FAIRVIEW PARK CITY COUNCIL MEETING NOTICE

Please be advised of the following meetings of the Fairview Park City Council, which will take place on the 3rd Floor of Fairview Park City Hall, 20777 Lorain Road.

MON. Feb 8 Special Council Meeting 7:00 p.m.

Immediately following special council meeting:

MON. Feb 8 Council Committee Meeting &
Black & Veatch Report & Update

MON. Feb 15 Council Regular Meeting 7:00 p.m.

SAT. Feb 20 Council Budget Hearings 8:00 a.m.

Departments: Police, Fire, Service, Development

MON. Feb 22 Council Committee Meeting &
Budget Hearings 7:00 p.m.

Departments: Senior Life, Law, Council, Building, Mayor's Office

COUNCIL MEETINGS ARE HELD IN COUNCIL CHAMBERS
COMMITTEE MEETINGS ARE HELD IN THE CAUCUS ROOM
(BOTH ROOMS ARE LOCATED ON 3rd FLOOR, CITY HALL)

CITY OF FAIRVIEW PARK
CITY COUNCIL MEETING
AGENDA

SPECIAL MEETING OF CITY COUNCIL
MONDAY, FEBRUARY 8, 2016
7:00 p.m.
Council Chambers

Immediately followed by: Council Committee Meeting

Meeting Called to Order

Moment of Silent Prayer

Pledge of Allegiance

Roll Call

Written Communications, Petitions and Claims (must be related to the subject or subjects to be considered)

Confirmation of Appointment by the Mayor

Adjournment

**Special meeting called pursuant to Charter Article IV, Section 7(b) and Council Rule 5, no other subject or subjects will be considered.*

Michael Kilbane, President of Council
Brian McDonough, Ward 1
Bill Minek, Ward 2
Paul Wojnar, Ward 3
John Hinkel, Ward 4
Angelo Russo, Ward 5
Peggy Cleary, Council at Large
Liz Westbrooks, Clerk of Council

CITY OF FAIRVIEW PARK
CITY COUNCIL MEETING
AGENDA

COMMITTEE MEETING - MONDAY, FEBRUARY 8, 2016

Meeting will start following Council Special Meeting at 7:00 p.m. in Council Chambers

MEETING CALLED TO ORDER

ENVIRONMENT, PUBLIC WORKS, PLANNING, ZONING AND DEVELOPMENT, *Councilman Minek, Chair*

- Issue: Sewers
  Report & Update Presentation by consultant Black & Veatch
- Ord. 16-02 | Approving Fairview Park Residential Development (RiverSouth) Phase 2 Lot Split Consolidation
- Ord. 16-03 | Repeal and Replace Ord. 15-30 Bids & Contracts for 2016 Street Repair Program_Year 27

LOCAL GOVERNMENT & COMMUNITY SERVICES – *Councilman Hinkel, Chair*

- Res. 16-02 | Designating Clerk of Council for Public Records Training
- Issue: Division of Director of Public Service and Service Development into Separate Positions

BOARD & COMMISSIONS REPORTS

ROUNDTABLE

Agenda and meeting documents for this meeting can be viewed online by using this code:

BUILDING A WORLD OF DIFFERENCE

8 February, 2016

W.229 ST. AND CLIFFORD DR. PROJECT
W.227 ST PROJECT

FAIRVIEW PARK, OH

BY: DIANNE SUMEGO, PE

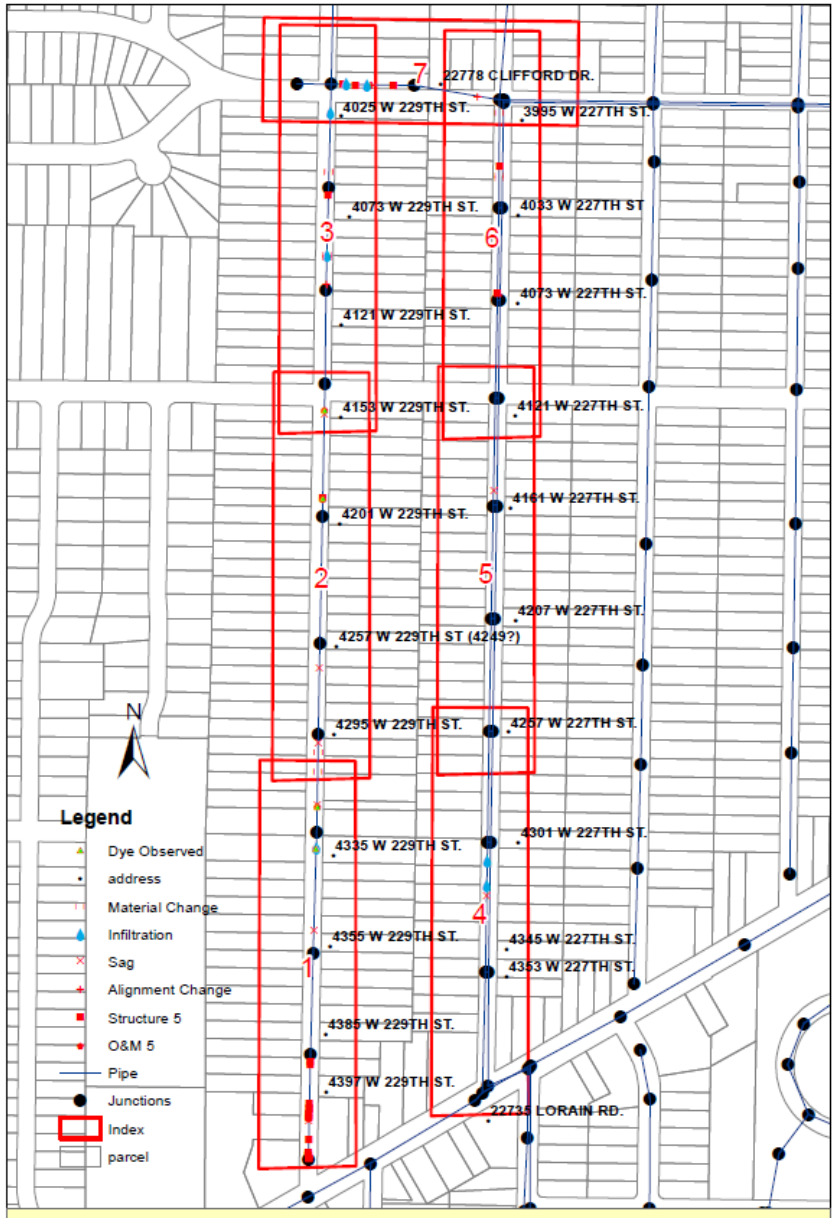
BLACK & VEATCH
Building a world of difference.

AGENDA

Summary of Field Work
W229th Street Results / Recommendations
W227th Street Results / Recommendations

FIELD WORK

STUDY AREA


22778 CLIFFORD DR.
4025 W 229TH ST.
3995 W 227TH ST.
4073 W 229TH ST.
4033 W 227TH ST
4073 W 227TH ST.
4121 W 229TH ST.
4153 W 229TH ST.
4121 W 227TH ST.
4161 W 227TH ST.
4201 W 229TH ST.
4207 W 227TH ST.
4257 W 229TH ST (4249?)
4295 W 229TH ST.
4257 W 227TH ST.
4335 W 229TH ST.
4301 W 227TH ST.
4355 W 229TH ST.
4345 W 227TH ST.
4353 W 227TH ST.
4385 W 229TH ST.
4397 W 229TH ST.
22735 LORAIN RD.
1
2
3
4
5
6
7
N
Legend
Dye Observed
address
Material Change
Infiltration
Sag
Alignment Change
Structure 5
O&M 5
Pipe
Junctions
Index
parcel

FIELD WORK

- **2015 December**
  - **28th, 29th, 30th, 31st**
  - **Significant rainfall on 12.27.15**
- **2016 January**
  - **4th, 5th, 6th**
  - **No significant rainfall**

Rainfall at Cleveland Airport

Date	Daily Rainfall (in)
12/20/15	0
12/21/15	0.12
12/22/15	0.36
12/23/15	0.23
12/24/15	0
12/25/15	0.01
12/26/15	0.41
12/27/15	1.09
12/28/15	**0.31**
12/29/15	**0.1**
12/30/15	**T**
12/31/15	**T**
1/1/16	T
1/2/16	0
1/3/16	0.02
1/4/16	**T**
1/5/16	**T**
1/6/16	**0**

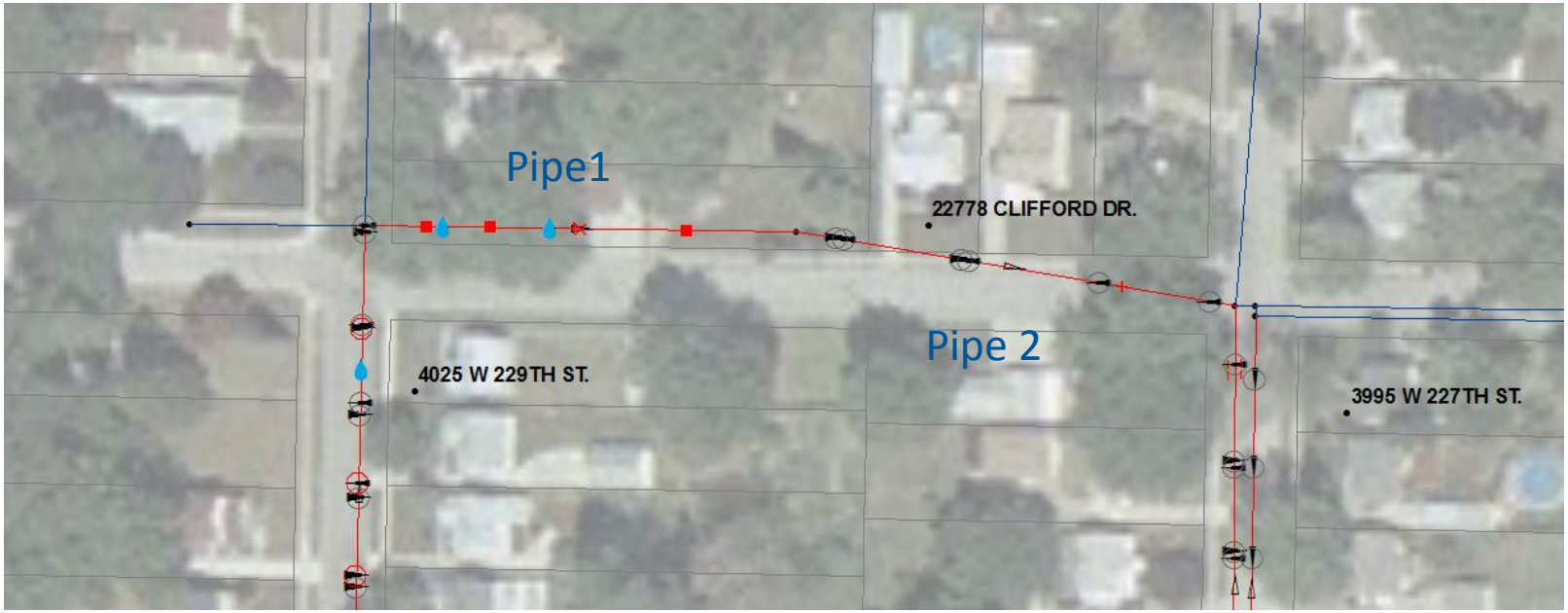
WORK PERFORMED

- CCTV Inspection of Sanitary Sewer
- Manholes Inspections (Sanitary and Storm)
- Flooding of Storm Sewer with Dye

- Looking for:
  - Dye Entering the Sanitary Sewer
  - Results of CCTV Inspection of Sanitary Sewer (Structural, O&M and I/I)

W.229 ST. AND CLIFFORD DR. RESULTS

CLIFFORD DR. LAYOUT



STRUCTURAL DEFECTS

Distance:	68.6 ft.	Grade:	5
Condition:	Broken Pipe Void Visible		
Remarks:	N/A		

Distance:	175.5 ft.	Grade:	5
Condition:	Broken Pipe Void Visible		
Remarks:	N/A		

Distance:	28.3 ft.	Grade:	4
Condition:	Fracture Multiple		
Remarks:	N/A		

Distance:	118.3 ft.	Grade:	3
Condition:	Water Level, Sag in pipe		
Remarks:	N/A		

STRUCTURAL DEFECTS

Distance:	233.8 ft.	**Grade:**	3
Condition:	Water Level		
Remarks:	N/A		

Sagging Pipe

I/I DEFECTS

Distance:	42.2 ft.	Grade:	4
Condition:	Infiltration Runner		
Remarks:	N/A		

Distance:	100.3 ft.	Grade:	3
Condition:	Infiltration Dripper		
Remarks:	N/A		

W.229 ST. LAYOUT

Lateral taps on both sides

Storm Sewer

8/12” VCP Sanitary Sewer

STORM

Lateral tap on the right side

SAN

Lateral tap on the left side

SUMMARY OF DEFECTS

- Structural
  - 15 Level 5 Defects
  - Two pipe segments with many defects
- O&M
  - Pipe is clean
- I/I
  - 4 positive dye testing, 1 major infiltration
  - No major I/I from pipe joints
  - Dye observed from W.229 St. north of Clifford Dr.

STRUCTURAL DEFECTS

Distance: 4.5 ft. Grade: 5
Condition: Broken Pipe Void Visible
Remarks: N/A

Distance: 10.7 ft. Grade: 5
Condition: Broken Pipe Void Visible
Remarks: N/A

Distance: 12.8 ft. Grade: 5
Condition: Broken Pipe Void Visible
Remarks: N/A

Distance: 117.7 ft. Grade: 5
Condition: Broken Pipe Void Visible
Remarks: N/A

Distance: 21.1 ft. Grade: 5
Condition: Broken Pipe Void Visible
Remarks: N/A

Distance: 55.6 ft. Grade: 5
Condition: Broken Pipe Void Visible
Remarks: N/A

Distance: 144.1 ft. Grade: 5
Condition: Broken Pipe Void Visible
Remarks: N/A

Distance: 156.6 ft. Grade: 5
Condition: Broken Pipe Void Visible
Remarks: N/A

Distance: 125.7 ft. Grade: 5
Condition: Broken Pipe Void Visible
Remarks: N/A

Distance: 127.6 ft. Grade: 5
Condition: Broken Pipe Void Visible
Remarks: N/A

Distance: 140.0 ft. Grade: 5
Condition: Broken Pipe Void Visible
Remarks: N/A

11 Broken Pipe Void Visible on Pipe 4397-4385 229th Street

STRUCTURAL DEFECTS

Distance:	51.4 ft.	Grade:	5
Condition:	Broken Pipe Void Visible		
Remarks:	N/A		

Distance:	312.8 ft.	Grade:	5
Condition:	Broken Pipe Void Visible		
Remarks:	N/A		

STRUCTURAL DEFECTS

Distance:	75.3 ft.	**Grade:**	2
Condition:	Water Level, Sag in pipe		
Remarks:	N/A		

Distance:	64.0 ft.	**Grade:**	2
Condition:	Water Level, Sag in pipe		
Remarks:	N/A		

I/I DEFECTS - 4 POSITIVE DYE TEST

4 Positive Locations all found along 229th St

POSITIVE DYE TEST

Distance:	73.4 ft.	**Grade:**	5
Condition:	Dye Test Visible		
Remarks:	DYE VISIIBLE		

Distance:	75.3 ft.	**Grade:**	2
Condition:	Water Level, Sag in pipe		
Remarks:	N/A		

4335-4295 229th St

- @73.4ft

POSITIVE DYE TEST

Distance:	295.1 ft.	Grade:	5
Condition:	Infiltration Gusher		
Remarks:	N/A		

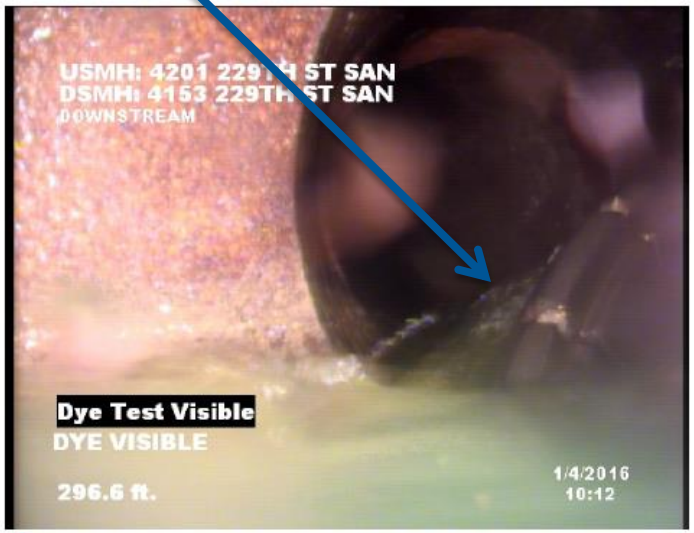
Under the Manhole

4355-4335 229th St

- @295.1ft

Sagging Pipe

Distance:	48.0 ft.	**Grade:**	5
Condition:	Dye Test Visible		
Remarks:	DYE VISIBLE		



Distance:	296.6 ft.	**Grade:**	5
Condition:	Dye Test Visible		
Remarks:	DYE VISIBLE		

4201-4153 229th St

- @48ft
- @296.6ft

I/I DEFECT

Distance:	99.5 ft.	**Grade:**	4
Condition:	Infiltration Runner		
Remarks:	N/A		

Distance:	211.7 ft.	**Grade:**	3
Condition:	Infiltration Dripper		
Remarks:	N/A		

I/I DEFECT

Distance:	311.9 ft.	**Grade:**	4
Condition:	Infiltration Runner		
Remarks:	N/A		

Distance:	312.8 ft.	**Grade:**	2
Condition:	Infiltration Weeper		
Remarks:	N/A		

RECOMMENDATIONS
(W.229 ST. AND CLIFFORD DR.)

- Line full length of sewer from Lorain Rd. to Clifford
- Replace perforated manhole lids with manhole lids
- CCTV Storm Sewer to determine if any repairs are required
- Post flow monitoring
- Recalibrate Model
- If significant I/I is not removed pursue private property investigation

** Based on information obtained may recommend installing a flow meter at the intersection of Lorain Rd. and W.227 St.

W.227 STREET RESULTS

LAYOUT

Lateral tap on top

36” Storm Sewer

Lateral with active flow observed

Lateral tap on the right side

Overflow to B

No active flow observed

15” VCP

18” RCP (B)

Which one is active?

36”
STORM

Lateral tap on
the right side

Lateral tap on top

Tap

15”

18”
(B)

Lateral tap on
the left side

Overflow
Pipe

Tap

SUMMARY

- Two parallel sanitary sewers
  - 15” VCP under 36” Storm
  - 18” RCP
  - Concrete manholes except 4353 227th is brick
- Laterals
  - 15” has laterals to both sides (unknown if any are disconnected)
  - 18” should have only east side laterals tapped on the top of the pipe
- Overflow structures at Manholes
  - The connection and inverts are different from record drawings

SUMMARY OF DEFECTS

- Structural
  - No serious defects found
  - Two broken / voids found
- O & M
  - Pipes are clean
- I/I
  - No positive dye testing results
  - No major I/I from pipe joints
  - Minor infiltration

STRUCTURAL DEFECTS

Distance:	21.1 ft.	**Grade:**	5
Condition:	Broken Pipe Void Visible		
Remarks:	N/A		

Distance:	118.4 ft.	**Grade:**	5
Condition:	Broken Pipe Void Visible		
Remarks:	N/A		

INFILTRATION DEFECTS

Distance: 244.4 ft. **Grade:** 3
Condition: Infiltration Dripper
Remarks: N/A

Distance: 312.4 ft. **Grade:** 3
Condition: Infiltration Dripper
Remarks: N/A

Distance: 177.4 ft. **Grade:** 2
Condition: Infiltration Weeper
Remarks: N/A

RECOMMENDATIONS

- Meet with Residents to Discuss Flooding Concerns
- Perform Private Property Investigation
- CCTV Storm Sewer
- Recalibrate Model
- Determine Next Steps

** Based on information obtained may recommend installing a flow meter at the intersection of Lorain Rd. and W.227 St.

Building a **world** of difference.®

Together

BLACK & VEATCH

www.bv.com

CITY OF FAIRVIEW PARK
ORDINANCE NO. 16-02
REQUESTED BY: COUNCILMAN MCDONOUGH
SPONSORED BY: COUNCILMEN MCDONOUGH & MINEK

AN ORDINANCE APPROVING THE PLAT FOR FAIRVIEW PARK RESIDENTIAL DEVELOPMENT L.L.C., (RIVERSOUTH) PHASE II AND DECLARING AN EMERGENCY

WHEREAS, Fairview Park Residential Development L.L.C. (aka "Riversouth") proposed a plan for a lot split/consolidation and major subdivision for the property located at 18871/18899 Lorain Road, in accordance with Chapter 1191 of the Codified Ordinances of the City of Fairview Park; and

WHEREAS, the Planning and Design Commission, at its meeting of June 18, 2014, approved the application of Fairview Park Residential Development L.L.C. as being in compliance with Chapter 1191 of the Codified Ordinance of the City of Fairview Park; and

WHEREAS, the Council of the City of Fairview Park has reviewed the proposed lot split/consolidation and major subdivision, and has determined that it is in conformance with the requirements of Chapter 1191, and desires to approve the same.

NOW. THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FAIRVIEW PARK, COUNTY OF CUYAHOGA AND STATE OF OHIO:

SECTION 1. The plat (Phase II) of Fairview Park Residential Development L.L.C. (aka "Riversouth") for a lot split/consolidation and major subdivision for the property known as 18871/18899 Lorain Road, as approved by the Planning and Design Commission on June 18, 2014, is hereby approved and accepted, in accordance with and subject to the requirements of Chapter 1191 of the Codified Ordinances of the City of Fairview Park.

