**  
**FOR**  
**VALLEY CREEK VILLAGE ASSOCIATION**  
**FORMERLY KNOWN SEPARATELY AS VALLEY CREEK VILLAGE**  
**ASSOCIATION AND VALLEY CREEK VILLAGE CONDOMINIUM**

PLEASE CROSS MARGINAL REFERENCE WITH THE DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR VALLEY CREEK VILLAGE RECORDED AT VOLUME 15012 PAGE 955 ET SEQ., THE DECLARATOIN OF CONDOMINIUM OWNERSHIP FOR VALLEY CREEK VILLAGE CONDOMINIUM RECORDED AT VOLUME 14814, PAGE 525 ET SEQ., AND THE AMENDED AND RESTATED BYLAWS OF VALLEY CREEK VILLAGE ASSOCIATION RECORDED AT INSTRUMENT NO. 201208090432 OF THE CUYAHOGA COUNTY FISCAL RECORDS.

**AMENDED AND RESTATED**  
**DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR**  
**VALLEY CREEK VILLAGE ASSOCIATION FORMERLY KNOWN**  
**SEPARATELY AS VALLEY CREEK VILLAGE ASSOCIATION AND VALLEY**  
**CREEK VILLAGE CONDOMINIUM**

**RECITALS**

- A.** On or about March 15, 1979, Bob Schmitt Homes, Inc., an Ohio Corporation (“Developer”), filed the Declaration of Covenants, Restrictions and Easements for Valley Creek Village, at Cuyahoga County Fiscal Records Volume 15012, Page 955 et seq., and on June 15, 1978 filed the Declaration of Condominium Ownership for Valley Creek Village Condominiums at Cuyahoga County Fiscal Records Volume 14814, Page 525 et seq., (the “Declaration”).
- B.** Valley Creek Village and Valley Creek Village Condominiums merged to become the Valley Creek Village Association on August 9, 2012, at Instrument No. 201208090431 filed the Amended and Restated Bylaws of Valley Creek Village Association (“Bylaws”), at Cuyahoga County Fiscal Records Instrument No. 201208090432.
- C.** The Declaration subjected the real estate described in the Declaration (“Condominium Property”) to the easements, covenants, and restrictions contained in the Declaration.
- D.** The Valley Creek Village Association (“Association”) is a corporation consisting of all Living Unit Owners in Valley Creek Village Association and as such is the representative of all Living Unit Owners.
- E.** Declaration Article VII authorizes amendments to the Declaration and Bylaws Article XI authorizes amendments to the Bylaws.
- F.** A meeting of the Association’s Owners was held on January 15, 2026, and, at the meeting and any adjournment, Living Unit Owners representing the requisite percentage of the voting power of the Association executed, in person or by proxy, an instrument in writing setting forth specifically the matters to be modified (the “Amendment”).

G. Living Unit Owners representing 77 percent of the Cluster Units and 100 percent of the Condominium Units have affirmatively consented to or voted in favor of the Amended and Restated Declaration and 81 percent of the voting power of the Association have affirmatively consented to or voted in favor of the Second Amended and Restated Bylaws and signed powers of attorney authorizing the Association's officers to execute the Amendment on the Owners' behalf, as documented in the Association's records.

H. The proceedings necessary to amend the Declaration and Bylaws as required by the Declaration and Bylaws have in all respects been complied with.

### AMENDMENT

The Declaration of Covenants, Restrictions and Easements for Valley Creek Village is amended by the following:

(A) **DELETE DECLARATION** Pages 1 thru 16 as recorded at Cuyahoga County Records Volume 15012 Page 955 et. seq. and Pages 1 thru 24 as recorded at Cuyahoga County Records Volume 14814, Page 525 et. seq. (except to the extent, if any Exhibit is made part of the Amended and Restated Declaration)

**INSERT** the new **AMENDED AND RESTATED DECLARATION** Pages 1 through 43 and Exhibit A, as attached hereto and as if fully rewritten herein.

(B) **DELETE BYLAWS** Pages 1 through 18 as recorded at Cuyahoga County Records Instrument No. 201208090432, as well as all other Exhibits (except to the extent, if any Exhibit is made part of the Second Amended and Restated Bylaws).

**INSERT** the new **SECOND AMENDED AND RESTATED BYLAWS** Pages 1 through 19 as Exhibit B, as attached hereto and as if fully rewritten herein.

Any conflict between the provisions of the Amended and Restated Declaration and Second Amended and Restated Bylaws as contained in the attached documents and the Declaration previously recorded in Cuyahoga County Records Volume 15012 Page 955 et seq., and Bylaws previously recorded at Cuyahoga County Records Instrument No. 201208090432, is to be interpreted in favor of the provisions of this Amendment. The invalidity of any part of the above provision will not impair or affect in any manner the validity or enforceability of the remainder of the provision. Upon the recording of this Amendment, only of record at the time of the filing have standing to contest the validity of this Amendment, whether on procedural, substantive or any other grounds. Any challenge to the validity of this Amendment must be brought in the court of common pleas within one year of the recording of the Amendment.

The Valley Creek Village Association has caused the execution of this instrument this 14<sup>th</sup> day of February, 2026.

**VALLEY CREEK VILLAGE ASSOCIATION**

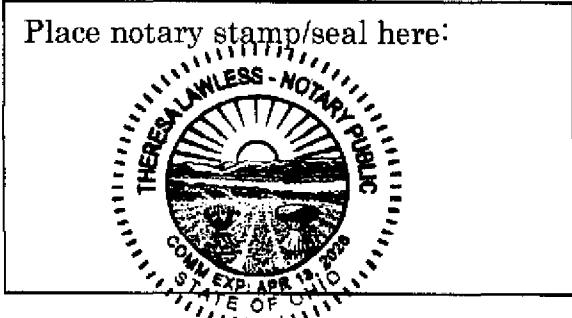
By: [Signature] Pres.  
**DANIEL BENDZAK, President**

STATE OF OHIO )  
 )  
COUNTY OF Cuyahoga ) SS

**BEFORE ME**, a Notary Public, in and for the County, personally appeared the above-named Valley Creek Village Association, by **Daniel Bendzak**, its President who acknowledged that he did sign the foregoing instrument and that the same is the free act and deed of the corporation and the free act and deed of him personally and as such officer.

I have set my hand and official seal this 14<sup>th</sup> day of Feb 2026, 2026

[Signature]  
NOTARY PUBLIC



This instrument prepared by:  
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Cleveland, Ohio 44113  
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AMENDED AND RESTATED  
DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS, AND EASEMENTS  
FOR  
VALLEY CREEK VILLAGE ASSOCIATION  
FORMERLY KNOWN SEPARATELY AS VALLEY CREEK VILLAGE ASSOCIATION &  
VALLEY CREEK VILLAGE CONDOMINIUM  
Strongsville, Cuyahoga County, Ohio

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**AMENDED AND RESTATED**  
**DECLARATION OF COVENANTS,**  
**CONDITIONS, RESTRICTIONS AND EASEMENTS**  
**FOR**  
**VALLEY CREEK VILLAGE ASSOCIATION**

**ARTICLE I**

**NAME AND GENERAL DESCRIPTION OF PROPERTY**

The Property is known as the Valley Creek Village Association, which consists of the property formerly known as Valley Creek Village Condominium, as identified on the plat map recorded in Cuyahoga County Records, Condominium Maps Volume 31, Pages 54 and 55, and the property already known as Valley Creek Village Association, as identified on the plat map recorded in Cuyahoga County Records Volume 224, Page 95. The Valley Creek Village Condominium property is collectively owned by the Owners of Dwelling Units thereon as described in the Original Declarations. The real property that is transferred, sold, conveyed, and occupied subject to this Amended and Restated Declaration ("Declaration") is described in the legal description and made a part of this Declaration by reference as Exhibit A. The Property is a planned residential community consisting of Lots with clustered residential homes, that includes four fences, five brick walls, two retaining walls, twelve mailbox stands containing forty-three mailboxes, and two parking areas, all of which are subject to a general plan of development approved by the City of Strongsville, Ohio.

**ARTICLE II**

**EXHIBITS AND DEFINITIONS**

(A) **Exhibits.** The following Exhibits are attached to and made part of this Declaration:

(1) **EXHIBIT A:** Legal description of Valley Creek Village Association.

(2) **EXHIBIT B:** The Second Amended and Restated Bylaws of The Valley Creek Village Association.

(B) **Definitions.** Capitalized terms used in this Declaration, or the attached Bylaws have the meaning ascribed to them in this Section (B) and if not defined below, the meaning ascribed to the term where it first appears in this Declaration or the Bylaws

or as defined in Ohio Revised Code Sections 5311 and Chapter 5312. The following terms are defined as follows:

(1) **Assessments** means the share of Common Expenses and other charges levied by the Association and payable by each Owner as determined in accordance with this Declaration, the Bylaws, and the Rules.

(i) Other charges include:

(a) the costs, expenses, and charges for repairs and replacements the Association makes that are the Owner's obligation or responsibility;

(b) all costs including court costs, administrative costs, reasonable attorneys' fees, damages or enforcement assessments levied, imposed or incurred by the Association as a result of an Owner or Occupant's failure to comply with the terms of this Declaration, Bylaws, or Rules;

(c) any other charges or Assessments permitted by this Declaration, the Bylaws and Rules; and,

(d) interest imposed at the highest rate permissible by law and administrative late fees and reasonable costs of collection of any unpaid Assessments.

(ii) **Annual Assessment** means the share of the estimated cash requirement levied against the Lot for the Common Expenses, including reserves, for the ensuing fiscal year in accordance with the Declaration and Bylaws.

(iii) **Painting Assessment** means the actual costs associated with the Association painting the wood surfaces of a Dwelling Unit, which costs are assessed only to the Dwelling Unit being painted.

(iv) **Special Assessment** means the share of the Common Expenses or Other Charges levied against the Lot to pay for special or specific projects or expenses not provided for in the estimated cash requirement for the ensuing year.

(2) **Association** means the Valley Creek Village Association, a nonprofit Ohio corporation, its successors and assigns, an organization of Dwelling Unit Owners within the planned community.

(3) **Authorized Communications Equipment** means any communications equipment that the Board, in its sole discretion, selects that provides a transmission, including by telephone, video conference, or any electronic means, from which it can be determined that the transmission was authorized by, and accurately reflects the intention of, the Director, Owner, or other participant, and with respect to meetings, allows all persons permitted to participate in the meeting to contemporaneously communicate with each other as determined by the meeting chair.

(4) **Board or Board of Directors** means the Association's Board of Directors, elected by the Owners, to operate, administer, and govern the Association.

(5) **Bylaws** means the instrument attached as Exhibit B that provides for the operation and administration of the Association.

(6) **Chapter 5311** means Chapter 5311 of the Ohio Revised Code, as may be amended or supplemented from time to time.

(7) **Chapter 5312** means Chapter 5312 of the Ohio Revised Code, as may be amended or supplemented from time to time.

(8) **Chapter 1702** means Chapter 1702 of the Ohio Revised Code, as may be amended or supplemented from time to time.

(9) **City** means the City of Strongsville, Ohio, a municipal corporation organized and existing under the laws of the State of Ohio.

(10) **Common Elements** means any personal property and real property that the Association owns, has use of under a lease or easement, or otherwise holds for the common use and enjoyment of the Owners or Occupants that are not part of or within a Lot or Dwelling Unit, along with the Condominium Common Elements. This includes grassy areas, four fences, five brick walls, areas with river rocks, two retaining walls, twelve mailbox stands containing forty-three mailboxes, and two parking areas located on the Property.

