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NICK NELSON, AUDITOR  
WARREN COUNTY, OHIO

JUN 21 2013

NICK NELSON  
AUDITOR, WARREN CO. OHIO

# FIRST AMENDMENT

TO THE DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR THE VILLAS OF TIMBER RIDGE  
OWNERS ASSOCIATION

Prepared by:

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PLEASE CROSS MARGINAL REFERENCE WITH THE VILLAS OF TIMBER RIDGE  
OWNERS ASSOCIATION DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS WITH ATTACHED EXHIBITS RECORDED AT BOOK 3850, PAGE 719,  
ET. SEQ. OF THE WARREN COUNTY RECORDS.

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Signature of the President and Secretary of the Association, attesting and certifying, respectively, that this change in the Association Documents reflects the affirmative vote of not less than seventy-five percent (75%) of the Lot Owners pursuant to a written ballot (it is not necessary that the Lot Owners sign the actual amendment document), will follow at the end of this Amendment before it may be recorded.

# FIRST AMENDMENT

TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE VILLAS OF  
TIMBER RIDGE OWNERS ASSOCIATION

This Amendment is made and entered into this \_\_\_\_ day of October, 2012 by The Villas of Timber Ridge Owners Association and with the voted approval or written consent of Owners holding at least seventy-five percent (75%) of the voting power of the Association as well as the written approval of the Developer.

(1) PURPOSE

Common usage trends have changed since the drafting of the original Association Documents. A change in the Association Documents is necessary in order to protect the equity of the Lot Owners, the marketability of the Association Lots and to carry out the purpose for which the Association was formed, by preserving the character of the Association Property as a homogeneous predominantly owner-occupied residential community and by preventing the Association from assuming the character of a renter-occupied apartment complex.

Nature of the real property development adjacent to the Associations Development, requires a modification of some the permissible fencing restriction to preserve the peace, isolation and quiet of the community.

(2) PREVIOUS RECORDING INFORMATION

The Association Documents and subsequent Amendments to those documents have been recorded in the Deed Records of Warren County, Ohio as follows:

ITEM RECORDED	PARCEL no.	DATE RECORDED	CORP NO.	DOC ID NO.
Articles of Inc. of Lot Owners Association		5/06/05 with Sec. of State of Ohio	1541035	200513101976
			DEED BOOK	PLAT
			PAGE	ENVELOPE
Declaration of Association and By-Laws and Articles of Incorporation	01-33-276-017 to 01-33-276-059	4/26/05 w/Recorder Warren Cty.	B 3850 P. 719	

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First Amendment                      01-33-276-017

to the Declaration  
of Association

to  
01-33-276-059

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(3) RENTAL OF ASSOCIATION LOTS

Section 4 of the Declaration, entitled "COVENANTS AND RESTRICTIONS ON USE AND OCCUPANCY" shall be amended by the addition of the following section:

Section 4.1.19 Rental of Association Lots.

No Lot or any building or improvement thereon shall be rented, leased or occupied by anyone other than the owner of such lot (if the Owner is not an occupant), except pursuant to one or more of the exceptions set forth below:

A. Current Rentals Grand Fathered (exempted) Exception.

If a Lot Owner is renting a Lot on October 1, 2012, then said Lot Owner shall be permitted to continue to rent said Lot during his, her or its ownership of the Lot, subject to the covenants and restrictions of the Declaration, Code of Regulations and the Rules and Regulations of the Association. For purposes of this Section, a Lot Owner's ownership of a Lot shall be deemed to be continuous even if part or all of the interest therein is transferred to a spouse or related entity (i.e., the form or manner of ownership is changed), so long as the Lot is still effectively owned by such Lot Owner.

B. Family Rentals; Family Shared Lots Exception.

Notwithstanding the above, a Lot Owner may lease or grant the use of a Lot to an immediate family member, which is defined as a grandparent, parent, son, daughter or grandchild, provided that said lease or use shall comply with the other provisions of this Section.

C. Land Installment Contract Exception.

Any sale of a Lot under a Land Installment Contract, as defined by Ohio Revised Code 5313, shall be considered a rental of the Lot unless all of the following criteria are met:

1. A minimum Five Thousand Dollar (\$5,000.00) down payment is made by the Vendee. A copy of the check, or other proof of payment as the Board may require, shall be attached to the contract;

2. The term of the Land Contract shall not exceed five (5) years, without the expressed written consent of the Board of the Association;
3. The Land Contract shall be in writing and in compliance with Ohio Revised Code Section 5313 and shall be recorded with the County Recorder; and
4. An Affidavit is provided to the Board, along with a copy of the contract and down payment check or other proof by the Vendor and Vendee that the Land Contract is a true, accurate and complete statement of the transaction entered into between the parties and that it is not being entered into in an attempt to circumvent the leasing restrictions of this Section.

