

**AMENDED AND RESTATED DECLARATION
OF COVENANTS AND RESTRICTIONS FOR
BRETTON RIDGE HOME OWNERS CLUB**

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THIS AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS (“Declaration”) is made on the date hereinafter set forth by BRETTON RIDGE HOME OWNERS CLUB, an Ohio non-profit corporation, hereinafter referred to as “Association.”

WITNESSETH:

WHEREAS, the Association is comprised of certain real property located in the City of North Olmsted and Olmsted Township, County of Cuyahoga, State of Ohio, and originally known as Bretton Ridge Subdivision No. 1, Subdivision No. 2, proposed Subdivision No. 3, and proposed Subdivision No. 4, being part of Original Olmsted Township Lot No. 10, Tract No. 6, Subdivision No. 1 as shown by the recorded plat in Volume 190 of Maps, Page 77, Subdivision No. 2 as shown by the recorded plat in Volume 191 of Maps, Page 14, Subdivision No. 3 located next westerly of Subdivision No. 2 as shown in Cuyahoga County Records, and Subdivision No. 4 located next southerly of Subdivision No. 1 as shown in Cuyahoga County Records, which is more particularly described in the legal description attached hereto and made a part hereof as Exhibit A (hereinafter referred to as the “Property”); and

WHEREAS, the original Declaration of Restrictions was filed by Saul S. Biskind (hereinafter referred to as “Declarant”), the original developer of the Property, in Volume 11344, Page 347 of the Cuyahoga County Records on October 21, 1964 and the original Code of Regulations in Volume 11364, Page 217 of the Cuyahoga County Records on December 15, 1964, and intended and desired to assure that for the protections of all owners and future residents of the Association, a set of covenants and restrictions to be in full force and effect and run with the land;

WHEREAS, the Declarant incorporated under the laws of the State of Ohio as a non-profit corporation, Bretton Ridge Home Owners Club. for the purposes of exercising the functions aforesaid; and

WHEREAS, the intent of the Association is to amend and restated the original

Declaration of Restrictions and to subject the Association to the Planned Community Act as enacted in the Ohio Revised Code as Chapter 5312 and any future amendments thereto.

NOW, THEREFORE, the Association declares that the Property is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes collectively referred to as “covenants and restrictions”) hereinafter set forth and further specifies that this Amended and Restated Declaration shall constitute covenants and restrictions to perpetually run with said real property and shall be binding upon all subsequent owners, occupants, invitees, and licensees of all or any part of said real property, together with their grantees, successors, heirs, executors, administrators, or assigns, until such time as the same expire or are amended or rescinded as hereinafter provided.

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(to be added when document finalized)

ARTICLE I EXHIBITS AND DEFINITIONS

1. Exhibits. The following exhibits shall be attached and made a part of the Declaration:

- a. Exhibit A: Legal Description
- b. Exhibit B: Code of Regulations

2. Definitions. The following definitions shall be applicable to this Declaration:

a. “Association” shall mean and refer to Bretton Ridge Home Owners Club, its successors and assigns, an Ohio non-profit corporation, formed for the purpose of maintaining and administering the Common Elements (as hereinafter defined) for the exclusive use and benefits of the Owners; providing services for the exclusive use and general benefit to the Owners of the Lots; administering and enforcing this Declaration; cooperation with local officials for the benefit of the Association, including dedication of drainage ways for storm water and other easements; collecting and disbursing the assessments; and exercising the functions hereinafter provided for.

b. “Board of Trustees” shall mean and refer to the Association’s Board of Trustees.

c. “Common Elements” shall mean any property that the Association owns, including the park and pool and development entry signs.

d. “Common Expenses” shall mean any expense or financial liability of the Association.

e. “Lot” shall mean and refer to any plot of land shown upon any recorded plat of the Property with the exception of any Common Elements. The Lots may be vacant land or contain residential structures.

f. “Member” shall mean all individuals who are Owners of a Lot in the Association.

g. “Owner(s)” shall mean and refer to the record Owner, as reflected in the official records of Cuyahoga County, Ohio, whether one or more persons or entities, of a Lot that is a part of the Property, but excluding those having such interest merely as security for the performance of an obligation.

