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**DECLARATION OF  
COVENANTS, CONDITIONS, RESTRICTIONS,  
EASEMENTS AND LIENS FOR  
THE FAIRWAYS AT RIVER'S GLEN**

THIS DECLARATION is entered into on the 10<sup>th</sup> day of March, 2003 by **Brandenburg Development Company, LLC**, an Ohio limited liability company, hereinafter referred to as "Declarant", in connection with the development and subdivision of real property hereafter described, to be known as The Fairways at River's Glen.

**WITNESSETH:**

WHEREAS, Declarant is the owner of real property described in Section 2.1 of Article II of this Declaration, and Declarant intends to improve the real property as a planned residential development known as The Fairways at River's Glen (hereinafter referred to as "Fairways" or the "Subdivision"); and

WHEREAS, Declarant desires to insure the attractiveness of the main entrance into the Subdivision and other exterior and interior entrances into different portions of the Subdivision and to prevent any future impairment thereof, to prevent nuisances, to preserve, protect and enhance the values and amenities of the said property, to provide for the maintenance of common areas and other areas as well as the maintenance of landscaping located within certain rights-of-way of public roads, including medians, throughout the Subdivision; and in order to accomplish these objectives, deems it advisable to subject the real property described in Section 2.1 of Article II, to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth; and

WHEREAS, Declarant deems it desirable, in order to provide for the efficient preservation, protection and enhancement of the values in The Fairways at River's Glen and the residents' enjoyment of the specific rights, privileges and easements in the common areas of the Subdivision, that an association be created to which will be delegated and assigned the powers of maintaining common areas and entrances, administering and enforcing these covenants and restrictions, and collecting and disbursing the assessments and charges hereinafter imposed; and

WHEREAS, Declarant has caused to be created for the purposes aforesaid, an Ohio not-for-profit corporation under the name of The Fairways at River's Glen Homeowner's Association.

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NOW, THEREFORE, Declarant declares that the real property described in Section 2.1 of Article II, and such additions thereto as may hereafter be made pursuant to Article II hereof, is and shall be owned, held, transferred, sold, conveyed, and occupied subject to the following covenants, conditions, restrictions, easements, charges and liens which shall run with the real property (except as provided in Article V Section 5.10 hereafter with regard to assessments and other charges) and be binding upon an inure to the benefit of all owners thereof, their heirs, personal representative, successors and assigns.

## **ARTICLE I. DEFINITIONS**

Section 1.1 "Approved Builder" shall mean and refer to one or more persons or companies, in the business of building and selling homes to individuals and selected by Declarant to buy Lots and/or construct homes for sale in the Properties, so long as any such Approved Builder is in good standing with Declarant.

Section 1.2 "Articles" or "Articles of Incorporation" shall mean those Articles filed with the Secretary of the State of Ohio, incorporating the Association as an Ohio not-for-profit corporation under the provisions of Chapter 1702 of the Revised Code of Ohio, as the same may be amended from time to time. A true copy of the Articles are shown in Exhibit "B" is attached hereto and made a part hereof.

Section 1.3 "Association" shall mean and refer to The Fairways at River's Glen Homeowner's Association, an Ohio not-for-profit corporation, its successors and assigns.

Section 1.4 "Board" shall mean and refer to the Board of Directors of the Association, which shall also be known as the "Board of Trustees".

Section 1.5 "By-Laws" shall mean those By-Laws or Code of Regulations of the Association, as the same may be amended from time to time, pursuant to Section 1702 of the Revised Code of Ohio. A true copy of the By-Laws as shown on Exhibit "C" is attached hereto and made a part hereof.

Section 1.6 "Common Area(s)" shall mean all real property, or any interest therein, owned by the Association for the common use and enjoyment of the Owners and designated as "Open Space", "Common Open Space" or "Common Area", or other different language with similar meaning. The Common Area to be owned by the Association at the time of conveyance of the first Lot may be none, and the Declarant reserves the right to transfer the Common Area to the Association at a later date.

Section 1.7 "Declarant" shall mean and refer to Brandenburg Development Company, LLC, an Ohio limited liability company, any successor or assign to which

Brandenburg Development Company, LLC assigns its interest as Declarant hereunder in whole or in part by instrument recorded in the records of Warren County, or any mortgagee of Declarant which takes control of the Properties by foreclosure or deed in lieu of foreclosure.

Section 1.8 "Design Review Board" or "D.R.B." shall mean and refer to the committee formed pursuant to Article IX of this Declaration.

Section 1.9 "Design Guidelines" shall mean and refer to the Restrictions and Policies adopted pursuant to Article IX, with a copy of the Guidelines being attached hereto as Exhibit "D" and made a part hereof.

Section 1.10 "HOA Drainage Easement Areas" shall mean and refer to the HOA Drainage Easement Areas set forth in Article VI hereof.

Section 1.11 "Landscape/Mound Easement Areas" shall mean and refer to the Landscape/Mound and Monumentation Easement Areas set forth in Article VI hereof.

Section 1.12 "Landscape and Signage Easement Areas" shall mean and refer to the non-exclusive "Landscape and Signage Easement Areas" set forth in Article VI hereof.

Section 1.13 "Lot" shall mean and refer to any plot of land, with delineated boundary lines, shown upon any recorded subdivision plat of the Properties, with exception of any common area, common open space, streets, walkways or easements shown on any recorded plat. In the event any Lot is increased or decreased in size by resubdivisions, through recordation of new subdivision plats or adjoining land transfers, which Declarant may complete in its sole discretion, any such newly platted Lot shall thereafter constitute a Lot for the purposes of this Declaration.

Section 1.14 "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 1.15 "Notice and Opportunity for Hearing" shall mean and refer to the giving of at least fifteen (15) days prior notice of a proposed action and the reasons therefore, and an opportunity to be heard by the Board, orally or in writing, not less than five (5) days before the effective date of the proposed action.

Section 1.16 "Owner" or "Lot Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest in a Lot solely as security for the performance of an obligation.

Section 1.17 "Properties" or "Property" shall mean and refer to the "Existing Property" described in Article II, Section 2.1 hereof and any additions thereto, as are or

shall become subject to this Declaration and any Supplementary Declaration under the provisions of Article II hereof.

Section 1.18 There may be other defined terms in this Declaration, with such terms being capitalized and defined in the Section where the initial reference is made to such term.

**ARTICLE II.**  
**PROPERTY SUBJECT TO THIS DECLARATION**  
**AND**  
**ADDITIONS THERETO**

Section 2.1 Existing Property. The real property which is, and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration, irrespective of whether there may be additions thereto as hereinafter provided, is located in Warren County, Ohio and is further described in the attached Exhibit "A". This property may be herein referred to as "Existing Property", "Property", or "Properties".

Section 2.2 Additions to Existing Property. Additional property may be brought within the coverage of this Declaration and the jurisdiction of the Association in the following way:

(a) Any additional property not described in Exhibit "A", which is contiguous to any part of the Subdivision, may be added to the Property subject to this Declaration of Declarant, or its designated assign, and brought within the scheme of this Declaration and within the jurisdiction of the Association, in future stages of development, without the consent of the Association or its Members; provided, however, that such additional property added to this Declaration, if any, may occur within twenty (20) years after the date of this Declaration.

(b) The additions authorized under Subsection 2.2(a) shall be made by Declarant filing of record Supplementary Declarations of Covenants, Conditions and Restrictions with respect to the additional properties which shall extend the coverage of this Declaration and the jurisdiction of the Association to such properties and thereby subjecting such additions to assessment for the just share of the Association's expenses. Said Supplementary Declarations may contain such complementary additions and modification of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect only the different character of the added properties and as are not inconsistent with the provisions of this Declaration.

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**ARTICLE III.**  
**MEMBERSHIP AND VOTING RIGHTS**

Section 3.1 Member. Every Owner of a Lot which is subject to assessment shall be a Member of the Association. Tenants of an Owner of a Lot shall not be Members of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 3.2 Voting Rights. The voting rights of the Membership in the Association shall be appurtenant to the ownership of the Lots. The Association shall have two (2) classes of voting Membership.

(a) Class A. Except as provided below, Class A Members shall be all Lot Owners except Declarant and Class A Members shall be entitled to one (1) vote for each Lot owned. When more than one person owns an interest (other than a leasehold or security interest) in any Lot, all such persons shall be Members and the vote appurtenant to said Lot shall be exercised as they, among themselves, determined, but in no event, cumulatively, shall more than one (1) vote be cast.

(b) Class B. The Class B Member shall be Declarant, as defined in the Declaration, and such Member shall in any event be entitled to such number of votes as will constitute seventy-five percent (75%) of the total voting power of the Association, so long as the Class B Membership continues to exist. Without limiting the generality of the foregoing, the Declarant, as the Class B Member, shall have the sole right and authority to amend the Articles of Incorporation, the By-Laws for the Association, and this Declaration so long as the Declarant is the Class B Member. Further, the Declarant, as the Class B Member, shall have the sole right and authority to assess and determine the amount of annual general and special assessments pursuant to Article V until such time as the Declarant is no longer the Class B Member. The Class B Membership shall cease to exist and shall be converted to Class A Membership with Class A voting rights as defined above, on the happening of either of the following events, whichever occurs earlier:

(1) When Declarant no longer owns a Lot or any property described in Exhibit "A".

(2) Fifteen (15) years from and after the date this Declaration is filed for record.

Provided further, that nothing herein shall be construed to prohibit the Class B Member from converting all or part of is Class B Membership to Class A Membership with the results set forth above at any time earlier than the latter of the alternative events referred to above, by written statement executed by Declarant and delivered to the Association.

Section 3.3 Articles and By-Laws. As a Member of the Association, each Owner of a Lot shall be subject to the terms and provisions of the Articles of Incorporation of the Association, and the By-Laws of the Association.

**ARTICLE IV.**  
**PROPERTY RIGHTS, EASEMENTS AND RIGHTS OF ENTRY**

Section 4.1 Lot Owner's Right of Enjoyment. Every Lot Owner shall have a non-exclusive right to and easement for the enjoyment of, in and to the Common Areas, and such right and easement shall be appurtenant to and shall pass with the title to every Lot. However, each Member of the Association, by acceptance of a deed or other instrument conveying any part of the Property, acknowledges and agrees that (i) there are no light, air, access, view or similar easements or rights appurtenant to any Lot in The Fairways at River's Glen and constituting a burden on any other Lot in The Fairways at River's Glen, and that nothing in this Declaration shall prevent or prohibit Declarant from constructing landscaping, mounding, fencing and/or making other improvements in The Fairways at River's Glen in such manner and locations as Declarant may determine; from lowering, expending or eliminating bodies of water in the Subdivision; and from re-configuring or relocating features in The Fairways at River's Glen; and (ii) no easement shall be granted, conveyed, permitted or established over, under or through any Lot without Declarant's prior written consent and approval, which consent and approval may be withheld for any reason or no reason, as long as Declarant is the Owner of any Lot within The Fairways at River's Glen.

The Owner's non-exclusive right to and easement for the enjoyment of, in and to the Common Areas shall also be subject to the following:

(a) The right of the Association to limit the use of facilities, if any, situated upon the Common Area to Owners who occupy a residence in The Fairways at River's Glen, and to their families, tenants, and guests as provided in Section 2 of this Article IV;

(b) The right of the Association to suspend the voting rights of an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(c) Once the Declarant transfers ownership of the Common Area to the Association, the right of the Association to determine or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed upon by the Members. No such dedication or transfer shall be effective unless the Members entitled to at least three-fourths of the votes appurtenant to all Class A Lots and at least three-fourths (3/4) of the votes appurtenant to all Class B Lots agree to such dedication or transfer and

signify their agreement by a signed and recorded written document, provided that this subsection shall not preclude the Declarant or the Board of Trustees of the Association from granting easements for the installation and maintenance of landscaping, signage, sewerage, utilities, including CATV, and drainage facilities upon, over, under and across the Common Area without the assent of the Membership when such easements, in the opinion of the Declarant or Board, are required for the convenient use and enjoyment of the Properties;

(d) The right of the Association, with the assent of Members entitled to at least three-fourths (3/4) of the votes appurtenant to each class of Lot (Class A and Class B) to mortgage, pledge, deed in trust, or otherwise hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

(e) The right of the Association to levy annual and special assessments.

(f) The rights of Declarant, its successors and assigns, to make any improvements it deems proper upon the Common Areas, even after their conveyance to the Association.

(g) The right of Declarant, its successors and assigns, and the Association, to erect and maintain monuments, fences, ponds, signs, lighting and irrigation systems, and any other improvements and landscaping within Landscape Easement Areas which are located on any Lots within Common Areas, as shown upon any plat of subdivision of the Property, and within median strips.

(h) The right of Declarant, its successors and assigns, and the Association, to erect and maintain monuments, fences, ponds, signs, lighting and irrigation systems, and any other improvements and landscaping within Landscape and Signage Easement Areas and Landscape/Mound Easement Areas which are located on any Lots and within Common Areas, as shown upon any plat of subdivision of the Property, and within median strips.

(i) The right of Declarant, its successors and assigns, and the Association, to maintain utility lines, pipes, walls, structures and catch basins, and any other improvements within HOA Drainage Easement Areas which are located on any Lots, Common Areas and right-of-ways, as shown upon any plat of subdivision of the Property.

(j) The right of Declarant to prohibit access and use of the Landscape Easement Areas by Owners of Lots and to promulgate rule and regulations regarding access and use of the Landscape Easement Areas by Owners of Lots.

Section 4.2 Delegation of Use.

(a) Family. The right and easement of enjoyment granted to every Owner in Section 1 of this Article may be exercised by Members of the Owner's family who occupy the residence of the Owner within the Properties as their principal residence in Warren County, Ohio.

(b) Tenants. The right and easement of enjoyment granted to every Owner in Section 1 of this Article may be delegated by the Owner to his tenants or contract purchasers who occupy a residence within the Properties, or a portion of said residence, as their principal residence in Warren County, Ohio.

(c) Guests. Facilities located on common areas situated upon the Premises may be utilized by guests of Owners, tenants or contract purchasers subject to such rules and regulations governing said use of the Common Area as may be established by the Declarant or the Board of Directors.

Section 4.3 Title to Common Areas. Title to the Common Areas shall be conveyed to the Association free and clear of all liens and encumbrances, except for easements and restrictions of record, now existing or hereafter created by Declarant, and the easement for the Landscape Easement Areas set forth in Article VI hereof; provided, however, that the Declarant shall have the right from time to time to reserve, dedicate or create, for the purpose of development of the Properties, various easements and rights-of-way over the Common Areas, together with the right to dedicate same where applicable and customary, and the right of ingress and egress across the Common Areas in connection with the development of the Properties. Declarant's rights hereunder shall not unreasonably interfere with Owner's easement for enjoyment. Declarant may convey the Common Areas to the Association in one or more conveyances, provided that Declarant shall convey all Common Areas to the Association on or before the date that Declarant no longer owns any Lots included in the Properties.

