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LINDA HOFFMANN
MEDINA COUNTY RECORDER

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MEDINA COUNTY RECORDER

LINDA HOFFMANN

(DO NOT REMOVE THIS COVER SHEET.
THIS IS THE FIRST PAGE OF THIS DOCUMENT)

**FOURTH SUBSEQUENT AMENDED
DECLARATION OF RESTRICTIVE COVENANTS
CONDITIONS AND RESTRICTIONS OF
THE SUBDIVISION KNOWN AS
“BLUE HERON ESTATES”
IN MONTVILLE TOWNSHIP,
MEDINA COUNTY, OHIO
WITH
FIRST AMENDED CODE OF REGULATIONS/BY-LAWS
OF
BLUE HERON ESTATES PUD ASSOCIATION, INC.**

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EXHIBIT F (RECREATION FACILITIES LOTS)	One Page
EXHIBIT G (CLUSTER RESIDENCE BLOCK COMMON AREAS)	One Page
EXHIBIT H (SUBDIVISION OPEN SPACE BLOCKS)	Two Pages
EXHIBIT I (ASSOCIATION'S ARTICLES OF INCORPORATION)	Two Pages
EXHIBIT J (ASSOCIATION'S CODE OF REGULATIONS/BY-LAWS)	Twenty-five Pages

**FOURTH SUBSEQUENT AMENDED
DECLARATION OF RESTRICTIVE COVENANTS
CONDITIONS AND RESTRICTIONS OF
THE SUBDIVISION KNOWN AS "BLUE HERON ESTATES"
IN MONTVILLE TOWNSHIP, MEDINA COUNTY, OHIO**

KNOW ALL MEN BY THESE PRESENTS, that:

RECITALS

WHEREAS: Montville Lakes Subdivision: Blue Heron Estates is an approved phase of Montville Lakes Planned Unit Development situated in the Township of Montville, County of Medina, and State of Ohio.

WHEREAS: All the real property comprising Blue Heron Estates Subdivision is subject to *Declaration of Restrictive Covenants, Conditions and Restrictions of Montville Lakes, Phase III, Known As "Blue Heron Estates*, recorded in 2003OR023233 Official Records of the Medina County Recorder, State of Ohio, as amended by the *Subsequent Amendment* recorded in 2005OR014716 of the Medina County Recorder, State of Ohio and the *Second Subsequent Amendment* recorded in Document 2007OR011437 of the Medina County Recorder, State of Ohio, and/or thereafter amended.

WHEREAS: Hoffman Properties Limited Partnership as the original "Declarant" reserved the right under Section 11.16 of the *Declaration of Restrictive Covenants, Conditions and Restrictions of Montville Lakes, Phase III, Known As "Blue Heron Estates"*, recorded in 2003OR023233 Official Records of the Medina County Recorder, State of Ohio to amend the restrictions, limitations, covenants, and requirements in order to protect the value of said property and to provide a flexible and reasonable method for the administration, maintenance, preservation, use, and enjoyment thereof the planned unit development known as Montville Lakes Subdivision: Blue Heron Estates.

WHEREAS: the undersigned, Montville Lakes Development Company, Inc., successor in interest to Hoffman Properties Limited Partnership, as recorded in *Second Subsequent Amendment* recorded in Document 2007OR011437 of the Medina County Recorder, State of Ohio.

WHEREAS: the undersigned, Montville Lakes Development Company, Inc. is the "Declarant" of the *Third Subsequent Amendment To Declaration of Restrictive Covenants, Conditions and Restrictions of Montville Lakes, Phase III, Known As "Blue Heron Estates"*, recorded in 2022OR017471, of the Medina County Recorder, State of Ohio.

WHEREAS: the undersigned, Montville Lakes Development Company, Inc. declares this amendment as the *Fourth Subsequent Amendment To Declaration of Restrictive Covenants,*

Conditions and Restrictions of Montville Lakes, Phase III, Known As "Blue Heron Estates", recorded in 2022OR017671, of the Medina County Recorder, State of Ohio.

NOW, THEREFORE, under the authority of Article XI, Section 11.11 of the *Third Subsequent Amendment To Declaration of Restrictive Covenants, Conditions and Restrictions of Montville Lakes, Phase III, Known AS "Blue Heron Estates", recorded in 2022OR017671, of the Medina County Recorder's Office, the Declarant, for itself and its successors and assigns, does declare and publish, this Fourth Subsequent Amendment To Declaration of Restrictive Covenants, Conditions and Restrictions of Montville Lakes, Phase III, Known As "Blue Heron Estates".*

This *Fourth Subsequent Amendment To Declaration of Restrictive Covenants, Conditions and Restrictions Known As "Blue Heron Estates* imposes the stated restrictions, covenants, easements and conditions upon all the real property described in Article II hereof and shall be covenants running with the land, binding upon and inuring to the benefit of the Declarant and the owners, their respective successors, purchasers, heirs, executors, administrators, and assigns of all real property within the subdivision known as "Blue Heron Estates.

The stated restrictions, covenants, easements and conditions are to protect the value and desirability of the real property; which shall run with, burden, and bind the real property, for the time specified; which shall be binding upon all parties having any right, title, or interest in the real property or any part thereof, their heirs, personal representatives, successors, and assigns; and which shall inure to the benefit of each owner of the property or any part thereof.

ARTICLE I: DEFINITIONS

1.1 **Specific Words.** These words, when used in this Declaration, shall have these meanings:

1.1.1 **Architectural Review Committee** shall mean and refer to the Committee appointed by the Association's Board of Directors under Article VIII to exercise the authority and perform the duties established in Article VIII.

1.1.2 **Assessments** shall mean and refer to the proportionate share of each Lot Owner for those costs of joint ownership and use of certain amenities owned and/or provided for by the Association and all "other Charges" which occasionally shall be payable by a Lot Owner under this Declaration.

1.1.3 **Association** shall mean and refer to Blue Heron Estates PUD Association, Inc., an Ohio not-for-profit corporation, set forth in Article III, Section 3.1.

1.1.4 **Association's Board of Directors** shall mean and refer to the Directors who are

elected or appointed pursuant to Article III and who shall manage the Association.

- 1.1.5 **Blue Heron Estates** shall mean and refer to the Lots, Non-Cluster Residence Lots, Cluster Residence Lots, Cluster Residence Block(s), Cluster Residence Block Common Area(s), Open Space, Commercial Lot, and Recreation Facilities Lot described in Article II of this Declaration and such additional real property as added under a Subsequent Amendment to this Declaration.
- 1.1.6 **Cluster Residence Block** shall mean and refer to an area of real property designated for the exclusive construction of Cluster Residences upon private drives and which Cluster Residence Lots are created with the residual of same being a Cluster Residence Block Common Area.
- 1.1.7 **Cluster Residence Lot** shall mean and refer to any individual Residence platted as a single Residential envelope within a Cluster Residence Block and is deeded separately to an individual owner or owners for use as a single family residence. The term "Lot" shall include all Cluster Residence Lots, unless expressly exempted from the term "Lot, by a provision of this Declaration. Certain provisions of this Declaration are made expressly applicable solely to Cluster Residence Lot(s) and such term is used in such context. The plural of said term shall mean one or more of the plots of land defined herein in this definition.
- 1.1.7.1 **Joint Owners..** An owner or joint owners of a Cluster Residence Lot is referred to herein as a "Cluster Lot Owner".
- 1.1.8 **Cluster Residence Block Common Area** shall mean and refer to any area within a Cluster Residence Block not platted as an envelope of a Cluster Residence Lot. It is the residual of any Cluster Residence Block within the platted Subdivision that remains after construction and re-platting of such Cluster Residence Block for the maximum number of Cluster Residence Lots allowable in the respective Cluster Residence Block. It shall include, without limitation, the non-dedicated streets, rights of way, and drives to each Cluster Residence Lot, the lawn of each Cluster Residence Lot, courtyard or other amenity, landscaping maintained thereon outside of the platted envelope for each Cluster Residence Lot, electric sight lighting and any structures constructed therein.
- 1.1.9 **Commercial Facilities Owner** shall mean the title owner of the real property described in Article I, Section 1.1.9.1 and Section 1.1.9.2, ("Commercial Lots") whereupon commercial enterprises are maintained and operated as authorized by Section 129 of the Montville Township Zoning Resolutions, Montville Township Board of Zoning Appeals' Conditional Zoning Certificates issued for the PUD:

Montville Lakes Subdivision.

1.1.9.1 **Commercial Lot No. 1** (PPN: 030-11B -33-177)

Situated in the Township of Montville, County of Medina and State of Ohio: And known as being the whole of Sublot No. 311A in the Montville Lakes Subdivision Phase 5 Replat No. 1 of part of original Montville Township Lot No. 83 as shown by the recorded Plat 2015PL000032 of Medina County Records as appears by said Plat be the same more or less, but subject to all legal highways.

1.1.9.2 **Commercial Lot No. 2** (PPN: 030-11B -33-178)

Situated in the Township of Montville, County of Medina and State of Ohio: And known as being the whole of Block QQ-2 in the Montville Lakes Subdivision Phase 5 Replat No. 1 of part of original Montville Township Lot No. 83 as shown by the recorded Plat 2015PL000032 of Medina County Records as appears by said Plat be the same more or less, but subject to all legal highways.

1.1.10 **County** shall mean and refer to the County of Medina organized and existing under the laws of the State of Ohio.

1.1.11 **Declarant** shall mean and refer to MONTVILLE LAKES DEVELOPMENT CO., INC., as successor in interest to Hoffman Properties Limited Partnership,

1.1.12 **Declaration** shall mean and refer to this *Fourth Subsequent Amendment To The Declaration of Restrictive Covenants, Conditions and Restrictions of Montville Lakes, Phase 3*, recorded in 2003OR023233 Official Records of the Medina County Recorder, State of Ohio, as amended by the *Subsequent Amendment* recorded in 2005OR014716 of the Medina County Recorder, State of Ohio, the *Second Subsequent Amendment* recorded in Document 2007OR011437 of the Medina County Recorder, State of Ohio, the *Third Subsequent Amendment* recorded in Document 2022OR017471 of the Medina County Recorder, State of Ohio; and any Subsequent Amendments filed with the Medina County Recorder's Office, Medina County, Ohio pursuant to this *Fourth Subsequent Amendment*.

1.1.13 **Lot** shall mean and refer to any plot of land shown upon a recorded Plat of the Subdivision and any re-plat of the Subdivision. The plural of the term shall mean one or more Lots defined.

1.1.14 **Lot Owner** shall mean and refer to any individual, person, or entity, estate, trustee, or other Person who is the record owner of the fee simple of any platted Lot within

the Subdivision.

1.1.14.1 **No Differences.** There shall be no differentiation between Non-Cluster Residence Lot Owners, Cluster Residence Lot Owners, Owner of the Commercial Facility Lots, or the Owner of the Recreation Facilities Lot when the term Lot Owner is stated.

1.1.14.2 **Non-fee Owners.** If a Lot is sold under a land installment contract, the purchaser (Vendee) (rather than the fee Owner) will be considered the Lot Owner. For this Declaration, the Owner of a Lot leased and/or rented to others shall be: (i) for votes and Assessments, the record Lot Owner of the Lot; and (ii) for use and enjoyment of common facilities and amenities set forth herein, the Tenant residing in the Residence situated on the Lot. The word "Lot Owner" shall not include: (i) any Person holding, whether or not of record, a non-possessory future interest or a leasehold estate having a term of less than fifty (50) years, and/or (ii) any Person holding an interest merely as security for the performance of an obligation unless and until said Person shall have acquired title pursuant to foreclosure or any act or proceeding in lieu of foreclosure.

1.1.15 **Non-Cluster Residence Lot** shall mean and refer to any individual Lot platted as a single residential envelope within the Subdivision on a public street, is not a Cluster Lot, and is deeded separately to an individual owner or owners for use as a single-family residence. The term "Lot" shall include all Non-Cluster Residence Lots, unless expressly exempted from the term "Lot", by a provision of this Declaration. Certain provisions of this Declaration are made expressly applicable solely to Non-Cluster Residence Lot(s) and such term is used in such context. The plural of the term shall mean one or more plots of land defined in this definition.

1.1.15.1 An owner or joint owners of a Non-Cluster Residence Lot is referred to herein as a "Non-Cluster Lot Owner".

1.1.16 **Occupant** shall mean and refer to a natural person in possession of a Residence within the Subdivision including, without limitation, an Lot Owner or any guest, invitee, lessee, tenant, or family member of a Lot Owner occupying or otherwise using a Residence.

1.1.17 **Open Space** shall mean and refer to real property described in attached Exhibit G, including but not limited to: (i) those areas of the Subdivision and common facilities relating thereto shown on the recorded plats for any phase of the Subdivision designated thereon as devoted to and for the common use of the Lot Owners; (ii)

landscaping within the boulevard and/or street islands in cul-de-sacs; (iii) rights of way; (iv) walking trails; (v) the lakes and lake dams; and (vi) streams within the Subdivision. Cluster Residence Common Area(s) are not Open Space, except for Cluster Resident Lot Owners and their respective Sub-Associations.

- 1.1.18 **Ownership Interest** shall mean and refer to the entire right title and interest of a Lot Owner in the fee simple and leasehold estates of a Lot Owner in the Subdivision, whether such interest is held by a life tenant, periodic tenant, trust, corporation, trustee in bankruptcy, receiver, administrator, executor, agent or co-owner of such interest.
- 1.1.19 **Person** shall mean and refer to a natural person, corporation, partnership, limited partnership, limited liability company, trust and any other legal entity to which the law attributes the capacity having rights and duties.
- 1.1.20 **Plat** shall mean and refer to the recorded plat of Montville Lakes Subdivision Phase III and all subsequent re-plat(s) of Montville Lakes Subdivision Phase III and filed of recorded with the Medina County Recorder's Office, Medina County, Ohio.
- 1.1.21 **Property or Properties** shall mean and refer to the real property described in Article II of this Declaration and such additional real property as added pursuant to a Subsequent Amendment to this Declaration.
- 1.1.22 **Recreation Facilities** shall mean the swimming pool maintained and operated by the Recreation Facilities Owner on Recreation Facilities Swimming Pool Lot Block SS, PPN 030-11B-33119 and the two tennis courts maintained and operated by the Recreation Facilities Owner on the Recreation Facilities Tennis Court Lot Block N-3, PPN 030-11B-38-024.
- 1.1.23 **Recreation Facilities Owner** shall mean the title owner of the real property described in Article I, Section 1.1.23.1 and Section 1.1.23.2, ("Recreation Facilities Lots") whereupon Recreation Facilities are maintained and operated as authorized by Section 129 of the Montville Township Zoning Resolutions, Montville Township Board of Zoning Appeals' Conditional Zoning Certificates issued for the PUD: Montville Lakes Subdivision.
- 1.1.23.1 **Recreation Facility Swimming Pool Lot.** Situated in the Township of Montville, County of Medina and State of Ohio: And known as being the whole of Block SS in the Montville Lakes Subdivision Phase IV of part of original Montville Township Lot No. 83, as shown by the recorded Plat 2007PL000065 of Medina County Recorder's Office; PPN: 030-

11B-33-119;.

- 1.1.23.2 **Recreation Facility Tennis Court Lot.** Situated in the Township of Montville, County of Medina and State of Ohio: And known as being the whole of Block N-3 in the Montville Lakes Subdivision Phase 5 Replat No, 2 of part of original Montville Township Lot Nos. 83 & 90, as shown by the recorded Plat 2022PL000035 of Medina County Recorder's Office; PPN: 030-11B-38-024..
- 1.1.24 **Residence** shall mean and refer to any permitted structure or building constructed on a Lot or Lots within the Subdivision intended for a single-family residence and shall include any garage or other permissible structure built on a Lot for the use or enjoyment of the Occupants of the Residence. A Model Residence shall become a "Residence" when used as a single-family residence.
- 1.1.25 **Sub-Associations** shall mean and refer to the non-profit organizations formed under the Laws of the State of Ohio, which shall have the purposes of maintaining and administering the Utility Facilities, (as defined), and Cluster Residence Block Common Area(s), (as defined), providing services of general benefit to the Cluster Residence Lot Owners, administering and enforcing this Declaration, collecting and disbursing permissible assessments, and exercising the functions provided for in any Cluster Residence Block, pursuant to Article III, Section 3.17 et. seq.
- 1.1.26 **Subdivision** refers to "Blue Heron Estates." and shall mean and include all properties shown on the plats for the Subdivision, including: (I) the properties described in Article II, including but not limited to Non-Cluster Residence Lots, Cluster Residence Blocks, Cluster Residence Lots, Cluster Residence Common Areas, the Commercial Facilities Lot, the Recreation Facilities Lot and all Open Space.
- 1.1.27 **Subsequent Amendment** shall mean and refer to an amendment to this Declaration filed with the Medina County Recorder's Office, Medina County, Ohio. A Subsequent Amendment may add property to that covered by this Declaration in Article II hereof and may: (I) impose, expressly or by reference, additional restrictions and obligations on the real property submitted by such Subsequent Amendment to this Declaration; and/or (ii) otherwise amend the Declaration.
- 1.1.28 **Tenant** shall mean and refer to any person(s) having a possessory leasehold estate in a Residence, other than the owner and Occupant of a Residence.
- 1.1.29 **Township** shall mean and refer to the Township of Montville, organized and existing under the laws of the State of Ohio.

- 1.1.30 **Utility Facility or Utility Facilities** shall mean and refer to any common water, sanitary sewer, storm sewer, drainage, swales, streams, lake shore, electric, gas, telephone, cable TV, or other communications lines, now known or hereafter developed, and any other utility line, pipe, conduit, wire, facility, installation and service connection, and any appurtenances thereto. Utility Facility or Utility Facilities are common if they serve one (1) or more Lots, the Open Space and/or Cluster Residence Common Area(s). Utility service lines exclusively serving a specific Lot Owner's Residence are not considered common Utility Facility or Utility Facilities.

ARTICLE II: PROPERTIES SUBJECT TO THE DECLARATION

- 2.1 **Properties Subjected to Declaration.** This Fourth Subsequent Amendment to the original Declaration, Document 2003OR023233 of the Medina County, Ohio Recorder's Office, further subjects to this Declaration and the restrictions, limitations, covenants, and requirements imposed to the real property fully described in the attached: (i) Exhibit A (Non-Cluster Lots), (ii) Exhibit B (Cluster Residence Lots in Lookout Pointe), (iii) Exhibit C (Cluster Residence Lots in Clubhouse Pointe), (iv) Exhibit D (Cluster Residence Lots in Villas at Blue Heron), (v) Exhibit E (Commercial Lots), (vi) Exhibit F (Recreation Facility Swimming Pool Lot and Recreation Facility Tennis Court Lot), (vii) Exhibit G (Cluster Block Common Areas), and (viii) Exhibit H, (Open Spaces), which are incorporated herein as if fully retyped.
- 2.2 **Modification of Property.** Declarant and the developer of the Cluster Residence Lots in the Villas at Blue Heron, as an assignee of Declarant, reserve the right to revise the size and/or configuration of any Lot, Cluster Residence Block, Cluster Residence Block Common Area and/or Open Space or to increase or decrease the number of Lots in the Subdivision. To exercise such right, Declarant and/or the developer of the Cluster Residence Lots in the Villas at Blue Heron, as an assignee of Declarant, shall record a re-plat of the Subdivision with the Medina County Recorder with all necessary governmental approvals and if necessary, record a Subsequent Amendment to this Declaration.

ARTICLE III: BLUE HERON ESTATES PUD ASSOCIATION, INC.

- 3.1 **The Association.** Blue Heron Estates PUD Association, Inc., (the "Association"), is formed as a duly constituted not-for-profit corporation existing under the laws of the State of Ohio. The Association, as a non-profit corporation, is established to enforce and maintain the Subdivision, Blue Heron Estates, under this Declaration. The Association shall undertake the duties, obligations, charges, and restrictions established by this Declaration.

- 3.2 **Membership in the Association.** Membership in the Association is limited to the Lot Owners in the Subdivision. A Lot Owner shall automatically become and be a Member of the Association upon transfer of title of a Lot to the Lot Owner. The Members of the Association are divided into designated classes to determine a Lot Owner's right to vote for or appoint a designated Director to the Association's Board of Directors.
- 3.2.1 **Class A Members** shall consist of all Non-Cluster Lot Owners, whose property is listed in attached Exhibit A; their respective heirs, successors or assigns.
- 3.2.2 **Class B Members** shall consist of all Cluster Lot Owners of the Cluster Lots in "Lookout Pointe" listed in attached Exhibit B, their respective heirs, successors or assigns..
- 3.2.3 **Class C Members** shall consist of all Cluster Lot Owners of the Cluster Lots in "Clubhouse Pointe" listed in attached Exhibit C, their respective heirs, successors or assigns Class
- 3.2.4 **Class D Members** shall consist of all the Cluster Lot Owners in "Villas at Blue Heron", whose Cluster Lot is listed in attached Exhibit D, their respective heirs, successors or assigns.
- 3.2.5 **Class E Member.** The Class E Member shall be the Owner of the Commercial Lots described in Exhibit E, its successors or assigns.
- 3.2.6 **Class F Member.** The Class F Member shall be the Owner of the Recreation Facility Swimming Pool Lot and Recreation Facility Tennis Court Lot described in Exhibit E, its successors or assigns.
- 3.3 **The Association's Board of Directors.** The Association shall be managed by a Board of Directors, which shall consist of the following Directors:
- 3.3.1 **Class A Members' Election of Directors.** One (1) Director denominated the First Class A Director and one (1) Director denominated the Second Class A Director, both elected from and by the Class A Members,
- 3.3.2 **Class B and Class C Members' Directors.** Until the first annual meeting two (2) Directors elected by the Board of Directors of the Lookout Pointe Homeowners Association, Inc and thereafter one (1) Director elected by the Board of Directors of the Lookout Pointe Homeowners Association, Inc., and one (1) Director elected from and by the Class B and Class C Members,

- 3.3.3 **Class D Members' Election of Director.** One (1) Director elected from and by Class D Members,
- 3.3.4 **Class E Member's Appointment of Director.** One (1) Director appointed by Class E Member,
- 3.3.5 **Class F Member's Appointment of Director.** One (1) Director appointed by the Class F Member, and
- 3.3.6 **Failure to Elect or Appoint Director.** If the Members of a Class fail to elect or appoint a Director for the applicable term, then the duly elected or appointed Directors, as long as there are five (5) Directors, may appoint a Director to served to fill out the term of the Director that was not elected or appointed.
- 3.3.7 **Authority of Association's Board of Directors.** The Association's Board of Directors shall be authorized to exercise and fulfill the rights, duties, and obligations of the Association under this Declaration, including but not limited to, maintaining and administering the Open Space, (as defined), the Utility Facilities, (as defined), providing services of general benefit to the Lot Owners, collecting and disbursing assessments.
- 3.3.8 **Action By Association's Board of Directors.** Any action taken under Article III, Section 3.3.7 and under this Section 3.3.8 by the Association's Board of Directors shall be upon the vote of five (5) Directors, which shall be for all purposes be the "required vote" of all the Association's Board of Directors.
- 3.3.9 **President of Association's Board of Directors.** The initial Board of Directors shall elect from its Members a President to serve until the first annual meeting of the Association's Members. Thereafter, the President of the Board of Directors will be determined on a biennial, (every two years), rotation basis, with each Director serving for two (2) years starting with; the First Class A Director elected by Class A Members under Section 3.3.1, followed the Director appointed by the Board of Directors of Lookout Pointe Homeowners Association, Inc. under Section 3.3.2, followed by the Director elected by the Class B Members and Class C Members under Section 3.3.2, followed by the Director elected by Class D Members under Section 3.3.3, followed by the Second Director elected by Class A Members under Section 3.3.1 whereupon the same rotation of elected Directors to serve as President of the Board of Directors will repeat thereafter.
- 3.3.9.1 **Failure of Director to Serve As President.** For any reason, if any Director declines to serve or resigns as President of the Association's

Board of Directors, the remaining Directors then serving shall elect a President.

- 3.3.10 **President of Board of Directors To Preside Over Meetings.** The serving President of the Association's Board of Directors shall preside over all meetings of the Association and all meetings of the Association's Board of Directors.
- 3.4 **Voting Rights in Association.** Each Non-Cluster Residence Lot Owner, each Cluster Residence Lot Owner, the Commercial Facilities Lot Owner, and the Recreation Facilities Lot Owner are granted voting rights incident to membership in the Association and are entitled to one vote on matters called for a vote by the Association's Board of Directors, except for the election and/or appointment of the Association's Board of Directors, which shall be elected or appointed by Membership Class.
- 3.5 **Conveyance or Transfer of Lot.** Upon conveyance and transfer by a Lot Owner the title to the Lot Owner's Lot, the Lot Owner's membership in the Association shall terminate upon the conveyance of record of the Lot Owner's interest, and the new Lot Owner shall automatically become a Member of the Association.
- 3.6 **Co-Lot Owners.** When more than one person holds an interest in a single Lot, all such persons shall be members, and the vote for such Lot shall be exercised as they may determine among themselves. In no event shall more than one vote be cast by a Lot Owner, whether voting within a Class or when called a full vote of the Members of the Association is called by the Association's Board of Directors.
- 3.7 **Additional Conditions of Membership.** As a condition of Membership in the Association, each Lot Owner, the Recreation Facilities Owner, and the Commercial Facilities Owner agrees to abide by these Declarations, the *Articles of Incorporation*, *Code of Regulations*, and *Resolutions* of the Association's Board of Directors and any rules, policies and regulations promulgated pursuant to this Declaration. Payment of Assessments, when due, is a condition of Membership and upon non-payment of any Assessment, (unless exempted by Article IV, Section 4.7.8, et seq. A Member shall automatically be denied all privileges of use to any Open Space and/or Recreation Facilities until all Assessments of the Lot Owner are paid in full.
- 3.8 **Powers of Association.** Declarant covenants, for each Lot within the Subdivision, and each Lot Owner is deemed to covenant by acceptance of the deed for a Lot, whether or not it shall be so expressed in the deed, to the Association having the following expressed rights, powers, and authority. Notwithstanding the rights and easements of enjoyment and use created in this Declaration, in any Zoning Resolution adopted by Montville Township Board of Directors or Conditional Zoning Certificate issued by the Board of Zoning Appeals of

Montville Township, and besides any right otherwise set forth in this Declaration, or available in law or equity, the Association shall have the following rights, powers and authority:

- 3.8.1 **Enforcement of this Declaration.** To enforce this Declaration and any Subsequent Amendment regarding the Subdivision.
- 3.8.2 **Right of Entry.** To enter or authorize its agents to enter in or upon any property in the Subdivision, or any part thereof, when necessary, in connection with any maintenance, repair or construction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Lot Owner and Occupants thereof as practicable and any damage caused shall be repaired by the Association.
- 3.8.3 **Special Authority Over *The Water Quality Protective Deed Restrictions*.** All Property within the Subdivision is subject to *The Water Quality Protective Deed Restrictions* filed of record with the Medina County Recorder's Office at 2002OR024031 and each Lot Owner shall abide by *The Water Quality Protective Deed Restrictions* and the Association shall have the right and authority to enforce *The Water Quality Protective Deed Restrictions*. If any Lot Owner shall fail or refuses to keep a Lot in conformity with *The Water Quality Protective Deed Restrictions*, then the Association or its representatives may enter upon the Lot and maintain said Lot in conformity with *The Water Quality Protective Deed Restrictions* at the expense of the Lot Owner thereof and such entry shall not be deemed a trespass. The expenses incurred by the Association shall be considered a Special Assessment against the Lot Owner and his Lot, pursuant to Article IV, Section 4.1.4.
- 3.8.4 **Grant of Easements.** To dedicate, transfer or grant easements in all or any part of property, land or facilities owned by the Association or, with Declarant's prior written consent, property, land or facilities owned by the Declarant, (i) to any municipality, public agency, authority or utility or (ii) to any Lot Owner to install, operate, use, maintain, repair and replace in, on, over or under such property, land or any part thereof roads, right-of-way, pipes, conduits, ducts, wires television cables and equipment, and utility lines to provide or furnish electricity, telephone, television, and other communications, sanitary sewers and storm sewers, drainage, gas, water, energy of all types, utility services of all types and access to or to benefit the Lot Owners and/or the Association and further, to construct improvements and establish grade, and for such other purposes as determined by the Association.