SECTION 2. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

SECTION 3. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare, and so that the plat can be immediately filed so that Fairview Park Residential Development L.L.C. may begin the process of transferring ownership of new homes in the City of Fairview Park to new residents, provided it receives the affirmative vote of a majority plus one of the members elected to Council, it shall take effect and be in force from immediately upon its passage and approval by the Mayor, otherwise from and after the earliest period allowed by law.

PASSED:
APPROVED:

1st reading: 02.01.16
2nd reading:
3rd reading:

_____
Michael P. Kilbane, President of Council

_____
Eileen Ann Patton, Mayor

_____
Liz L. Westbrooks, Clerk of Council

Riversouth Subdivision Phase 2
Subdivision Plat

GRAPHIC SCALE

30 0 15 30 60 120

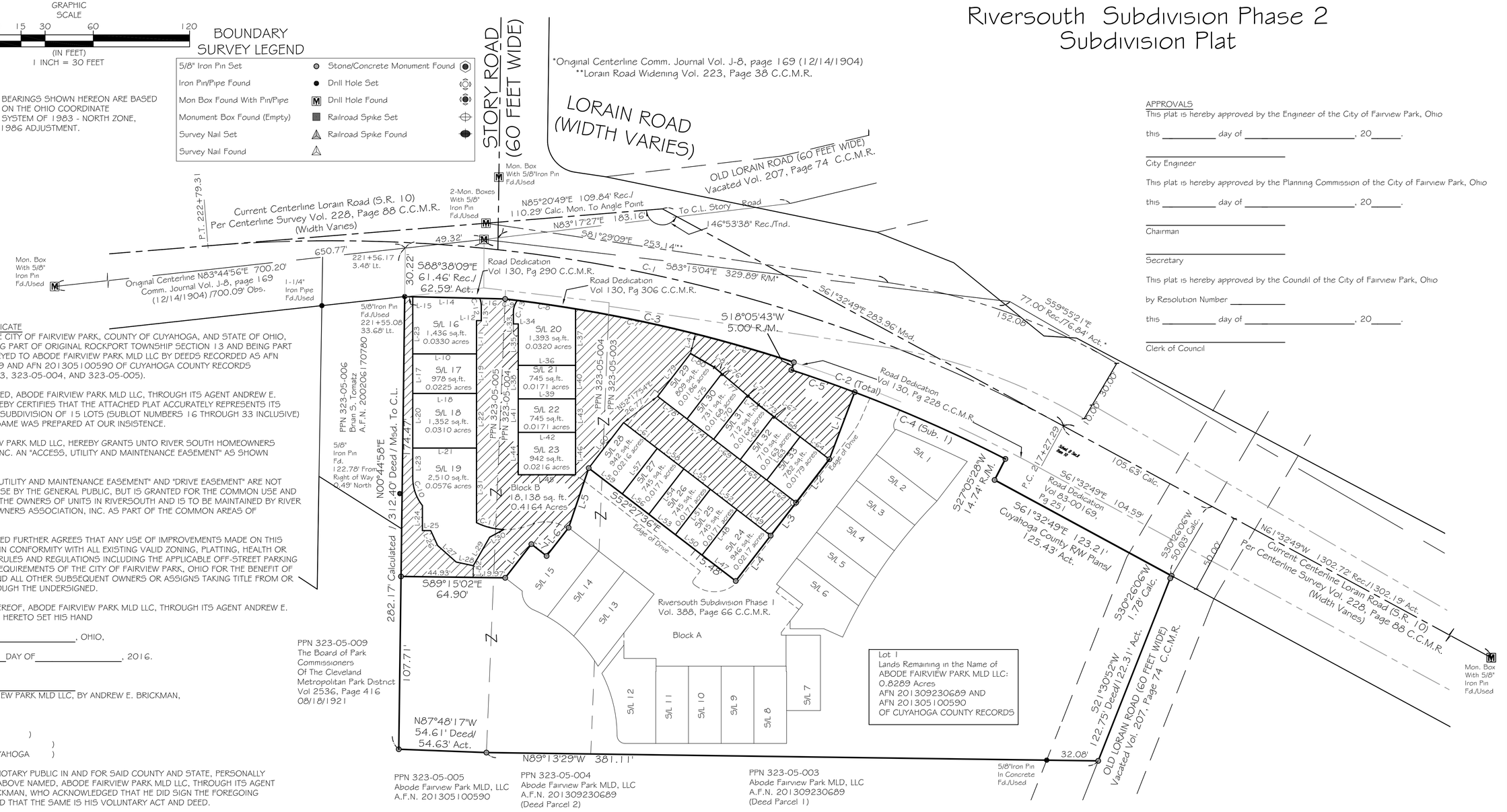
(IN FEET)
1 INCH = 30 FEET

BEARINGS SHOWN HEREON ARE BASED ON THE OHIO COORDINATE SYSTEM OF 1983 - NORTH ZONE, 1986 ADJUSTMENT.

North

BOUNDARY SURVEY LEGEND

5/8" Iron Pin Set	Stone/Concrete Monument Found
Iron Pin/Pipe Found	Drill Hole Set
Mon Box Found With Pin/Pipe	Drill Hole Found
Monument Box Found (Empty)	Railroad Spike Set
Survey Nail Set	Railroad Spike Found
Survey Nail Found	



APPROVALS

This plat is hereby approved by the Engineer of the City of Fairview Park, Ohio

this _____ day of _____, 20_____.

_____
City Engineer

This plat is hereby approved by the Planning Commission of the City of Fairview Park, Ohio

this _____ day of _____, 20_____.

_____
Chairman

_____
Secretary

This plat is hereby approved by the Coundil of the City of Fairview Park, Ohio

by Resolution Number _____

this _____ day of _____, 20_____.

_____
Clerk of Council

OWNERS CERTIFICATE

SITUATED IN THE CITY OF FAIRVIEW PARK, COUNTY OF CUYAHOGA, AND STATE OF OHIO, KNOWN AS BEING PART OF ORIGINAL ROCKPORT TOWNSHIP SECTION 13 AND BEING PART OF LAND CONVEYED TO ABODE FAIRVIEW PARK MLD LLC BY DEEDS RECORDED AS AFN 201309230689 AND AFN 201305100590 OF CUYAHOGA COUNTY RECORDS (PPN323-05-003, 323-05-004, AND 323-05-005).

THE UNDERSIGNED, ABODE FAIRVIEW PARK MLD LLC, THROUGH ITS AGENT ANDREW E. BRICKMAN, HEREBY CERTIFIES THAT THE ATTACHED PLAT ACCURATELY REPRESENTS ITS RIVERSOUTH, A SUBDIVISION OF 15 LOTS (SUBLOT NUMBERS 16 THROUGH 33 INCLUSIVE) AND THAT THE SAME WAS PREPARED AT OUR INSISTENCE.

ABODE FAIRVIEW PARK MLD LLC, HEREBY GRANTS UNTO RIVER SOUTH HOMEOWNERS ASSOCIATION, INC. AN "ACCESS, UTILITY AND MAINTENANCE EASEMENT" AS SHOWN HEREON.

SAID "ACCESS, UTILITY AND MAINTENANCE EASEMENT" AND "DRIVE EASEMENT" ARE NOT GRANTED FOR USE BY THE GENERAL PUBLIC, BUT IS GRANTED FOR THE COMMON USE AND ENJOYMENT OF THE OWNERS OF UNITS IN RIVERSOUTH AND IS TO BE MAINTAINED BY RIVER SOUTH HOMEOWNERS ASSOCIATION, INC. AS PART OF THE COMMON AREAS OF RIVERSOUTH.

THE UNDERSIGNED FURTHER AGREES THAT ANY USE OF IMPROVEMENTS MADE ON THIS LAND SHALL BE IN CONFORMITY WITH ALL EXISTING VALID ZONING, PLATTING, HEALTH OR OTHER LAWFUL RULES AND REGULATIONS INCLUDING THE APPLICABLE OFF-STREET PARKING AND LOADING REQUIREMENTS OF THE CITY OF FAIRVIEW PARK, OHIO FOR THE BENEFIT OF THEMSELVES AND ALL OTHER SUBSEQUENT OWNERS OR ASSIGNS TAKING TITLE FROM OR UNDER OR THROUGH THE UNDERSIGNED.

IN WITNESS WHEREOF, ABODE FAIRVIEW PARK MLD LLC, THROUGH ITS AGENT ANDREW E. BRICKMAN, HAS HERETO SET HIS HAND

AT_____, OHIO,

THIS_____DAY OF_____, 2016.

BY: _____
ABODE FAIRVIEW PARK MLD LLC, BY ANDREW E. BRICKMAN,

NOTARY PUBLIC

STATE OF OHIO)
)
COUNTY OF CUYAHOGA)

BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED THE ABOVE NAMED, ABODE FAIRVIEW PARK MLD LLC, THROUGH ITS AGENT ANDREW E. BRICKMAN, WHO ACKNOWLEDGED THAT HE DID SIGN THE FOREGOING INSTRUMENT AND THAT THE SAME IS HIS VOLUNTARY ACT AND DEED.

IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND OFFICIAL SEAL AT_____, OHIO,

THIS_____DAY OF_____, 2016.

_____
NOTARY PUBLIC

Acreage Subdivision Phase 2

Lots	0.4125 Acres
Block B	0.4164 Acres
Total Acreage.....	0.8289 Acres

Access, Utility and Maintenance Easement

Note: Easement Covers a Private Drive For Which the City of Fairview Park Shall Have No Maintenance Responsibilities

SURVEYOR CERTIFICATION

I HEREBY CERTIFY THAT I HAVE SURVEYED THE PREMISES SHOWN HEREON, AND PREPARED THE ATTACHED PLAT IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 4733-37 OF THE OHIO ADMINISTRATIVE CODE. THE DIMENSIONS SHOWN HEREON ARE IN FEET AND DECIMAL PARTS THEREOF, ALL OF WHICH ARE CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. MONUMENTS AS INDICATED WERE FOUND OR SET AS SHOWN HEREON.

01/18/2016
MICHAEL P. SPELLACY P.S. #8169 DATE

STATE OF OHIO
MICHAEL P. SPELLACY
S-8169
REGISTERED
PROFESSIONAL SURVEYOR

DATE:	01/18/2015
SCALE: HOR.	1"=30'
VERT.	1"=0'
FOLDER:	Surveys
FILENAME:	Record Plat Phase 2
TAB:	Plat -01
DRAWN:	MPS

Situated in the City of Fairview Park,
County of Cuyahoga, and State of Ohio:
Known as Being Part of
Original Rockport Township Section 13
January 18, 2016 Scale: 1 Inch = 30 Feet

polaris Engineering & Surveying

POLARIS ENGINEERING & SURVEYING, INC.
34600 CHARDON ROAD - SUITE D
WILLOUGHBY HILLS, OHIO 44094
(440) 944-4433 (440) 944-3722 (Fax)
www.polans-es.com

CONTRACT No.	
12047	
SHEET	OF
01	02

Riversouth Subdivision Phase 2
Subdivision Plat

CURVE TABLE						
CURVE	LENGTH	RADIUS	TANGENT	CHORD	BEARING	DELTA
C-1	552.11	955.37	284.00	544.46	N78°06'09"W	33°06'40"
C-2	144.51	920.37	72.40	144.36	N67°24'25"W	8°59'46"
C-3	184.45	925.37	92.53	184.14	N77°36'56"W	11°25'14"
C-4	102.72	920.37	51.42	102.67	N66°06'23"W	6°23'42"
C-5	41.78	920.37	20.90	41.78	N70°36'16"W	2°36'04"
C-6	63.83	925.37	31.93	63.82	N73°52'53"W	3°57'08"
C-7	76.31	925.37	38.18	76.29	N78°13'12"W	4°43'30"
C-8	36.60	925.37	18.30	36.60	N81°42'56"W	2°15'59"
C-9	7.70	925.37	3.85	7.70	N83°05'14"W	0°28'37"
C-10	18.06	28.00	9.36	17.75	S19°45'49"E	36°57'57"
C-11	17.65	41.28	8.96	17.52	S75°54'51"E	24°30'01"
C-12	4.78	12.00	2.42	4.75	N11°24'15"W	22°48'30"
C-13	7.91	11.92	4.11	7.77	S18°53'19"W	38°02'45"

LINE TABLE		
LINE	LENGTH	BEARING
L-1	44.68	S20°41'47"W
L-2	33.99	S37°29'24"W
L-3	25.99	S37°34'54"W
L-4	35.71	S37°32'24"W
L-5	39.19	S18°38'43"W
L-6	22.33	S37°51'47"W
L-7	12.00	N52°08'13"W
L-8	26.57	S37°51'47"W
L-9	35.63	S00°00'00"W
L-10	39.71	N90°00'00"E
L-11	20.75	N00°00'00"E
L-12	2.96	N90°00'00"E
L-13	9.23	N00°00'00"E
L-14	41.75	N88°38'09"W
L-15	5.03	N88°38'09"W
L-16	15.81	N88°38'09"W
L-17	24.64	S00°00'00"E
L-18	39.71	N90°00'00"E
L-19	24.64	N00°00'00"E
L-20	34.04	S00°00'00"W
L-21	39.71	N90°00'00"E
L-22	34.04	N00°00'00"E
L-23	19.13	S00°00'00"E
L-24	15.61	S00°00'00"E
L-25	5.18	S90°00'00"E
L-26	10.26	S24°44'46"E
L-27	15.49	S48°21'21"E
L-28	10.90	S77°56'35"E
L-29	20.50	N29°56'48"E
L-30	9.99	N61°17'09"E
L-31	46.50	N00°00'00"E
L-33	7.30	S00°00'00"E
L-34	3.03	N90°00'00"E
L-35	25.82	S00°00'00"W
L-36	35.71	N90°00'00"E
L-37	35.20	N00°00'00"W
L-38	20.88	S00°00'00"E
L-39	35.71	N90°00'00"E
L-40	20.88	N00°00'00"W
L-41	20.88	S00°00'00"E

LINE TABLE		
LINE	LENGTH	BEARING
L-42	35.71	N90°00'00"E
L-43	20.88	N00°00'00"W
L-44	26.39	S00°00'00"E
L-45	35.71	N90°00'00"E
L-46	26.39	N00°00'00"E
L-47	26.49	N52°27'36"W
L-48	35.71	N37°32'24"E
L-49	26.49	S52°27'36"E
L-50	20.88	N52°27'36"W
L-51	35.71	N37°32'24"E
L-52	20.88	S52°27'36"E
L-53	20.88	N52°27'36"W
L-54	35.71	N37°32'24"E
L-55	20.88	S52°27'36"E
L-56	20.88	N52°27'36"W
L-57	35.71	N37°32'24"E
L-58	20.88	S52°27'36"E
L-59	26.36	N52°27'36"W
L-60	35.71	N37°29'24"E
L-61	26.40	S52°27'36"E
L-62	22.99	N52°30'36"W
L-63	34.01	N37°29'24"E
L-64	22.99	S52°27'36"E
L-65	20.88	N52°30'36"W
L-66	34.03	N37°29'24"E
L-67	0.87	S52°28'49"E
L-68	20.00	S52°27'36"E
L-69	20.88	N52°30'36"W
L-70	34.48	N37°29'24"E
L-71	0.88	S49°33'48"E
L-72	8.24	S49°45'13"E
L-73	11.77	S52°28'49"E
L-74	20.88	N52°30'36"W
L-75	35.56	N37°29'24"E
L-76	0.88	S49°22'51"E
L-77	20.03	S49°33'48"E
L-78	23.09	N52°30'36"W
L-79	33.65	N37°29'24"E
L-80	17.09	S60°02'03"E
L-81	6.16	S49°22'51"E
L-82	7.29	N00°44'58"E

DATE: 01/18/2015
SCALE: HOR. 1"=30'
VERT. 1"=0'
FOLDER: Surveys
FILENAME: Record Plat
TAB: Plat -02
DRAWN: MPS

Situated in the City of Fairview Park,
County of Cuyahoga, and State of Ohio:
Known as Being Part of
Original Rockport Township Section 13
January 18, 2016 Scale: 1 Inch = 30 Feet

polaris Engineering & Surveying

POLARIS ENGINEERING & SURVEYING, INC.
34600 CHARDON ROAD - SUITE D
WILLOUGHBY HILLS, OHIO 44094
(440) 944-4433 (440) 944-3722 (Fax)
www.polars-es.com

CONTRACT No.
12047

SHEET	OF
02	02

DECLARATION OF RESTRICTIONS, COVENANTS, EASEMENTS AND CONDITIONS OF RIVER SOUTH HOMEOWNERS ASSOCIATION, INC.

THIS DECLARATION OF RESTRICTIONS, COVENANTS, EASEMENTS AND CONDITIONS OF RIVER SOUTH HOMEOWNERS ASSOCIATION, INC., an Ohio non-profit corporation, is made by ABODE FAIRVIEW PARK MLD LLC, an Ohio limited liability company (the "Developer").

WITNESSETH:

WHEREAS, the Developer is the owner in fee simple of certain real property consisting of approximately one and six thousand two hundred and twenty-five ten-thousandths (1.6250) acres located in the City of Fairview Park, Cuyahoga County, Ohio as described on Exhibit A hereto and to be known as Phase 1 of RiverSouth ("RiverSouth"); and

WHEREAS, the Developer desires to create at RiverSouth a planned community in accordance with the requirements of the Planning and Zoning Code of the City of Fairview Park, Ohio ("Zoning Code") and the Ohio Planned Community Law (codified in Chapter 5312 of the Ohio Revised Code) comprised of up to fifteen (15) townhouses to be owned and maintained by a homeowners association for the benefit of the Owners (as hereinafter defined) of such townhouses; and

WHEREAS, a Record Plat of Phase 1 of RiverSouth approved by the City of Fairview Park and reflecting fifteen (15) Sublots (as hereinafter defined) with townhouses to be constructed thereon, together with associated Common Areas (as hereinafter defined), was recorded on the _____ day of _____, 2015, in Volume _____ at Pages _____ and/or as Instrument No. _____ of the Map Records of Cuyahoga County, State of Ohio ("Plat"); and

WHEREAS, to provide for the orderly development of RiverSouth and impose requirements for the use and maintenance of the Common Areas and to enhance and protect the value of the townhouses and Common Areas forming a part of RiverSouth (as described in the Plat) and to be developed under the Zoning Code and the Ohio Planned Community Law as a residential townhouse development, the Developer has prepared this Declaration to define the rights, duties and obligations of the Developer and Owners (as hereinafter defined) of Units (as hereinafter defined) and the manner in which RiverSouth shall be governed and maintained; and

WHEREAS, the City of Fairview Park, Ohio will not provide any services, such as snow removal, sewer cleaning or service, road or sidewalk repairs, garbage collection, or any other services to RiverSouth and all such services are therefore to be provided by the Association and the cost thereof assesses to the Owners.

NOW, THEREFORE, the Developer hereby declares that the real property described on Exhibit A hereto and on the Plat (and all other real property hereafter made subject to the terms of this Declaration) shall be owned, held, sold, conveyed, used and occupied subject to the following restrictions, covenants, easements and conditions, which shall run with the land and shall be binding upon and inure to the benefit of all parties having any right, title or interest in or to any part of RiverSouth, including Units and Common Areas (as hereinafter defined) and their personal representatives, heirs, successors and assigns.

ARTICLE 1
DEFINITIONS

The following words when used in this Declaration of Restrictions, Covenants, Easements and Conditions (unless the context shall prohibit) shall have the following meanings:

A. "Association" shall mean River South Homeowners Association, Inc., an Ohio non-profit corporation, formed for the purposes of maintaining and administering the Common Areas of RiverSouth, providing services of general benefit to the Owners of Units in RiverSouth, administering and enforcing this Declaration and the Code of Regulations of the River South Homeowners Association, Inc. recorded contemporaneously with this Declaration in Cuyahoga County, Ohio ("Code of Regulations"), collecting assessments and exercising such other functions as are provided in this Declaration, the Articles of Incorporation of the Association filed with the Secretary of State of Ohio (the "Articles of Incorporation"), and the Code of Regulations.

B. "City" shall mean the City of Fairview Park, Ohio, a municipal corporation organized and existing under the laws of the State of Ohio.

C. "Common Areas" shall mean and include all areas of land designated on the Plat and all facilities, appurtenances and improvements thereon which are owned by the Association or held for the common use and enjoyment of the Owners. Common Areas shall not include any facilities and improvements which are part of a Unit.

D. "Declaration" shall mean this Declaration of Restrictions, Covenants, Easements and Conditions of River South Homeowners Association, Inc.

E. "Developer" shall mean Abode Fairview Park MLD LLC, an Ohio limited liability company, and its successors and assigns if such successors and assigns acquire more than one undeveloped Sublot from the Developer for the purpose of development.

F. "Directors" shall mean those persons designated by the Developer or elected by the Members as provided in the Code of Regulations of the Association and this Declaration.

G. "Member" shall mean those persons entitled to membership as provided in the Articles of Incorporation and Code of Regulations of the Association and this Declaration.

H. "Owner" shall mean a record title holder of a fee simple interest in a Unit situated within RiverSouth, including contract sellers, but excluding (i) the Developer, (ii) those having such interest merely as security for the performance of an obligation, and (iii) mortgagees, unless and until any such mortgagee has lawfully acquired a fee simple interest in a Unit pursuant to judicial foreclosure or other legal process.

I. "Plat" shall mean the Record Plat of RiverSouth defined in the Recitals of this Declaration, as the same may, from time to time, be amended consistent with the provisions of this Declaration.

J. "Residence" shall mean a residential dwelling and related improvements constructed or established on a Sublot at RiverSouth.

K. "RiverSouth" shall mean the land, improvements, appurtenances, and facilities located in the City of Fairview Park, Ohio on the land described on Exhibit A hereto and identified in the Plat, including the Units, the Sublots and the Common Areas, together with any additions or amendments thereto, as approved by the City of Fairview Park, Ohio pursuant to the Zoning Code and consisting of up to fifteen (15) Units. The community address for RiverSouth shall be 18875 River South Terrace, Fairview Park, Ohio 44126 as approved by the City of Fairview Park, Ohio and the local United States Post Office.