The Association shall accept "as is" the conveyance of Common Areas without any representation or warranty, express or implied, in fact or by law, with respect thereto, or with respect to the improvements and repairs to be completed after the conveyance, including, without limitation, representations or warranties of merchantability or fitness for the ordinary or any particular purpose, and without any representations or warranties regarding future repairs or regarding the condition, construction, accuracy, completeness, design, adequate of the size or capacity in relation to the utilization, date of completion or the future economic performance or operations of, or the utilities, materials or furniture which have been or will be used in such Common Areas or repairs, except as set forth herein. By acceptance of an interest in any such Common Area or the deed to any Lot in the Association and all Owners release Declarant from any claims and warrant that no claim shall be made by the Association or any Owner relating to the condition, or completeness of such



property or repairs or for incidental or consequential damages arising therefrom.

Section 4.4 Entry Easement to Association. The Association, through its authorized representatives, shall have the right of entry and access to, over, upon and through all of the Properties, to enable the Association to perform its obligations, exercise its rights, and fulfill its duties pursuant hereto, and such representatives shall not be deemed to have committed a trespass as a result thereof. Except as an emergency situation, entry shall only be during reasonable hours and after notice to Owner of that portion of the Properties being entered.

## **ARTICLE V. COVENANT FOR ASSESSMENTS**

Section 5.1 Creation of the Lien and Personal Obligation of Assessments. Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments and charges; and (2) special assessments for capital improvements and other amenities, with such assessments to be established and collected as hereinafter provided. Any such assessment or charge, together with interest, costs and reasonable attorney fees, shall be a charge on each Lot and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney fees, shall also be the personal and corporate obligation of the person(s), firm(s), or corporation(s) owning such Lot at the time when the assessment became due, but such personal obligation shall not be imposed upon such Owner's successors in title unless expressly assumed by them. Although unpaid assessment charges are not the personal obligation upon such Owner's successors in title unless expressly assumed by the successors in title, the unpaid assessment charges continue to be a lien upon the Lot against which the assessment has been made.

Section 5.2 Purposes of Assessments. The assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the residents of the Properties, the enforcement of the covenants set forth in this Declaration and the rules of the Association, and in particular for the improvement, and maintenance of the Properties, for amenities benefitting the Properties, and for providing the services and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas and any other areas maintained by the Association, including but not limited to, the cost of repair, replacement and additions thereto, the cost of labor, equipment, materials, management and supervision thereof, the payment of taxes assessed, the procurement and maintenance of insurance in accordance with the By-Laws, the employment of attorneys to represent the Association when necessary, and such other needs as may arise.

Without limiting the generality of the above-described purposes, the assessments levied by the Association may be used for the acquisition, construction, improvement (including landscaping and planting) and maintenance of the common facilities located or to be located in the Common Areas, the medians with public road rights-of-way or the Landscape and Signage Easement Areas, including the landscaping and irrigation system(s), if any, located in the Common Areas and the Landscape and Signage Easement Areas, and the maintenance of landscaping and irrigation system(s) in certain public rights-of-way, including medians, and other easement areas. In furtherance of the foregoing, and without limiting the generality of the above-described purposes, the assessments levied by the Association may be used for any of the following purposes:

(a) providing grass cutting, fertilizing, weed and insect treatments and maintenance of trees, shrubbery and flowers located on or within Common Areas, public right-of-way, and Landscape and Signage Easement Areas;

(b) providing maintenance and operation of all walls, fountains, ponds, waterfalls, monuments, irrigation facilities, sidewalks, fences, signage, lighting or other structures and facilities located on or within median strips and any of the areas identified as Common Areas, and Landscape and Signage Easement Areas;

(c) providing grass cutting, fertilization, weed and insect treatment and maintenance of trees, street trees, shrubbery, flowers and sidewalks within the public street right-of-way where it is adjacent to Common Areas, and Landscape and Signage Easement Areas;

(d) providing maintenance of pipes, walls, catch basins and lighting, detention areas, and any other improvements within the HOA Drainage Easement Areas;

(e) providing maintenance and operation of special features, if any; or

(f) providing an adequate reserve fund for the replacement of any improvements maintained by the Association.

Section 5.3 Annual Assessment. Annual assessments shall be assessed and collected by the Association from and after January 1 of the year immediately following the conveyance of the first Lot to an Owner. The Declarant, as the Class B member, shall establish the amount of the annual assessment each year until such time as the Declarant is no longer the Class B Member. Once the Declarant is no longer a Class B Member, the amount of the annual assessment shall be determined by the Board of Trustees of the Association effective January 1 of each year, without a vote of the Membership. Any annual assessment established by the Board of Trustees shall continue thereafter from year to year as the annual assessment until a change by the Board. Notwithstanding any provision to the contrary in this Declaration, the Declarant may, but shall not have any obligation, to pay any general or special assessments for

any Lots in The Fairways at River's Glen owned by the Declarant. Each Lot Owner (including any Approved Builder who owns a Lot) will be obligated to pay the annual general or special assessment levied in accordance with this Declaration.

Section 5.4 Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, special assessment(s) for the purpose of defraying, in whole or in part, the cost of any construction, repair, replacement of an additions or improvements to capital improvements(s) located upon any Common Area, Landscape and Signage Easement Areas, or HOA Drainage Easement Areas. The Declarant, as the Class B member, shall establish the amount of any special assessment until such time as the Declarant is no longer the Class B member. Once the Declarant is no longer a Class B Member, the amount of any special assessment shall be determined by a vote of seventy-five (75%) of the total voting power of the Association. Accordingly, after the Declarant is no longer the Class B member, the approval of any special assessment will require the vote of 75% of the Lot Owners. Special assessments shall be paid in the same manner as provided in Section 3.

Section 5.5 Assessment Rates. Annual and special assessments, if any, must be fixed at a uniform rate for all Lots, regardless of the size of the Lot, and may be collected on a monthly or annual basis.

Section 5.6 Notice of Quorum for any Action Authorized Under Sections 3 and 4. Once Declarant is no longer the Class B member, written notice of any meeting called for the purpose of taking any action authorized under Sections 3 and 4 of this Article shall be sent to all Members no less than fifteen (15) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast forty (40%) percent of all the votes appurtenant to Class A Lots and Class B Lots shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice or requirement, and if the same is called for a date not later than sixty (60) days after the date of the first meeting, the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting.

Section 5.7 Commencement of Annual Assessments. The annual assessments for each Lot shall commence on the first day of the month following the recording of a subdivision plat creating Lots by Declarant. The initial annual assessment shall be for the calendar year beginning January 1, 2002. The annual assessment for Lots which are recorded after January 1, 2002 or during calendar years after 2002 shall be prorated for that year, beginning on January 1<sup>st</sup> of that year. Declarant reserves the right to commence the collection of the initial annual assessment prior to January 1, 2002, in Declarant's discretion, in which case any assessments levied in 2002 shall be prorated for that year for Lots of record in 2002. Declarant shall have no obligation to pay or fund any deficit of or to subsidize the Association. Declarant may elect annually to pay some or none of the "deficit", which is

the difference between the amount of the assessments assessed and the amount of actual expenditures required to operate the Association during the fiscal year. The election of Declarant to pay all, or part or none of the deficit shall be by written notice to the Board not less than forty-five (45) days prior to the beginning of each fiscal year and if no notice of delivered by Declarant, Declarant shall be deemed to have elected not to pay any of such differential or deficit. Declarant's subsidy to the Association may be made in the form of a cash subsidy or by "in kind" contributions of services or materials, or a combination of these. In the event Declarant elects to subsidize the Association, those amounts paid by Declarant to subsidize the Association shall be credited against annual assessments owed by Declarant. All assessments shall be payable in advance in equal installments as determined by the Board. Failure to mail notices by the dates required shall not affect the rights of the Association to assess Lots as provided herein.

It shall be the duty of the Board of the Association to fix the amounts of the annual general assessment applicable to each Lot. The Board shall make reasonable efforts to fix such amounts, in advance, by the first day of December of each year, and shall, at that time, prepare a roster of the Lots and assessments applicable thereto, which shall be kept in the office of the Association and shall be open to inspection by any Lot Owner upon reasonable notice to the Board. Written notice of the Assessment shall thereupon be sent to the Owners of any Lot subject thereto. Annual general assessment shall be due and become a lien on each Lot on January 15<sup>th</sup> of each year. Failure to mail notices by the dates required shall not affect the right of the Association to assess Lots as provided herein.

This Section 5.7 shall not be subject to amendment once Declarant becomes a Class A Member without the affirmative vote of 75% of the Lot Owners including Declarant.

Individual and special assessments shall be fixed by the Board as provided in this Article, which assessments shall become a lien on the Lots on the date on which the Board mails written notice of any such assessments to the Owners of any Lot subject thereto.

Notwithstanding Sections 5.1 and 5.7 hereof, Declarant or its designated successor, may, at its election, postpone, in whole or in part, the date on which the assessment shall commence provided that Declarant maintains the Common Areas for which no assessment is being collected during the period of such postponement.

Section 5.8 Non-Payment of Assessment. Any assessment levied pursuant to these covenants which is not paid on the date when due shall be delinquent and shall, together with such interest thereon and costs of collection thereof, as hereinafter provided, including reasonable attorney's fees, thereupon become a continuing lien which shall bind such Lot in the hands of the then Owner, his heirs, devisees, personal representative and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation and shall not pass to his

successors in title unless expressly assumed by them. Interest on delinquent assessments shall be charged at the lesser of one percent (1%) per month or the highest rate permitted by law.

Any assessment not paid within thirty days (30) days after the due date shall be subject to a cumulative late charge of Ten and No/100 (\$10.00) Dollars per month, said late charge increasing at a rate of Ten and No/100 (\$10.00) Dollars per month thereafter up to a maximum of Twenty and No/100 (\$20.00) Dollars per month or the highest amount permitted by law, whichever is less, and the Association may bring an action at law against the Owner personally obligated to pay the same, or to foreclose the lien against the lot, and interest, late payment charges, costs and reasonable attorney's fees related to such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by not using the Common Areas, by not building on a Lot, or by abandoning his or her Lot. Any officer of the Association is authorized to file with the Warren County, Ohio Recorder's Office notice of any delinquency concerning an assessment lien against a Lot by signing a certificate which identifies the Lot, the name(s) of the Lot Owner, and the amount of the unpaid portion of such assessment and late charges accrued as of the date of such certificate.

Section 5.9 Subordination of the Lien to Mortgages. The liens provided for in this Declaration shall be subordinate to the lien of any first mortgage on a Lot. Sale or transfer of any Lot shall not affect any assessment lien. No such sale or transfer shall relieve such Lot from liability for any assessments theater becoming due or from the lien thereof, but the liens provided for in this Declaration shall continue to be subordinate to the lien of any first mortgage. The provisions regarding assessments cannot be modified without the consent of the Declarant's lender.

Section 5.10 Exempt Property. All property conveyed to, and accepted by, a governmental authority, and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Ohio, shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt rom said assessments.

Section 5.11 Individual Damage Assessments. In the event that any damage is caused to any of the Common Areas, Landscape and Signage Easement Areas, median strips, or within the public street right-of-way where it is adjacent to Common Areas, through the willful or negligent act of a Lot Owner, his family, tenants or guests, the Board may (without any obligation to do so) correct or repair any such damage, and the costs thereof shall be added to and become a part of the assessment against the individual Lot owned by the Lot Owner, or his family, tenants or guests causing such damages.

Section 5.12 Special Assessments for Individual Lots. After Notice and Opportunity for Hearing, the Board, without the vote or written consent of Members,

may levy a special assessment against an Owner and his Lot as a remedy to reimburse the Association for costs (including attorneys' fees) incurred in bringing the Owner, his Lot or his residence into compliance with the provisions of this Declaration, the By-Laws or the Rules and Regulations.

Section 5.13 Adjacent Homeowners Association. The Fairways at River's Glen is adjacent to the development known as River's Bend Golf Club Community ("River's Bend"). River's Bend currently has a homeowners's association to provide for the maintenance and upkeep of the common areas and facilities surrounding River's Bend. The main entrance to River's Bend also serves as the entry point for entry into the Fairways at River's Glen. The developers of River's Bend have also developed a pool and sportsplex facility that is available to residents of River's Bend and which may be available to certain non-residents of River's Bend. In the event that the homeowner's association of the Fairways at River's Glen can conclude an agreement with River's Bend for the participation of the homeowner's association of the Fairways at River's Glen to allow its members to participate in the pool and sportsplex facility at River's Bend, then the by-laws of the Fairways at River's Glen Homeowner's association shall be amended to provide for the payment of such dues and assessments as are necessary to participate in such facility. The additional amount of any such dues or assessments shall then be included within the annual assessment for each lot owner in the Fairways at River's Glen, and such assessment may be billed on a monthly basis. By accepting title to a lot in the subdivision, each lot owner covenants and agrees to pay the annual assessment as determined by the Homeowners Association at the Fairways at River's Glen.

**ARTICLE VI.**  
**LANDSCAPE AND SIGNAGE EASEMENT AREAS**  
**LANDSCAPE/MOUND EASEMENT AREAS, AND**  
**HOA DRAINAGE EASEMENT AREAS**

Section 6.1 Landscape and Signage Easement Areas. The Association, its successors and assigns, shall have a "Landscape and Monumentation Easement" over those portions of the Lots designated "Landscape and Monumentation Easement" or "Entrance Wall and Landscaping Easement" on the recorded plats for The Fairways at River's Glen. Such Easements shall be for the purpose of installation and maintenance of berms, subdivision entrance signs, interior village signs, lighting and irrigation systems, decorative walls, fences and landscaping located within such Easement Areas. No fences, structures, driveways, plantings, swings or any other objects, temporary or permanent, shall be permitted in such areas other than those installed by Declarant or its designated successor, without the Association's prior written approval. The Association shall at all times have the right of access for its employees, agents and subcontractors over such Easement Areas for the purposes of installing, maintaining, repairing and replacing the subdivision entrance signs, interior village signs, lighting and

irrigation systems and fences or decorative walls and for the purpose of landscaping, planting, mowing and maintaining the area with in the Easements.