- 3.8.5 **Right to Obtain Easements.** To obtain easements for the construction, extension, installation, inspection, maintenance or replacement of Utility Facilities and services to or from a public utility or governmental authority, and to or from any body or agency which has the power of eminent domain or condemnation.
- 3.8.6 **Right to Repair.** To repair, restore or otherwise correct a condition of disrepair or neglect to the exterior areas of any Lot, Cluster Residence Block Common Area(s) or Open Space and to perform any work or duties required of a Lot Owner or Tenant of same, under this Declaration, provided the Lot Owner or Tenant of same shall not have made such repair or restoration or shall not have cured said condition within a reasonable time after notice thereof from the Declarant or Association's Board of Directors; provided, however, that the Association's Board of Directors need not give notice if in its opinion it is acting to prevent personal injury or damage to property or other emergency. The expenses incurred by the Association shall be considered a Special Assessment against the Lot Owner and his Lot, pursuant to Article IV, Section 4.1.4.
- 3.8.7 **Right to Control and Maintenance of Walking Trail System.** The Association shall have the right, duty and authority to designate, maintain and control the use of all or part of the abandoned golf course cart paths located on the Open Spaces as a Walking Trail System.
- 3.8.8 **Fishing Rights.** The Association shall have the right, duty and authority to maintain and control fishing areas along a minimum of two lakes located on the Property, (the "Fishing Rights Area") and shall agree to periodically stock such lakes with fish.
- 3.8.9 **Use Rights to Walking Trail System and Fishing Rights of Lot Owners.** The use of the Walking Trail System described in Article III, Section 3.8.7 and rights to the Fishing Rights Area described in Article III, Section 3.8.8 shall be limited to the use and enjoyment of Lot Owners who are Voting Members of the Association, and Lot Owners' Occupants, Tenants, and occasional guests, subject to reasonable rules and regulations established by the Association.
- 3.8.10 **Use Rights to Walking Trail System and Fishing Rights of Members of Montville Lakes Homeowners Association, Parcels 1, 2, & 3.** Qualified Voting Members and their immediate families residing within a "Dwelling Unit," as defined in the deed restrictions creating Montville Lakes Homeowners Association, Parcels 1, 2, & 3 filed with the Medina County Recorder's Office, shall have the right and use of the Walking Trail System and right to the Fishing Rights Area, subject to reasonable rules and regulations established by the Association, if and

only if the Montville Lakes Homeowners Association, Parcels 1, 2, & 3 agree to a reasonable annual monetary contribution by the Montville Lakes Homeowners Association, Parcels 1, 2, & 3 for the reasonable maintenance of the Walking Trail System and maintenance of the Fishing Rights Area and stocking of the lakes described in Section 3.5.7.2. Such annual monetary contribution shall be established by the Board of Directors of the Association pursuant to this Declaration. If the Montville Lakes Homeowners Association, Parcels 1, 2 & 3 refuses to or elects not to make such annual monetary contribution, the rights of the Members and their immediate families residing within a "Living Unit," as defined in the deed restrictions creating Montville Lakes Homeowners Association, Parcels 1, 2 & 3 filed with the Medina County Recorder's Office, shall be limited to the and walking rights of visitors to the adjacent Township Park.

- 3.8.11 **Rental The Use of Adjacent Banquet And Meeting Facility.** The Association shall have the right to enter into a rental agreement(s) for the non-exclusive use with the Commercial Facilities Owner of the facility constructed within the Subdivision, which has been approved by the Montville Board of Zoning Appeals for use as a banquet facility and meeting facility as authorized by the Condition Zoning Certificates issued by the Montville Township Board of Zoning Appeals for meetings of the Association and a Sub-Association,
- 3.8.12 **Right To Suspend Rights.** There is an automatic suspension of voting rights and use rights to the Walking Trail System, Fishing Rights Area and licensed Recreation Facilities of a Lot Owner and his Occupants, Tenants and occasional guests during any period that an Assessment against a Lot Owner and his Lot remains unpaid for thirty (30) days or more or for any infraction of the Association published rules, policies and regulations and any rules and regulations established by the Commercial Facilities Owner and the Recreation Facilities Owner.
- 3.8.13 **Articles of Incorporation and Code of Regulations & Rules.** The Articles of Incorporation and a Code of Regulations for the Association are attached hereto as Exhibit I & Exhibit J and are incorporated by reference, as if re-typed, and shall govern the Association's governance.
- 3.8.14 **Open Space Rules.** The Association's Board of Directors may adopt reasonable and non-discriminatory rules and policies with respect to the use of the Open Space that do not conflict with the rights and limitations imposed by this Declaration.
- 3.8.15 **Exclusive Rights.** The Recreation Facilities Owner and the Commercial Facilities Owner shall have the exclusive right to promulgate reasonable and non-discriminatory Rules, Policies and Regulation with respect to the use of their

respective facilities.

- 3.8.16 **Assessments.** The Association shall have the right, authority and power to make Assessments and to create liens for same against each Lot and Lot Owner pursuant to and in the manner set forth in Article IV.
- 3.8.17 **Management.** The Association shall have the right, authority and power to provide the management and supervision for operating the Open Space and the Subdivision in general.
- 3.8.18 **Employees and Managers.** The Association shall have the right, authority and power to engage employees and agents, including, without limitation, attorneys, accountants and consultants, and maintenance firms and contractors.
- 3.8.18.1 **Managers and Management Company.** The Association shall have the right to delegate all or any portion of its authority and responsibilities to a manager or management company. Such delegation may be evidenced by a management agreement, lease or other written instrument and may include reasonable compensation for such terms as deemed reasonable and necessary under all circumstances.
- 3.8.19 **Insurance.** The Association shall have the right, power and authority to acquire insurance including but not limited to casualty, comprehensive liability, worker's compensation and directors' and officers' errors and omissions liability insurance and fidelity bonds.
- 3.8.20 **Right to Amend Declaration.** The Lot Owners or the Association's Members shall have the right and authority to waive, amend, or modify, after the thirtieth (30th) day following the Declarant ceasing to hold title or interest in any Lot, Open Space or Cluster Residence Block, Cluster Residence Lot, Cluster Residence Block Common Area within the Subdivision (as same may be modified or expanded by Subsequent Amendment), subject to the prohibitions of Article III, Section 3.8.21, Section 3.8.22, and Section 3.8.23 and the requirement of Section 3.8.24.
- 3.8.20.1 **Written Consent of Lot Owners.** If, for any reason, no Association exists, then any action under Article III, Section 3.8.2 shall require the written consent of seventy-five percent (75%) of the then Lot Owners. The written consent to the waiver, amendment, or modification by the Lot Owners, shall be an instrument which sets forth in full the text of the waiver, amendment or modification and be signed by said required

number of Lot Owners in the same manner and with all the requirements of a recordable deed in the State of Ohio.

3.8.20.2 **Vote of the Association's Members.** If the Association is lawfully formed, and lawfully recognized by the State of Ohio, then any action under Article III, Section 3.8.20 shall be by written consent of seventy-five percent (75%) of the then Association's Members. The written consent to the waiver, amendment, or modification by the Association's Members shall be an instrument which sets forth in full the text of the waiver, amendment or modification and be signed by said required number of the Association's Members in the same manner and with all the requirements of a recordable deed in the State of Ohio.

3.8.21 **No Right to Alter Association's Class Membership, Voting Rights, or Board of Directors.** The Lot Owners or the Association Members shall not have the authority, power or right under Article III, Section 3.8.20, et seq. to: (i) change the Class Membership of Lot Owners established under Article III, Section 3.2; (ii) change the manner and method of the election and appointment of Directors to the Associations' Board of Directors under Article III, Section 3.3; or (iii) change the right of any Member of the Association to vote under Article III, Section 3.4.

3.8.22 **No Right to Cancel Rights or Obligations of the Commercial Facilities Owner or Recreation Facilities Owner.** The Lot Owners or Association Members shall not have the authority, power or right under Article III, Section 3.8.20 et seq. to unilaterally: (i) cancel any right of the Commercial Facilities Owner or the Recreation Facilities Owner under this Declaration; (ii) cancel an obligation owed by Lot Owners to pay the Recreation Facilities Assessment under Article IV, Section 4.1.3 et seq.; (iii) affect the rights extended to Montville Lakes Homeowners Association, Parcels 1, 2, & 3 under Article IV, Section 4.1.3.7; or (iv) the right of the Recreation Facilities Owner to allow Non-Association Members Use of the Recreation Facilities for a fee under Article IV, Section 4.1.3.8.

3.8.23 **No Right To Impose Additional Restrictions on the Commercial Facilities Owner or Recreation Facilities Owner.** The Lot Owners or Association Members shall not have the authority, power or right under Article III, Section 3.8.20 to impose additional restrictions, limitations, covenants, and requirements on the Commercial Facilities Owner or the Recreation Facilities Owner by a Subsequent Amendment, regulation, or resolution of the Association.

3.8.24 Restriction On Right To Transfer Real Property

No Cluster Lot Common Area described in Exhibit G and/or Open Space described in Exhibit H, once titled in the Association, shall be sold or leased to any person. However, this restriction does not prohibit a transfer of any of such property described in Exhibit G and/or Exhibit H to a governmental entity or another non-profit corporation who undertakes the duties imposed upon the Association by the Declaration.

Notwithstanding any contrary provision herein, whenever the Board of Directors determines it is in the best interest of the Members to convey any interest in real property titled in the Association and/or its Board of Directors on behalf of the Association, the Board of Directors shall submit a proposed transfer of real property for the vote of the Members, and, upon the affirmative vote of the Members entitled to exercise not less than seventy-five percent (75%) of the voting power of the Association present in person or by proxy at an annual meeting or a special meeting duly held for such purpose, the Board of Directors may proceed with such transfer, in the name of the Association and on behalf of all Members, and the costs and expenses incident thereto shall constitute part of the General Maintenance Assessment under Article IV, Section 4.1.1.

3.8.25 Approval of Township. Any action taken under the authority of Article III, Section 3.8.20, shall be submitted and approved by the Township, if such action affects any rights of the Township or County, prior to filing of such instrument approved and executed pursuant to Article III, Section 3.8.20 and shall not be effective until any such instrument is filed of record with the Medina County Recorder's Office.

3.9 Obligations of the Association. The Association shall have the mandatory obligations set forth below:

3.9.1 Obligation For Open Space. The Open Space described herein shall be owned by the Association upon the Declarant transferring the Open Space to the Association. Transferring title to the Open Space by Declarant to the Association shall be not later than ninety (90) days following the sale of the last Lot owned by the Declarant and shall be held for the use and benefit of Members of the Association. The Association shall have these specific obligations for the Open Space:

3.9.1.1 Obligation to Enforce Restrictions. The Association shall have the obligation to enforce all restrictions and reservations on the Open Space

set forth in this Declaration.

- 3.9.1.2 **Association's Duty to Maintain Open Space.** After title to the Open Space, or any portion thereof, has been conveyed to the Association, it shall have the duty to maintain the Open Space. The Association shall maintain and keep in good repair the Open Space, which shall include the maintenance and repair of such non-dedicated rights-of-way, utility lines, pipes, wires, glass, conduits, and systems which are a part of the Open Space. The maintenance of the Open Space shall be deemed to include, but shall not be limited to, maintenance, repair and replacements, subject to insurance and casualty loss provisions contained herein, at the Association's cost and expense, of all trees, fences, shrubs, grass, streets, parking space, walks and other improvements situated upon the said Open Space, except the real property leased to the Recreation Facilities Owner, described in the Lease Agreement Dated January 4, 2020 and recorded on January 8, 2020 with the Medina County Recorder as Document No. 2020OR000487.
- 3.9.1.3 **Association's Duty to Pay Taxes and Assessments on Open Space.** The Association shall pay, prior to delinquency, all taxes and assessments levied against the Open Space including without limitations, personal property taxes, general real estate taxes and special assessments by the County.
- 3.9.1.4 **Association's Duty to Pay Utilities for Open Space.** The Association shall pay all charges for water, gas, sewer, electricity, light, heat, power, telephone and other services used, rendered or supplied to or in connection with the Open Space.
- 3.9.2 **Obligation to Enforce *The Water Quality Protective Deed Restrictions*.** The Association is obligated to enforce within the Subdivision *The Water Quality Protective Deed Restrictions* filed of record with the Medina County Recorder's Office at 2002OR024031 which are incorporated herein by reference, as if fully re-written herein, and are specifically made a part of this Declaration.
- 3.9.3 **Obligation to Enforce Rules & Regulations.** The Association is obligated to enforce the reasonable and non-discriminatory Rules and Regulations with respect to the use of any Lot or the Open Space, except the use of Cluster Residence Block Common Areas, the Commercial Facilities Owner's Lot, the Recreation Facilities Owner's Lot and the real property leased to the Recreation Facilities Owner, described in the Lease Agreement Dated January 4, 2020 and recorded on January

8, 2020 with the Medina County Recorder as Document No. 2020OR000487.

- 3.9.4 **Obligation to Enforce Assessments.** The Association shall have the obligation to make Assessments, to collect same and to enforce liens for non-payment of any assessment against each Lot and Lot Owner pursuant to and in the manner set forth in Article IV.
- 3.9.5 **Obligation to Obtain Insurance.** The Association shall, if applicable obtain, and keep in full force and effect the following insurance:
- 3.9.5.1 **Casualty Insurance.** Fire, extended coverage, vandalism and malicious mischief insurance, or risk insurance, insuring the improvements in the Subdivision owned by the Association which are normally insured (if any), in an amount equal to at least eighty percent (80%) of the full replacement cost thereof. Such insurance may have a deductible clause in an amount not exceeding Five Thousand Dollars (\$5,000.00) or, if the property has a value of less than Five Thousand Dollars (\$5,000.00), the Association shall not be required to maintain insurance on it.
- 3.9.5.2 **Liability Insurance.** Comprehensive general liability insurance (with automobile liability coverage if the Association owns any vehicles) covering claims for bodily injury or death occurring upon, in, or about the Open Space and any other property in the Subdivision owned by the Association (if any), with contractual liability and "personal injury" coverage, such insurance to afford protection to the limit of not less than One Million Dollars (\$1,000,000.00) with respect to both bodily injury and death and of not less than One Hundred Thousand Dollars (\$100,000.00) with respect to property damage. The insurance procured under this Section shall designate as additional insureds the Declarant, all parties to this Declaration and the Lot Owners.
- 3.9.5.3 **Worker's Compensation Insurance.** The Association shall maintain Worker's Compensation Insurance if required under the applicable laws of the State of Ohio.
- 3.9.5.4 **Additional Insurance.** The Association may, but shall not be obligated to, obtain and maintain such additional and other insurance as it deems desirable, including without limitation, directors and officers liability insurance and fidelity bonds.
- 3.9.6 **Obligation to Manage.** The Association shall provide the management and

supervision of the Open Space and the Subdivision in general. The Association shall establish and maintain such policies, programs and procedures to implement this Declaration for the purposes intended and to benefit the Members and may, but shall not be required to:

- 3.9.6.1 **Adopt Rules.** The Association may adopt its own rules, polices and regulations regarding the use of the Open Space.
- 3.9.6.2 **Engage Employees and Agents.** The Association shall engage, by contract or by direct employment, sufficient employees, or other Persons to carry out, implement or enforce any obligation imposed upon the Association by this Declaration.
- 3.9.7 **Obligation to Delegate.** If the Association does not employ sufficient staff to carry out the obligations imposed upon the Association by this Declaration or the Board of Directors determines that it is more economical to delegate all or any portion of its authority and responsibilities to a manager, managing agent, or management company, it shall be obligated to do so.
- 3.9.8 **Obligation for Dispute Resolution.** The Board of Directors, to the best of its ability, shall act as an arbitrator of disputes between Lot Owners, or between Lot Owner, a Occupant or Tenant(s) of such Lot Owner and the Commercial Facilities Owner or between a Lot Owner, a Occupant or Tenant(s) of such Lot Owner and the Recreation Facilities Owner. All parties to the dispute, however, must agree to submit such dispute to the Board of Directors.
- 3.9.9 **Obligation to Issue Certificate of Compliance.** The Association shall have the obligation to issue "Certificate of Compliance" pursuant to Article IX, Section 9.16.
- 3.9.10 **Obligation to Continue Recreation User Fees.** The Association shall continue the monthly Recreation Facility User Fee Assessments authorized under Article IV, Section 4.1.3 and continue the right of the Recreation Facilities Owner to monthly invoice, receive and collect the Recreation Facility User Fee Assessments, so long as the Recreation Facilities Owner maintains and operates a swimming pool and two tennis courts and makes the same available for the use by the Lot Owners under the conditions provided in this Declaration.
- 3.10 **Sub-Associations.** There shall be two recognized and authorized Sub-Associations:
 - 3.10.1 **Lookout Pointe Homeowners' Association, Inc.** The Lookout Pointe Clusters,

described in Exhibit B and Clubhouse Pointe Clusters described in attached Exhibit C, have an established not-for-profit Ohio corporation, Lookout Pointe Homeowners' Association, Inc., which shall maintain the Common Cluster Residence Block Common Area(s) describe in attached Exhibit G.

- 3.10.2 **The Villas At Blue Heron Owners' Association, Inc.** The Seventeen Cluster Residence Lots described in attached Exhibit D, shall establish a not-for-profit Ohio corporation, The Villas at Blue Heron Homeowners' Association, Inc., which shall maintain the Common Cluster Residence Block Common Area(s) within and adjacent to the Cluster Lot Owners in The Villas At Blue Heron described in attached Exhibit G.
- 3.10.3 **Declaration of Sub-Association's Rights.** A Sub-Association shall be granted the rights herein by recording a declaration of restrictions and covenants creating such Sub-Association with the Medina County Recorder, after such declaration has been approved in writing by the Township and/or County.
- 3.10.3 **Sub-Associations to Hold Title To Common Areas.** A Sub-Association shall have the right, authority, and obligation to hold title to Cluster Residence Block Common Area(s) adjacent to the Cluster Residence Lots.
- 3.10.4 **Obligations of Sub-Association.** A Sub-Association receiving title to one or more Cluster Residence Block Common Area(s) shall assume full responsibility and obligation for the Cluster Residence Block Common Area(s), including:
- 3.10.4.1 **Sub-Association's Duty to Maintain.** The Sub-Association shall maintain and keep in good repair the Cluster Residence Block Common Area(s), which shall include the maintenance and repair of such non-dedicated rights-of-way, non-public-dedicated streets, utility lines, pipes, wires, glass, conduits, and systems which are a part of the Cluster Residence Block Common Area(s). The maintenance of the Cluster Residence Block Common Area(s) shall be deemed to include, but shall not be limited to, maintenance, repair and replacements, subject to insurance and casualty loss provisions contained herein, at the Sub-Association's cost and expense, of all trees, fences, shrubs, grass, streets, parking space, walks and other improvements situated upon the Cluster Residence Block Common Area(s).
- 3.10.4.2 **Sub-Association's Duty to Pay Taxes and Assessments on Cluster Residence Block Common Area(s).** The Sub-Association shall pay, prior to delinquency, all taxes and assessments levied against the Cluster

Residence Block Common Area(s) including without limitations, personal property taxes, general real estate taxes and special assessments by the County.

- 3.10.4.3 **Sub-Association's Duty to Pay Utilities for Cluster Residence Block Common Area(s).** The Sub-Association shall pay all charges for water, gas, sewer, electricity, light, heat, power, telephone and other services used, rendered or supplied to or in connection with the Cluster Residence Block Common Area(s).
- 3.10.4.4 **Obligation to Enforce Rules & Regulations.** The Sub-Association is obligated to enforce the reasonable and non-discriminatory Rules and Regulations with respect to the use of a Cluster Residence Lot, Cluster Residence Block Common Area.
- 3.10.4.5 **Obligation to Make Sub-Assessments.** The Sub-Association shall have the obligation to make assessments, (Sub-Association Assessment”), to collect same and to enforce liens for non-payment of Sub-Association Assessments against each Cluster Lot Owner and his Cluster Residence Lot in the manner set forth in Article IV, Section 3.8 et seq. Sub-Association Assessments shall be in addition to all other Assessments authorized to be made by the Association.
- 3.10.4.6 **Obligation to Obtain Insurance.** The Sub-Association shall, if applicable obtain, and keep in full force and effect the following insurance:
 - 3.10.4.6.1 **Casualty Insurance.** Fire, extended coverage, vandalism and malicious mischief insurance, or risk insurance, insuring the improvements in the Subdivision owned by the Sub-Association which are normally insured (if any), in an amount equal to at least eighty percent (80%) of the full replacement cost thereof. Such insurance may have a deductible clause in an amount not exceeding Five Thousand Dollars (\$5,000.00) or, if the property has a value of less than Five Thousand Dollars (\$5,000.00), the Sub-Association shall not be required to maintain insurance on it.
 - 3.10.4.6.2 **Liability Insurance.** Comprehensive general liability insurance (with automobile liability coverage if the Sub-Association owns any vehicles) covering claims for bodily

injury or death occurring upon, in, or about the Cluster Residence Block Common Area(s) and any other property in the Subdivision owned by the Sub-Association (if any), with contractual liability and "personal injury" coverage, such insurance to afford protection to the limit of not less than One Million Dollars (\$1,000,000.00) with respect to both bodily injury and death and of not less than One Hundred Thousand Dollars (\$100,000.00) with respect to property damage. The insurance procured under this Section shall designate as additional insureds the Association, the Sub-Association and Cluster Lot Owners

- 3.10.4.6.3 **Additional Insurance.** The Association may, but shall not be obligated to, obtain and maintain such additional and other insurance as it deems desirable, including without limitation, directors and officers liability insurance and fidelity bonds.
- 3.10.4.7 **Obligation to Manage.** The Sub-Association shall provide the management and supervision for operating Cluster Residence Common Area(s). The Sub-Association shall establish and maintain such policies, programs, and procedures to implement this Declaration for the purposes intended and to benefit the Sub-Association Members.
- 3.10.4.8 **Adopt Rules.** The Sub-Association may adopt its own rules, polices and regulations regarding the use of the Cluster Residence Common Area and any amenity therein/thereon.
- 3.10.4.9 **Engage Employees and Agents.** The Sub-Association shall engage, by contract or by direct employment, sufficient employees or other Persons to carry out, implement or enforce any obligation imposed upon the Sub-Association by this Declaration.
- 3.10.4.10 **Obligation to Delegate.** If the Sub-Association does not employ sufficient staff to carry out the obligations imposed upon the Association by this Declaration or the Sub-Association Board of Directors/Trustees determines that it is more economical to delegate all or any portion of its authority and responsibilities to the to a manager, managing agent, or management company, it shall have to do so.
- 3.10.4.11 **Obligation for Dispute Resolution.** The Sub-Association Board of Directors/Trustees, to the best of its ability, shall act as an arbitrator of

disputes between Cluster Lot Owners, or between Cluster Lot Owner, a Occupant or Tenant(s) of such Cluster Lot Owner and the Commercial Facilities Orner or between a Lot Owner, a Occupant or Tenant(s) of such Lot Owner and the Recreation Facilities Owner. All parties to the dispute, however, must agree to submit such dispute to the Board of Directors/Trustees.

3.10.4.12 **Obligation to Issue Certificate of Compliance.** The Association shall have the obligation to issue "Certificate of Compliance" pursuant to Article IX, Section 9.16.

3.10.5 **Governing Restrictions.** A Sub-Association may establish governing restrictions, covenants and rules and regulations for the Cluster Residence Block and Cluster Residence Block Common Area(s) in addition to this Declaration, however, any such additional governing restrictions, covenants and rules and regulations of a Sub-Association which conflict with this Declaration, this Declaration shall control.

3.10.6 **Cluster Lot Owner's Deed & Title.** Any purchaser of a Cluster Residence Lot subject to a Sub-Association and any restrictions, covenants and rules and regulations of a Sub-Association shall accept his deed for such Cluster Residence Lot, whether expressed in such deed or not, subject to this Declaration and the restrictions, covenants and rules and regulations imposed thereon by the Sub-Association.

3.10.7 **Cluster Lot Owner A Dual Member.** A Cluster Lot Owner of a Cluster Residence Lot subject to a Sub-Association shall be a member of the Sub-Association and a Member of the Association.

3.10.8 **Sub-Associations May Be Merged.** After the Villas at Blue Heron Owner's Association is established as a Sub-Association and has been transferred ownership of all Cluster Residence Block Common Area(s), upon vote of two-thirds (2/3) of such Sub-Association's voting membership, such Sub-Association may elect to merge with Lookout Pointe Homeowners Association, Inc.; contingent upon the two thirds (2/3) vote of the members of Lookout Pointe Homeowners Association, Inc. approving the merger.

3.10.8.1 **Merger Does Not Affect Election of Director.** The merger of Sub-Associations under Article III, Section 3.10.8 shall not alter the Cluster Lot Owners' Class Membership rights to elect a Director to the Association's Board of Directors under Article III, Section 3.2.

ARTICLE IV: ASSESSMENTS AND LIEN RIGHTS

- 4.1 **Covenant for Assessments.** Declarant covenants, for each Lot within the Subdivision, and each Lot Owner and/or Ownership Interest to a Lot is deemed to covenant by acceptance of the deed for a Lot and/or Ownership Interest to a Lot, whether or not it shall be so expressed in the deed, to pay to the Association the following Assessments:
- 4.1.1 **General Maintenance Assessment.** A "General Maintenance Assessment" shall be levied yearly against each Lot Owner and his Lot. The General Maintenance Assessment shall be used to maintain any lands, rights or property titled in the Association or required to be maintained by the Association to include but not be limited to: Open Space, any building, street, undedicated roads/streets, landscaping, front entrance, street lighting, snow plowing, insurance, and any other maintenance items within the Subdivision and not the direct responsibility of any governmental agency or any private Lot Owner. The amount of such General Maintenance Assessment shall be determined upon the required vote of Association's Board of Directors annually on or before December 31st for the forthcoming year. The amount of the annual General Maintenance Assessment shall be in amount necessary to promote the health, safety, and welfare of the Subdivision.
- 4.1.1.1 **Exception.** The General Maintenance Assessments shall be made at by the Board of Directors within a reasonable time after being constituted.
- 4.1.1.2 **Manner of Computation of General Maintenance Assessment.** All Lot Owners shall pay the yearly General Maintenance Assessment in accordance with the fraction, the numerator of which being the total number of Lots owned by a Lot Owner and the denominator of which being the total number of Lots owned by all Lot Owners in the Subdivision. By way of example, when there are ten (10) Lots owned by Lot Owners in the Subdivision each Lot Owner that owns one of those Lots shall pay the General Maintenance Assessment equal to one-tenth (1/10) of the General Maintenance Assessment. The General Maintenance Assessment shall be collected monthly from each Lot Owner.
- 4.1.2 **Maintenance Assessment for Cluster Residence Block Common Area(s).** A "Cluster Residence Maintenance Assessment" shall be levied yearly against each Cluster Residence Lot Owner and his Cluster Residence Lot. The Cluster Residence Maintenance Assessment shall be used to maintain any Cluster Residence Block Common Area(s), required to be maintained by the Association

or any Sub-Association, to include, but not be limited to: any building, street, undedicated roads/streets, landscaping, front entrance, street lighting, snow plowing, insurance and any other maintenance items within the Cluster Residence Block and/or Cluster Residence Block Common Area(s) and not the direct responsibility of any governmental agency or any private Lot Owner. Such Assessments shall be made equally against each Cluster Residence Lot Owner and his Cluster Residence Lot. The amount of such General Maintenance Assessments shall be determined annually on or before December 31st for the forthcoming year by a by a majority vote of the Board of Directors or the managing board of the Sub-Association and shall be an amount necessary to promote the health, safety, and welfare of the residents of any Cluster Residence Block for which the Association or any Sub-Association has the above responsibilities. The Sub-Association shall have the exclusive authority to levy and collect the "Cluster Residence Maintenance Assessment" authorized by this Section.

4.1.2.1 **Manner of Computation of Cluster Residence Maintenance Assessment.** All Cluster Lot Owners shall pay the yearly Cluster Residence Maintenance Assessment in accordance with the fraction, the numerator of which being the total number of Cluster Residence Lots owned by a Cluster Lot Owner and the denominator of which being the total number of Lots owned by all Cluster Lot Owners in a Cluster Residence Block(s). By way of example, when there are ten (10) Cluster Residence Lots owned by Cluster Residence Lot Owners each Cluster Residence Lot Owner that owns one of those Cluster Residence Lots shall pay the Cluster Residence Maintenance Assessment equal to one-tenth (1/10) of the Cluster Maintenance Assessment. The Cluster Residence Maintenance Assessment shall be collected monthly.

4.1.3 **Recreation Facilities User Fee Assessment.** In consideration of the Recreation Facilities Owner maintaining and operating the Recreation Facilities, a monthly "Recreation Facility User Fee Assessment" is permanently levied against each Lot Owner and his/her/its Lot in an amount of Eighty-Two dollars (\$82.40) per month each year per Lot Owner, so long as the Recreation Facilities Owner maintains a swimming pool and tennis courts within the Subdivision for the use by Lot Owners, their family and guests, subject to the rules and regulations adopted for the use of same by the Recreation Facilities Owner. The Recreation Facility User Fee Assessment shall be paid in full monthly to the Recreation Facilities Owner.

