

172-  
170  
IR  
SV  
NS



**JULIE BAUMGARDNER**  
 Wood County Recorder  
 12/04/2014 03:16:48 201415734  
**DOCUMENT TOTAL** 172.00  
 Volume: 3335 Page: 305 - 321 OR

LOUISVILLE TITLE

**AMENDED AND RESTATED  
 DECLARATION OF RESTRICTIONS FOR  
 RIVER BEND LAKES SUBDIVISION PLAT 2  
 A SUBDIVISION IN THE TOWNSHIP OF MIDDLETON  
 WOOD COUNTY, OHIO**

This DECLARATION OF RESTRICTIONS ("Declaration") is adopted by McCarthy Riverbend, LLC, an Ohio limited liability company, whose address is 3618 King Road, Toledo, Ohio 43617 hereinafter called "Developer", as of this 1st day of December, 2014.

**WITNESSETH THAT:**

WHEREAS, Developer is the record owner of all of the lots ("lots") in the recorded Plat (sometimes "Plat" herein) of the River Bend Lakes Subdivision Plat 2 located in the Township of Middleton, Wood County, Ohio ( said Plat 2 and all previous plats or subsequent plats being hereinafter called "Riverbend" or "Subdivision"), which Plat is recorded in Vol 23, page 554 of the Wood County, Ohio, Record of Plats; and

WHEREAS, the original Declaration of Restrictions for said Plat were filed for record on March 18, 2014 as in Volume 3282, pages 1030-1047; and

WHEREAS, there are three (3) associations ("Associations") which are Ohio non-profit corporations whose members are and shall be various of the owners (sometimes "Lot Owners" or "lot owners" herein) of all of the residential lots and certain ponds, as well as any and all residential lots which may be created by any previous or subsequent plats of the Subdivision; and

WHEREAS, the three associations ("Associations") are as follows:

(1) the Riverbend Homeowner's Association, which members shall consist of all lot owners in the Subdivision upon which residential dwellings (both single family dwellings and villas) are or are able to be constructed (hereinafter "Riverbend Homeowner's Association of Middleton Township, Inc." or "Riverbend Homeowner's Association"), and will be responsible, *inter alia*, to maintain the Subdivision entranceway, common areas (sometimes "Common Areas") identified on Lots D, E, J and H in Plat 1 and the ponds identified on Lots A and B of Plat 1;

(2) the pond association, for the lot owners with property contiguous to the ponds, lakes and waterways identified as Lot C (which are lots 23-46 and 59 in Plat 1), Lot F (which are lots 91-103 and 115-122 in Plat 1 and, lots 148-150 of Plat2) and any future ponds, lakes and waterways identified in subsequent plats (which are lots 138-147 of Plat 2) (hereinafter "Riverbend Pond Association"), which association shall have the option to establish sub-associations for different ponds, lakes and waterways within Riverbend; for clarification, lot owners whose property abuts the ponds identified as Lots A and B are not part of the Riverbend Pond Association; and

(3) the Riverbend Villa Association, Inc. whose members are the villa lot owners; and;

WHEREAS, Riverbend is intended to be a first-class residential subdivision developed as a community development plan or Section Thirteen development within the meaning of such terms as defined

by the Revised Code of Ohio, Wood County Subdivision Rules and Regulations, and Zoning Resolutions of the Township of Middleton, Wood County, Ohio.

NOW, THEREFORE, Developer, in consideration of the enhancement in the value of said property by the reason of the adoption of the restrictions hereinafter set forth and in furtherance of the aforesaid development plan, does for itself and its successors and assigns, hereby declare, covenant and stipulate that all property as shown on Plat (except that it is specifically stipulated that this Declaration will not apply to Buffer Lots A and B of the Plat unless specific mention is made with respect thereto) shall hereafter be sold, transferred, or conveyed by Developer, its successors and assigns, subject to the following restrictions, covenants and conditions, which restrictions shall to the extent legally permissible, supersede any and all other restrictions heretofore enforced on said property by any other instrument.