(11) **Common Expenses** means the actual and estimated expenses or financial liabilities of the Association and the following:

(i) costs, rentals, charges, payments, taxes, and obligations of the Association incurred in the operation, administration, maintenance, repair, replacement, insurance, security and improvement of the Common Elements and the other parts of the Property as provided for in this

Declaration or the Bylaws, which may include costs associated with the election of Directors including any mailings, or costs incurred for use of authorized communications equipment including subscription costs, but, will not include the cost of painting wood surfaces on Dwelling Units;

(ii) amounts the Board from time to time determines to be Common Expenses including any reasonable amounts for reserves; and

(iii) property taxes.

(12) **Community Standard** means the standard conduct, maintenance, or other activity generally prevailing within the Property as determined by the Board and as may be set forth within the Declaration or the Rules.

(13) **Condominium Common Elements** means the common areas defined in the Declaration of Condominium Ownership for Valley Creek Village Condominium recorded at Deed Volume 14814, Page 525 of the Cuyahoga County Records.

(14) **Declarant** means Bob Schmitt Homes, Inc., an Ohio corporation, and its successors and assigns.

(15) **Declaration** means this Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements, the intent of which is to cause the Property to be kept and maintained as a high-quality community.

(16) **Drawings** means the drawings for the Property as filed and attached to the Original Declarations, as supplemented, and amended, all of which are listed and incorporated into and as part of this Declaration by reference in Exhibit A.

(17) **Dwelling Unit** means an individual dwelling on a Lot, or a condominium unit as defined by the Original Declarations plus the building surrounding the condominium unit, which is designed and intended for use and occupancy by a single household.

(18) **Eligible Mortgagee** means a bank, savings and loan association, insurance company, mortgage company, or agency of the United States or any State, authorized and qualified to do business in the State of Ohio, and holding a first mortgage on a Dwelling Unit or Lot, or any individual holding a mortgage on a Dwelling Unit or Lot, and has provided written notice to the Association of the mortgage interest requesting notification of any proposed action that requires the consent of a specified percentage of holders of eligible mortgage liens.

(19) **Good standing** means the Owner is not more than 30 days delinquent in the payment of any fees, Assessments, or any portion thereof, owed to the Association. Good standing means the Owner is not an adverse party in any litigation involving either the Association, the Board, or any Director. Whether an Owner is in good standing for purposes of voting is determined as of the date of any meeting at which a vote is taken or if no votes are taken at a meeting, the date the vote is tabulated.

(20) **Improvements** means all installations on the Property, including but not limited to structures, decks, satellite dishes, flag poles; slope alterations including grading; landscaping; plantings; driveways, parking areas and other paved areas; any fences, shutters, trellises, walls, fountains, retaining walls, exterior steps, balconies, elevated decks or decks, patios, porches and enclosures, roof additions; and all other structures of every type, temporary or permanent, that may change or alter the outward appearance of the Dwelling Unit, Lot or landscaping.

(21) **Lot** means a tract of land shown on Exhibit "A" or shown on any Plat(s) of Valley Creek Village Association recorded in the Cuyahoga County Plat Records, except the Common Elements. The total number of Lots within the Property is 35. 43 total Dwelling Units exist on the Property, 8 being condominium units with no associated Lot.

(22) **Member** means an Owner, or each Person entitled to membership in the Association.

(23) **Occupant(s)** means any natural person in possession of or who resides in a Dwelling Unit.

(24) **Original Declarations** means those documents and attachments as originally recorded at Deed Volume 14814, Page 525 et seq. and Deed Volume 15012, Page 955 et seq. of the Cuyahoga County Records, together with all amendments thereto. Except as otherwise expressly provided for in this document, this Amended and Restated Declaration and attached Bylaws supersedes the Original Declarations and subsequent amendments to the Original Declarations, in all respects.

(25) **Owner** means any Person owning a fee simple interest in a Dwelling Unit. Owner does not include any Persons having an interest merely as security for the performance of an obligation unless and until they acquire title through a foreclosure or any act or proceeding in lieu of foreclosure. Purchasers and vendees of a land contract rather than the fee owner will be considered Owners.

(26) **Person** means a natural person, a corporation, partnership, limited partnership, limited liability company, trust, and any other legal entity to which the law attributes the capacity of having rights and duties and the ability to hold title to real property.

(27) **Plat** means both the plat for the Valley Creek Village Association and Valley Creek Village Condominium, filed with the Cuyahoga County Recorder, which are both referenced in Exhibit A.

(28) **Property** means all or any portion of the Plat and property described in Exhibit "A" as part of Valley Creek Village Association and subject to the terms of this Declaration.

(29) **Rules** means the rules and regulations governing the administration, operation and use of or any portion of the Property, including the Dwelling Units and Lots, as the Board may adopt from time to time.

### **ARTICLE III**

#### **THE ASSOCIATION**

(A) **Membership.** Each Owner, upon acquisition of title to a Dwelling Unit, automatically becomes a Member of the Association. Membership terminates upon the conveyance of record by the Owner of their Dwelling Unit, at which time the new Owner automatically becomes an Association Member.

(B) **Voting Rights.** The Association has one class of voting membership, and each Member is entitled to one vote for each Dwelling Unit owned. The vote for each Dwelling Unit must be exercised in accordance with the Bylaws.

(C) **Board of Directors and Officers.** The Board of Directors and officers of the Association, elected as provided in the Bylaws, will exercise the powers, discharge the duties, and be vested with the rights of the Association conferred by operation of law, the Bylaws, and this Declaration, unless a vote of the Owners is specifically required.

(D) **Administration of Property.** The Association will administer the Property in accordance with the provisions of this Declaration and the Bylaws. Each Owner or Occupant must comply with the provisions of applicable law, this Declaration, the Bylaws, the Rules, and the decisions, resolutions, and duly adopted motions of the Association and the Board, as lawfully amended from time to time.

(E) **Service of Process.** The Board will designate the person to receive service of process for the Association. This designation will be accomplished by filing with the Ohio Secretary of State the required statutory agent designation form.

## ARTICLE IV

### PURPOSE AND RESTRICTIONS ON USE

In addition to those other covenants, restrictions, conditions, obligations, and limitations provided elsewhere in this Declaration, the following covenants, restrictions, conditions, obligations, and limitations as to use and occupancy of the Property, including, without limitation, all portions of the Property, will also run with the land and are binding upon each Owner, and each Owner's occupants, guests, heirs, tenants, licensees, and assigns:

(A) **Purpose of Property.** The purpose of the Property and Lots is to create and maintain a residential community and those uses that are both customarily accessory and incidental to residential living. Each Dwelling Unit must be used as a single-family residential dwelling and for no other purpose except as permitted by this Declaration. No part of the Property may be used except for the foregoing purposes and except for other uses or purposes as are expressly permitted or contemplated in this Declaration.

(B) **Restrictions.**

(1) **Exterior Appearance.** Nothing is permitted to be hung or displayed on the outside or inside of windows (other than curtains, drapes or other customary window coverings, which will adversely affect, in the opinion of the Board, the exterior appearance of a Dwelling Unit) or placed on the outside walls of a Dwelling Unit or building or otherwise placed or displayed outside of a Dwelling Unit, building or any part thereof, and no sign, awning, canopy, shutter or television antenna or transmitter, other device or ornament will be affixed to or placed on the exterior walls or roof of a Dwelling Unit or building or any part thereof, nor will alterations of any type, including painting or other decorating activities be permitted to the exterior walls or roof of a Dwelling Unit or any part thereof, unless authorized by the Board.

(2) The following temporary or permanent structures, installations, alterations, plantings, placements, additions, improvements, other items, or modifications are prohibited unless approved by the Board:

(i) fences, or other items installed for the purpose of separating Lots or for any type of division, decoration or containment;

(ii) Solar energy collection devices are prohibited anywhere on the Property except for small solar powered walkway lights and solar powered motion detectors, but only to the extent permitted by the Rules;

(iii) accessory structures, sheds, outbuildings, play houses, tool, utility or storage sheds, dog houses, which are not located within a courtyard;

(iv) swimming pools, hot tubs and spas that are not located in the rear courtyard area;

(v) barred security doors, high intensity security lighting, window air-conditioning units, and metal window coverings;

(vi) room additions;

(vii) clothes, sheets, blankets, laundry of any kind attached to a Dwelling Unit or upon a Lot, or that is visible from the road or another Dwelling Unit;

(viii) tents, trailers, or any other similar structures of a permanent or temporary nature;

(ix) flags and poles (except as otherwise specifically permitted by State or Federal law, and the Rules), provided that political flags are always prohibited;

(x) grading of any portion of the Property, unless the grading is approved and permitted by the Association and City;

(xi) items related to construction or renovation of a Dwelling Unit or Lot including any equipment, vehicles, storage pods, or trash containers remaining on a Lot for more than 30 days in any 120 day period;

(xii) outdoor fire pits, fireplaces, cooking devices or ovens that are permanent installations;

(xiii) external radio and television reception, transmission, or other communications antenna, satellite dishes, or devices (except as otherwise specifically permitted by State or Federal law and in strict accordance with the Rules)

**(3) Laundry, Rubbish, and other Unsightly or Unkempt Conditions.**

Each Owner is responsible to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on the Owner's Lot and Common Elements surrounding the Dwelling Unit. The Common Elements and Lots must be kept free and clear of garbage, rubbish, debris, and other unsightly materials as defined and determined by the Board. All rubbish, trash, and garbage must be regularly

removed from the Lot and Common Elements and must not be allowed to accumulate. Trash, garbage, and other waste must not be kept anywhere on the Property, except as may be kept in accordance with applicable City ordinances, and the Rules. Rubbish cans may be placed at the curb no earlier than 5:00 pm the evening prior to pickup and must be returned into the garage by no later than 10:00 pm on pickup day. Rubbish cans must otherwise be located in the garage or in the courtyard where they cannot be seen from the street. Rubbish bags that are not within a rubbish can should not be placed at the curb before 6:00 am on pickup day.

(4) **Annual Plantings and Flowers.** Seasonal flowers and plants may be placed in mulch or landscape beds subject to the Rules. Vines are prohibited.

(5) **Light Fixtures.** Light bulbs located in the fixture on the front of the garage must conform to the standards set by the Board.

(6) **Gardening.** Owners may plant and maintain a garden in their courtyard; provided, however, that:

(i) The Owner will at all times keep and maintain the garden area such that the garden area does not become unsightly (in the sole and absolute judgment of the Board); and,

(ii) The garden does not become a nuisance or attract any wildlife or vermin (in the sole and absolute judgment of the Board).

(7) **Hazardous Uses.** Nothing can be done or kept in or on any part of the Property, including in any Dwelling Unit, that will increase the rate of insurance on any part of the Property without the Board's prior written consent or that will result in the cancellation or restriction of insurance on the Property or that is in violation of any law.

(8) **Nuisances.** No portion of the Property can be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor can any substance, thing, or material be kept upon any portion of the Property that emits foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the Owners and Occupants. No noxious or offensive activity can be carried on or upon any portion of the Property, nor can anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to the Association, including its employees, agents, or contractors, or other Owners or Occupants or any other Person using any portion of the Property. Maintaining any plants, animals, device, or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly,

unpleasant, or of a nature that may diminish or destroy the enjoyment or value of the Property, is prohibited.

**(9) Animals and Pets.** Except as expressly provided for below, pets, including rabbits, livestock, fowl, poultry, pigs, snakes, amphibians or other reptiles, insects, spiders, horses, Exotic Pets (as defined below), wild hybrids, or any other animals of any kind are prohibited from being raised, bred, or kept in any Dwelling Unit, on a Lot, or in the Common Elements.

**(i)** An Occupant may have and keep a combination of not more than four dogs and cats in their Dwelling Unit, excluding any “Prohibited Dog” or “Vicious Dog,” as defined below. Any Owner that keeps any Permitted Pet defined below and as described above, must comply with the restrictions contained in this Section and with the Association Rules.