4.1.3.1 **Increase In Recreation Facilities User Fee.** The Recreation Facility User Fee may be increased upon a required vote of the Association's

Board of Directors, subject to rejection of such increase by a petition signed by fifty-one (51%) percent (51%) of the Voting Members of the Association objecting to the increase.

- 4.1.3.2 **Collection of Recreation Facilities User Fee.** Collection of the Recreation Facility User Fee Assessment shall be by monthly invoice submitted to each Lot Owner by the Recreation Facilities Owner.
- 4.1.3.3 **Exclusive Right To Collect.** The Recreation Facilities Owner shall have the exclusive right to collect the Recreation User Fee Assessment established by Article IV, Section 4.1.3.
- 4.1.3.4 **Report of Non-payment.** The Recreation Facilities Owner shall on or before the 31st day of December of each year submit to the Association a list of Lot Owner(s) who have not paid in full the Recreation Facility User Fee Assessment.
- 4.1.3.5 **Certified as Lien.** All reported Lot Owners who have unpaid Recreation User Fee Assessments that exceeds Five Hundred Dollars (\$500.00) shall be certified as a lien upon the delinquent Lot Owner's Lot under Article IV, Section 4.7.
- 4.1.3.6 **Use of the Recreation Facilities.** The Recreation Facilities Owner shall operate the Recreation Facilities during periods of normal seasonable and reasonable times of operations and shall allow the use of the Recreation Facilities to all Lot Owners who are Voting Members of the Association, Lot Owners' Occupants, Tenants, and occasional guests subject to payment of the Recreation User Fee Assessment. The use of the Recreation Facilities by any Person pursuant to this Article IV, Section 4.1.3.6 shall be subject to the reasonable rules and regulations established for the use of the Recreation Facilities by the Recreation Facilities Owner.
- 4.1.3.7 **Use Rights Extended to Montville Lakes Homeowners Association, Parcels 1, 2, & 3.** Qualified Voting Members and their immediate families residing within a "Living Unit," as defined in the deed restrictions creating Montville Lakes Homeowners Association, Parcels 1, 2, & 3 filed with the Medina County Recorder's Office, shall have the use of such Recreation Facilities, at the sole election of each individual member of the Montville Lakes Homeowners Association, Parcels 1, 2, & 3, if such member shall pay the monthly

Recreation Facility User Assessment directly to the Recreation Facilities Owner. The use of the Recreation Facilities by any Person pursuant to this Article IV, Section 4.1.3.7 shall be subject to the reasonable rules and regulations established for the use of the Recreation Facilities by the Recreation Facilities Owner.

- 4.1.3.8 **Right To Allow Non-Association Members Use.** Nothing in Article IV, Section 4.1.3 et seq. shall limit the Recreation Facilities Owner from allowing use of the Recreation Facilities by Persons who are not Members of the Association and collecting fees for such use.
- 4.1.4 **Special Assessments Against a Single Lot and/or Lot Owner.** A "Special Assessment" shall be levied by the Board of Directors against any Lot Owner and his Lot for the costs of enforcement of any restriction in this Declaration. A Special Assessment shall include the cost borne/incurred by the Association in enforcing a violation of any restriction in this Declaration by a Lot Owner or any Lot Owner's Occupant Tenant and/or guest. The cost borne/incurred by the Association shall include, but not limited to, the actual cost expended by the Association to bring any Lot into compliance upon refusal of a Lot Owner to do so, the amount of any damage caused to any Property by those individuals enumerated in the preceding sentence, attorney fees and court costs, if any.
- 4.1.5 **Major Improvement Assessments.** A "Major Improvement Assessment" may be levied by the Board of Directors for any major improvement to benefit the Subdivision after an affirmative vote of at least FIFTY-ONE (51%) of the Voting Members of the Association. A Major Improvement Assessment shall be defined as the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the Open Space including lake dams, fixtures and personal property related thereto.
- 4.1.6 **Special Emergency Assessment.** A "Special Emergency Assessment shall be levied by the Association's Board of Directors against each Lot Owner and his Lot in the event of an emergency, national or natural disaster. No Special Emergency Assessment shall be levied until the Association's Board of Directors determines that such Special Emergency Assessment is necessary for the safety, welfare and protection of the Subdivision and that immediate funds must be expended to save loss of life or property.
- 4.1.7 **Manner of Computation of Major Improvement and/or Special Emergency Assessment.** All Lot Owners shall pay all Major Improvement Assessments, and/or Special Emergency Assessments in accordance with the fraction, the

numerator of which being the total number of Lots owned by a Lot Owner and the denominator of which being the total number of Lots owned by all Lot Owners in the Subdivision. By way of example, when there are ten (10) Lots owned by Lot Owners each Lot Owner that owns one of those Lots shall pay an Assessment equal to one-tenth (1/10) of the Major Improvement Assessment, and/or Special Emergency Assessment. A Major Improvement Assessment, and/or a Special Emergency Assessment may be levied over a period of years by the Association's Board of Directors, however, collected on a monthly basis.

4.2 **Use of Assessments.** All Assessments levied by the Association, except the Recreation Facilities User Fee Assessment under Article IV, Section 4.1.3, shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Subdivision for the improvement and maintenance of the Open Space, for the intended use of any Assessment and/or as is otherwise consistent with the rights, obligations and responsibilities of the Association and for the benefit of its Voting Members.

4.2.1 **No Claim To Assessments.** No Lot Owner or any owner of an Ownership Interest in a Lot shall be entitled to any portion of the funds held for reserves; nor shall any Person have a claim against the Association with respect thereto.

4.3 **Non-Liability of Foreclosure Sale Purchaser For Past Due Assessments.** When an institutional first mortgagee or purchaser at a foreclosure sale of an institutional first mortgage acquires an Ownership Interest because of foreclosure or the acceptance of a deed in lieu of foreclosure, such mortgagee or purchaser, their respective successors and assigns and all future grantees of the Lot, shall not be liable for the Assessments levied against the owner of such Ownership Interest in a Lot before acquisition of title to the Ownership Interest whether a lien has been filed under Article IV, Section 4.7 et seq. Any funds received on the judicial sale of the Ownership Interest over the mortgage lien, the court costs and the real estate taxes and governmental assessments shall, 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 Lot Owner and/or owners of an Ownership Interest shall be and remain personally and primarily liable, jointly and severally, for the Assessments accruing against the Ownership Interest before the date of the judicial sale, as provided in this Section.

4.4 **Liability for Assessments Upon Voluntary Conveyance.** Except as set forth in Article IV, Section 4.3, the grantee(s) of an Ownership Interest shall be jointly and severally liable with the grantor for all unpaid Assessments, whether a lien has been perfected, without prejudice to the grantee(s)'s right to recover from the grantor the amounts paid by the grantee(s) therefor. A mortgagee other than a first institutional mortgagee, a purchaser at a foreclosure sale of a mortgage other than a first mortgage held by an institutional mortgagee, their

respective successors and assigns, a devisee of an Ownership Interest, or the transferee of an Ownership Interest under the statute of Descent and Distribution, shall be deemed to have obtained said Lot pursuant to a voluntary conveyance for purposes of this Section.

- 4.5 **No Right to Waive Assessments.** No Lot Owner or the Association's Board of Directors shall have the right to waive any individual Lot Owner's obligation to pay past due, current, or future Assessments. Any such representation by any Lot Owner, builder, or real estate agent or broker for same shall be an actual fraud upon any person acquiring an Ownership Interest in and to a Lot with such representation whether written or oral.
- 4.6 **No Exemption for Non-Use of Recreation Facilities or Open Space.** A Lot Owner or any Ownership Interest in a Lot not otherwise exempt from the Assessments may not exempt himself from liability for Assessments levied against him by waiver of the use of the Walking Trail System, the Fishing Rights Area or the Recreation Facilities maintained by the Recreation Facilities Owner, or any other amenity owned, leased, licensed and/or operated by the Association, or by abandonment of his Lot.
- 4.7 **Creation of Lien for Unpaid Assessments.** Each Lot Owner covenants and agrees by acceptance of the deed to an Ownership Interest in and to a Lot, whether or not expressed in any such deed, to pay all Assessments levied against a Lot Owner under this Declaration by the due date to the Association or directly to the Recreation Facilities Owner the Recreation Facility User Fee Assessment established in Section 4.1.3. If a Person liable for the payment of an Assessment shall fail to pay the same when due, the Association or the Recreation Facilities Owner shall notify said Person, in accordance with Ohio Revised Code 5312.11 (C), of failing to make said payment. If the Assessment is not paid within ten (10) calendar days following said notification, then such Assessment shall be "delinquent" and, together with such interest thereon at the maximum rate permitted to be charged to individuals in Ohio from the date said payment was due and costs of collection, including but not limited to attorney fees and court costs, and shall, upon "perfection" as provided in Article IV, Section 4.7.1, become a continuing lien, (the "Lien"), upon the Lot and any Ownership Interest of such Person regarding such Lot and any Residence thereon and shall bind such Ownership Interest in the hands of the then Lot Owner, his heirs, executors, administrators, devisees, personal representatives, successors and assigns. Each co-Lot Owner of a Lot shall be personally liable, jointly, and severally, with all other co-Lot Owners for all Assessments made by the Association regarding said Lot. The assessment lien provided for herein shall be subordinate to the Lien of any first institutional mortgage on a Lot but shall not be subordinate to any other mortgage lien unless the written consent of the Association to such further subordination is recorded in the Medina County Records.
- 4.7.1 **Perfection of Lien.** If any Lot Owner shall fail to pay when due an Assessment levied under this Declaration (such Lot Owner hereinafter referred to as the

“Delinquent Lot Owner”), the Board of Directors of the Association shall authorize the perfection of a lien on the Ownership Interest of the Delinquent Lot Owner on the Residence for which Assessments have not been paid by filing for record with the recorder of Medina County, Ohio a Certificate of Lien. The Certificate of Lien shall be in recordable form and shall include:

- 4.7.1.1 **Name of Lien Claimant.** The Lien shall be in the name of the Board of Directors of the Association against the named Delinquent Owner.
 - 4.7.1.2 **Description of Lot.** A description of such Delinquent Owner’s Lot for which Assessments were not paid.
 - 4.7.1.3 **Amount Due.** The entire amount claimed, including any delinquency, the rate of interest accruing thereon and actual and estimated cost of collection.
 - 4.7.1.4 **Declaration Authority.** A statement referring to this Declaration and lien authorization.
 - 4.7.1.5 **Signing of Certificate.** The Certificate of Lien shall be signed before a notary public by one of the Association’s Board of Directors, however, Liens for Recreation Facilities User Fee Assessments may be signed by a duly authorized agent of the Recreation Facilities Owner.
- 4.7.2 **Duration of Lien.** Any lien created pursuant to Article IV, Section 4.7.1 shall remain valid for five (5) years from the time of filing of the Certificate of Lien, unless an action to enforce same has then been commenced or the Lien is sooner released or satisfied, in the same manner provided by law for the release or satisfaction of mortgages on real property, or discharged by the final judgment or order of a Court of competent jurisdiction in an action brought to discharge such Lien.
- 4.7.3 **Priority of Lien.** Except as provided under applicable law, a Lien perfected under Article IV, Section 4.7.1 et seq. shall take priority over any lien or encumbrance subsequently arising or created, except liens for real estate taxes and governmental assessments and liens of a bona fide first mortgage to an institutional lender.
- 4.7.4 **Enforcement of Lien.** A Lien may be foreclosed in the same manner as a mortgage on real property in an action brought in the name of the Association after authorization from the Association’s Board of Directors. A Lien created for Recreation Facility User Fee Assessment may be brought by the Recreation

Facilities Owner in the name of and on behalf of the Association.

- 4.7.5 **Dispute as to Assessment.** A Lot Owner who believes that any Assessment levied by the Association against his Ownership Interest in a Lot for which a Certificate of Lien has been filed by the Association or on behalf of the Association by the Recreation Facilities Owner has been improperly determined, may bring an action in the Court of Common Pleas of Medina County, Ohio, for discharge of all or any portion of such Lien, but the Lien shall continue until the actual amount of the Lien so determined is paid in full. The Association, or Recreation Facilities Owner on behalf of the Association may counterclaim in such action for foreclosure of the amount of Lien found to be due.
- 4.7.6 **No Waiver Implied.** The creation of a Lien upon any Ownership Interest owned by a Lot Owner shall not waive, preclude or prejudice the Association or the Recreation Facilities Owner from pursuing any other remedies granted to it elsewhere in this Declaration, at law, or in equity.
- 4.7.7 **Personal Obligations.** The Assessment obligations created under this Declaration shall be and remain the personal obligations of the Lot Owner(s) until paid, discharged or abated.
- 4.7.8 **Exemption from Assessments and Liens.** The following property shall be exempted from the Assessments and Liens established pursuant to Article IV, Section 4.1 et seq. and Article IV, Section 4.7 et seq., respectively:
- 4.7.8.1 **Government Property.** All properties to the extent of any easement or other interest therein dedicated and accepted by the State of Ohio, the County and/or the Township and devoted to public use.
- 4.7.8.2 **Tax Exempt Property.** All properties of the Township or the County which are exempted from taxation by the laws of the State of Ohio.
- 4.7.8.3 **Property of the Declarant.** All properties of the Declarant so long as it is fee title owner to any Lot within the Subdivision.
- 4.7.8.4 **Property of Cluster Residence Block(s).** All Cluster Residence Blocks that have not been platted as a Cluster Residence Lot.
- 4.7.8.5 **Property of Associations.** All property of a Sub-Association or property of the Association.
- 4.7.8.6 **Property of Commercial Facilities Owner.** The Association or its

Board of Directors shall not have the right to levy Assessments against the Commercial Facilities Owner or its Lots, other than the General Maintenance Assessment under Article IV, Section 4.1.1 and the Special Emergency Assessment under Article IV, Section 4.1.6 in an amount not greater than any other Lot Owner's General Maintenance Assessment, without the affirmative vote of the Director appointed by the Commercial Facilities Owner under Article III.

4.7.8.7 **Property of Recreation Facilities Owner.** The Association or its Board of Directors shall not have the right to levy Assessments against the Recreation Facilities Owner or its Lot or Leased real property other than the General Maintenance Assessment under Article IV, Section 4.1.1 and the Special Emergency Assessment under Article IV, Section 4.1.6 in an amount not greater than any other Lot Owner's General Maintenance Assessment, without the affirmative vote of the Director appointed by the Recreation Facilities Owner under Article III.

4.7.8.8 **Model Residence.** A Model Residence Home constructed by a builder on a Lot utilized by the original builder as a Model for sale of like homes to potential purchaser(s) for a period not to exceed two (2) years from date of issuance of a building permit for such Model Home by the County.

4.7.8.9 **Speculative Built Residence.** A Lot deeded to a qualified builder upon which he builds a Residence for immediate sale to others for a period not to exceed 12 months from date of issuance of a building permit for such Residence by the County.

4.8 **Right of Sub-Association to Make Additional Assessments.** A Sub-Association shall have the right to make and levy Sub-Association Assessments on their respective Cluster Lot Owners and their Cluster Residence Lots, for the obligations imposed under Article III, Sections 3.10.4 et seq.

4.8.1 **Personal Liability.** A Cluster Lot Owner or Co-Cluster Lot Owner of a Cluster Residence Lot shall be personally liable, jointly, and severally, for all Sub-Association Assessments made by the Sub-Association regarding the Cluster Lot Owner's Cluster Residence Lot.

4.8.2 **Creation of Lien for Unpaid Sub-Association Assessment.** Each Cluster Lot Owner covenants and agrees by acceptance of the deed to an Ownership Interest in and to a Cluster Residence Lot, whether or not expressed in any such deed, to

pay all Sub-Association Assessments levied against Cluster Lot Owner(s) and his/their Cluster Residence Lot under this Declaration by the due date to the Sub-Association. If a Cluster Lot Owner fails to pay the same when due, the Sub-Association shall notify the Cluster Lot Owner, in writing, of failing to make said payment. If the Sub-Assessment is not paid within ten (10) calendar days following said notification, then such Sub-Association Assessment shall be "delinquent" and, together with such interest thereon at the rate permitted to be charged to individuals in Ohio or twelve percent (12%) per annum, whichever is lower, from the date said payment was due and costs of collection, including but not limited to attorney fees and court costs.

4.8.3 **Perfection of Lien.** If any Cluster Lot Owner shall fail to pay when due a Sub-Association Assessment levied under this Declaration (such Cluster Lot Owner hereinafter referred to as the "Delinquent Lot Owner"), the Board of Directors/Board of Trustees of the Sub-Association shall authorize the perfection of a lien on the Ownership Interest of the Delinquent Cluster Lot Owner's Cluster Lot Residence for which the Sub-Association Assessment has not been paid by filing for record with the recorder of Medina County, Ohio a Certificate of Lien.

4.8.4 **Form of Certificate of Lien.** The Certificate of Lien shall be in recordable form and shall include:

4.8.4.1 **Name of Lien Claimant.** The Lien shall be in the name of the Board of Directors of the Association against the named Delinquent Owner.

4.8.4.2 **Description of Lot.** A description of such Delinquent Cluster Owner's Cluster Residence Lot for which the Sub-Association Assessment was not paid.

4.8.4.3 **Amount Due.** The entire amount claimed, including the amount of any delinquency, the rate of interest accruing thereon and actual and estimated cost of collection.

4.8.4.4 **Declaration Authority.** A statement referring to this Declaration and lien authorization.

4.8.4.5 **Signing of Certificate.** The Certificate of Lien shall be signed before a notary public by one of the Board of Directors/Board of Trustees of the Association.

- 4.8.5 **Duration of Lien.** Any lien created under Article IV, Section 4.8 et seq. shall remain valid for five (5) years from the time of filing of a Certificate of Lien, unless an action to enforce same has then been commenced or the Lien is sooner released or satisfied, in the same manner provided by law for the release or satisfaction of mortgages on real property, or discharged by the final judgment or order of a Court of competent jurisdiction in an action brought to discharge such Lien.
- 4.8.6 **Priority of Lien.** Except as provided under applicable law, a Lien perfected under Article IV, Section 4.8 et seq. shall take priority over any lien or encumbrance subsequently arising or created, except liens for real estate taxes and governmental assessments and shall be subordinate to the Lien of any first institutional mortgage on a Cluster Residence Lot, but shall not be subordinate to any other mortgage lien unless the written consent of the Sub-Association to such further subordination is recorded in the Medina County Records.
- 4.8.7 **Enforcement of Lien.** A Lien may be foreclosed in the same manner as a mortgage on real property in an action brought in the name of the Sub-Association after authorization from the Board of Directors/Board of Trustees of the Sub-Association.
- 4.8.8 **Dispute as to Assessment.** A Cluster Lot Owner who believes that any Sub-Association Assessment levied against his Cluster Residence Lot for which a Certificate of Lien has been filed by the Sub-Association, may bring an action in the Court of Common Pleas of Medina County, Ohio, for discharge of all or any portion of such Lien, but the Lien shall continue until the actual amount of the Lien so determined discharged by Order of the Court or is paid in full. The Sub-Association may counterclaim in such action for foreclosure of the amount of Lien found to be due.
- 4.8.9 **No Waiver Implied.** The creation of a Lien upon Cluster Residence Lot shall not waive, preclude or prejudice the Sub-Association from pursuing any other remedies granted to it elsewhere in this Declaration, at law, or in equity.
- 4.8.10 **Personal Obligations.** The Sub-Association Assessment obligations created under this Declaration shall be and remain the personal obligations of the Delinquent Cluster Lot Owner(s) until paid, discharged, or abated.
- 4.8.11 **No Right to Waive Sub-Association Assessment.** No Cluster Lot Owner or the Sub-Association's Board of Directors/Trustees shall have the right to waive any individual Cluster Lot Owner's obligation to pay past due, current, or future

Assessments. Any such representation by any Cluster Lot Owner, builder, or real estate agent or broker for same shall be an actual fraud upon any person acquiring an Ownership Interest in and to a Cluster Residence Lot with such representation whether written or oral.

ARTICLE V: GENERAL RESTRICTIONS

- 5.1 **General Restrictions And Obligations.** All Lot Owners and any owner of an Ownership Interest, his respective heirs, Directors, administrators, executors, successors, and assigns shall be bound by all the conditions, restrictions, covenants of this Declaration and Subsequent Amendment filed with the Medina County Recorder's Office. These obligations and restrictions shall be covenants that run with the land and shall be perpetual. In addition, each Lot Owner shall have these general responsibilities and such responsibilities shall not in any manner be imputed to the Declarant, the Association and/or Sub-Association:
- 5.1.1 **Taxes and Assessments.** Each Lot Owner shall pay, prior to delinquency, all taxes and governmental assessments and Assessments levied against the Lot owned by each Owner.
- 5.1.2 **Utilities.** Each Lot Owner shall pay all charges for water, gas, sewer, electricity, light, heat, power, telephone and other services used, rendered or supplied to or in connection with such Lot Owner's Residence, including, without limitation, the charges for electricity used in the light post in front of each Residence required by Article V, Section 5.6.5.
- 5.1.3 **Insurance.** Each Lot Owner, at his sole expense and cost, shall maintain and keep in full force and effect the following insurance:
- 5.1.3.1 **Liability Insurance.** Each Lot Owner shall maintain adequate insurance covering such Owner's Lot and Residence.
- 5.1.3.2 **Hazard Insurance.** Each Lot Owner shall maintain fire and "all risk" hazard insurance coverage on each Owner's Residence in the amount of the full replacement cost of such Residence.
- 5.1.3.3 **Hazard Contents Insurance.** Each lot Owner shall maintain hazard insurance on his contents and personal property, as such Lot Owner shall desire.
- 5.1.3.4 **Workman's Compensation.** Each Lot Owner shall maintain workman's

compensation insurance if required under the applicable laws of the State of Ohio.

- 5.2 **Township Zoning.** All Lot Owners and any owner of an Ownership Interest his respective heirs, trustee, administrator, executor, successor, and assigns shall be bound by all the Zoning Resolutions of Montville Township and all Conditional Zoning Certificates adopted by the Montville Township Board of Zoning Appeals for Blue Heron Estates and the Planned Unit Development of Montville Lake Subdivision.
- 5.3 **General Restriction On Open Space.** No Lot Owner or any other Person shall construct or place upon anything on the surface of the Open Space, Cluster Residence Block Common Area(s) or on the surface of any easement for the benefit of the Association or anyone to whom an easement may be granted, including, but not limited to, Utility Facility easements, without the prior written approval of the Association's Board of Directors.
- 5.4 **General Use Restrictions On Lot and Open Space.** All Lot Owners and Occupants, Tenants and guests of a Lot Owner shall make use of a Lot, Open Space and/or Cluster Residence Common Area(s) in such manner as not to create or maintain a nuisance and shall conduct all activities and enjoyment of a Lot, Open Space and/or Cluster Residence Common Area to prevent offensive, immoral, improper, or unlawful activities of any kind and being mindful of Declarant's and each Lot Owner's, the Association's and/or Sub-Association's right to peaceful enjoyment of his respective Lot, Open Space and/or Cluster Residence Common Area(s).
- 5.5 **Abide by Rules and Regulations.** All Lot Owners agree as additional restrictions, covenants, and obligations for their respective Lot, and for themselves and their heirs, successors and/or assigns and anyone claiming title through a Lot Owner or claiming privileges of membership in the Association or use of any Open Space rights or Recreation Facilities, to abide by, to adhere to and to assume any obligations, duties and restrictions in this Declaration, any Subsequent Amendment, and all rules and regulations of the Association, a Sub-Association, the Commercial Facilities Owner and Recreation Facilities Owner.
- 5.6 **General Conditions of Lot and Residence.** All Lot Owners shall provide good, neat, and orderly exterior maintenance repair upon each Lot and any Residence thereon, as follows:
- 5.6.1 **Exterior Maintenance of Residence.** Each Lot Owner shall keep such Lot Owner's Residence in good condition and repair and shall make all repairs and replacements, structural and non-structural, ordinary, and extraordinary, interior, and exterior, including, decks, porches, doors (including garage doors) and windows, including frames, hardware, and other appurtenances thereof. In

addition, each Lot Owner shall make all repairs and replacements necessitated by fire or other casualty within a reasonable time not to exceed one hundred and eighty (180) days. Such obligation to repair and/or replace includes but is not limited to regular repairs, replacements and maintenance of the exterior building surfaces, the roof, gutters, down-spouts, drives, walks and exterior lighting of the Residence constructed on a Lot.

- 5.6.2 **Grounds and Landscaping.** A Lot Owner shall properly landscape his Lot (including any areas within the right-of-way of any public dedicated street) and maintain all landscaping (including watering of grass) regularly. No weeds, underbrush, or other unsightly growth shall be permitted to grow or remain anywhere on a Lot by any Lot Owner, despite whether a Residence has been constructed on such Lot. All trees, shrubs, grass and other annual or perennial flora shall be kept in a living state and all dead flora shall be timely removed by the Lot Owner. No Lot shall remain without grass and landscaping for a period over one (1) year from the issuance of building permit by the County to construct a Residence on the Lot.
- 5.6.3 **Debris and Garbage.** No Lot Owner shall allow refuse, debris, pipes, unused construction material, or other unsightly objects to be placed, kept, allowed, or suffered to remain anywhere on a Lot. If any Lot Owner shall fail or refuse to keep a Lot in conformity, then the Association or its representatives may enter upon the Lot and maintain said Lot in conformity herewith at the expense of the Lot Owner thereof and such entry shall not be deemed a trespass. The expenses incurred by the Association shall be considered a Special Assessment against the Lot Owner and Lot under Article IV, Section 4.1.4.
- 5.6.4 **Cleaning - Snow Removal.** Each Lot Owner shall remove snow and ice, as may be reasonable in the circumstances, from, without limitations, all drives, sidewalks (including any sidewalks within the dedicated public right-of way in front of his Lot), steps, stoops, landings, and other paved areas on his Lot. This requirement may be undertaken by the Association or Sub-Association in Cluster Residence Block(s).
- 5.6.5 **Electric Posts.** Each Lot Owner shall keep in good condition and repair any electric posts in/on a Lot with a Residence and shall replace light bulbs promptly as required. Each Lot Owner of a Lot with a Residence shall cause the light to be lit during all hours of darkness and shall pay the electric utility charge for such light.
- 5.6.6 **Driveways and Sidewalks.** Each Lot Owner shall maintain all driveways,

sidewalks, steps, stoops, landings, patios, and other paved areas on his Lot or located between his Lot and the dedicated street adjacent to his Lot (including any areas within the right-of-way), in good condition and repair.

- 5.6.7 **Repairs Caused by the Wrongdoing of a Lot Owner, Occupant or Tenant.** Notwithstanding anything in this Declaration to the contrary, each Lot Owner shall be responsible to pay for or make all repairs and replacements which would otherwise be the responsibility of the Declarant, the County, the Township, the Association, the Sub-Association, other Lot Owners, Commercial Lot Owner and/or Recreation Facilities Owner, if the repairs or replacements are required because of the acts or negligence of the Lot-Owner or his Occupants, Tenants and/or guests.
- 5.6.8 **Standards for Maintenance and Repair.** All maintenance, repair and replacement required to be performed or made by a Lot Owner under the provisions of this Declaration, specifically Article V, Sections 5.6.1 through Section 5.6.7, shall be done in a good and workmanlike manner and in accordance with all federal, state, and local laws, statutes, resolutions, codes, and regulations. Any replacements required shall be of the same (or better) specifications, quality, kind, and type as the item being replaced. All repairs and maintenance shall be done promptly to maintain the values of the Property within the Subdivision.
- 5.7 **Land Use - Residential Use.** All of the Lots, except the Commercial Lots and the Recreation Facilities Lots, or as expressly provided to the contrary, including all Lots enlarged or recreated by shifting or location of side boundary lines, are restricted to the use of a single family, their household servants and guests, herein referred to as a single-family residence or Residence. Only one Residence shall be erected per Lot. A construction shed may be placed on a Lot and remain there temporarily only during active construction of a Residence. Otherwise, no portable building or trailers, mobile homes, campers may be moved onto a Lot.
- 5.8 **Land Use - Use of the Lot or Residence.** No industry, business, trade, occupation, or profession of any kind, whether permitted under any County and/or Township Zoning Resolution, whether for commercial, religious, educational, charitable, or other purposes, shall be conducted, maintained, or permitted on any Lot or in any Residence, except such as permitted by these and other applicable covenants herein written, specifically to wit:
- 5.8.1 **Declarant's Business Rights.** The Declarant may perform or cause to be performed such work as is incident to completing its development of the Subdivision and improvement of Property subject thereto.