## ARTICLE I

### USE OF LAND

1.1 Residential Lots. All of the lots located and shown on the Plat as the same may hereafter combined and/or subdivided shall be hereafter also sometimes referred to herein as "lot", "lots", "residential lot" or "residential lots". No structure shall be erected, placed or maintained on any residential lot other than one (1) single-family residence having a private entrance as well as a private attached garage of not less than two (2) car capacity, which garage shall be attached or connected by means of a covered access to the residence ("residence", "structure", "building" and "dwelling" have been sometimes used interchangeably herein) and such accessory buildings and uses (such as docks on the hereafter defined as "Pond Lots" or "Lake Lots") as are approved by the Developer as provided under Article II hereof. With respect to each dwelling (and all deck/docks) erected or maintained in the Plat, all utility services shall be underground.

1.2 Lot Use. The construction of a single family residence on more than one residential lot shall be permitted. However, not more than one single-family residence shall be permitted on any residential lot; provided, that individual residential lots may be split and/or combined upon obtaining any requisite governmental approvals and the prior written approval of the Developer.

1.3 Pathways. The pathways identified on Lots D, E, J and H in Plat 1 are to be used and enjoyed by the Lot Owners, in Plats 1 and 2, and future plats, and their guests. The use shall be restricted initially by the Developer, and later by the Riverbend Homeowner's Association, as provided for herein.

## ARTICLE II

### STANDARDS AND GUIDELINES

Section 2.1 Architectural Control Committee. An Architectural Control Committee consisting of three (3) individuals is hereby established. The initial members of the Architectural Control Committee shall be appointed by the Developer, and may be replaced by the Developer from time to time. The Architectural Control Committee shall continue to be appointed by the Developer until such time as all Lots now or hereafter created in the Project Area (which is herein defined to mean the Riverbend subdivision as it may be expanded from time to time) have been sold and Living Units (defined herein to mean the completed residence) have been completed thereon. At such time, or at such earlier time as the Developer may elect, the right to appoint the members of the Architectural Control Committee shall be turned over to the Riverbend Homeowner's Association.

Section 2.2 Standards and Guidelines. No structure or any addition thereto or any alteration thereof shall be commenced, erected, reconstructed, placed, maintained or suffered to remain upon any Lot unless or until the plans and specifications thereof shall have been approved in writing by the Architectural Control Committee, its successors or assigns, and a true copy of said plans, specification and details shall have been lodged permanently with the Architectural Control Committee, and no structure except such as conforms to said plans and specifications shall be erected, reconstructed, placed or suffered to remain upon said Lot. The scope of the Architectural Control Committee's inquiry and review shall be broad. In making its review of any proposed plans and specifications, the Architectural Control Committee will consider all of the following items:

A. Standards and guidelines for the design of structures, including, but not limited to:

1. placement
2. building heights, area and volume
3. all exterior materials
4. entries and windows
5. parking areas
6. outside storage
7. type of main, accessory and other structures
8. number of structures
9. cost of structures
10. design
11. colors
12. finished ground elevation
13. roof pitch
14. free-standing flagpoles
15. decks and patios
16. yard lights
17. building exhausts
18. visibility of improvements from within the area and from roads and properties
19. or as named

B. Standards and guidelines for open space and public and private ways, including, but not limited to:

1. set-back requirements
2. front, rear and side yard requirements
3. open space
4. landscaping
5. topography
6. tree lines and placement
7. other vegetation elements and focuses
8. locations for screening sounding
9. type and design of screening and fencing
10. lighting placement
11. view easements
12. size and location of parking areas
13. driveways

14. means of ingress and egress
15. site plans
16. or as named

C. Standards of harmony:

1. Whether there will be conformity and harmony of external design and general quality with the existing standards of the neighborhood and adjacent property;
2. The suitability of the proposed structure and of the materials of which it is to be built to the surrounding Lots;
3. The effect of the proposed structure on adjacent and neighboring properties;
4. The effect of the building or structure, as planned, on the outlook from the adjacent neighboring property.

The Committee will furnish lot owners or prospective lot owners with sufficient detail regarding the times set out above which will be considered in approving or disapproving any plan for the erection of improvements on all or any part of the subject property. This detailed information will be in the form of written guidelines or personal consultations, or both. If, in the opinion of Developer, by reason of the shape, dimensions or topography of any Lot, or by reason of the type of Living Unit to be erected thereon, or for any other reason, satisfactory to it, the enforcement of the provisions of this Declaration would work a hardship, Developer may modify such provisions so as to permit variations in cost, size, type, location or otherwise that will not, in its judgment, do material damage to any abutting or adjacent Lot owner.