L. "Start-Up Period" shall mean the period commencing upon the filing of this Declaration of record with the Cuyahoga County Recorder and ending on the earlier of (i) the date the Developer has conveyed all Units and/or Sublots at RiverSouth to Owners; (ii) December 31, 2020; or (iii) the date on which Developer gives written notice to the Owners that the Start-Up Period has terminated.

M. "Sublot" shall mean a sublot as identified on the Plat (consisting of land or air rights) upon which a Residence is or may be constructed or established.

N. "Unit" shall mean a Residence and the Sublot upon which the Residence is constructed or established.

ARTICLE 2
PROPERTY SUBJECT TO COVENANTS, EASEMENTS, RESTRICTIONS AND CONDITIONS

2.1 Existing Property. The property comprising RiverSouth as of the filing of this Declaration consists of the land described on Exhibit A and depicted on the Plat.

2.2 Additional Property.

A. Additional real property (the "Additional Property") may be made a part of RiverSouth and become subject to this Declaration in accordance with Section 11.3 herein (i) at the option of the Developer and without the consent of the Association and/or Members so long as the Developer owns at least one (1) Unit or Sublot in RiverSouth, or (ii) upon the consent of two-thirds (2/3) of each class of Members, in either case upon the recording of an amended or separate Plat which includes and/or describes the Additional Property, if required, and by executing and recording an amendment to this Declaration, subjecting the Additional Property to this Declaration and the covenants, restrictions, easements and conditions hereof.

B. The recording of any such amended or separate Plat and amendment to this Declaration as herein set forth shall extend the scheme of this Declaration to such Additional Property. Such instrument may contain such complementary additions and modifications to this Declaration as are not inconsistent with the scheme of this Declaration and necessary or appropriate to reflect the different character, if any, of the Additional Property.

C. Notwithstanding the foregoing, the Developer, its successors and/or assigns, owns the Additional Property described on Exhibit B, which is adjacent to RiverSouth. Developer, its successors and/or assigns, desires to provide for the right to subdivide and plat this Additional Property and create additional Sublots which would be part of RiverSouth, and known as Phase 2 of RiverSouth, and would be Sublots within the meaning of, and subject to, all the terms and provisions of this Declaration, the Articles of Incorporation, and Code of Regulations including, without limitation, the provision that owners of sublots become members of the Association. Developer, its successors and/or assigns, shall have the right to amend this

Declaration and file an amended and/or separate Plat for Phase 2 of RiverSouth to effectuate the addition of Phase 2 to RiverSouth.

ARTICLE 3
MEMBERS AND VOTING RIGHTS IN THE ASSOCIATION

3.1 Members. The Developer and each Owner of a Unit in RiverSouth shall automatically become a Member of the Association for so long as such person or entity is an Owner; provided, however, that any such person or entity who holds such interest merely as security for the payment of money or the performance of an obligation shall not be a Member. The Developer shall be a Member until the Developer no longer owns any Unit or Sublot in RiverSouth and has conveyed each Developer-owned Unit and Sublot to an Owner. Membership in the Association shall be appurtenant to and may not be separated from ownership of a Unit or Sublot.

3.2 Voting Rights. Membership in the Association shall be divided into "Class A Members" and "Class B Members" (each as hereinafter defined).

A. Class A Members. Class A Members shall be all Owners of Units other than the Developer (unless and until the Developer's Class B Membership interest is converted to a Class A Membership interest as provided in Subsection B below and otherwise in accordance with this Declaration). Class A Membership is appurtenant to the ownership of a Unit and shall be deemed terminated upon conveyance of the Unit; whereupon, the new Owner of the Unit shall automatically become a Member of the Association with the voting and other rights and responsibilities appurtenant thereto. When one or more person other than the Developer (unless and until the Developer's Class B Membership interest is converted to a Class A Membership interest as provided in Subsection B below and otherwise in accordance with this Declaration) is an Owner of a Unit, all such persons shall be Class A Members. Class A Members shall be entitled to one (1) vote for each Unit owned. In the event a Unit is owned by one or more persons, such Owners shall not be entitled to more than one (1) vote with respect to such Unit.

B. Class B Member. The sole Class B Member shall be the Developer (or its successors and assigns) as the record title holder of a fee simple interest in one or more Units or Sublots in RiverSouth. The Class B Member shall be entitled to three (3) votes for each Unit or Sublot owned. The Class B Membership of the Developer shall cease at the end of the Start-Up Period. If the Developer owns one or more Units or Sublots as of the end of the Start-Up Period, the Developer's Class B Membership shall be converted to a Class A Membership, entitling the Developer to one (1) vote per Unit or

Sublot owned. The approval rights of the Class B Member are specified elsewhere in this Declaration and the Code of Regulations.

3.3 Board of Directors. The Association is vested with all power and authority to administer RiverSouth. The "Board of Directors" of the Association, also referred to in this Declaration as the "Board," is vested with and shall exercise all of the powers of the Association and shall have all other rights conferred by law (including but not limited to the rights conferred under the Ohio Planned Community Law codified in Chapter 5312 of the Ohio Revised Code), the Articles of Incorporation, the Code of Regulations and this Declaration, except as otherwise expressly provided in Chapter 5312 of the Ohio Revised Code, this Declaration, or the Code of Regulations. The Board of Directors shall be composed of Owners elected from among the Owners. The Board of Directors shall initially be composed of three (3) Directors appointed by the Developer and designated by the Developer pursuant to resolution, from time to time, and at any time during Developer's Class B Membership in the Association, subject to the election of additional Directors at such time(s) and as may be provided in the Code of Regulations. The Board of Directors shall elect officers from the members of the Board, to include a President, a Secretary and a Treasurer, and such other additional Vice Presidents and officers or assistant officers as the Directors may deem necessary. Unless otherwise provided in this Declaration or the Code of Regulations, the Board of Directors may carry out any action Chapter 5312 of the Ohio Revised Code requires or allows an owners association to take, subject to any vote required of the Owners.

3.4 Articles and Regulations of the Association. The Articles of Incorporation and Code of Regulations of the Association may contain any provisions, not in conflict with this Declaration, as are permitted to be set forth in such Articles of Incorporation and Code of Regulations by the Nonprofit Corporation Law of Ohio as may be in effect from time to time. This Declaration and the Code of Regulations, together, regulate RiverSouth and the Association and provide for the following in accordance with Section 5312.02(B) of the Ohio Revised Code: (i) the election of the Board; (ii) the number of persons constituting the Board; (iii) the term of Board members, (iv) the powers and duties of the Board; (v) the method of removal of Board members from office; (vi) whether the services of a manager or managing agent may be engaged; (vii) the method of amending this Declaration and the Code of Regulations; (viii) the time and place for holding meetings of the Board and the manner of and authority for calling, giving notice of, and conducting meetings of the Board; (ix) the Common Costs (as hereinafter defined) for which Assessments (as hereinafter defined) may be made and the manner of collecting from the Owners their respective shares of the Common Costs; and (x) any other matters the Developer or the Association deem necessary and appropriate from time to time.

3.5 Powers of the Association. The Association, through the Board of Directors, may do any of the following: (i) hire and fire managing agents, attorneys, accountants, and other independent professionals and employees that the Board determines are necessary or desirable in the management of the Common Areas and the Association; (ii) commence, defend, intervene in, settle, or compromise any civil, criminal, or administrative action or proceeding that is in the name of, or threatened against, the Association, the Board of Directors, the Common Areas, or that involves two or more Owners and relates to matters affecting RiverSouth; (iii) enter into contracts and incur liabilities relating to the operation of the Common

Areas or the Association; (iv) enforce all provisions of this Declaration, the Code of Regulations and the Articles of Incorporation governing the Units, the Sublots and/or the Common Areas or otherwise affecting RiverSouth; (v) adopt and enforce rules and regulations for the maintenance, repair, replacement, modification, and appearance of the Common Areas, and any other rules or regulations necessary and proper for the regulation of RiverSouth as established in the discretion of the Board of Directors from time to time; (vi) acquire, encumber, and convey or otherwise transfer real and personal property; (vii) hold in the name of the Association real property and personal property; (viii) grant easements, leases, licenses, and concessions through or over the Common Areas; (ix) levy and collect fees or other charges for the use, rental, or operation of the Common Areas or for services provided to Owners; (x) pursuant to Section 5312.11 of the Ohio Revised Code, levy the following charges and assessments: (a) interest, charges, and penalties for the late payment of Assessments; (b) returned check charges; (c) Enforcement Assessments (as hereinafter defined) for violations of this Declaration, the Code of Regulations, or the rules or regulations of RiverSouth or the Association; and (d) charges for damage to the Common Areas or other property; (xi) adopt and amend rules or regulations for the collection of delinquent Assessments and the application of payments of delinquent Assessments; (xii) impose reasonable charges for preparing, recording, or copying this Declaration, the Code of Regulations, amendments to this Declaration and the Code of Regulations, resale certificates, or statements of unpaid Assessments; (xiii) authorize entry to any portion of RiverSouth by designated individuals when conditions exist that involve an imminent risk of damage or harm to Common Areas, another Residence, or to the health or safety of the occupants of that Residence or another Residence; (xiv) borrow money and assign the right to Assessments or other future income to a lender as security for a loan to the Association; (xv) suspend the voting privileges and use of recreational facilities of an Owner for any period during which any Assessment remains in default and for any infraction of RiverSouth rules or regulations; (xvi) purchase insurance and fidelity bonds the Board considers appropriate and necessary; (xvii) invest excess funds in investments that meet standards for fiduciary investments under the laws of Ohio; (xviii) exercise powers that are any of the following: (a) conferred by this Declaration or the Code of Regulations; (b) necessary to incorporate the Association as a non-profit corporation; (c) permitted to be exercised in Ohio by a nonprofit corporation; and (d) necessary or proper for the government and operation of RiverSouth or the Association.

ARTICLE 4
PROPERTY RIGHTS IN THE COMMON AREAS

4.1 Owner's Easements of Enjoyment. Subject to the provisions of Section 4.3 of this Article 4, every Owner shall have a right and easement of use, access and enjoyment in and to the Common Areas and such easement shall be appurtenant to and shall pass with the title to every Unit. Each Owner may delegate the right of enjoyment to the Common Area and facilities to the members of such Owner's family or immediate household and any other person residing in the Unit or any tenant, guest, lessee, contract purchasers, or social invitee of such Owner. Owners may not assign, encumber, convey, pledge such easement or do anything that would diminish or threaten access to such easement or the use, enjoyment, utility, or value of such easement.

4.2 Title to Common Areas. The Developer shall convey the Common Areas to the Association by limited warranty deed not later than the end of the Start-Up Period, or such earlier date as Developer may elect. Prior to the conveyance of the Common Areas to the Association, the Developer shall have the duty to maintain the Common Areas in the manner and to the extent provided in Article 10 hereof (at the expense of the Owners and the Developer as provided in Article 7 hereof); and, upon conveyance of the Common Areas to the Association, the Association shall thereafter have the duty to maintain the Common Areas as provided in Article 10 hereof and shall hold title to the Common Areas subject to the provisions of this Declaration. The conveyance of the Common Areas by the Developer to the Association shall be subject to (i) this Declaration, (ii) easements, covenants, restrictions, conditions and similar matters of record, (iii) real estate taxes and assessments not then due and payable, (iv) zoning and building ordinances and regulations, (iv) encroachments, if any, and (v) matters that may be disclosed by an accurate survey. During the Developer's ownership of the Common Areas, the Developer shall cause any mortgagee thereof to subordinate such mortgage to this Declaration. The obligations set forth in any mortgage of the Common Areas granted by the Developer shall be the sole responsibility of the Developer and any such mortgage shall be released prior to the conveyance of the Common Areas to the Association.

4.3 Extent of Owner's Easements. The rights and easements of use, access and enjoyment to the Common Areas created hereby shall be subject to the following:

A. The right of the Association (and the Developer), subject to any limitations imposed by its Articles of Incorporation or Code of Regulations, to borrow money for the purpose of improving the Common Areas or fulfilling its obligations hereunder and in aid thereof to mortgage any property owned by the Association, including but not limited to the Common Areas. In the event of a default under any such mortgage, the lender shall have a right, after taking possession of such property, to charge reasonable maintenance fees as a condition to continued enjoyment thereof by the Owners until the mortgage debt is satisfied; whereupon, the possession of such property shall be returned to the Association and all rights of the Owners hereunder shall be fully restored.

B. The right of the Association to take such steps as are reasonably necessary to protect, maintain and preserve the Common Areas as provided in this Declaration.

C. The right of the Association, in accordance with its Articles of Incorporation and Code of Regulations, to adopt uniform rules and regulations governing the use of the Common Areas, and to suspend the rights of any Owner or tenant or lessee thereof and his household and guests in such easements for any period during which any Assessment remains in default and for any infraction of such rules and regulations.

D. The right of the Association to charge reasonable admission fees and/or other fees for the use of the Common Areas.

E. The right of the Association to issue annual permits to non-owners for the use of all or a part of the Common Areas when and upon such terms as may be determined from time to time by the Board of Directors of the Association.

F. The right of the Developer or the Association to dedicate or transfer all or any part of the Common Areas or grant easements thereon to any municipality or any public agency, authority or utility, for such purposes and subject to such conditions as may be determined by the Board of Directors of the Association or the Developer without the approval of the Owners.

G. The exclusive right of use, access and enjoyment by the Owners with respect to (i) balconies, patios, decks and other improvements constructed by the Developer immediately adjacent and appurtenant to their Units which may be situated in whole or in part in the Common Areas; and (ii) any parking spaces licensed to the Owners which may be situated in the Common Areas.

H. The right of the Association to assign the right to Assessments, or the future income from those Assessments, or convey any fee interest or any security interest in any portion of the Common Areas upon the consent of the Class B Member (for so long as the Class B Membership exists) and of Class A Members entitled to exercise seventy-five percent (75%) of the voting power of the Association (unless a greater percentage of vote is required by the statutes of the State of Ohio). The Board of Directors, on behalf of the Association, has all powers necessary and appropriate to effect a conveyance or encumbrance permitted by this Section 4.3(H) including the power to execute a deed or other instrument of conveyance.

ARTICLE 5
EASEMENTS FOR ENCROACHMENTS

There shall exist reciprocal, appurtenant easements (i) as between the Common Areas and that portion of each Sublot situated immediately adjacent thereto, (ii) as between Sublots for the benefit of the Owners thereof and the Association for any encroachment due to the original construction or settling or shifting of any improvements thereon including any party wall, balcony, patio, garage pad or other shared common improvement, and (iii) as between Units or between Units and Common Areas and the maintenance, repair and reconstruction thereof. No easement shall exist as to any willful or unauthorized encroachment by an Owner.

ARTICLE 6
ACCESS, UTILITY AND OTHER EASEMENTS

6.1 Utility Easements. The Developer and the Association shall have the right and easement to install, operate, use, maintain, repair and replace or grant to any other person, utility or public authority the right to install, operate, use, maintain, repair or replace, in, on, over or under any portion of RiverSouth, including Sublots, Residences and Common Areas, any pipes, conduits, ducts, wires, facilities, television cables and equipment; and utility lines, equipment and meters and systems to provide or furnish electricity, telephone, television, cable and other communications, sanitary sewers and storm sewers, drainage, gas, water, energy of all types and utility services of all types to or for the benefit of one (1) or more Owners and/or the Association; and the Developer and the Association shall have the right and access to do all things reasonably necessary in connection therewith. There is hereby reserved in favor of the Developer and the Association the right (but not the obligation) to grant neighboring property owners easements for utility purposes so long as the granting of such easements does not overburden the utilities serving RiverSouth. It shall be expressly permissible for the Developer or the Association to grant to the providing utility company permission to construct and maintain the necessary poles and equipment, wires, circuits and conduits on, above, across and under the Sublots. Should any utility company furnishing a service request a specific easement by separate recordable document, the Developer or the Association shall have the right to grant such easement.

6.2 Access Easements. There is hereby created a non-exclusive easement upon, across, over and through all private roadways and driveways, sidewalks, walkways and parking areas within the Common Areas or upon any Sublot in favor of the Developer and the Association, all Owners and their respective guests, licensees and invitees for pedestrian and vehicular ingress and egress, as the case may be, to and from all of the various portions of RiverSouth. Notwithstanding the foregoing, the Developer and/or the Association may limit such right of ingress and egress. Subject to such additional rules and regulations as the Developer or Association may enact, each Owner shall have the perpetual right as an appurtenance to such Owner's Unit, to ingress and egress over, upon and across the private roadway and any common driveway and walkway for access to such Owner's Unit, including the exclusive right to use a licensed parking space and the portion of any driveway area immediately adjacent to such Owners' licensed parking space.

6.3 Installation and Repair Easements. Easements are hereby created in favor of the Developer, the Association, all Owners and their respective agents, contractors and employees upon such portions of the Common Areas and Sublots as may be reasonably necessary for access thereto in connection with the construction, installation, alteration, rebuilding, restoration, servicing, maintenance and repair of any Residence or other structures, mechanical equipment, balcony, systems and facilities, and improvements within RiverSouth, whether on any Sublot or the Common Area; provided, however, that in the exercise of any rights under this easement, there shall be no unreasonable interference with the use of any Residence, Sublot or other structure or improvement at RiverSouth. Any person benefitting from the foregoing easement shall indemnify and hold harmless the Developer, the Association and each Owner from and against any and all losses, damages, liabilities, claims and expenses resulting from any such construction, rebuilding,

alteration, restoration, and/or maintenance and shall repair any damage caused in connection with such activities to substantially the condition that existed prior to such activities.

6.4 Parking in Common Areas & Easement for Parking Each Owner shall have the right to park, and permit the parking of, vehicles in the designated Common Area parking, on a first-come, non-reserved basis, subject to such additional rules and regulations as the Developer or Association may enact, and provided such vehicles do not block or inhibit other Owners' rights of access to their Residences or licensed parking space as such right is granted in Section 6.2 herein. Exterior parking of motor vehicles shall be limited to those portions of the Common Areas improved and designated for such parking by the Developer or the Association, subject to the requirements of the City. The Developer and the Association reserve the right and easement to create additional off-street parking spaces to be situated within the Common Areas. Notwithstanding anything contained herein to the contrary, the Developer and Association shall have the right to lease and/or sell such Common Area parking spaces for the exclusive use of individual Owners.

6.5 Emergency and Service Easements. Fire, police, health, sanitation, medical, ambulance, utility company, mail service and other public or quasi-public emergency and service personnel and their vehicles shall have an easement for ingress and egress over and across the private roadways and driveways at RiverSouth; and, for pedestrian traffic only, over and across any sidewalks or walkways for the performance of their respective duties.

6.6 Easements for Community Signs. Easements are created over the Common Areas to install, maintain, repair, replace and illuminate signs that are for the general benefit of RiverSouth. The type, size and location of the signs shall be subject to the approval of the Developer and any architectural committee established by the Association and subject to the laws of the City and other governmental authorities having jurisdiction thereof.

6.7 Drainage Rights and Authority to Transfer Drainage and Other Easement Rights to the City.

A. The Developer, each Owner, the Association and the City shall have the non-exclusive right and easement in common to utilize storm detention or retention areas (if any), storm sewers and drainage pipes in, over and upon the Common Areas for the purposes of drainage of surface waters at RiverSouth, said right and easement being hereby established for said purpose. It shall be the obligation of the Association to properly maintain, repair, operate and control such drainage system on the Common Areas.

B. The Developer and, after transfer of the Common Areas, the Association shall have the right to grant easements for the installation and maintenance of sanitary sewers, storm sewers and drainage to the City or any other governmental authority having jurisdiction. No Owner shall in any way hinder or obstruct the operation or flow of any drainage system located on or serving

RiverSouth. No structures, plantings or other materials shall be placed or permitted to remain within such easement areas which may damage or interfere with the installation and/or maintenance of such improvements in such easement areas or which may change, retard or increase the flow of water through the respective areas. The easement areas and all improvements therein shall be maintained continuously by the Association unless those easement areas are dedicated to and accepted by the City or other governmental authorities having jurisdiction.

6.8 Easements Reserved to the Developer. So long as the Developer owns a fee simple interest in any portion of RiverSouth, the Developer reserves the right and easement for itself and its guests, invitees, agents, contractors, material suppliers and others performing work and furnishing materials to construct Residences and other improvements and to enter upon and have access to all portions of RiverSouth for the purpose of developing, showing, marketing, constructing, reconstructing, improving, repairing, maintaining, inspecting, selling or otherwise dealing with any portion of the Common Areas or any Sublot, Residence, Unit or other structures and improvements within RiverSouth. Included in the foregoing shall be the Developer's right to maintain (a) signage for the advertisement and sale of the Units; and (b) construction offices/trailers, model Units and sales offices. The Developer, its guests, licensees and invitees shall have an easement for access to all such facilities.

6.9 Support Easements. Cross easements for support and use of any common structural elements in favor of the Association and Owners and easements for structural support of any stairway and other means of access to Units through or from the Common Areas in favor of the Owners are hereby created, including for the continued access to and the continued use, benefit, enjoyment, support and service of the same, together with the right of maintenance, repair and replacement of said structural elements, stairways and other means of access.

6.10 Maintenance Easement. There is hereby reserved for the benefit of the Developer and the Association and their agents, employees, successors and assigns the right and easement to enter upon any Sublot for the purpose of maintaining, repairing, servicing and replacing any portion of a Residence, Sublot or the Common Areas which is the responsibility of the Association under this Declaration and for the purpose of fulfilling any other duty or responsibility of the Association. Any damage to the Common Areas, Sublot, or Residence due to that access is the responsibility of the Owner that caused the damage or the Association if the Association is responsible for the damage. That Owner, or the Association, is liable for the prompt repair of any damage and, if not repairable, for the value of the damaged property or item as it existed immediately prior to that damage.