- 5.8.1.1 **Model Residence.** The Declarant shall have the right to authorize builders to construct and maintain a Residence on a Lot as a Model Residence and utilize such Residence for the purpose of selling additional Lots and/or contracting for construction of like Model Residence(s) on Lots within the Subdivision.
- 5.8.1.2 **Specific Exemption.** Nothing in Article V, Section 5.7 or Section 5.8 shall limit the Commercial Facilities Owner or the Recreation-Facilities-Owner, either's successors or assigns, from operating their respective business enterprises on their respective Lots within the Subdivision.
- 5.8.2 **Right of Lot Owner to Construct Residence And Maintain.** A Lot Owner or contractor of agent or representative may perform or cause to be performed any construction, maintenance, repair, or remodeling work regarding any Lot or Residence.
- 5.8.3. **Right of Lot Owner To Lease Residence.** A Lot Owner shall have the right to lease his Residence for single family residential use, except, that no Residence shall be leased for a period less than one (1) year. No Lot Owner shall rent, let, or lease a Residence on a month-to-month, weekly or nightly rental, in whole or part.
- 5.8.4 **Right of Lot Owner To Home Office.** A Lot Owner, his Tenant or Occupant shall have the right to use a portion of a Residence for a personal private office and/or studio, provided:
- 5.8.4.1 **Home Office Not to Interfere.** That the activities therein shall not interfere with the quiet enjoyment or comfort of any other Lot Owner;
- 5.8.4.2 **No Walk-in Traffic.** That such use does not result in walk-in traffic to the Lot from the general public or from regular business invitees;
- 5.8.4.3 **No Commercial Traffic.** That such use does not result in any commercial traffic, frequent deliveries, parcel and package drop-offs and pick-up, regular daily United States Postal Service excepted; and
- 5.8.4.4 **Does Not Violate Zoning.** That such use does not violate any Township Zoning Resolutions.
- 5.9 **No Nuisances Permitted.** No Lot Owner shall permit nuisances or any safety hazard to remain on a Lot or Residence nor use or practice which is the source of nuisances or safety hazards to other Lot Owner(s) or any other Person or any Person, using the Walking Trail

System or using the Fishing Rights Area or using any other amenity within the Subdivision or which interferes with the peaceful possession and proper use of any other Property within or adjacent to the Subdivision.

- 5.10 **No Illegal Activities.** No Lot Owner or other Person shall permit any unlawful or illegal activities on a Lot, within a Residence or any other Property within or adjacent to the Subdivision.

ARTICLE VI: EASEMENTS

- 6.1 **Easements for Utilities.** There is reserved unto the Declarant, Association, Sub-Association and those designated by each (which include, without limitation, any Lot Owner, governmental body, political subdivision, any public or private utility company, the Commercial Facilities Owner, and Recreation Facilities Owner, blanket easements upon, in, across, over, and under all portions of the Property within the Subdivision, including, without limitation, Lots, excluding Residences, for installing, tying into, using, replacing, repairing and maintaining drainage systems, exterior lights and/or Utility Facilities, to benefit one or more than one Lot or Residence, Open Space, Cluster Residence Block, Cluster Residence Common Area(s) and/or Commercial Facilities and/or Recreation Facilities and or any adjacent property owned in whole or part by Montville Township, together with ingress and egress thereto.
- 6.2 **Access and Right-of-Way to Open Space.** The Declarant, its agents, contractors, and employees, the Association, its agents, contractors and employees, Sub-Association, its agents contractors and employees, and all Lot Owners and his Occupants, Tenants and their respective occasional guests shall have the perpetual and non-exclusive right of ingress, egress, access and passage to, from and over the Open Space, however, subject to the restrictions and covenants of this Declaration and any rules and regulations for the use thereof authorized by this Declaration.
- 6.3 **Access and Right-of-Way to Cluster Residence Block Common Area(s).** The Declarant, its agents, contractors, and employees, the Association, its agents, contractors and employees, Sub-Association, its agents contractors and employees, and all Cluster Residence Lot Owners and his Occupants, Tenants, and their respective occasional guests within a specific Cluster Residence Block shall have the perpetual and non-exclusive right of ingress, egress, access and passage to, from and over the specific Cluster Residence Block Common Area wherein such Cluster Residence Lot Owners' Cluster Residence Lot is located , however, subject to the restrictions and covenants of this Declaration and any rules and regulations for the use thereof authorized by this Declaration.
- 6.4 **Innocent Encroachments.** Easements for encroachments caused by inaccuracy of survey

or in construction or reconstruction of any street, rights-of-way, easement for Utility Facilities, any building or Open Space, Cluster Residence Block Common Area(s) caused by the settlement or movement and including easements for the maintenance and use of encroaching improvements in favor of the Declarant, a Lot Owner, Association, Sub-Association are hereby created, provided such encroachments are not intentionally created.

- 6.5 **Right To Granting Easements for Open Space, Cluster Residence Common Areas and Lots.** The Declarant, the Association, and any Sub-Association shall each have the right to grant and reserve non-exclusive easements to third parties to install, use, tie into, repair, maintain, replace and inspect all or any part of the Utility Facilities located from time to time in the Open Space and Cluster Residence Block Common Area(s) or within a Lot (excluding the Residence), and the drives and walks within the Open Space and Cluster Residence Block Common Area(s) of the Subdivision.
- 6.6 **Right to Grant Utility Easements to Adjacent Property.** The Declarant, the Association, and any Sub-Association shall each have the right to grant and reserve non-exclusive easements to utility companies for the installation, repair, and replacement of Utility Facilities within the Open Space or Cluster Residence Common Area(s) or on a Lot (excluding a Residence) as desired by the Declarant, the Association (acting through the Board of Directors) and a Sub-Association (acting through its authorized Board of Directors). For example, the Declarant, the Association, and/or Sub-Association could grant to the owner of adjacent property to the Property of the Subdivision (or could reserve for the Declarant to benefit land owned by Declarant not within the Subdivision) the right to install and/or to tie into and use a Utility Facility in the Subdivision or to use a private drive within the Open Space or Cluster Block Common Area(s) of the Subdivision, without violation of this Declaration and without the authorization of the Members of the Association.
- 6.7 **Declarant's Specific Reservation To Grant Easement.** Without limiting the foregoing Article VI, Sections 6.1 through Section 6.6, Declarant reserves the right and easement to install, tie into, use, repair, replace, inspect, and maintain all or any part of the Utility Facilities located from time to time in the Open Space, Cluster Block Common Area(s) or within a Lot (excluding a Residence) and private streets, drives and walks within the Open Space or Cluster Block Common Area(s) of the Subdivision, to benefit Declarant and any other owners and occupants of any real property Declarant may have an interest in adjacent to the Subdivision, or within any real property which is now or subsequently becomes a part of the Subdivision or any real property deleted from the Subdivision by Declarant. In addition to any other ways in which such easements may be further acknowledged, Declarant shall have the right to record an affidavit or other documentation referring to the rights granted to and reserved by Declarant herein and specifying the real property which will have the benefit of the rights and easements reserved herein.

- 6.8 **Parking Easement.** The Declarant, the Association, any Sub-Association or any builder/contractor of a Lot Owner and their respective agents, contractors, sub-contractors' employees, and customers shall have the right and easement to park in other areas necessary or desirable during construction of Residences or improvements or the repairs and maintenance thereof, or in connection with the sales of Lots or Residences, whether or not such construction is taking place on or off the Property.
- 6.9 **Easement to Maintain Sales Office, Models, Etc.** Notwithstanding any provisions in this Declaration to the contrary, so long as construction and sale of Lots and Residences by builders purchasing Lots from Declarant shall continue on/within the Subdivision or on any adjacent property owned by Declarant, it shall be expressly permissible for Declarant and those authorized by Declarant to maintain and carry on upon portions of the Open Space or Cluster Residence Common Area(s) such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the sale of Lots or the construction and sale of Residences on such Lots within the Subdivision, including, but not limited, administrative/customer services, construction offices/trailers, parking signs, signs, model Residences, and sales and resale offices, and those authorized by Declarant and their guests, licensees and invitees shall have an easement for access to such facilities and for use of other facilities reasonably required.
- 6.10 **Easements Created and Granted by Declarant to the County, Township or the Association.** The Declarant shall have the right to create and grant easements for the installation and maintenance of Utility Facilities and Common Utility Facilities to the County, Township, the Association or to any Sub-Association. No structures (including to sidewalks and driveways without the consent of Declarant or the Association, the County or Township), plants or other materials shall be placed or permitted to remain within such easement areas which may damage or interfere with the installation and/or maintenance of such improvements in such easement areas or which may change, retard, or increase the flow of water through the respective easement areas. The easement areas and all improvements therein shall be maintained continuously by the Association and/or Sub-Association unless those easement areas are accepted by the County and/or Township and either or both have formally undertaken to maintain same. The Declarant, the County, the Township, the Association or Sub-Association shall have the right to enter upon and across each Lot at any place deemed by one or more of the above to be necessary to install or maintain, or to perform any other function or operation under such easement.
- 6.11 **Emergency and Service Easements.** Easements are created in favor of fire, police, sanitation, medical, ambulance, school buses, utility companies, mail services and other public or quasi-public emergency and service personnel and their vehicles shall have an easement for ingress and egress over and across the roads or private drives and/or common drives within the Subdivision for the performance of their respective duties.

- 6.12 **Environmental Easement.** There is reserved to benefit any governmental authority, the Declarant, the Association, and their respective agents, employees, successors, and assigns an alienable, transferrable, and perpetual right and easement on, over, and across the Subdivision and any part thereof to take any action necessary to effect compliance with environmental rules, regulations, and promulgated by Declarant, the Association or by any governmental entity, such easement to include, without limitation, the right to implement erosion control procedures and practices, the right to drain standing water, the right to dispense pesticides and herbicides, the right to maintain any designated "wetland" areas or to enforce The Water Quality Protective Deed Restrictions.
- 6.13 **Benefitted Property.** The real property benefitting from the easement reserved or granted under any Section of this Article VI is referred to as the "Benefitted Property" and the owners of the Benefitted Property are referred to as the "Benefitted Owners." The Association and/or Sub-Association shall keep the common Utility Facilities, those facilities that serve the Open Space or Cluster Residence Common Area(s) or more than one (1) Lot or Residence of the Subdivision, in good condition and repair. Each Benefitted Owner shall pay to the Association and/or Sub-Association such Lot Owner's "Share" of the cost of repairing, maintaining, and replacing the Utility Facilities which such Beneficial Owner shall have the right to use pursuant to this Article VI. Such "Share" shall be determined by multiplying such costs times a fraction, the numerator of which being one (1), and the denominator of which being the total number of Residences located within the Subdivision and the Benefitted Property which have the right to use the Utility Facility.
- 6.14 **Formalities of Easement Grant.** In granting any additional or supplemental easement set forth in this Article VI, including but not limited with respect to a Utility Facility on a Lot, the Lot Owner of the Lot who is requested by Declarant or the Association or Sub-Association to grant such easement shall execute any instruments or documents requested to grant such easement except no such easement shall be granted on real property on or under which a Residence has or will be constructed. Each Lot Owner and his or her respective Mortgagees, by acceptance of a deed conveying such ownership interest or a Mortgage encumbering such ownership interest, as the case may be, hereby agrees to grant such easements in recordable form; and such Lot Owner and Mortgagees irrevocably appoint any member of the Board of Directors as his attorney-in-fact, coupled with an interest, and authorizes, directs and empowers such attorney, at the option of the attorney, to execute, acknowledge and record for and in the name of such Lot Owner and his or her Mortgagees such easements, subordinations of mortgages, or other instruments as may be necessary or desirable to effect and/or enjoy the foregoing.

ARTICLE VII: SPECIFIC USE RESTRICTIONS

- 7.1 **Specific Use Restrictions on Lots.** To insure that all Lot Owner(s) preserve a uniform use of a Lot and conformity of the use of a Lot for the efficient preservation of the values, aesthetic harmony, and amenities of the Subdivision, these specific restrictions, (which are subject to any use and activities herein permitted on the Commercial Lots and the Recreation Facilities Lots), shall be conformed to in their entirety by each Lot Owner his Occupants and Tenants, owner(s) of a Lot Ownership Interest, other estate holders of the Lot or any guest, invitee, licensee or other Person acting through or with permission of any of the above.
- 7.1.1 **No Industry or Manufacturing.** No industrial or manufacturing uses of any kind shall be permitted on a Lot.
- 7.1.2 **No Commercial Agriculture.** No commercial agricultural uses shall be permitted on a Lot.
- 7.1.3 **No Oil & Gas Wells.** No drilling or operating of any oil or gas well shall be permitted on a Lot.
- 7.1.4 **No Mining Operations.** No mining or extraction of any minerals, including the removal of sand or gravel shall be permitted on a Lot. (Nothing in this restriction shall prohibit the removal of any material in connection with the development of the Property by Declarant or construction of a Residence.)
- 7.1.5 **No Raising of Animals.** No keeping, raising, and harboring of wild beasts, cattle, swine, fowl, poultry, birds, reptiles, livestock, other farm animals or any other animal or insects not normally kept as household pets shall be permitted on a Lot. (Nothing in this restriction shall prohibit the keeping of household pets under Article VII, Section 7.1.6).
- 7.1.6 **Domesticated Pets.** No domesticated pets shall be kept, bred, boarded, or maintained for commercial purposes, or kept in any manner as to constitute a nuisance on a Lot.
- 7.1.6.1 **Permitted Domesticated Pets.** A Lot Owner, his Occupants or Tenants shall have the right to keep domesticated pets in the Residence, however, such right shall be limited to two (2) dogs or cats or a combination thereof.
- 7.1.6.2 **No Pets Maintained Outside of Residence.** No Lot Owner shall permit the housing, chaining, tying or keeping of any animal including any domesticated permitted dog or cat outside of the Residence. All dogs

taken outside will be maintained and controlled on a hand-held leash. No pet shall be allowed to run, roam or otherwise freely move uncontrolled through the Subdivision, or adjoining real property to the Subdivision, including but not limited to the adjoining property belonging to the Recreation Facilities Owner and/or the Commercial Facilities Owner

7.1.6.3 **Obligation To Remove Waste.** If any permissible pet is taken outside on a handheld leash and such pet deposits waste upon any Open Space, Cluster Residence Block Common Area, adjoining property of the Recreation Facilities Owner or any other Lot Owner's Lot, it is the pet's owner's obligation and responsibility to remove such waste immediately after being deposited by such owner's pet.

7.1.7 **No Temporary or Outdoor Structures.** The keeping or construction of temporary or outdoor structures on a Lot, including but not limited to trailers, campers, basement or incomplete houses, tents, shacks, tool sheds, dog houses, barns, garages, (except attached garages permitted herein), or other outbuildings of any kind shall not be permitted on a Lot. [Nothing in this restriction shall prohibit temporary construction trailers and temporary structures used in connection with the development of the Subdivision, maintaining or construction or alteration of a Residence, the Commercial Facilities or the Recreation Facilities or construction or maintaining any amenity on the Open Space or Cluster Residence Block Common Area(s)]. No such temporary structure shall be used on any Lot at any time as a residence, either temporarily or permanently.

7.1.8 **Sign Limitations.** The erection or maintenance of any sign, billboard or advertising devices of any kind shall not be permitted on a Lot, except: (i) one (1) sign not larger than two hundred sixteen (216) square inches for the offering a Lot and any Residence for sale; (ii) political signs, not exceeding the above measurements, shall be permitted during the thirty (30) days immediately preceding a Medina County Board of Elections' run national, state or local election; (iii) one (1) promotional signs of a home builder and/or contractor not larger than two hundred sixteen (216) square inches during the period of construction of any Residence on a Lot. (Nothing in this restriction shall be construed to prohibit or interfere with the Declarant's right to display signs, of any size or design, for sale of Lots in the Subdivision.)

7.1.8.1 **Commercial Signs.** The Commercial Facilities Owner and the Recreation Facilities Owner shall be permitted such signage as permitted by 0Montville Township Zoning Resolutions.

- 7.1.9 **No Outdoor Privies.** No storage, construction, placement or maintenance of privies, out-houses or other portable or detached lavatory units shall be permitted on a Lot. (Nothing in this restriction shall prohibit the placement and use of temporary portable toilets for the use of construction workers during constructing any Residence or improvement and/or repair to same, installation of any utility or other worked performed to further Declarant's development of the Subdivision or any amenity being constructed or maintained by the Recreation Facilities Owner or the Commercial Facilities Owner).
- 7.1.10 **No Outdoor Communication Devices.** No storage, construction, placement or maintenance of radio towers, radio antennas, satellite dishes, or other apparatus for the transmission of or receiving of television, radio, or other signals of any kind, commercial or residential television communication disks or microwave towers or receivers or transmitters shall be permitted on any Lot or Residence thereon, except as permitted under Section 7.1.19.
- 7.1.11 **No Above Ground Swimming Pools.** No storage, construction, placement, or maintenance of an above ground swimming pool shall be permitted on a Lot.
- 7.1.12 **No Parking of Vehicles.** No storage, parking, placement, or maintenance of golf carts, campers, motorized trailers, mobile homes, all-terrain vehicles, recreational conversion vans, motor bikes, bicycles, trailers, campers, canoes, boats, boat trailers, snowmobiles, snowmobile trailers of any type, trail bikes, mini-bikes, motorcycles, scooters, boats, boat trailers of any type, and other recreation vehicles, now manufactured or hereafter manufactured, or the storage, parking, placement, or maintenance of non-working vehicles, detachable truck or camper cabs, shall be permitted on a on the exterior of any Residence, Lot or adjacent public street, private right-of-way, and/or private driveway except on an infrequent and temporary basis, not to exceed twenty-four (24) hours.
- 7.1.13 **No Parking of Commercial Vehicles.** No parking of commercial trucks for over four (4) hours shall be permitted on a Lot or roadway or street an no storage, parking, placement of building equipment, work trucks, commercial trucks, tractors, trailers, mowers, lawn-care equipment, water tanks, fuel tanks, sprayers, sprayer-tanks, and other large implements shall be permitted on a Lot without the equipment, vehicle or other apparatus being housed in the Residence or its attached garage. (Nothing in this restriction shall prohibit the normal activities, (so long as the duration is reasonable and necessary to the permitted activity), of the Declarant, the Association, the Sub-Association, the Recreation Facilities Owner, the Commercial Facilities Owner or any Lot Owner, home builder, contractor, Township, and/or County from storing, parking, placing, or maintaining the

necessary equipment and vehicles associated with: (I) the development of the Subdivision by Declarant; (ii) the construction and/or maintenance of any Residence; (iii) the maintenance of any lawn or other landscaping service on a contract service basis to the Declarant, Association, the Sub-Association, the Recreation Facilities Owner, the Commercial Facilities Owner or any Lot Owner, home builder or contractor; (iv) for the construction, installation, repairing and/or servicing of any Utility Facilities, easement or public service, (v) or with any permissible and necessary maintenance and/or necessary operational activities of the Declarant, the Commercial Facilities Owner or the Recreation Facilities Owner.)

- 7.1.14 **No Outside Clothes Lines.** No hanging of laundry, carpets or other items on outside lines shall be permitted on a Lot.
- 7.1.15 **No Subdividing of Lot By Lot Owner.** No Lot Owner shall be permitted to subdivide or alter his Lot size or dimensions.
- 7.1.16 **No Lot to Be Used As Access to Property Not In the Subdivision.** No Lot Owner shall permit any portion of his Lot to be utilized for driveway or roadway purposes except for access to and from the Residence located upon that Lot. No Lot shall be utilized as access for ingress and egress to any real property not within the Subdivision, except as permitted by Article VI, Section 6.7.
- 7.1.17 **No Storage of Waste.** No storage, depositing or leaving of waste material, including but not limited to garbage, refuse, waste, putrid substances, hazardous waste, junk, construction and demolition debris, excess dirt, or soil, or cut vegetation, shall be permitted a Lot. A Lot Owner, his Occupants, Tenants, and occasional guests may keep normal garbage and refuse as shall accumulate from the last garbage and rubbish collection available for such Lot and/or Residence, provided any such garbage and/or refuse is kept in sanitary containers, which containers and refuse, except on the day scheduled for garbage and rubbish collection for such Lot and/or Residence, shall be kept from public view. (Nothing in this restriction, shall prohibit or interfere with the reasonable, normal, and ordinary construction and demolition debris associated with permissible construction, alteration and/or repair of any Residence or other structure on Property within the Subdivision, during such construction, alteration and/or repair; all and any of which shall be maintained and removed in a reasonable, safe, and timely manner).
- 7.1.18 **No Extension Of Utilities.** No Lot Owner shall permit his Lot to be utilized for access to, service from and/or any connection to any Utility Facilities including but not limited to sewer and water, for service to any real property other than the Lot.

The extension of Utility Facilities from any Lot to any adjoining or adjacent real property not in the Subdivision, whether or not owned by the same Lot Owner shall be permitted, except as permitted by Article VI.

7.1.19 Restrictions On Exterior Antennas/Disks or Solar Panels. These guidelines are adopted regarding exterior radio and television antennas/disks and solar panels. These guidelines are to be interpreted to balance the right of the individual owners to receive acceptable quality broadcast signals under F.C.C. regulations and any federal or state regulations regarding the use and placement of solar panels, with the right and duty of the Association to preserve, protect and enhance the value of the properties within the subdivision.

7.1.19.1 Prohibited Apparatus. All exterior antennas/disks, except the following, are prohibited:

7.1.19.1.1 An antenna/disk designed to receive direct broadcast satellite service, including direct-to-home satellite services, that is one meter or less in diameter; or

7.1.19.1.2 An antenna/disk designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, and that is one meter or less in diameter or diagonal measurement; or

7.1.19.1.3 An antenna/disk designed to receive television broadcast signals.

7.1.19.2 Permitted Locations. The location of antenna/disks and/or solar panels shall be subject to the following restrictions:

7.1.19.2.1 An antenna/disk must be located in the rear yard or on the rear of the Residence in such a manner so as not to be visible by a person of normal height standing at the edge of the street directly in front of the Residence. Other locations are permitted if placement under these guidelines precludes reception of an acceptable quality signal. In such case, the owner and the Architecture Review Board shall attempt to find a location with the least visual impact upon the surrounding properties. An "acceptable quality signal" is intended for reception in the viewing area and follows the quality of signals received by others in the immediate vicinity. No location shall be permitted if installation creates a line-of-sight problem for drivers in the vicinity. The Architectural Review Committee

may prohibit a location that imposes a legitimate safety concern. An example of a location that imposes a legitimate safety concern is near high voltage power lines or one where the guy wires obstruct legitimate pedestrian access.

7.1.19.2.2 Solar panels may be located on the rear roof of the Residence.

7.1.19.3 **Other Requirements.** The Architectural Review Committee may require that the antenna/disk be painted in a fashion that will not interfere with reception, so it blends into the background against which it is mounted or that the antenna/disk be screened to reduce the visual impact. Any such requirements must be reasonable, given the cast of the equipment or services and the visual impact of the antenna/disk. Architectural Review Committee may impose restrictions on methods of installation that create legitimate safety concerns. For example, permitted methods of installation may include reasonable height restrictions and adequate bolting and guying.

7.1.19.4 **Continued Maintenance.** Each owner shall maintain any antenna/disk or solar panel reasonably so as not to become unsightly. Each owner shall remove any antenna/disk upon cessation of its use.

7.1.20 **No Fences.** Constructing or maintenance of fences of any kind, electrical or otherwise, on a Lot shall not be permitted without the approval of the Architectural Review Committee.

7.1.21 **No Acts In Contravention of *The Water Quality Protective Deed Restrictions*.** No action or activity, which violates *The Water Quality Protective Deed Restrictions* filed of record with the Medina County Recorder's Office at 2002OR024031 shall be permitted on any Lot.

7.1.22 **No Dangerous Ordinance.** No hunting or shooting of firearms, rifles, or other dangerous ordnance, including, but not limited to, "B-B" guns, dart guns, air rifles or pistols, bows and arrows, explosives, fireworks shall be permitted on a Lot.

7.1.23 **No Long Term Repairing of Vehicles.** No pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices which might cause disorderly, unsightly or unkept conditions shall be permitted on a Lot. Out-of-door repairs to any motorized vehicle or bike shall be limited to temporary repairs not exceeding twenty-four (24) hours.

7.1.24 **No Window Air Conditioning Units.** No use of window air conditioning units or the installation of same in or upon any Residence or attached garage shall be permitted on a Lot.

7.1.25 **Restrictions on Front Yards And Porches.** No use of or placement of any furniture designed or intended for indoor use or back yard use (including, without limitation, so-called lawn furniture or baby furniture, cooking grills or other cooking apparatuses, any paved or unpaved parking strips, sculptures, art objects, figurines, bird baths, metal works, fountains or children's toys, furnishings or furniture (including, without limitation, pools, swing-sets, etc) or other furnishings shall be permitted in or upon the front yard or front porches of any Residence or Lot. The Declarant or Board of Trustee shall have the right to determine if any furniture or furnishing located within the front yard or front porches of a Residence or Lot violates this restriction. No portion of a Lot nearer to any street than the minimum set-back line shall be permitted to be used for any purpose other than that of a lawn. All lawns in the front of each Residence shall extend to the pavement line. (Nothing herein contained shall be construed as preventing the use of the front portion of a Lot for walks and drives, the planting of trees or shrubbery, the growing of flowers or ornamental plants, or for other similar ornamentations for the purpose of beautifying said Lot.)

7.2 **Specific Restrictions On Open Space and Cluster Residence Block Common Area(s).** To insure that all Lot Owner(s) preserve a uniform use and conformity of the use of Open Space or Cluster Residence Block Common Area(s) and to provide for their respective natural and landscaped beauty and state and for the efficient preservation of the values, aesthetic harmony, and amenities of the Subdivision, the following specific restrictions, (which are in addition to any use and activities restrictions herein stated), shall be conformed to in their entirety by each Lot Owner, his Occupants, Tenants, owner(s) of a Lot Ownership Interest, other estate holders of the Lot or any guest, invitee, licensee or other Person acting through or with permission of the above.

7.2.1 **No Automobile Repairs.** No temporary repair, changing of oil, body repair, or other usages associated with the repair and cleaning of vehicles, boats, trailers, recreational vehicles, lawn and garden equipment, or any other equipment shall be permitted in or upon Open Space or Cluster Residence Block Common Area(s).

7.2.2 **No Waste.** No waste of any kind shall be committed in or upon the Open Space or Cluster Residence Block Common Area(s).

7.2.3 **No Dumping.** No storage or depositing of anything shall be permitted in or upon the Open Space or Cluster Residence Block Common Area(s) without the written approval of the Association or a Sub-Association.

7.2.4 **No Harvesting Or Gardening Within Open Space.** Except as otherwise herein reserved or provided, No planting or gardening, harvesting of trees or cutting of trees or the removal, cutting or transplanting of any flora shall be permitted in or upon Open Space or Cluster Residence Block Common Area(s).

7.2.5 **No Hunting Permitted.** No hunting or shooting of firearms, rifles, or other dangerous ordinances, including, but not limited to, dart guns, air rifles or pistols, bows and arrows, explosives, fireworks shall be permitted in or upon Open Space or Cluster Residence Block Common Area(s).

- 7.2.6 **No Nuisances Permitted.** No nuisances or safety hazards shall be permitted to remain in or upon Open Space or Cluster Residence Block Common Area(s). Nor shall any use or practice be permitted in or upon Open Space or Cluster Residence Block Common Area(s) which is the source of nuisances or safety hazards to a Lot Owner, his Occupants, Tenants or occasional guests, any person using the Walking Trail System, any person using the Fishing Rights Area, any person using any other amenity within the Open Space or Cluster Residence Block Common Area(s). No nuisances or safety hazards shall be permitted to remain in or upon Open Space or Cluster Residence Block Common Area(s) which interferes with the peaceful possession and proper use of the Open Space or Cluster Residence Block Common Area(s) and the streams, lakes, natural or landscaped flora and fauna that abounds therein.
- 7.2.7 **No Vehicles Permitted.** No automobiles, trucks, all-terrain vehicles, dirt bikes, golf carts or other motorized off-road vehicles, now known or later developed, shall be permitted to be used or operated in or upon Open Space or Cluster Residence Block Common Area(s). (Non-motorized bike-riding and other electrical driven transportation for the handicapped shall be permitted on the Walking Trail System subject to the rules and regulations of the Association). Nothing in this restriction shall prohibit the Declarant, Association, or Sub-Association from operating vehicles under their control from accessing the Open Space or Cluster Residence Block Common Area(s) for maintenance of, without limitation, the lakes, lake dams, lake standpipes, streams, ponds or other amenity within the Open Space or Cluster Residence Block Common Area(s).
- 7.2.8 **Streams, Ponds and Lake Restrictions.** No pond, lake or stream within the Open Space or Cluster Residence Block Common Area(s) shall be permitted to be used for recreational use thereof, including without limitation, swimming, boating, playing, fishing, (except as permitted herein), or use of personal flotation devices. No toy or power toy boats or other power water vehicles shall be permitted on any pond or lake. Fishing shall be permitted from the shoreline of the area of the lakes designated as the Fishing Rights Area and no other areas on the Property within the Subdivision. All Lot Owners and all Persons acknowledge and are on public notice that all ponds, lakes and streams within the Subdivision are for irrigation, harboring of natural flora and fauna and aesthetic amenities only, except to fish from the shore in the designated Fishing Rights Area. The Declarant, the Association, a Sub-Association, shall not be responsible for any loss, damage or injury to any Person or Property arising out of the authorized or unauthorized use of any ponds, lakes or other bodies of water within the Open Space or Cluster Residence Block Common Area(s).
- 7.2.9 **No Outside Clothes Lines.** No hanging of laundry, carpets or other items on outside lines shall be permitted in or upon Open Space or Cluster Residence Block Common Area(s).