Section 2.3. Submission of Plans. In order to secure the review of the plans and specifications for a structure by the Architectural Control Committee, the Lot Owner seeking such approval shall submit to the Architectural Control Committee three (3) copies of each of the following:

(a) Construction plans and specifications of the proposed structure, which shall set forth, at a minimum, details as to the materials to be used, exterior design, exterior color scheme, and any other details necessary to demonstrate that the proposed structure will be architecturally harmonious with the other structures built or to be built in the Plat;

(b) Plat plan, drawn to scale, showing the location of all structures on the Lot, both existing and proposed;

(c) A complete landscaping plan for the Lot, which plan shall include at least two (2) trees in the right of way between the sidewalk and curb, which tree type and placement shall be approved by the Architectural Control Committee.

Section 2.4 Garages and Detached Structures. For all lots, all garage doors shall be side loading unless approved by the Developer for front loading. No garage or any addition thereto or alteration thereof shall be erected, reconstructed, placed or suffered to remain upon any Lot except for the exclusive use of the family occupying the Living Unit located on such Lot and the servants thereof, nor unless, such garage be made an integral part of said Living Unit, nor unless, nor until the size, location, type, style of architecture, use, the materials of construction thereof, the color scheme therefore, the grade elevation thereof, and the plans, specifications and details of said garage, including the driveway approach, and the garage entrance

shall have been first approved in writing by the Architectural Control Committee, and a true copy of said plans, specifications and details of said garage shall have been lodged permanently with Developer, and no garage except as conforms to said plans, specifications and details shall be erected, reconstructed, placed or suffered to remain upon said Lot. Such garage shall be subject to all of the covenants, rights, terms, reservations, limitations, agreements and restrictions at any point herein made applicable to said Living Unit. No detached shed, garage, barn or any type of detached structure whatsoever shall be erected, reconstructed, placed or suffered to remain upon any Lot.

Section 2.5 Height of Structures. Each structure to be built upon a lot shall have a maximum height of forty (40) feet.

Section 2.6 Exterior Materials, Windows and Exterior Improvements. The front of each dwelling built on any lot shall be constructed with brick, stone, "E.I.F.S." (dryvit), wood or any other natural material as defined by the Architectural Control Committee, or any combination thereof, unless otherwise approved by the Architectural Control Committee. Under no circumstances shall vinyl be allowed on any front elevation facing any street (i.e., corner lot), except that soffits and fascia on the front of the dwelling may be vinyl or aluminum wrapped. No radio or television antennas or satellite "dishes" (except for those not exceeding 24" in diameter, and located on the residence itself or other location approved by Developer; but in either event not visible from the street and with colors and other specifications as are approved by the Developer in writing) shall be erected, reconstructed, placed or suffered to remain on any Lot. No basketball courts shall be placed upon any Lot and no basketball rims or backboards (whether fixed or portable) shall be placed upon any Lot or affixed to or placed upon any part of any structure unless approved by the Architectural Control Committee. All outdoor air conditioning units shall be located behind the front line of each dwelling and within 3 feet of said dwelling.

Section 2.7 Square Footage of Dwellings. Each multi-story dwelling shall exceed Two Thousand Five Hundred (2,500) square feet of total living area. Each ranch or single-story dwelling shall exceed Two Thousand One Hundred (2,100) square feet of total living area.

Section 2.8 Single Family Structures. Each Lot shall be used only for a single-family structure and occupied solely and exclusively for private residences in the Living Units by a single-family, including their family servants, and no other than one single family shall occupy a Living Unit.