**(ii)** A “Permitted Pet” is a domestic household pet including only dogs, cats, birds, fish, other aquatic life, hamsters, gerbils, or guinea pigs permitted by this Section. Feral cats are prohibited from the Property and feeding any cat outside a Dwelling Unit is prohibited.

**(iii)** All Permitted Pets must be licensed with and as required by local ordinance, if any and the State of Ohio.

**(iv)** Any Permitted Pet that repeatedly or routinely causes or creates a violation of the Rules, makes objectionable noise, including excessive barking, or odors, endangers the health of any Owner or Occupant, or causes or creates a nuisance or unreasonable disturbance, must be permanently removed from the Property upon 7 days written notice from the Board.

**(v)** No Permitted Pet may, at any time, be kept, bred, or maintained for any commercial purpose.

**(vi)** A Permitted Pet must be kept in a Dwelling Unit and only those other portions of the Property as the Board may designate, unless the Permitted Pet is on a hand-held leash, is being carried, or is otherwise transported across, to or from, the Property.

**(vii)** A “Vicious Dog” is a Prohibited Dog. It cannot be kept, harbored, or permitted to remain on any part of the Property or within a Dwelling Unit for any length of time. A Vicious Dog is a dog that: (1) is prohibited by any local or state law, (2) lunged at any person or other pet in a threatening manner on more than one occasion; (3) has caused injury to any person; (4) has bitten or injured or killed another pet; (5) is defined or found

by a court of law to be a vicious dog under any state or local law, ordinance or other regulation; (6) or has been the subject of a police report; or (7) is defined or found to be a "vicious" dog under any State or local law, ordinance, or other regulation, or by a court of law.

**(viii)** An "Exotic Pet" is an animal that is a rare or unusual pet kept within a human household, which is generally thought of as a wild species, not domesticated, and not typically kept as a pet. Exotic Pets are prohibited.

**(ix)** If an Occupant has any non-Permitted Pet, Prohibited Dog or Exotic Pet residing in their Dwelling Unit for 60 or more days prior to the date of the recording of this Declaration, and registers the non-Permitted Pet, Prohibited Dog, or Exotic Pet with the Association within 90 days of the date of recording of this Declaration, the non-Permitted Pet, Prohibited Dog, or Exotic Pet is "grandfathered" and permitted to remain on the Property, until its demise or relocation off the Property for a period of 30 or more consecutive days, at which time it may not be replaced. If an animal is grandfathered and considered a non-Permitted Pet, Prohibited Dog, or Exotic Pet, as the Board determines, the Owner must obtain and maintain liability insurance of at least \$500,000.00 per occurrence and provide proof of insurance to the Association within 30 days of any written request from the Board.

**(x)** The Board may regulate, including prohibiting the feeding of non-domesticated or wild animals including birds and deer. This includes the power to adopt Rules to regulate the number and location of any bird feeders, if permitted.

**(10) Drones.** To protect the privacy and quiet enjoyment of the Owners, residents, Occupants, guests, and invitees of the Property, the use, operation, or control of drones or any other remote flying device whether or not the devices are equipped with camera or surveillance equipment is prohibited on the Common Elements. Exceptions will be made if the drone is being used for Association business or a homeowner is working with a contractor for repairs or improvements.

**(11) Fireworks and Firearms.** The discharge of any firearm, ammunition, fireworks, and explosives anywhere on the Property is prohibited. The setting of traps or snares, as well as fishing, hunting, or poisoning of wildlife of any kind, is prohibited in or upon the Property, except for rodent control or except upon the Board's prior written approval.

**(12) Open fires.** Open fires and devices for open fires, including fire pits, are prohibited on any part of the Property. Grills or similar cooking devices, along with chimeneas, are permitted only in areas specifically designated in the Rules. Fire tables are permitted in accordance with the Rules. Smokers are prohibited if

they become a nuisance to the neighbors. The Owner is liable for any damage caused by or arising from the placement or use of a grill, chimenea, or other device, including damage to the exterior surface of the Dwelling Unit.

**(13) Garage and Parking.** Every Dwelling Unit has an attached garage sufficient to store at least two full-size automobiles. No garage will be converted by alteration or use so as to diminish its area below that required for the purpose unless in conjunction with the conversion of a garage with equivalent space is provided and approved by the Board.

**(14) Vehicle and Parking Restrictions.**

**(i)** Boats, trailers of any type, motor homes, mobile homes, mini-bikes, trail bikes, snowmobiles, recreational vehicles, house car, cargo van, trucks (other than a sports utility vehicle, pick-up truck, or van commonly referred to as a three-quarter-ton or smaller sports utility vehicle, pick-up truck, or van by the automotive industry) are prohibited from being parked or stored on any part of the Property, except for items that may be and are parked entirely in the garage for a Dwelling Unit. The Board, through the Rules or with written approval, may permit the short-term parking and unloading/loading of any otherwise prohibited vehicle for up to a maximum of 72 consecutive hours in a thirty-day period.

**(ii)** Commercial vehicles, including any vehicle that displays or has any equipment, signs, or markings of a commercial nature, including ladder racks, or snowplows or snowplow hitches, or commercial license plates, are prohibited from being parked or stored on any driveway or outside parking area, except during normal business hours or for an emergency in conjunction with deliveries to a Dwelling Unit, or the maintenance, repair, or replacement of a Dwelling Unit or Lot. This prohibition does not apply to the Association in the performance or in conjunction with the Association's maintenance, repair, replacement, or operation of the Property. Licensed commercial vehicles may be parked in the garage provided the garage door for the Dwelling Unit is kept fully closed at all times.

**(iii)** Garages must be used first and foremost for the parking of vehicles. Except as otherwise provided, licensed vehicles are permitted to be parked on driveways, provided the vehicle does not block the sidewalk. Vehicles are prohibited to be parked or operated on river rock by the driveway or curbs.

**(iv)** Vehicles are prohibited to be parked within 50 feet of an intersection.

(v) “For Sale” or similar signage are prohibited in, on, or from any vehicle parked or stored on the Property. Covering of a vehicle outside of a garage is prohibited. Junk vehicles, including excessively noisy or polluting vehicles, as solely determined by the Board, or equipment or vehicles on blocks are prohibited from being operated or stored anywhere on the Property.

(vi) All vehicles on the Property must be kept in a state of good and clean repair. The Owner is responsible for the cost to clean up or repair any damage to the Property by a vehicle, including due to leaking oil or other vehicle fluids, whether from a vehicle owned by the Owner or owned by or belonging to the Owner’s Occupant, or their tenant, a member of the Owner’s or Occupant’s family, or the Owner or Occupant’s guest or invitee. Routine vehicle maintenance or repair work may be performed only inside the Dwelling Unit garage; but vehicles may be washed on the Dwelling Unit’s driveway.

(vii) Motorcycles, excluding mini-bikes and trail bikes, are permitted on the Property but are subject to any Rule limiting the permissible decibel noise level from a motorcycle when running or in use anywhere on the Property.

(viii) The Association, as determined by the Board, has the authority, in addition to all other remedies, to tow away and cause to be stored any vehicle or equipment that is in violation of any Declaration provision or any Rule, whether the vehicle belongs to an Owner or Occupant, or their tenant, a member of the Owner’s or Occupant’s family, or the Owner’s or Occupant’s guest or invitee. The Owner responsible for the presence of the vehicle or equipment must pay all charges for towing and storage.

(15) **Signs.** Signs are prohibited to be displayed in or on any window, or attached to any building surface. Signs are prohibited from being displayed anywhere else on the Property except as specified in the Rules, provided that the following signs will always be prohibited:

- (i) Signs advertising a business or service.
- (ii) Political signs.

(16) **Mailboxes and Newspaper Delivery Receptacles.** Centralized locations for mail delivery and for newspaper is maintained by the Association. No private or individual mailboxes or newspaper receptacles will be installed or permitted at any other location on the Property, except for the mailbox installed by

the Board that is used for Association business. Delivery of newspapers to a Lot Owner's driveway is permitted provided no receptacle is necessary.

**(17) Commercial, Religious or Professional Uses.** No industry, trade, profession, or any other business of any kind, whether commercial, religious, educational, or otherwise, whether designated for or not for profit, altruism, exploration, or otherwise, may be conducted, maintained, or permitted by any Owner on any part of the Property, except that an Occupant may use a portion of the Dwelling Unit for business activity(ies) so long as:

**(i)** the existence or operation of the activity is not apparent or detectable by sight, sound, or smell from outside the Dwelling Unit and does not interfere with the quiet enjoyment or comfort of any other Owner or Occupant;

**(ii)** the activity is consistent with the residential character of the Property and does not constitute a nuisance, or hazardous or offensive use, or threaten the security or safety of other Occupants;

**(iii)** the activity conforms to all zoning and other governmental requirements;

**(iv)** in no event may any part of the Dwelling Unit be used as a school, music studio, or day care facility;

**(v)** the activity does not involve non-resident employees, staff, or independent contractors working in the Dwelling Unit;

**(vi)** the activity does not result in walk-in traffic to the Dwelling Unit from the general public or from regular or repeated business invitees nor result in any door-to-door solicitation of other Owners or Occupants;

**(vii)** the activity does not result in the Dwelling Unit becoming principally an office or business as distinct from a Dwelling Unit or in the Dwelling Unit developing a reputation as an office or a business; and,

**(viii)** the activity does not result in or involve regular or unreasonably large volume of business-related deliveries to or from the Dwelling Unit, as may be further defined or regulated in the Rules.

The Board, in its sole discretion, determines whether or not any business activity violates any of the above conditions or requirements.

**(18) Occupancy Restriction.** A Person who is classified as a sex offender/child-victim offender and for whom the County Sheriff or other government entity must provide community notice of the sex offender's residential address, is prohibited from residing in or occupying a Dwelling Unit and from remaining in or on the Property for any length of time. The classification of a sex offender/child-victim offender and the determination of whether notice is required is made by a court of law in accordance with the Ohio Sex Offenders Act, or similar statute from another jurisdiction as either may be amended or renamed from time to time. The Association is not liable to any Owner, Occupant, or visitor of any Owner, or of the Association, as a result of the Association's alleged failure, whether negligent, intentional, or otherwise, to enforce any provision of this Occupancy Restriction.

**(19) Leasing of a Dwelling Unit.** To create a community of resident Owners and to further protect and preserve property values and the well-being of Owners and Occupants; no Dwelling Unit can be leased, let, or rented, whether for monetary compensation or not, by an Owner to others for business, speculative, investment, or any other purpose, subject to the following:

**(i)** The above prohibition does not apply to:

**(a)** Dwelling Units that are occupied by the parent(s) or child(ren) of the Owner;

**(b)** A maximum of five Dwelling Units which may be leased at a single-time, subject to the Rules and a waitlist established by the Board; or,

**(c)** any Owner leasing or renting their Dwelling Unit at the time of recording of this Declaration, and who has registered their Dwelling Unit as being leased with the Association within 90 days of the recording of this Declaration ("Grandfathered Dwelling Unit"). The Owner of a Grandfathered Dwelling Unit can continue to enjoy the privilege of leasing that Dwelling Unit, subject to the restrictions and requirements in subparagraph (iii), until the title to said Grandfathered Dwelling Unit is transferred to a subsequent Owner, at which time the Dwelling Unit will no longer be classified as a Grandfathered Dwelling Unit.

**(ii)** To meet a special situation and to avoid a practical difficulty or other undue hardship, each Owner has the right to lease their Dwelling Unit to a specified renter/tenant for a one-time period of no more than 24 consecutive calendar months, subject to the restrictions and requirements as identified in subparagraphs (iii) and (iv) below. To exercise this right, the Owner:

(a) must provide the Board with prior, written notice at least 10 business days prior to the commencement of the lease;

(b) cannot be more than 30 days delinquent in any assessment or other payment due to the Association. If the Owner is more than 30 days delinquent, the Owner may request and receive a one-time hardship exception only with the Board's prior written consent.