**ARTICLE VIII: ARCHITECTURAL REVIEW COMMITTEE
AND BUILDING RESTRICTIONS**

- 8.1 **No Construction Without Permits and Approvals.** No Lot Owner shall construct a Residence on any Lot within the Subdivision until the construction plans and specifications showing the location of the structure have been approved by the Township and/or the County. The issuance by the Township and/or the County of a building permit, zoning permit, license or approval of any type shall not be deemed to satisfy the requirements of this Article VIII, nor shall any such permit prevent the Declarant, the Association, Sub-Association, the Architectural Review Committee, or any Lot Owner from enforcing these restrictions.
- 8.2 **Establishment of the Architectural Review Committee.** There shall be a standing Architectural Review Committee to exclusively exercise the authority and to perform the duties established in this Article VIII. The Association's Board of Directors shall have the authority and standing on behalf of the Association, to enforce in courts of competent jurisdiction decisions of the Architectural Review Committee.
- 8.3 **Structure of Architectural Review Committee.** The Architectural Review Committee shall consist of three (3) natural persons appointed by the Association's Board of Directors who need not be Members of the Association or Occupants of a Residence.
- 8.3.1 **Appointment of Chairman of Architectural Review Committee.** The Association's Board of Directors shall appoint one of the three appointees to the Architectural Review Committee.
- 8.3.2 **Required Vote for Action By Architectural Review Committee.** The affirmative vote of two (2) members of the Architectural Review Committee shall be required to adopt or promulgate any Rule, to issue any permit, authorization, or approval, or to take any action under this Article VIII.
- 8.3.3 **Architectural Review Committee Member's Service.** Upon appointment members of the Architectural Review Committee shall serve until the member's resignation or removed by a required vote of the Association's Board of Directors.
- 8.3.4 **Architectural Review Committee Right To Retain Professional Advisors.** The Architectural Review Committee shall have the authority to retain professional engineers, architects, attorneys, or other competent professionals to advise the Architectural Review Committee on any plan or other matter submitted to it for its approval.
- 8.3.5 **Compensation of Architectural Review Committee Members.** The Association's Board of Directors may establish reasonable compensation for members' service on the Architectural Review Committee.
- 8.3.6 **Costs of Architectural Review Committee.** The Association's Board of Directors shall establish an annual budget for the costs and expenses of the Architectural Review Committee. The costs of Architectural Review Committee shall be a part of the General Maintenance Assessment of the Association, pursuant to Article IV, Section 4.1.1.

- 8.4 **No Construction Without Approval of Architectural Review Committee.** Without the approval of the Architectural Review Committee and in strict compliance with this Article VIII, there shall be no "construction" within the Subdivision by any Lot Owner or other person. The term "construction" shall include within its definition, without limitation, the following:
- 8.4.1 **Site Work.** Staking, clearing, grading, and other site work in connection with any building, drive, walk or other structure.
 - 8.4.2 **Construction of Any Structure.** Construction or installation of any Residence, new building, fence, or improvement or exterior alteration or modification of existing buildings or improvements;
 - 8.4.3 **Landscaping.** Plants or removal of plants, trees, grass or shrubs (collectively referred to as "landscaping"), except for landscaped areas or beds within six feet (6') of a Residence;
 - 8.4.4 **Exterior Colors.** Change of the color or exterior material(s) of the exterior finish of any structure or architectural elements (including, without limitation, the roof, doors, windows and exterior walls of a Residence), and
 - 8.4.5 **Installations.** Installations on or to the roof or exterior walls of a Residence or on or upon a Lot.
- 8.5 **Approval of Plans by Architectural Review Committee.** There shall be no "construction," (as defined in Article VIII, Section 8.4 et. seq.) within the Subdivision unless detailed plans and specifications of the proposed construction shall have been submitted to and approved in writing (unless approval results from non-action) by the Architectural Review Committee. Two (2) copies (one of which may permanently retained by the Association) of plans and specification therefor shall be submitted to the Architectural Review Committee showing in such detail as the Architectural Review Committee may request, the size, location, type, costs, use, materials of construction, color scheme, grading plan (or change of grading) of the Lot (including the grade elevations of any Residence, building an/or structure, landscaping, and such other information as the Architectural Review Committee shall request has been furnished to and approved in writing by the Architectural Review Committee.
- 8.5.1 **Non-action by Architectural Review Committee.** If the Architectural Review Committee fails to approve or disapprove any construction request as herein provided or fails to request addition information within thirty (30) days after receipt of all required plans and specifications by the Chairman of the Architectural Review Committee, the same shall be deemed to have been approved, as submitted, and no further action shall be required.
 - 8.5.2 **Grounds for Disapproval.** The Architectural Review Committee shall have the right to disapprove any plans and specifications submitted because of the following:
 - 8.5.3 **Failure to Comply With This Declaration.** Failure of such plans or specifications or requested construction to comply with any covenants and restrictions in this

- Declaration or in the declaration of covenants and restrictions for Cluster Residence Block(s);
- 8.5.4 **Failure to Include Information.** Failure to include information in such plans and specifications as may have been reasonably requested by the Architectural Review Committee;
- 8.5.6 **Incompatibility of Design.** Incompatibility of design or appearance of any proposed Residence, structure or building with any existing or contemplated Residence, structures, buildings or existing topography;
- 8.5.7 **Location.** Objection to the location of any proposed Residence, structure or building;
- 8.5.8 **Color.** Objection to the color scheme, exterior materials, finish, proportions, style of architecture, height, bulk or appropriateness of any proposed Residence, structure, or building;
- 8.5.9 **Cost of Maintenance.** Objection related to the cost of maintenance to the extent the Association is responsible or may become responsible for the maintenance thereof;
- 8.5.10 **Interference.** Likely interference of the installation with the quiet enjoyment of a neighbor; or
- 8.5.11 **Other Matters.** Any other matter which, in the judgment of the ARC, will render the proposed Residence, building, structure or change inharmonious with the general plan of the Subdivision, or the Residences, buildings, structures or uses within the Subdivision, or below the community-wide standard then existing.
- 8.5.12 **Statement of Disapproval.** In any case where the Architectural Review Committee under Article VIII disapproves any plans and specifications submitted or shall approve the same only as modified or under specified conditions, such disapproval or qualified approval shall be accompanied by a written statement of the grounds upon which such action was based.
- 8.5.13 **Right of Appeal.** If the Architectural Review Committee under Article VIII shall disapprove any plans and specifications submitted or any other matter brought before it, there shall be a right to appeal such decision to the Association's Board of Directors by the applicant. If any Lot Owner objects to the approval of any plans and specifications submitted or any other matter brought before the Architectural Review Committee, the objecting Lot Owner shall have a right to appeal to the Association's Board of Directors. Such appeal must be submitted to the Association's Board of Directors by the applicant or objecting Lot Owner, in writing, within ten (10) days after receipt of notice of the decision from the Architectural Review Committee. Within forty-five (45) days after receipt of the notice of appeal, the Association's Board of Directors shall examine the plans and specifications or other data submitted, and the grounds upon which the Architectural Review Committee disapproved or approved such plans and specifications. A

required vote of the Association's Board of Directors shall be required to reverse or modify decisions of the Architectural Review Committee.

8.6 **Building Restrictions.** To ensure that a Residence constructed upon any Lot in the Subdivision will preserve a uniformly high standard of construction, the following specific building restrictions shall be conformed to in their entirety by each Lot Owner.

8.6.1 **Minimum Square Footage of a Residence.** No Lot Owner shall construct a Residence of one story, (including but not limited to ranch style construction), having less than twenty-four hundred (2,400) square feet of floor area, nor shall a Lot Owner construct any Residence having two stories, (including but not limited to Colonial or Cape Code style construction), having less than twenty-five hundred (2,500) square feet of floor area. (Cluster Residence Blocks subjected to this Declaration are specifically exempted from Article VIII, Sections 8.6.1 to the extent that the minimum square footage requirement for a Residence constructed in a Cluster Residence Block shall not be less than one-thousand five hundred fifty (1,550) square feet of floor area.

8.6.2 **Manner of Determining Square Footage.** The method of determining the square foot floor area of proposed Residence shall be to multiply the outside horizontal dimensions of the building or structure at each floor level. Garages, terraces, patios, carports, screened porches, open porches, breeze ways, and basements shall not be taken into account in calculating the minimum square foot area as required by Article VIII, Section 8.6.1. With a Cape Cod construction, the second-floor area shall be computed from the outside dimension of the knee wall.

8.6.3 **Minimum Setback Requirements.** No Lot Owner shall construct a Residence without meeting the minimum setback requirements for construction from Lot lines as established by the Building Codes and Zoning Resolutions of the Township and/or County now established or hereafter established. Where two (2) or more Lots are acquired and used as a single building site, the side Lot lines shall refer only to the lines bordering on the adjoining Lot.

8.6.4 **Minimum Roof Pitch Requirements.** No Lot Owner shall construct a Residence of one story, (including but not limited to ranch style construction), having less than a 8/12 pitch to its roof, nor shall a Lot Owner construct any Residence having two stories, (including but not limited to Colonial or Cape Code style construction), having less than a 8/12 pitch to its roof. No Lot Owner shall construct a Residence with a flat roof of any kind.

8.6.5 **Driveway Material Requirements.** No Lot Owner shall construct the driveway to his Residence with materials except concrete or other hard surface masonry-like materials and located as required by the Township and/or the County.

8.6.6 **No Exposed Concrete Requirements.** No Lot Owner shall construct a Residence that allows exposed concrete block or poured concrete

walls to be exposed, it being required that all exposed areas of concrete basement walls or footers be faced with brick, stone or stucco in the front of the Residence and/or like materials on the sides and rear of the Residence or the siding of such structure on the sides and rear of the Residence is brought down to grade.

- 8.6.7 **Exterior Front of Residence Requirements.** No Lot Owner shall construct a Residence that does not consist of a minimum of forty percent (40%) of the front exterior of the Residence to be faced with brick, stone or stucco.
- 8.6.8 **Garage Requirements.** No Lot Owner shall construct a Residence with a garage separated from the Residence. All garages must store at least two (2) or more full-size passenger automobiles and no garage, except on Cluster Residence Lot(s), shall be constructed facing the public street, unless a written variance due to the uniqueness of a Lot is granted by the Declarant or the Architectural Review Committee. Nor shall any Lot Owner convert a garage to part of the living area by alteration or use, to diminish its area below that required for garage purposes, unless with such conversion, a garage with equivalent space is provided and constructed.
- 8.6.9 **Sight Lighting Requirements.** No Lot Owner shall permit the installation or maintenance of sight lighting which interferes with the comfort, privacy, or general welfare of adjacent Lots or any other Lot Owner. All Residences shall have installed a post light of identical uniform design, ten feet (10') from the driveway, at the right-of-way line, which is serviced by underground wiring, which design shall be designated the Architectural Review Committee.
- 8.6.10 **Heating and Air Conditioners.** No Owner shall construct a Residence not heated or air conditioned by efficient heating and air conditioning units using natural gas or electricity or a combination of both supplied by a utility provider servicing the Subdivision. No Lot Owner shall construct a Residence that uses liquid heating oil, geothermal heating system or bottled gas, (propane), for its heating and/or air conditioning system. No Lot owner will allow any exhaust pipes to be vented through the front roof of a Residence and the same prohibition applies to plumbing exhaust pipes. No air conditioning units shall be placed in or upon the front side of a Residence.
- 8.6.11 **External Fireplace Chimneys.** No Lot Owner shall construct or install an external fireplace chimney and/or chase unless such fireplace chimney and/or chase is constructed of or faced entirely of masonry material. No siding chimneys or chases are permitted. Fireplaces may be direct vent without a chimney or chase.
- 8.6.12 **Standard Mail Boxes and Numbering.** No Lot Owner shall construct or install a mailbox that does not conform to the identical

uniform design designated by the Architectural Review Committee does not have printed or posted in identical uniform design designated by the Architectural Review Committee the assigned address lot numbers of such Lot.

- 8.6.13 **Standard Numbering On Residence.** No Lot Owner shall construct a Residence that does not have in identical uniform design designated by the Architectural Review Committee, the address numbers of the Lot permanently attached to the front exterior of the Residence.
- 8.6.14 **Right To Establish Grades.** The Architectural Review Committee shall have the right to establish grades and slopes and to fix grades for, without limitations, any Residence, driveway or patio, so that the same may conform to a general plan wherein the established grade and slope of each Lot, as the construction thereon is completed, will correspond to the grade of the Lots on either side, having due regard for natural contours and drainage of the property. Approval of the grades and slopes for any such construction shall be in writing prior to any construction.
- 8.6.15 **Right To Approve Contractor.** The Architectural Review Committee shall have the right to approve any general contractor to be employed for construction of any Residence, any other permissible building, improvement or other structure on any Lot or Property within the Subdivision, and such construction shall not commence until the contractor has been approved in writing.
- 8.6.16 **Limit On Clearing.** Prior to the commencement of the actual construction of any Residence, any other permissible building, improvement or other structure on any Lot or Property within the Subdivision by a Lot Owner or other person, certain trees must be removed to provide clearance for the planned construction. To preserve as many trees as possible, no trees five (5) inches in diameter or larger, which stand fifteen (15) feet or further from the proposed construction may be removed without the prior written approval of the Architectural Review Committee. A Lot Owner and other persons and their respective contractors shall use reasonable precautions to safeguard the protection of trees during construction not scheduled for removal. If construction begins prior to the written approval required by this Section such act shall be considered immediate irreparable harm to the Association and the Association shall be considered without an adequate remedy at law for such act, for which a temporary and/or permanent injunction shall lie in a court of competent jurisdiction. If the Association's Board of Directors finds it necessary to seek a temporary and/or permanent injunction to enforce this restriction, the Lot Owner found to have violated this restriction shall be responsible in full for the legal fees of the Association. If trees are cut in violation of this restriction, the Lot Owner shall have to plant trees of sufficient size and quantity to replace those trees so cut in violation of this restriction. The Declarant or the Association shall be the sole determiner as to size, quantity, and location of the replanting of trees by the Lot Owner and whether such replanting has sufficiently addressed the damage caused by cutting trees in violation of this

restriction.

- 8.7 **Right to Grant Variances.** The Architectural Review Committee shall have the right to grant variations to any Article VIII, Section 8.6 et seq. building restriction, considering specifically, corner Lots; odd-shaped Lots; or specific uniqueness of any particular Lot.
- 8.8 **Violations of Article VIII.** If any Residence, building, fence, wall or other structure shall be constructed, installed, altered, erected, or maintained upon any portion of the Subdivision; or any Plants made or removed, or changes made to Lots or exteriors of Residences, or exterior finishes of any Residence or installations made to any Lot, to a roof or exterior walls without the approval of the Architectural Review Committee (unless exempted under Article VIII), such construction, alteration, erection, placement, maintenance or use or other act shall be deemed to have been undertaken in violation of Article VIII. Upon written notice from either the Architectural Review Committee, any Member of the Association's Board of Directors or authorized officer of the Association, any such Residence, building, structure, fence, wall, plant landscaping, exterior, exterior finish, or other structure so constructed, installed, changed, altered, erected, placed or maintained upon any Property of the Subdivision in violation hereof shall be promptly removed, replaced or altered and any such use shall be terminated to extinguish such violation.
- 8.9 **Timely Action Required to Abate Violations of Article VIII.** If within fifteen (15) days (or immediately in an emergency) after written notice of a violation under Article VIII reasonable steps have not been taken toward the alleviation or termination of the same or if such mitigation or remedial action is not prosecuted with due diligence (not to exceed thirty (30) days unless a longer period is permitted by the Association's Board of Directors) until satisfactory completion of same, the Association's Board of Directors shall have the right to obtain an injunction from any court having jurisdiction for the cessation of and/or removal of such alteration, erection, or other act in violation of Article VIII, The rights and remedies of the Association's Board of Directors contained in Article VIII shall be non-exclusive and in addition to any other rights or remedies available at law or in equity. The Association's Board of Directors shall notify in writing the Person in violation of this Article VIII of the costs incurred to remedy same (including, without limitation, any attorneys' or consultants' fees, court costs, and all other expenses incurred in connection with curing such violation) and any damages to which the Association's Board of Directors may be entitled. If the amounts are not paid within thirty (30) calendar days following said notification, then the Association's Board of Directors shall have the right to levy a Special Assessment against the Lot Owner and his Lot for each amount, under Article IV, Section 4.1.4.
- 8.10 **Liability of Members of Architectural Review Committee.** No member of the Architectural Review Committee shall be liable to the Association, any Member, or any person for his acts or omissions or for failure to act, except for acts of a malicious or wanton nature. Except for acts of a malicious or wanton nature by any member of Architectural Review Committee, the Association shall indemnify and save each member of the Architectural Review Committee harmless from and against any costs, liabilities, damages, and expenses, including reasonable attorney fees, which may be incurred by such member of the Architectural Review Committee in connection with or arising out of the activities of such person as a member of the Architectural Review Committee. Any amounts payable under this Article VIII, Section 8.10 shall be deemed to be General Maintenance Assessments, under Article IV, Section 4.1.1.

- 8.11 **No Waiver of Future Approvals.** The approval of the Architectural Review Committee of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the Architectural Review Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawing, or matters whatever subsequently or additionally submitted for approval or consent.
- 8.12 **No Obligation To Complete Any Residence etc.** Neither Declarant nor the Association or Sub-Association or any respective member or representative thereof shall have any liability or responsibility for the satisfactory completion of any Residence, structure, building, improvement or part or component thereof on any Lot or Property within the Subdivision for any approval given under Article VIII.
- 8.13 **Limits of Any Approval.** Any approval given under Article VIII shall not be deemed to constitute approval of the plans as containing a proper design for any other purpose than the purposes created under Article VIII or any other article or section of this Declaration. Any approval given under Article VIII, or any other article or section of this Declaration does not constitute any warranty of guarantee that said plans and specifications will receive any necessary governmental approvals or is to be considered any warranty or guarantee for any specific purpose other than established by this Article VIII and any other Article or Section of this Declaration.
- 8.14 **Irreparable Harm.** If any construction of any Residence, any other permissible building, improvement or other structure on any Lot or Property within the Subdivision, begins prior to the written approvals required by Article VIII, such act shall be considered immediate irreparable harm to the Association. The Association shall be considered without an adequate remedy at law for such act which a temporary and/or permanent injunction shall lie in a court of competent jurisdiction. If the Association finds it necessary to seek a temporary and/or permanent injunction to enforce this restriction, the Lot Owner found to have violated this restriction shall be responsible in full for the legal fees of the Association and the Association's Board of Directors shall have the right to levy a Special Assessment against the Lot Owner and his Lot for each amount, under Article IV, Section 4.1.4.

ARTICLE IX: GENERAL PROVISIONS

- 9.1 **Declaration Runs With Land; Binding Effect.** The easements, covenants and restrictions imposed upon, granted and/or reserved in this Declaration or any Subsequent Amendment, (including without limitation, payment of Assessments) constitute easements, covenants and restrictions running with the Property, Subdivision, Lot(s), Residence(s), Cluster Residence Block(s), Cluster Residence Lot(s), Open Space and Cluster Residence Common Area(s) and shall inure to the benefit of and shall be binding upon the parties and every subsequent transferee of all or any part thereof, including, without limitations, the Declarant, the Association, Sub-Association, Grantees, Tenants, Occupants, Lot Owners, and any owner of an Ownership Interest in a Lot, and their respective heirs, Directors, executors, administrators, personal representatives, successors and assigns.
- 9.2 **A Grantee's Deed or Tenant's Lease.** Each grantee accepting a deed or Tenant accepting a lease (whether oral or written) which conveys any interest in any portion of the Property,

Subdivision, Lot(s), Residence(s), Cluster Residence Block(s), Cluster Residence Lot(s), Open Space and Cluster Residence Block Common Area(s), whether or not the same incorporates or refers to this Declaration, covenants for himself, his heirs, personal representatives, Directors, executors, administrators, successors and assigns to observe, perform and be bound by this Declaration and any Subsequent Amendment .

9.3 **Duration of Easements, Covenants and Restrictions.** The term of this Declaration shall commence upon the recording hereof with the Medina County Recorder' Office and shall continue in perpetuity, or the longest time permitted in law.

9.3.1 **Rule Against Perpetuities.** If the options, privileges, covenants or rights created by this Declaration 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 survivor of the now living descendants of Joseph Biden, the President of the United State of America.

9.4 **Plural Owners.** If any Lot Owner shall hold to title to a Lot as a joint tenant, tenant in common, tenant by the entirety or in any other manner with one or more other Persons (hereinafter referred to as a "co-Lot Owner"), the signature of any of the co-Lot Owners shall be binding upon and shall be effective as an authorization from the other Lot Owners of such Lot. In addition, the vote cast at any meeting of the Association by one such co-Lot Owner of such Lot upon and shall be effective as an authorized vote from all of the co-Lot Owners of such Lot, unless another co-Lot Owner objects at such meeting in which event the majority of Ownership Interest of the Lot shall prevail. If co-Lot Owners own fifty percent (50%) of the Ownership Interest, and there is an objection by one of the co-Lot Owners then no vote will be counted for such Ownership Interest

9.5 **Construction of this Declaration.** The following rules of construction shall be applied to this Declaration:

9.5.1 **Construction by Declarant or Association Binding.** The Declarant, the Association, or Sub-Association, where specifically authorized to act, shall have the right to construe and interpret this Declaration and in the absence of any adjudication by arbitrator(s) or a court of competent jurisdiction to the contrary, its construction and interpretation shall be final and binding as to all Persons and to all Property within the Subdivision, which interpretation of the Declarant, the Association or Sub-Association and that of any person or entity entitled to enforce the provisions hereof, shall be resolved in favor of the construction or interpretation by the Declarant, the Association or Sub-Association.

9.5.2 **Waiver of Rule of Construction Against Drafting Party.** The legal rule and doctrine of "construction against the drafting party" shall not be applied by any court against Declarant, the Association or Sub-Association. Said rule being specifically waived by any person claiming or seeking rights under this Declaration.

- 9.5.3 **More Restrictive Construction Controls.** Any covenant, restriction, right, obligation, responsibility, or condition, (except reservations by Declarant), set forth in this Declaration in more than one Section shall be read in tandem with all other Section(s) containing the same or similar covenant, restriction, right, obligation, responsibility or condition, (except reservations by Declarant), with the more restrictive Section controlling. The legal rule and doctrine of "construction of deed restrictions so that all ambiguities contained in the deed restrictions shall be interpreted and constructed in a manner to allow the free use of lands" is specifically waived by each Lot Owner.
- 9.5.4 **Use of Singular or Plural, Gender.** References to the masculine herein shall be deemed to include the feminine or the neuter, references to the feminine shall be deemed to include the masculine or neuter and references in the neuter shall be deemed to include the masculine or feminine. Plural references shall be deemed to include singular where the context so requires and vice versa.
- 9.6 **Severability.** Invalidation or modification of any one of the provisions of this Declaration by judgment or a court order of a court of competent jurisdiction shall in no event or way affect the other provisions, which shall remain in full force and effect and be continuing covenants that run with the land.
- 9.7 **Ohio Law Controlling.** Ohio Law shall be the applicable law to any interpretation, validity or enforcement of this Declaration.
- 9.8 **Validity of Mortgages.** No violation of any easement, covenant, or restriction of this Declaration shall defeat or render invalid the lien of any mortgage made in good faith and for value upon any Lot or portion of the Property; provided, however, that any mortgagee in actual possession, or any purchase at any mortgagee's foreclosure sale shall be bound by and subject to this Declaration as fully as any other Lot Owner or owner of any portion of the Property within the Subdivision.
- 9.9 **Notice to Lot Owners/Members.** Any notices required to be given to any Person, except as provided in Article IX, Section 9.10, under this Declaration shall be deemed to have been given: (i) when personally delivered to such Person's Residence; (ii) mailed, postage prepaid, to the last known address of such Person or principal place of business, if a corporation, limited liability company, limited partnership, or partnership; (iii) by other national delivery service that retains date of delivery and requires signature for such delivery; or (iv) by electronic mail to an electronic mail address previously provided by the Person in writing. A notice of "delinquency" of any payment due shall be made by: (i) personal delivery to such Residence or principal place of business, if a corporation, limited liability company, limited partnership, or partnership; (ii) by certified mail U. S. Mail; (iii) by other national delivery service that retains date of delivery and requires signature for such delivery; or (iv) by electronic mail to an electronic mail address previously provided by the Person in writing. The effective date of the notice shall be the date said notice is personally delivered, or date of delivery to the U. S. Mail or the national delivery service or sent by electronic mail. The last known address of a Lot Owner/Member shall be determined as appears on the records of the Medina County Auditor or the last address provided the Association. If no such address is found or provided or the Lot Owner/Member refuses delivery of the notice, then said notice may be posted for thirty (30) days upon the Lot

Owner/Member's Residence or Lot.

- 9.10 **Notice to the Association or Sub-Association.** Notices to the Association or a Sub-Association shall be deemed given only when received and must be delivered to the Association or a Sub-Association, addressed to its respective Ohio statutory agent, upon whom all notices may be served, and shall be sent by U. S. Mail, postage pre-paid, by certified mail receipt return requested, showing thereon date of delivery and person signing for the delivery.
- 9.11 **Enforcement and Non-Waiver.** The Declarant, the Association, a Sub-Association or a Lot Owner or any other Person permitted in this Declaration to do so, shall be empowered and have the right to enforce by any proceeding at law or in equity, all provisions, restrictions, condition, covenants, reservations, liens and charges now or hereafter imposed by this Declaration.
- 9.12 **Non-Waiver.** Failure, due to neglect or otherwise, or refusal by the Declarant, the Association, a Sub-Association, Lot Owner or anyone permitted in this Declaration to enforce any provisions, restrictions, condition, covenants, reservations, liens and charges in this Declaration shall in no event be deemed a waiver of the right to do so.
- 9.13 **Failure to Enforce Not Actionable.** The failure, refusal or neglect of Declarant, the Association, Sub-Association, Architectural Review Committee or any Lot Owner, to enforce any provisions hereof or to prevent violations thereof, shall in no event make the Declarant, the Association, Sub-Association and/or a Lot Owner liable for such failure, refusal, or neglect or liable in damages for such failure, refusal or neglect.
- 9.14 **Limits of Liability of Lot Owner.** Unless a Lot Owner is liable under Ohio law, absolute liability shall not be imposed upon a Lot Owner for damage to the Open Space, Cluster Residence Block Common Area(s), Commercial Lots, Recreation Facilities or Lots, including improvements thereon, of others where maintained by the Association, Sub-Association, the Commercial Facilities Owner and/or Recreation Facilities Owner, whether caused by such Lot Owner, his Occupants, Tenants or guests.
- 9.15 **Limits of Liability of Declarant.** Neither Declarant nor its representatives, successors or assigns shall be liable for any claim arising out of or for any actions performed under any authority granted, reserved or delegated to it by or under this Declaration or in Declarant's (or its representative's) capacity as owner, manager or seller of the Lots or any part thereof, whether or not such claim: (i) shall be asserted by a Lot Owner, his Occupants, or Tenants, the Association, Sub-Association or by any person or entity claiming through any of them; or (ii) shall be because of injury to person or damage to or loss of property wherever located and however caused; or (iii) shall arise *ex contractu* or (except in the case of intentional tort or gross negligence) *ex delicto*. Without limiting the generality of the foregoing, the foregoing enumeration includes all claims for, or arising by reason of, the Lots containing any patent or latent defects, grading or leveling of any Lot by any builder or by reason of any act or neglect of any Lot Owner, his Occupants or Tenants, the Association, or Sub-Association, and their respective agents, employees, guests, and invitees, or reason of any neighboring property or personal property located on or about the Subdivision, or by reason of the failure to function or disrepair of any utility service, (heat, air conditioning, electricity, gas, water, sewage, etc.). Each Lot Owner takes his deed and title to his Lot with the

knowledge and acceptance that Declarant's responsibilities are limited by its original Utility Facility improvements, as approved by the Medina County Sanitary Engineer, Medina County Engineer, and any Conditional Zoning Certificate issued by the Montville Township Board of Zoning Appeals, as are on file with the Montville Township and/or County of Medina and/or as are herein established.