6.11 Easements, Rights, Powers and Restrictions of Cleveland Metroparks. RiverSouth is encumbered by certain easements, rights, powers and restrictions in favor of Cleveland Metroparks as set forth in a certain Deed filed June 27, 1924 and recorded in Volume 3112, Page 206 – 208, of Cuyahoga County Records, and as thereafter amended pursuant to an Amendment of Easements, Rights, Powers and Restrictions filed December 15, 2014 and recorded as Instrument No. 201412150513 in the

Cuyahoga County Records ("Metroparks Amendment"). Pursuant to said Metroparks Amendment, the Developer, its successor and assigns, including any future owner of all or any part of the Abode Parcels (as defined therein) (including, but not limited to, the Association) indemnifies and agrees to hold harmless Cleveland Metroparks and its officers, directors, employees and agents with respect to any and all claims, suits, awards, expenses (including, but not limited to, attorneys' fees, costs and expenses and other costs of litigation), demands, damages, losses, costs, fines or liabilities of any kind (including those involving death, personal injury or property damage) arising from or in any way related to the following: (a) the breach or violation of any of the Restrictions by the owner of all or any part of the Abode Parcels (as defined therein), including but not limited to, the Proposed Development (as defined therein) and/or (b) the construction, maintenance, repair, replacement, use and/or development of any improvements or related appurtenances within the Setback Area (as defined therein).

6.12 Easements to Run with the Land. All easements and rights described herein are easements appurtenant to RiverSouth, including the Sublots, Residences, Units and Common Areas and shall run with said lands, perpetually and at all times shall inure to the benefit of and be binding upon the Developer, its successors and assigns, the Association and any Owner, tenant or mortgagee, the City and any other person having an interest therein.

6.13 Further Easements. The Developer and the Association each reserve the right to grant further rights and easements and to modify existing easements within, upon, over, under and across the Common Areas and any Sublot, which are for the benefit of the Owners and/or the Association. Each Owner, by acceptance of a deed to a Unit, hereby irrevocably appoints the Developer and the Association, as his, her or its attorney-in-fact, to execute, deliver, acknowledge and record, for and in the name of such Owner, such deeds of easement and other instruments as may be necessary or desirable, in the sole discretion of the Developer or the Association, to further establish or effectuate the foregoing easements. This power is for the benefit of each and every Owner, the Association, and the real estate to which it is applicable, runs with the land, is coupled with an interest, and is irrevocable.

ARTICLE 7
ASSESSMENTS

7.1 Definitions.

A. As used in this Declaration, "Common Costs" shall mean all of the costs and expenses incurred or which may be incurred by the Association in owning, maintaining, repairing, replacing, cleaning, improving, painting, preserving, upgrading, administering, managing and operating the Common Areas and all facilities and improvements thereon and any other property for which the Association is responsible hereunder and in managing the affairs of the Association and the exercise of its duties and obligations, including, without limitation:

i. All expenditures required to fulfill the responsibilities of the Association, including, but not limited to, expenditures relating to maintenance fees.

ii. All amounts incurred in collecting Assessments, including all legal and accounting fees.

iii. Interest, charges, and penalties for the late payment of Assessments; returned check charges; Enforcement Assessments for violations of this Declaration, the Code of Regulations, or the rules or regulations of RiverSouth or the Association (as provided in Section 7.2); and charges for damage to the Common Area or other property. The Board shall charge interest on any past due Assessment or installment at the rate established by the Board, not to exceed any maximum rate permitted by law.

iv. Reserves for uncollectible Assessments, unanticipated expenses, replacements, improvements, repair and replacement of major capital items in the normal course of operations, contingencies, whether capital or otherwise.

v. The cost of all insurance required to be obtained by the Association; the amount of all real estate taxes and assessments levied against the Common Areas; and the cost of all utilities and other services provided by or to the Association or the Common Areas.

vi. Such other costs, charges and expenses which the Association determines to be necessary and appropriate within the meaning and spirit of this Declaration; provided that any capital addition or improvement (other than repairs and replacements) with a cost in excess of Ten Thousand Dollars ($10,000.00) shall require the approval of the Class B Member (until such membership has ceased) and the majority of the Class A Members of the Association.

B. As used in this Declaration, "Assessments" shall mean a share of the Common Costs referred to in this Section 7.1 (*i.e.*, "General Assessments"), together with Individual Assessments, Enforcement Assessments, Special Assessments (each as hereinafter defined), and any other additional assessments, each as permitted herein or as permitted in the Code of Regulations or applicable law, levied by the Board of Directors of the Association from time to time, and required to be paid by an Owner.

7.2 Individual Lot Assessments & Enforcement Assessments.

A. The Board of Directors of the Association may assess an individual lot for any of the following ("Individual Assessment"):

i. Enforcement Assessments (as provided in Subsection B of this Section 7.2) and individual assessments for utility service that are imposed or levied in accordance with this Declaration, as well as expenses the Board incurs in collecting such Assessments.

ii. Costs of maintenance, repair, or replacement incurred due to the willful or negligent act of an Owner or occupant of a lot or their family, tenants, guests, or invitees, including, but not limited to, interest, penalties, administrative late fees, collection costs, attorneys' fees, paralegal fees, court costs, and any other damages or costs.

iii. Costs associated with the enforcement of this Declaration or the rules and regulations of the Association, including, but not limited to, interest, penalties, administrative late fees, collection costs, attorneys' fees, paralegal fees, court costs, and any other damages or costs shall be assessed to the Owner and the Unit with respect to which enforcement is sought.

iv. Costs or charges this Declaration, the Code of Regulations, or applicable law permit.

B. If an Owner fails to perform maintenance, repairs and replacements which are the Owner's obligation; to maintain insurance on such Owner's Unit as required hereunder; or to comply with the other provisions of this Declaration, and if the Board of Directors of the Association shall undertake to provide any repair or restoration, to obtain insurance or to cure any condition not permitted hereunder, the Board of Directors may levy an "Enforcement Assessment" against the Owner and the Unit for all amounts so expended. In addition, all costs incurred in the enforcement of any provisions of this Declaration against the Owner that remain unpaid ten (10) days after all or any part thereof has become due and payable, including, but not limited to, interest, penalties, administrative late fees, collection costs, attorneys' fees, paralegal fees, court costs, and any other damages or costs shall be assessed to the Owner and the Unit with respect to which enforcement is sought. The Board shall charge interest on any past due Assessment or installment at the rate established by the Board, not to exceed any maximum rate permitted by law. Prior to imposing a charge for damages or an Enforcement Assessment, the Association, through the

Board of Directors, shall comply with the notice and hearing requirements of Section 5312.11 of the Ohio Revised Code.

7.3 Responsibility for Payment of Assessments.

A. The Association, through the Developer (until the Developer ceases to own any Units or Sublots) or the Board of Directors, shall collect Assessments from Owners in accordance with Section 5312.10 of the Revised Code. All Owners shall be responsible for paying Assessments levied against the Units. The Developer or the Board of Directors of the Association shall prepare or cause to be prepared an annual operating budget for the Association for revenues and expenditures, including reserves in an amount adequate to repair and replace major capital items in the normal course of operations without the necessity of Special Assessments (unless the Members, exercising not less than sixty-six and two-thirds percent (66-2/3%) of the voting power of the Association, waive all or a portion of the reserve requirement annually or establish a line of credit or other credit facility that serves such purpose), and shall fix the amount of a General Assessment against the Units and the Owners thereof at least annually, to meet all Common Costs applicable to RiverSouth. The General Assessment shall be levied and apportioned annually on an equal basis against each Owner of a Unit (other than the Developer, except only as expressly provided herein). Written notice of the General Assessments shall be sent to the Owner of each Unit. Payment of Assessments may be required by the Developer or Board of Directors on a monthly, quarterly, semi-annual or annual basis. The Developer shall pay Assessments only on Units which are completed and which the Developer maintains as model homes; provided that the Developer shall not be required to pay any portion of the Assessment representing the funding of a reserve.

B. During the Start-Up Period, the Developer shall determine the Assessments to be paid by the Owners and the Developer shall pay all Common Costs which are not covered by General Assessments payable by the Owners of Units as set forth above (provided that the Developer shall be reimbursed by the Association for all Common Costs paid by the Developer pursuant to Section 11.5 below). The Developer's obligation may be satisfied in the form of a cash subsidy or by "in kind" contributions of services or materials, or a combination of both. However, the Developer shall have no liability for Assessments (except as expressly provided in Subsection A of this Section 7.3). The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contributions of services or materials or a combination of services and materials with the Developer or other entities

for the payment of some portion of the Common Costs during the Start-Up Period. A mortgage holder acquiring title to all or any portion of RiverSouth as a result of: (i) a foreclosure sale; or (ii) a deed in lieu of foreclosure, shall not be responsible for the Developer's obligation for payment of the Common Costs which are not covered by the Assessments payable by Owners of Units during the Start-Up Period. After the Start-Up Period, the amount of Assessments attributable to the Units shall be established by the Board of Directors of the Association as of January 1st of each calendar year, and each Owner shall pay his proportionate share thereof as provided above.

7.4 No Exemption for Non-Use of Facilities; No Refund of Reserves. An Owner otherwise exempt from Assessments may not be exempt from liability for Assessments levied against such Owner's Unit by waiver of the use of the Common Areas that are owned and/or operated by the Association. Furthermore, no Owner shall be entitled to any portion of the funds held for reserves; nor shall any Owner have a claim against the Association with respect thereto.

7.5 Creation of Lien and Personal Obligation. Each Owner hereby covenants and agrees by acceptance of a deed to a Unit, whether or not it shall be so expressed in any such deed or other conveyance, to pay to the Association all Assessments levied against such Owner in accordance with this Declaration on or before the due date of any such Assessment. In the event that the Assessment is not paid within thirty (30) days after the same shall become due, then such Assessment shall be "delinquent" and the Assessment, together with interest, penalties, administrative late fees, collection costs, attorneys' fees, paralegal fees, court costs, and any other damages or costs, shall, upon "perfection," as provided in Section 8.1, become a continuing lien upon the Unit of such Owner and shall remain the personal obligation of such Owner and shall bind such Owner, his heirs, devisees, personal representatives, successors and assigns. A Co-Owner (as hereinafter defined) of a Unit shall be personally liable, jointly and severally, with all other Co-Owners for all Assessments made by the Association with respect to said Unit.

7.6 Non-Liability of Foreclosure Sale Purchaser for Past-Due Assessments. When the mortgagee of a first mortgage of record acquires a Unit as a result of foreclosure of the mortgage or acceptance of a deed in lieu of foreclosure, such mortgagee, its successors and assigns shall not be liable for the Assessments levied against the Owner of such Unit prior to the acquisition of the Unit. The Owner of a Unit prior to the judicial sale thereof shall be and remain personally liable, jointly and severally, for the Assessments accruing against the judicially sold Unit prior to the date of the judicial sale as provided in Section 8.6, but any unpaid part of the Assessment shall be deemed Common Costs and levied against all of the Owners, including the Owner of the Unit foreclosed, his successors or assigns, at the time of the first Assessment next following the acquisition of title by such mortgagee.

7.7 Liability for Assessments on Voluntary Conveyance. Upon the voluntary conveyance of a Unit, the grantee of the Unit shall be jointly and severally liable with the grantor for all unpaid Assessments levied pursuant to this Declaration against the grantor of the Unit prior to the time of the

grantor's conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such prospective grantee, upon written request delivered to the Association, shall be entitled to a statement from the Board of Directors or an officer of the Association setting forth the amount of all unpaid Assessments (including all interest, penalties, collection charges, attorney fees and Enforcement Assessments) due the Association with respect to the Unit to be conveyed and such grantee shall not be liable for, nor shall the Unit conveyed be subject to a lien, for any unpaid Assessments which become due prior to the date of the making of such request if the same are not set forth in such statement. A devise of a Unit or the distribution of said Unit pursuant to the statute of descent and distribution shall be deemed to be a voluntary conveyance.

7.8 Special Assessments. If the Assessments shall for any reason prove to be insufficient to cover the actual expenses incurred by the Association, the Association may, at such time as it deems it necessary and proper, levy a special assessment (the "Special Assessment") against the Owners of Units. Each such Owner shall pay its proportionate share of each such Special Assessment as if the Special Assessment were part of the original Assessment, determined as provided in Section 7.3.

7.9 Statement of Unpaid Assessments. Statements with respect to the existence and amount of unpaid liens and assessments shall be provided by the Association to any prospective purchaser or mortgagee of a Unit upon request.

7.10 Exempt Property. The following property shall be exempted from the Assessments and liens created herein:

A. All property to the extent of any easement or other interest therein dedicated to and accepted by the local public authority and devoted to public use.

B. The Common Areas as defined herein.

C. All property and Units exempted from taxation by the laws of the State of Ohio upon terms and to the extent of such legal exemption.

D. Units owned by the Developer (except as expressly provided otherwise in Subsection 7.3.A.).

ARTICLE 8
LIENS

8.1 Perfection of Lien. If any Owner shall fail to pay an Assessment in accordance with this Declaration (such Owner hereinafter referred to as the "Delinquent Owner") when due and such Assessment is delinquent, or if an Owner shall violate any rule or breach any restriction, covenant or provision contained in this Declaration or in the Code of Regulations (a "Violating Owner"), the Board of Directors of the Association may authorize the perfection of a lien on the Unit of the Delinquent Owner and/or Violating

Owner by filing for record with the Recorder of Cuyahoga County a "Certificate of Lien." The Certificate of Lien shall be in recordable form and shall include the following:

A. The name of the Delinquent Owner and/or Violating Owner.

B. A description of the Unit of the Delinquent Owner and/or Violating Owner.

C. The entire amount claimed for the delinquency and/or violation, including interest thereon and costs of collection.

D. A statement referring to the provisions of this Declaration authorizing the Certificate of Lien.

8.2 Duration of Lien. Said lien shall remain valid for a period of five (5) years from the date of filing of said Certificate of Lien, unless sooner released or satisfied in the same manner provided by law for the release or satisfaction of mortgages on real property, or discharged by a final judgment or order of a court in action to discharge such lien. A lien may be renewed by the subsequent filing of a Certificate of Lien prior to the expiration of the five (5) year period referred to above.

8.3 Priority. A lien perfected under this Article 8 shall take priority over any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments and liens of first mortgagees against Units. A lien perfected pursuant to this Article 8 may be foreclosed in the same manner as a mortgage on real property in an action brought by the Association after authorization from the Board of Directors. Any funds received at the judicial sale of the Delinquent Owner's and/or Violating Owner's Unit in excess of superior liens, court costs and the taxes and assessments liens shall be paid over to the the Association to the extent of its lien.

8.4 Dispute as to Assessment. Any Owner who believes that an Assessment or the amount of an Assessment levied by the Association against him for which a Certificate of Lien has been filed by the Association has been improperly determined, may bring an action under the arbitration provisions contained in Section 15.11 of this Declaration for the discharge of all or any portion of such lien; but the lien shall continue until the actual amount of the lien so determined is paid in full or otherwise fully discharged.

8.5 No Wavier Implied. The creation of a lien upon a Unit owned by a Delinquent Owner and/or Violating Owner shall not waive, preclude or prejudice the Association from pursuing any and all other remedies granted to it elsewhere in this Declaration or under applicable law or equity.

8.6 Personal Obligations. The obligations created pursuant to this Article 8 shall be and remain the personal obligations of the Delinquent Owner and/or Violating Owner, until fully paid, discharged or abated and shall be binding on the heirs, personal representatives, successors and assigns of such Delinquent Owner and/or Violating Owner.

8.7 Characteristics and Foreclosure of Lien. All of the following apply to a lien charged against a Unit pursuant to this section:

A. The lien is effective on the date that a Certificate of Lien is filed for record in the office of the Recorder of Cuyahoga County, pursuant to authorization by the Board of Directors of the Association. It shall be subscribed to by the President of the Board or other designated representative of the Association.

B. The lien is a continuing lien upon the Unit against which each Assessment or charge is made, subject to automatic subsequent adjustments reflecting any additional unpaid interest, penalties, administrative late fees, enforcement assessments, collection costs, attorney's fees, paralegal fees, and court costs.

C. In any foreclosure action that the holder of a lien commences, the holder shall name the Association as a defendant in the action. The Association or the holder of the lien is entitled to the appointment of a receiver to collect rental payments due on the property. Any rental payment a receiver collects during the pendency of the foreclosure action shall be applied first to the payment of the portion of the Common Costs chargeable to the Unit during the foreclosure action.

D. The Association or an agent authorized by the Board is entitled to become a purchaser at the foreclosure sale.

E. A mortgage on a Unit may contain a provision that secures the mortgagee's advances for the payment of the portion of the Common Costs chargeable against the Unit upon which the mortgagee holds the mortgage.

ARTICLE 9
REMEDIES OF THE ASSOCIATION

9.1 Denial of Voting Rights. If any Owner fails to pay an Assessment when due, such Owner shall not be entitled to vote on Association matters until said Assessment is paid in full.

9.2 Specific Remedies. The violation of any rule, or the breach of any restriction, covenant or provision contained in this Declaration, the Code of Regulations, the rules of the Association or applicable law shall give the Association and the Developer the right, in addition to all other rights set forth herein, provided under Chapter 5312 of the Ohio Planned Community Law, or otherwise provided by law, (a) to enter upon the Unit or Sublot or portion thereof upon which, or as to which, such violation or breach exists, and summarily abate and remove, at the expense of the Owner of such Unit where the violation or breach exists, any structure, thing or condition that may exist thereon, which is contrary to the intent and meaning of

this Declaration, the Code of Regulations, the rules of the Association or applicable law and the Association or its designated agent shall not thereby be deemed guilty in any manner of trespass; (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any beach; (c) to commence and prosecute an action for specific performance or an action for injunctive relief or to recover any damages which may have been sustained by the Developer, the Association or any of its Members; and/or (d) to collect interest, penalties, administrative late fees, collection costs, attorneys' fees, paralegal fees, and court costs incurred in connection with the exercise by the Developer and/or the Association of any remedies hereunder. Any action brought by or on behalf of the Association shall be pursuant to authority granted by the Board of Directors of the Association.

9.3 Costs of Collection. If any Owner fails to pay any Assessment when due or upon delinquency in the payment of any sums or costs due under this Declaration, the Association may pursue any or all of the following remedies, which remedies shall be in addition to any other remedy available in this Declaration, or at law or in equity:

A. Sue and collect from such Owner the amount due and payable, together with interest thereon and costs of collection.

B. In addition to the amount referred to in Subsection 9.3.A. above, the Association may assess against such Owner an administrative fee, not to exceed ten percent (10%) of the amount of the delinquency or One Hundred Dollars ($100.00), whichever amount is greater, said amount to be determined by the Board of Directors of the Association; provided, however, in no event shall said amount by itself, when calculated at an annual percentage rate of interest on the delinquency, exceed the equivalent of the highest interest rate chargeable to individuals under applicable law. Said administrative fee shall be in addition to interest charges assessed by the Association, penalties, and the expenses of collection incurred by the Association, such as attorneys' fees, court costs and filing fees. Interest and penalties may be charged by the Association at any rate determined by the Association, in its sole discretion, provided that the interest rate shall not exceed the equivalent of the highest interest rate chargeable to individuals under applicable law.

C. Foreclose a lien filed in accordance with Article 8 of this Declaration in the same manner as provided by the laws of the State of Ohio for the foreclosure of real estate mortgages.

9.4 Binding Effect. The remedies available in this Article 9 against a Delinquent Owner and/or Violating Owner may also be pursued against the heirs, executors, administrators, successors and assigns and grantees of such Owner, except as specifically otherwise provided in this Declaration.

ARTICLE 10
RESPONSIBILITIES OF THE ASSOCIATION AND THE OWNERS

10.1 Responsibilities of the Association. The Association shall have the exclusive duty to perform the following functions, together with any other function not required to be performed by the City or other governmental agency:

A. Maintenance.

i. Except as otherwise provided in this Declaration, the Association shall maintain, repair and replace the entire Common Areas, including, but not limited to, any streets, pavement and all facilities and improvements, if any, located thereon, and any areas dedicated for public use which the City is not required to maintain in a clean, safe, neat, healthy and workable condition and in good repair. The Association shall also keep the driveways to the Sublots and Residences and front walkways (excluding steps) in good condition and repair and free from unreasonable accumulations of ice and snow.

ii. The Association shall keep, maintain in good condition, repair and replace, if necessary, all sanitary sewers, storm sewers and all other utility lines, pipes, conduits, wires and cables located within the Sublots and/or Common Areas and outside a Residence (except as otherwise expressly provided by this Declaration), including, without limitation, all electrical, gas and water lines, pipes, conduits, wires and/or cables, and excepting therefrom any of the same installed by an Owner. The Association shall continuously maintain all portions of the permanent drainage and soil erosion systems, including on-site and off-site storage facilities that are constructed by the Developer, in perpetuity and in accordance with City of Fairview Park, Ohio Codified Ordinances.

iii. The Association shall maintain or repair, if necessary, any electrical or gas street lights and/or posts installed by the Developer or the Association located in the Common Areas or upon the Sublots.

iv. The Association shall maintain, including, without limitation, fertilizing, cutting and pruning, as necessary, lawns on any Sublot, including Common Area trees, shrubs and landscaping installed by the Developer or the Association, but excluding any landscaping or gardening installed on the Sublot by the Owner, except if the

Association has agreed in writing with the Owner to maintain such gardening and landscaping.

v. The Association shall maintain, repair and replace, if necessary, the mailboxes for the Residences and any supports thereof.

vi. The Association shall provide equipment and supplies necessary for the maintenance of the Common Areas, and the facilities, if any, located thereon and any other property which the Association is required or has agreed to maintain from time to time.

vii. In the case of damage or destruction to any of the facilities located on any Common Areas, the Association shall restore as promptly as possible such facilities to a condition at least equal to the condition in which they existed prior to the damage or destruction unless the cost of such repair or restoration is fifty percent (50%) or more of the replacement value thereof and the loss is not covered by insurance. If the Developer is no longer a Member of the Association and sixty-six and two-thirds percent (66-2/3%) of the Class A Members affirmatively vote not to rebuild or restore such damaged facilities, such facilities need not be replaced. All work performed by the Association under this Subsection shall be performed in a good and workmanlike manner.