Section 6.2 Landscape/Mound Easement Areas. The Association, its successors and assigns, shall have a "Landscape/Mound Easement" over those portions of the Lots designated "Landscape/Mound Easement" on the recorded plat for the Subdivision. Such Easement shall be for the purpose of permitting the Association to maintain mounds and landscaping located within such Easement Areas. No fences, structures, driveways, plantings, swings or any other objects, temporary or permanent, shall be permitted in such areas other than those installed by Declarant or its designated successor, without the Association's prior written approval. The Association shall at all times have the right of access for its employees, agents and subcontractors over such Easement Areas for the purpose of maintaining, at its option, such improvements. The Owner of the Lot encumbered by the Landscape/Mound Easement shall maintain such improvements within the Easement Area and such Easement merely grants the Association the right to maintain such improvements if it so elects.

Section 6.3 HOA Drainage Easement Areas. The Association, its successors and assigns, shall have a HOA Drainage Easement over those portions of the Lots and Common Areas designated "HOA Drainage Easement" or "Drainage Easement" on the recorded plats for the Subdivision. The HOA Drainage Easements shall be for the purpose of installation and maintenance of pipes, catch basis and channels within the HOA Drainage Easement Areas. No fences, structures, driveways, plantings or any other objects, temporary or permanent, shall be permitted in such areas other than those installed by Declarant, or its designated successor, without the Association's prior written approval. No Owner shall place or construct or permit to remain any structure, planting or other material which may obstruct, retard or change the direction of flow of stormwater. The Association shall at all times have the right of access for its employees, agents, and subcontractors over the HOA Drainage Easement Areas for the purpose of installing, maintaining, repairing and replacing pipes, catch basins and channels within the HOA Drainage Easements.

## **ARTICLE VII. OTHER SUBDIVISION EASEMENTS**

Section 7.1 Other Easements. Easements for installation and maintenance of driveways, walkways, bikeways, parking areas, water lines, gas lines, cable television, telephone, electric power lines, sanitary sewer and storm drainage facilities and for other utility installations are reserved as shown on the recorded plat(s) for the Property, included in the Subdivision. Certain lots adjoining the golf course are also subject to golf course easements as set forth on the Plat of the Subdivision. In the event it is determined that any additional easements are required over any Lot or Lots in locations not shown on the recorded plat and not along rear or side Lot lines, such easements may be established by Declarant for the benefit of the Properties, except that is any

such easements are reserved or established after the conveyance of a Lot or Lots to be affected thereby, the written consent assent of the Owner or Owners of such Lot or Lots and of the trustees and mortgagees in deeds of trust constituting a lien thereon shall be required, provided that such consent shall not be unreasonably withheld and Declarant shall not be required to pay any consideration, other than nominal consideration, for such additional easements. Within any such easements above provided for, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation, delivery and maintenance of public utilities, or which may obstruct or change the direction of flow of drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easements.

**ARTICLE VIII.**  
**INDEMNIFICATION OF OFFICERS AND DIRECTORS**

The Association shall indemnify any and all persons who may serve or whom have served at any time as Trustees, Directors or officers of the Association against any and all expenses, including amounts paid upon judgments, legal fees and amounts paid in settlement (before or after suit is commenced), actually and necessarily incurred by such persons in connection with the defense or settlement of any claim, action, suit or proceeding in which they, or any of them, are made parties, or a party, which may be asserted against them or any of them, by reason of being or having been directors or officers or a director or an officer of the Association, except in relation to matters as to which any such director or officer or former director or officer or person shall be adjudged in any action, suit, or proceeding guilty of willful and intentional negligence or misconduct in the performance of his or her duties to the Association. Provided, however, that in the event of a settlement, the indemnification herein shall apply only when the Board of Directors approves such settlement and reimbursement as being in the best interest of the Association.

The provisions hereof shall be in addition to and not exclusive of any and all other rights to which any director or officer may otherwise be entitled under any law, By-Law agreement, vote of Association Members or otherwise. In the event of death of any officer or director, the provisions hereof shall extend to such person's legal heirs, representatives, successors and assign. The foregoing rights shall be available whether or not such person or persons were in fact directors or officers at the time of incurring or becoming subject to such expenses, and whether or not the proceeding claim, suit or action is based on matters which antedate the adoption of this provision.

**ARTICLE IX.**  
**DESIGN REVIEW BOARD**

Section 9.1 Establishment. Declarant, or its designated assigns, shall



establish an Design Review Board (the "Board", "D.R.B." or "Committee") to perform the design review functions set forth in this Declaration and shall adopt the procedural rules and regulations for the performance of such duties by the D.R.B., including procedures for preparation, submission and determination of the application for any approvals required by this Declaration. The D.R.B. shall consist of not less than three (3) nor more than five (5) Members, each serving one-year terms, with such alternate Members as Declarant may deem necessary. Declarant, or its designated assigns, shall appoint all of the original Members of the D.R.B., and Declarant shall continue to appoint all Members of the D.R.B. until Declarant no longer owns any Lot or any portion of the property described in Exhibit A to this Declaration, at which time the Board of the Association shall have the power to appoint all of the Members of the D.R.B. The appointees of the Board or Declarant need not be Members of the Association. Additionally, such appointees need not be architects, Owners, lessees or residents and they do not need to possess any special qualifications of any type except such as the Board or Declarant may, in their discretion, require. However, it is recommend that at least one Member of the D.R.B. be an architect, planner, engineer, developer or other Member of a profession engaged in the construction or development industry. The D.R.B. shall hold regular meetings, a quorum for such meeting shall consist of a majority of the regular Members, and the concurrence of a majority of the regular Members at a meeting shall be necessary for any decision of the D.R.B. Alternate Members, approved by Declarant may participate at any meeting at which there is not a quorum of regular Members present, may constitute a quorum by his (their) presence and shall have all of the authority of a regular Member while so participating. The decision of the D.R.B. shall be final on all matters submitted to it pursuant to this Declaration.

Section 9.2 Review by Committee. In addition to the restrictions and requirements set forth in this Declaration, each Owner of a Lot acknowledges and agrees that the requirements, terms and restrictions set forth in the Design Guidelines attached hereto as Exhibit "D" shall apply to and encumber each Lot in the Subdivision. With the exception of structures designed and/or constructed by Declarant, prior written approval by the D.R.B. shall be required on all new construction on Lots in the Subdivision. In addition, approval of the D.R.B. shall be required for any alteration or modification to an existing dwelling until constructed by Declarant or other structure previously approved by the D.R.B., and approval of the D.R.B. shall be required for all dwellings, buildings, gazebos, storage sheds, room additions, rooms, fences, walls, mail boxes, canopies, statuary, awnings, roofs, devices to be mounted on roofs, exterior light facilities, athletic facilities, pools, landscaping or tree removal, changes in exterior paint color, or other similar improvements or attachments. No such work shall be commenced, and no alteration of the established drainage on a Lot shall be made unless complete plans and specifications therefore have been first submitted to and approved in writing by the D.R.B. The D.R.B. shall exercise its best judgment (neither arbitrarily or capriciously) to the end that all such changes, improvements and alterations requested for properties within the Properties conform to and harmonize with the existing surroundings, dwellings, landscaping and structures. Final plans and

specifications shall be submitted to the Committee in accordance with the regulations set forth in the Design Guidelines. At such time as the plans meet the approval of the Committee one complete set will be retained by the Committee and the other set shall be marked "approved" on behalf of the Committee and returned to the Owner or his designated representative. If disapproved by the Committee one set of such plans shall be returned marked "disapproved" and shall be accompanied by a statement setting forth the reasons for disapproval. In no event shall the Committee give verbal approval or disapproval of any plans. If the Committee fails to approve or disapprove such plans and specifications within thirty (30) days after the date of submission, written approval of the matter submitted shall not be required and compliance with this Article shall be deemed to have been completed, so long as the submission does not otherwise violate or fail to conform to any restrictions or requirements of this Declaration or previously established requirements of the D.R.B. in which event the submission shall be deemed disapproved by the Committee. An Owner submitting plans to the Committee shall have the burden of establishing the date upon which the Committee received said plans.

Section 9.3 Subcommittee. The Design Review Board with the advice and consent of the D.R.B. is herein empowered to form a subcommittee to the Design Review Board the ("Sub D.R.B." or "Subcommittee") comprised of Members of the Association. The Subcommittee shall be comprised of such number of Members as the D.R.B. deems reasonable and necessary in order to carry out its function. The D.R.B. shall be entitled to delegate to the Subcommittee such responsibilities and activities as the D.R.B., in its discretion, shall determine, including but not limited to the ability to preview submittals to the D.R.B. and make non-binding recommendations thereon. Such Subcommittee shall serve at the discretion of the D.R.B. and/or the Board and may not be continued following transfer of control of the D.R.B. to the Association.

Section 9.4 Appeal. Any Owner aggrieved by a decision of the Sub D.R.B. may appeal the decision to the D.R.B. in accordance with procedures to be established by the D.R.B. Such procedures would include the requirement that the appellant has modified the requested action or has new information which would, in the D.R.B.'s opinion, warrant a reconsideration. If the D.R.B. fails to allow an appeal or if the D.R.B., after appeal, again rules in a manner aggrieving the appellant, the decision of the D.R.B. is final.

Section 9.5 Fee. The D.R.B. will establish a reasonable processing fee to defer the costs of the Association in considering any requests for approvals submitted to it, which fee shall be paid at the time the request for approval is submitted.

Section 9.6 Architectural Design Guidelines and Development Standards. Declarant will develop, publish and promulgate architectural standards and guidelines (hereinafter "Architectural Design Guidelines") which shall be used by the D.R.B. in reviewing any proposed plans, specifications and materials submitted to the D.R.B. for approval. In addition, the D.R.B. may develop development standards setting forth the

minimum standards for the design, size, location, style, structure, color, mode of architecture, mode of landscaping and relevant criteria deemed important by the D.R.B. or by Declarant for the construction of improvements of any nature in the Properties. The purpose of such development standards will be to preserve and promote the character and orderly development of the Properties. By acceptance of a deed to any Lot, each Owner thereof and his successors and assigns agrees to be bound by all provisions of such development standards as may be adopted by the D.R.B., from time-to-time, and to use diligence in keeping abreast of the provisions thereof and any amendments thereto.

Section 9.6.1 General Conditions: No building shall be erected, altered, placed or be permitted to remain on any Lot other than one Living Unit with a private garage suitable for parking not less than two (2) cars or more than four (4) cars which is to be attached to the principal dwelling.

Except as otherwise provided herein and except for improvements constructed by the Declarant in connection with the development of the Property, no improvement of any kind shall be erected, altered, placed or permitted to remain on the Common Areas (including areas designated as "open-space easements" or "landscape easements"). Additionally, no improvement constructed by the Declarant in connection with the development of the Property shall be removed from the Common Areas (including areas designated as "open-space easements" or "landscape easements") without the prior written consent of the Declarant or the Association.

Section 9.6.2 House Placement and Yard Grading: Residences and Lots shall conform to existing grade and drainage patterns as set forth on the grading plan for the Property filed with the appropriate governmental authorities. Existing grades at Lot lines shall not be altered more than one (1) foot without the written consent of the Declarant. Each Lot Owner and/or Builder shall endeavor to retain as much of the natural woods as is practical.

Section 9.6.3 Driveways: All driveways shall be surfaced with natural color concrete, asphalt or other similar substance, except all driveway approaches from the street to the back of the sidewalk shall be concrete.

Section 9.6.4 Water Discharge: Storm water must be disposed of in accordance with drainage plans established by the Declarant or the Association. Downspout line must be properly directed to the drainage swale provided for the lot and downspout line shall not be directed to a neighboring property.

Section 9.6.5 Radio and Television Antennae and Satellite Dishes: All television and radio antennae, including CB radio antennae, must be enclosed within the residence located on the Lot. All satellite dishes are prohibited, unless such satellite dish has a diameter of eighteen (18) inches or less and screened from view from the public right of way.

Section 9.6.6 Air Conditioning and Heat Pump Equipment: Such equipment shall be located on in side or rear yards and shall be screened from the roadway view.

Section 9.6.7 Awnings: No metal or plastic awnings for windows, doors or patios may be erected or used. Canvas awnings may be used on any Lot subject to prior written approval of the Declarant or the Association.

Section 9.6.8 Fences:

- (a) No fence or wall of any kind, specifically including the use of a hedge or other growing plants as a fence, and for any purpose shall be erected, placed or suffered to remain upon any Lot until the plans and specifications for such fence shall have been approved pursuant to Section 9.1 herein.
- (b) Fence as used herein shall be liberally construed as to accomplish the purpose of these restrictions, and shall specifically include, but not be limited to, chain-link or stockade fence or any contrived barriers of any type including those of shrubs, hedges or walls. Side street as used herein, shall refer to any street contiguous to any Lot which does not face the front door of the residence.
- (c) This Section shall not apply to decorative fences or retaining walls installed by the Declarant or a Builder in connection with the development of the property.

Section 9.6.9 Exterior Carpeting: No exterior carpeting shall be allowed if it is visible from the street or adjoining properties.

Section 9.6.10 Lighting Exterior: Mercury vapor yard lights are prohibited, except for street lights installed in a right-of-way by the Declarant or a utility company. This Section shall not apply to residences used by the Declarant as model homes or sales offices.

Section 9.6.11 Completion: Construction of a residential building on any tract shall be completed within one (1) year from the date construction is started and the disturbed yard area of the Lot must be sodded or seeded.

Section 9.6.12 Roofs: All roofs on residences situated on Lots shall be of a similar type, color and shingle type as designated by the Declarant. A replacement roof on such residences shall be color matched to the original roof.

Section 9.6.13 Zoning: All improvements shall be constructed in accordance with and subject to all applicable zoning regulations and building codes.

Section 9.6.14. Sump Pumps: Certain lots shall be designated as requiring a sump pump for the proper drainage from said lot. Residences constructed on such lots shall be constructed with the required sump pump and shall be utilized by the Owner or tenant of such residence.

Section 9.7 No Waivers. The approval or disapproval by the D.R.B., 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 D.R.B., shall not be deemed: (a) to constitute a waiver of any right to approve or withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent: (b) to prohibit the D.R.B. from modifying and amending the Architectural Design Guidelines from time to time (with the approval of the Board) to specifically permit any improvement previously prohibited, or (c) to prohibit any improvement previously permitted.

Section 9.8 Variance. The D.R.B. may authorize variances from compliance with the Architectural Design Guidelines when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require. Such variances may only be granted, however, when unique circumstances dictate, as determined by the D.R.B., and no variance shall; (a) be effective unless in writing; or (b) estop the D.R.B. from denying a variance in other circumstances.