ARTICLE II
THE ASSOCIATION

1. Existence. The Association shall be a duly constituted non-profit corporation existing under the laws of the State of Ohio. Its Code of Regulations, as of the date of this Declaration, are set forth in Exhibit B.

2. Membership and Voting Rights.

a. Membership. Each Owner shall automatically become a member of the Association and such membership shall terminate upon the conveyance of record by such Owner of his or her Lot, at which time the new Owner shall automatically become a member of the Association. Each Member shall be bound by the Association's Declaration, Code of Regulations, and any Rules and Regulations properly adopted. Membership does not include persons or entities who hold an interest merely as security for the performance of an obligation. Ownership, as specified above, shall be the sole qualification for membership. Any corporate or fiduciary entity that owns a Lot shall be required to provide a Certificate of Representation, designating an individual who shall have the authority to vote on behalf of the entity Owner; who is authorized to occupy the residence; and who is personally responsible for payment of assessments.

b. Voting Rights. Every Owner shall be entitled to cast one (1) vote for each Lot owned by such Owner upon any matter taken up by the Association. This shall apply regardless of any difference in Lot size or value. Any Owner who owns more than one Lot may cast one (1) vote for each Lot. When a Lot is owned in joint tenancy or tenancy in common or when two or more Owners own the Lot, the collective shall only be entitled to one (1) vote per Lot.

3. Rights of the Association. The Association shall have the right to:

a. Enforce the provisions of this Declaration including, without limitation, the right to initiate any litigation for injunctive relief, damages, foreclosure of liens, or as otherwise provided for by law in accordance with the Declaration and Code of Regulations.

b. Suspend the voting rights of an Owner during any period that an Assessment remains unpaid for a period of thirty (30) days or more.

c. Obtain, employ, and pay, at the discretion of the Board, for the services of an entity or person, hereinafter called the "Manager," to assist in managing its affairs and carrying out its responsibilities hereunder to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable, whether such personnel are engaged, furnished, or employed directly by the Board or the Manager. The Association, through the Board, may enter into a Management Agreement for management services with any management entity as it deems appropriate or necessary.

d. Acquire or hold tangible and intangible personal property and may dispose of the same by sale or otherwise, subject to such restrictions, if any, as may from time to time be provided in the Association's Declaration or Code of Regulations.

e. Procure and maintain adequate policies of public liability and other insurance as it deems advisable or necessary. The Association additionally may cause all persons responsible for collecting and disbursing Association moneys to be insured or bonded with adequate fidelity insurance or bonds.

f. The Association may exercise any other right or privilege given to it expressly by this Declaration, Code of Regulations, or by law and every other right or privilege reasonably implied from the existence of any right or privilege granted herein or therein or reasonably necessary to effectuate the exercise of any right or privilege granted herein or therein.

ARTICLE III **EASEMENTS**

1. Easement to Use and Enjoy Common Elements. Each Owner has an easement for the use and enjoyment of the Common Elements, subject to the rules and regulations that may be adopted by the Board and the provisions of the Declaration and Code of Regulations. Any Owner may delegate such Owner's right of enjoyment of the Common Elements to the Owner's occupants who resides at or in the Owner's Lot.

2. Easement to Enter Lots. The Association shall have the right to enter Lots adjacent to property for which it is responsible, or authorize agents to enter lots when necessary in connection with any maintenance, repair or installation for which the association is responsible.

ARTICLE IV **RESPONSIBILITIES OF THE ASSOCIATION AND OWNERS**

1. Maintenance.

a. The Association shall manage and control of the Common Elements, and to keep the same in good, clean, and proper condition, order, and repair. The Association shall also pay all costs, charges, and expenses incurred in connection with the operation, administration, and management of the Common Elements, and performance of its other obligations hereunder.

b. Each Owner shall keep his or her Lot in good condition and repair, and properly maintained in accordance with City Codes and Regulations.