Section 2.9 Sidewalks and Driveways. The location of any and all sidewalks, driveways, walkways, access ways, roadways and parking areas within the Plat shall be and remain as established by the Plat or, if not now established, as shall be determined by the Architectural Control Committee, in writing at the time of the approval of the plans and specifications for said structure. No sidewalk, driveway, walkway, access way, roadway or parking area shall be located, relocated or suffered to remain the Plat except as located on the Plat or as determined in writing by the Architectural Control Committee. Complete specifications for construction of sidewalks, driveways, walkways, access ways, roadways and parking areas shall be submitted to the Architectural Control Committee, and its approval thereof endorsed thereon in writing. Notwithstanding anything in this provision to the contrary, in no event shall a Lot Owner fail to construct a four (4) foot sidewalk on or before the date of occupancy of a dwelling on the Lot.

Section 2.10. Lawns, Shrubs and Trees. Lawn areas shall be well maintained and no grass shall be allowed to grow more than six (6) inches in height on any Riverbend lot; the Developer and Riverbend Homeowner's Association reserve the right to maintain the Lot Owner's lawn area if the Lot Owner fails to do so, with proper notice, and the Lot Owner shall reimburse the Association its costs in maintaining Lot Owner's lawn area. No portion of any Lot outside of the front, side and rear setback lines for each Lot, as

shown on the Plat, shall be used for any purpose other than that of a lawn; nothing herein contained, however, shall be construed to preventing the use of such portion of any Lot for any approved sidewalk, driveway, walkway, decorative wall, access way or parking purpose of beautifying the premises, but no vegetables, nor grains of the ordinary garden or field variety shall be grown upon such portion thereof; and no weeds, underbrush or other unsightly growths, shall be permitted to grow or remain anywhere within Riverbend and no unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. No fence, hedge, wall or enclosure of any kind, for any purposes, shall be erected, placed or suffered to remain upon any Lot without any written consent of the Architectural Control Committee, having been first obtained therefore. Any such fence, hedge, wall or enclosure shall be subject to the terms and conditions of such consent as to its type, height, width, color, upkeep and any general conditions pertaining thereto that said consent may name. Without limiting the generality of any other restrictions herein, no row plantings or groupings or rows of trees, shrubs or other plantings shall be permitted in the rear yard of any lot that (a) exceeds two (2) feet in height at any time, or (b) would block, obstruct or detract from any other lot's view of any waterway on Riverbend without any written consent of the Architectural Control Committee, having been first obtained therefore. Notwithstanding the foregoing, that portion of each Lot containing a structure, shall be landscaped in accordance with a landscape plan submitted to and approved by the Architectural Control Committee, and each such area shall thereafter be maintained in accordance with such plan. In addition to the two trees required by Section 2.3 to be planted in the right-of-way between the sidewalk and curb, a third tree (i.e., total of three (3) trees) shall be required per lot, which tree shall have a minimum diameter of two and one-half (2 and ½) inches, which type shall be approved by the Architectural Control Committee.

Section 2.11 Easements for Utilities. The Developer reserves the exclusive right to grant easements and/or consents for the construction, operation and maintenance of electric light, telephone, telegraph and cablevision and similar poles, lines and conduits, and for water, gas and sanitary and storm sewer pipes, lines and conduits or any other public utility facilities, together with the necessary or proper incidents and appurtenances in, through, under and/or upon any and all portions of Riverbend including any Lot, the Common Areas (which are defined herein to mean the waterways and any other common areas of the Plat) or any portion thereof, regardless of whether such easements are for the installation of utilities to serve Riverbend or to serve other adjacent or nearby property, whether or not such nearby property is then subject to this Declaration.

Section 2.12 Easements. The Developer reserves to itself, its successors and assigns, a perpetual easement in, through, under, on and/or over (i) those areas designated on the plat of Riverbend as easement, utility easement, driveway easement, drainage easement, or wards of similar import, for the construction, operation and maintenance of electric light, telephone, telegraph and cablevision and similar poles, lines and conduits, and for water, gas and sanitary or storm sewer pipes, lines and conduits, or any other public utility facilities, together with the necessary or proper incidents and appurtenances, together with the right to relocate any such areas so designated on one or more plats of Riverbend and to grant such additional utility easements, driveway easements, drainage easements, sewer easements, access way, parking and sidewalk easements, private roadway easements in, through, under, on or over Riverbend as the Developer shall deem necessary for the development of Riverbend, including all of the Project Area, and any property adjacent thereto and (ii) the Common Areas for roadways, driveways, walkways and sidewalks for ingress and egress purposes to Lots within Riverbend, and further reserves the right to grant to others the non-exclusive right and easement to use such structure, or any part thereof, shall be erected or maintained upon any part of the property in Riverbend, over or upon which easements for the installation and maintenance of such public or private utilities, driveways, drainage facilities, sewer facilities, sidewalks, access ways, parking areas, private roadways or similar improvements will be or have been granted. The installation within Riverbend of any utilities, driveways, drainage facilities, sewer facilities, access ways, parking areas, sidewalks, private