D. Undue Hardship Exception.

Notwithstanding any of the conditions set forth in Section, the Board of the Association, at its sole and absolute discretion, shall be empowered to allow reasonable leasing of Lots, upon written application, in the event of "Undue Hardship". Undue Hardship may include, but is not limited to: (i) when a Lot Owner must relocate his or her residence and has been unsuccessful in selling the Lot, after having made reasonable efforts to do so, for a period of ninety (90) consecutive days from the date the Lot was placed on the market (i.e. the Lot must be listed for sale with a multiple listing service); (ii) a Lot Owner dies and said Lot is being administered by his or her estate; or (iii) where a Lot Owner takes a leave of absence or temporarily relocates and intends to return to reside in the Lot. If a Lot Owner believes that he, she, they or it must lease a Lot in order to avoid Undue Hardship, then said Lot Owner must submit a written application to the Board which sets forth the circumstances necessitating the leasing, the name of the proposed lessee, if available, a copy of the lease which shall not exceed a term of twelve (12) months, and such other information as the Board may reasonably require. The Board shall approve or reject in writing the Lot Owner's request to lease the Lot within fifteen (15) days after receipt of the written request and a copy of the lease (or proposed lease) has been submitted to the Board. In the event the hardship condition, as set forth above, should continue for a period of time longer the term granted for the initial hardship period, the owner may reapply to the Board for an additional Undue Hardship consideration, which may be extended, at the Board's option, for one (1) additional term up to a

twelve (12) month period. In no case shall a Lot be leased or rented under the Undue Hardship provisions for more than two (2) Hardship periods, even if one or more of such hardship periods is less than twelve (12) months.

E. Not Greater than Five Percent Rental Use Exemption:

The Board shall assert its best efforts to keep a current record of all approved Lots used for Rental purposes. The Board shall, on a first come, first serve basis, grant any Lot Owner an exemption under this Section permitting the rental use of a Lot, so long as each of the following conditions are satisfied by the Lot/Lot Owner at the a time of the Lot Owner's written request for exemption: (a) the Lot/Lot Owner is not otherwise in default in any of the terms, conditions or requirements of the Declaration, the Code of Regulations and the Rules and Regulations of the Association; (b) there are Five Percent (5%) or less Lots (no more than 2 Lots) in the Development (total of 40 Lots) used for rental purposes and/or exempted for rental purposes (without consideration of Family Rentals as defined above), as reflected on the Board's records thereof; and (c) the Lot Owner has submitted to the Board a copy of the proposed lease, which is in compliance with this Section. The Board's records shall be the sole basis for determining the availability of a rental use.

F. Standard Provisions:

In no event shall less than an entire Lot be leased or shall any Lot be leased for a term less than thirty (30) days, and no Lot shall be rented for transient or hotel purposes, which shall be defined as: (i) rental for any period less than thirty (30) days, or (ii) any rental in which the occupants of the Lot are provided customary hotel services such as room service for food and beverages, maid services, or the furnishing of laundry and linen. All leases of any Lot shall be in writing. All such leases shall provide that they are subject to all of the provisions of the Declaration, the Code of Regulations and the Rules and Regulations of the Association and that any failure by the lessee to comply with any of such provisions shall constitute a default under the lease. A copy of each lease shall be given to the Board immediately after it is executed.

G. Remedies for Breach:

Any transaction or situation which does not comply with this Section shall result in the Lot Owner(s) and/or the Lot being subject to

(but not limited to) one or more of the following remedies: (1) the transaction shall be voidable at the option of the Board; (2) such fines and penalties, assessments and liens as the Board may authorize in accordance with the Association Documents; and/or (3) injunctive relief. All remedies and actions shall be cumulative in nature.

H. Burden Of Proof:

1. The burden of proof of an exemption from the prohibition on renting or leasing a Lot shall always be upon the Lot Owner. The existence of an exemption from this Section shall be deemed to not exist until the Lot Owner has made application to the Board of the Association for an exemption, proves such proof of qualification for the exemption to the Board, as the Board may reasonably require, and the Lot Owner has received written approval of the asserted exemption. An approved exemption shall automatically terminate upon the happening of any of the following events:

- a. A change in Ownership of the Lot, other than that which is exempted in respect to grand fathered rentals set forth in Subsection (A) above;
- b. The expiration of time granted by the Board for the exemption;
- c. The failure of any condition required by the Board; and/or,
- d. A change in circumstances, which would not qualify for the exemption originally requested.

2. Upon the expiration or termination of an approved exemption, continued exempt status shall require the submission and approval of a new application for exemption status.