2. Taxes and Assessments. The Association shall pay prior to delinquency all taxes and assessments levied on land owned by the Association, if any.

3. Utilities. The Association shall pay for all utilities used or consumed in the Common Elements.

4. Insurance. The Association shall obtain:

- a. Property insurance on all Common Elements, if any.
- b. General liability insurance providing coverage for death, bodily injury, and damage to property within the Common Elements, if any.
- c. Director and officers liability insurance.
- d. Fidelity insurance and other such insurance as the Board deems necessary or appropriate.

5. Rules and Regulations. The Board may adopt such reasonable rules and regulations as it deems necessary or desirable in connection of the use of Common Elements.

ARTICLE V ASSESSMENTS

1. General Assessments. General assessments for Common Expenses made by the Association shall be a uniform amount against all Members and each Member agrees to pay the assessments levied in such manner and at such times as provided for in this Declaration and Code of Regulations. No Owner may exempt himself or herself from liability for contribution toward the Common Expenses of the Association by waiver of the use or enjoyment of the Property.

2. Special Assessments. The Association, by majority consent of the Board, shall have the right to levy a special assessment against all Owners equally for a special or extraordinary expense not budgeted to be paid by the general assessments. The amount of the special assessment charged to each Owner shall not exceed \$250.00. If a special assessment charged to each Owner should exceed \$250.00, majority consent of the Owners must be obtained. Any special assessment is due no sooner than thirty (30) days after written notice of such special assessment is provided to each Owner.

3. Creation of Lien and Personal Obligation. Each Owner hereby covenants and agrees, by acceptance of the deed to his or her Lot, whether or not it shall be so expressed in such deed, to pay the Association all assessments levied against such Owner or Lot in accordance with this Declaration and Code of Regulations on or before the due date. If an Owner fails to pay an assessment when due, the Association shall notify the Owner, in writing, of the failure to make such payment. In the event that the assessment is not paid within ten (10) days following the notification, then the Owner is considered delinquent and together with a late fee (as determined from time to time by the Board with notice to all Owners); possible interest at the statutory rate; and the costs of collection, including without limitation, costs and reasonable attorney fees, shall upon perfection as provided, become a continuing lien upon the ownership interest of the Lot, the Owner, his or her heirs, executors, administrators, devisees, personal representatives, successor, and assigns, subject to automatic and subsequent adjustments reflecting any additional unpaid interest, fees, assessments, enforcement costs, attorney fees, paralegal fees, and court costs. Each Owner of a Lot shall be personally liable, jointly and severally, with all other Owners for all delinquent assessments.

4. Non-Liability of Foreclosure Sale Purchaser for Delinquent Assessments. When an institutional first mortgagee or purchaser at a foreclosure sale of an institutional first mortgage acquires an ownership interest as a result of foreclosure or of the acceptance of a deed in lieu of foreclosure, such mortgagee or purchaser, their respective successors and assigns and all future grantees of said Lot, shall not be liable for the assessments levied against the Owner of such ownership interest prior to acquisition of title to the ownership interest whether or not a lien has been filed in accordance with this Section. Any funds received on the judicial sale of the ownership interest in excess of the mortgage lien, the court costs and the real estate taxes and assessments shall, however, to the extent otherwise permitted under the laws of the State of Ohio next be applied to satisfy the Association's lien for assessments. The Owner or Owners of an ownership interest shall be and remain personally and primarily liable, jointly and severally, for the assessments accruing against the ownership interest prior to the date of the judicial sale.

5. Liability for Assessments Upon Voluntary Conveyance. Except as set forth above, the grantee(e) of the ownership interest shall not be personally liable with the grantor for the amount of all unpaid assessments, whether or not a lien has been perfected, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. Only the Owner at the time the delinquency occurred is personally liable for amounts owed; however, unpaid assessments are a lien on the property, and the obligation stays with the land upon transfer of ownership. A mortgagee other than a first institutional mortgagee, a purchaser at a foreclosure sale of a mortgage other than a first mortgage to an institutional mortgagee, their respective successors and assigns, a devisee of an ownership interest, or the transferee of an ownership interest pursuant to the statute of Descent and Distribution, shall be deemed to have obtained said Lot pursuant to a voluntary conveyance for purposes of this Section.