(iii) The leasing of any Dwelling Unit in accordance with subparagraphs (i) or (ii) above is subject to the following conditions and restrictions:

(a) No Dwelling Unit can be leased, let, or rented by the Owner for transient purposes, which is defined to mean a rental for any period less than 12 full, consecutive calendar months, nor rented or leased to any business or corporate entity for the purpose of corporate housing or similar type usage. Advertising a Dwelling Unit for rent for a period less than 12 consecutive months is prohibited. Sub-leasing of any Dwelling Unit and the leasing of any individual rooms in a Dwelling Unit, in whole or in part, is also prohibited.

(b) The Association has at all times a limited power-of-attorney from and on behalf of any Owner who is more than 30 days delinquent in the payment of any Assessment or charges due the Association to collect the lease/rent payments directly from the delinquent Owner's tenant/renter until such delinquency is paid in full.

(c) All leases must be in writing and a copy provided to the Board prior to the beginning of the lease term. The renter/tenant must abide by the terms of the Declaration, Bylaws, and Rules. When an Owner leases their Dwelling Unit, the Owner relinquishes all amenity privileges but continue(s) to be responsible for all obligations of ownership of their Dwelling Unit and is jointly and severally liable with the renter/tenant to the Association for the conduct of the renter/tenant and any damage to property.

(d) The Association may initiate eviction proceedings to evict any tenant, for any violation of the Declaration, Bylaws, Rules and Regulations, or applicable laws, by the tenant, any occupant of the Dwelling Unit, or the Owner of the Dwelling Unit. The action will be brought by the Association, as the Owner's agent, in the name

of the Owner. The Association will give the Owner(s) at least 10 days written notice of the intended eviction action. The costs of any eviction action, including reasonable attorneys' fees, will be charged to the Owner(s) and the subject of a special assessment against the offending Owner and made a lien against that Dwelling Unit.

(iv) Any land contract for the sale of a Dwelling Unit must be recorded with the Cuyahoga County Recorder's Office and a recorded copy of the land contract must be delivered to the Board within 30 days of such recording. Any land contract not recorded is an impermissible lease.

(v) Any Dwelling Unit owned by a corporation may only be occupied by the owner (or equivalent) of that corporation or the occupancy will be considered an impermissible lease. This restriction does not apply to any corporation owning a Dwelling Unit at the time of recording of this Declaration with the Cuyahoga County Fiscal Office, and who has registered their Dwelling Unit with the Association within 90 days of the recording of this Declaration ("Grandfathered Dwelling Unit"), said Owner will continue to enjoy the privilege of any Person occupying the Dwelling Unit until the title to the Grandfathered Dwelling Unit is transferred to a subsequent Owner(s) of a Dwelling Unit, at which time the Dwelling Unit will no longer be classified as a Grandfathered Dwelling Unit and must be occupied by the owner or equivalent of that corporation.

(vi) The Board may adopt and enforce Rules and definitions in furtherance, but not in contradiction of the above provisions, including, without limitation, Rules to address and eliminate attempts to circumvent the meaning or intent of this Section and in furtherance of the preservation of the Property as an owner-occupied community and against the leasing of Dwelling Unit for investment or other purposes. The Board further has full power and authority to deny the occupancy of any Dwelling Unit by any person or family if the Board, in its sole discretion, determines that the Owner of such Dwelling Unit is intending or seeking to circumvent the meaning, purpose, or intent of this Section.

(20) **Storage Prohibited.** No Owner will utilize any space located beneath any decks or elevated terraces, or otherwise utilize any exterior portion of a Lot, or Common Element for storage of personal property, trash, or waste, unless the area is shielded from public view. Further, no Owner will allow trash or garbage to accumulate on any part of the Property except in containers to be emptied in accordance herewith, and such containers will be kept in the garage or courtyard of the Dwelling Units, or otherwise shielded from public view from any private street or public roadway and will be visible from any private street or public roadway only at the time the trash is to be removed.

(21) **Sale of a Dwelling Unit and Occupancy Information.** Within 30 days of title transferring to a new Owner, the Owner must provide to the Association the Owner's and all Occupants' names, mailing addresses, and telephone numbers. Any change in the information, whether or not the result of a subsequent transfer, must be provided to the Board, in writing, within 30 days of said change.

(22) **Use of Association Name.** Except as authorized by the Board, no Owner or Occupant may use the name "Valley Creek Village Association," or any derivative using "Valley Creek Village," in any website domain name, web address, URL, or social media address, including Facebook. No Owner or Occupant may use the name "Valley Creek Village Association," or any derivative using "Valley Creek Village," in any printed, electronic, or promotional material without the Board's prior written consent. However, Owners may use the name "Valley Creek Village" and "Valley Creek Village Association" in printed, electronic, and promotional material where the words are used solely to specify where their Dwelling Unit is located within the Property.

(23) **Neighbor-to-Neighbor Disputes.** The Association may, but is not obligated to, take enforcement action when a dispute under the Declaration or Rules is solely a dispute between neighbors involving an alleged nuisance or offensive behavior, not involving damage to the Common Elements, and not involving a violation of the Association's architectural or maintenance standards. In any dispute between neighbors, Occupants must first work in good faith with each other to resolve their differences before the complaining Owner reports an alleged violation of the governing documents to the Association. An Owner's complaint to the Association about a neighbor must: (a) be in writing; (b) give as much detail as possible concerning the dispute; (c) provide specific information about what informal efforts to resolve the matter were undertaken by the complaining Owner(s); and (d) provide the name, address, phone numbers, and email address of the complaining Owner(s).

(24) **Obstruction.** No Owner will cause or permit the obstruction of any private drive, walkway, or Common Element on the Property.

(25) **Lighting.** Lighting, which interferes with the comfort, privacy or general welfare of adjacent owners is prohibited.

(26) **Holiday Decorations.** Holiday decorations may be displayed up to three weeks before a holiday until one week after the holiday, except for winter holidays, where decorations may be displayed from November 15<sup>th</sup> through January 15<sup>th</sup>. Stand-alone decorations that are taller than the Dwelling Unit are prohibited.

**(27) Occupancy Limit.** No more than two persons per bedroom will be permitted to reside in a Dwelling Unit (“reside” means more than 30 days out of each 12-month period). For the purposes of this restriction only, any person 36 months of age or younger will not be counted in determining whether the occupancy limit has been reached or exceeded.

## **ARTICLE V**

### **ARCHITECTURAL CONTROL**

**(A)** No Improvement will be commenced, erected or placed within the Property, including on any individual Lot, nor will any exterior addition to, or change or alteration of any existing Improvement be made until the plans and specifications showing the nature, kind, shape, height, colors, materials, and location of the same have been submitted to and approved in writing as being in conformity with the Rules, this Declaration and in harmony of external design and location in relation to surrounding structures and topography by the Board.

**(B)** The affirmative vote of the majority of the Board is required to adopt or promulgate any Rule or regulation or to approve a plan, Improvement, addition, change or alteration of any existing Improvement. The decisions of the Board are final and binding.

**(C)** All plans and specifications submitted to the Board will be in such form and contain such information as required by the Board.

**(D)** The Board has the right to disapprove any plans and specifications submitted to it because of any of the following:

- (1)** failure of the proposed plans and specifications to comply with this Declaration;
- (2)** failure to include requested information;
- (3)** objection to the design, size, appearance, color, or materials;
- (4)** incompatibility with existing structures or uses upon other Lots or Dwelling Units within the Property;
- (5)** the location with reference to the Lot, any other Lots or the Property;
- (6)** the grading plan;

(7) the finish, proportion, style of architecture, height, bulk, or suitability of any proposed Improvement.

(E) The Board will notify the applicant Owner of any approval, disapproval, or qualified approval in writing. The Board may require a copy of the approved plans and specifications be submitted for keeping with the Association's permanent records. Disapproval or qualified approval of plans and specifications will be included as the basis for the decision. Upon request, the Board will make reasonable efforts to assist and advise the applicant how to prepare and submit a plan for approval and may encourage or require the use of professional assistance.

(F) The Board may promulgate Rules governing the form and content of plans, may from time to time amend and modify the Rules, and may issue statements of policy with respect to approval or disapproval of architectural styles or details, or other matters, which may be presented for approval.

(G) If any Improvement is altered, erected, or placed or maintained within the Property other than in accordance with plans and specifications approved by the Board, the alteration, erection, maintenance or use will be deemed to be a violation of this article and without the required approval and, upon written notice from the Board, the Improvements altered, erected, placed or maintained in violation, will be removed and realtered and the use will be terminated, to extinguish the violation.

(H) The Association has the right, through its agents and employees to enter upon the Lot, or, anywhere else on the Property, and take steps necessary to extinguish the violation and the cost thereof will be assessed to the Owner if the violation is not removed or terminated by the Owner after 30 days have elapsed from the date of notice. The Owner will pay the amount assessed within 10 days after being billed. The amount assessed to the Owner is a binding, personal obligation of the Owner and a lien may be filed against the Lot as provided in this Declaration.

(I) Any agent of the Association may, upon notice to the Owner, at reasonable times enter upon and inspect any Lot, excluding inside Dwelling Unit, or Improvements for the purpose of ascertaining whether the maintenance, construction, installation, or alteration of the Improvements are in compliance with these provisions; and neither the Association or the agent will be deemed to have committed a trespass or other wrongful act by reason of their entry or inspection.

## ARTICLE VI

### ASSOCIATION RESPONSIBILITIES

(A) **Management.** Except as provided in Declaration Article VII, the Association will provide for the management of and supervision for the operation of the Common Elements, the improvements thereon, if any, and any other portions of the Property the Association is to maintain as described below. The Association will establish and maintain policies, programs, and procedures to fully implement this Declaration for the purposes intended and for the benefit of the Members and may but is not required to: (i) adopt Rules; (ii) engage employees and agents; and (iii) delegate all or any portion of its authority and responsibilities to a manager, managing agent, or management company.

(B) **Maintenance.** The Association will, as a Common Expense, reasonably maintain, repair, and replace the Common Elements, the improvements thereon, other property owned by the Association, and portions of the Lots as described in this Article in a clean, safe, neat, healthy, and working condition, and in good repair, and will promptly make all necessary repairs and replacements, structural and nonstructural, ordinary, and extraordinary, subject only to the provisions of this Declaration including:

(1) **Improvements.** Maintain, repair, and replace all Common Element improvements, including any grassy areas, four fences, areas with river rocks, five brick walls, two retaining walls, twelve mailbox stands containing forty-three mailboxes, and two parking areas.

(2) **Common Utilities.** The Association will maintain all utility facilities and lines serving more than one Dwelling Unit.

(3) **Snow Removal.** The Association will use reasonable efforts to provide snow removal from the driveways and sidewalks leading from the driveway to the front door at intervals and times as the Board shall reasonably determine which determination may include no removal of snow accumulating less than 2 inches.

(4) **Landscaping.** The Association is responsible for mowing and fertilizing all lawn areas, along with weeding the Common Elements and front yards from the street to the garage door, and maintaining all trees, shrubs, and decorative grasses on the Common Elements and front yards from the street to the garage door.

(C) **Work on Lots and Dwelling Units.** If any portion, part, or component of a Dwelling Unit or Lot, such as a portion of a walkway or driveway, that an Owner is otherwise responsible for, must be repaired or replaced, as the Board so determines. The Association may proceed with the needed repair or replacement of the given item on the

Lot after providing the Owner notice and a reasonable opportunity to make the repair. The cost of such repair or replacement of the portion, part or component of a Lot or Dwelling Unit will be assessed against the Owner of the Lot or Dwelling Unit, plus a 10% administrative fee.