- 9.16 **Certificate of Compliance with Declaration.** Upon a Lot Owner's reconveyance of his Residence or an interest therein, such Lot Owner (i.e. seller) shall have the right to request the Association and/or Sub-Association to issue a Certificate of Compliance stating the Association and/or Sub-Association has no record of a violation of this Declaration and stating the unpaid Assessments and amount of monthly Assessments attributable to such Lot Owner and his Lot. A Certificate of Compliance may be relied upon by all persons for all purposes. Neither the Board of Directors, no such officer or agent shall have any liability to the Lot Owner, seller, buyer, mortgagee of a Lot or to others if the Certificate of Compliance issued hereunder is not correct. The Association or Sub-Association may require the advance payment of a reasonable fee for issuing the Certificate of Compliance.

ARTICLE X: RIGHTS RESERVED TO COUNTY AND TOWNSHIP

- 10.1 **Township and County's Rights and Authority to Compel Maintenance of Open Space.** The Township and County, as third-party beneficiaries, may, although under no obligation or duty to do so, compel compliance with this Declaration under this Article X, as the Township and the County deem necessary, by court action or by any other means. It is specifically acknowledged by all parties to this Declaration that the County and the Township are third party beneficiaries to this Declaration and have the same authority to the administer and enforce this Declaration, including but not limited to the Open Space, Utility Facilities, non-dedicated right-of-ways and swales, as more fully set out herein, as does the Declarant, Association, Sub-Association or Lot Owner.
- 10.2 **Certain Obligations Non-Waiverable.** Notwithstanding anything in this Declaration to the contrary, the duties and obligations of either the Declarant, the Association, a Sub-Association or Lot Owner(s) as they relate to the Open Space and Cluster Residence Common Area(s) and the authority to enforce these duties and obligations, shall be of unlimited duration, shall be non-modifiable, and shall be non-waiverable without the prior written consent of the Township and/or County.
- 10.3 **Third Party Beneficiaries.** The Township and/or the County, as third party beneficiaries to this Declaration and by approving same, shall in no way be deemed to have waived any of their respective zoning, building, or other requirements or resolutions or general law, which shall still be binding upon the Property, if they are more restrictive than this Declaration..
- 10.4 **Rights After Transfer of Open Space/ Cluster Residence Block Common Area(s).** After transfer of title to the Open Space or Cluster Residence Block Common Area(s) to the Association or Sub-Association, the State of Ohio, the County and/or Township shall have the right, but not the obligation, to impose any special assessments for improvements and/or taxes made and/or levied by the State of Ohio, County and/or Township which would

otherwise be a lien on the Open Space, or Cluster Residence Block Common Area(s) or the Lots within the development area, on an equitable basis to be determined by the Township and/or the County. The assessments shall be considered a Special Assessment against the Lot Owners and their respective Lots and collected by the Association, under Article IV, Section 4.1.4. If the Board of Directors is not capable of acting under Article IV to insure collection of any such assessment the State of Ohio, County and/or Township shall have full power and authority to act under Article IV in full stead of the Board of Directors with full power of substitution, with any objections thereto being specifically waived by acceptance of a deed by a Lot Owner.

- 10.5 **Non-Dedicated Streets.** All Cluster Residence Lot Owners accept their respective deeds and title with specific notice that all access and means of ingress and egress to each Cluster Residence Lot is by non-dedicated rights-of-way or non-dedicated streets and drives within Cluster Residence Block(s) and/or Cluster Residence Block Common Area(s). And further, a Cluster Residence Lot Owner, for himself his heirs, successors and assigns accepts his deed and title with the full obligation and understanding that no governmental body is responsible for the care and maintenance of the non-dedicated rights-of-way or non-dedicated streets and drives within Cluster Residence Block(s) and/or Cluster Residence Block Common Area(s). And that should any non-dedicated rights-of-way or non-dedicated streets and drives within each Cluster Residence Block and/or Cluster Residence Block Common Area(s), ever become public, any such non-dedicated rights-of-way or non-dedicated streets and drives within each Cluster Residence Block and/or Cluster Residence Block Common Area(s) shall necessitate same being reconstructed to public street standards prior to its being accepted as a public street.
- 10.6 **Right of Entry.** The Township, the County or any other local governing body or public utility, now formed or hereafter formed, shall have the right to enter upon and across the Property within the Subdivision at any place that the respective governmental unit or public utility responsible for any easement or Utility Facility located on any Property within the Subdivision, deems necessary to install or maintain, or to perform any function or operation under any such easement now existing or hereafter granted.

ARTICLE XI: DECLARANT'S RESERVATIONS

- 11.1 **Reservation of Right to Grant Easements.** Declarant reserves the right and easement for itself and owners of lands to whom Declarant, in Declarant's sole discretion, shall grant the same right and easement, to tie into, use, repair, maintain and replace without charge any and Utility Facilities, including but not limited to, all lines, pipes, utilities, conduits, ducts, wires, cables, private roads and rights-of-way in on, or over the Property and Subdivision (as same may be modified or expanded by Subsequent Amendment), including but not limited to Lots, (excluding Residences), in connection with the development and/or operation of the Subdivision or other real property Declarant has an interest.
- 11.2 **Reservation of Right to Install.** Declarant reserves the right to grant to or enter into any easements or covenants for the installation, maintenance, service, or operation of any Utilities Facilities, private roads and rights-of-way in, on, or over any part of the Property and/or Subdivision (as same may be modified or expanded by Subsequent Amendment). Any damage caused shall be promptly repaired and the land shall be restored to its prior

condition.

- 11.3 **Reservation of Right to Dedicate for Public Use.** Declarant reserves the right to enter into covenants and easements with any utility or public authority which Declarant believes, in its sole discretion, to be in the best interests of the Subdivision. Declarant further reserves the right to dedicate for public use any part of the Subdivision.
- 11.4 **Reservation of Right to Finish Development.** Declarant reserves the right to perform or cause to be performed such work as is incident to developing all the real property within the Subdivision or adjacent thereto or may be later purchased by Declarant. Incident thereto shall include the right to go upon any part of the Subdivision with construction or any vehicles, trailers, trucks, equipment, machinery, or otherwise, for or in connection with the construction, inspection, installation, maintenance, repair and replacement of utilities, Utility Facilities, Residence, Recreation Facilities, signs, promotions, development, management, and/or in connection with the sale of any Lot.
- 11.5 **Reservation for Additional Restrictions.** Declarant reserves the right to impose, reserve or enter into additional covenants, easements, and restrictions with Lot Owners if such additional easements, covenants and restrictions are not in conflict with the duties and obligations of Lot Owners as set forth in this Declaration.
- 11.6 **Reservation for Signs.** Declarant reserves the right to place signs in or upon the Open Space and any Cluster Residence Block Common Area(s) and on any Lot or Residence owned by Declarant.
- 11.7 **Reservation of Watering Rights.** Declarant reserves for itself and the Association all rights in and to the waters of any pond, stream, lake, storm water or underground water within the Open Space or Cluster Residence Block Common Area(s) within the Subdivision (as same may be modified or expanded by Subsequent Amendment) for use, without limitation, for the irrigation any landscaping within or without of the Subdivision (as same may be modified or expanded by Subsequent Amendment). Incident to this reservation is the right to control the flow of water between any lake, stream or storm water, underground water; the right to control the direction of flow of water, without limitation storm water, onto or upon any Property within the Subdivision.
- 11.8 **Reservation of All Mineral Rights.** The Declarant for itself and its successors and assigns, reserves all mineral rights to all Property within the Subdivision (as same may be modified or expanded by Subsequent Amendment), including but not limited to oil and gas, coal or other minerals subject to mining or extraction.
- 11.9 **Reservation of Timber and Flora Rights.** The Declarant, for itself and the Association, reserves rights in and to all timber, trees, shrubs, grasses and other flora and the right to plant and harvest timber, trees, scrubs, and other flora in the Open Space for use, protection and to further the Subdivision and its development and operation.
- 11.10 **Reservation of Certain Property.** Declarant reserves the right to retain title to all or any portion of the Open Space and/or Cluster Residence Cluster Common Area(s) within the Subdivision (as same may be modified or expanded by Subsequent Amendment) and to be

reimbursed for all costs and expenses incurred by Declarant in connection with such Open Space and/or Cluster Residence Cluster Common Area(s) within the Subdivision (as same may be modified or expanded by Subsequent Amendment), including, without limitation, costs relating to taxes and assessments, insurance and maintenance.

- 11.11 **Reservation of Right to Amend Declarations.** Declarant reserves, until it holds no title or interest in any Lot, Open Space or Cluster Residence Block(s), Cluster Residence Lot(s), Cluster Residence Block Common Area(s) within the Subdivision, as the same may be modified or expanded by Subsequent Amendment, or sooner termination of this reservation by Declarant by written document filed with the Medina County Recorder's Office, the unrestricted right to waive, change, modify, amend or cancel any and all of the provisions of this Declaration or in any other Deed given by the Declarant in respect to any Property within the Subdivision, if in its sole judgment, the development of Blue Heron Estates. Promptly following any modification, change, amendment, the Declarant shall execute and record an instrument reciting and such waiver, change, modification, amendment, or cancellation in whole or part, any and all of the provisions of this Declaration. Any action taken under the authority of this Section by Declarant, shall be submitted and approved by the Township and/or County, if required.
- 11.12 **Acceptance of Deed Is Specific Acceptance of Reservations.** Declarant, on its own behalf and on behalf of all Lot Owners, consents to and approves, and each Lot Owner and his mortgagee, by acceptance of a deed conveying any Ownership Interest in a Lot, consents to and approves these Declaration and this Article XI, including, without limiting the generality of the foregoing, the amendment and modification rights of the Declarant
- 11.13 **Right to Assign and Transfer Rights & Reservations.** Declarant shall have the right to assign the rights reserved to it in this Declaration, without limitations the rights set forth in this Article XI.

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DECLARANT'S EXECUTION

IN WITNESS WHEREOF, Montville Lakes Development Co., Inc. has hereunto executed this Declaration by its duly elected President this 17 day of May, 2023.

MONTVILLE LAKES DEVELOPMENT CO., INC.
an Ohio Corporation for Profit

By: Arlyne Hoffman President
Arlyne Hoffman, President

CERTIFICATE OF NOTARY ACKNOWLEDGMENT

[NO OATH OR AFFIRMATION ADMINISTERED. (Ohio Revised Code §147.543(D)(2))]

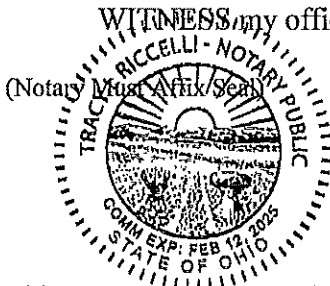
THE STATE OF OHIO

/SS

COUNTY OF CUYAHOGA

I certify that on the 17 day of May, 2023 before me, a Notary Public, an office duly authorized in the state and county named above to take acknowledgments, personally appeared Arlyene Hoffman, and that she, Arlyne Hoffman, is the duly elected President of Montville Lakes Development Co., Inc., who has full authority and right to execute documents on behalf of the corporation, acknowledged before me, that the execution of this document is the voluntary act and deed of Montville Lakes Development Co., Inc., for the uses and purposes therein mentioned and that she, as President of Montville Lakes Development Co., Inc., was duly authorized by the Board of Directors of Montville Lakes Development Co., Inc., to acknowledge the signing hereof to be the Corporation's voluntary act and deed.

WITNESS my official signature and seal on the day last above mentioned.



Tracy Riccelli
Notary Public
My Commission Expires: 2/12/2025

This Instrument Prepared By:
Gregory W. Happ
Attorney at Law
OH. Sup. Ct. Reg. # 0008538

EXHIBIT A
(NON-CLUSTER RESIDENCE LOTS)

PHASE IIIA (PLAT 2003PL000047)

Situated in the Township of Montville, County of Medina, and State of Ohio:
And known as being the whole of the following Lots in the Montville Lakes
Subdivision Phase 3A as per Plat 2003PL000047 of Medina County Plat
Records, in Original Township Lots 83,84, 89, 90 and 103:

Lot # 155	PPN	030-11B-38-010
Lot # 156	PPN	030-11B-38-011
Lot # 157	PPN	030-11B-33-002
Lot # 158	PPN	030-11B-33-003
Lot # 159	PPN	030-11B-33-004
Lot # 160	PPN	030-11B-33-005
Lot # 161	PPN	030-11B-33-006
Lot # 162	PPN	030-11B-33-007
Lot # 163	PPN	030-11B-33-008
Lot # 164	PPN	030-11B-33-009
Lot # 166	PPN	030-11B-33-011
Lot # 167	PPN	030-11B-33-012
Lot # 168	PPN	030-11B-33-013
Lot # 169	PPN	030-11B-33-014
Lot # 170	PPN	030-11B-33-015
Lot # 171	PPN	030-11B-33-016
Lot # 172	PPN	030-11B-33-017
Lot # 173	PPN	030-11B-33-018
Lot # 174	PPN	030-11B-33-019
Lot # 175	PPN	030-11B-33-020
Lot # 176	PPN	030-11B-33-021
Lot # 177	PPN	030-11B-33-022
Lot # 178	PPN	030-11B-33-023
Lot # 179	PPN	030-11B-33-024
Lot # 180	PPN	030-11B-33-025
Lot # 183	PPN	030-11B-33-028
Lot # 184	PPN	030-11B-33-029
Lot # 185	PPN	030-11B-33-030
Lot # 186	PPN	030-11B-33-031
Lot # 187	PPN	030-11B-33-032

Lot # 188	PPN	031-11B-33-002
	PPN	030-11B-33-033
Lot # 189	PPN	031-11B-33-003
	PPN	030-11B-33-034
Lot # 190	PPN	031-11B-33-004
	PPN	030-11B-33-035
Lot # 191	PPN	031-11B-33-005
	PPN	030-11B-33-036
Lot # 192	PPN	030-11B-33-006
	PPN	030-11B-33-037
Lot # 193	PPN	030-11B-33-038
Lot # 194	PPN	030-11B-33-039
Lot # 195	PPN	030-11B-33-040
Lot # 198	PPN	030-11B-33-043
Lot # 199	PPN	030-11B-33-044
Lot # 200	PPN	030-11B-33-045
Lot # 201	PPN	030-11B-33-046
Lot # 202	PPN	030-11B-33-047
Lot # 203	PPN	030-11B-33-048
Lot # 204	PPN	030-11B-33-049
Lot # 205	PPN	030-11B-38-012
Lot # 206	PPN	030-11B-38-013

PHASE IIIA (Replat No. 1 2004PL000023)

Situated in the Township of Montville, County of Medina, and State of Ohio: And known as being the whole of Sublots 196A and Sublot 197A in the Montville Lakes Subdivision Phase 3A Replat No. 1 , in Original Township Lots 82, 83 and 90, as shown by the Recorded Plat 2004PL000023 of Medina County Plat Records:

Lot # 196A	PPN	030-11B-33-055
Lot # 157A	PPN	030-11B-33-056

PHASE IIC (PLAT 2007PL000011)

Situated in the Township of Montville, County of Medina, and State of Ohio: And known as being the whole of the following Lots in the Montville Lakes Subdivision Phase 3C as per Plat 2007PL000011 of Medina County Plat Records, in Original Township Lots 89, 90 and 103:

Lot # 207	PPN	031-11B-33-008
Lot # 208	PPN	031-11B-33-009
Lot # 209	PPN	031-11B-33-010
Lot # 210	PPN	031-11B-34-011
Lot # 211	PPN	031-11B-34-012
Lot # 212	PPN	031-11B-33-011
Lot # 213	PPN	031-11B-33-012
Lot # 214	PPN	031-11B-34-013
Lot # 215	PPN	031-11B-34-014
Lot # 216	PPN	031-11B-34-015
Lot # 217	PPN	031-11B-34-016
Lot # 218	PPN	031-11B-34-017
Lot # 219	PPN	031-11B-34-018
Lot # 220	PPN	031-11B-34-019
Lot # 221	PPN	031-11B-34-020
Lot # 222	PPN	031-11B-34-021
Lot # 223	PPN	031-11B-34-022
Lot # 224	PPN	031-11B-34-023
Lot # 225	PPN	031-11B-34-024
Lot # 226	PPN	031-11B-34-025
Lot # 227	PPN	031-11B-34-026
Lot # 228	PPN	031-11B-34-027
Lot # 229	PPN	031-11B-34-028
Lot # 230	PPN	031-11B-34-029
Lot # 231	PPN	031-11B-34-030
Lot # 232	PPN	031-11B-34-031
Lot # 233	PPN	031-11B-34-032
Lot # 234	PPN	031-11B-34-033
Lot # 235	PPN	031-11B-34-034
Lot # 236	PPN	031-11B-34-035
Lot # 237	PPN	031-11B-34-036
Lot # 238	PPN	031-11B-34-037
Lot # 241	PPN	031-11B-34-040
Lot # 242	PPN	031-11B-34-041

Lot # 243	PPN	031-11B-34-042
Lot # 244	PPN	031-11B-34-043
Lot # 245	PPN	031-11B-34-044
Lot # 246	PPN	031-11B-34-045
Lot # 247	PPN	031-11B-34-046
Lot # 248	PPN	031-11B-34-047
Lot # 249	PPN	031-11B-34-048
Lot # 250	PPN	031-11B-34-049
Lot # 251	PPN	031-11B-34-050
Lot # 252	PPN	031-11B-34-051
Lot # 253	PPN	031-11B-34-052
Lot # 254	PPN	031-11B-34-053
Lot # 255	PPN	031-11B-34-054
Lot # 256	PPN	031-11B-34-055
Lot # 257	PPN	031-11B-34-056
Lot # 258	PPN	031-11B-39-028
Lot # 259	PPN	031-11B-39-029
Lot # 260	PPN	031-11B-39-030
Lot # 261	PPN	031-11B-39-031
Lot # 263	PPN	031-11B-39-033
Lot # 264	PPN	031-11B-39-034
Lot # 265	PPN	031-11B-39-035
Lot # 266	PPN	031-11B-34-057
Lot # 267	PPN	031-11B-34-058
Lot # 268	PPN	031-11B-39-036
Lot # 269	PPN	031-11B-39-037
Lot # 270	PPN	031-11B-39-038
Lot # 271	PPN	031-11B-39-039
Lot # 272	PPN	031-11B-39-040
Lot # 273	PPN	031-11B-39-041
Lot # 275	PPN	031-11B-38-003
Lot # 276	PPN	031-11B-38-004
Lot # 277	PPN	031-11B-38-005
Lot # 278	PPN	031-11B-38-006
Lot # 279	PPN	031-11B-33-013
Lot # 280	PPN	031-11B-34-059
Lot # 281	PPN	031-11B-34-060
Lot # 282	PPN	031-11B-34-061
Lot # 283	PPN	031-11B-39-043
Lot # 284	PPN	031-11B-39-044
Lot # 285	PPN	031-11B-39-045
Lot # 286	PPN	031-11B-34-062

Lot # 287	PPN	031-11B-34-063
Lot # 288	PPN	031-11B-34-064
Lot # 289	PPN	031-11B-34-065
Lot # 291	PPN	031-11B-34-067
Lot # 292	PPN	031-11B-34-068
Lot # 293	PPN	031-11B-34-069
Lot # 294	PPN	031-11B-34-070
Lot # 295	PPN	031-11B-34-071
Lot # 296	PPN	031-11B-34-072
Lot # 297	PPN	031-11B-34-073
Lot # 298	PPN	031-11B-34-074
Lot #299	PPN	031-11B-34-075
Lot #300	PPN	031-11B-34-076
Lot #301	PPN	031-11B-34-077
Lot #302	PPN	031-11B-33-014
Lot #303	PPN	031-11B-33-015
Lot #304	PPN	031-11B-33-016
Lot #305	PPN	031-11B-33-017
	PPN	030-11B-33-113
Lot #306	PPN	031-11B-33-018
	PPN	030-11B-33-112

PHASE IV (PLAT 2007PL000065)

Situated in the Township of Montville, County of Medina, and State of Ohio: And known as being the whole of Lot 165B in the Montville Lakes Subdivision Phase 4 as per Plat 2007PL000065 of Medina County Plat Records, in Original Township Lots 83:

Lot # 165B PPN 030-11B-33-117

PHASE V (PLAT 2014PL000048)

Situated in the Township of Montville, County of Medina, and State of Ohio: And known as being the whole of the following Lots in the Montville Lakes Subdivision Phase 5 as per Plat 2014PL000048 of Medina County Plat Records, in Original Township Lots 83:

Lot # 307 PPN 030-11B-33-172

Lot # 308	PPN	031-11B-34-084
Lot # 309	PPN	031-11B-39-050
Lot # 310	PPN	031-11B-39-051
Lot # 239A	PPN	031-11B-34-082
Lot # 240A	PPN	031-11B-34-081
Lot # 262A	PPN	031-11B-39-048
Lot # 274A	PPN	031-11B-39-049
Lot # 290A	PPN	031-11B-34-083

PHASE IIIA REPLAT NO. 2 (PLAT 2019PL000040)

Situated in the Township of Montville, County of Medina, and State of Ohio: And known as being the whole of Sublot 181A the following Lots in the Montville Lakes Subdivision Phase 3A, Replat No. 2, as per Plat 2019PL000040 of Medina County Plat Records, in Original Township Lot 90.

Sublot 181A PPN 030-11B-33-211

EXHIBIT B
(LOOKOUT POINTE CLUSTER RESIDENCE LOTS)

PHASE 1 (PLAT 2004PL000063)

Situated in the Township of Montville, County of Medina and the State of Ohio: And known as being the whole of Sublots 4, 9, 13, 28, and 52 in the Lookout Pointe Subdivision Phase 1 as per Plat 2004PL000063 of Medina County Recorder's Records, in Original Township Lots 83 and 90.

Sublot 4	PPN: 030-11B-33-058
Sublot 9	PPN: 030-11B-33-060
Sublot 13	PPN: 030-11B-33-061
Sublot 28	PPN: 030-11B-33-062
Sublot 52	PPN: 030-11B-33-064

PHASE 2 (PLAT 2004PL000102)

Situated in the Township of Montville, County of Medina and the State of Ohio: And known as being the whole of Sublots 6, 18, and 37 in the Lookout Pointe Subdivision Phase 2 as per Plat 2004PL000102 of Medina County Recorder's Records, in Original Township Lots 83 and 90.

Sublot 6	PPN: 030-11B-33-066
Sublot 18	PPN: 030-11B-33-067
Sublot 37	PPN: 030-11B-33-068

PHASE 3 (PLAT 2005PL000014)

Situated in the Township of Montville, County of Medina and the State of Ohio: And known as being the whole of Sublots 8, 14, 16, and 20 in the Lookout Pointe Subdivision Phase 3 as per Plat 2005PL000014 of Medina County Recorder's Records, in Original Township Lots 83 and 90.

Sublot 8	PPN: 030-11B-33-070
Sublot 14	PPN: 030-11B-33-071
Sublot 16	PPN: 030-11B-33-072
Sublot 20	PPN: 030-11B-33-073

PHASE 4 (PLAT 2005PL000047)

Situated in the Township of Montville, County of Medina and the State of Ohio: And known as being the whole of Sublot 17 in the Lookout Pointe Subdivision Phase 4 as per Plat 2005PL000047 of Medina County Recorder's Records, in Original Township Lots 83 and 90.

Sublot 17 PPN: 030-11B-33-087

PHASE 5 (PLAT 2005PL000055)

Situated in the Township of Montville, County of Medina and State of Ohio: And known as being the whole of Sublot 10 in the Lookout Pointe Subdivision Phase 5 as per Plat 2005PL000055 of Medina County Recorder's Records, in Original Township Lots 83 and 90.

Sublot 10: PPN 030-11B-33-089

PHASE 6 (PLAT 2005PL000069)

Situated in the Township of Montville, County of Medina and State of Ohio: And known as being the whole of Sublot 12 in the Lookout Pointe Subdivision Phase 5 as per Plat 2005PL000069 of Medina County Recorder's Records, in Original Township Lots 83 and 90.

Sublot 12: PPN 030-11B-33-091

PHASE 7 (PLAT 2005PL000086)

Situated in the Township of Montville, County of Medina and State of Ohio:
And known as being the whole of Sublots 21, 22 and 50 in the Lookout
Pointe Subdivision Phase 7 as per Plat 2005PL000086 of Medina County
Recorder's Records, in Original Township Lots 83 and 90.

Sublot 21: PPN 030-11B-33-093
Sublot 22: PPN 030-11B-33-094
Sublot 50: PPN 030-11B-33-095

PHASE 8 (PLAT 2005PL000118)

Situated in the Township of Montville, County of Medina and State of Ohio:
And known as being the whole of Sublots 5A and 25 in the Lookout Pointe
Subdivision Phase 8 as per Plat 2005PL000118 of Medina County
Recorder's Records, in Original Township Lots 83 and 90.

Sublot 5A: PPN 030-11B-33-098
Sublot 25: PPN 030-11B-33-099

PHASE 9 (PLAT 2006PL000017)

Situated in the Township of Montville, County of Medina and State of Ohio:
And known as being the whole of Sublots 11, 45 and 46 in the Lookout
Pointe Subdivision Phase 9 as per Plat 2006PL000017 of Medina County
Recorder's Records, in Original Township Lots 83 and 90.

Sublot 11: PPN 030-11B-33-100
Sublot 45: PPN 030-11B-33-101
Sublot 46: PPN 030-11B-33-102

PHASE 10 (PLAT 2006PL000066)

Situated in the Township of Montville, County of Medina and State of Ohio:
And known as being the whole of Sublot 49 in the Lookout Pointe
Subdivision Phase 10 as per Plat 2006PL000066 of Medina County
Recorder's Records, in Original Township Lots 83 and 90.

Sublot 49: PPN 030-11B-33-105

PHASE 11 (PLAT 2006PL000105)

Situated in the Township of Montville, County of Medina and State of Ohio:
And known as being the whole of Sublots 7 and 26 in the Lookout Pointe
Subdivision Phase 11 as per Plat 2006PL000105 of Medina County
Recorder's Records, in Original Township Lots 83 and 90.

Sublot 7: PPN 030-11B-33-109

Sublot 26: PPN 030-11B-33-110

PHASE 12 (PLAT 2007PL000051)

Situated in the Township of Montville, County of Medina and State of Ohio:
And known as being the whole of Sublot 27 in the Lookout Pointe
Subdivision Phase 12 as per Plat 2007PL000051 of Medina County
Recorder's Records, in Original Township Lots 83 and 90.

Sublot 27: PPN 030-11B-33-116

PHASE 13 (PLAT 2008PL000018)

Situated in the Township of Montville, County of Medina and State of Ohio:
And known as being the whole of Sublot 51 in the Lookout Pointe
Subdivision Phase 13 as per Plat 2008PL000018 of Medina County
Recorder's Records, in Original Township Lots 83 and 90.

Sublot 51: PPN 030-11B-33-124

PHASE 14 (PLAT 2008PL000044)

Situated in the Township of Montville, County of Medina and State of Ohio:
And known as being the whole of Sublot 30 in the Lookout Pointe
Subdivision Phase 14 as per Plat 2008PL000044 of Medina County
Recorder's Records, in Original Township Lots 83 and 90.

Sublot 30: PPN 030-11B-33-125

PHASE 15 (PLAT 2009PL000005)

Situated in the Township of Montville, County of Medina and State of Ohio:
And known as being the whole of Sublot 33B in the Lookout Pointe
Subdivision Phase 15 as per Plat 2009PL000005 of Medina County
Recorder's Records in Original Township Lots 83 and 90.

Sublot 33B: PPN 030-11B-33-131

PHASE 16 (PLAT 2009PL000024)

Situated in the Township of Montville, County of Medina and State of Ohio:
And known as being the whole of Sublot 3 in the Lookout Pointe Subdivision
Phase 16 as per Plat 2009PL000024 of Medina County Recorder's Records
in Original Township Lots 83 and 90.

Sublot 3: PPN 030-11B-33-133

PHASE 17 (PLAT 2013PL000028)

Situated in the Township of Montville, County of Medina and State of Ohio:
And known as being the whole of Sublots 2 and 47 in the Lookout Pointe
Subdivision Phase 17 as per Plat 2013PL000028 of Medina County
Recorder's Records in Original Township Lots 83 and 90.