Section 9.9 Violation of Approved Plans and Right of Entry. If it is determined by the D.R.B. that work completed on any Lot has not been completed in compliance with the final plans approved by the Committee, the Committee or the Association may notify the Owner in writing of such non-compliance within thirty (30) days of inspection, specifying in reasonable detail the particulars of non-compliance and may require the Owner to remedy the same. The Association shall have the right to enter upon the Lot of any Owner and to perform compliance or remedy non-compliance and may require the Owner to remedy the same. The Association shall have the right to enter upon the Lot of any Owner and to perform compliance or remedy non-compliance as ordered by the Committee and the cost of such performance or remedy shall be charged to the Owner of the Lot in question, which cost shall be due within ten (10) business days after receipt of written demand therefore. If the Owner fails to remedy such non-compliance or to commence and continue diligently toward achieving compliance, Declarant or the Association (as their interest shall appear) shall notify the Owner that it shall take action to remove the noncomplying improvements and/or seek injunctive relief, recovery of costs incurred, and imposition of a fine, which fine shall not exceed ten percent (10%) of the cost of achieving compliance.

Section 9.10 Non-Liability for Approval Plans. Design Review Board approval of plans shall not constitute a representation, warranty or guarantee, whether express or implied, that such plans and specifications comply with good engineering design or with zoning or building ordinances, or other governmental regulations or restriction. By approving such plans and specifications neither the Design Review Board, the

Members thereof, the Association, any Member thereof, the Board nor Declarant assumes any liability or responsibility therefore, or for any defect in any improvements constructed from such plans or specifications. Neither the Committee, any Member thereof, the Association, the Board nor Declarant shall be liable to any Member, Owner, occupant, or other person or entity for any damage, loss or prejudice suffered or claimed on account of (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective; or (b) the construction or performance of any work, whether or not pursuant to the approved plans, drawings or specifications.

Section 9.11 Compliance with Laws. Review and approval of plans and specifications by the D.R.B. shall not imply or infer compliance with any law, ordinance or regulation, or structural integrity or safety of any improvements described in any approved plans and specifications. Review and approval as provided in this Article is for aesthetic purposes only. It is each Owner's sole responsibility to plan and construct any and all improvements in a manner which complies with all applicable codes, statues, laws, ordinances and regulations in compliance with any approval granted hereunder.

Section 9.12 Duty to Complete Improvements. An Owner shall complete all approved improvements, subject to unforeseen circumstances and causes beyond reasonable control of such Owner, as reasonably determined by the D.R.B. within twelve (12) months following commencement of construction of such approved improvements.

Section 9.13 Approved Builder List. In order to promote a high quality development of homes on the Properties, Declarant is retaining the right to approval all builders who will construct homes on any of the Lot(s). By accepting title to any of the Lot(s), each Owner acknowledges and agrees that only a builder approved by the Declarant, in the Declarant's sole discretion, will be eligible to construct a home on any of the Lot(s). The Declarant will provide each Owner with a list of the Approved Builders, and the Declarant reserves the right to add to such a list or to remove builders from such list upon reasonable notice to the Association. Each Lot Owner acknowledges and agrees that the Declarant is not responsible for any of the work performed by the Approved Builders, and each Lot Owner is solely responsible for contractual arrangements with the builder selected by the Lot Owner for the construction of a home on a Lot and for making the necessary arrangements to make sure that such builder complies with the provisions of this Declaration and all building codes and regulations in connection with the construction of a home on a Lot in the Subdivision. Further, Declarant is not responsible for, and each Lot Owner assumes the risk of, investigating the financial status and business practices of any builder selected by a Lot Owner, even if the builder is on the list of the Approved Builders provided by Declarant.

**ARTICLE X.**  
**COMMON AREA AND LOT MAINTENANCE**

Section 10.1 Maintenance by Association. The Association shall repair and maintain the Common Area and all improvements, utilities and facilities located on the Common Area. In addition, the Association shall repair and maintain the Landscape and Signage Easements and HOA Drainage Easements as provided in Article VI.

Section 10.2 Maintenance by Owners. Each Owner shall, at all times, maintain, repair and otherwise be responsible for his Lot and all structures, parking areas and other improvements thereon. Owners of Lots fronting on public streets within the Properties shall maintain driveways serving their respective Lots and shall maintain landscaping, sidewalks and private mail boxes located within the public street right-of-way between the Lot boundary line and the nearest curb or pavement edge. Owners shall have no right to remove trees, shrubs or other existing vegetation from the Lot or the public street right-of-way adjacent to the Lot without prior approval of the D.R.B. An Owner shall be responsible for replacement and reconstruction of improvements on his Lot required because of damage or destruction by fire or other casualty. Each Owner shall maintain, repair and replace the surface and subsurface drainage facilities, swales and appurtenances located on his Lot as may be necessary to maintain good and proper drainage of the property and other real property in the vicinity, except for such facilities the maintenance of which has been assumed by Warren County or other governmental entity. If any Owner, after Notice and Opportunity for Hearing, fails to maintain, repair and replace such drainage facilities, swales and appurtenances as required herein, the Association, at the expense of such Owner, shall maintain, repair and replace such drainage facilities, swales and appurtenances at the sole cost and expense of such Owner, and the Board, without the vote or written consent of Members, may levy a special assessment against such Owner to obtain reimbursement therefor as provided in Section 5.12 of Article V hereof. No Structure shall be placed or permitted to remain on any Lot which may damage or interfere with the use, maintenance, repair or replacement of such drainage facilities, swales and appurtenances and no Owner shall do any work, construct any improvements, place any landscaping or suffer the existence of any condition whatsoever which shall alter or interfere with the drainage pattern for the Lots or Common Areas as established in connection with the approval of the subdivision plat or plats applicable to The Fairways at River's Glen by Hamilton Township or Warren County, as appropriate, except to the extent such alteration in drainage pattern is approved in writing by the Design Review Board and all public authorities having jurisdiction.

All such drainage facilities, swales and appurtenances shall at all times be accessible to Declarant until The Fairways at River's Glen is completed and at all times shall be accessible to the Association and all persons installing, using, maintaining, repairing or replacing such drainage facilities, swales and appurtenances. Declarant may from time to time present for recordation in the official records of Warren County Recorder's Office instruments showing approximate locations of subsurface storm

drainage facilities of subsurface groundwater drainage facilities.

Section 10.3 Negligence. The cost of repair or replacement of any improvement to be maintained and kept in repair by the Association, which repair or replacement is required because of the act or omission of any Owner, shall be the responsibility of and paid for by such Owner.

Section 10.4 Right to Enter. After reasonable notice to the occupant the Association or its agents shall have access over and upon any Lot when necessary in connection with repair, maintenance, or replacement of improvements for which the Association is responsible or for the enforcement of this Declaration, and each Owner shall accept title to his Lot subject to such right of access of the Association or its agents. By way of illustration, and not limitation, the Association may repair, maintain and replace drainage facilities and/or drainage swales on a Lot.

Section 10.5 Failure to Maintain by Owner. All maintenance required by Owners under this Article X shall be performed in a manner consistent with the Declaration, By Laws, Architectural Design Guidelines and all other applicable rules and regulations. If any Owner of a Lot fails properly to perform his or her maintenance responsibilities or removes trees, shrubs or any other vegetation without D.R.B.'s approval, the Association, after giving Owner a minimum of seven (7) days written notice to cure the failure to maintain, shall have the right but not the obligation, to enter such Owner's Lot to maintain said Lot and assess all costs incurred by the Association against the Lot and the Owner thereof as a special assessment as provided in Section 5.12 of Article V.

#### **ARTICLE XI. USE RESTRICTION AND MAINTENANCE**

The Property shall be subject to the following restrictions:

Section 11.1 Purpose of the Property. Except for Lots designated as Common Areas, the Property shall be used only for residential purposes and common recreational purposes auxiliary thereto. Garages shall be used only for the parking of vehicles and other customary uses and shall not be used for or converted into living area, (e.g. family room, bedrooms, offices or recreational rooms). An Approved Builder shall have the right to use unsold residences as model homes or sales offices. The provisions in this paragraph shall not apply to any Lot owned by Declarant.

Section 11.2 Nuisance. No obnoxious or offensive activity of any kind shall be engaged in on any Lot nor shall any Owner or occupant thereof engage in any activities that interfere with the quiet enjoyment, comfort and health of the occupants of adjacent neighboring Lots.

Section 11.3 Animals and Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets



(excluding pot-belly pigs) may be kept, provided that they do not exceed there (3) in number and that they are not kept, bred or maintained for any commercial purpose. Notwithstanding the above, in the event such household pets have a litter, the Owner shall have a period of one hundred twenty (120) days from the date of such birth to dispose of such excess pets. The ownership of all pets shall be in compliance with all local laws and regulations. Without limiting the foregoing, each Owner agrees that all dogs or other pets shall be kept on a leash whenever such pets are not on the Owner's property.

Section 11.4 Trash. No burning of any trash and no accumulation or storage of litter, new or used building materials or trash of any kind shall be permitted on any Lot. Trash and garbage shall be placed in sanitary containers and shall not be permitted to remain in the public view except on days of trash collection.

Section 11.5 Automobiles, Recreational Vehicles, Boats, Travel Trailers. No recreational vehicle, mobile home, boat, travel trailer or commercial vehicle shall be parked or stored on any Lot, for a period in excess of forty-eight (48) hours during any calendar month, unless the same is in the garage and completely out of view. Trucks exceeding a three-quarter (3/4) ton rating are prohibited, unless such trucks are kept in the garage and completely out of view.

No vehicle in inoperable condition shall be stored on any Lot for a period in excess of five (5) days unless the same is in the garage and completely out of view.

Section 11.6 Garage and Yard Sales. There shall be no more than two (2) garage or yard sales held by the Owner or residents of any Lot during any twelve (12) month period.

Section 11.7 Irrigation. No sprinkler or irrigation systems of any type which draw upon water from creeks, streams, rivers, lakes, ponds, wetlands, canals or other ground or surface waters within the Property shall be installed, constructed or operated within the Property by a Lot Owner without the expressed written permission from the Association and Declarant.

Section 11.8 Water Bodies. All lakes, ponds and streams within the Property shall be aesthetic amenities only and no use thereof is permitted for, including, without limitation, swimming, boating, playing, fishing or use of personal floatation devices, skating or sledding. No ice skating or sledding shall be permitted on the Common Areas. Declarant and the Association, and their directors, officers, committee members or employees shall not be responsible for any loss, damage or injury to any person or Property as a result of ice skating or sledding on the Property.

ARTICLE XII.  
GENERAL PROVISIONS

Section 12.1 Enforcement. Declarant, the Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity against any person or persons violating or attempting to violate any restriction, condition, covenant, reservation, lien and charge now or hereafter imposed by the provisions of this Declaration, either to restrain or enjoin violation or to recover damages, and against the land to enforce any lien created by this Declaration. Failure or forbearance by Declarant, the Association, or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 12.2 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect the enforceability or validity of any other covenants or provisions of this Declaration, which shall remain in full force and effect.

Section 12.3 Amendment. The Declaration may be amended from time to time as follows:

(a) By Declarant. Declarant reserves the right and power, and each Lot Owner by acceptance of a deed to a Lot is deemed to and does grant to Declarant a Power of Attorney, coupled with an interest which shall run with the title to the Lot, and shall be irrevocable except by Declarant for a period of fifteen (15) years from the date hereto, to amend this Declaration, without the approval of the Lot Owners: to the extent necessary to conform to any requirements imposed or requested by an governmental agency, planning or zoning board, public authority, utility company, or financial institution (including the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, or similar agency); eliminating or correcting any typographical or other inadvertent error herein; eliminating or resolving any ambiguity herein; in order to remove or release any part or portion of the Property now or hereafter subject to the Declaration; making nominal changes; clarifying Declarant's original intent; to satisfy any requirements of Declarant's lender; to the extent Declarant reserves the right to amend this Declaration as provided in this Declaration; to the extent necessary to enable Declarant to meet any other reasonable need or requirement in order to complete the development of the Property or to facilitate the making and marketing of first mortgages upon any of the Lots. Any amendment must be recorded and shall take effect only upon recording.

(b) By Lot Owners. The covenants and restrictions of this Declaration shall run and bind the land, for a term of twenty-five (25) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless terminated or altered by a vote of seventy-five (75%) percent of a vote of the Lot Owners after the expiration of said twenty-five (25) year period. This Declaration may be amended during the first twenty-five (25)

year period by an instrument signed by the Owners of not less than seventy-five (75%) percent of the Lots, and thereafter by an instrument signed by the Owners of not less than seventy-five (75%) percent of the Lots; provided, however, that Declarant's rights hereunder may not be amended or altered without Declarant's prior written consent. Any amendment must be properly recorded and shall take effect only upon recording. For the purpose of this section, additions to the Existing Property as provided in Article II, Section 2 hereof shall not constitute an "amendment".

Section 12.4 Notices. Any notice required to be sent to any member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, by ordinary mail, postage paid, to the last know address of the person who appears as Member of Owner on the records of the Association at the time of such mailing.

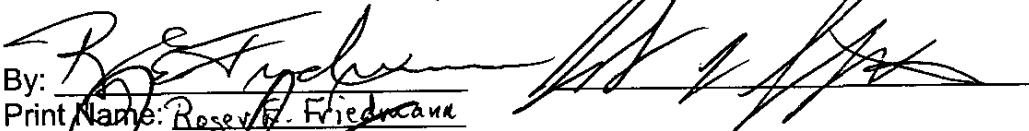
Section 12.5 Conflicts. In the case of any conflict between this Declaration and either the Articles of Incorporation or the By Laws of the Association, the Declaration shall control.

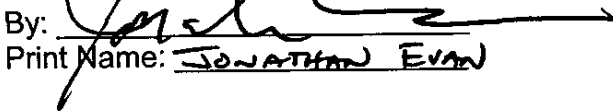
Section 12.6 Condemnation. In the event any Common Area or any portion thereof is made the subject matter of any condemnation or eminent domain proceedings or other sought to be acquired by a condemning authority, the proceeds of any award or settlement shall be distributed to the Association for the common benefit of the Lot Owners and their mortgagees, as their interests appear.