roadways or similar improvements shall be deemed to create the easements necessary to support such improvements without further acts by the Developer. No Owner of any Lot in Riverbend shall have the right to reserve or grant any easement or rights of way in, through, under on or over any of Riverbend without the prior written consent of the Developer, its successors and assigns. The Developer further reserves to itself, its successors and assigns, a perpetual non-exclusive easement in, through, over, upon and across the Common Areas and those areas now or hereafter designated as driveways, sidewalks, access ways, parking areas or private roadways, together with the necessary or proper incidents and appurtenances, to be used by the Developer, its employees, invitees, guests, agents, customers, tenants, lessees, successors and assigns, for purpose of unobstructed ingress and egress, by pedestrian travel and travel by vehicles of any kind and further reserve the right to grant perpetual non-exclusive rights and easements to third parties to so use such areas.

Section 2.13 Prohibitions on Use, Residential Use. No spirituous, vinous and fermented liquors of any kind shall be manufactured or sold, either at wholesale or retail, upon any Lot or the Common Areas, and no industry, business or trade, occupation or profession of any kind shall be conducted, maintained or permitted upon any Lot or the Common Areas. The foregoing shall not apply to the use by the Developer or its designee of any Lot as a sales office for the sale or lease of Lots and/or structures in Riverbend. No well for gas, water, oil or other substance, shall at any time, whether intended for temporary or permanent purpose, be erected, placed or suffered to remain upon any Lot (except wells for lawn and landscape watering, if written approval is first obtained from the Developer and all necessary public authorities and Developer approves the location and other specifications in writing); nor shall any Lot be used in any way or for any purpose which may endanger the health or unreasonably disturb the quiet of the owner or owners of any adjoining land. All lots shall be built and maintained in compliance with all federal, state and local codes.

Section 2.14 Pets. No animals, domestic or otherwise, rabbits, or poultry, of any kind, character or species of fowl or livestock, shall be kept upon or maintained on any part of the Common Areas or any Lot. The Developer reserves the right to adopt reasonable regulations governing the keeping within any structure domestic dogs, cats or other household pets, calculated not to become and not becoming a nuisance to the owners or inhabitants of Riverbend. Any domestic pets must be kept on leash not to exceed six (6) feet in length. No more than two (2) dogs and two (2) cats allowed per dwelling unit. All lot owners are responsible for clean up of all fecal matter of their respective pets.

Section 2.15 Clothing, Yard Equipment, Swing Sets, Outside Fireplaces. No clothes, sheets, blankets or other articles shall be hung out or exposed on any part of any Lot or the Common Areas. No laundry of any kind, or other articles, shall be exposed or hung for drying at any time on any porch, patio or balcony. No yard equipment, including power mowers, power shears and similar equipment shall be used by anyone on Sundays or holidays from May 1<sup>st</sup> to October 1<sup>st</sup> of each year prior to 10:00 A.M. All swing sets, jungle gyms and similar apparatus shall be constructed primarily of wood and must be erected in the rear yard and within the setback area. Any outside woodburning fireplaces or firepits must be in the rear yard a minimum of 30 feet from any lot line. Any outside gas fireplaces or firepits must be in the rear yard and within the setback area.

Section 2.16 Storage of Vehicles. No boat, boat trailer, house trailer, motor home, mobile home, motorcycle or truck (except pick-up trucks not exceeding one (1) ton and window panel vans not exceeding one (1) ton, so-called) of any type shall be parked, kept or stored on any portion of Riverbend unless completely within a closed garage. Notwithstanding the foregoing, a boat meeting the restrictions set forth in this Declaration may be docked at an approved dock located within a Lot. No vehicles shall be stored other

than on paved driveways or in garages. No trailer, tent, shack, barn or outbuilding of any type shall be permitted on any portion of Riverbend.