Sublot 2: PPN 030-11B-33-135

Sublot 47: PPN 030-11B-33-136

PHASE 18 (PLAT 2013PL000040)

Situated in the Township of Montville, County of Medina and State of Ohio:
And known as being the whole of Sublot 15 and 24 in the Lookout Pointe
Subdivision Phase 18 as per Plat 2013PL000040 in the Lookout Pointe
Subdivision Phase 18 as per Plat 2013PL000040 of Medina County
Recorder's Records in Original Township Lots 83 and 90.

Sublot 15: PPN 030-11B-33-138

Sublot 24: PPN 030-11B-33-139

PHASE 19 (PLAT 2014PL000029)

Situated in the Township of Montville, County of Medina and State of Ohio:
And known as being the whole of Block A18 in the Lookout Pointe
Subdivision Phase 19 as per Plat 2014PL000029 of Medina County
Recorder's Records in Original Township Lots 83 and 90.

Sublot 1 PPN 030-11B-33-141

Sublot 19 PPN 030-11B-33-142

Sublot 23 PPN 030-11B-33-143

Sublot 38 PPN 030-11B-33-145

Sublot 44 PPN 030-11B-33-146

Sublot 48 PPN 030-11B-33-147

PHASE 19 REPLAT (PLAT 2014 PL000038)

Situated in the Township of Montville, County of Medina and State of Ohio:
And known as being the whole of Block 29A in the Lookout Pointe
Subdivision Phase 19 replat as per Plat 2014PL000038 of Medina County
Recorder's Records in Original Township Lots 83 and 90.

Sublot 29A PPN 030-11B-33-170

PHASE 20 (PLAT 2015PL000030)

Situated in the Township of Montville, County of Medina and State of Ohio:
And known as being the whole of Sublot 34 and Sublot 36 in the Lookout
Pointe Subdivision Phase 20 as per Plat 2015PL000030 of Medina County
Recorder's Records in Original Township Lots 83 and 90.

Sublot 34 PPN 030-11B-33-181
Sublot 36 PPN 030-11B-33-182

PHASE 21 (PLAT 2016PL000052)

Situated in the Township of Montville, County of Medina and State of Ohio:
And known as being the whole of Sublot 43 in the Lookout Pointe
Subdivision Phase 21 as per Plat 2016PL000052 of Medina County
Recorder's Records in Original Township Lots 83 and 90.

Sublot 43 PPN 030-11B-33-184

PHASE 22 (PLAT 2017PL000040)

Situated in the Township of Montville, County of Medina and State of Ohio:
And known as being the whole of Sublot 53 in the Lookout Pointe
Subdivision Phase 22 as per Plat 2017PL000040 of Medina County
Recorder's Records in Original Township Lots 83 and 90.

Sublot 53 PPN 030-11B-33-186

PHASE 23 (PLAT 2017PL000053)

Situated in the Township of Montville, County of Medina and State of Ohio:
And known as being the whole of Sublot 39 in the Lookout Pointe
Subdivision Phase 23 as per Plat 2017PL000053 of Medina County
Recorder's Records in Original Township Lots 83 and 90.

Sublot 39 PPN 030-11B-33-188

PHASE 24 (PLAT 2017PL000099)

Situated in the Township of Montville, County of Medina and State of Ohio:
And known as being the whole of Sublot 35 in the Lookout Pointe
Subdivision Phase 24 as per Plat 2017PL000099 of Medina County
Recorder's Records in Original Township Lots 83 and 90.

Sublot 35 PPN 030-11B-33-190

PHASE 25 (PLAT 2018PL000022)

Situated in the Township of Montville, County of Medina and State of Ohio:
And known as being the whole of Sublot 31 and Sublot 32 in the Lookout
Pointe Subdivision Phase 25 as per Plat 2018PL000022 of Medina County
Recorder's Records in Original Township Lots 83 and 90.

Sublot 31 PPN 030-11B-33-204

Sublot 32 PPN 030-11B-33-205

PHASE 26 (PLAT 2018PL000050)

Situated in the Township of Montville, County of Medina and State of Ohio:
And known as being the whole of Sublot 40, Sublot 41 and Sublot 42 in the
Lookout Pointe Subdivision Phase 26 as per Plat 2015PL000030 of Medina
County Recorder's Records in Original Township Lots 83 and 90.

Sublot 40 PPN 030-11B-33-207

Sublot 41 PPN 030-11B-33-208

Sublot 42 PPN 030-11B-33-209

EXHIBIT C
(CLUBHOUSE POINTE CLUSTER RESIDENCE LOTS)

PHASE I

Situated in the Township of Montville, County of Medina, and the State of Ohio and known as being the whole of Sublot 2, in the Clubhouse Pointe Subdivision Phase 1, a part of original Montville Township Lot 83, as shown by the Recorded Plat 2008PL000009 of the Medina County Recorder's Office.

Sublot 2 PPN 030-11B-33-121

PHASE II

Situated in the Township of Montville, County of Medina, and the State of Ohio and known as being the whole of Sublot 13, in the Clubhouse Pointe Subdivision Phase 2, a part of original Montville Township Lot 83, as shown by the Recorded Plat 2008PL000059 of the Medina County Recorder's Office.

Sublot 13 PPN 030-11B-33-127

PHASE III

Situated in the Township of Montville, County of Medina, and the State of Ohio and known as being the whole of THE FOLLOWING LOTS, in the Clubhouse Pointe Subdivision Phase 3, a part of original Montville Township Lot 83, as shown by the Recorded Plat 2014PL000035 of the Medina County Recorder's Office.

Sublot 1 PPN 030-11B-33-149
Sublot 3 PPN 030-11B-33-150
Sublot 4 PPN 030-11B-33-151
Sublot 5 PPN 030-11B-33-152
Sublot 6 PPN 030-11B-33-153
Sublot 7 PPN 030-11B-33-154
Sublot 8 PPN 030-11B-33-155
Sublot 9 PPN 030-11B-33-156
Sublot 12 PPN 030-11B-33-159

Sublot 14 PPN 030-11B-33-160
Sublot 15 PPN 030-11B-33-161
Sublot 16 PPN 030-11B-33-162
Sublot 17 PPN 030-11B-33-163
Sublot 18 PPN 030-11B-33-164
Sublot 19 PPN 030-11B-33-165
Sublot 20 PPN 030-11B-33-166

PHASE III REPLAT NO.1

Situated in the Township of Montville, County of Medina, and the State of Ohio and known as being the whole of Sublot 11A, in the Clubhouse Pointe Subdivision Phase 3 Replat No. 1, a part of original Montville Township Lot 83, as shown by the Recorded Plat 2018PL000006 of the Medina County Recorder's Office.

Sublot 11A PPN 030-11B-33-197

PHASE III REPLAT NO. 2

Situated in the Township of Montville, County of Medina, and the State of Ohio and known as being the whole of Sublot 10B, in the Clubhouse Pointe Subdivision Phase 3 Replat No. 2, a part of original Montville Township Lot 83, as shown by the Recorded Plat 2018PL000016 of the Medina County Recorder's Office.

Sublot 10B PPN 030-11B-33-202

EXHIBIT D
(CLUSTER RESIDENCE LOTS IN THE VILLAS AT BLUE
HERON)

And known as being the whole of THE FOLLOWING SUBLOTS in the Villas at Blue Heron of part of original Montville Township Lot No. 103 as shown by the recorded Plat in Volume 2023PL000013 of the Medina County Recorder's Records as appears by said plat, be the same more or less, but subject to all legal highways.

Sublot 1 031-11B-34-091
Sublot 2 031-11B-34-092
Sublot 3 031-11B-34-093
Sublot 4 031-11B-34-094
Sublot 5 031-11B-39-052
Sublot 6 031-11B-39-053
Sublot 7 031-11B-39-054
Sublot 8 031-11B-39-055
Sublot 9 031-11B-39-056
Sublot 10 031-11B-39-057
Sublot 11 031-11B-39-058
Sublot 12 031-11B-39-059
Sublot 13 031-11B-34-095
Sublot 14 031-11B-34-096
Sublot 15 031-11B-34-097
Sublot 16 031-11B-34-098
Sublot 17 031-11B-34-099

EXHIBIT E
(COMMERCIAL LOTS)

PARCEL 1:

Situated in the Township of Montville, County of Medina and State of Ohio:
And known as being the whole of Sublot No. 311A in the Montville Lakes
Subdivision Phase 5 Replat No. 1 of part of original Montville Township Lot
No. 83 as shown by the recorded Plat 2015PL000032 of Medina County
Records as appears by said Plat be the same more or less, but subject to all
legal highways.

Sublot 311A PPN: 030-11B -33-177

PARCEL 2:

Situated in the Township of Montville, County of Medina and State of Ohio:
And known as being the whole of Block QQ-2 in the Montville Lakes
Subdivision Phase 5 Replat No. 1 of part of original Montville Township Lot
No. 83 as shown by the recorded Plat 2015PL000032 of Medina County
Records as appears by said Plat be the same more or less, but subject to all
legal highways.

Block QQ-2 PPN: 030-11B -33-178

EXHIBIT F
(RECREATION FACILITY LOTS)

PARCEL 1: (Recreation Facility Swimming Pool Lot)

Situated in the Township of Montville, County of Medina and State of Ohio:
And known as being the whole of Block SS in the Montville Lakes
Subdivision Phase IV of part of original Montville Township Lot No. 83, as
shown by the recorded Plat 2007PL000065 of Medina County Recorder's
Office;

Block SS: PPN: 030-11B-33-119

PARCEL 2: (Recreation Facility Tennis Court Lot)

Situated in the Township of Montville, County of Medina and State of Ohio:
And known as being the whole of Block N-3 in the Montville Lakes
Subdivision Phase 5, Replat No. 2 of part of original Montville Township Lot
No. 82 & No. 83, as shown by the recorded Plat 2022PL000035 of Medina
County Recorder's Office.

Block N-3 PPN: 030-11B-38-024

EXHIBIT G
(CLUSTER RESIDENCE BLOCK COMMON AREAS)

CLUSTER BLOCK "A" (LOOKOUT POINTE COMMON AREA)

Situated in the Township of Montville, County of Medina and State of Ohio:
And known as being the whole of Block "A26" in the Lookout Pointe
Subdivision Phase 26 as per Plat 2018PL000050 of Medina County
Recorder's Records in Original Township Lots 83 and 90.

BLOCK "A26" PPN 030-11B-33-210

CLUSTER BLOCK A4 (CLUBHOUSE POINTE COMMON AREA)

Situated in the Township of Montville, County of Medina, and the State of
Ohio: And known as being the whole of Block A4, in the Clubhouse Pointe
Subdivision Phase 3, Re-plat No. 2 a part of original Montville Township Lot
83, as shown by the Recorded Plat 2018PL000016 of the Medina County
Recorder's Office.

Block "A4" PPN 030-11B-33-203

(THE VILLAS AT BLUE HERON COMMON AREA)

And known as being the whole of Block GG-2 in the Villas at Blue Heron of
part of original Montville Township Lot No. 103 as shown by the recorded
Plat in Volume 2023PL000013 of the Medina County Recorder's Records as
appears by said plat, be the same more or less, but subject to all legal
highways.

Block GG-2 PPN 031 - 11B - 34 -100

EXHIBIT H
(SUBDIVISION OPEN SPACE BLOCKS)

PHASE 3A

Situated in the Township of Montville, County of Medina and State of Ohio:
And known as being the whole of "Block J" in the Montville Lakes
Subdivision Phase 3A of part of original Montville Township Lot No. 83 as
shown by the recorded Plat in Volume 2003PI000047 of Medina County
Records as appears by said plat be the same more or less, but subject to all
legal highways.

Block "J" PPN 030-11B-38-015

PHASE 3B

Situated in the Township of Montville, County of Medina and State of Ohio:
And known as being the whole of "Block P" and "Block Q" in the Montville
Lakes Subdivision Phase 3B of part of original Montville Township Lot No.
83 and No. 90 as shown by the recorded Plat in Volume 2005PL000051 of
Medina County Records as appears by said plat be the same more or less, but
subject to all legal highways.

Block "P" PPN 030-11B-33-075
Block "Q" PPN 030-11B-33-076

PHASE 3C

Situated in the Township of Montville, County of Medina and State of Ohio:
And known as being the whole of "Block V-1" in the Montville Lakes
Subdivision Phase 3C, a part of original Montville Township Lot No. 90 and
No. 103 as shown by the recorded Plat in Volume 2007PL000011 of Medina
County Records as appears by said plat be the same more or less, but subject
to all legal highways.

Block "V-1" PPN 030-11B-34-008

PHASE V

Situated in the Township of Montville, County of Medina and State of Ohio:
And known as being the whole of THE FOLLOWING BLOCKS in the
Montville Lakes Subdivision Phase 5 of part of original Montville Township
Lot No. 90 and Lot No. 103 as shown by the recorded Plat in Volume
2014PL000048 of Medina County Records as appears by said plat be the
same more or less, but subject to all legal highways.

Block DD-1	PPN	031 - 11B - 34 - 085
Block EE-1	PPN	030 - 11B - 33 - 174
Block R-3	PPN	031 - 11B - 34 - 086
Block S-3	PPN	030 - 11B - 33 - 176
Block W-2	PPN	031 - 11B - 34 - 087
Block W-3	PPN	031 - 11B - 34 - 088
Block W-4	PPN	031 - 11B - 33 - 019.

PHASE V REPLAT NO. 2

Situated in the Township of Montville, County of Medina and State of Ohio:
And known as being the whole of Block N-2 in the Montville Lakes
Subdivision Phase 5, Replat No. 2 of part of original Montville Township Lot
No. 83 and 90, as shown by the recorded Plat 2022PL000035 of Medina
County Recorder's Office.

Block N-2	PPN:	030-11B-38-023.
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“EXHIBIT I”

FIRST AMENDED CODE OF REGULATIONS/BY-LAWS OF
BLUE HERON ESTATES PUD ASSOCIATION, INC.

PREAMBLE

WHEREAS: Montville Lakes Subdivision: Blue Heron Estates is an approved phase of Montville Lakes Planned Unit Development in the Township of Montville, County of Medina, and State of Ohio.

WHEREAS: All the real property comprising Blue Heron Estates Subdivision is subject to *Declaration of Restrictive Covenants, Conditions and Restrictions of Montville Lakes, Phase 3, Known As “Blue Heron Estates”*, recorded in 2003OR023233 Official Records of the Medina County Recorder, State of Ohio, as amended by the *Subsequent Amendment* recorded in 2005OR014716 of the Medina County Recorder, State of Ohio and the *Second Subsequent Amendment* recorded in Document 2007OR011437 of the Medina County Recorder, State of Ohio, and/or thereafter amended.

WHEREAS: Hoffman Properties Limited Partnership as the original “Declarant” reserved the right under Section 11.16 of the *Declaration of Restrictive Covenants, Conditions and Restrictions of Montville Lakes, Phase 3, Known As “Blue Heron Estates”*, recorded in 2003OR023233 Official Records of the Medina County Recorder, State of Ohio to amend the restrictions, limitations, covenants, and requirements to protect the value of the property and to provide a flexible and reasonable method for the administration, maintenance, preservation, use, and enjoyment thereof the planned unit development known as Montville Lakes Subdivision: Blue Heron Estates.

WHEREAS: the undersigned, Montville Lakes Development Company, Inc., is the successor in interest to Hoffman Properties Limited Partnership, as recorded in *Second Subsequent Amendment* recorded in Document 2007OR011437 of the Medina County Recorder, State of Ohio.

WHEREAS: the undersigned, Montville Lakes Development Company, Inc. is the “Declarant” of the *Third Subsequent Amendment To Declaration of Restrictive Covenants, Conditions and Restrictions of Montville Lakes, Phase III, Known As “Blue Heron Estates”*, recorded in 2022OR017471, of the Medina County Recorder, State of Ohio.

WHEREAS: A Code of Regulations/By-Laws for Blue Heron Estates PUD Association, Inc. was attached as Exhibit I to the *Third Subsequent Amendment to Declaration of Restrictive Covenants, Conditions and Restrictions of Montville Lakes Subdivision: Phase III, Known As "Blue Heron Estates"*).

WHEREAS: Article IX, Section 9.11 of the Code of Regulations/By-Laws for Blue Heron Estates PUD Association, Inc. reserved the right of Declarant to amend the Code of Regulations/By-Laws prior to the first annual meeting of the Association. No annual meeting of the Association has been held and therefore the Code of Regulations/Bu-Laws for Blue Heron Estates PUD Association, Inc. are amended by the Declarant

WHEREAS: This *First Amended Code of Regulations/By-Laws* are promulgated and adopted under Article III, Section 3.8.13 of the *Fourth Subsequent Amendment to Declaration of Restrictive Covenants, Conditions and Restrictions of Montville Lakes Subdivision: Phase III, Known As "Blue Heron Estates" ("Declaration")* and are attached as Exhibit I to the Declaration.

ARTICLE I THE ASSOCIATION

1.1 Name of Association.

Blue Heron Estates PUD Association, Inc., ("Association"), is formed as a duly constituted not-for-profit corporation existing under the laws of the State of Ohio.

1.2 Conformance with Internal Revenue Code Section 528

The Association is established as an "owners association" (as defined in Section 528 of the Internal Revenue Code and Chapter 5312 of the Ohio Revised Code). Notwithstanding anything contained herein to the contrary

1.3 Authorized by Declaration

The Association is organized and operated under the authority and rights set forth in Article III of the Declaration, which this document is attached as Exhibit I.

1.4 Purpose of Association

The Association, as a non-profit corporation, is established to enforce and maintain the Subdivision, Blue Heron Estates, under the Declaration. The Association shall undertake the duties, obligations, charges, and restrictions established by the Declaration.

1.5 Limitation on earnings

No part of the net earnings of this Association shall inure, other than by acquiring, constructing, or providing management, maintenance, and care by the Association of the Open Spaces.

1.6 Definitions

Certain of the terms used in these Code of Regulations/By-Laws have been defined in Article I of the Declaration and, when used herein, shall have the same meaning as set forth in the Declaration.

1.7 Membership

Membership in the Association is limited to the Lot Owners in the Subdivision. A Lot Owner shall automatically become and be a Members of the Association upon transfer of title of a Lot to the Lot Owner. The Members of the Association are divided into designated classes under Section 1.8 to determine a Lot Owner's' right to vote for or appoint a designated Director to the Association's Board of Directors.

1.8 Membership Classes

- 1.8.1 Class A Members shall consist of all Non-Cluster Residence Lot Owners, whose property is listed in attached Exhibit A to the Declaration, their respective heirs, successors, or assigns.
- 1.8.2 Class B Members shall consist of all Cluster Residence Lot Owners of the Cluster Lots in "Lookout Pointe" listed in attached Exhibit B to the Declaration, their respective heirs, successors, or assigns.
- 1.8.3 Class C Members shall consist of all Cluster Residence Lot Owners of the Cluster Lots in "Clubhouse Pointe" listed in attached Exhibit C to the Declaration, their respective heirs, successors, or assigns.
- 1.8.4 Class D Member shall consist of all the Cluster Residence Lot Owners in "Villas at Blue Heron", whose Cluster Lot is listed in attached Exhibit D to the Declaration, their respective heirs, successors, or assigns.
- 1.8.5 Class E Member shall be the Owner of the Commercial Lots described in Exhibit E to the Declaration, its successors, or assigns.

1.8.6 Class F Member shall be the Owner of the Recreation Facilities Lots described in Exhibit F to the Declaration, its successors, or assigns.

1.9 Additional Conditions of Membership.

As a condition of Membership in the Association, each Lot Owner by the Declarations, the Articles of Incorporation, Code of Regulations/By-Laws, and Resolutions of the Association's Board of Directors and any rules, policies and regulations promulgated pursuant to the Declaration. Payment of Assessments, when due, is a condition of Membership and upon non-payment of any Assessment, unless exempted by Article IV, Section 4.7.8, et seq. A Member shall automatically be denied all privileges of use to any Open Space and/or Recreation Facilities until all Assessments of the Lot Owner are paid in full.

ARTICLE II
VOTING

2.1 Voting

Lot Owners in the Subdivision are granted voting rights incident to membership in the Association, subject to Section 1.9, hereof, and are entitled to one vote on matters called for a vote by the Association's Members, except for the election and/or appointment of the Association's Board of Directors, which shall be elected or appointed by Membership Class.

2.2 Conveyance or Transfer of Lot.

Upon conveyance and transfer by a Lot Owner of the title to the Lot Owner's Lot, the Lot Owner's membership in the Association shall terminate upon the conveyance of record of the Lot Owner's interest, and the new Lot Owner shall automatically become a Member of the Association.

2.3 Co-Lot PUD Lot Owners.

When more than one person holds an interest in a single Lot, all such persons shall be Members, and the one vote for such Lot shall be exercised as they may determine among themselves.

2.4 One Vote Per Lot Owner.

In no event shall more than one vote be cast by a Lot Owner, whether voting within a Class or when a full vote of the Members of the Association is called by the Association's Board of Directors.

2.5 Required Votes for Action by Members

Except as otherwise provided in the Declaration and these Code of Regulations/By-Laws, all actions taken by the Members shall require the affirmative vote of the majority of Association Members present at a meeting at which a quorum is present. As used in these Code of Regulations/By-Laws, the term "majority" vote of Members shall mean the votes by Members totaling over fifty percent (50%) of the total.

2.6 Quorum

Except as otherwise provided by the Declaration or by these Code of Regulations/By-Laws, the presence in person or by proxy of Members having a majority of the voting power of the Association, shall constitute a quorum. No action may be authorized or taken by a lesser percentage than required by the Declaration or these Code of Regulations/By-Laws. A majority of the voting power of the Members present at a meeting, whether or not a quorum is present, may adjourn such meeting from time to time.

2.7 Proxies

At all meetings of Members, each Member may vote or act in person or by proxy to vote. The person appointed as proxy need not be a member of the Association. Designation by a Member of a proxy to vote or to act on his behalf shall be made in writing and filed with the Association's Secretary prior to any meeting whereat the proxy is to be utilized. A proxy issued for a regular or special meeting shall be revocable at any time prior to the meeting by written notice given by the Member issuing the proxy and filed with the Secretary before the meeting associated with the proxy. No general proxies to vote issued by a Member shall be effective. A proxy to vote is limited to the meeting for which a Member issued the proxy to vote.

ARTICLE III MEETINGS

3.1 Place of Meetings

Meetings of the Association shall be held at the Commercial Facilities Owner's enterprise as arranged by the Board of Directors. If the Commercial Facilities is unavailable, then the meeting shall be held at some other suitable place convenient to the Members as selected by the Board of Directors.

3.2 Establishment of the Association

The Association shall be established upon the filing the Articles of Incorporation of the Association with the Ohio Secretary of State.

3.3 Formation of First Board of Directors

A Meeting of the Association's Members by Class shall be held to elect their respective Director under Section 4.1, et seq. Upon the election or appointment of at least five (5) Directors under Section 4.1, et seq., such Directors shall hold an Organizational Meeting and shall be the first Board of Directors with full authority to act under Section 4.2.

3.4 Annual Meetings

Annual meetings shall be held at such place and time as the Board of Directors selects, but not later than December 31st of each year, following the year of the Organizational Meeting is held under Section 3.3. The Members shall receive notice not less than ten (10) days before the date fixed for the annual meeting. Any business which may be properly brought before any meeting of the Association, including the election or designation of Directors may be considered at the annual meetings. Those members present or represented by proxy shall constitute a quorum.

3.5 Special Meeting

Special meetings of the Members may be held when called by the Board of Directors or upon petition signed by fifty (50%) of the voting Members of the Association and filed with the Secretary of the Association. Whether called by the Board of Directors or the Association Member under this Section 3.5, the President of the Board of Directors shall have the Association's Secretary issue notice to all Members of the Association of the date, time, and location of the special meeting. Such notice shall be issued ten (10) days before the date of the special meeting. The notice shall specify what action may be considered at the special meeting of the Association. No business other than that specified in the notice issued by the Secretary shall be considered at the special meeting.

3.6 Notice of Meeting

Not less than ten (10) days, nor over thirty (30) days before the day fixed for a meeting of the Members, written notice stating the time, place and purpose of such meeting shall be given by or at the direction of the Secretary of the Association or any other person designated by the Board of Directors. Such notice shall be given by personal delivery (which personal delivery shall be effective if hand delivered to a Member, attached to, or placed in the tube below the Member's U.S. Mailbox, under the door of the Member's residence or by U.S. mail postage pre-paid to a Member. Members may elect to have all notices under this Section 3.5 delivered to an electronic

address (e-mail address) if the Member provides the electronic address to the Secretary with written consent of the Member to accepting notices at the Member's electronic address (e-mail address) provided the Secretary,

If mailed, notice shall be addressed to the Members and others such as mortgagees of Lots (if entitled to such notice) at their respective addresses as they appear on the records of the Association or to the address at which the Medina County Treasurer delivers tax bills if no alternate postal address has been given to the Association's Secretary. Notice of the date, time, place, and purpose of any meeting of the Members may be waived in writing by any Member, either before, at, or after the holding of such meeting, which writing shall be filed with or entered upon the records of the meeting. The attendance of any member at any such meeting without protesting the lack of proper notice, before or at the commencement of the meeting, shall be a waiver by the Member of notice of such meeting.

3.7 Adjourned Meetings

If any meeting of Members cannot be organized due to the failure to obtain a quorum, the Members who are present, either in person or by proxy, may adjourn the meeting to a time not less than twenty-four (24) hours from the time the original meeting was called. If any meeting is adjourned, the notice of such adjournment need not be given if the time and place to which such meeting is adjourned are fixed and announced at such meeting.

3.8 Order of Business at Meeting

The order of the business at all regular meetings of Members shall be:

- (1) Calling of meeting to order
- (2) Proof of notice of meeting or waiver of notice
- (3) Reading of minutes of preceding meeting
- (4) Reports of officers
- (5) Reports of committees
- (6) Appointment of inspectors of election (at annual meetings)
- (7) Acknowledgment of election or appointment of members of the Board
- (8) Unfinished and/or old business
- (9) New business
- (10) Adjournment

3.9 Order of Business at Special Meetings

The business at each special meeting shall be that business specified in the notice therefor.

3.10 Actions Without a Meeting

All actions, except removal of a member of the Board of Directors, which may be taken at a meeting of the Members may be taken without a meeting if a consent in writing setting forth the action so taken is signed by Members having the percentage of voting power required to take such action if the same were taken at a meeting. Such writings shall be filed with the Secretary of the Association.

3.11 Conduct of Meetings

The President of Board of Directors shall preside over all meetings of the Association and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, and a record of all transactions occurring.

ARTICLE IV
ASSOCIATION'S BOARD OF DIRECTORS

4.1 The Association's Board of Directors.

The Association shall be managed by a Board of Directors, which shall consist of the following Directors:

- 4.1.1 **Class A Members' Election of Directors.** One (1) Director denominated the First Class A Director and one (1) Director denominated the Second Class A Director, both elected from and by the Class A Members,
- 4.1.2 **Class B and Class C Members' Directors.** Until the first annual meeting two (2) Directors elected by the Board of Directors of the Lookout Pointe Homeowners Association, Inc. and thereafter one (1) Director elected by the Board of Directors of the Lookout Pointe Homeowners Association, Inc., and one (1) Director elected at large from and by the Class B and Class C Members,
- 4.1.3 **Class D Members' Election of Director.** One (1) Director elected from and by the Class D Members,
- 4.1.4 **Class E Member's Appointment of Director.** One (1) Director appointed by the Class E Member,
- 4.1.5 **Class F Member's Appointment of Director.** One (1) Director appointed by the Class F Member.

4.2 Authority of Association's Board of Directors.

The Association's Board of Directors shall be authorized to exercise and fulfill the rights, duties, and obligations of the Association under the Declaration, including but not limited to maintaining, and administering the Open Space, (as defined), the Utility Facilities, (as defined), providing services of general benefit to the Lot Owners, collecting and disbursing assessments.

4.3 Action By Association's Board of Directors.

Any action taken under Article III, Section 3.3.9 of the Declaration or Section 4.2, hereof, by the Association's Board of Directors shall be upon the vote of five (5) Directors, which shall be for all purposes be the required majority vote of the Association's Board of Directors.

4.4 President of Association's Board of Directors.

The initial Board of Directors shall elect from its members a President to serve until the first annual meeting of the Association's members. Each elected Director, other than the initial President elected by the Board of Directors will serve a two year long term as President of the Association's Board of Directors. The President of the Board of Directors will be determined on a biennial, (every two years), rotation basis, with each Director serving for two (2) years starting with; the First Class A Director elected by Class A Members under Section 4.1.1, followed the Director appointed by the Board of Directors of Lookout Pointe Homeowners Association, Inc. under Section 4.1.2, followed by the Director elected by the Class B Members and Class C Members under Section 4.1.2, followed by the Director elected by Class D Members under Section 4.1.3, followed by the Second Director elected by Class A Members under Section 4.1.1 whereupon the same rotation of elected Directors to serve as President of the Board of Directors will repeat thereafter.