B. Liability of the Association. Except to the extent of any insurance proceeds payable in respect thereof, the Association, Developer and their agents and employees shall not be liable for, and each Owner waives all claims for injury or death to persons or loss or damage to property, or any consequential or incidental damage or loss resulting from any accident or occurrence in, on or upon the Residence, Sublot, Common Areas, or any other part of RiverSouth. Neither the Association nor the Developer shall be liable for any permanent or temporary interruption or termination of utility services.

C. Taxes and Assessments. The Association shall pay prior to delinquency all taxes and assessments levied against the Common Areas, and any facilities constructed thereon, and any other property which the Association may own, including, without limitation, personal property taxes, and general real estate taxes and assessments certified by the appropriate public authority. Prior to the conveyance of the Common Areas to the Association, the Association shall reimburse the Developer, upon its request, for all such taxes and assessments on Common Areas, prorated and allocated in the

Developer's reasonable discretion for any period after the filing of this Declaration, subject to the terms of this Declaration.

D. Utilities. The Association shall pay all charges, if any, for water, gas, sewer, electricity, light, heat or power, telephone and other services used, rented or supplied to or in connection with the Common Areas and any facilities constructed thereon and any other property owned by the Association. All such utility services shall be contracted for, metered and billed by and to the Association. The Association shall maintain, repair and replace the sprinkler and irrigation systems (if any) in the Common Areas and on the Sublots and shall be responsible for watering the Sublots and Common Areas.

E. Insurance. Not later than the time of the first conveyance of a Sublot to an Owner other than Developer, the Association shall, to the extent reasonably available and applicable, obtain and keep in full force and effect the following insurance:

i. Special Form (all risk) insurance, insuring the Common Areas and buildings owned by the Association, if any, in an amount equal to the full replacement cost thereof. Such insurance may have a deductible clause in an amount not exceeding Five Thousand Dollars ($5,000.00); or if the property has a value of less than One Thousand Dollars ($1,000.00), the Association shall not be required to maintain insurance on it. Prior to the end of the Start-Up Period, the insurance procured under this Subsection shall name the Developer as an insured or additional insured, as applicable, if and to the extent any such Common Areas are owned by Developer.

ii. General public liability insurance insuring the Association, the members of the Board and the Owners against claims for bodily injury, illness or death and for injury to or destruction of property occurring upon, in or about, or arising from or related to, the Common Areas, and any facilities located thereon and any other property owned, controlled or maintained by the Association (if any), with contractual liability and "personal injury" coverage, such insurance to afford protection to the limit of not less than Two Million Dollars ($2,000,000.00) single limit as respects to bodily injury, illness and death or damage to or destruction of property and a single limit of not less than Two Hundred Thousand Dollars ($200,000.00) in respect of property damage. The insurance

procured under this Subsection shall name the Developer as an additional insured. All liability insurance shall contain cross-liability endorsements to cover liabilities of the Owners as a group, jointly and severally. In the event the insurance effected by the Association on behalf of the Owners against liability for personal injury or property damage arising from or relating to the Common Areas shall, for any reason, not fully cover any such liability, the amount of any deficit shall be a Common Cost to the Owners.

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

iv. Directors' and officers' liability insurance.

v. The Association may, but shall not be obligated to, obtain and maintain (a) such additional and other insurance as it deems desirable; and (b) a fidelity bond indemnifying the Association, the Board and the Owners for loss of funds resulting from fraudulent or dishonest acts of any employee of the Association or of any other person handling the funds of the Association, the Board or the Owners in such amount as the Board shall deem desirable. The premium for any such bond shall be a Common Cost.

vi. All policies of insurance for the Association shall be written by a company licensed to do business in Ohio and with a rating of A-, or better, as established by A.M. Best Company, if reasonably available, or, if not available, the most nearly equivalent rating.

F. Management. The Association shall provide the management and supervision for the operation of the Common Areas and the facilities, if any, located thereon. The Association shall establish and maintain such policies, programs and procedures to fully implement this Declaration for the purposes intended and for the benefit of the Members and may (but shall not be required to) adopt rules for the conduct of Members in connection with the use of Common Areas and the facilities located thereon. The Association may, but shall not be required to, engage employees or agents, including, without limitation, attorneys, accountants, consultants, maintenance firms and contractors, or delegate all or any portion of its authority and responsibility to a manager, managing agent or management company, including the Developer or a related entity at reasonable compensation.

G. Construction of Facilities. The Association may authorize the construction, alteration, renovation, modification or reconstruction of any facilities located on the Common Areas.

H. Enforcement. The Association shall take all actions reasonably necessary under the circumstances to enforce the easements, covenants and restrictions set forth in this Declaration.

I. General. The Association shall perform and carry-out all other duties and acts reasonably necessary to give effect to and implement the intent of the provisions of this Declaration.

10.2 Responsibilities of the Owners. The Owners shall have the duty to perform the following functions:

A. Maintenance.

i. Each Owner shall keep such Owner's Residence in good condition and repair and shall keep the exterior and interior of such Residence and the Owner's Sublot and adjacent Common Areas free from debris, rubbish, rubble and other unsightly conditions created by such Owner. Each Owner shall make all repairs and replacements, structural and non-structural, ordinary as well as extraordinary, interior and exterior, to the Residence and its components (including any exterior heating and air-conditioning units located on the Sublot and exclusively servicing the Unit), except to the extent expressly made the responsibility of the Association hereunder. All windows, glass and doors, including hardware and other appurtenances thereof, shall be repaired, maintained and replaced, if necessary, by the Owners of the Residences. In addition, each Owner shall make all repairs and replacements necessitated by fire or other casualty which is insured or insurable substantially to the same appearance and condition as existed prior to such damage, even if the Association would otherwise be responsible for such maintenance and repair.

ii. Each Owner of a Residence shall maintain and keep all flowers, plants, shrubs, trees and landscaping planted by them on their Sublot in an attractive condition.

iii. Each Owner shall replace light bulbs in any light fixtures affixed to the exterior of their Residence promptly as required.

iv. Each Owner shall repair, maintain and replace, if necessary, all garage doors located on their Sublot.

v. Each Owner shall be responsible to make all repairs and replacements which would otherwise be the responsibility of the Association or any other Owners, if the repairs or replacements are required because of the acts or negligence of the Owner or the Owner's occupants or guests.

vi. Each Owner shall repair, maintain and replace, if necessary, (a) any utilities exclusively serving such Owner's Residence located within the Residence; and (b) their Residence's patio or deck and support thereof, front door steps and canopies, if any.

vii. Each Owner shall acknowledge in writing prior to Closing receipt of the DECLARATION OF RESTRICTIONS, COVENANTS, EASEMENTS AND CONDITIONS OF RIVER SOUTH HOMEOWNERS ASSOCIATION, INC., including any amendments thereto.

B. Taxes and Assessments. Each Owner shall pay prior to delinquency all taxes and assessments against such Owner's Unit.

C. Utilities. Each Owner shall pay all charges for water, gas, sewer, electricity, light, heat, power, telephone and other services used, rendered or supplied to or in connection with such Owner's Unit, including, without limitation, the charges for electricity used in any light fixture affixed to the exterior of such Owner's Residence.

D. Insurance. Each Owner shall maintain and keep in full force and effect the following insurance:

i. Each Owner shall maintain adequate liability insurance covering such Owner's Sublot and Residence.

ii. Each Owner shall maintain Special Form (all risk) insurance coverage on such Owner's Residence, in the amount of the full replacement cost of such Residence, such policy to have an agreed amount endorsement to avoid a co-insurance penalty and coverage for party wall damage pursuant to Section 12.3(B). Such insurance may have a deductible clause in a reasonable amount (One Thousand Dollars ($1,000.00) to be considered a reasonable

amount at the time this Declaration is filed for record) and may exclude excavation and foundation costs.

iii. Each Owner shall maintain hazard insurance on such Owner's contents and personal property as such Owner shall desire.

iv. Each Owner shall, on an annual basis, or upon written request, provide the Board with a certificate of insurance evidencing such Owner's compliance with the insurance requirements of this Section.

E. Compliance with Governmental Requirements. Each Owner and occupant shall comply with City (as applicable) and other governmental requirements. A violation of any such requirements or any restriction, condition or covenant imposed now or hereafter by the provisions of this Declaration is a nuisance *per se* that can be abated by the Association, the Developer or such governmental authority.

10.3 Standards for Maintenance and Repair. All maintenance, repair and replacement required under this Declaration shall be done in a good and workmanlike manner and in accordance with all federal, state and local laws, statutes, ordinances, codes and regulations. Any replacements required shall be of the same quality, kind and type of the item being replaced. All repairs and maintenance shall be done promptly to maintain the value of the property within RiverSouth.

10.4 No City Services. Notwithstanding anything contained herein to the contrary, the City will not provide any services, such as snow removal, sewer cleaning or services, road or sidewalk repairs, garbage collection, or any other services to RiverSouth and all such services are therefore to be provided privately by the Association and the Owners shall be assessed for such services pursuant to Article 7 hereof.

ARTICLE 11
RIGHTS OF DECLARANT

11.1 General Powers. Until the Developer ceases to own any Units or Sublots, the Developer shall have the right, but shall not be required, to exercise all or any of the powers, rights, duties and functions of the Association (directly or through its appointed Directors), including, without limitation, the right to enter into a management contract with any person whether owned or controlled or affiliated with the Developer or any person associated with the Developer; the right to obtain insurance under a blanket policy (if any) covering other persons or locations; the right to dedicate portions of RiverSouth and facilities to the City (as applicable) and to grant easements to the City (as applicable) and utility companies; the right to perform each duty and obligation of the Association as set forth herein; the right to adopt rules; the right to determine and collect Assessments; the right to disburse Assessments for payment of Common Costs; and

the right to collect Assessments, including the right to institute litigation and to obtain a lien (and to foreclose said lien) on a Unit for unpaid Assessments in the manner and to the extent granted to the Association as herein provided. During such time, the Directors named in or pursuant to the Articles of Incorporation (or their successors appointed by the Developer from time to time) and/or Code of Regulations shall constitute all or a majority of the Board of Directors of the Association. The Developer need not open books and accounts in the name of the Association but may operate through its own accounts and books.

11.2 Modification of Development. Until the Developer ceases to own any Units or Sublots, the Developer shall have the right to modify the design or structure of any of the Residences or buildings at RiverSouth or authorize others to build upon the property, including, without limitation, elevations, finish materials, style, roof lines and pitches, the inclusion or exclusion of basements and the size and location of the Residences and the Sublots without the approval of the Association, Members, and/or Owners. The Developer shall also have the right to eliminate, modify or convert any portion of the Common Areas in connection with any reconfiguration, replatting or other modification of RiverSouth and to create additional Sublots, Units and/or structures, to amend and modify the Plat and increase or decrease the number of Units or buildings, and/or to make any other alterations and/or improvements to the Common Areas, for any reason, without the approval of the Association, Members, and/or Owners.

11.3 Additional Property. Until the Developer ceases to own at least one (1) Unit or Sublot in RiverSouth, the Developer may, from time to time, add Additional Property to RiverSouth as provided in Section 2.2.

11.4 Development. Until the Developer ceases to own any Units or Sublots, the Developer reserves the right to perform or cause to be performed such work as is incident to the completion of the development and improvement of RiverSouth, notwithstanding any covenant, easement, restriction or provision of this Declaration or its Exhibits which may be to the contrary. Notwithstanding the foregoing, the Developer shall not be obligated to construct all proposed fifteen (15) Units at RiverSouth.

11.5 Reimbursement of Common Costs. To the extent Developer elects or is required to pay any Common Costs of the Association during the Start-Up Period as set forth in Section 7.3(B), Developer shall be reimbursed by the Association for all such Common Costs upon demand by the Developer whether said demand is made during or after the expiration of the Start-Up Period. Developer's obligation to pay any Common Costs of the Association under this Declaration shall cease immediately upon expiration of the Start-Up Period irrespective of the date upon which such Common Costs were incurred and/or accrued. To the extent Developer collects payment from any Owner (i) after the expiration of the Start-Up Period, for Assessments due and owing to the Association or (ii) during the Start-Up Period, for Assessments due and owing to the Association after the expiration of the Start-Up Period, Developer shall deposit such payments into the Association's operating account, and shall have no further liability to the Association for such payments.

ARTICLE 12
PARTY WALLS

12.1 Use. The acceptance and use of party walls shall be governed by the following provisions:

A. Every Owner who shall accept or receive any instrument of conveyance of a Unit, by reason of their acceptance of title, shall be deemed to have accepted the party wall covenants set forth in this Article.

B. Each wall which is built as a part of the original construction of a Residence and forming a common wall or boundary between two (2) Residences (and any replacement thereof) and/or Sublots shall constitute a party wall; and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and of liability for property damage due to negligent or willful acts or omissions shall apply thereto.

C. Each Owner sharing a party wall shall have the right to use it jointly and shall be equally responsible for all interior maintenance and repair to such party wall. The term "use" shall and does include normal interior usage such as paneling, wiring, piping and normal interior wall usages (but not in such a manner as to detrimentally and materially affect the use by the other party), plastering, painting, decorating, erection of tangent walls and shelving, hanging of mirrors and artwork; but shall not and does not include any form of alteration which would cause an aperture, hole, conduit, break or other displacement of the original materials forming the other side of the party wall or which is not consistent with the foregoing.

12.2 Modification of Party Wall. The modification of any party wall shall be governed by the following provisions:

A. Neither Owner of a Residence sharing a party wall may extend or increase the height or length of the party wall except upon the written approval of the other Owner and holders of any mortgages on both Residences. No such extension or increase in height may be made which impairs the strength or injures the existing wall or the foundations of the building. No such extension may be made above the roof line of the building without the prior written approval of the other Owner and the Developer, so long as the Developer is a member of the Association or, thereafter, the Board of Directors of the Association.

B. In the event of such extension or increase in the height of the wall, the other Owner shall have the right to use the extended or heightened part of the

wall by paying to the constructing party one-half (1/2) of the cost of such part of the wall as such Owner shall use.

C. Any extension or increased height of the wall shall be a party wall, become part of the existing wall and be subject to the terms hereof.

12.3 Damage and Insurance. The maintenance, repair and insurance of party walls shall be governed by the following provisions:

A. In the event of damage or destruction of a party wall from any cause whatsoever, other than the negligence or willful misconduct of either Owner sharing the party wall, the Owners sharing the party wall shall, at their own expense, repair or rebuild said wall, and each Owner shall have the right to full use as herein contained of said wall so repaired or rebuilt. If either Owner's (or their family's, guests', invitees', licensees' or lessees') negligence or willful misconduct causes damage or destruction of said wall, such Owner shall bear the entire cost of repair or reconstruction. If either Owner shall refuse to pay such Owner's share, or all of such cost in the case of negligence or willful misconduct, the other Owner shall have such wall repaired or reconstructed and shall be entitled to a lien on the Residence of the Owner so failing to pay for the amount of such defaulting Owner's share of the repair or replacement costs. If either or both Owners shall give a mortgage upon such Owner's Residence, then the mortgagee shall have the full right to exercise the rights of its mortgagor as a party hereunder; and, in addition, the right to add to the outstanding balance of such mortgage any amounts paid by the mortgagee for repairs hereunder and not reimbursed to said mortgagee by its mortgagor.

B. Each Owner sharing a party wall shall obtain special form insurance on such Owner's Residence which at all times shall be in an amount equal to the replacement cost of said Residence, such policy to provide coverage for any damage to the party wall.

C. All repairs or rebuilding shall be in accordance with the plans and specifications of a registered architect or engineer and in conformity with the applicable building codes.

12.4 Access. The rights of access to party walls shall be governed by the following provisions:

A. In the event repairs or reconstruction shall be necessary, all necessary entries into the adjacent Residence or onto the adjacent Sublot shall not be deemed a trespass so long as the repairs and reconstruction shall be done

in a reasonable and workmanlike manner, and consent is hereby given to enter at reasonable times adjacent property to make any necessary repairs and reconstruction. The party entering the adjoining Residence or Sublot shall be liable for all damages arising from the entering party's (or its agent's, contractors' or employees') entry upon said adjoining Residence or Sublot.

B. Each Owner is licensed by the other to enter into the other's Residence or upon the other's Sublot to make repairs or rebuild the wall at reasonable times, upon prior notice and taking all necessary precautions so as to avoid damage to the other Residence and Sublot. The entering Owner shall be liable for all such damage.

12.5 Other Use. Each Owner sharing a party wall shall have the full right to use the party wall for the support beams and structural materials or in any other lawful manner not prohibited hereby; provided, however, that such use shall not injure, impair the strength of or endanger the wall, foundation or other portion of the Residence of the other Owner, and shall not impair or endanger the party wall benefits and supports to which the adjoining Residence is entitled. All further use shall be subject to the terms of this Article.

ARTICLE 13
RESTRICTIONS ON CHANGE OF EXTERIOR OF HOMES – COMMON AREAS

13.1 Restrictions on Change of Exterior of Residences. No Owner shall make any change in the exterior walls, roof (including rooftop deck), or exterior appearance of any Residence or in the landscaping adjacent to a Residence without first obtaining the prior consent of the Developer or the Board of Directors of the Association (after the Developer ceases to own any interest in RiverSouth); provided, however, that nothing herein shall prevent or prohibit an Owner from planting flowers, plants or small shrubbery within three (3) feet of the exterior of such Owner's Residence without obtaining such approval. An Owner shall not place on such Owner's Sublot any satellite dish, swing set, outdoor furniture, or other installations unless in accordance with rules which may be adopted by the Developer or the Board of Directors of the Association, or unless the Developer or the Board determines that such installation does not (a) adversely affect RiverSouth; (b) create a safety or nuisance hazard; and (c) have an unsightly appearance; provided, however, that nothing herein shall prevent or prohibit an Owner from placing a gas grill on the rooftop deck of such Owner's Residence as long as such Owner complies with the rules, if any, adopted by the Developer or the Board of Directors of the Association in connection therewith, and with all applicable City codes and regulations. The Developer shall have all the rights of approval or consent herein provided to the Developer or the Board so long as the Developer is a Member of the Association and thereafter, the Board shall assume such rights of approval or consent. Notwithstanding the foregoing, the Board shall not impose any restriction on satellite dishes that is inconsistent with applicable federal laws and regulations.

13.2 Restrictions on Change of Lots or Common Areas. No Owner shall construct any building or structure, make any installation or, in any manner, change any portion of his Sublot or the Common Areas, without the prior consent of the Developer (while the Developer is a Member of the Association) or the Board of Directors (after the Developer ceases to be a Member of the Association); provided, however, that the Developer shall have the right to build other buildings and structures, make installations in, and change or modify any part of the Common Areas or Sublots, for any reason, in Developer's sole discretion as long as the Developer is a Member of the Association.

ARTICLE 14
COVENANTS, CONDITIONS AND RESTRICTIONS

14.1 Covenant of Good Maintenance. Each Owner shall keep and maintain his Sublot and any improvements, buildings and structures thereon in a clean and safe condition, in good order and repair, attractive looking and neat, in accordance with applicable building, fire and health codes; and in a manner and with such frequency as is consistent with good property management, subject to the responsibilities of the Association as provided in this Declaration.

14.2 Temporary Structures. No temporary building, trailer, tent, recreation apparatuses (basketball hoops, etc.), recreation vehicle, shack, garage, barn or other outbuilding or similar structure shall be constructed or maintained, temporarily or permanently, on any part of RiverSouth at any time; provided, however, that the Developer shall have the right to construct and maintain any such temporary structure for use in connection with the development of RiverSouth or the sale of Units.

14.3 Vehicles. No boat, truck, airplane, junk car, unlicensed vehicle or recreational vehicle camper, camper trailer, boat trailer, all-terrain vehicle, snowmobile, commercial vehicle, tractor, bus, farm equipment or off-road vehicles shall be parked on any part of RiverSouth except within the confines of a garage, except that a boat, truck, trailer or recreational vehicle may be parked within the appurtenant entrance driveway of a Residence for the limited purpose of loading or unloading the same in an expeditious manner. In no event shall any vehicle or personal property of any kind be parked in any common drive, unless authorized in advance in writing by the Board. Licensed automobiles in working condition may be parked in the confines of a Residence's garage, in the appurtenant entrance driveway of a Residence and in the parking areas, if any, designated by the Board.

14.4 Fences, Walls, Hedges, Etc. Fences, walls, trees, hedges and shrub plantings permitted hereunder shall be maintained in a sightly and attractive manner. No such fence, wall, tree, hedge or shrub planting shall be placed or maintained in such manner as to obstruct the right-of-way sight lines for vehicular traffic.

14.5 Offensive Activities. No noxious or offensive activity shall be conducted upon any portion of RiverSouth (including the Sublots situated thereon), or upon the Common Areas, nor shall any be used in any way or for any purpose which may endanger the health of or unreasonably disturbed any occupant. The Board shall have absolute power to determine what is "reasonable" and "unreasonable" under this Section.

14.6 Animals. Except as hereinafter provided, no animals, livestock, reptiles or poultry of any kind shall be raised, bred or kept in any Residence or on the Sublots or Common Areas. Notwithstanding the foregoing, household domestic pets, not bred or maintained for commercial purposes, may be maintained in any Residence, provided that:

A. No more than two (2) pets may be maintained in any Residence.

B. The maintaining of animals shall be subject to such rules and regulations as the Board may from time to time promulgate, including, without limitation, the right to prohibit pets entirely, to place reasonable limitations on the number, weight, size and type of such pets and to levy Enforcement Assessments against persons who do not clean-up after their pets.

C. The right of an occupant to maintain an animal in a Residence shall be subject to termination if the Board, in its full and complete discretion, determines that maintenance of the animal constitutes a nuisance or creates a disturbance, annoyance or detrimental effect on RiverSouth or other Residences or occupants.

D. Dogs and cats shall at all times whenever they are outside of a Residence be confined on a leash held by a responsible person.

The Board shall have absolute power to prohibit a pet from being kept in RiverSouth or within a Residence if the Board finds a violation of this Section.