Section 12.7 Disclaimer. Notwithstanding anything contained herein or in the Articles of Incorporation, By-Laws, Rules or Regulations or any other document governing or binding the Association (collectively the "Association Documents"), the Association and Declarant shall not be liable or responsible for, or in any matter a guarantor or insurer of, the health, safety or welfare of any Member, occupant or use of any portion of the Properties, including, without limitation, Owners and their respective families, guests, tenants, invitees, agents, servants, contractors or subcontractors or for any property of any such persons. It is express intent of the Association Documents that the various provisions thereof, that are enforceable by the Association and govern or regulate the uses of the Properties, have been written, and are to be interpreted and enforced, for the sole purpose of maintaining the enjoyment of the Properties. The Association and the Declarant are not empowered, and have not been created, to act as an entity which enforces or ensures any other individual's or entity's compliance with the laws of the United States, State of Ohio or any other jurisdiction or the prevention of criminal, tortious or like regulated activities. Each Owner, by taking title to any Lot, covenants and agrees to hold harmless and to indemnify the Association and the Declarant, and their respective directors, trustees, officers, agents, parties and affiliates from and against all claims, causes of action and liabilities, of any kind whatsoever, by an invitee, licensee, family member, employee or other representative or agent of that Owner for any loss or damage arising in connection with the use, ownership or occupancy of any portion of the Property.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed this 10<sup>th</sup> day of ~~February~~ March, 2003.

**Brandenburg Development Company, LLC**  
an Ohio limited liability company

By:   
Print Name: Rosevelt E. Friedmann

By:   
Print Name: JONATHAN EVAN

STATE OF OHIO                    )  
  ) SS:  
COUNTY OF Warren            )

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of March, 2003, by Jack L. Brandenburg, II the President of Brandenburg Development Company, LLC, an Ohio limited liability company, on behalf of the company.

  
Notary Public

ROGER E. FRIEDMANN, Attorney at Law  
NOTARY PUBLIC - STATE OF OHIO  
My Commission has no expiration  
date. Section 147.03 O.R.C.

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This document was prepared by:

Roger E. Friedmann  
Loeb, Vollman & Friedmann  
1450 Kroger Building  
1014 Vine Street  
Cincinnati, Ohio 45202  
513-579-1707

BOOK 2971 PAGE 522



Ex A.

Project Management  
Civil Engineering  
Right-of-Way Acquisition  
Construction Management

October 31, 2002

**DESCRIPTION OF 25.4790 ACRES  
SOUTH OF WINDING RIVER BOULEVARD  
WEST OF STATE ROUTE 48  
HAMILTON TOWNSHIP  
WARREN COUNTY, OHIO**

Situated in the State of Ohio, County of Warren, Township of Hamilton, Virginia Military Survey No. 1547, being all of that 14.4630 acre tract (Parcel I), all of that 3.672 acre tract (Parcel II), all of that 3.672 acre tract (Parcel III) and all of that 3.672 acre tract (Parcel IV), as described in a deed to Brandenburg Development Company, LLC., of record in Official Record Volume 2557, Page 834, all references herein being to the records located in the Recorder's Office, Warren County, Ohio and being more particularly described as follows:

Beginning **FOR REFERENCE** at the intersection of the centerlines of Dwire Road and State Route 48; Thence along the centerline of Dwire Road the following courses;

1. North 86° 52' 03" West, a distance of 640.22 feet to a point;
2. North 87° 48' 47" West, a distance of 816.94 feet to a point;
3. North 87° 48' 47" West, a distance of 436.60 feet to a railroad spike set at the northwesterly corner of a 16.255 acre tract of land as described in a deed to "The Siderits Family Limited Partnership", of record in Deed Book 1790, Page 926, being the northeasterly corner of said 3.672 acre tract (Parcel IV) and being the **TRUE PLACE OF BEGINNING** for the tract of land described herein;

Thence **South 00° 29' 55" West, 800.00 feet** along the westerly line of said 16.255 acre tract and the easterly line of said 3.672 acre tract (Parcel IV) to an iron pin set;

Thence **North 87° 48' 47" West, 600.00 feet** along a northerly line of said 16.255 acre tract and the southerly lines of said 3.672 acre tract (Parcel IV), 3.672 acre tract (Parcel III) and 3.672 acre tract (Parcel II) to a 1/2" iron rod found in an easterly line of said 14.4630 acre tract, passing 1/2" iron rods found at 200.00 feet and 400.00 feet;

Thence **South 00° 29' 55" West, 322.73 feet** along a westerly line of said 16.255 acre tract and an easterly line of said 14.4630 acre tract and to a 1/2" iron rod found;

Thence **South 88° 10' 52" East, 199.90 feet** along a northerly line of said 14.4630 acre tract and the southerly line of said 16.255 acre tract to a 1/2" iron rod found at the northwesterly corner of Lot 16 of "Grandin Ridge", a subdivision of record in Plat Book 38, Pages 53-57;

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(Con't)

Providing Management and Engineering Services throughout Ohio and West Virginia

Thence South 02°06' 26" West, 349.25 feet along the westerly line of said Lot 16 and the easterly line of said 14.4630 acre tract to a 5/8" iron rod found in the northerly line of Lot 12 of said "Grandin Ridge";

Thence South 89° 00' 06" West, 526.75 feet along the northerly line of said Lot 12; the northerly lines of Lots 221, 222 and 223 of "Rivers Bend Golf Club Community", a subdivision of record in Plat Book 52, Pages 51 and 52 and the southerly line of said 14.4630 acre tract to a capped iron rod found ("CDS 6840") in the easterly line of a 59.3539 acre tract of land (Parcel "A") as described in a deed to "Tournament Players Club at Rivers Bend, LLC." And being the northwesterly corner of said Lot 223, passing a 5/8" iron rod found at a distance of 126.91 feet;

Thence along the easterly lines of said 59.3539 acre tract and the westerly line of said 14.4630 acre tract the following courses;

1. North 21° 32' 35" West, 368.30 feet to an iron pin set;
2. North 07° 06' 08" East, 764.90 feet to a capped iron rod found ("CDS 6840");
3. North 35° 58' 49" East, 482.07 feet to a point in the southwest corner of a 30 foot wide stripe of land dedicated as Dwire Road, as shown and delineated upon the plat "River's Bend Golf Club Community, Section 1", a subdivision of record in Plat book 47, Pages 29-32 ;

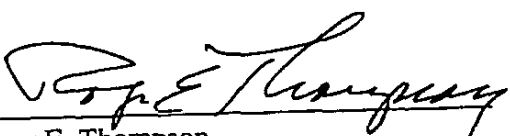
Thence South 87° 36' 31" East, 107.03 feet along the southerly line of said 30 foot wide strip of Dwire Road and the northerly line of said 14.4630 acre tract (Parcel I) to a mag nail found;

Thence South 87° 48' 47" East, 600.00 feet continuing along the southerly line of said 30' wide strip of Dwire Road and the northerly lines of said 3.672 acre tract (Parcel II), 3.672 acre tract (Parcel III) and 3.672 acre tract (Parcel IV) to the TRUE PLACE OF BEGINNING and containing 25.4790 acres.

Bearings herein are based on those found on "River's Bend Golf Club Community, Section 1" plat and originated in Survey Record Book 106, Page 46.

Iron pins set are 5/8" inch diameter iron rods x 30" long with a plastic cap inscribed "M-E Companies"

This description was prepared by M-E Companies, Civil Engineering Group, Cincinnati, Ohio based on a survey of the premises in May, 2002.

By   
Roger E. Thompson  
Registered Surveyor #6552

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Now KNOWN AS:

LOT No.	ACRES	NEW SIDWELL No.
LOT 1	0.5149	16-06-124-001
LOT 2	0.4038	16-06-124-002
LOT 3	0.4038	16-06-124-003
LOT 4	0.4038	16-06-124-004
LOT 5	0.4038	16-06-124-005
LOT 6	0.4038	16-06-124-006
LOT 7	0.4796	16-06-124-007
LOT 8	0.4710	16-06-124-008
LOT 9	0.3005	16-06-124-009
LOT 10	0.2453	16-06-124-010
LOT 11	0.3626	16-06-124-011
LOT 12	0.2736	16-06-124-012
LOT 13	0.2479	16-06-124-013
LOT 14	0.2479	16-06-124-014
LOT 15	0.2479	16-06-124-015
LOT 16	0.2479	16-06-124-016
LOT 17	0.2479	16-06-124-017
LOT 18	0.2479	16-06-124-018
LOT 19	0.2479	16-06-124-019
LOT 20	0.2899	16-06-124-020
LOT 21	0.2956	16-06-124-021
LOT 22	0.3264	16-06-124-022
LOT 23	0.4752	16-06-124-023
LOT 24	0.4545	16-06-124-024
LOT 25	0.3474	16-06-124-025
LOT 26	0.2777	16-06-124-026
LOT 27	0.4540	16-06-124-027
LOT 28	0.3974	16-06-124-028
LOT 29	0.4930	16-06-124-029
LOT 30	0.2815	16-06-124-030
LOT 31	0.3399	16-06-124-031
LOT 32	0.3416	16-06-124-032
LOT 33	0.3144	16-06-124-033
LOT 34	0.3253	16-06-124-034

LOT 35	0.2665	16-06-124-035
LOT 36	0.2890	16-06-124-036
LOT 37	0.2650	16-06-130-001
LOT 38	0.2592	16-06-130-002
LOT 39	0.2950	16-06-130-003
LOT 40	0.2387	16-06-130-004
LOT 41	0.3112	16-06-130-005
LOT 42	0.2979	16-06-130-006
LOT 43	0.3102	16-06-130-007
LOT 44	0.3301	16-06-130-008
LOT 45	0.3301	16-06-130-009
LOT 46	0.3301	16-06-130-010
LOT 47	0.3301	16-06-130-011
LOT 48	0.3496	16-06-130-012
LOT 49	0.6071	16-06-130-013
LOT 50	0.5022	16-06-130-014
LOT 51	0.4462	16-06-130-015
LOT 52	0.3803	16-06-130-016
LOT 53	0.3122	16-06-130-017
LOT 54	0.3122	16-06-130-018
LOT 55	0.3122	16-06-130-019
LOT 56	0.3122	16-06-130-020
LOT 57	0.2595	16-06-130-021
LOT 58	0.3819	16-06-130-022
LOT 59	0.5119	16-06-130-023
LOT 60	0.3110	16-06-130-024
LOT 61	0.3122	16-06-130-025
LOT 62	0.3122	16-06-130-026
LOT 63	0.3122	16-06-130-027
LOT 64	0.3122	16-06-130-028
LOT 65	0.3122	16-06-130-029
LOT 66	0.3122	16-06-130-030
LOT 67	0.3219	16-06-130-031
LOT 68	0.1252	16-06-130-014
R/W	2.4902	
TOTAL	25.4775	LOTS AND R/W
TOTAL	25.4775	BY SURVEY
TOTAL	25.4790	DEEDS

Situated in the State of Ohio County of Warren,  
 Township of Hamilton, Virginia Military Survey, No. 1547,  
 Fairways at Rivers Glen Subdivision, Recorded in  
 Plat Book 60, Pages 83 and 84, Warren County, Ohio  
 Recorder's Records.

All  
 Date

Ex A-1

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Ex B



DATE:	DOCUMENT ID	DESCRIPTION	FILING	EXPED	PENALTY	CERT	COPY
11/15/2002	200231901610	DOMESTIC ARTICLES/NON-PROFIT (ARN)	125.00	100.00	.00	.00	.00

**Receipt**  
This is not a bill. Please do not remit payment.

ROGER E. FRIEDMANN  
1450 KROGER BUILDING  
1014 VINE STREET  
CINCINNATI, OH 45202

# STATE OF OHIO

**Ohio Secretary of State, J. Kenneth Blackwell**

1351886

It is hereby certified that the Secretary of State of Ohio has custody of the business records for

**FAIRWAYS AT RIVER'S GLEN HOMEOWNER'S ASSOCIATION**

and, that said business records show the filing and recording of:

Document(s)  
**DOMESTIC ARTICLES/NON-PROFIT**

Document No(s):  
**200231901610**



United States of America  
State of Ohio  
Office of the Secretary of State

Witness my hand and the seal of  
the Secretary of State at Columbus,  
Ohio this 15th day of November,  
A.D. 2002.

*J. Kenneth Blackwell*  
Ohio Secretary of State

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RECEIVED

NOV 15 2002

J. KEVIN O'NEILL  
SECRETARY OF STATE

ARTICLES OF INCORPORATION  
OF  
THE FAIRWAYS AT RIVER'S GLEN  
HOMEOWNER'S ASSOCIATION

The undersigned, desiring to form a nonprofit corporation under Chapter 1702 of the Ohio Revised Code, does hereby certify as follows:

ARTICLE I

NAME

The name of the corporation shall be The Fairways at River's Glen Homeowner's Association.

ARTICLE II

PRINCIPAL OFFICE

The place in the State of Ohio where the principal office of the corporation is to be located is Hamilton Township, Warren County, Ohio.

ARTICLE III

PURPOSES

The purpose for which said nonprofit corporation is formed, and various other provisions pertaining to this nonprofit corporation and its powers are set forth in the following sections of these Articles. This nonprofit corporation, hereinafter sometimes referred to as the "Association", does not contemplate pecuniary gain or profit to the members thereof, and the specific purposes for which it is formed are to act as the Home Owners' Association with regard to the tracts of real estate specifically described in the Declaration of Covenants, Conditions, Restrictions, Easements and Liens applicable to said real estate, said Declaration being recorded or to be recorded in the property records of Warren County, Ohio. In addition, the specific purposes for which this Association is formed are to provide for the maintenance, preservation and control of the aforesaid real estate and certain buildings and improvements situated thereon under the terms of said Declaration, and to promote the health, safety and welfare of the residents and owners of the above described property and to act in the same manner with regard to any other property which may hereafter be brought within the jurisdiction of this Association as part of the same plan, and for these purposes:

- A. To adopt, administer, interpret and enforce the Declaration of Covenants, Conditions, Restrictions, Easements and Liens for The Fairways at River's Glen as now or hereafter recorded in the Warren County Recorder's Office (the "Declaration"), and any amendment or supplement thereto in accordance with the terms of the Declaration.
- B. To exercise all the power and privileges and to perform all of the duties and obligations of the Association as set forth in the aforesaid Declaration or as the same may be amended from time to time;
- C. To fix, levy, collect and enforce payment by any lawful means of all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office, administrative, and other expenses incident to the conduct of the business of the Association, including all license fees, taxes or governmental charges levied or imposed against the property of the Association;
- D. To acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association and subject to the terms of the Declaration;
- E. To borrow money, and with the assent of three-fourths (3/4) of the voting power of the Association, to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, but only to the extent permitted by the Declaration;
- F. To dedicate, sell or transfer all or any part of the Common Areas to any public agency, authority or utility for such purpose and to the extent and in such manner as may be authorized in the Declaration;
- G. To own, acquire, build, operate and maintain Common Areas, special features, private utility lines, landscape easements, and any structures, fixtures, amenities for the development, and all personal property incidental thereto, in accordance with the Declaration;
- H. To obtain, pay for and maintain insurance to the extent provided in the Declaration or Regulations;
- I. To do any other thing necessary, expedient, incidental, appropriate or convenient to the carrying out of the foregoing purposes or which will promote the common benefit and enjoyment of the residents or owners of the Lots, insofar as not prohibited by law or the Declaration; and

- J. To have and to exercise any and all powers, rights and privileges which a corporation organized under the Nonprofit Corporation Law of the State of Ohio by law may now or hereafter have or exercise, insofar as not prohibited by the Declaration.