Section 2.17 Grading and Downspouts. The Developer reserves the sole and exclusive right to establish grades and slopes on any Lot and to fix the grade at which any structure shall hereafter be erected or placed thereon, so that the same may conform to a general plan for the development and use of Riverbend.

Section 2.18 Rubbish. All rubbish and debris, combustible and non-combustible, and all garbage shall be stored in underground containers or stored and maintained in containers, entirely within the garage of a structure. Additional regulations for the storage, maintenance and disposal of rubbish, debris, leaves and garbage may, from time to time, be established by the Developer.

Section 2.19 Variances. In all instances where plans and specifications are required to be submitted to and are approved by the Architectural Control Committee, if subsequent thereto there shall be any variance in the actual construction and location of any structure or addition thereto, any such variance shall be deemed a violation of this Declaration.

Section 2.20 Swimming Pools. No above-ground swimming pool of any type shall be constructed, reconstructed, allowed or suffered to remain upon any lot. No in-ground swimming pool shall be constructed, reconstructed, allowed or suffered to remain upon any Lot unless said in-ground swimming pool has been approved by the Architectural Control Committee. Any fencing required must be approved by the Architectural Control Committee. All pools and fences must be in compliance with all federal, state, and local codes.

Section 2.21 Curing Violations. The Developer and the Riverbend Homeowner's Association reserve and are hereby granted the right in case of any violation or breach of any of the restrictions, rights, reservations, limitations, agreements, covenants and conditions herein contained, to enter the property upon or as to which said violation or breach exists, and to summarily abate and remove, at the expense of the Lot Owner thereof, any erection, thing or condition that may be or exist thereon contrary to the intent and meaning of the provisions hereof as interpreted by the Developer and/or the Riverbend Homeowner's Association, and the Developer and/or the Riverbend Homeowner's Association shall not, by any reason thereof, be deemed guilty of any manner of trespass for such entry, abatement or removal. The Lot Owner shall immediately reimburse the Developer and/or the Riverbend Homeowner's Association for any costs incurred in connection with the Developer's and/or the Riverbend Homeowner's Association's cure, abatement or removal of such violation. Any failure to so reimburse the Developer and/or the Riverbend Homeowner's Association shall give the Developer and/or the Riverbend Homeowner's Association the right to place a lien upon such defaulting Lot Owner's Lot for such amounts as set forth in this Article. A failure of the Developer or the Riverbend Homeowner's Association to enforce any of the restrictions, rights, reservations, limitations, agreements, covenants and conditions contained herein shall in no event be construed, taken or held to be a waiver thereof or acquiescence in or consent to any continuing, further or succeeding breach or violation thereof, and Developer and the Riverbend Homeowner's Association (as the case may be) shall at any and all times have the right to enforce the same.

Section 2.22 Modifications to Restrictions. Whenever any of the foregoing covenants, reservations, agreements, or restrictions provide for any approval, designation, determination, modification, consent or any other action by the Developer any such approval, designation, determination, modification, consent or any other such action by any attorney authorized to sign deeds on behalf of the Developer, as then recorded in the records of Wood County, Ohio, shall be sufficient.



Section 2.23 Adoption of Rules. The Developer may, as it deems advisable, adopt such other reasonable rules and regulations consistent with the provisions and purpose of this Declaration for the use, maintenance, conservation and beautification of the Plat and for the health, comfort, safety and general welfare of the owners and residents of the Lots in the Plat.

Section 2.24 Signs for Sale. No sign, billboard or other advertising device, whether for the purpose of advertising the sale of a Lot or a Living Unit or otherwise, shall be erected, placed or suffered to remain upon any Lot or any portion of the Common Areas or upon or visible from the outside of any Living Unit without the prior written consent of the Developer. Notwithstanding the foregoing, (a) a standard real estate sign not to exceed (6) square feet in area on a side and advertising the Lot or Living Unit "For Sale" but not "For Rent" or "Lease" shall be permitted and (b) the right is hereby reserved to the Developer to erect and maintain signs on any unsold Lot or upon the Common Areas adjacent to the entrance to the Plat. In addition, Developer reserves the right to construct and use construction and sales offices on one or more Lots.