**(D) Exceptions and Limitations to Association Maintenance.** Notwithstanding the above, the Owner of a Lot will make any repairs and replacements to the Lot or to the Common Elements required to be made by the Association that are necessary as the result of the acts or negligence of the Owner or their Occupants, or their respective agents, employees, guests, or contractors. If the need for maintenance, repair or replacement occurs as a result of any negligent act or omission of an Owner or Occupant or any agent, employee, contractor or invitee of an Owner or Occupant, the Association may perform and pay for the cost of the maintenance, repair or replacement if the Owner or Occupant or any agent, employee, contractor or invitee of an Owner or Occupant fails to perform and pay for it, in which event the cost will be added to and become part of the Assessments to which such Owner's or Occupant's Dwelling Unit is subject and is immediately due and payable.

**(E) Painting.** The Association will paint the wood surfaces on Dwelling Units without vinyl siding every five to eight years. Wood surfaces include the Dwelling Unit, fences and gates, as well as gutters, and downspouts. The front entry door, back entry door, and garage door may be included upon written request by the Owner at an additional cost. The Owner is responsible for painting their decks and railings. The costs of painting a particular Dwelling Unit will be assessed directly to the Owner of that Dwelling Unit through the painting fund. If the Association contracts to have multiple Dwelling Units painted under one contract, the Board will use reasonable efforts to have the painting contractor provide the approximate cost associated with each Dwelling Unit that is part of the painting project.

**(F) Vinyl Sided Dwelling Units.** The paintable surfaces of vinyl sided Dwelling Units will follow the same five-to-eight-year painting schedule as described in the proceeding section. Owners of vinyl sided Dwelling Units do not pay into the painting fund, and the costs of painting their Dwelling Unit will be assessed directly to the Owner.

**(G) Interpretation of Maintenance Obligation.** Any conflict between the maintenance provisions of this Declaration Article VI and any other provision of this Declaration or the Bylaws must be interpreted in favor of the maintenance obligations as stipulated in this Declaration Article VI. In the event of any uncertainty or good faith dispute as to whether the Association or an individual Owner is responsible for the maintenance, repair, or replacement of a given item, the Board's determination, exercised in good faith, as to whether any maintenance, repair, or replacement to be made is the Association or individual Owner's responsibility is final, provided that the determination must thereafter be consistently followed.

(H) **Right of Entry for Maintenance.** The Association has a right of access to, in, and through each Lot and Common Elements and may therefore enter any Lot as necessary to inspect, provide, perform, and complete any maintenance, repair, or replacement for which the Association is responsible as set forth in this Declaration.

(I) **Taxes and Assessments.** The Association will pay all taxes and Assessment levied against the Common Elements owned by the Association, any other property that the Association may own, including personal property taxes, general real estate taxes, and special assessments by any applicable public authority.

## **ARTICLE VII**

### **OWNER RESPONSIBILITIES**

(A) **Covenant of Good Maintenance.** At their expense, Owners will keep and maintain their Lots and Dwelling Units, all improvements, all appurtenances, and structures serving their Dwelling Unit, including sidewalks, driveways and driveway aprons, decks and patios and all other items serving the Dwelling Unit, in a state of good working order, condition, and repair and in a manner that is free from broken components or discoloration, and reflecting the Community Standard of safety, cleanliness, good repair, neatness, and attractiveness from neighboring site lines and from the street. All required replacements must be of the same (or better) specification, quality, kind, and type as the item being replaced. Each Owner must keep the exterior and interior of their Dwelling Unit and any adjacent Common Elements free from debris, rubbish, rubble, and other conditions created by the Owner or their Occupants or guests. The maintenance of Lots and Dwelling Units is further subject to the following:

(1) Each Owner is responsible, at the Owner's expense, to maintain, repair, and replace all portions and components of the Owner's Dwelling Unit, and Lot, except as provided in Declaration Article VI, including all driveways, walkways, front steps, or landings leading to the Dwelling Unit, decks, patios and all components, and all fixtures and installations of or attached to, the exterior of the Dwelling Unit or any improvement on the Lot or Common Elements to the rear of the Dwelling Unit. Each Owner is responsible to maintain, repair, and replace at their expense any Improvement(s) to any Dwelling Unit, Lot, or Common Elements to the rear of the Dwelling Unit. This includes, wherever located: (i) any landscaping beds, plantings, and trees; (ii) hardscape features, such as edging materials, lighting, and decorative or retaining walls; (iii) any walkway installed, altered, or improved by the Owner; (iv) any addition, sunroom, or other enclosure.

(2) All of the work required of the Owner in Declaration Article VII, Section (A)(1) and (2) includes responsibility for any fixtures, installations or Improvement installed by a prior Owner of the Owner's Dwelling Unit. The Owner must use competent and qualified labor to perform the work. The work must be

performed promptly, properly, and in a good workman-like manner, using first-class materials of equivalent or better quality than those originally installed or incorporated into the Property, and in accordance with any Board-designated specifications.

(3) Owners who have not altered their Dwelling Unit to vinyl siding will be responsible for the costs of the association painting the Dwelling Unit's exterior in accordance with Declaration Article VI, Section E.

(4) Owners with vinyl siding must have their Dwelling Unit soft washed every two to three years and provide proof of said services to the Board when requested.

**(B) Owner's Breach Covenant of Good Maintenance.**

(1) Association will notify an Owner in writing of any reasonable need for maintenance or repair, or of their failure to comply with the Covenant of Good Maintenance as stated above. Within 30 days of the date of written notice:

(i) Owner will request a hearing to object to the alleged reasonable need or failure to comply, or

(ii) Owner will complete or diligently proceed toward completing the maintenance or repair, as determined by the Board.

(2) If an Owner fails to comply with Section (B)(1) above, Association has the right to undertake or perform maintenance or repair on behalf of the Owner upon written notice to the Owner, plus a 10% administrative fee.

(3) If the lack of maintenance or repair results from, is related to, may cause an emergency condition, presents a clear and imminent danger to the health and safety of the community, or is an ongoing, continuing, or reoccurring situation, the Association may perform the maintenance or repair on behalf of the Owner without providing the Owner prior written notice.

(4) The Association will provide a written statement or invoice to the Owner for any charges the Association incurs for that Dwelling Unit, Lot, or Common Elements to the rear of the Dwelling Unit that is related to the maintenance, repair, or any act it undertakes related to this Section (B), including legal fees and costs. Owner will reimburse the Association for all charges on the invoice within 30 days from the invoice date.

(C) **Negligence of Owner.** Each Owner will make, at the Owner's sole expense, all repairs and replacements to any other Lot or Dwelling Unit or the Common Elements that is required as a result of the acts or negligence of the Owner, or their Occupants, or any of their respective employees, agents, contractors, or guests. Notwithstanding the foregoing obligation of the Owner, the Association (or other Owners in respect to their respective Dwelling Unit) may, but is not obligated to, repair and replace the property damaged or destroyed by reason of the act or neglect of an Owner, an Occupant, or their invitee, agent, employee, licensee, or guest, and charge and collect from the Owner the cost and expense paid or incurred in making any repair or replacement. If the Association makes the repair or replacement, the cost and expense will be a lien against the Owner's Lot, which the Association may assert and collect in the same manner as the Association may assert and collect a lien against an Owner's Lot for nonpayment of Assessments. The right of the Association to assert and collect upon a lien is not exclusive but is in addition to all other rights and remedies available to the Association in this Declaration and Bylaws, in law, and in equity for recovery of the cost and expense so incurred plus a 10% administrative fee.

(D) **Common Elements.** The Owner is responsible for the maintenance, repair, and replacement of any Improvements in, on, or to the Common Elements made by the Owner (or any prior owner of the Owner's Dwelling Unit) in accordance with this Declaration, unless the Association has explicitly agreed to assume responsibility in writing. The Owner is also responsible to pay for the cost, including labor and materials, of removing, relocating, and reinstalling any Improvement placed in, upon, or attached to any Common Element by the Owner (or the prior owner of the Owner's Dwelling Unit) that is required, as determined by the Board, in conjunction with or in furtherance of the Association's maintenance, repair, and replacement responsibilities as set forth in this Declaration.

(E) **Non-disturbance.** Owners must perform their responsibilities in a manner so as not to unreasonably disturb any other person residing within the Property.

(F) **Promptly Report.** Owners must report promptly to the Board or the Association's managing agent the need for any maintenance, repair, or replacement to any portion of the Property that the Association is obligated to maintain, repair, or replace under this Declaration.

(G) **Compliance.** Owners must faithfully and promptly pay all charges and Assessments made against the Owner or the Owner's Lot in accordance with this Declaration and the Bylaws and to observe, fulfill, and perform all of the covenants, restrictions, and all other obligations of an Owner as set forth in (or intended by) this Declaration, the Bylaws, and Rules.

## ARTICLE VIII

### INSURANCE

(A) Casualty Insurance.

(1) Scope of Coverage.

(i) Owners. Each Owner must obtain and maintain Property Casualty Insurance (which is called "Casualty Insurance" below) in full force and effect on their Dwelling Unit and contents therein, all personal property, all Improvements, Lot if any, and limited common element area if any. If any Dwelling Unit is damaged or destroyed by any event or loss covered by the standard "all-risk" or special form endorsement, regardless of the amount of the deductible, the Owner of the Dwelling Unit will promptly cause the damage to be repaired or restored at the Owner's sole expense and the repair or restoration will be substantially made to the same or better condition as the areas existed immediately prior to said damage. Any change to the Dwelling Unit structure or exterior of the Dwelling Unit must be reviewed and approved in writing by the Board. If the Owner fails to commence required repairs, or if the Owner fails to diligently complete all the repairs within a reasonable time thereafter, as determined by the Board, the Association has the right, but not the obligation, upon written notice to the Owner, to commence or complete the repairs, with the Owner solely responsible for any and all costs or expenses not covered by the insurance proceeds received to be charged as an Assessment against the Dwelling Unit. Upon the request of the Association, each Owner will furnish to the Association (as applicable) a Certificate of Insurance evidencing the Lot Owner's obtainment and maintenance of the aforesaid insurance.

(ii) Association. The Association must obtain and maintain Casualty Insurance on all of the insurable improvements comprising the Common Elements.

(B) Risks to be Insured and Amount Thereof. All Casualty Insurance policies obtained by the Association and each Owner will protect against loss or damage by fire and other hazards now or hereafter embraced by an "all-risk" or special form policy, and all other perils which are customarily covered by similarly constructed and situated developments in Cuyahoga County, Ohio, in an amount sufficient to cover 100 percent, less deductible, of the replacement cost of any repair or reconstruction in the event of damage or destruction from any casualty (excluding excavation and foundation costs and other items normally excluded from the coverage). The term "replacement cost" means the

cost needed to repair or reconstruct the damaged item to the condition it was in just before the insured damage was sustained.

(C) **Claim Filing.** At all times, the Board has the sole right and authority to file, or authorize the filing of, and adjust any and all claims for damage or destruction that are or may be covered by the Association's Casualty Insurance policy regardless of the Person(s), including Mortgagees, who are named as an additional insured or beneficiary of the policy, as the Board determines is consistent with the intent of this Declaration and in the Association's best interests.

(D) **Insurance Company Rating.** All Casualty Insurance policies obtained by the Association and each Owner will be written with a company licensed to do business in the State of Ohio and, unless not reasonably available as determined solely by the Board, holding a rating of "A-8" or better by AM Best's Insurance Reports, or its present-day equivalent rating service.