14.7 Storage of Material and Trash Handling. No lumber, metals, bulk materials, refuse or trash shall be burned, whether in indoor incinerators or otherwise, kept, stored or allowed to accumulate on any portion of RiverSouth, except normal residential accumulations pending pick-up and except building materials during the course of construction or reconstruction of any building or structure. If trash or other refuse is to be disposed of by being picked-up and carried away on a regular, reoccurring basis, containers may be placed and permitted to remain in the open only on any day that pick-up is to be made, so as to provide access to persons making such pick-up. At all other times, such containers shall be stored in garages or in other interior areas expressly designated by the Board for such purpose. No dumping shall be permitted on any part of RiverSouth.

14.8 Pipelines and Drilling. No water pipe, gas pipe, sewer pipe or drainage pipe shall be installed or maintained on any portion of RiverSouth above the surface of the ground, except hoses and movable pipes used for temporary irrigation purposes. No portion of the surface or subsurface of the property shall be used for the purpose of boring, mining, quarrying, exploring or removing oil, gas or other hydrocarbons, minerals, gravel or earth.

14.9 Residence Uses. Except as otherwise specifically provided in this Declaration or by rules developed in accordance with this Declaration, no Residence shall be used for any purpose other

than that of a residence for individuals, incidental home office use, and uses customarily incidental thereto; provided, however, that no Residence may be used as a group home, commercial foster home, fraternity or sorority house or any similar type of lodging, care and treatment facility. Notwithstanding the foregoing: (a) an occupant maintaining a personal or professional library, keeping personal business or professional records or accounts, conducting personal business, making professional telephone calls or corresponding, in or from a Residence, is engaging in a use expressly declared customarily incidental to residential use and is not in violation of these restrictions; (b) it shall be permissible for the Developer to maintain one (1) or more Residences as sales and rental models and offices for real estate within the property, and for storage and maintenance purposes for any time that the Developer owns a fee simple interest in any of the property; and (c) one (1) or more Residences may be maintained for the use of the Association in fulfilling its responsibilities.

14.10 Firearms; Preservation of Wildlife. No firearm, ammunition or explosive shall be discharged on any part of RiverSouth; nor shall any traps or snares be set; nor shall any fishing, hunting or poisoning of wildlife of any kind be permitted in or upon the property, except for rodent control or except upon prior written approval of the Board.

14.11 Control of Trucks and Commercial Vehicles. Other than during the construction or reconstruction of the Residences, no tractor trailers, commercial tractors, commercial vehicles, road machinery or excavating equipment shall be permitted to remain on any portion of RiverSouth for any period of time whatsoever, except while making deliveries or performing services thereon and except as necessary for the construction, reconstruction or repair of buildings or structures. The Board shall have the right to adopt rules or regulations with respect to the use or storage of such vehicles on RiverSouth.

14.12 Use of Common Areas or Sublots. The Common Areas shall be used in common by the Owners and occupants and their agents, servants, customers, invitees and licensees, in accordance with the purpose for which they are intended, reasonably suited and capable, in accordance with this Declaration and applicable rules or regulations and as may be required for the purposes of access, ingress to, egress from, use, occupancy and enjoyment of the Residences. Unless expressly provided otherwise herein, no Common Areas shall be used for any purpose other than the health, safety, welfare, convenience, comfort, recreation or enjoyment of the Owners and occupants. No person shall use the Common Areas or shall construct, install or permit anything to remain in the Common Areas or the Sublots, except as expressly permitted by this Declaration and as set forth in the rules or regulations.

14.13 Repair or Removal of Damaged Property. In the event that any improvement, building or structure within RiverSouth shall be damaged or destroyed by any event, casualty or occurrence, whether intentional or unintentional, the Owner thereof shall promptly either: (a) commence the repair or rebuilding of said improvement, building or structure following such damage or destruction and thereafter diligently and continuously complete the same; or (b) raze said improvement, building or structure and remove all rubble and debris from the area within sixty (60) days following such damage or destruction; provided, however, that if any facility located on the Common Areas shall be damaged or destroyed, such facility shall be repaired or restored unless the damage or destruction is not covered by insurance and the cost of such repair or restoration is fifty percent (50%) or more of the replacement value thereof, in which

event, the Board may decide not to rebuild or restore said damage or destroyed facility, subject to the approval rights of the Members as provided herein.

14.14 Impairment of Structural Integrity of the Residences. Nothing shall be done in any Residence or in, on or to any Sublot or the Common Areas which will impair the structural integrity of any Residence.

14.15 Hazardous Uses and Waste. Nothing shall be done or kept in, on or to any Sublot, Residence or the Common Areas which shall increase the rate of insurance applicable for the residential use of any Residence and the contents thereof, without the prior written consent of the Board. No Owner shall permit anything to be done or kept in, on or to his Sublot or Residence or in the Common Areas which will result in the cancellation of insurance on his Residence or any other Residence, or on the contents thereof, or which would be in violation of any law. No waste of any of RiverSouth shall be committed.

14.16 Laundry. No clothes, sheets, blankets or laundry of any kind shall be hung-out or exposed to view from any Sublot or any part of the Common Areas.

14.17 Visible Areas. Nothing shall be caused or permitted to be hung or displayed on the outside or inside of windows (except blinds approved by Developer) or placed on the outside walls of a building or otherwise outside of a Residence, or any part thereof; and no sign, awning, canopy, shutter or any other device or ornament shall be affixed to or placed upon the exterior walls or roof or any part thereof or in, on or over a Sublot, patio, roof-top deck or balcony, unless authorized by the Board or rules adopted in accordance herewith.

14.18 Renting or Leasing. No Residence or part thereof shall be rented or used for transient or hotel purposes, which is defined as: (a) a lease, sublease, assignment or rental to individuals living together for a period of time less than three (3) months; (b) rental under which occupants are provided customary hotel services such as room service for food and beverages, maid service, the furnishing of laundry and linen, busboy service and similar services; or (c) rental to roomers or boarders, that is, rental to one (1) or more persons of a portion of a Residence only. This provision shall not apply to the Developer or any mortgagee of a Residence. Any permitted lease must be in writing and a copy of such lease must be provided to the Association. The Owner shall be subject to the remedies provided in Section 14.24 for any violation by the Owner's tenant of any of the covenants and restrictions in this Declaration or any of the rules and regulations of the Association.

14.19 Names of Owners. To enable the Association to maintain accurate records of the names, addresses and telephone number of the Owners and other occupants of Residences, each Owner agrees to notify the Association, in writing, within five (5) days after such Owner's Residence has been transferred to or occupied by another person. In addition, each Owner agrees to provide to a purchaser of such Owner's Residence a copy of this Declaration, the Code of Regulations and the rules.

14.20 Architectural Control. Except as constructed by the Developer, no building, fence, wall, sign or other structure shall be commenced, erected or maintained upon RiverSouth, or any part thereof,

nor shall any exterior addition to or change or alteration therein be made, including, but not limited to, painting and other decorative features, until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing by the Developer (while a Member of the Association) and the Board of Directors (after the Developer ceases to be a Member of the Association) or its designated representative or representatives, in its or their sole and unfettered discretion.

14.21 Poles, Wires and Antennae. Subject to applicable easement rights, no facilities, including poles and wires, for the transmission of electricity, telephone messages, ham radio messages and the like shall be placed or maintained above the surface of the ground in any portion of RiverSouth without the prior approval of the Association. This provision shall not apply to temporary facilities for the construction or repair of any building or other structure.

14.22 Waiver of Subrogation. The Developer, each Owner and occupant and any other person that owns, operates or controls any portion of RiverSouth, as a condition of accepting title and/or possession of a Sublot, Unit or any other portion of RiverSouth and the Association agree, for themselves, and their respective successors, heirs, executors, administrators, personal representatives, assigns and lessees (provided said agreement does not invalidate or prejudice any policy of insurance), that in the event that any building, structure or improvement within RiverSouth or the fixtures or personal property of anyone located therein or thereon are damaged or destroyed by fire or other casualty that is covered by insurance of the Developer, any Owner, occupant or any other person that owns, operates or controls any portion of RiverSouth or the Association, the rights, if any, of any of them against the other, or against the employees, agents, licensees or invitees of any of them in respect of such damage or destruction and in respect of any loss resulting therefrom are hereby waived.

14.23 Signs. Except as provided in the following sentences, no sign or other advertising device of any nature shall be placed upon any portion of RiverSouth, including, without limitation, “For Rent” and “For Sale” signs. Notwithstanding the foregoing, the restrictions of this Section shall not apply to the Developer; and the Developer, or the Association after the Developer is no longer a Member of the Association, may, in its discretion, allow a “For Sale” sign to be located near the public street upon request of an Owner.

14.24 Violation of Article 14. If any person required to comply with the foregoing Covenants, Conditions and Restrictions is in violation of any one (1) of the same, the Developer (as long as the Developer is a Member of the Association) or the Association shall have the right to give notice to such person to terminate, remove or extinguish such violation. Such notice shall expressly set forth the facts constituting such violation.

A. Except in the case of an emergency situation, the violating party shall have five (5) days after written notice of the violation to take reasonable action to cause the removal, alleviation or termination of same. In the case of any emergency situation, or if within five (5) days after written notice of such a violation, reasonable steps have not been taken toward the removal,

alleviation or termination of same, or if such remedial action is not prosecuted with due diligence and until satisfactory completion of same, the Developer or the Association shall have the right to obtain an injunction from any court having jurisdiction for the cessation of such violation of this Article 14. In addition to the foregoing, the Developer and/or the Association shall have the right, through their respective agents and employees, to enter upon the Residence or Sublot where the violation exists and to summarily terminate, remove or extinguish the violation. The rights and remedies of the Developer and the Association contained in this Subsection shall be non-exclusive and in addition to any other right or remedy available at law or in equity, including, without limitation, a claim or action for specific performance and/or injunctive relief and/or money damages and court costs and attorneys' fees.

B. The Association or the Developer shall notify in writing the person in violation of this Article 14 of all of the costs incurred to remedy same and of any other damages to which the Association or the Developer may be entitled. The Board shall charge interest on any costs at the rate established by the Board, not to exceed any maximum rate permitted by law. If said amounts are not paid within ten (10) calendar days following receipt of said notification, then said costs shall be "delinquent" and, upon perfection, as provided in Section 8.1, become a continuing lien upon the portion of RiverSouth owned or occupied by such person(s) and a personal obligation of the person(s) violating this Article. In addition, the Owner of any portion of RiverSouth shall be liable, jointly and severally, for any violations of an occupant of such Owner's portion of RiverSouth.

ARTICLE 15
GENERAL PROVISIONS

15.1 Covenants Run with the Land; Binding Effect. All of the easements, covenants and restrictions which are imposed upon, granted and/or reserved in this Declaration, including, without limitation, payment of assessments, constitute easements, covenants and restrictions running with the land and are binding upon every subsequent transferee of all or any part thereof, including, without limitation, grantees, occupants, Owners, mortgagees or other persons having any interest in RiverSouth, or any portion thereof, including the Sublots, Units and Common Areas. Each grantee accepting a deed which conveys any interest in any portion of RiverSouth, whether or not the same incorporates or refers to this Declaration, covenants for himself, his personal representatives, successors and assigns to observe, perform and be bound by the provisions of this Declaration.

15.2 Duration of Easements, Covenants and Restrictions. The following changes may be made only by a written instrument, recorded with the Cuyahoga County Recorder, containing the

consent of the Class B Member (for so long as the Class B Membership exists) and of Class A Members entitled to exercise seventy-five percent (75%) of the voting power of the Association (unless a greater percentage of vote is required by the statutes of the State of Ohio): (a) the termination of this Declaration and the covenants and restrictions which are imposed, granted and/or reserved upon all or any part of RiverSouth by this Declaration, or (b) any amendment which would terminate or materially and adversely affect the easements set forth in this Declaration.

15.3 Plural Owners. In the event that any Owner shall hold title to any portion of RiverSouth as a joint tenant, tenant-in-common or in any other manner with one (1) or more other persons (herein referred to as a "Co-Owner"), the signature of any one (1) of the Co-Owners shall be binding upon and shall be effective as an authorization from all of the other Owners of such portion of the property.

15.4 Notices. Any notices required to be given to any Owner, Member, occupant or person under the provisions of this Declaration shall be deemed to have been given when personally delivered to such Owner's, Member's or occupant's Residence at RiverSouth, or mailed, postage prepaid, to the last known address of such person; provided, however, that notice of a "delinquency" of any payment due hereunder shall be made by personal delivery to such Residence, or by certified or registered mail, return receipt requested. The effective date or receipt date of such notice shall be the date said notice is personally delivered or postmarked, as the case may be. Any notices required to be given to the Developer or Association under the provisions of this Declaration must be in writing and delivered via one of the following methods: (a) postage prepaid registered or certified mail, return receipt requested; or (b) commercial overnight carrier. Unless otherwise designated by the Developer or Association in writing, notice to the Association shall be sent to the last known address of the President of the Board of Directors or the person named as statutory agent of the Association, and notice to the Developer shall be sent to 26401 Emery Road, Suite 103, Cleveland, Ohio 44128. Notices to the Developer and/or Association are effective upon receipt. Service of summons or other process may be made upon the Association by serving the process personally upon the President of the Board of Directors or the person named as statutory agent of the Association.

15.5 Enforcement – Waiver. The enforcement of the easements, covenants and restrictions set forth herein may be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages against the person or Unit, or to enforce any lien perfected by the covenants of this Declaration. The failure or neglect by the Association or anyone permitted by this Declaration to enforce any covenant, condition, restriction or right herein contained shall in no event and under no circumstances be construed, deemed or held to be a waiver of the right to do so thereafter. In any action relating to the Common Areas or to any right, duty, or obligation possessed or imposed upon the Association by statute or otherwise, the Association may sue or be sued as a separate legal entity. Any action brought by or on behalf of the Association shall be pursuant to authority granted by the Board of Directors.

15.6 Construction of the Provisions of This Declaration. The Association and the Developer shall have the right to construe and interpret the provisions of this Declaration and in the absence of an adjudication by arbitrator(s) (as expressly provided in this Declaration) or a court of competent

jurisdiction to the contrary, its construction or interpretation shall be final and binding as to all persons or property which benefit or which are bound by the provisions hereof. Any conflict between any construction or interpretation by the Association or the Developer and that of any person or entity entitled to enforce the provisions hereof shall be resolved in favor of the construction of or interpretation of the Association or the Developer, as the case may be. The Association may adopt and promulgate rules regarding the administration, interpretation and enforcement of the provisions of this Declaration. In so adopting rules and making any findings, determination, ruling or order, or in carrying-out any directive contained herein relating to the issuance of permits, authorizations, approvals, rules or regulations, the Association shall take into consideration the best interests of the Developer, Owners and occupants of RiverSouth to the end that RiverSouth shall be preserved and maintained as a high-quality, residential community. In the event of a specific conflict between Chapter 5312 of the Ohio Revised Code and the express requirements or restrictions of any governing document of RiverSouth or the Association, the governing document shall control. Chapter 5312 of the Ohio Revised Code shall control if any governing document is silent with respect to any provision contained in Chapter 5312 of the Ohio Revised Code. In the event of a specific conflict between or among any governing document of RiverSouth or the Association, this Declaration shall control.

15.7 Amendments. Except as expressly provided to the contrary in this Declaration, this Declaration may be amended as follows:

A. In addition to the Developer's rights under Sections 11.2 and 13.2, for so long as the Developer has an ownership interest in any of the property constituting RiverSouth, the Developer shall be entitled from time to time to amend, modify or waive any of the provisions of this Declaration, either generally or with respect to particular real property, if in its sole discretion, the development or lack of development of the property requires such modification or waiver, if in its judgment the purposes of the general plan of development will be better served by such modification or waiver or to exercise any of the rights of the Developer hereunder, provided no such amendment, modification or waiver shall prevent a Residence from being used by the Owner in the same manner that said Residence was used prior to the adoption of said amendment, modification or waiver. Additionally, so long as the Developer has an ownership interest in any of the property constituting RiverSouth, it shall have the ability to expand the property by adding property in accordance with the terms hereof and to modify this Declaration in accordance with this Subsection, the Developer shall file a supplemental declaration and/or plat setting forth the amendment, which supplemental declaration or plat need not be, but shall at the Developer's request be, executed by the Association and all Owners. Specifically included in the foregoing powers is the Developer's ability, in its sole discretion, to amend and modify the location, dimensions and number of the Sublots it owns and the Common Areas by amendment hereto or amendment to the Plat. Each such Owner hereby appoints the Developer

his attorney-in-fact, coupled with an interest, by accepting a deed to his Unit, to execute on his behalf any such amendments. Each amendment shall be effective when signed by Developer and filed for record with the Recorder of Cuyahoga County, Ohio or if accomplished by amendment of the Plat, upon its filing with the applicable county offices.

B. This Declaration, the Articles of Incorporation and the Code of Regulations may be amended by the Developer or the Association at any time and from time to time without the consent of any person for the purpose of (i) correcting clerical, typographical or obvious factual errors and similar types of errors in this Declaration or any Exhibit hereto or any amendment hereto; (ii) complying with the requirements of the Fannie Mae, the Governmental National Mortgage Association, the Federal Residence Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veterans Administration or any other governmental agency or public or quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities or inducing any of such agencies or entities to make, purchase, sell, insure or guarantee first mortgages; (iii) complying with applicable laws, statutes, rules, regulations, ordinances or judicial determination; (iv) complying with the underwriting requirements of insurance companies providing casualty insurance, liability insurance or other insurance coverages for the Association; or (v) correcting obvious factual errors or inconsistencies between this Declaration and other documents governing RiverSouth, the correction of which would not materially impair the interest of any Owner or mortgage holder. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Developer and/or the Board to vote in favor of, make or consent to such an amendment on behalf of each Owner as proxy or attorney-in-fact as the case may be. Each deed, mortgage, trust deed or other instrument affecting any portion of RiverSouth and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and consent to the reservation of the power of the Developer and the Association to vote in favor of, make and record such an amendment. To effect any said amendment, the Developer shall file a supplement to this Declaration setting forth the amendment(s) which shall be signed by the Developer and shall be effective upon the filing of said supplemental declaration with the Recorder of Cuyahoga County, Ohio.

C. Except as expressly provided in this Declaration, upon the Developer ceasing to have any ownership interest in any of the property constituting RiverSouth, any provision of this Declaration may be amended or repealed

either in writing or following a meeting of the Class A Members held for such purpose, by the affirmative vote of the Class A Members entitled to exercise sixty-six and two-thirds percent (66-2/3%) of the voting power of the Association unless a greater percentage of vote is required pursuant to this Declaration or in accordance with the statutes of the State of Ohio; except, however, a vote to terminate the applicability of this Declaration, the Articles of Incorporation and/or Code of Regulations and to dissolve RiverSouth requires the unanimous consent of all Members. Written notice shall be given each Member entitled to vote at any meeting at least thirty (30) days in advance of the date of the meeting held for the purpose of amending this Declaration, which notice shall expressly state the amendment to be considered at such meeting. Each amendment shall be effective when signed by the President, one (1) other officer of the Association and filed for record with the Recorder of Cuyahoga County, Ohio.

15.8 Severability. The severability, invalidity or unenforceability of any provision hereof shall in no way affect the validity or enforceability of any other provision.

15.9 Attorneys' Fees. In the event of any litigation or arbitration arising out of this Declaration, the prevailing party to the extent permitted by law shall be entitled to reimbursement of the costs and expenses thereof from the other party, including reasonable attorneys' fees and disbursements of counsel, including such costs, expenses and fees incurred on appeals of such litigation or arbitration.

15.10 Rule Against Perpetuities. If any of the covenants and restrictions shall be in violation of the Rule Against Perpetuities or any other analogous or comparable statutory or common law rule, such of the covenants and restrictions shall be so affected thereby shall continue in effect only until twenty-one (21) years after the death of the survivor of the now living descendants of Barack H. Obama, President of the United States and Joseph R. Biden, Jr., Vice-President of the United States.

15.11 Arbitration. Unless otherwise provided in this Declaration, any controversy, dispute or claim arising out of or relating to this Declaration or the breach thereof shall be settled by arbitration in Fairview Park, Ohio in accordance with the Commercial Rules of the American Arbitration Association and the judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction hereof. Depositions may be taken and other discovery obtained during such arbitration proceedings to the same extent as authorized in civil judicial proceedings for compensatory damages and the arbitrator(s) shall have no authority to award punitive, consequential, exemplary or similar type damages. The prevailing party in the arbitration proceeding shall be entitled to recover its expenses, including the costs of the arbitration proceeding and reasonable attorneys' fees.

[SIGNATURE PAGE FOLLOWS]

EXECUTED at Fairview Park, Ohio on the _____ day of _____, 2015.

ABODE FAIRVIEW PARK MLD LLC, an Ohio limited liability company

By: _____

Name: _____

Title: _____

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

BEFORE ME, a Notary Public in and for said County and State, personally appeared _____, the _____ of ABODE FAIRVIEW PARK MLD LLC, an Ohio limited liability company, who, being first duly sworn, acknowledged that he executed the foregoing instrument for and on behalf of said entity and that said execution was the free and voluntary act and deed of said entity and such person.

IN WITNESS WHEREOF, I have hereunto executed my name and subscribed my seal this _____ day of _____, 2015.

_____
Notary Public

This Instrument Prepared By:
Volpini Rinkes, LLC
75 Public Square, Suite 1310
Cleveland, Ohio 44113

Exhibit A
(Legal Description for Phase 1 of RiverSouth)

Exhibit B
(Legal Description for Phase 2 of RiverSouth)

CODE OF REGULATIONS
OF
RIVER SOUTH HOMEOWNERS ASSOCIATION, INC.

ARTICLE 1
NAME AND LOCATION

The name of the corporation is River South Homeowners Association, Inc. ("RiverSouth"). The principal office of the corporation shall be located at 26401 Emery Road, Suite 103, Cleveland, Cuyahoga County, Ohio 44128.

ARTICLE 2
DEFINITIONS

Capitalized words used in this Code of Regulations which are not otherwise defined herein shall have the same meanings as set forth in the Declaration of Restrictions, Covenants, Easements and Conditions of River South Homeowners Association, Inc. (the "Declaration"), unless the context otherwise requires.