Section 2.25 Site Grading Plan. Furthermore, each builder of Living Units on any Lots shall comply with the site grading plan prescribed by the Wood County Engineer and approved by the Developer as herein required. Said Wood County Engineer may determine that certain Lots may require walls in order to preserve trees presently located on said Lots. If said retaining walls are necessary and if the Owner of said Lots desires to preserve said trees, then said retaining walls will be constructed only after the plans have been approved by the Wood County Engineer and the Developer as herein provided. If the Owner of any of said Lots does not wish to construct retaining walls which may be necessary, then in that event the site grading plan prescribed by the Wood County Engineer shall be complied with, including grading to accomplish the required slope along the private road right-of-way. If sidewalks are required, each Lot Owner shall, at his own expense, construct such sidewalks across the frontage of his Lot at the time of construction of a dwelling unit on such Lot. Such sidewalks shall be constructed in accordance with the construction specifications and location requirements of the Township of Middleton and/or Wood County, whichever is applicable. Upon the failure of the Lot Owner to construct sidewalks as provided herein, the Developer, the Riverbend Homeowner's Association or the appropriate governmental entity shall have the right to enter upon the lot in question and to construct such sidewalks or cause the same to be constructed at the expense of the Lot Owner. In such event, the costs of construction of such sidewalks shall be and become a lien against the Lot on which the sidewalks have been constructed from the date of perfection thereof as hereafter provided and, if the costs of construction of such sidewalks shall not be paid immediately upon demand thereof, such lien may be foreclosed by an action brought by the Developer or the appropriate governmental entity, as in the case of foreclosure of liens against real estate. The holder of any such lien may perfect such lien against third parties by filing an affidavit stating the facts giving rise to the lien with the Recorder of Wood County, Ohio.

Section 2.26 Mailboxes and Address Numbers. Each lot shall be equipped with a "rustic cedar" (so-called) mailbox (or similar model approved by the Architectural Control Committee, so as to be in conformity with those in the neighborhood) and address numbers approved by the United States Postal Service, which mailbox and address numbers shall be approved by the Developer and installed at such time as a Living Unit has been complete on such Lot, at owner's expense. The placement of the address numbers on the dwelling shall be dictated by the Developer. The maintenance, repair and replacement of each such mailbox and address numbers shall be the sole responsibility of the Owner of the Lot serviced by such mailbox and address numbers. Each such mailbox, shall be maintained in good condition, consistent with the original design of the mailbox. Any replacement for a mailbox shall be the same design and quality as the original mailbox for such Lot.

Section 2.27 Lawn Installation, Sprinkler System and Fertilizer. Weather permitting, within three (3) months after a Living Unit has been completed on any Lot, all yards (front, side and back) of said Lot shall be sodded or hydroseeded. All front yards shall have underground sprinkler systems, which will be constructed at owner's expense. Water supplied to such sprinkler systems shall be supplied by public utilities and not from the ponds or lakes within Riverbend. Any fertilizer placed upon lawns shall have an equation of 19-0-10, or as approved by the Developer.

Section 2.28 The Riverbend Homeowner's Association. Upon the sale and conveyance of a lot by the Developer, the owner of said lot shall become a member of the Riverbend Homeowner's Association of Middleton Township, Inc.. Upon the sale and conveyance by the Developer of all residential lots in the Plat and future plats, if any, of Riverbend, the Developer, shall, by instrument in writing in the nature of an assignment, vest in the Association the rights, privileges and powers reserved and retained by the Developer by the terms of this Declaration of Restrictions. The assignment and the aforesaid deed shall be recorded in the Office of the Wood County, Ohio Recorder. The Developer may at any time previous to the sale and conveyance of all of said lots at its option so convey and/or assign the aforesaid rights, privileges and powers to the Association. The Association shall have the further right to the collection and disposal of funds herein provided and shall have the rights, from and after such conveyance and/or assignment, to enforce all provisions herein with respect to the construction, improvement, maintenance and upkeep of all provisions herein with respect to the construction, improvement, maintenance and upkeep of the Plat and future plats, if any, in the manner determined by the Association to be for the best interest of the owners of the lots and all future plats, if any.