ARTICLE IV

TRUSTEES

The Corporation shall be managed by the Board of Trustees. The number of Trustees shall not be less than three (3). The names and addresses of the persons who are to act in the capacity of initial Trustees until the selection of their successors are as follows:

<u>Name</u>	<u>Address</u>
Jack L. Brandenburg, II	6405 Branch Hill Guinea Pike, #202 Loveland, Ohio 45140
Roger E. Friedmann	1014 Vine Street, Suite 1450 Cincinnati, Ohio 45202
Jonathan Evans	23 Triangle Park Drive, Suite 2300 Cincinnati, Ohio 45246

ARTICLE V

MEMBERSHIP

Every Owner of a Lot as described in the Declaration and as created by that Declaration which is subject by covenant of record contained in the Declaration to assessment by the Association, including purchasers on land installment contracts as such instruments are defined in Ohio Revised Code Chapter 5313, and including contract sellers on other forms of executory contracts for the sale of a Lot, but excluding those holding record title or a similar interest merely as security for the performance of an obligation, shall automatically on acquisition of such ownership interest in a Lot be a member of the Association. Membership shall be appurtenant to and may not be separated by ownership for any Lot which is subject to assessment. Such membership shall terminate upon the sale or other disposition by such Lot Owner of his ownership interest, at which time the new Lot Owner shall automatically become a member of the Association.

ARTICLE VI

RESTRICTIONS ON ACTIVITIES

The corporation is not formed for the pecuniary gain or profit of, and no part of the net earnings of the corporation shall inure to the benefit of or be distributable to, its members, trustees, officers, or other private persons; provided, that the corporation may pay reasonable compensation for services rendered, make payments and distributions in furtherance of its purposes set forth in Article III hereof, and distribute its assets on dissolution in accordance with these articles.

ARTICLE VII

VOTING RIGHTS

The Association shall have two classes of voting membership as provided in the Declaration.

ARTICLE VIII

DISSOLUTION

Upon dissolution of the corporation, any assets remaining after payment or adequate provision for payment of all debts and obligations of the corporation shall be expended in furtherance of the purposes set forth herein. If not successor in interest to the corporation is formed to administer the property of the corporation, its assets shall be distributed equally to its members according to a plan adopted and administered by the Board of Trustees consistent with the provisions of Ohio Revised Code Section 1702.49 as then in force.

ARTICLE IX

DURATION

The corporation shall exist perpetually, unless dissolved earlier under the terms of these Articles.

ARTICLE X

AMENDMENTS


Amendments to these Articles shall require the assent of members holding at least seventy-five percent (75%) of the voting power of each voting membership class of the Association, except as may be provided to the contrary in the Declaration.

ARTICLE XI

DEALING WITH CORPORATION

A director or officer of the corporation shall not be disqualified by his office from dealing or contracting with the corporation as a vendor, purchaser, employee, agent or otherwise; nor shall any transaction, contract or act of the corporation be voided or voidable or in any way effected or invalidated by reason of the fact that any director or officer or any firm of which such director or officer is a member, or any corporation of which such director or officer is a shareholder, director or officer, is in any way interested in such transaction, contract or act; provided, however, that the fact that such director, officer, firm or corporation is so interested must be disclosed to or known by the Board of Trustees or such members thereof as shall be present at the meeting of said Board at which action is taken upon such matters. No director or officer shall be accountable or responsible to the corporation for or in respect to any such transaction, contract, or act or for any gains or profits realized by him or by any organization affiliated with him as a result of such transaction, contract or act. Any such director or officer may be counted in determining the existence of a quorum at any meeting of the Board of Trustees of the corporation which shall authorize or take action in respect of any such contract, transaction or act, and may vote to authorize, ratify or approve any such contract, transaction or act, with like force and effect as if he or any firm of which he is a member or a corporation of which he is a shareholder, officer or director, were not interested in such transaction, contract or act.

IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of Ohio the undersigned incorporator of this Association has executed these Articles of Incorporation on this 6th day of November, 2002.

  
Roger B. Friedmann, Incorporator

## Original Appointment of Statutory Agent

The undersigned, being the sole incorporator of The Fairways at River's Glen Homeowner's Association hereby appoints Roger E. Friedmann to be statutory agent in accordance with Section 1702.06, Revised Code, upon whom any process, notice or demand required or permitted by statute to be served upon the corporation may be served.

The complete address of the agent is:

1014 Vine Street, Suite 1450  
Cincinnati, Ohio 45202

Date: Nov. 6, 2002

  
Roger E. Friedmann

### ACCEPTANCE OF APPOINTMENT

The undersigned, Roger E. Friedmann, named herein as the statutory agent for The Fairways at River's Glen Homeowner's Association hereby acknowledges the appointment of statutory agent for said company

  
Roger E. Friedmann

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**EXHIBIT "C"**

**BY-LAWS AND REGULATIONS  
OF  
THE FAIRWAYS AT RIVER'S GLEN  
HOMEOWNERS' ASSOCIATION**

**ARTICLE I**

**NAME AND LOCATION**

The name of the corporation is **The Fairways at River's Glen Homeowner's Association**, hereinafter referred to as "The Fairways at River's Glen". The principal office of the corporation shall be located in Hamilton Township, Warren County, but meetings of members and trustees may be held at such places within or without the State of Ohio, as may be designated by the Board of Trustees.

**ARTICLE II**

**DEFINITIONS**

**Section 2.1** "Declaration" shall mean and refer to the Declaration of Covenants, Conditions, Restrictions, Easements and Liens, applicable to the Properties recorded in the office of the Warren County Recorder, as the same may be amended, from time to time.

**Section 2.2** As used in these Regulations, the terms "Articles", "Association", "Board", "Common Areas", "Declarant", "Lot", "Member", "Owner", and "Property", shall have the same meaning as each is defined to have in the Declaration.

**ARTICLE III**

**PURPOSE**

The specific purpose for which the Association is formed are (i) to provide for the maintenance, preservation, and control of the Common Area in the subdivision of The Fairways at River's Glen ("Fairways"); and (ii) to promote the health, safety, and welfare of the Owners and users of the Subdivision.;

**ARTICLE IV**

**ASSENT**

All present or future Owners, their families, present or future tenants, and their



guests, invitees, and any other person using the facilities of the Subdivision in any manner are subject to the Association Documents, including these Regulations and any rules adopted by the Board of Trustees. The acquisition or rental of any of the Lots in the Subdivision or the occupancy of any of the Lots will constitute ratification and acceptance of these Regulations and an agreement to comply with those rules.

## ARTICLE V

### MEMBERSHIP

Section 5.1 Membership. Ownership of a Lot is required in order to qualify for membership in the Association.

Section 5.2 Responsibilities of Members. Any person, including Declarant, on becoming an Owner, will automatically become a Member and be subject to these Regulations. Such membership will terminate without any formal Association action whenever such person ceases to own a Lot, but such termination will not relieve or release any such former Owner from any liability or obligation incurred under the Declaration or in any way connected with the Association during the period of such ownership, or impair any rights or remedies which the Board of Trustees or others may have against such former Owner arising out of membership of the Lot and membership in the Association and the covenants and obligations incident thereto.

Section 5.3 Membership Certificates. No certificates of stock will be issued by the Association, but the Board of Trustees may, if it so elects, issue membership cards to Owners. Such membership card will be surrendered to the Secretary of the Association whenever ownership of the Lot designated on the card will terminate.

Section 5.4 Classes of Membership. Initially, the Association will have two classes of voting membership, composed of all Owners, including Declarant. The Board may establish additional classes of membership from time to time.

Section 5.5 Voting Privileges. All Members will be entitled to vote on Association matters on the basis of one vote for each Lot owned.

When more than one person holds an interest in any Lot, all such persons will be Members. The vote for such lot will be exercised by one person or alternative persons as the Owners among themselves determine. If more than one of the multiple Owners are present at a meeting in person or by proxy, the vote allocated to their Lot may be cast only in accordance with the agreement of a majority in interest of the Owners. There is a majority agreement if any one of the multiple Owners casts the vote allocated to his Lot without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Lot.

Any Owner of a Lot that is leased may assign his voting right to the tenant,

provided that the tenant is appointed to vote on behalf of the Owners by proxy and the proxy is furnished to the Secretary of the Association prior to any meeting in which the tenant exercises the voting right.

Section 5.6 Proof of Membership. Any person or entity, on becoming an Owner, will furnish to the Manager or to the Secretary of the Association a photocopy or a certified copy of the recorded instrument vesting that person or entity with an ownership interest, which instrument will remain in the files of the Association. An Owner will not be deemed a Member of the Association in good standing and will not be entitled to vote at any annual or special meeting of the Members unless this requirement is first met.

## ARTICLE VI

### MEETING OF MEMBERS

Section 6.1 Annual Meeting. An annual meeting of members shall be held for the election of Trustees, the consideration of reports to be laid before such meeting, and such other business as may come before the meeting. The first Annual Meeting of members shall be held on the second Friday of February and each subsequent regular Annual Meeting of the Members shall be held on the second Friday of February of each year thereafter, at the hour of 7:30 o'clock p.m., or at such other date and time designated by the President. In the event that an annual meeting is omitted by oversight or otherwise, the Trustees shall cause a meeting in lieu thereof to be held as soon as practicable and any business transacted or elections held at such meetings shall be as valid as if transacted or held at the annual meeting. Such meeting shall be called and notice thereof given in the same manner as the annual meeting.

Section 6.2 Special Meetings. Special meetings of the Members may be called at any time by the President or in the case of the President's absence, death or disability, the Vice President authorized to exercise the authority of the President, a majority of the Board of Trustees acting with or without a meeting or upon written request of the Members holding one-third (1/3) of the voting power of the Association and entitled to vote at the meeting.

Section 6.3 Waiver of Notice. Any member may waive in writing notice of the time, place, and purposes of any meeting of members, either before or after the holding of such meeting. Such writing shall be filed with or entered upon the records of the meeting. The attendance of any member at any such meeting without protesting, prior to or at the commencement of the meeting, the lack of proper notice shall be deemed to be a waiver by him of notice of such meeting.

Section 6.4 Notice of Meetings. Except as otherwise provided in the Declaration, written notice of each meeting of the Members shall be given by, or at the direction of the Secretary or person authorized to call the meeting, by mailing or delivering a copy of such notice, not less than 10 nor more than 60 days before the date of the meeting, to each member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in case of a special meeting, the purpose of the meeting.

Section 6.5 Quorum. The presence at the meeting of Members and/or proxies entitled to cast, thirty percent (30%) of the votes of the membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration or these Regulations. If however, such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 6.6 Adjourned Meetings. If, at any regular or special meeting of the Members of the Association, there be less than a quorum present, a majority of those Members present and entitled to vote may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called, at which time the quorum requirement shall be fifteen percent (15%) of the votes of the membership of the Association, and any business which might lawfully have been transacted at the meeting as originally called may be transacted without further notice.

Section 6.7 Actions Binding on Members. A majority of votes intended to be cast by Members constituting a quorum in person or by proxy will be sufficient to make decisions binding on all Owners, unless a different number or method of voting is expressly required by statute or by the Declaration, the Articles, or these Regulations.

Section 6.8 Majority of Owners. As used in these Regulations, the term "majority" will mean those votes, Owners, or other groups as the context may indicate totaling more than 50% of the total number.

Section 6.9 Proxies. At all meetings of the Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot.

Section 6.10 Designation of Voting Representative by Non-Individual Owners - Requirements for Proxy. If title to a Lot is held in whole or in part by a firm, corporation, partnership, association, other legal entity, the voting privilege appurtenant to that ownership may be exercised only by a proxy executed on behalf of such party or parties, filed with the Secretary of the Association, and appointing and authorizing one

person or alternate persons to attend all annual and special meetings of the Members and to cast the vote allocated to that Lot at the meeting.

Section 6.11 Designation of Voting Representative by Multiple Owners Use of Proxy. If title to a Lot is held by more than one Owner, each Owner may vote or register protest to the casting of votes by the other Owners of the Lot through a duly elected proxy. An Owner may not revoke a proxy given pursuant to this Section except by actual notice of revocation to the person presiding over a meeting of the Association.

Section 6.12 Voting. The vote of the majority of those present, either in person or by proxy, shall decide any questions brought before the meeting, unless the question is one upon which a different vote is required by provision of the laws of Ohio, the Declaration, the Articles of Incorporation of the Association or these Regulations.

Section 6.13 Suspension of Voting Privileges. No Member shall be eligible to vote or to be elected to the Board of Trustees who is shown on the books of the Association to be more than thirty (30) days delinquent in the payment of any assessment due the Association.

Section 6.14 Action Without a Meeting. Any action which may be authorized or taken at a meeting of the members may be authorized or taken without a meeting with the affirmative vote or approval of, and in a writing or writings signed by, all the members who would be entitled to notice of a meeting for such purpose, or such other proportion or number of voting members, not less than a majority, as the articles of incorporation or these Regulations permit. Any such writing shall be filed with or entered upon the records of the Association.

## ARTICLE VII

### BOARD OF TRUSTEES; SELECTION TERM OF OFFICE

Section 7.1 Number. The affairs of the Association shall be managed by a Board of not more than five (5), or less than three (3), Trustees who, except for Trustees appointed or elected by Declarant, shall be Members of the Association.

Section 7.2 Term of Office; Resignations. Each Trustee shall hold office for a term of two (20) years and until his successor is elected, until his earlier resignation, or removal from office or death, except that the term of the three (3) initial Trustees appointed by the Declarant, shall expire on the date of the second Annual Meeting. The successors of the original Trustees whose terms expire at the second Annual Meeting shall serve thereafter for a term of two (20) years. As long as Declarant shall

remain a Class "B" Member of the Association, Declarant reserves the right to appoint the successor to any Trustee appointed by Declarant, except that one Trustee shall be elected for a full term by the Members at each of the first and second Annual Meetings. Any Trustee may resign at any time by oral statement to that effect made at a meeting of the Board of Trustees or in writing to that effect delivered to the Secretary of the Association; such resignation shall take effect immediately or at such other time as the Trustee may specify.

Section 7.3 Removal. Any Trustee may be removed from the Board, with or without cause, by a majority vote of the Members of the Association. In the event of death, resignation or removal of a Trustee, his successor shall be selected by the remaining Members of the Board and shall serve for the unexpired term of his predecessor. However, any Trustee elected or appointed by the Declarant may only be removed by the Declarant and his successor may only be appointed by Declarant, to serve for the unexpired term.