(4) FENCING RESTRICTIONS

Section 4 of the Declaration, entitled "COVENANTS AND RESTRICTIONS ON USE AND OCCUPANCY", subsection 4.1.12, "FENCES" shall be amended by the replacement of the exiting paragraph with the following provision:

4.1.12 Fences. Fences complying with the requirements of this Section 4.1.12 shall be permitted. No fence or any portion thereof may be installed on that part of any Lot that is closer to the street than the primary back wall of the residence on the lot (i.e., fencing is permitted only on the sides and in the rear of

the residence). The primary back wall shall be determined by lineal feet of the wall area. Side fences shall not exceed four (4) feet in height, shall be either black or in the brown family in color, and constructed of maintenance free vinyl or vinyl coated chain link; rear fences, not to exceed six (6) feet in height, shall be opaque or translucent black or in the brown family in color, and constructed of maintenance free vinyl or vinyl coated material; provided however all fences on a Lot shall be of similar color, material, design and construction and include at least two (2) adjacent thirty-six inch (36") gates creating an unobstructed opening of seventy-two inches (72") when the gates are open. All corner Lots are classified as double fronting Lots. Double fronting Lots must adhere to the fifty (50) foot minimum building setback requirements and no fence shall be permitted to extend beyond the plane of the house. Any fence enclosing an in-ground swimming pool and located entirely within thirty (30) feet of such pool may be of a design and construction as is from time to time required by applicable governmental authorities for enclosures of swimming pools. No fence shall obstruct or divert the flow of storm water. Any fencing that is not in accordance with this Section 4.1.12 shall be prohibited. Notwithstanding anything in the forgoing to the contrary, no fences shall be erected without prior written approval of the Association.

(5) REAL ESTATE SUBJECT TO THIS AMENDMENT

This Amendment affects all of the real property within The Villas of Timber Ridge, Section 1 only.

All of the terms and conditions of the Declaration, as amended, are hereby reaffirmed.

IN WITNESS WHEREOF, on this 18<sup>th</sup> day of April, 2013, this Amendment was signed by the President of The Villas of Timber Ridge Owners Association, attesting to the change and the Secretary of the Association, who certifies that the Board of the Association has received the voted approval or written consent of Lot Owners holding at least seventy-five percent (75%) of the voting power of the Association.

By: Chet Miles Pres  
Chet Miles, President

By: Claudia Rhule Sec./Treas.  
Claudia Rhule, Secretary/Treasurer

STATE OF OHIO  
COUNTY OF WARREN, SS;

The foregoing instrument was acknowledged before me, a Notary Public in and for said County and State on this 18<sup>th</sup> day of April, 2013, by Chet Miles, as President, and Claudia Rhule, Secretary/Treasurer, of The Villas of



Timber Ridge Owners Association, an Ohio non-profit corporation, on behalf of said Corporation.



Judi Deakin  
Notary Public  
December 27, 2015

IN WITNESS WHEREOF, on this 18<sup>th</sup> day of April 2013, this Amendment was signed by the Vice President of Associates Construction, Inc., the Developer, acknowledging approval of the changes set forth herein.

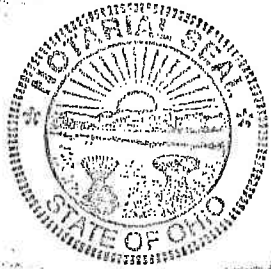
Associates Construction, Inc.

By:

[Signature] VP  
Ryan Morris, Vice President

STATE OF OHIO  
COUNTY OF WARREN, SS;

The foregoing instrument was acknowledged before me, a Notary Public in and for said County and State on this 18<sup>th</sup> day of April 2013, by Ryan Morris, Vice President of Associates Construction, Inc., the Developer, on behalf of said Corporation.



Judi Deakin  
Notary Public  
December, 27, 2015

STATE OF OHIO            )  
                                  ) SS:  
COUNTY OF Warren )

The foregoing instrument was acknowledged before me this 13 day of April, 2005, by Ryan S. Morris,  
\_\_\_\_\_ of Associate Construction, Inc., an Ohio corporation, on behalf  
of the corporation.

Tracie L. Rush

Notary Public

**TRACIE L. RUSH, NOTARY PUBLIC  
IN AND FOR THE STATE OF OHIO  
MY COMMISSION EXPIRES: AUGUST 19, 2008**

This Instrument Prepared By:

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Dayton, Ohio 45402  
(937) 443-6809

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EXHIBIT A

[Property]

EXHIBIT A-1

[Additional Property]

EXHIBIT B

[Code of Regulations]

EXHIBIT C

[Articles of Incorporation]