4.5 Failure of Director to Serve As President

For any reason, if any Director declines to serve or resigns as President of the Association's Board of Directors, the remaining Directors then serving shall elect a President.

4.6 President of Board of Directors to Preside Over Meetings

The serving President of the Association's Board of Directors shall preside over all meetings of the Association's Board of Directors.

4.7 Qualifications

All Directors shall be a natural person who shall be among: Members; spouses of Members; mortgagees of Lots; partners, agents or employees of a partnership owning a "Lot"; officers,

directors, agents, or employees of a corporation owning a "Lot"; members, managers, officers, agents, or employees of a limited liability company owning a "Lot"; or fiduciaries, officers, agents, or employees of fiduciaries owning a "Lot".

4.8 Appointment of Directors Prior To Annual Meeting

The Commercial Facilities Owner and the Recreation Facilities Owner shall appoint their respective Directors for the forth coming year by the annual meeting of the Association's Members. Notice of the appointed Directors under this Section 4.8 shall be given to the Secretary of the Association prior to the Annual Meeting.

4.9 Election of Board of Directors At Or Before Annual Meeting

Except as otherwise provided in these Code of Regulations/By-Laws, Directors to be elected by their respective Membership Class shall be elected prior to or at the annual meeting of the Association's Members. A Membership Class may hold a meeting, prior to the Annual Meeting of Association's Members to elect their respective Director(s) so long as such meeting is properly noticed to that Membership Class and held at least ten (10) days prior to the Association's Members' Annual Meeting. If a Membership Class holds its election of their respective Director prior to the Association's Members' Annual Meeting, the Membership Class shall notify the Secretary of the Association, who shall report the name of the Director(s) elected by that Membership Class. Any election of Director(s) by a Membership Class shall be by written ballot whenever requested by any Member; but, unless such request is made, the election may be conducted in a manner authorized by the Board of Directors, including mail-in voting or electronic mail voting (voting by e-mail) prior to the meeting of Membership Class to elect its respective Director(s).

4.10 Term of Directors and Resignation of Director

Directors shall hold office until the following annual meeting of the Association or until a Director's earlier resignation, removal from office or death. Any Director may resign at any time by oral statement to that effect, made at a meeting of the Board of Directors or by a writing to that effect delivered to the Secretary of the Association; such resignation shall take effect immediately or at such other time as the Director may specify.

4.11 Quorum of Members of Membership Class for Election of Director

At any meeting by a Membership Class to elect their respective Director(s), the presence in person or by proxy of Members of a Membership Class having a majority of the voting power of a Membership Class necessary to elect a Director for the Members of designated Membership Class under Section 4.1, hereof, shall constitute a quorum. No election of a Director may be authorized or taken by a lesser percentage than required by this Section 4.11

4.12 Removal of Directors

Except as otherwise provided herein, a majority of the Board of Directors may remove any Director and create a vacancy in the Board of Directors if by order of court, the Director has been found to be of unsound mind, or if the Director is physically incapacitated or fails to attend at least one of any three (3) consecutive meetings of the Board of Directors. At any regular or special meeting of the Membership Class who elected a Director duly called at which a quorum shall be present, the Membership Class's elected Director may be removed, with or without cause, by the affirmative vote of the majority of Members comprising the Membership Class who elected the Director removed and at such meeting a successor Director may be elected at the same meeting for the unexpired term of the removed Director. Any Director whose removal has been proposed by the Members of a specific Membership Class shall be given an opportunity to be heard at such meeting before the vote on his or her removal.

4.13 Vacancies

Vacancies in the Board of Directors, if a successor is not elected under Section 4.12, hereof, shall be filled by a majority vote of the remaining Directors of the Board of Directors. The Director elected by the Board of Directors under this Section 4.13 shall serve until the election or appointment of a duly qualified successor.

4.14 Powers and Duties

The Board of Directors shall have the powers, duties and authority to act on behalf of the Association and to exercise the authority specifically conferred upon the Association by the Declaration and these Code of Regulations/By-Laws and shall have the powers, duties and authority for the administration of the affairs of the Association including the adoption from time to time of rules and regulations ("Rules"), a copy of which shall be furnished in writing to all Members, and may do all such acts and things as the Declaration or by these Code of Regulations/By-Laws direct to be exercised and done by the Board of Directors.

4.15 Other Duties

In addition to or as a reiteration of the duties imposed by the Declaration, these Code of Regulations/By-Laws or by resolutions of the Association, the Board of Directors shall:

- (a) Maintain the Open Spaces and Utility Facilities in good order, condition, replacement, and repair.
- (b) Levy and collect Assessments,

- (c) Employ and discharge all personnel necessary for the operation of the Association's duties and obligations,
- (d) Enforce the Declaration, and
- (f) Obtain all insurance coverage set forth in Article XIII of the Declaration.

4.16 Director's Organizational Meeting After Annual Meeting

Immediately after each annual meeting of the Members or special meeting held in lieu thereof, the newly elected Directors shall hold an organizational meeting to elect officers and transact any other business. No notice of such meeting of the board must be given.

4.17 Regular Meetings

Regular meetings of the Board of Directors may be held at such date, time and place as shall be determined, from time to time, by a majority of the Board of Directors, but at least one (1) such meeting shall be held during each calendar year. Notice of regular meetings of the Board of Directors shall be given to each Director, personally, or transmitted electronically (via e-mail) at least three (3) days prior to the day named for such meetings. At such meetings, all business within the power of the Board of Directors may be transacted.

4.18 Special Meetings

Special meetings of the Board of Directors may be held at any time upon call by the President of Board of Directors or any four (4) Directors. Notice of the time, place and purposes of each special meeting shall be given to each Director by the Secretary. Such notice shall state the purpose or purposes of the meeting and may be given in any manner or method and at such time so the Director receiving it may have reasonable opportunity to attend the meeting. Such notice shall, in all events, be deemed to have been properly and duly given if personally delivered or transmitted electronically (via e-mail) at least forty-eight (48) hours prior to the meeting and directed to the residence or e-mail address of the Director shown upon the Secretary's records. Unless otherwise stated in the notice thereof, any business may be transacted at any special meeting of the Board of Directors.

4.19 Meeting By Electronic Conferencing

Any authorized meeting of the Board of Directors, upon the affirmative vote of the Directors may be held by electronic conferencing such as "zoom meetings." However, any action taken shall be recorded in writing by the Secretary and subsequently signed by the Directors reflecting their vote on any action and such writing shall be entered into the record of the Association.

4.20 Waiver of Notice

Before or at any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to giving such notice. Attendance by a Director at any meeting of the Board of Directors shall be a waiver of notice by him of the time and place thereof. If all the Directors are present at any meeting of the Board of Directors, no notice shall be required, and any business may be transacted at such meeting.

4.21 Quorum and Necessary Approval

At all meetings of the Board of Directors, five (5) Directors shall constitute a quorum for the transaction of business. The actions approved by at least five (5) Directors present at a meeting at which a quorum is present shall be the approved acts of the Board of Directors. If, at any meeting of the Board of Directors, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

The joinder in the action of a meeting by signing and concurring in the minutes of that meeting shall constitute the presence of such Director for the purpose of determining a quorum.

4.22 Open Meetings

Meetings of the Board of Directors shall be open attendance in person by Members or by attending by electronic conferencing under Section 4.19, hereof .

4.23 Action Without a Meeting

Any action required to be taken or any action which may be taken, at a meeting of the Board of Directors, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Directors.

4.24 Committees

The Board of Directors may by resolution provide for special standing or special committees as it deems desirable and discontinue the same at its discretion. Each such committee, consisting of at least five (5) Directors, shall have such powers and perform such duties, not inconsistent with the Declaration or the Code of Regulations/By-Laws, as delegated to it by the Board of Directors. Each such committee shall keep full records and accounts of its proceedings and transactions. All action by any such committee shall be reported to the Board of Directors at its meeting next succeeding such action and shall be subject to control, revision, and alteration by the Board of Directors if no rights of third persons shall be prejudicially affected. Each such

committee shall fix its own rules of procedure and shall meet as provided by such rules or by resolutions of the Board of Directors, and it shall also meet at the "call" of the President of Board of Directors of the Association or of any two (2) Directors who are members of the committee. Unless otherwise provided by such rules or by such resolutions, the provisions of Section 4.18, hereof, relating to the notice required to be given of special meetings of the Board of Directors shall also apply to special meetings of each such committee. A majority of the members of a committee shall constitute a quorum, and the acts of the majority present at a meeting at which a quorum is present shall be the acts of the committee. Each such committee may act without a meeting in writing or by electronic conferencing with written confirmation, but no such action shall be effective unless concurred in by all members of the committee. Vacancies in such committee shall be filled by the Board of Directors.

4.25 Fidelity Bonds.

The Board of Directors may require that all officers, employees, volunteers, and agents of the Association handling or responsible for Association funds shall furnish adequate fidelity bonds or insurance. The premiums on such bonds or insurance shall be paid by the Association and shall be a common expense.

4.26 No Compensation of Directors

Directors shall serve without compensation for their services. However, nothing contained herein shall be construed to preclude any Director from having dealings with the Association in any other capacity and receiving compensation therefor.

ARTICLE V OFFICERS

5.1 Designation

The principal officers of the Association shall be a President of Board of Directors, who shall be the Director serving in such capacity under Section 4.4, hereof. The Board of Directors shall elect or re-affirm the prior election of a Vice President, a Secretary, and a Treasurer. The Board of Directors may appointment an Assistant Treasurer and an Assistant Secretary, and such other officers as in their judgment may be necessary or desirable. Each such officer shall hold office at the pleasure of the Board of Directors and perform such duties as the Board may prescribe.

5.2 Election of Officers

Excluding the President of the Board of Directors, the officers of the Association shall hold office at the pleasure of the Board of Directors, and, unless sooner removed by the Board of

Directors, shall hold office until the first meeting of each new Board of Directors or until their successors are duly elected.

5.3 Removal of Officers

Upon an affirmative vote of five (5) Directors, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board of Directors, or at any, special meeting of the Board of Directors called for such purpose. A vacancy in any office, however created; shall be filled by the Board of Directors.

5.4 President of Board of Directors

The President of Board of Directors shall be the chief executive officer of the Association. He shall have the general powers and duties usually vested in the office of President of Board of Directors of an Ohio non-profit corporation, and such further powers and duties as the Board may from time to time assign to him.

5.5 Vice President of Board of Directors

The Vice President shall perform the duties of the President of Board of Directors whenever the President of Board of Directors is unable to act and shall have such other authority and perform such other duties as may be determined by the Board.

5.6 Secretary

The Secretary shall keep the minutes of all meetings of the Board and the minutes of all meetings of the Association; the Secretary shall have charge of such books and papers as the Board may direct, and the Secretary shall perform all the duties incident to the office of Secretary and such duties as the Board of Directors may prescribe. A copy of such minutes shall be posted in a place designated by the Board of Directors.

5.7 Treasurer

The Treasurer shall have responsibility for Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. The Treasurer shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit of the Association in such depositories as may from time to time be designated by the Board of Directors, and the Treasurer shall perform such other duties as from time to time may be assigned to the Treasurer by the Board of Directors.

5.8 Duties of Officers May be Delegated

In the absence of any officer of the Association, the Board of Directors may delegate the powers or duties of such officer to any other officer or to any Director.

ARTICLE VI
ASSESSMENTS, PROFITS AND OTHER FINACIAL MATTERS

6.1 Obligation of Members

Every Member shall pay his proportionate share of any assessment. Payment thereof shall be in such amounts and at such times as may be designated by the Board of Directors in accordance with the Declaration and the Code of Regulations/By-Laws, except the Recreation User Fee Assessment which payment is set by Article IV, Section 4.1.3, et seq. . In addition, each Member shall promptly pay to the Recreation Facilities Owner the Recreation Facilities User Fee Assessment and pay to the Association any special assessment imposed by the Association.

6.2 General Maintenance Assessment

The expenses required to maintain the Open Spaces, including but not limited to landscaping, walking trails, lakes, dams, mowing, signs, all insurance, and bonds procured by the Association, salaries and fees of any independent contractors and employees and all costs considered necessary or appropriate to the proper administration of the Open Spaces shall be the costs of the General Maintenance Assessment levied against the Association's Members and their respective Lots.

6.3 General Maintenance Assessment

The initial Board of Directors shall prepare an estimate cash requirement for the year 2023 and levy a General Maintenance Assessment in that amount against the Association's Members and their respective Lots. Payment of General Maintenance Assessments for 2023 shall be made by the Association's Members, in an amount estimated by the Board of Directors for 2023, as being sufficient to cover the initial working capital requirements for the Association (the respective amounts payable by each Member being in accordance with each Member's percentage of interest in the Subdivision, as defined in Article IV, Section 4.1.1.2 of the Declaration),

6.4 Preparation of Estimated Budget For Annual General Maintenance Assessment

On or before the annual meeting of the Association's Members of each year, except for the year 2023, the Board of Directors shall estimate the total amount necessary to pay the General Maintenance Assessment for the next calendar year, together with reasonable amounts for

reserves if so, determined by the Board of Directors, and other amounts necessary or required for the administration of the Association as authorized by the Declaration and these Code of Regulations/By-Laws. On or before the thirtieth (30th) day following the annual meeting of the Members or the later of January 31st of the year following, the Board of Directors shall notify each Member in writing of the amount of such estimate (the "estimated cash requirement") with reasonable itemization thereof. Said "estimated cash requirement" shall be assessed to the Members and their respective Lot and billed to each Member as determined by the Board of Directors. The Board of Directors shall assess each Member and the Member's Lot in accordance with Article IV, Section 4.1.2.1 of the Declaration. If the "estimated cash requirement" is insufficient for any reason, including the non-payment by any Member of the Member's share of the Assessments, the Association may at any time prepare an adjusted estimated cash requirement and levy additional Assessments according to each Member's and the Member's Lot. The Association shall give written notice of any such additional Assessments to all Members stating the amount thereof, the reasons therefor and time when the same shall be payable, which shall not be less than ten (10) days after such notice was mailed, or, if the same is not mailed, after the delivery thereof, all Members shall be obligated to pay the Assessment as adjusted. Any amount collected by the Association in excess of the amount required for actual expenses and reserves in any year shall be retained by the Association's reserve account. Any deficiency shall be added (according to each Member's percentage of interest in the Subdivision) to the next Assessment due.

6.5 Payment Of Assessments By Members

Payment of Assessments shall be made by the Association's Members, in accordance with each Member's percentage of interest in the Subdivision, as defined in Article IV, Section 4.1.2.1 of the Declaration, and if the Members' payments shall be less than are required to meet the expenses. If the expenses for which an Assessment is made the deficiency shall promptly be made up by payments of an additional Assessment by the Board of Directors, subject to the limitations of Section 6.6 hereof, in accordance with the Members' respective percentages of interest in the Subdivision, as defined in Article IV, Section 4.1.2.1 of the Declaration.

6.6 Limitation on Expenditures

The Association through the Board of Directors shall not expend for any single item over Ten Thousand Dollars (\$15,000.00) nor aggregate expenditures in any fiscal year over Seventy-Five Thousand Dollars (\$75,000.00), without in each case having the prior approval of the Association's Members entitled to exercise a majority of the voting power of all the Members present in person or by proxy at an annual or a special meeting duly held for such purpose. The limitations on expenditures by the Association in this Section 6.6 shall not apply to: (i) the expenditures made for the annual maintenance, repair or replacement expenditures identified in the annual budget, and (ii) the repair of the walking trails, bridges or the dams within the Open Spaces due to casualty loss, emergency repairs immediately necessary for the preservation and

safety of the Open Spaces or for the safety of persons or to avoid suspension of any necessary services.

6.7 Fiscal Year

The fiscal year of the Association shall end on the thirty-first (31st) day of December in each year, or on such other day as may be fixed from time to time by the Board.

6.8 Failure to Prepare Annual Budget

The failure or delay of the Board of Directors to prepare or to serve a copy of the annual or adjusted budget on any Member shall not constitute a waiver or release in any manner of such Member's obligation to pay the Member's share of the General Maintenance Assessment and any reserves, as herein provided, whenever the same shall be determined.

6.9 Reserve Fund

The Board of Directors shall establish and maintain for the Association a reasonable reserve fund for contingencies and replacements in such amount as the Board of Directors may deem necessary. Upon the sale of a Lot by any Member, such Member shall have no right to any portion of the funds in the reserve account; nor shall such Member have any claim against the Association with respect thereto. Extraordinary expenditures incurred in any year which were not originally included in the estimated cash requirement for such year shall be charged first against such reserve fund. The reserve fund shall be reviewed annually by the Board of Directors

6.10 Common Profits

Any common profits shall be added to a reserve fund.

6.11 Status of Funds Collected by Association

All funds collected by the Association shall be held and expended solely for the purposes designated in the Declaration and these Code of Regulations/By-Laws. Except for special charges as may be levied against less than all of the Members and except for such adjustments as may be required to reflect delinquent or prepaid Assessments, funds collected by the Association shall be held for the use, benefit of the Association in its obligations and duties to maintain the Open Spaces. All sums collected by the Association may be commingled in a single fund or divided into more than one fund as determined by the Board of Directors. All funds collected by the Association shall be deposited when received by the Association in one or more accounts established in the name of the Association at one or more banks or savings and loan associations in Medina County, Ohio.

6.11 Lien of Unpaid Assessments.

All Assessments under Article IV of the Declaration shall be a lien upon a Lot in the manner specified in the Declaration. The Board of Directors may charge interest as provided in the Declaration.

6.12 Remedies for Failure to Pay Assessments.

If a Member is in default in the payment of any Assessments for thirty (30) days, the Association and its Board of Directors shall have all the rights and remedies set forth in the Declaration, in these Code of Regulations/By-Laws or at law or in equity.

6.13 Books and Records of Association

The Association shall keep full and correct books of account, and the same shall be open for inspection by any Member or his mortgagee, or by any representative of a Member duly authorized in writing, at reasonable times and upon request by a Member. Upon fifteen (15) days prior written notice to the Board of Directors and upon payment of a reasonable fee, any Member shall be furnished a statement of the Member's account setting forth the amount of any unpaid Assessments due and owing from such Member.

6.14 Annual Statements

Within one hundred twenty (120) days after the end of each fiscal year of the Association, the Board of Directors shall furnish to each Member a financial statement consisting of (a) a balance sheet containing a summary of the assets and liabilities of the Association as of the date of such balance sheet and (b) a statement of the income and expenses for the period commencing with the date marking the end of the period for which the last preceding statement of income and expenses required was made and ending with the date of the statement, or in the case of the first such statement, from the formation of the Association to the date of said statement. The financial statement shall have appended thereto a certificate signed by the President of Board of Directors and the Treasurer or an Assistant Treasurer of the Association or by a public accountant or firm of public accountants to the effect that the financial statement presents fairly the financial position of the Association and the results of its operations.

6.15 Annual Audit

The books of the Association shall be reviewed once a year by the Board of Directors, and such review shall be completed prior to each annual meeting. At any time upon the request of the Members holding a majority of the voting power of the Association, or upon request of five (5) Directors; the Board of Directors shall: cause a review of the books of the Association to be

made by a Certified Public Accountant, the cost therefor to be included as part of the General Maintenance Assessment for the year of the audit.

6.16 Mortgagee's Collection of Assessments

The holder of a first mortgage encumbering a Lot shall be permitted to collect Assessments from the Member of said Lot and upon such collections shall promptly remit the amount so collected to the Association.

ARTICLE VII MORTGAGEES

7.1 Rights of Mortgagees

A mortgagee of a Member's Lot shall be entitled to 'written notice from the Association of any default by its mortgagor Member which is not cured within sixty (60) days. Any mortgagee may from time-to-time request in writing a written statement from the Board of Directors setting forth all unpaid Assessments due and owing regarding a Member's Lot subject to the lien of its mortgage and such request shall be complied with within thirty (30) days from receipt thereof. Any mortgagee holding a mortgage on a Member's Lot may pay any unpaid Assessment imposed regarding such Lot.

ARTICLE VIII INDEMNIFICATION

8.1 General

In addition to, or in supplement to, but not in limitation or in replacement of, any policy of insurance covering the errors and omissions of any present or former Director or officer of the Association and their respective heirs, executors, administrators and successors,, the Association shall indemnify any present or former Director or officer of the Association and their respective heirs, executors, administrators and successors, and, in its discretion, the Association may indemnify any present or former agent or employee of the Association, and their respective heirs, executors, administrators and successors, from and against reasonable expenses, including attorneys' fees, judgments, decrees, fines, penalties or amounts paid in settlement actually and necessarily incurred in connection with the defense of any pending or threatened action, suit, or proceeding, criminal or civil, to which any of the foregoing is or maybe made a party by reason of being or having been a Director, officer, employee or agent of the Association, provided it is determined in the manner hereinafter set forth (a) that such Director, officer, employee or agent of the Association was not, and is not adjudicated to have been, willfully or grossly negligent or guilty of intentional misconduct in the performance of his or her duties to the Association, (b) that he acted in good faith in what he reasonably

believed to be in the best interests of the Association, (c) that, in any matter the subject of a criminal action, suit or proceeding, he had no reasonable cause to believe that his conduct was unlawful, and (d) if settlement occurs, that the amount paid in the settlement was reasonable. Such determination shall be made by the Board of Directors.

8.2 Advance of Expenses

Funds to cover expenses, including attorneys' fees, regarding any pending or threatened action, suit or proceeding, may be advanced by the Association in the Board of Directors sole discretion prior to the final disposition thereof upon receipt of an agreement by or on behalf of the recipient to repay such amounts, unless it shall ultimately be determined that he or she is entitled to indemnification hereunder.

8.3 Indemnification Not Exclusive, Insurance

If the indemnification set forth in Article IX by the Association shall deny any insurance coverage or cause any contract of insurance to be denied, any indemnification by the Association shall be limited to any amount not paid by any applicable contract of insurance.

The indemnification provided for in this Article IX shall not be exclusive but shall be in addition to any other rights to which any person may be entitled under the Articles of Incorporation, these Code of Regulations/By-Laws, vote of the Members or disinterested Directors, any agreement, any insurance provided by the Association, or otherwise. The Association may purchase and maintain insurance on behalf of any person who is or was a Director, officer, agent, or employee of the Association against any liability asserted against him or incurred by him in any such capacity or arising out of his status, as such, whether or not the Association would have the power to indemnify him against such Liability under the provisions of this Article IX.

8.4 Exoneration From liability

Neither any Director nor any officer of the Association shall be liable to the Members for any mistake of judgment, negligence, or otherwise, except for his own individual willful misconduct or bad faith. The Association shall indemnify and hold harmless each of the Directors and officers of the Association against all contractual liability to other parties arising out of contracts made on behalf of the Association except regarding any such contracts made in bad faith or contrary to the Declaration or these Code of Regulations/By-Laws. It is intended that neither the Directors, officers of the Association or the Members shall be personally liable regarding contracts entered into on behalf of the Association.

8.5 Cost of Indemnification

Any sums paid or advanced by the Association under this Article IX shall constitute an expense to be included in the annual General Maintenance Assessment, and the Association and the Board of Directors shall have the power to raise and the responsibility for collecting, by way of Assessments, any sums required to discharge the obligations of the Association under this Article VIII.

ARTICLE IX
GENERAL PROVISIONS

9.1 Employees and Independent Contractors

The Board of Directors shall have the authority to hire employees, to engage independent contractors, to purchase equipment and supplies, and to take all action on behalf of the Association which may be necessary or appropriate to the proper administration of the Open Spaces.

9.2 Restriction On Right To Transfer Real Property

No Cluster Lot Common Area described in Exhibit G and/or Open Space described in Exhibit H, of the Declaration, once titled in the Association, shall be sold or leased to any person. However, this restriction does not prohibit a transfer of any of such property described in Exhibit G and/or Exhibit H to a governmental entity or another non-profit corporation who undertakes the duties imposed upon the Association by the Declaration.

Notwithstanding any contrary provision herein, whenever the Board of Directors determines it is in the best interest of the Members to convey any interest in real property titled in the Association and/or its Board of Directors on behalf of the Association, the Board of Directors shall submit a proposed transfer of real property for the vote of the Members, and, upon the affirmative vote of the Members entitled to exercise not less than seventy-five percent (75%) of the voting power of the Association present in person or by proxy at an annual meeting or a special meeting duly held for such purpose, the Board of Directors may proceed with such transfer, in the name of the Association and on behalf of all Members, and the costs and expenses incident thereto shall constitute part of the General Maintenance Assessment under Article IV, Section 4.1.1 of the Declaration.

9.3 Rules and Regulations

The Association, by the affirmative vote of the majority of the Members, or the Board of Directors, by a vote of five (5) Directors, may adopt such reasonable "Rules" from time to time (or amend or supplement the same) as may be advisable for the operation, use, maintenance,

conservation and enhancement of the Open Space or any portion thereof, or for the health, comfort, safety and general welfare of the Members, their families, their invitees and leasees, in using the Open Space. Written notice of such Rules shall be given to all Members and the Open Space shall be maintained and used subject to the Rules.

9.4 Severability

The invalidity of any covenants, restrictions, conditions, limitations, or any other provisions of these Code of Regulations/By-Laws, or of any part of the same, shall not impair or affect the validity, enforceability, or effect of any other provision in these Code of Regulations/By-Laws or in the Declaration.

9.5 Ratification

All present and future Members, their families, their invitees and leasees, shall be subject to the Declaration, these Code of Regulations/By-Laws and the Rules. The acquisition, rental or occupancy of a Lot and any residence thereon shall constitute acceptance and ratification of the Declaration, these Code of Regulations/By-Laws and the Rules.

9.6 Conflict Between Declaration, Articles of Incorporation, Code of Regulations/By-Laws and Rules

If a conflict occurs or inconsistency between the provisions of the Declaration and the Code of Regulations/By-Laws or the Rules, the Declaration shall be paramount and controlling with the conflict or inconsistent provision(s) of the Code of Regulations/By-Laws or the Rules being unenforceable.

9.7 Agreements Binding

All agreements and determinations lawfully made by the Association under the procedures established in the Declaration and these Code of Regulations/By-Laws shall be bind all Members, and their respective heirs, executors, administrators, successors, and assigns.

9.8 Gender

Using the masculine gender in these Code of Regulations/By-Laws shall be deemed to include the feminine and the neuter genders and using the singular shall be deemed to include the plural, wherever the context so requires.

9.9 Marginal References

The heading of each Article of these Code of Regulations/By-Laws is inserted for convenience and reference only and in no way shall be held to explain, modify, amplify, or limit the meaning of such Article.

9.10 Amendment

Declarant will have the right to amend these Code of Regulations/By-Laws prior to the first annual meeting of the Association, After the first annual meeting of the Association these Code of Regulations/By-Laws, any provisions of these Code of Regulations/By-Laws may be amended or modified by written consent of seventy-five percent (75%) of the then Association's Members.

The written consent to the amendment, or modification by the Association's Members shall be an instrument which sets forth in full the text of the amendment or modification and be signed by the required number of the Association's Members in the same manner and with all the requirements of a recordable deeds in the State of Ohio.

An amendment or modification shall not be effective until such instrument is filed of record with the Medina County Recorder's Office with a description of all Lots within the subdivision, Blue Heron Estates attached.

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WHEREOF, Montville Lakes Development Company, Inc., an Ohio Corporation for Profit, has executed the *First Amended Code of Regulations/By-Laws* this 17 day of May, 2023.

MONTVILLE LAKES DEVELOPMENT COMPANY, INC.

BY: Arlyne Hoffman *President*
Arlyne Hoffman, President

CERTIFICATE OF NOTARY ACKNOWLEDGMENT

[NO OATH OR AFFIRMATION ADMINISTERED. (Ohio Revised Code §147.543(D)(2))]

STATE OF OHIO

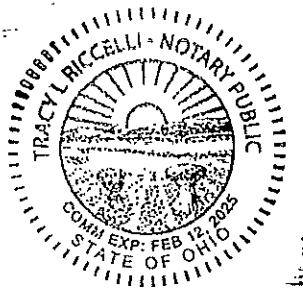
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COUNTY OF CUYAHOGA

On the 17 day of May, 2023, before me a Notary Public in and for said County and State, personally appeared the above named Montville Lakes Development Company, Inc, by its duly elected President, Arlyne Hoffman, who acknowledged that he did sign the foregoing instrument, that she had full authority to sign said instrument and that the same is the free act and deed of said corporation and her free act and deed personally as the President of the corporation with full authority of the Board of Directors of Montville Lakes Development Company, Inc.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal on the date first stated.

(Notary must affix seal)



Tracy L. Riccelli
Notary Public