Section 7.4 Compensation. Members of the Board of Trustees shall serve without compensation. However, any Trustee may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 7.5 Vacancies. In case of a vacancy in the Board of Trustees the remaining Trustees by a unanimous vote may elect a successor who shall hold office for the unexpired term. If the number of Trustees should at any time be less than the number necessary to constitute a quorum, or the remaining Trustees fail to agree promptly on a successor, then a special meeting of the members shall be called and held for the purpose of electing Trustees.

## ARTICLE VIII

### NOMINATION AND ELECTION OF TRUSTEES

Section 8.1 Nomination. Nomination for election to the Board of Trustees shall be made by a Nominating Committee. Nominations may also be made from the floor at the Annual Meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Trustees, and two (2) or more Members of the Association. The Nominating Committee shall be appointed by the Board of Trustees sixty (60) days prior to each Annual Meeting of the Members, to serve from the time of appointment until the close of the next Annual Meeting, and such appointment shall be announced at the next regular Board meeting. The Nominating Committee shall make as many nominations for election to the Board of Trustees as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.

**Section 8.2 Election.** Election to the Board of Trustees shall be by secret written ballot at the first Annual Meeting and each and every Annual Meeting thereafter. At such election the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration and Section 6.12 of Article VI of these Regulations. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

## **ARTICLE IX**

### **MEETINGS OF TRUSTEES**

**Section 9.1 Regular Meetings.** The Board of Trustees shall meet annually within thirty (30) days after the Annual Meeting of Members and, in addition to the Annual Meeting, may meet at regular meetings established as to time and place by resolution of the Board. Should any regular meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

**Section 9.2 Special Meetings.** Special meetings of the Board of Trustees shall be held when called by the President of the Association, or by any two (20) Trustees, after not less than three (3) days' notice to each Trustee.

**Section 9.3 Quorum.** A majority of the number of Trustees shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Trustees present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board. A Trustee shall be considered present at a duly held meeting if he is represented by Proxy.

**Section 9.4 Notice of Meeting(s).** The secretary shall give written notice either by personal delivery or by mail of the time and place of each meeting of Trustees, other than the annual meeting, to each trustee at least two days before the meeting. Trustees' meetings may be held at any place designated in the notice, within or without the State of Ohio. If mailed, such notice shall be deemed to have been given when deposited in the mail. The notice need not specify the purposes of the meeting, and the Trustees may consider any matter at any meeting. Notice of adjournment of a meeting need not be given if the time and place to which it is adjourned are fixed and announced at such meeting.

**Section 9.5 Waiver of Notice.** Attendance of a Trustee at any meeting will constitute a waiver of notice of such meeting, except when a Trustee attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Before, at, or after any meeting of the Board of Trustees, any member of the Board may waive in writing notice of such meeting, and such waiver will be deemed equivalent to the giving of such notice.

Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Trustees need to be specified in the waiver of notice of such meeting.

Section 9.6 Committees. The Trustees shall create from time to time such committees, standing or special, and give them such powers and authority as they shall deem appropriate. The Trustees may create an executive committee of not less than three Trustees and delegate to such committee any or all of its powers, except the power to fill vacancies among the Trustees or any committee of the Trustees. Each committee shall serve at the pleasure of the Trustees, shall act only in the intervals between meetings of the Trustees, and shall be subject to the control and direction of the Trustees.

Section 9.7 Action Taken Without a Meeting. Any action which may be authorized or taken at a meeting of the Trustees may be authorized or taken without a meeting of the affirmative vote or approval of, and in a writing or writings signed by, all of the Trustees who would be entitled to notice of a meeting for such purpose. Any such writing shall be filed with or entered upon the records of the corporation.

## ARTICLE X

### POWERS AND DUTIES OF BOARD OF TRUSTEES

Section 10.1 Powers. The Board of Trustees shall have power to:

- (a) adopt and publish rules and regulations governing the use of the Common Areas and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;
- (b) suspend the voting rights of a Member during a period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed thirty (30) days, for infraction of published rules and regulations;
- (c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Regulations, the Articles of Incorporation, or the Declarant;
- (d) declare the office of a member of the Board of Trustees, except a member appointed by the Declarant, to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Trustees; and
- (e) employ such independent contractors, and other employees as they deem necessary, and to prescribe their duties.

**Section 10.2 Duties.** It shall be the duty of the Board of Trustees to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the Annual Meeting of Members, or at any special meeting when such statement is requested in writing by one-fifth (1/5) of each class of Members who are entitled to vote, supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

(b) as more fully provided in the Declaration to:

(1) fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period;

(2) send written notice of each assessment to every Owner subject thereto as least fifteen (15) days in advance of each annual assessment period;

(3) to levy and collect Special Assessments whenever in the opinion of the Board, it is necessary to do so in order to meet increased operating or maintenance expenses or costs, or additional capital expenses, or because of emergencies. All Special Assessments will be in statement form and will set forth in detail the various expenses for which the Special Assessments are being made; and

(4) foreclose the lien against any Lot for which assessments are not paid within sixty (60) days after due date or bring an action of law against the Owner personally obligated to pay the same, if the Board deems foreclosure or other action necessary;

(c) issue, or cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge, not to exceed twenty dollars (\$20.00), may be made by the Board for the issuance of a certificate. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(d) procure and maintain adequate liability and hazard insurance on property owned by the Association;

(e) cause all officers having fiscal responsibility to be bonded, as may be required by the Declaration;

(f) keep in good order, condition, and repair all the Common Areas, special features, landscape easements and all items of personal property, if any, used in the enjoyment of the Common Area. No approval of the Members is required for expenditures for these purposes, except as otherwise required by the Declaration or these Regulations;



(g) oversee the operation of the Design Review Board and enforce the decisions made by the Design Review Board;

(h) borrow funds in order to pay for any expenditure or outlay required pursuant to the authority granted by the provisions of the Declaration and these Regulations and to authorize the appropriate officers to execute all such instruments evidencing such indebtedness as the Board of Trustees may deem necessary; provided, however, that the Board will not borrow more than [\$10,000.00] or cause the Association to be indebted for more than [\$10,000.00] at any one time without the prior approval of a majority of votes of Members present and voting in person or by proxy on the issue;

(i) enter into contracts within the scope of their duties and powers;

(j) establish a bank account for the operating account of the Association and for all separate funds as required or deemed advisable by the Board of Trustees;

(k) cause any and all access roads, parking areas, and roadways in and to the Subdivision and across the Property to be maintained to the extent those facilities are within the jurisdiction or control of the Association, subject to the provisions of the Declaration; and

(l) cause the maintenance of the lawn, trees, shrubs, and other vegetation, and the sprinkler or other irrigation systems located on the Common Areas for the benefit of the Members.

## ARTICLE XI

### OFFICERS AND THEIR DUTIES

Section 11.1 Enumeration of Officers. The officers of this Association shall be a President and Vice-President, who shall at all times be members of the Board of Trustees, a Secretary, and a Treasurer, and such other officers as the Board may from time to time by resolution create.

Section 11.2 Election of Officers. The election of officers shall take place at each annual meeting of the Board of Trustees.

Section 11.3 Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one year and until his successor is elected and qualified, unless he shall sooner resign, or shall be removed or otherwise disqualified to serve.

Section 11.4 Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority and perform such duties as the Board may, from time to time, determine.

Section 11.5 Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 11.6 Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 11.7 Multiple Offices. The office of Secretary and Treasurer may be held by the same person, but no officer shall execute, acknowledge or verify any instrument in more than one capacity if such instrument is required by law, the articles, or these Regulations to be executed, acknowledged, or verified by two or more officers. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 11.4 of this Article.

Section 11.8 Absence of Officers. In the absence of any officer of the Association or for any other reason the Trustees may deem sufficient, the Trustees may delegate any or all of the powers or duties of such officer to any other officer or to any trustee.

Section 11.9 Compensation. Each officer shall receive such compensation for the performance of his duties as may be fixed from time to time by the Trustees. He may also be reimbursed for his reasonable expenses incurred in the performance of his duties.

Section 11.10 Duties. The duties of the officers are as follows:

(a) President - The President shall be the chief executive officer of the Association and shall exercise supervision over the affairs of the Association and over its several officers subject to the control of the Trustees. In the absence of or if a chairman of the board shall not have been elected, the President shall preside at all meetings of members and all meetings of Trustees if he is a Trustee. The president shall have such other powers and duties as the Trustees may from time to time assign to him.

(b) Vice-President - The Vice-President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall

exercise and discharge such other duties as may be required by him by the Board.

(c) Secretary - The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members, serve notice of meetings to the Board and of the Members, keep appropriate current records showing the Members of the Association together with their addresses, and shall perform such other duties as required by the Board.

(d) Treasurer - The Treasurer shall receive and deposit in appropriate bank or savings and loan accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Trustees, keep proper books of accounts, cause an annual review of the Association books to be made by a public accountant at the completion of each fiscal year, and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular Annual Meeting and deliver a copy of each to the Members.

(e) Assistant Officers - Assistant and subordinate officers shall perform such duties as the Trustees or the president may prescribe.

## ARTICLE XII

### COMMITTEES

The Board of Trustees shall appoint a Nominating Committee, as provided in these Regulations. In addition, the Board of Trustees shall appoint other committees as deemed appropriate in carrying out its purposes.

## ARTICLE XIII

### ACCOUNTS AND REPORTS

Section 13.1 Accounts and Reports. The following management standards of performance will be followed unless the Board by resolution specifically determines otherwise:

(a) A segregation of accounting duties should be maintained, and disbursements by check in any amount greater than [\$10,000.00] will require two signatures. Cash disbursements will be limited to amounts of \$200.00 or less.

(b) Cash accounts of the Association will not be commingled with any other accounts.

(c) No remuneration will be accepted by the Board of Trustees or the Manager from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise (except that such persons may be employees of Declarant during the period of Declarant's control). Anything of value received will be for the benefit of the Association.

(d) Any financial or other interest that the Manager or a member of the Board of Trustees may have in any firm (other than Declarant) providing goods or services to the Association will be disclosed promptly to the Board of Trustees.

(e) Commencing at the end of the calendar quarter in which the first Lot is sold by Declarant and closed, and continuing on a quarterly basis, financial reports will be prepared for the Board of Trustees containing the following:

(1) an income statement reflecting all income and expense activity for the preceding three months;

(2) a balance sheet as of the last day of the quarter; and

(3) a delinquency report listing all Owners who have been delinquent during the preceding three-month period in paying the periodic installments of Assessments and who remain delinquent at the time of the report, and describing the status of any action to collect such installments which remain delinquent.

(f) A balance sheet as of the last day of the Association's fiscal year and an operating statement for the fiscal year will be distributed to the Members. At the written request of an Owner or First Mortgagee, such statements will be audited at the requesting party's expense. Any such audited statements will be delivered to any Owner requesting the report and to the Association upon payment of a reasonable fee for copying.

(g) An account status report reflecting the status of all accounts in an "actual" versus "approved" budget format with a budget report reflecting any actual or pending obligations that are in excess of budgeted amounts by an amount exceeding the operating reserves or 10% of a major budget category (as distinct from a specific line item in an expanded chart of accounts) will be prepared for the Board periodically upon the Board's request and will be made available to all Members.

#### ARTICLE XIV

#### INDEMNIFICATION

#### Section 14.1 Indemnification.

(a) To the fullest extent permitted by law, the Association may indemnify or agree to indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending, or completed civil, criminal, administrative, or investigative action, suit or proceeding, whether or not it is by or in the right of the Association, by reason of the fact that he is or was a trustee, officer, employee, agent or volunteer of the Association, or is or was serving at the request of the Association as a trustee, director, officer, employee, agent, or volunteer of another domestic or foreign nonprofit corporation or corporation for profit, or a partnership, joint venture, trust, or other enterprise, against expenses (including attorney's fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, or proceeding.

(b) To the extent that a trustee, director, officer, employee, agent, or volunteer has been successful on the merits or otherwise in the defense of any action, suit, or proceeding referred to in Section 14.1 or in the defense of any claim, issue, or matter in such an action, suit, or proceeding, he shall be indemnified against expenses (including attorney's fees) actually and reasonably incurred by him in connection with that action, suit, or proceeding.

Section 14.2 Determination of Indemnification. Any indemnification permitted under Section 14.1 shall be made by the Association only as authorized in the specific case, upon a determination that indemnification of the trustee, director, officer, employee, agent, or volunteer is proper in the circumstances because he has met the standard of conduct set forth in applicable law. Such determination shall be made in any of the following manner:

- (a) by a majority vote of a quorum consisting of Trustees of the Association who were not and are not parties to or threatened with the action, suit, or proceeding referred to in Section 14.1;
- (b) whether or not a quorum as described in Section 14.2(a) is obtainable and if a majority of a quorum of disinterested Trustees so directs, in a written opinion by independent legal counsel other than an attorney, or a firm having associated with an attorney, who has been retained by or who has performed services for the Association or any person to be indemnified within the past five years;
- (c) by the members; or
- (d) by the court of common pleas or the court in which the action, suit, or proceeding referred to in Section 14.1 was brought. If an action or suit by or in the right of the Association is involved, any determination made by the disinterested Trustees under Section 14.2(a) or by independent legal counsel under Section 14.2(b)

shall be communicated promptly to the person who threatened or brought the action or suit by or in the right of the Association, and, within ten days after receipt of such notification, such person shall have the right to petition the court of common pleas or the court in which such action or suit was brought to review the reasonableness of such determination.

Section 14.3 Advancement of Expenses.

(a) Expenses, including attorney's fees, incurred by trustee, director, officer, employee, agent, or volunteer of the Association in defending any action, suit, or proceeding referred to in Section 14.1 may be paid by the Association as they are incurred, in advance of the final disposition of the action, suit, or proceeding, as authorized by the Trustees in the specific case, upon receipt of an undertaking by or on behalf of the trustee, director, officer, employee, agent, or volunteer to repay the amount if it ultimately is determined that he is not entitled to be indemnified by the Association under this Article XIV.