(E) **Damage and Destruction.**

(1) **Responsibility for Repair.** If any Dwelling Unit is damaged or destroyed by any event or loss covered by the standard "all-risk" or special form endorsement, regardless of the amount of the deductible, the Owner of the Dwelling Unit will promptly cause the damage to be repaired or restored at the Owner's sole expense and the repair or restoration will be substantially made to the same or better condition as the areas existed immediately prior to said damage. Any change to the Dwelling Unit structure or exterior of the Dwelling Unit must be reviewed and approved in writing by the Board. All insurance proceeds received from the Association's Casualty Insurance or any Owner's Casualty Insurance must first be used and applied to the repair and restoration of the property damaged by the casualty for which the proceeds are paid. If the Owner fails to commence required repairs, or if the Owner fails to diligently complete all repairs within a reasonable time, thereafter, as determined by the Board, the Association has the right, but not the obligation, upon written notice to the Owner, to commence or complete the repairs, with the Owner solely responsible for any and all costs or expenses not covered by the insurance proceeds received to be charged as an Assessment against the Lot.

(2) **Common Elements.** Repair and restoration of damage or destruction to the Common Elements will be substantially made to the same or better condition as the areas existed immediately prior to the damage provided that the Board may provide for or permit the use of new or alternative materials as the Board reasonably determines are in the Association's best interest, with the intention to at all times preserve the first class architectural design and appearance that is associated with the Property.

(F) **Insufficient Insurance Proceeds.** If the insurance proceeds received are not sufficient, including as a result of the deductible, to make all needed repairs and replacements to the Common Elements, the Association will pay the additional cost of the repairs. However, if any damage or destruction was caused by the negligence or intentional act of an Owner, or their Occupant, tenant, guest, or anyone the Owner is responsible for, then in that case any costs not covered by the Association's Casualty Insurance, including the insurance deductible, will be paid by the responsible Owner.

(G) **Disbursement of Excess Insurance Proceeds.** If the cost of the repairs is less than the amount of the insurance proceeds received from the Association's Casualty Insurance, the excess will be distributed to the Association and placed in the reserve fund or other fund as may be established for the purpose of providing for the maintenance, repair, and replacement of the Common Elements.

(H) **Waiver of Subrogation.** Each Owner and Occupant, as a condition of accepting title and possession, or either, of a Dwelling unit, and the Association agree, that in the event any part(s) of the Property (including a Lot) or the fixtures or personal property of anyone located on the Property are damaged or destroyed by fire or other casualty that is covered by insurance of any Owner, or Occupant, or the Association, and the lessees of any one of them, the rights, if any, of any party against the other, or against the employees, agents, licensees or invitees of any party, with respect to the damage or destruction and with respect to any loss resulting therefrom are hereby waived to the extent of the insurance proceeds actually paid.

(I) **Public Liability Insurance.** The Association will carry a comprehensive policy of liability insurance covering the Common Elements and insuring the Association, the Board of Directors, the Owners, and Occupants against liability for personal injury, disease, illness, or death, and for injury to or destruction of property resulting or arising from, at a minimum : (i) the operation, maintenance, or use of the Common Elements; (ii) lawsuits related to employment contracts in which the Association is a party; and, (iii) hired automobile, non-owner automobile, and off-premises employee claims. All liability insurance will contain cross-liability endorsements to cover liabilities of the Owners as a group to an Owner. In the event the insurance effected by the Association on behalf of the Owners and Occupants against liability for personal or bodily injury or property damage arising from or relating to the Common Elements will, for any reason, not fully cover any liability, the amount of any deficit will be a Common Expense to the Owners, and any Owner who will have paid all or any portion of the deficiency in an amount exceeding their proportionate share have a right of contribution for the other Owners according to their respective share. The policy will not insure against liability for personal or bodily injury or property damage arising out of or relating to the individual Dwelling Units and Lots.

**(J) Fidelity Coverage.** The Board will maintain blanket fidelity, crime, or dishonesty insurance coverage for any person who controls or disburses association funds. As used in this section, "person who controls or disburses association funds" means any individual with authority or access to sign checks, conduct electronic transfers, or otherwise withdraw funds from any association account or deposit, including the following:

- (1)** A management company's principals and employees;
- (2)** A bookkeeper;
- (3)** The president, secretary, treasurer, any other board member, or employee of the unit owners association.

All of the following apply to the insurance coverage required under this section:

**(i)** Coverage shall be for the maximum amount of funds that will be in the custody of the association or its designated agent at any one time plus three months of operating expenses.

**(ii)** The insurance shall be the property of and for the sole benefit of the association and shall protect against theft, embezzlement, misappropriation, or any other unauthorized taking or loss of association funds.

**(iii)** The policy shall include in its definition of "employee" the manager and the managing agent of the association's funds or provide for this inclusion by an endorsement to the policy.

**(iv)** The policy shall name the association as the insured party and shall include a provision requiring the issuer of the policy to provide a ten-day written notice to the association's president or manager in the event of cancellation or substantial modification of the policy. The manager or managing agent, if any, of the association shall be the designated agent on the policy.

If there is a change in the manager or the managing agent of the association, then within ten days of the effective start date, the new manager or managing agent shall notify the insurer of such change.

**(K) Other Association Insurance.** The Board may purchase and maintain contractual liability insurance, directors' insurance, fidelity insurance or bonding, officers' liability insurance, and worker's compensation insurance in accordance with the Bylaws, and any other insurance as the Board may determine is in the Association's best interest.

## ARTICLE IX

### ASSESSMENTS AND LIEN OF ASSOCIATION

(A) **General**. Assessments for the Common Expenses must be made in the manner provided for below. Unless otherwise stated in this Declaration, Assessments must be levied among all the Owners and their respective Dwelling Units pursuant to their respective proportionate share, which is 1/43 for each Owner. Every Owner must pay their proportionate share of the Common Expenses and any other Assessments levied against them in any manner and at any time provided for in this Declaration or as the Board may determine. The Association, as the Board determines, may establish one or more required or preferred method(s) of payment, such as ACH payments, of Assessments and Other Charges due the Association, and, if the Board approves and permits other method(s) of payment, the Association may impose a surcharge or other fee for the use of non-preferred form(s) of payment, including check, credit card, or cash.

(B) **Individual Assessments**. The Board may levy Assessments against an individual Dwelling Unit or Dwelling Units to cover fees, costs, damages, and other expenses or charges as provided for and in accordance with this Declaration, the Bylaws, or the Rules. Any individual Assessment is due and payable as the Board so determines, plus an administrative fee. The Board will give written notice to the Owner(s) subject to the Assessment.

(C) **Painting Fund Assessments**. The Board will levy an additional painting fund Assessment against the Owners of Dwelling units with wood siding. The painting fund must be kept as a separate account, and used only for painting Dwelling Units with wood siding in accordance with Declaration Article VI, Section E.

(D) **Obligation to Pay Assessments**. The obligation to pay all Assessments is an independent covenant and is a charge on the Dwelling Unit and is a continuing lien upon the Lot against which each Assessment is made until paid in full. No Owner of a Dwelling Unit may exempt themselves from liability for Assessments by waiver of the use or enjoyment of any of the Common Elements that the Association owns or operates, by abandonment or destruction of their Dwelling Unit, or for any other reason. Regardless of any effort or action of an Owner to the contrary, the Association will credit any and all payments made by an Owner for all Assessments levied against the Owner in the order set forth in Declaration Article IX, Section (E)(2) below.

(E) **Failure to Pay Assessments When Due**.

(1) Any Assessment not paid within 10 days after the same becomes due and payable is subject to a monthly administrative late charge established by the Board and may, as the Board so determines, also bear interest charged at the highest legal rate that may be charged to an individual from the date the

Assessment or charge first comes due until the same is paid in full. Each Owner is liable for any and all costs the Association incurs in connection with the collection of delinquent Assessments from the Owner, including reasonable attorneys' fees, recording costs, title reports, court costs, paralegal fees, and other related fees, expenses, and charges, which are added to the amount of the continuing lien.

(2) The Association may, but is not obligated to, accept any partial payment on an Owner's account. If the Association accepts a payment that is less than payment in full, the Association will credit the partial payment in the following order of priority:

- (i) To interest owed to the Association;
- (ii) To administrative late fees owed to the Association;
- (iii) To collection costs, attorneys' fees, and paralegal fees the Association incurs; and, finally,
- (iv) To the principal amounts the Owner owes to the Association for the Common Expenses, enforcement Assessments chargeable against the Dwelling Unit, or any other Assessments or charges.

(F) **Lien of Association.** The Association has a lien upon each Owner's Dwelling Unit interest for the payment of the portion of any Assessment(s) chargeable against the Lot that remain(s) unpaid for 10 days after the same becomes due and payable, together with the other amounts provided for in this Declaration, from the time a certificate, subscribed by the Association President or other Association representative as is permitted by Ohio law, is filed with the Cuyahoga County Recorder's Office in accordance with the Board's authorization. The certificate will contain a description of the Lot, the name(s) of the record Owner(s), and the amount of the unpaid portion of the Assessment(s) and any other amounts due. The lien is continuing upon the Dwelling Unit and will and does also act to automatically secure and include all Assessments that become due and payable after the certificate is filed until the claim of lien is satisfied. The lien is continuing from the time of filing unless sooner released or satisfied in the same manner provided by law for the release and satisfaction of mortgages on real property or discharged by the final judgment or order of the Court in an action brought to discharge the lien in accordance with this Declaration or State law. In addition, each Owner is personally liable, jointly, and severally, for all Assessments chargeable to their Dwelling Unit for the period of their Dwelling Unit ownership. The existence of a mortgage, lien, or other encumbrance and of a condition, possibility of reverter, or the like, is not a defense of title under the preceding sentence.

(G) **Priority of Association's Lien.** The lien provided for in Declaration Article IX takes priority over any lien or encumbrance subsequently arising or created, except for a) liens for real estate taxes and Assessments of political subdivisions, and b) liens of bona fide first mortgages, which have been filed for record. However, with respect to any bona fide first mortgage on a Dwelling Unit that is filed for record after the date of this Declaration, an amount equal to the lesser of the amount of the delinquency or six months of Common Expense Assessments levied against the Dwelling Unit, based on the budget adopted by the Association for the year in which the foreclosure action against the Dwelling Unit is commenced, plus the Association's reasonable attorney's fees, costs, and expenses related to the foreclosure, is prior to any lien or encumbrance arising or created by the bona fide first mortgage. The lien provided for in Declaration Article IX may be foreclosed in the same manner as a mortgage on real property in an action brought by or on behalf of the Association after authorization from the Board. In any foreclosure action, the Owner(s) of the Dwelling Unit affected is required to pay a reasonable rental for the Dwelling Unit during the pendency of the action, in addition to any Assessments otherwise chargeable against the Dwelling Unit, and the Association in the action is entitled to the appointment of a receiver to collect the same. At any foreclosure sale, the Association, or its agent or nominee, is entitled to bid and acquire the Dwelling Unit.

(H) **Dispute as to Common Expenses.** Any Owner who believes that any Assessment the Association levies against their Ownership Interest for which the Association has filed a certificate of lien, has been improperly determined, may bring an action in the Court of Common Pleas for Cuyahoga County, Ohio, for discharge of all or any portion of the lien; but the lien will continue until the amount of the lien so determined is paid in full. The Association may counterclaim in the action for foreclosure of the amount of the lien found to be due.

(I) **Non-Liability of Foreclosure Sale Purchaser.** When a bona fide first Mortgagee or other purchaser acquires title to a Dwelling Unit as a result of foreclosure of the first mortgage or acceptance of a deed in lieu of foreclosure, the Mortgagee or purchaser, their respective successors and assigns and all future grantees of said Lot, are not liable for the Assessments levied against the Owner of the Dwelling Unit prior to acquisition of title to the Dwelling Unit whether or not a lien was filed in accordance with this Section, unless the share is secured by a lien for Assessments recorded prior to the recording of the foreclosed mortgage. Any funds received on the judicial sale of the Lot in excess of the first mortgage lien, the court costs, and the real estate taxes, must, however, to the extent otherwise permitted under the laws of the State of Ohio, next be applied to satisfy the Association's lien for Assessments. The Owner(s) of a Dwelling Unit is and remains personally and primarily liable, jointly and severally, for the Assessments accruing against the Dwelling Unit prior to the date of the judicial sale as provided in this Section; but, any unpaid share of Assessments are Common Expenses collectible from all of the Owners, including the acquirer of the foreclosed Dwelling Unit, their successors or

assigns, at the time of the first Assessment or Assessment installment next following the acquisition of title by the Mortgagee, its successor or assigns.