ARTICLE 3
MEMBERS AND VOTING RIGHTS IN THE ASSOCIATION

3.1 Members. The Developer and each Owner of a Unit at RiverSouth shall automatically become a Member of the Association (for so long as such person or entity is an Owner), provided that any such person or entity who holds such interest merely as security for the payment of money or the performance of an obligation shall not be a Member. Adobe Fairview Park MLD LLC (and its successors and assigns), as the Developer of RiverSouth, shall be a Member until it has conveyed every Unit or Sublot owned by it.

3.2 Voting Rights. Membership in the Association shall be divided into Class A Members and Class B Members, as more fully set forth in the Declaration.

A. Class A Members. Class A Members shall be all Owners of Units in RiverSouth, other than the Developer (subject to and until the Developer's membership interests may be converted to Class A membership interests as provided in Subsection B below and in accordance with the Declaration). When one or more person is an Owner of a Unit, all such persons shall be Class A Members. Class A Members shall be entitled to one (1) vote for each Unit owned. In the event a Unit is owned by one or more persons, such Owners shall not be entitled to more than one (1) vote with respect to such Unit.

B. Class B Members. The sole Class B Member shall be the Developer (or its successors and assigns) as owner of Units or Sublots in RiverSouth, with the Developer being entitled to three (3) votes for each Unit or Sublot owned by it. The Class B membership shall cease at the end of the Start-Up Period. If the Developer owns Unit(s) or Sublot(s) as of such date, its Class B membership shall be converted to Class A membership, entitling the Developer to one (1) vote per Unit or Sublot owned.

C. Voting Approval. Any action required to be taken by Members of the Association shall (except in the election of Directors) be approved upon the affirmative vote of (i) the Class B Member (until such membership has ceased); and (ii) the Class A Members owning a majority of the Units, except where a greater percentage is required under the terms of the Declaration, the Articles of Incorporation or this Code of Regulations of the Association.

3.3 Termination of Membership and Suspension of Privileges. Membership in the Association shall continue only so long as the Member is the owner of record of one (1) or more Units or Sublots and shall terminate automatically upon the cessation of such ownership. The membership rights of any Member may be suspended by action of the Board of Directors if any Member has failed to pay when due any Assessment or charge lawfully imposed upon such Member or any Unit or Sublot owned by such Member; or if the Member, his family, his tenants or his guests or invitees, or any of them, shall have violated any rule or regulation of the Board regarding the use of the Units, Sublots or Common Areas.

3.4 Books and Records. The Association shall keep all of the following: (i) correct and complete books and records of account that specify the receipts and expenditures relating to the Common Areas and other common receipts and expenses; (ii) records showing the collection of the Common Costs and Assessments from the Owners; (iii) minutes of the meetings of the Association and the Board of Directors; and (iv) a membership book containing the names and current addresses of each Member of the Association, the date of admission to membership, and upon termination of membership, the date of and facts relating to such termination.

3.5 Examination of Books and Records. Unless otherwise prohibited by the Declaration or this Code of Regulations, any Owner may examine and copy the books, records, and minutes of the Association that Section 3.4 hereof describes, pursuant to reasonable standards set forth in the Declaration, this Code of Regulations, or rules the Board promulgates. The standards may include, but are not limited to, standards governing the type of documents that are subject to examination and copying, the times and locations at which those documents may be examined or copied, and the specification of a reasonable fee for copying the documents. Unless approved by the Board of Directors, an Owner may not examine or copy any of the following from books, records, and minutes: (i) information that pertains to property-related personnel matters; (ii) communications with legal counsel or attorney work product pertaining to potential, threatened or pending litigation, or other property-related matters; (iii) information that pertains to contracts or transactions currently under negotiation, or information that is contained in a contract or other agreement containing confidentiality requirements and that is subject to those requirements; (iv) information that relates to the enforcement of the Declaration, this Code of Regulations, or rules of the Association against other Owners; or (v) information, the disclosure of which is prohibited by state or federal law.

ARTICLE 4
MEETINGS OF MEMBERS

4.1 Annual Meeting. The Annual Meeting of the Members for the election of Directors, the consideration of reports to be laid before such meeting and the transaction of such other business as may be specified in the Notice of the Meeting shall be held each year, on such date and at such time and place as the Directors shall determine (the "Annual Meeting"), within three (3) months following the close of the fiscal year of the Association. The first annual meeting of the Members shall be held within three (3) months after the expiration of the Start-Up Period, unless the Developer determines, in its discretion, to call an earlier annual meeting.

4.2 Special Meetings. A Special Meeting of the Members shall be held on the call of the Developer or the President, Vice President or Secretary (as provided in Article 6 herein), when any such officer deems it necessary or when requested to do so in writing signed by Members holding thirty-three and one-third percent (33-1/3%) or more of the votes of the membership, or by a majority of the Directors by action with or without meeting. Calls for Special Meetings shall designate the time, place and purpose thereof; and any items which have not been referenced in the call may not be considered at any Special Meeting.

4.3 Notice / Place of Meetings. Unless otherwise provided by law, the Declaration, the Articles of Incorporation of the Association or this Code of Regulations, the Secretary shall give written notice of the Annual or any Special Meeting not less than ten (10) days nor more than sixty (60) days prior thereto to each Member entitled to vote thereat at his address as it appears in the membership book or as supplied by such Member to the Association. All such notices shall state the time, place and purpose or purposes of the meeting and, if Directors are to be elected thereat, the number of vacancies to be filled and the names and candidates nominated to fill such vacancies by the Board of Directors or any nominating

committee of the Board of Directors. Any Member who attends such meeting without protesting lack of proper notice prior to or at the commencement of the meeting shall be deemed to have waived notice of such meeting.

4.4 Quorum. The presence at a meeting of Members in person or by proxy holding not less than a majority of the aggregate voting power of the Class A Members and the presence of the Class B Member (until such membership has ceased) shall constitute a quorum. If, however, such quorum shall not be present or represented at any meeting, 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 otherwise represented. At any resumption of an adjourned meeting, any business may be transacted which might have been transacted if the meeting had been held as originally called.

4.5 Proxies. Any Member may be represented at a meeting of the Members; cast thereat all votes to which said Member is entitled with respect to any matter or matters brought before such meeting; execute consents, waivers and releases; and exercise any other rights by a written proxy or proxies signed by said Member and filed with the Secretary at least (3) days prior to or at the commencement of the meeting. If the Member is a natural person, such proxy or proxies may be granted to said Member's spouse (whether or not such spouse is a Member) or to any other Member. When the Member is a corporation or partnership, such proxy or proxies may be granted to any duly-authorized representative thereof; provided, however, that if such Member is a corporation and the representative of that corporation is not the Chairman of the Board, President, Vice-President, Secretary or Treasurer of said corporation, then before the votes of said corporation can be cast, it shall present to the Association a certified copy of the Regulations, the By-Laws or Resolution of the Directors, Directors or Executive Committee of said corporation stating that the authority to vote is vested in the representative of said corporation. Said proxy or proxies shall be valid only for the meeting for which it is given or any adjournment thereof; provided, however, that no proxy shall extend beyond the adjournment of said meeting if there should be a quorum present at the time of such adjournment. A proxy shall automatically cease with respect to the vote or votes allocated to a Unit upon termination of the Member's interest as Owner of such Unit.

ARTICLE 5
DIRECTORS

5.1 Board of Directors.

A. The initial Board of Directors shall consist of three (3) Directors appointed by the Developer and designated by the Developer pursuant to resolution, from time to time, during Developer's Class B Membership in the Association, subject to the election of additional Directors as hereinafter provided. The initial Directors shall serve at the discretion of the Class B Member until the expiration of the Start-Up Period and until the first Annual Meeting of the Association at which Directors shall be elected or designated

by the Developer, or until such time as their successors are elected or appointed.

B. At such time as twenty-five percent (25%) of the proposed Units have been conveyed to the Owners, the Board of Directors may be expanded to include one (1) additional Director, for a total of four (4) Directors, which Director shall be elected by a plurality of the Class A Members casting a vote. At such time as fifty percent (50%) of the Units have been conveyed to the Owners, the Board of Directors may be expanded to include one (1) additional Director, for a total of five (5) Directors, which Director shall be elected by a plurality of the Class A Members casting a vote. Upon termination of the Class B membership of Developer or the conversion of the Developer's Class B membership to Class A membership, the Board of Directors shall be elected by a plurality of the Class A Members casting a vote, in accordance with the voting rights contained in Section 3.2 hereof.

C. Each year following the initial Annual Meeting of the Association, the Board of Directors, or a nominating committee selected by the Board of Directors, shall, prior to the giving of notice of the meeting at which Directors are to be elected, nominate candidates for the office of each Director whose term is to expire that year, as provided in Section 5.2 herein. Any additional nominations shall be made from the floor at the Annual Meeting or by written notice signed by not less than three (3) Members and given by personal delivery or by mail to the Secretary at least ten (10) days before the date of such Annual Meeting. Any number of nominations may be made by separate written notices in such manner.

D. Each candidate for the office of Director shall be a natural person who is, or, in the case of a corporation or partnership which is a Member (other than representatives of the Developer), who is duly authorized to represent a Member in good standing of the Association.

5.2 Term of Office. Except as otherwise provided herein, the term of office of a Director shall be for one (1) year. No Directors (except an initial Director or a representative of the Developer) shall serve more than three (3) consecutive terms of office as a Director. If the Board of Directors is expanded, the Board shall stagger the terms of additional new Directors so that the number of Directors with terms expiring in one (1) year and terms expiring in two (2) years will be as balanced as possible. Each Director shall serve until his term expires and his successor is elected and qualified or until the earlier vacation of his office pursuant to Section 5.3 hereof. The terms of not less than one-fifth of the Directors shall expire annually.

5.3 Vacancies; Removal. The office of a Director shall be deemed vacant upon the death, removal or resignation of a Director or at such time as a Director no longer meets the qualifications

necessary to hold such office. Any Director elected by the Members may be removed from office, with or without cause, and the vacancy created thereby filled by the affirmative vote of a majority of the voting power of the membership of the Association at a Special Meeting of the Members called for such purpose. The Board of Directors may appoint an interim Director to fill any vacancy and such interim Director shall serve until the next succeeding Annual Meeting of the Members. The Director appointed by the Directors to serve the interim period until such Annual Meeting may be elected to complete the term respecting such vacancy, and a Director elected by the Members to complete a term respecting a vacancy may be elected by the Members to a regular term of office as Director upon the expiration of his term as an interim Director. During any period that a vacancy exists, the remaining Directors shall continue to act with the powers and authority of the full Board of Directors.

5.4 Compensation. No Director shall receive compensation for any service rendered to the Association by such Director. However, any Director may be reimbursed for expenses incurred in the performance of such Director's duties.

5.5 Meetings of the Directors. An Annual Meeting of the Board of Directors shall be held immediately following the Annual Meeting of Members. Regular meetings of the Board of Directors shall be held at such specified times and places and at such intervals as shall be fixed by the Board. Special meetings of the Board of Directors may be held upon call of the Developer, President, Vice-President or Secretary, and may be called upon request of any Director. Special meetings of the Board of Directors shall be held in Cuyahoga County, Ohio. The Board may hold a meeting by any method of communication, including electronic or telephonic communication, provided that each Director of the Board can hear or read in real time and participate and respond to every other Director of the Board. Any vote of the Directors required hereunder may be approved and memorialized by any and/or all of the Directors electronically in the following format: "Approved /s/Director's Name" or "Not Approved /s/Director's Name."

5.6 Notice of Meeting. Notice of the time and place of the Annual Meeting of Directors and any Special Meeting of the Board of Directors shall be served upon or mailed to each Director at his address as it then appears upon the records of the Association, at least seven (7) days prior to the time of the meeting. No notice shall be required for Regular Meetings of the Board of Directors, provided that the meeting at which the time and place for such Regular Meetings was fixed was duly called and held and copies of the minutes of such meeting were sent to each Director of the Board not present thereat; otherwise, notice of Regular Meetings shall be given in the same manner as for Annual and Special Meetings. Notice of the time and place of any meeting of the Board of Directors may be waived, in writing, either before or after the holding of the meeting, which writing shall be filed with or entered upon the records of the meeting. The attendance of any Director at a meeting without protesting, prior to or at the commencement of the meeting, the lack of proper notice shall be deemed a waiver of the notice of the meeting. No Owner other than a Director may attend or participate in any discussion or deliberation of a meeting of the Directors of the Board unless the Board expressly authorizes that Owner to attend or participate.

5.7 Quorum. To constitute a quorum at any meeting of the Board of Directors, there shall be present a majority of the Directors then in office, but if at any meeting of the Directors there is present

less than a quorum, a majority of those present may adjourn the meeting from time to time until a quorum shall attend without any notice other than by announcement at said meeting. Each Director at the time any vote or action of the Board of Directors is taken upon any matter shall be entitled to cast one (1) vote with respect thereto. The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors. No Director may vote by proxy. In lieu of conducting a meeting, the Board may take an action with the unanimous written consent of the Directors of the Board. Any written consent shall be filed with the minutes of the meetings of the Board.

5.8 Duties and Powers of the Directors. The Developer (until the Developer ceases to own any Units or Sublots) or Board of Directors shall collect Assessments from Owners in accordance with Section 5312.10 of the Revised Code and the Declaration. All Owners shall be responsible for paying Assessments levied against the Units. The Association shall prepare or cause the preparation of an annual operating budget for the Association for revenues and expenditures, including reserves in an amount adequate to repair and replace major capital items in the normal course of operations without the necessity of Special Assessments (unless the Members, exercising not less than sixty-six and two-thirds percent (66-2/3%) of the voting power of the Association, waive the reserve requirement annually), and shall fix the amount of a General Assessment against the Units and the Owners thereof at least annually, to meet all Common Costs applicable to RiverSouth.

The Developer (until the Developer ceases to own any Units or Sublots) or Board of Directors shall have general charge of the affairs, business, property and assets of the Association. It shall be the duty of the Directors to provide for the execution and discharge of the functions and responsibilities of the Association as set forth in the Declaration, this Code of Regulations, and the Articles of Incorporation and to carry-out the other aims and purposes of the Association, including, without limitation, the following:

A. To provide for regular and special meetings of the Board of Directors and the methods of transacting business thereat.

B. To establish uniform, reasonable rules governing the use of the Common Areas by Members and guests and the conditions under which and the extent to which persons other than Members may be permitted to use such property.

C. Subject to the Declaration, to provide for the operation, maintenance, construction, improvement, repair and replacement of the Common Areas, including, but not limited to, recreational and landscaped areas and improvements and facilities of the Association, and any other property for which the Association is responsible; and for the protection of the Association's property, real estate, equipment and recreational facilities; to purchase equipment and other items deemed advisable (excluding real estate); and to provide for the protection of the Association, its Members and their guests in the use of the Association's property and facilities.

D. To exercise on behalf of the Association such rights of approval and obligations as may be required or permitted by this Code of Regulations or in the Declaration.

E. To levy Assessments and applicable penalties or late fees, and/or propose Special Assessments or in accordance with Article 9 hereof against each Unit and to collect and disburse the same.

F. To supervise compliance with, and when necessary, to enforce the Declaration, the rules and regulations promulgated by the Board of Directors, the provisions of the Articles of Incorporation of the Association and the provisions of this Code of Regulations.

G. To bring suit, at law or in equity, to enforce the restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed pursuant to the provisions of the Articles of Incorporation, the Declaration and/or this Code of Regulations.

H. To prepare a roster of the Units and a list showing the status of payment of Assessments applicable thereto, which roster and list shall be open to inspection by any Member upon prior reasonable notice.

I. To require the bonding of all officers and other persons regularly handling Association funds, the premiums for which shall be paid by the Association from the General Assessments.

J. To provide for the publication and distribution to Members of Rules and Regulations, Notices and other information (including, in the discretion of the Board of Directors, general social information of interest to Members).

K. To inform new Owners or their lessees and guests of their privileges and obligations as Owners of the Units.

L. To hire and fire managing agents, attorneys, accountants, and other independent professionals and employees that the Board determines are necessary or desirable in the management of the Common Areas and the Association.

M. Commence, defend, intervene in, settle, or compromise any civil, criminal, or administrative action or proceeding that is in the name of, or threatened against, the Association, the Board of Directors, the Common Areas, or that involves two or more Owners and relates to matters affecting RiverSouth.

N. Enter into contracts and incur liabilities relating to the operation of the Common Areas or the Association.

O. Adopt and enforce rules that regulate the maintenance, repair, replacement, modification, and appearance of the Common Areas, and any other rules necessary and proper for the regulation of RiverSouth as established in the discretion of the Board of Directors from time to time.

P. Acquire, encumber, and convey or otherwise transfer real and personal property.

Q. Hold in the name of the Association the real property and personal property.

R. Grant easements, leases, licenses, and concessions through or over the Common Areas.

S. Levy and collect fees or other charges for the use, rental, or operation of the Common Areas or for services provided to Owners.

T. Pursuant to Section 5312.11 of the Ohio Revised Code, levy the following charges and Assessments: (a) interest, penalties, and charges for the late payment of Assessments; (b) returned check charges; (c) Enforcement Assessments (as hereinafter defined) for violations of the Declaration, this Code of Regulations, and the rules of RiverSouth or the Association; and (d) charges for damage to the Common Areas or other property.

U. Adopt and amend rules that regulate the collection of delinquent Assessments and the application of payments of delinquent Assessments.

V. Impose reasonable charges for preparing, recording, or copying the Declaration, this Code of Regulations, amendments to the Declaration and this Code of Regulations, resale certificates, or statements of unpaid Assessments.

W. Authorize entry to any portion of RiverSouth by designated individuals when conditions exist that involve an imminent risk of damage or harm to Common Areas, another Residence, or to the health or safety of the occupants of that Residence or another Residence.

X. Borrow money and assign the right to Assessments or other future income to a lender as security for a loan to the Association.

Y. Suspend the voting privileges and use of recreational facilities of an Owner for any period during which any Assessment remains in default and for any infraction of such rules and regulations.

Z. Purchase insurance and fidelity bonds the Board considers appropriate and necessary.

AA. Invest excess funds in investments that meet standards for fiduciary investments under the laws of Ohio.

BB. Exercise powers that are any of the following: (a) conferred by the Declaration or this Code of Regulations; (b) necessary to incorporate the Association as a nonprofit corporation; (c) permitted to be exercised in Ohio by a nonprofit corporation; and (d) necessary and proper for the government and operation of RiverSouth or the Association.

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

Unless otherwise provided in the Declaration or this Code of Regulations, the Board of Directors may carry out any action Chapter 5312 of the Ohio Revised Code requires or allows an owners association to take, subject to any vote required of the Owners.

ARTICLE 6
OFFICERS

6.1 Election and Qualifications of Officers. The Board of Directors at each Annual Meeting of the Board or, if not thereat, at any meeting of Directors called for such purpose, shall elect the following officers from the members of the Board, each to serve at the pleasure of the Board until the next Annual Meeting of the Directors and until his successor is elected and qualified or until his earlier death or removal from office – a President, a Secretary and a Treasurer, and such other additional Vice Presidents and officers or assistant officers as the Directors may deem necessary. Except for the President, one (1) person may hold two (2) or more offices. The President shall be a Director, but the remaining officers need not be either Directors or Members. Vacancies in any of the above-named offices shall be filled by the Board of Directors for the unexpired term thereof within thirty (30) days after the occurrence thereof. No officer shall be entitled to, or shall receive, any compensation for services rendered to the Association as an officer; provided, however, that the Board of Directors may authorize the reimbursement to any officer of expenses necessarily incurred by him in the performance of his duties as an officer.

6.2 President. The President shall preside at all Meetings of Members and Directors and perform generally all duties usual and incident to such office, and such other and further duties as may from time to time be required of him by the Members or the Directors. He shall be, *ex officio*, a member of all Committees.

6.3 Vice President. If determined by the Board to be a necessary office, the Vice President shall perform generally all duties usual and incident to such office, such other and further duties as may from time to time be required of him by the Members, Directors or President and all the duties of the President in case of the latter's absence or disability. In case both the President and Vice President are absent or unable to perform their duties, the Directors may appoint a President *pro tempore*.

6.4 Secretary. The Secretary shall keep or cause to be kept the membership book in accordance with Section 3.4 hereof, a record of the names and addresses of all Directors, the date each Director became such and, upon termination of a Directorship for any cause, the date thereof and the facts relating thereto, and an accurate record of all proceedings at meetings of the Association, of the Directors and of the committees. The Secretary shall give all notices required by law or by this Code of Regulations and shall keep a proper secretary's book, which may be included in the book containing the minutes of proceedings of the Members and the Directors, and record therein all minutes of meetings of the Members, Directors and committees and such other matters as shall be proper and necessary. The Secretary generally shall perform all duties usual and incident to such office and such other and further duties as may be required by the Members, Directors or President.

6.5 Treasurer. The Treasurer shall receive and safely keep all monies belonging to the Association. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; provided, however, that a resolution of the Board of Directors shall not be necessary for disbursements made in the ordinary course of business conducted within the limits of any budget adopted by the Board. The Treasurer, with the approval of the President or Vice President, shall sign all checks and notes of the Association. Proper vouchers shall be taken for all disbursements. The Treasurer shall keep an accurate account of the finances of the Association, and all such accounts shall be open for inspection by the Board of Directors or any committee of Members appointed for that purpose by the membership. The Treasurer shall make or cause to be made an annual accounting of the Association books at the completion of each fiscal year, prepare an annual budget, an annual income statement and an annual balance sheet statement to be submitted to the membership at the Annual Meeting and shall render an account of the standing of the Association at such Annual Meeting and at such other times as the Board of Directors may require. The Treasurer shall perform generally all duties usual and incidental to such office and such other and further duties as may be required by the Members, Directors or President.

6.6 Removal. Any officer may be removed from office, with or without cause, by the affirmative vote of a majority of the Directors. The President shall be removed from office upon ceasing to be a Director.

6.7 Delegation of Duties. In the absence of any officer of the Association, or for any other reasons the Board of Directors may deem sufficient, the Board may delegate, from time to time, any and all of the powers and duties of such officer to any other officer or to any Director.