6. Liens.

a. Perfection of Lien. If any Owner shall fail to pay when due any assessment levied in accordance with this Declaration (such Owner hereinafter referred to as the "Delinquent Owner"), the Board may authorize the perfection of a lien on the ownership interest of the Delinquent Owner on the Lot for which assessments have not been paid by filing for record with the Recorder of Cuyahoga County, Ohio, a Certificate of Lien. The Certificate of Lien shall be in recordable form and shall include the following:

- i. The name of the Delinquent Owner.
- ii. A description of such Owner's Lot(s) for which assessments were not paid.
- iii. The entire amount claimed, including the amount of any delinquency, the rate of interest accruing thereon and estimated costs of collection.
- iv. A statement referring to the provisions of the Declaration and lien authorization.

b. Duration of Lien. Said Lien shall remain valid for a period of five (5) years from the time of filing of said Certificate of Lien, unless an action to enforce same has then been commenced or said lien is sooner released or satisfied, in the same manner provided by law for the release or satisfaction of mortgages on real property, or discharged by the final judgment or order of a Court in an action brought to discharge such Lien.

c. Priority. Except as may be provided under applicable law, a lien perfected pursuant to this Section shall take priority over any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments and liens of a bona fide first mortgage to an institutional lender, and 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.

d. Dispute as to Assessment. Any Owner who believes that any assessment levied by the Association against his or her ownership interest for which a Certificate of Lien has been filed by the Association has been improperly determined, may bring an action in the Court of Common Pleas of Cuyahoga County, Ohio, for discharge of all or any portion of such lien; but the lien shall continue until the actual amount of the lien so determined is paid in full, and the Association may counterclaim in such action for foreclosure of the amount of lien found to be due.

e. No Waiver Implied. The creation of a lien upon any ownership interest owned by a Delinquent Owner shall not waive, preclude or prejudice the Association from pursuing any and all other remedies granted to it elsewhere in this Declaration, at law, or in equity.

f. Personal Obligations. The obligations created pursuant to this Declaration shall be and remain the personal obligations of the Delinquent Owner(s) until fully paid, discharged or abated.

7. Statement of Unpaid Assessments. Statements of unpaid liens and assessments shall be provided by the Association to any prospective purchaser or mortgage of the Lot upon request.

ARTICLE VI **BUILDING RESTRICTIONS; DESIGN STANDARDS**

1. Land Use and Building Type. No Lot shall be used except for residential purposes. No building shall be erected, altered, placed, or permitted to remain on any Lot other than one detached single-family dwelling not to exceed two stories in height except as hereinafter provided. Each single-family dwelling shall include a two-car or larger attached garage.

2. Dwelling Size. The floor area of the living space, exclusive of porches and garages, but including storage area in garages, shall not be less than 1400 square feet.

3. Building Location. Buildings shall be located on such areas of each individual lot as is compliant with the Codified Ordinances for the City of North Olmsted, and shall meet all setback requirements.

4. Lot Area Width. No Lot or Lots may be subdivided into Lots of different sizes or shape from those appearing on the recorded plat except with the consent and approval of the Board.

5. Sheds. Sheds shall be permitted so long as they are in compliance with City ordinances.

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ARTICLE VII
RESTRICTIONS

Notwithstanding anything to the contrary in this Declaration, the following restrictions shall apply to all Owners, occupants, and guests:

1. Nuisance. No noxious or offensive activity shall be carried out upon any Lot, nor shall anything be done thereon that may be an annoyance or nuisance to other Owners, occupants, and guests.

2. Sexual Predators. No person (i) whose name appears on the state registry of sex offenders and child-victim offenders maintained under section 2950.13 of the Revised Code, or (ii) whose name is indicated on the state registry of sex offenders and child-victim offenders and being convicted of or having plead guilty to either a sexually oriented offense that is not registration-exempt sexually oriented offense or a child-victim oriented offense in a criminal prosecution and was not sentenced to a serious youthful offender dispositional sentence for that offense; is permitted to establish a residence, occupy or maintain a residence within any Lot within the Association.