(J) **Liability for Assessments Upon Voluntary Conveyance.** Except as set forth in above, the grantee(s) of the ownership interest in a Dwelling Unit is jointly and severally liable with the grantor for the amount of all unpaid Assessments, whether or not a lien has been perfected, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. A Mortgagee other than a first institutional Mortgagee, a purchaser at a foreclosure sale of a mortgage other than a first mortgage to an institutional Mortgagee, their respective successors and assigns, a devisee of an ownership interest, or the transferee of an ownership interest pursuant to the Statute of Descent and Distribution, is deemed to have obtained said Dwelling Unit through a voluntary conveyance for purposes of this Section.

## **ARTICLE X**

### **EASEMENTS**

(A) **General.** The Property is made subject to the following easements which are irrevocable and potentially perpetual in duration. The easements run with the land and any conveyance of Dwelling Units, and all portions of the Property are subject thereto. Acceptance of a deed conveying an interest in any Dwelling Unit or other portion of the Property will be subject to the easements as applicable, and acceptance constitutes agreement by the grantee that the Property remains subject to the easements.

(1) **Easement for Common Element Improvements.** Association has an easement on any and all of the Common Elements of the Property.

(2) **Easement to Use and Enjoy Common Elements.** An easement is hereby granted in the Association's and each Owner's favor for the use and enjoyment of the Common Elements, subject to rules and regulations that the Board may adopt from time to time.

(3) **Encroachments.** Each Lot, the Dwelling Units, and the Common Elements are subject to any easements for encroachments created by construction, settling, and overhangs of any other Dwelling Units or other improvements. Valid easements for encroachments and for the maintenance of same exist as long as the encroachments exist.

(4) **Access.** An easement is further granted to all police, fire protection, ambulance, and all similar persons, companies, or agencies performing emergency service and mail carriers, delivery persons, garbage and trash removal personnel, and all similar persons, and to the local governmental authorities to enter upon the Lots, Common Elements, and such other portions of the Property in order to

perform their duties. Further, an easement is granted to the Association, its officers, agents, employees, and to any management company selected by the Association to enter upon or to cross over the Common Elements and the Lots to inspect and to perform the Association's duties of maintenance and repair of the Property. Individual easements are granted to the Association so that snow and ice removal and lawn care can be conducted upon each Lot.

(5) **Owner's Easements.** An easement is granted to all Owners and their heirs, successors, assigns and invitees for the use of any Common Elements owned by the Association.

(6) **Easement Reservations.** Declarant created a perpetual easement benefiting any and all of the real properties situated adjacent to, bordering or neighboring the Property enabling and entitling the Association to fully enjoy, use, access and benefit from any and all utility and storm/drainage easements and rights-of-way servicing or situated upon any of the Property as identified in any manner on any plats of the Property; however the same are designated thereon whether denoted as proposed, preliminary, permanent or otherwise.

(B) **Acceptance and Grant of Easements.** The Association, through and as the Board so determines, may:

(1) dedicate, transfer, or grant easements in all or any part of land or facilities the Association owns or controls: (a) to any municipality, public agency, authority, or utility; or, (b) to any Owner to install, operate, use, maintain, repair, and replace in, on, over, or under the land or any part thereof roads, rights-of-way, utility facilities of all types and access to or for the benefit of the City, Owners, or the Association; and further, to construct improvements and establish grade, and for other reasonable purposes as the Board may determine; and,

(2) obtain easements for the construction, extension, installation, inspection, maintenance, or replacement of utility facilities to or from a public utility or governmental authority, and to or from anybody or agency that has the power of eminent domain or condemnation.

(C) **Utilities.** The Association has the right to grant consents, rights, easements and rights-of-way for the construction, maintenance, and operation of public utility facilities, electric, telephone and telegraph lines, conduits for gas, water, sanitary and storm sewer pipes, mains, connections, downspouts, and other lines, together with cable television and other communication lines or cables, and for any other public and or quasi-public facility, service or function, whether the same are above ground, underground and/or in, or upon any and all highways, streets, dedicated or otherwise, now existing or hereafter established upon any portion of the Property.

(D) **Applicability.** 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 inure to the benefit of and be binding on the Association and any Owner, purchaser, Occupant, Mortgagee, and other Person now or in the future having an interest in any part of the Property. The easements and grants provided in this Declaration will in no way affect any other recorded grant or easement. Failure to refer specifically to any or all of the easements or rights described in this Declaration in any deed of conveyance or in any mortgage or other evidence of obligation will not defeat or fail to reserve said rights or easements but the same are deemed conveyed or encumbered, as the case may be, along with the Lot.

(E) **Irrevocable and Perpetual Easements.** The easements above are irrevocable, and potentially perpetual in duration. Acceptance of a deed conveying an interest in any Lot or other portion of the Property will be subject to the easements above as applicable, and acceptance of any deed constitutes agreement by the grantee that the interest in any Lot or portion of the Property is subject to the easements.

## **ARTICLE XI**

### **ASSOCIATION REMEDIES**

(A) **Abatement and Enjoyment.** The violation of any restriction or condition or regulation adopted by the Board or the breach of any covenant or provision contained in this Declaration, the Bylaws or Rules, gives the Board, on behalf of the Association, in addition to any rights set forth elsewhere in this Declaration, the right:

(1) To enter upon or in the Property, including any Lot, or portion thereof, upon which, or as to which, the violation or breach exists and to summarily abate and remove, at the expense of the Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions of this Declaration, the Bylaws or Rules, and the Association, its Board, or its agents, will not be thereby deemed guilty in any manner of trespass;

(2) Repair, restore, or otherwise correct a condition of disrepair or neglect to the exterior areas of any Lot or Dwelling Unit and to perform any work or duties required of an Owner in accordance with this Declaration if the Owner has not made the repair or restoration or has not cured said condition within a reasonable time (as determined by the Board) after notice thereof from the Board. However, the Board need not give prior notice if in its opinion it is acting to prevent personal injury or damage to property or in any other emergency situation. The Association will charge and assess the costs and expenses incurred to the Owner who should have performed the work or cured the condition, as an Individual Assessment in accordance with the provisions of this Declaration;

(3) To enjoin, abate, or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach; and

(4) To promulgate Rules with respect to the use of the Common Elements and Dwelling Units, including Improvements, and with respect to the maintenance, alteration, and operation of the Dwelling Units, to effect and to cause the effectuation of reasonable sanctions, including the imposition of reasonable enforcement Assessments, as may be further defined in the Rules, Chapter 5311, or Chapter 5312, payable to the Association, after notice and a reasonable opportunity to request a hearing (and if so requested, to be actually heard) is provided, the removal of personal property from the Common Elements, when the continued presence of the property in the Common Elements is a violation or breach of this Declaration, Bylaws, or Rules, or the enforcement by the Police of Municipal Ordinance; all as may be deemed necessary or proper to secure and compel compliance with this Declaration, Bylaws, or Rules, as well as to deter continued noncompliance with the Declaration, Bylaws, or Rules.

**(B) Procedure for Charges for Damages and Enforcement Assessments.**

(1) **Initial Notice.** Prior to imposing a charge for damages or an enforcement Assessment, the Board will send the Owner a notice that includes:

- (i) A description of the property damage or violation;
- (ii) The amount of the proposed charge or enforcement Assessment;
- (iii) A statement that the Owner has a right to a hearing before the Board to contest the proposed charge or enforcement Assessment;
- (iv) The procedure the Owner must follow to request a hearing; and,
- (v) If applicable, a reasonable date as determined by the Board, by which the Owner must cure the violation to avoid the proposed charge or enforcement Assessment.

**(2) Hearing.**

(i) To request a hearing, the Owner must deliver a written request to the Board no later than the 10<sup>th</sup> day after receiving the initial notice. If the Owner fails to submit 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.

(ii) If the Owner properly and timely requests a hearing, at least seven days prior to the hearing, the Board will provide the Owner with a written notice that includes the date, time, and location of the hearing as reasonably set by the Board. The Board will not levy a charge or enforcement Assessment before holding the requested hearing; though the Board may proceed with the hearing if the Owner does not appear as directed in the hearing notice.

(iii) Within 30 days following a hearing, the Association will send written notice of the charge or enforcement Assessment to the Owner.

(C) **Cost of Enforcement.** If any Owner (either by their conduct or by the conduct of any Occupant(s), tenant(s), guest(s), or invitee(s) of their Dwelling Unit) violates any provision of this Declaration, Bylaws, or Rules, said Owner will pay to the Association, in addition to any other sums due, including all costs of repair or removal and any enforcement Assessments, all costs and expenses incurred by the Association in connection with the enforcement of said provision or Rule, including reasonable attorneys' fees and court costs. The Board may also levy reasonable charges for damage to the Common Elements or any part of the Property for which the Association is responsible to maintain. Said enforcement Assessments, charges for damage, costs, and expenses will be charged as a Special Assessment against said Dwelling Unit. The Association, in addition to all other remedies available, has the right to place a lien upon the estate or interest of said Owner for the payment of any Assessment or charge levied against the Dwelling Unit and that remain unpaid ten days after any portion has become due and payable as further explained and set forth in this Declaration.

(D) **Cure by Association.** If any Owner fails to perform any act that they are required to perform by this Declaration, the Bylaws, or the Rules, the Association, through the Board, may, but is not obligated to, undertake the performance of or cure the violation, and to charge and collect from said Owner the entire cost and expense, including reasonable attorneys' fees, incurred by the Association in undertaking the cure or performance. Any amount is deemed to be an additional Assessment upon the Owner and is due and payable when the payment of the next Assessment following notification of the charge becomes due and payable, and the Association may obtain a lien for said amount in the same manner and to the same extent as if it were a lien for Common Expenses.

(E) **Suspension of Voting Rights.** The Association has the power, right, and authority to suspend the voting rights and the rights of any Owner or occupant to use any amenities or common recreational facilities, if any, when there is a past due balance owed to the Association for any Assessment or Other Charge, or any portion or when an Owner has violated or has caused an infraction of the published Rules and Regulations or any provisions of the Declaration, these Bylaws, or the Articles as set forth in Bylaws.

## ARTICLE XII

### AMENDMENTS

(A) **Amendments by Owners.** This Declaration and the Bylaws may be amended with the written consent, or the affirmative vote of Members entitled to exercise not less than sixty-five percent of the Association's total voting power. Upon the adoption of any amendment, the President of the Association will ensure the instrument is filed with the Cuyahoga County Recorder's Office and that the instrument is executed with the same formalities as this Declaration, containing the amendment being made, the volume and page(s) of the original being amended, and the manner of the adoption of the amendment. Amendment(s) to this Declaration or the Bylaws become binding and effective on the date of the filing of same for record with the Cuyahoga County Recorder's Office. No amendment or rescission of the Declaration Restrictions that is contrary to the City Zoning Resolution now in effect or as hereinafter amended is permitted.