ARTICLE 7
COMMITTEES

7.1 Committees of Directors. The Board of Directors may from time to time create a committee or committees of Directors who shall serve at the pleasure of the Board to act in the intervals between meetings of the Board of Directors and may delegate to such committee or committees all or any portion of the authority of the Board of Directors other than that of filling any vacancy on the Board of Directors or on any committee of the Directors. No committee shall consist of less than two (2) Directors. The Directors shall appoint the Members of any such committee and may appoint one (1) or more Directors as alternate Members of any such committee, who may take the place of any absent Member or Members at any meeting of such committee. Without limiting the generality of the foregoing, the Board of Directors specifically may create the following committees:

A. Executive Committee. The Board of Directors may create and define the powers and duties of an Executive Committee. Such committee shall include the President. Except as aforesaid and except to the extent that its powers are limited by the Board of Directors, the Executive Committee, during the intervals between meetings of the Board of Directors, shall possess and may exercise, subject to the control and direction of the Board of Directors, all of the powers of the Board of Directors with respect to the management and control of the affairs of the Association regardless of whether such powers are specifically conferred by this Code of Regulations.

B. Nominating Committee. The Board of Directors may create a Nominating Committee which shall propose to the Members nominees for Directors and to the Board nominees for officers of the Board of Directors.

C. Architecture and Design Committee. The Board of Directors may create an Architecture and Design Committee. The Association shall act through the Board of Directors or, in lieu thereof, said Committee to exercise any and all rights granted to it by and to fulfill any and all responsibilities incumbent upon it under the Declaration, with respect to the approval or disapproval of proposals, plans, designs, specifications and applications submitted by an Owner concerning the nature, kind, shape, height, materials, location and landscaping of grounds, all as set forth in the Declaration. When acting in this capacity, the Board or the Committee shall enter all decisions rendered in the minutes of its meeting, and a copy of the pertinent extracts of such minutes shall be given to said Owner. The Board or the Committee shall have the right to establish reasonable rules and

regulations for the submission and consideration of and the taking of action upon such plans, designs, proposals, specifications and applications as it is required to pass upon by this Code of Regulations or the Declaration. All such plans, designs, proposals, specifications and applications shall be submitted in writing and shall set forth in reasonable detail such information as the Board or the Committee requires, including, without limitation, the dimensions, type and style of and the materials to be used to construct any structure subject to review pursuant hereto. Any approval of any particular application, design, plan, specification or proposal shall not be a waiver of the right to reject any similar or identical application, design, plan or proposal thereafter. The Committee may advise the Board of Directors regarding any proposals, programs or activities which come to its attention and which may affect the residential value of the Units.

7.2 Committee Procedures. Each committee shall keep a record and account of its proceedings and transactions. Except as otherwise required by this Code of Regulations, all actions by any committee shall be reported to the Board of Directors at the Board's meeting next succeeding such action and shall be subject to control, revision and alteration by the Board of Directors; provided that no rights of third persons shall be prejudicially affected thereby if the original action of the committee was within the scope of its authority and responsibility. Each committee shall fix its own rules of procedure and shall meet as provided by such rules, by resolution of the Board of Directors or at the call of the President. Unless otherwise provided by such rules or such resolution, the provisions of Section 4.3, relating to the notice required to be given for Special Meetings of the Board of Directors, shall also apply to meetings of each committee. A committee may act without a meeting, act in writing, by facsimile, electronic mail, or by telegram or by telephone with written confirmation, but no such action without a meeting shall be effective unless concurred in by all members of the committee. Vacancies in each committee shall be filled by the Board of Directors or as the Board may provide.

ARTICLE 8
INDEMNIFICATION

8.1 Authorization.

A. The Association shall indemnify, in accordance with and to the fullest extent permitted by the terms and provisions of Ohio Revised Code §1702.12(E), as the same may be amended from time to time, any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a Director or officer of the Association, or is or was serving at the request of the Association, as a Director, officer, employee or agent of another corporation (domestic or

foreign, non-profit or for profit), partnership, joint venture, trust or other enterprise.

B. Each employee who is or has been party to a written employment agreement with the Association (excluding agreements to which such employee is only indirectly a party, such as labor union contracts) may be indemnified in the same manner and to the same extent as provided above for a Director or officer.

C. The indemnification provided by this Section shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under applicable law, the Articles, this Code of Regulations, any agreement or vote of Members or disinterested Directors, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a Director, officer, employee or retired employee and shall inure to the benefit of the heirs, executors and administrators of any person entitled thereto.

8.2 Insurance. The Association, to the extent reasonably available and applicable, shall obtain and keep in full force and effect the insurance required by Section 10.1(E) of the Declaration. With respect to Directors' and officers' liability insurance, the Association may purchase and maintain insurance on behalf of any person who is or was a Director or officer or designated agent of the Association, or is or was serving at the request of the Association as a Director, officer, employee or designated agent of another corporation (domestic or foreign, non-profit or for profit), 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 such liability under the provisions of this Article or of Chapter 1702 of the Ohio Revised Code.

ARTICLE 9
COVENANTS FOR ASSESSMENTS

9.1 Creation of Assessments and Personal Obligation of the Owners. The Association, through the Board of Directors, shall have the power to levy against the Owners, pursuant to the authority granted to the Association by the Declaration and this Code of Regulations, the following Assessments: General Assessments, Individual Assessments, Enforcement Assessments, penalties, late fees, fines, Special Assessments, and any other Assessments, in accordance with the Declaration and this Code of Regulations, for the purposes of operating, maintaining, constructing, repairing, replacing and supervising the areas, facilities and improvements comprising the Common Areas (which are the responsibility of the Association) and such other property for which the Association is responsible, and for administering and managing the affairs of the Association.

All General Assessments shall be levied and apportioned annually on an equal basis against each Owner of a Unit (other than the Developer, except only as expressly provided herein); provided, however, that if a Unit or Sublot is conveyed by the Developer to an Owner (hereinafter the "Initial Conveyance") after the date on which a General Assessment is due and payable, the amount of such General Assessment to be paid by such Owner shall be prorated by multiplying the total amount of such General Assessment by a fraction, the numerator of which is the number of days remaining in the year of Initial Conveyance and the denominator of which is three hundred sixty-five (365) unless said General Assessment is levied for a period less than one (1) year, in which case, the denominator shall be the total number of days in the period for which the General Assessment is levied. All Assessments, together with interest thereon as hereinafter provided, shall be a charge upon such Units if not paid within thirty (30) days after the same shall have become due and payable; and at such time, the Association shall have a lien upon the Unit for which such Assessment has not been paid and upon the ownership interest of the Owner of such Unit.

9.2 Annual Assessments.

A. During the Start-Up Period, the annual General Assessment for the Owner of a Unit shall be such amount as may be determined by the Developer, payable at such time(s) as may be determined by the Developer.

B. Commencing with the year beginning on January 1st immediately following the expiration of the Start-Up Period, and for each year thereafter, the annual General Assessment shall be determined by the Board of Directors, with a maximum annual increase of not more than fifty percent (50%) from the prior year.

9.3 Special Assessments. If the Assessments shall for any reason prove to be insufficient to cover the actual expenses incurred by the Association, the Association may, at such time as it deems it necessary and proper, levy a special assessment (the "Special Assessment") against the Owners of Units. Each such Owner shall pay its proportionate share of each such Special Assessment as if the Special Assessment were part of the original Assessment, determined as provided in Section 7.3 of the Declaration.

9.4 Due Dates of Assessments. Commencing with the year beginning on January 1st immediately following the expiration of the Start-Up Period, each General and Special Assessment shall be due and payable on January 1st of the year for which it is levied or such other date as the Board of Directors shall determine. During the Start-Up Period, the Developer shall determine the date(s) upon which such Assessments are due and payable. The Board of Directors shall fix the due date of any Special Assessment or installment by its resolution authorizing such Assessment, and written notice of such Assessment or installment thereof shall be given to each Owner subject thereto thirty (30) days in advance of such due date. In the event the Initial Conveyance of a Unit takes place after any Assessments in effect have become due and payable pursuant to the foregoing, the amount of any such Assessment, prorated in accordance herewith, shall be due and payable upon the conveyance of said Unit. If a General or Special Assessment or installment thereof or additional Assessment is not paid within thirty (30) days after the due date, it shall

be deemed to be in default, and such delinquent Assessment or installment shall bear interest from the due date at a rate which is the greater of (a) ten percent (10%) per annum; or (b) two (2) percentage points above the prime commercial rate of interest charged by Key Bank, Cleveland, Ohio, or its successor. The Board of Directors may, after such thirty (30) days, authorize the filing of a notice of lien with respect thereto, stating the amount due, signed by the President and Secretary of the Association, and duly acknowledged and witnessed, in the office of the Recorder of Cuyahoga County, Ohio.

9.5 Statement of Unpaid Assessments. Statements with respect to the existence and amount of unpaid liens and Assessments shall be provided by the Association to any prospective purchaser or mortgagee of a Unit upon request.

9.6 Credit for Assessments. Unless otherwise provided by the Declaration or this Code of Regulations, the Association shall credit any amount it receives from an Owner in the following order: (i) first, to interest owed to the Association; (ii) second, to administrative late fees, penalties, or Enforcement Assessments owed to the Association; (iii) third, to collection costs, attorney's fees, and paralegal fees the Association incurred in collecting any Assessment; and (iv) fourth, to the oldest principal amounts the Owner owes to the Association for the Common Costs chargeable against the Unit or Sublot.

9.7 Enforcement Assessments & Requests for Hearing. Prior to imposing a charge for damages or an Enforcement Assessment pursuant to the Declaration or this Code of Regulations, the Board of Directors shall give the Owner a written notice that includes all of the following: (i) a description of the property damage or violation; (ii) the amount of the proposed charge or Assessment; (iii) a statement that the Owner has a right to a hearing before the Board to contest the proposed charge or Assessment; (iv) a statement setting forth the procedures to request a hearing; and (v) a reasonable date by which the Owner must cure a continuing violation to avoid the proposed charge or Assessment, if such an opportunity to cure is applicable.

To request a hearing, the Owner shall deliver a written notice to the Board not later than the tenth (10th) day after receiving the notice this Section 9.7 requires. If the Owner fails to make a timely request for a hearing, the right to that hearing is waived, and the Board immediately may impose a charge for damages or an Enforcement Assessment pursuant to this section. If an Owner requests a hearing, at least seven (7) days prior to the hearing the Board shall provide the Owner with a written notice that includes the date, time, and location of the hearing. The Board shall not levy a charge or Assessment before holding any hearing timely requested pursuant to this section. Within thirty (30) days following a hearing at which the Board imposes a charge or Assessment, the Association shall deliver a written notice of the charge or Assessment to the Owner. Any written notice that this section requires shall be delivered to the Owner or any occupant of the Unit by personal delivery, by certified mail, return receipt requested, facsimile, electronic mail, or by regular mail.

9.8 Exempt Property. The following property shall be exempted from the Assessments and liens created herein:

A. All property to the extent of any easement or other interest therein dedicated to and accepted by the local public authority and devoted to public use.

B. The Common Areas.

C. All properties other than Units exempted from taxation by the laws of the State of Ohio, upon terms and to the extent of such legal exemption.

D. Units owned by the Developer, except as provided otherwise in the Declaration.

ARTICLE 10
DUTIES AND POWERS OF THE ASSOCIATION

10.1 Association Duties. The Association shall be responsible for providing and shall pay all expenses for the maintenance, repairs and replacements, taxes and assessments, utilities, insurance, management, operation and improvement of the Common Areas and facilities and any other property for which the Association is responsible under the Declaration, as provided therein.

10.2 Architectural Control. Except for construction undertaken by the Developer to complete RiverSouth, no building, fence, wall, sign, pavement or other structure shall be erected or maintained, nor shall any exterior addition to or change or alteration in an existing improvement be made until the plans and specifications showing the nature, kind, shape, height, materials and location of same shall have been submitted to and approved in writing by the Developer (while a Member of the Association) and by the Board of Directors of the Association or by any Architecture and Design Committee established under Subsection 7.1.C. hereof (after Developer ceases to be a Member of the Association).

10.3 General. The Association shall perform and carry-out all other duties and acts reasonably necessary to give effect to and implement the intent of the provisions of the Articles of Incorporation of the Association and the Declaration and to maintain RiverSouth as a first-class, residential development. The Association shall take such action as it may, in its discretion, deem desirable to assure compliance with all applicable municipal, county, state and federal laws and regulations.

ARTICLE 11
FISCAL YEAR

The fiscal year of the Association shall be determined by the Board of Directors from time to time, but in no case shall it be earlier than four (4) months prior to the date of the Annual Meeting of Members.

ARTICLE 12
NOTICE

Any notices required to be given to any Owner, Member, occupant or person under the provisions of this Code of Regulations shall be deemed to have been given when personally delivered to such Owner's, Member's or occupant's Residence at RiverSouth, or mailed, postage prepaid, to the last known address of such person; provided, however, that notice of a "delinquency" of any payment due hereunder shall be made by personal delivery to such Residence, or by certified or registered mail, return receipt requested. The effective date or receipt date of such notice shall be the date said notice is personally delivered or postmarked, as the case may be. Any notices required to be given to the Developer or Association under the provisions of this Declaration must be in writing and delivered via one of the following methods: (a) postage prepaid registered or certified mail, return receipt requested; or (b) commercial overnight carrier. Unless otherwise designated by the Developer or Association in writing, notice to the Association shall be sent to the last known address of the President of the Board of Directors or the person named as statutory agent of the Association, and notice to the Developer shall be sent to 26401 Emery Road, Suite 1030, Cleveland, Ohio 44128. Notices to the Developer and/or Association are effective upon receipt. Service of summons or other process may be made upon the Association by serving the process personally upon the President of the Board of Directors or the person named as statutory agent of the Association.

ARTICLE 13
REPEAL AND AMENDMENTS

Except as expressly provided in the Declaration, upon the Developer ceasing to have any ownership interest in any of the property constituting RiverSouth, any provision of this Code of Regulations may be amended or repealed or a new Code of Regulations may be adopted either in writing or at any Annual Meeting or Special Meeting of the Class A Members held for such purpose, by the affirmative vote of the Class A Members entitled to exercise sixty-six and two-thirds percent (66-2/3%) of the voting power of the Association unless a greater percentage of vote is required pursuant to the Declaration or in accordance with the statutes of the State of Ohio and provided written notice of such proposed action has been furnished to the membership as provided in Section 4.3 hereof. The Board of Directors of the Association shall file and record any amendment to this Code of Regulations in the office of the recorder of Cuyahoga County, Ohio within sixty (60) days after the date of adoption of the amendment. The Board of Directors of the Association shall not pursue any civil action against any Member based upon any amendment to this Code of Regulations until such Amendment is filed for record in the real estate records of Cuyahoga County, Ohio.

ARTICLE 14
CONFLICTS

In the event of a specific conflict between Chapter 5312 of the Ohio Revised Code and the express requirements or restrictions of any governing document of RiverSouth or the Association, then, to the fullest extent permitted by the law, the governing document shall control. Chapter 5312 of the Ohio Revised Code shall control if any governing document is silent with respect to any provision contained in

Chapter 5312 of the Ohio Revised Code. In the event of a specific conflict between or among any governing document of RiverSouth or the Association, the Declaration shall control.

Executed and adopted this ___ day of _____, 2015.

DEVELOPER, ABODE FAIRVIEW PARK MLD LLC

_____
Andrew E. Brickman
Managing Member of Abode Fairview Park MLD LLC

This Instrument Prepared By:
Volpini Rinkes, LLC
75 Public Square, Suite 1310
Cleveland, Ohio 44113

CITY OF FAIRVIEW PARK
ORDINANCE NO. 16-03
REQUESTED BY: MAYOR EILEEN ANN PATTON
SPONSORED BY: COUNCILMAN MINEK
CO-SPONSORED BY: COUNCILWOMAN CLEARY

AN ORDINANCE TO REPEAL AND REPLACE ORDINANCE 15-30, AUTHORIZING THE ADVERTISEMENT FOR BIDS AND FOR THE MAYOR TO ENTER INTO A CONTRACT WITH THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER AS DETERMINED BY THE BOARD OF CONTROL, AND PROVIDE FOR ENGINEERING SERVICES FOR THE WORK TO BE PERFORMED IN YEAR 27 OF THE STREET REPAIR PROGRAM AND DECLARING AN EMERGENCY.

WHEREAS, on October 5, 2015, Council passed Ordinance 15-30, approved by the Mayor on October 6, 2015, authorizing the advertisement for bids, contract and engineering services for Year 27 of the Street Repair Program; and

WHEREAS, after additional engineering field work, it is determined that a significant number of concrete curbs have been identified for replacement along with full depth pavement repairs in identified areas; and

WHEREAS, an increase in cost for asphalt and concrete has contributed to the increased construction cost estimate; and

WHEREAS, due to ongoing/pending sewer projects in specific areas of the city, Clifford Drive has been removed from Year 27 of the Street Repair; and

WHEREAS, the City has been engaged in an ongoing street repair program for 26 years; and the City Engineer has recommended a program for Year 27, for which plans and specification must be prepared; and

WHEREAS, the City of Fairview Park must advertise and enter into an agreement to perform the work on the streets to be repaired in Year 27 of the Street Repair Program.

NOW. THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FAIRVIEW PARK, COUNTY OF CUYAHOGA AND STATE OF OHIO:

SECTION 1. That the Mayor is hereby authorized to advertise for and accept bids for the repair of the City streets selected for Year 27 of the Street Repair Program.

SECTION 2. That the Mayor is authorized to enter into a contract with the lowest responsive and responsible bidder as determined by the Board of Control for repair of the City streets selected for Year 27 of the Street Program, in an amount not to exceed Five Hundred Fifty Thousand Dollars ($550,000.00), including engineering services.

SECTION 3. That the City Engineer is hereby authorized and directed to prepare plans and specifications for repair and construction of the streets listed to be repaired in Year 27 of the street program, and the City Engineer shall be paid for the services rendered in accordance with his contract with the City, as follows:

- Angela Drive (Entire)
- West 224th Street (Intersection of Mastick only)
- Rivercliff Drive (Entire)
- Westpark Drive (North Park to Eaton)
- Bohlken Park Entry

SECTION 4. That the funds for the Year 27 of the Street Program shall be appropriated from Fund 811, except that the $19,000.00 for the Bohlken Park Entry shall be appropriated from Fund 230.

SECTION 5. It is found and determined that all formal actions of this council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this council, and that all deliberations of this council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

SECTION 6. That this ordinance is hereby declared to be an emergency measure, necessary for the immediate preservation of the public peace, health, safety and welfare; and for the further reason that the repairs should be done as soon as weather permits; and provided it receives the affirmative vote of a majority plus one of the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor, otherwise from and after the earliest period allowed by law.

PASSED:
APPROVED:

1st reading: 02.01.16
2nd reading:
3rd reading:

_____
Michael P. Kilbane, President of Council

_____
Eileen Ann Patton, Mayor

_____
Liz L. Westbrooks, Clerk of Council

2016 STREET REPAIR PROGRAM
PRELIMINARY ESTIMATE OF PROBABLE COSTS
CITY OF FAIRVIEW PARK, OHIO

JANUARY 25, 2016

STREET	Type of Work	APPROXIMATE LENGTH OF STREET (L.F.)	Cost Estimate Approved by Council	PROBABLE CONSTRUCTION COST JAN. 2016
Angela Drive (West 210th to Fairpark Drive)	Plane & Overlay with Concrete Repairs	1397		$144,000.00
Bohlken Park Entry	Plane & Overlay	196		$19,000.00
Rivercliff Drive (Story Road to cul-de-sac)	Plane & Overlay with Concrete Repairs	1400		$143,000.00
West 224th Street (at Mastick Road)	Plane & Overlay with Concrete Repairs	40		$20,000.00
West Park Drive (Eaton Rd. to North Park Dr.)	Plane & Overlay with Concrete Repairs	1033		$102,000.00
Contingency and General Itesm	Misc. Metal, MOT, Pre-con video	n/a		$16,000.00
		Sub-total		$444,000.00
		Contingency		$44,000.00
		Sub-total Preliminary Estimate of Probable Construction Cost		$488,000.00
		Preliminary Estimate of Engineering & Construction Administration Cost		$48,000.00
		GRAND TOTAL	$430,000.00	$536,000.00

1. All repair costs and repair quantities may change.
2. Prices are taken from 2015 FP Street Program Bids

CITY OF FAIRVIEW PARK
RESOLUTION NO. 16-02
REQUESTED AND SPONSORED BY: CITY COUNCIL

A RESOLUTION NAMING THE CLERK OF COUNCIL AS THE OFFICIAL DESIGNEE OF THE MEMBERS OF CITY COUNCIL TO ATTEND ATTORNEY GENERAL APPROVED PUBLIC RECORDS TRAINING SESSIONS AND DECLARING AN EMERGENCY

WHEREAS, Ohio Revised Code Section 149.43 requires that all elected public officials, or their designee, attend training programs and seminars developed, provided and certified by the Attorney General to enhance the public official's knowledge of the duty to provide access to public records; and,

WHEREAS, the members of City Council wish to designate the Clerk of Council as their designee for these purposes.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FAIRVIEW PARK, COUNTY OF CUYAHOGA AND STATE OF OHIO:

SECTION 1. In accordance with Ohio Revised Code Section 149.43(E)(1), the members of Fairview Park City Council hereby name the Clerk of Council as their designee to attend training sessions approved by the Attorney General regarding their duty to provide access to public records.

SECTION 2. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

SECTION 3. That this ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety and welfare and to timely fulfill the training requirement; and provided it receives the affirmative vote of a majority plus one of the members elected to council, it shall take effect and be in force immediately upon its passage and approval by the mayor, otherwise from and after the earliest period allowed by law.

PASSED:
APPROVED:

1st reading: 02.01.16
2nd reading:
3rd reading:

_____
Michael P. Kilbane, President of Council

_____
Eileen Ann Patton, Mayor

_____
Liz L. Westbrooks, Clerk of Council