ARTICLE VIII
ENFORCEMENT

1. Remedies. Enforcement of the provisions of this Declaration may be by any proceeding at law or in equity against any person violating or attempting to violate any provision, either to restrain violation or to recover damages and against the person or to enforce any restriction or covenant of this Declaration. The failure by the Association or any one permitted by this Declaration to enforce any provision herein contained shall in no event be deemed a waiver of the right to do so thereafter.

2. Enforcement Assessments. If any Owner or occupant required to comply with

any provisions of the Declaration, Code of Regulation, or of any Rule or Regulation adopted by the Board, he or she will be subject to reasonable enforcement assessments as determined by the Board. The Board may impose enforcement assessments and reasonable charges for damage to the Common Elements or other Property so long as the following are done:

a. Prior to imposing the enforcement assessment or charge for damages, the Board must give the Owner written notice (delivered by personal delivery, certified mail with return receipt requested, regular mail or by electronic mail (if delivered by regular mail or electronic mail, the time requirements herein shall begin upon the notice being sent)) that includes all of the following:

- i. A description of the property damage or violation;
- ii. The amount of the proposed charge or enforcement assessment;
- iii. A statement that the owner has a right to a hearing before the Board to contest the proposed charge or assessment;
- iv. A statement setting forth the procedures to request a hearing (outlined further in e below); and
- v. A reasonable date by which the owner must cure the violation to avoid the proposed charge or assessment.

b. The Board shall not levy the charge or assessment before holding any hearing if it is properly requested.

c. A reasonable time to cure the violation may be given before imposing the charge or assessment, unless in the case of emergency.

d. Within thirty (30) days following a hearing at which the Board votes to impose a charge or assessment, the Association shall deliver a written notice of the charge or assessment to the Owner. This notice may be delivered to the Owner or any occupant of the **Unit Lot** by personal delivery, certified mail, return receipt requested, by regular mail, or to the Owner by electronic mail.

e. To request a hearing, the Owner shall deliver a written notice to the Board not later than the tenth (10th) day after receipt of the above notice. If the Owner fails to make a timely request for the hearing, the right to the hearing is waived, and the Board may immediately impose the charge for damages or the enforcement assessment. If an Owner requests the 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.

ARTICLE IX **AMENDMENT**

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

1. Board Amendment. This Declaration may be amended by the Board to correct clerical and similar types of errors in this Declaration. In addition, the Board shall have the right to amend this Declaration or the Code of Regulations without the consent of any person as required to comply with requirements of the Federal National Mortgage Association (“FNMA”), the Government National Mortgage Association (“GNMA”), the Federal Home Loan Mortgage Corporation (“FHLMC”), the Department of Housing and Urban Development (“HUD”), the Federal Housing Association (“FHA”), the Veterans Administration (“VA”), 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. Also, the Board may amend this Declaration or the Code of Regulations in compliance with applicable laws, statutes, and ordinances. To effect any said modification, the Board shall file an Amendment, which shall be signed by the Board President and Secretary and shall be affective upon the filing with the Recorder of Cuyahoga County.

2. Association Amendment. Except as expressly provided in this Declaration, any provision of this Declaration may be amended by the affirmative vote of Members entitled to exercise a majority 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 at a duly called meeting, by written ballot, or by Board approved electronic voting. Each amendment shall be effective when signed by the President and one other officer of the Association and filed for record with the Recorder of the County.

ARTICLE X **MISCELLANEOUS**

1. Invalidation. Invalidation of any one of these restrictions, conditions, covenants, or reservations by judgment or court order shall in no way affect any other provisions, all of which shall remain in full force and effect.

2. Notices. Any notices required to be given to any Owner under the provisions of this Declaration shall be deemed to have been given when mailed or personally delivered to such Owner’s Lot, mailed the last known address of such Owner or the principal place of business if a corporation, or delivered by electronic means.