(B) **Special Amendments.** The Board, in its sole discretion and if desired, without a vote of the Owners, has the right and power to record a special amendment ("Special Amendment") to this Declaration or Bylaws at any time, and from time to time, which amends this Declaration or Bylaws, for the following purposes:

(1) to meet the requirements of institutional Mortgagees, guarantors, and insurers of first mortgage loans, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veteran's Administration, or any other governmental agency or any public, quasi-public, or private entity that performs (or may in the future perform) functions similar to those currently performed by the entities, or

(2) to correct clerical, typographical, or similar errors in this Declaration, the Bylaws, any Exhibit, or attachment hereto or any supplement or amendment to this Declaration, or to the Articles of Incorporation, or

(3) to clarify any ambiguities in this Declaration, the Bylaws, any Exhibit, or attachment hereto or any supplement or amendment to this Declaration, or to the Articles of Incorporation, or

(4) to bring any provision into compliance with the provisions of any applicable governmental statute, rule, or regulation, or any judicial determination, or

(5) to enable a title insurance company to issue title insurance with respect to the Property or any portion thereof.

In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Board to vote in favor of, make, or consent to a Special Amendment on behalf of each Owner as proxy or attorney-in fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Dwelling Unit and the acceptance is deemed to be a grant and acknowledgment of, and a consent to the reservation of the power to the Board to vote in favor of, make, and record Special Amendments.

(C) **Limitation on Owner Challenge.** Any Owner who is aggrieved by an amendment to this Declaration or the Bylaws made in accordance with Declaration Article XII, Section (A) above or that the Board makes in accordance with Declaration Article XII, Section (B) above may commence a declaratory judgment action to have the amendment declared invalid; provided, that any action must be filed in the Cuyahoga County Court of Common Pleas within one year from the date of the recordation of the amendment with the Cuyahoga County Recorder's Office.

(D) **Termination of Association.** A vote to terminate the applicability of this Declaration and to dissolve the Association requires the affirmative consent of seventy-five percent of the Owners.

### **ARTICLE XIII**

#### **SALE OR OTHER ALIENATION OF DWELLING UNITS**

The Association does not have a right of first refusal with respect to the purchase or any other conveyance, whether by gift, involuntary sale, or otherwise, of a Dwelling Unit. An Owner is able to transfer their Dwelling Unit freely. However, prior to any transfer, the Owner must submit to the Association: (a) payment in full to the Association of all outstanding Assessments and Other Charges levied against the Dwelling Unit and that are due or become due up until the date of transfer of the Dwelling Unit; (b) a written verification that the new Owner has received a set of governing documents, including this Declaration, Bylaws, and Rules (a set of the documents may be obtained from the Association for a reasonable charge); and, (c) the new Owner's name, and home address. Within 30 days after a change in any information that this Declaration Article XIII requires, an Owner must notify the Association, in writing, of the change. When the Board requests, an Owner must verify or update the information. Contact information provided by Owners to the Association is confidential and the Association will not distribute or otherwise share any of the contact information received from Owners to any Person, except as needed in accordance with the Association's maintenance, operation, and administration of the Property or the Association itself, and as required by law.

## ARTICLE XIV

### NOTICES AND OTHER ACTIONS AND COMMUNICATIONS

(A) **Service of Notices on the Association and Board.** All notices required or permitted under this Declaration or the Bylaws, to the Association or the Board, must be made in writing and sent by regular U.S. mail, first-class postage prepaid, or hand-delivered to the Board of Directors or the Association at the address of the Association's Principal Office, which may be the office of the community association manager or the Dwelling Unit of a Director, or to another address as the Board of Directors may designate by a notice in writing to all Owners or Members, which may include electronic mail addresses.

(B) **Service of Notices on Owners.** All notices required or permitted under the Declaration or Bylaws to any Owner or Member must be hand-delivered or sent by regular U.S. mail, first-class postage prepaid, to the Owner or Member's address or to another address designated by the Owner or Member in writing to the Board. Any notice required or permitted to be given to any Occupant of a Dwelling Unit, Owner or Member other than an Owner or Member will effectively be given if hand-delivered or sent by regular U.S. mail, first-class postage prepaid, to the Owner or Member address.

(C) **New Communication Technologies.** In addition to the methods described in Sections (A) and (B) above, due to the ongoing development of new technologies and corresponding changes in business practices, to the extent permitted by Ohio and federal law, as well as by the Board, now or in the future: (1) any notice required in the Declaration or Bylaws to be sent or received; (2) any signature, vote, consent, or approval required to be obtained; or (3) any payment required to be made, under the Declaration or Bylaws, may be accomplished or required using the most advanced technology available at that time provided the use is a generally accepted business practice. This includes, without limitation, the use of electronic mail or other electronic transmission in lieu of any Association required written notice to Owners, or Members, individually or collectively, to or from any Owner or Member who has given the Association their addresses to use electronic mail or other electronic transmission, and for the Association to properly and effectively receive any Owner's or Member's signature, vote, consent, or approval the Association needs or requires, subject to the following:

(1) For voting on the election of Board members, the Association may provide for voting by electronic transmission.

(2) Electronic mail or other electronic transmission to an Owner or Member is not considered delivered and effective if the Association's transmission to the Owner or Member fails two consecutive times, e.g., the Association receives an "undeliverable" or similar message, or the inability to deliver the transmission to the Owner or Member becomes known to the Person responsible for sending the

transmission. If the electronic mail or other electronic transmission is not delivered or effective, the Association will deliver the notice or other communication to the Owner or Member in writing by regular U.S. mail to the Owner or Member's last known address, by hand delivery to the Owner or Member, or by leaving the notice under or attached to the Owner's or Member's front door.

(3) Any Owner or Member who has not given the Association information required to use electronic mail or other electronic transmission will receive required notices, as provided in the first paragraph of this Article XIV, Section (B).

## ARTICLE XV

### GENERAL PROVISIONS

(A) **Enforcement.** In addition to the provisions of Article XI above, the Association and any Owner have the right to enforce, by any proceeding at law or in equity, the restrictions, conditions, covenants, reservations, liens, and charges now or in the future imposed by the provisions of this Declaration and the Bylaws. All remedies specified in this Declaration and the Bylaws are non-exclusive and in addition to any other remedies available in law or equity.

(B) **Document Conflicts.** In the event of any conflict or inconsistency between the provisions of this Declaration and the attached Bylaws, the terms and provisions of this Declaration prevail, and the Owners and all Persons claiming under them covenant to vote in favor of the amendments to this Declaration or the Bylaws and will remove the conflicts or inconsistencies.

(C) **Headings.** The heading to each Article and each Section is inserted only as a matter of convenience and reference and in no way defines, limits, or describes the scope of intent of this Declaration or the Bylaws, nor in any way affects this Declaration or the Bylaws.

(D) **Plural Owners.** In the event that any Owner holds title to a Dwelling Unit as a joint tenant, tenant in common, tenant by the entirety, or in any other manner with one or more other Persons (referred to as a "co-Owner"), the signature of any one of the co-Owners is binding upon and is effective as an authorization from all of the other Owners of the Dwelling Unit. In addition, the vote cast at any Association meeting by one co-Owner is binding upon and is effective as an authorized vote from all of the co-Owners of the Dwelling Unit, unless another co-Owner objects at the meeting in which event the majority of the Ownership Interest of said Dwelling Unit prevails. If co-Owners own 50 percent of the Ownership Interest, then one vote will be counted for the Ownership Interest.

(E) **Use of Singular or Plural, Gender.** References to the masculine in this Declaration and the Bylaws are deemed to include the feminine or the neuter, references to the feminine are deemed to include the masculine or neuter and references in the neuter are deemed to include the masculine or feminine. Plural references are deemed to include singular where the context so requires and vice versa.

(F) **Signature Requirements.** In accordance with the Board's decision, any requirement for a signature under this Declaration or Bylaws may be satisfied by a digital signature meeting the requirements of Ohio and Federal law when applicable.

(G) **Provisions Run with Valley Creek Village Association Land: Binding Effect.** All of the easements, covenants, and restrictions that are imposed upon, granted, or reserved in this Declaration (including payment of Assessments) constitute easements, covenants, and restrictions running with the land and inure to the benefit of and are binding upon the parties hereto and every subsequent transferee of all or any part thereof, including grantees, tenants and Owners and their respective heirs, executors, administrators, personal representatives, successors and assigns. Each grantee accepting a deed or tenant accepting a lease (whether oral or written) who conveys any interest in any portion of a Dwelling Unit, whether or not the same incorporates or refers to this Declaration, covenants for himself or herself, his or her heirs, personal representatives, successors and assigns to observe, perform, and be bound by the provisions of this Declaration.

(H) **Waiver.** No covenants, restrictions, conditions, obligations, or provisions contained in this Declaration, the Bylaws, or Rules are deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

(I) **Severability.** The invalidity of any covenant, restriction, condition, limitation, or any other provisions of this Declaration or the Bylaws, or of any part of the same, does not impair or affect in any manner the validity, enforceability, or effect of the rest of this Declaration or the Bylaws.

(J) **Duration.** Unless sooner terminated or amended, the Covenants and Restrictions of this Declaration shall continue for a term of twenty-one (21) years from the date hereof, after which time, the Covenants and Restrictions shall automatically be extended for successive periods of ten (10) years each unless repealed as provided herein. However, if any of the privileges, covenants or rights created by this Declaration and/or by any of the exhibits hereto shall be unlawful or void for violation of: (i) the rule against perpetuities or some analogous statutory provision, (ii) the rule restricting restraints on alienation, or (iii) any other statutory or common law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Mike DeWine, the presently serving Governor of Ohio.

(K) **Agreements Binding.** All agreements and determinations lawfully made by the Association, through the Board, in accordance with the procedures established in this Declaration and the attached Bylaws are binding on all Owners and Occupants, and their respective heirs, executors, administrators, successors, and assigns.

(L) **Construction.** The following applies to this Declaration and the attached Bylaws:

(1) Wherever the masculine singular form of the pronoun is used, it will be construed to mean the masculine, feminine, or neuter, singular or plural, as the context so requires;

(2) The word “will” indicates a mandatory obligation to do or not do a given action; the word “will” meaning the same as “must,” “shall,” or “is required to,” unless specifically provided for otherwise in the context it is used;

(3) The words “they,” “their,” “them,” and the like are used as both plural and singular pronouns, which include and encompass the singular “he,” “she,” “his,” “her,” “him,” and the like; and,

(4) The words “include,” “includes,” and “including” mean “including but not limited to,” “including, without limitation,” and any other similar variation of the phrases.

(M) **Scrivener’s Corrections.** Scrivener reserves the right to make corrections or changes in this Declaration and any of the attached Exhibits, including the attached Bylaws, which arise due to typographical mistakes or other scrivener errors. Changes may be made by Scrivener despite the fact they do not own sixty-five percent of the interest of the Association’s voting power; but may only be done if the changes do not materially affect the Ownership Interest of anyone else. Changes must otherwise be in accordance with Article XII above or Bylaws Article XI.

(N) **Interpretation.** The provisions of this Declaration, and the attached Exhibits, including the Bylaws, must be liberally construed to effectuate the purpose of creating a uniform plan for the establishment and operation of a first-class community. However, the language used will not be strictly construed against the Association, the Board, or any Owner.

**EXHIBIT A****LEGAL DESCRIPTION**

Situated in the City of Strongsville, County of Cuyahoga and State of Ohio. Being known as Sublots 3601, 3602, 3603, 3604, 3605, 3606, 3607, 3608, 3609, 3610, 3611, 3612, 3613, 3614, 3615, 3617, 3618, 3619, 3620, 3621, 3622, 3624, 3625, 3626, 3627, 3628, 3630, 3631, 3632, 3633, 3634, 3635, 3636, 3637, and 3639, in Valley Creek Village Cluster Development part of Original Strongsville Township Lot No. 35, as shown by the recorded plat in Volume 224, Page 95 of Cuyahoga County Records.

Situated in the City of Strongsville, County of Cuyahoga and State of Ohio and known as Unit No. 3638, 3639, 3640, 3641, 3642, 3643, 3644, and 3645, in the Valley Creek Village Condominium shown by the Drawings recorded in Condominium Plat Map Volume 31, Page 54 and 55 of Cuyahoga County Records.