(b) Unless the only liability asserted against a trustee in an action, suit, or proceeding referred to in Section 14.1 is pursuant to Section 1702.55 of the Ohio Revised Code, the expenses (including attorney's fees) incurred by a trustee or volunteer in defending such action, suit, or proceeding shall be paid by the Association. Upon the request of the trustee or volunteer, together with an undertaking by or on behalf of the trustee or volunteer to repay the amount if it ultimately is determined that he is not entitled to be indemnified by the Association under this Article XIV, those expenses shall be paid as they are incurred, in advance of the final disposition of the action, suit or proceeding. Notwithstanding the foregoing, the expenses (including attorney's fees) incurred by a trustee or volunteer in defending an action, suit, or proceeding referred to in Section 14.1 shall not be paid by the Association upon the final disposition of the action, suit, or proceeding, or, if paid in advance of the final disposition of the action, suit, or proceeding, shall be repaid to the Association by the trustee or volunteer, if it is provided, by clear and convincing evidence, in a court with jurisdiction that the act or omission of the trustee or volunteer was one undertaken with a deliberate intent to cause injury to the Association or if it was one undertaken with reckless disregard for the best interests of the Association.

Section 14.4 Insurance. The Association may purchase and maintain insurance, or furnish similar protection, including but not limited to, trust funds, letters of credit, or self-insurance, for or on behalf of any person who is or was a trustee, officer, employee, agent, or volunteer of the Association, or is or was serving at the request of the Association as a trustee, director, officer, employee, agent, or volunteer of another domestic or foreign nonprofit corporation or corporation for profit, or a partnership, joint venture, trust, or other enterprise, against any liability asserted against him and 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

that liability under this Article XIV. Insurance may be so purchased from or so maintained with a person in which the Association has a financial interest.

**Section 14.5 Miscellaneous.** The indemnification authorized by this Article XIV shall not be exclusive of, or shall be in addition to, any other rights granted to those seeking indemnification, pursuant to the articles of incorporation, any agreement, a vote for members or disinterested Trustees, or otherwise, both as to action by a trustee, officer, employee, agent, or volunteer in his official capacity and as to action in another capacity while holding his office or position; shall continue as to a person who has ceased to be a trustee, director, officer, employee, agent, or volunteer; and shall inure to the benefit of the heirs, executors and administrators of such a person.

#### **ARTICLE XV** **AMENDMENTS**

These Regulations may be amended at a regular or special meeting of the members, by affirmative vote of a majority of the total number of votes held by each class of Members of the Association. All amendments shall be placed in the Association's minute book immediately following these Regulations,

#### **ARTICLE XVI** **MISCELLANEOUS**

**Section 16.1 Books and Records.** The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member, and any holder, insurer, or guarantor of a first mortgage on a Lot. The Declaration, the Articles of Incorporation and the Regulations of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.


**Section 16.2 Fiscal Year.** The fiscal year shall begin on the first day of January every year, except that the first fiscal year of the Association shall begin on the date of incorporation. The commencement date of the first fiscal year herein established may be changed by the Board of Trustees should corporate practice subsequently dictate.

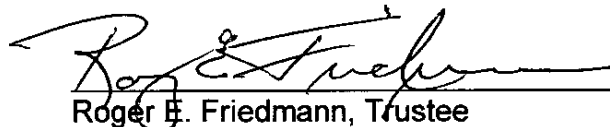
**Section 16.3 Execution of Association Documents.** All notes, contracts, other documents, checks, and other drafts shall be executed on behalf of the Association by such officers, agents or other persons as are from time to time designated by the Board of Trustees.

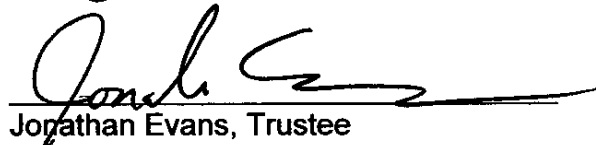
Section 16.4 Conflict of Documents. In the case of any conflict between the Articles of Incorporation and the Regulations, the Articles shall control, and in the case of conflict between the Declarant and these Regulations, the Declarant shall control.

Section 16.5 Corporate Seal. The Association shall have no seal unless the Trustees adopt a seal. If adopted, the seal shall be circular, about two (2) inches in diameter, and shall have the name of the Association engraved around the perimeter and the word "Seal" engraved across the diameter.

We, the undersigned Trustees of The Fairways at River's Glen Home Owners Association, an Ohio corporation not for profit, do hereby approve the adoption of the foregoing Regulations and By-Laws for the operation and governance of said corporation.

  
\_\_\_\_\_  
Jack L. Brandenburg, II, Trustee

  
\_\_\_\_\_  
Roger E. Friedmann, Trustee

  
\_\_\_\_\_  
Jonathan Evans, Trustee



Ex D



**DESIGN REVIEW  
PROCEDURES**

***The Fairways at Rivers Glen***  
**Maineville, Ohio**

(Exhibit "D")

*Brandenburg Development Company, LLC*  
*6405 Branch Hill-Guinea Pike, Suite 202*  
*Loveland, Ohio 45140*

BOOK 2971 PAGE 550

## ∞ *Introduction* ∞

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These Design Procedures have been prepared to assist homebuyers, builders, architects, and the residents of *The Fairways at Rivers Glen*, to understand, and play an active role to insure the overall **quality of this community**.

It is not the intent of these guidelines to review plans for structural integrity, life safety issues, code compliance or any technical applications, or to modify or restate the deed restrictions. The intent of this document is to provide a foundation for each residential design, which will create a consistent *character, quality,* and *value* throughout the community.

# DESIGN APPROVAL PROCEDURES

## Design Review

The Design Review Board (DRB) must review every proposed new home in *The Fairways at Rivers Glen* before construction can begin. These procedures provide the basis for review of plans by the DRB, and serves as a checklist for you to insure all design elements have been considered in the creation of your new home. Estimated turn around time for Preliminary Plan Approval is approximately 10 days.

Below is an outline of the steps required for the design approval process.

### I. Preliminary Design Review

#### A. General Requirements:

1. Three (3) sets (24" x 36") Blueline Plans (including date)  
Including: Owner's Name, Builder & Architect's Name,  
Address and Lot #
2. Design Review Application
3. Site Plan with Topography (Scale: 1"= 20')- Illustrating:  
  
Property Lines, Building Setback Lines, Topography  
(finish & existing grades), Foundation Height,  
Easements & R.O.W., Driveways, Patio/Decks,  
Sidewalks, Pools, Culverts, Drainage Plan
4. Landscaping Plans (Scale: 1"= 20')- Illustrating:  
  
Easements & R.O.W., Existing Trees (8" diameter  
at 3' above grade), Plant Materials, Exterior Lighting  
Details, Transformer Location, Electric and Gas  
Meter Locations
5. House Plans – Include:  
  
Exterior Elevations (All 4 Sides), Floor Plans, Patios/  
Decks: materials, finish and colors, Screen Enclosures:  
materials and finish, Mechanical Equipment: location  
and screening details, Exterior Lighting Details: lamp  
post and flood lights, Driveway: materials and finish.

**II. Submission of Plans to Building Department**

Participating Builders submit their approved plans to the Building Inspector and any other such agencies having jurisdiction for required permits.

**III. Final Design Compliance Review (As Built)**

A review of the home and proposed landscaping will be reviewed upon completion, to determine compliance with the original submittals. Pending full compliance with proposed design, specifications, materials, and subject to the terms of the Lot Purchase Agreement. Performance Deposits will be refunded less any fees incurred.

**IV. Design Document Changes**

The participating Builders must notify the DRB prior to making any significant or material changes to the approved plans. A letter with applicable support data (as required) must be submitted for review. Any major deviations (as determined solely by the DRB) may require Full Board approval prior to commencement of changes. The DRB Reserves the right to inspect construction in progress for conformance With approved design documents and Applicants agree to cooperate fully with members of the DRB, at all times.

**V. Fees**

**A. Design Review Board Approval:**

1. Civil Engineer	\$100
2. Plan Design Review	\$100
3. Landscaping Review	\$100
4. Final Compliance Review	\$100
5. Changes to Approved Plans	\$50/hour
<b>TOTAL Fee with Application</b>	<b>\$400</b>

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## **SPECIFIC DESIGN REQUIREMENTS**

Included for your review are some of the "more important" design requirements, which are described in their entirety in the *Protective Covenants and Restrictions*.

These points are outlined below for your *quick reference*.

### **I. The Site**

- A. All Builders shall make a diligent effort to protect all site trees during construction, to protect root systems, and take other precautions in cases where fill is required around trees. Any trees over four inches (4") in caliber outside the building pad shall not be removed without Developer's approval.
- B. Existing tree line and proposed tree preservation areas with a diameter of 8 inches or more, must be noted on the site plan and landscape plan.
- C. The guidelines for landscaping and irrigation requirements are:
  - 1. As provided for in the Purchase Agreement, trees to be planted between the curb and sidewalk are required per the street planting plan. Trees shall be planted every fifty feet (50') per lineal footage of street frontage.
  - 2. The minimum landscaping and irrigation cost should be equal to 10% of the sale price of the lot.
- D. All easements and right-of-ways shall be landscaped in conformance with easement limitations and must be included in your landscape design.

### **II. Grading & Drainage**

- A. Applicant shall be responsible for grading and surface drainage, so that surface run-off will not adversely affect adjoining properties. Applicant shall provide construction devises, stepped terraces, or other forms of erosion control. Downspouts shall be piped to the storm system and drainage shall be directed toward catch basins. Splash blocks are not allowed.

- B. No bulldozing or clearing of trees shall be started until plans and specifications showing the kind, shape, and location of work have been submitted and *approved*. Fill shall not be deposited at any location prior to approval.
- C. The use of 4" white PVC (2,500 lbs.) is required. Install 4" collector lines for drainage, required by the Developer.

### III. The Home

Although *The Fairways at Rivers Glen* does not limit to particular styles of homes, massing and proportional consideration is ultimately important with all design styles.

#### A. **Minimum Square Footage Per Dwelling:**

- 1. Ranch Homes                      2,000 sq. ft
- 2. 1<sup>st</sup> Floor Master Homes        2,200 sq. ft
- 3. 2-Story Homes                    2,400 sq. ft.

#### B. **Enclosed Garage:** 2-Car minimum; sixteen (16) foot minimum driveway width at entrance to garage.

#### C. **Roof Pitch/Roofing Materials:**

- 1. Roofs should slope at a minimum pitch of 7/12 facing gables unless otherwise approved. Recommended roof-surfacing materials are cedar shakes, cedar shingles, natural slate, tile, cooper seamed roofing, fiberglass and asphalt shingles. Dimensional shingle is required with a 30-year guarantee. Gutters and downpours are required and shall drain to underground drainage.
- 2. All roof stacks, flashing and metal chimney caps shall be painted to match the approved roof colors. Roof stacks and plumbing vents shall be placed on rear slopes of the roofs.

#### D. **Exterior Materials:**

Most earth-tone colors work well in tying together the continuity of Buildings. The intent for individual houses to blend into the total image. Roof colors should not contrast sharply with the rest of the house.

1. The selection of exterior materials shall be harmonious with the architectural motif of each dwelling unit and the community development as a whole. Natural materials are preferred over synthetic material. Depending on specific applications, the following materials have been approved by the DRB.
  - a. Wood: (cypress/cedar/redwood): cedar shake, lap siding, cedar shakes (roofs) tongue and groove siding or other hardboard siding with approval of the DRB.
  - b. Stucco: (Approval subject to application, texture, and use of other primary, secondary or decorative treatments.) External Insulated Finish Systems (EIPS) (Dryvit)
  - c. Masonry: Natural stone, brick, or cultured stone.
  - d. Windows: Wood frame or wood clad windows. Divided light or grilles are recommended.
2. The following exterior materials are *not approved* for construction: aluminum or vinyl siding; concrete block (except for sub-surface wall); fiberglass; logs (imitation or otherwise except for landscaping purposes); fiberglass garage doors; and certain types of imitation stone and brick; fiberglass or asphalt shingles used as siding. High quality simulated stone and brick from natural materials will be considered on their own merit by the DRB, but are subject to disapproval.
3. Exterior colors that, in the opinion of the DRB, would be inharmonious, discordant and/or incongruous shall not be permitted.
4. No cantilevered chimneys. All chimneys shall have stone, stucco, Or brick exterior finish.
5. Exposed concrete foundations not to exceed one foot of exposure. Exterior mechanical equipment is to be located and screened as required, so as not to be a nuisance to neighboring lots or golf course.

The DRB shall have final approval of all exterior color submittals. Each Applicant must submit to the DRB as part of Final Architectural Review, a color board showing the color of the roof, exterior walls, shutters, trims, etc.

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A color board with manufacturer's name and number, with color/material "chip" and location of same, of 8½" x 11" size or 8½" x 14" size shall be provided if requested. Should color or materials be revised prior to completion, contractor shall update (modify) that reference file.

**IV. Automobiles – Garages/Driveways/Exterior Lights**

- A. Carports are not permitted.
- B. No street-side parking areas may be created by extending any portion of the street pavement.
- B. No overnight business vehicle or equipment parking shall be permitted outdoors, including RV's and boats.
- C. All proposed exterior lighting shall be detailed on the final Landscape Plan. No exterior lighting shall be permitted which in the opinion of the DRB, would create a nuisance to the adjoining property owners.
- D. Where possible, access to corner lots shall be from the least traveled street.
- E. Side and rear entry garages *only*, unless otherwise approved by DRB.

**V. Outdoor Areas/Pools/Screen Enclosures**

- A. A flagpole for display of the *American Flag* or other banners shall be permitted providing they are attached to a building, subject to approval of the size, placement, color, finish, and design.
- B. Screen enclosure materials and colors must be approved. Pool enclosures must be neutral in color. Wrought iron type fence is mandatory for golf course homes, and is recommended for all other homes. Placement and design should not block neighboring views of the golf course.
- C. All outdoor recreational devices (sandboxes, swing sets, swimming pools, basketball backboards, lawn games, etc.) must be approved by the DRB.

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- D. Tennis courts and other sports courts and related equipment are not permitted except as otherwise approved in writing by the Developer.
- E. Mailboxes must be incorporated into final plans and will be one uniform design, as specified by the Developer.
- F. Fences:
  - 1. No wall, fence, or boundary planting may be constructed or maintained in such a manner as to interfere with the vision of drivers at any intersection of streets or roads. Placement and design should not block neighboring views.
  - 2. A survey and staking is required before performing work near property lines.
  - 3. All fences, including location and materials, must be approved by the Developer.

**Conflicts and Disclaimers**

In the event of any conflict between the terms of the Design Review Procedures, the Lot Purchase Agreement, and either the Protective Covenants, Conditions, Restrictions, and Easements for *The Fairways at Rivers Glen*, the Developer will solve the conflict, in its discretion, with primary reliance on the Protective Covenants and Restrictions.

TRANSFER NOT NECESSARY  
 NICK NELSON, AUDITOR  
 WARREN COUNTY, OHIO

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BETH DECKARD - WARREN COUNTY RECORDER  
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