Section 2.29 Pond Association. Upon the sale and conveyance of Lots 138-150 by the Developer, the owners of said lots shall become members of the Riverbend Pond Association, Inc. Developer expressly reserves the right to expand the Subdivision, which has been accomplished pursuant to and in accordance with the recording of this Declaration of Restrictions. Furthermore, Developer intends at some time to convey all Common Areas (as herein defined) to the Association. Developer will at such time as it deems advisable transfer title to Lots C and F and any future ponds, lakes and waterways identified in subsequent plats (hereinafter, "future ponds" to the Riverbend Pond Association, Inc. (Lots A and B shall be conveyed to the Riverbend Homeowner's Association.) Furthermore, subject to any easements heretofore or herein reserved, the owners of the lake lots will have the perpetual non-exclusive use and enjoyment of the lake and shall share equally the care and maintenance of same before and after any formal creation of the Riverbend Pond Association and/or any conveyance of Lots C and F and any future ponds by the Developer. The owners of the lake lots will also be responsible for the maintenance, care and insurance of Lots C and F and any future ponds pursuant to this Declaration and promulgation of rules and regulations covering the use and care of the lake (which shall include, for example, the establishment of assessments). Until such time as all of the lots in Plat1 and Plat 2 and any future plats have been conveyed to others by the Developer, the Developer shall control and operate the Riverbend Pond Association. It is understood that the Riverbend Pond Association may be expanded at the Developer's sole option to take record title to other property of Developer and to include other lot owners in the Subdivision.

Section 2.30 Maintenance Charges. Each and every lot in the Plat shall be subject to annual assessments in the amounts established by the various Associations contemplated herein. The Associations shall have a lien perpetually upon lots in the Plat to secure the payment of the annual maintenance charges. In default of the payment of such maintenance charge, a "Notice of Lien" in substantially the following form may be filed and recorded to the lien records at the Office of the Recorder of Wood County, Ohio:

**“Notice of Lien”**

Notice is hereby given that the \_\_\_\_\_ claims lien for unpaid annual assessments for the year(s) \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ against the following described premises:

(Insert Legal Description)

\_\_\_\_\_  
By: \_\_\_\_\_  
President

STATE OF OHIO, COUNTY OF WOOD, SS:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2014, by \_\_\_\_\_, President of the \_\_\_\_\_, an Ohio non-profit corporation, on behalf of the corporation.

\_\_\_\_\_  
Notary Public

In the event any of said annual assessments are not paid when due, the various Associations may, when and as often as such delinquencies occur, proceed by law to collect the amount then due by foreclosure of the above described lien, or otherwise, and in such event, shall be entitled to recover and have the enforce against each residential lot a lien for its costs and expenses in that behalf, including attorney fees. No owner may waive or otherwise escape liability for the annual assessments provided for herein by non-use of the Common Areas or any facilities located thereon or by abandonment of his residential lot. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any residential lot shall not affect the assessment lien; provided, however, that the sale or transfer of any residential lot pursuant to foreclosure of a first mortgage shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof. Said charges and assessment shall be levied against all lots in the Subdivision and shall be applied only toward payment of the costs of collections, improvements, the expenses of maintenance of the Association, and for any and all other purposes which the Association may determine from time to time to be for the general benefit of the owners of the lots in the Subdivision, including the maintenance of boulevard areas, ponding areas, drainage areas, and the management and enforcement of the Association’s right and duties under the within Declaration of Restrictions.

Section 2.31 Initial Expenses. Upon the initial sale of any lot in the Plat by the Developer, an initial, one time fee of One Hundred Seventy Five Dollars (\$175.00) shall be paid to the Riverbend Homeowner’s Association of Middleton Township, Inc. for working capital to pay common expenses. Upon the request of any lot owner, the Secretary or President of any Association, or the Developer, as the case may be, shall certify in writing the payment status of any assessments on any lot.

## ARTICLE III

### EASEMENTS

3.1 Reservations of Easements and Pond Rights. The Developer reserves to itself, and to its successors and assigns, the exclusive right to grant consents, easements and rights of way for the construction, operation and maintenance of electric light, cablevision, telephone and telegraph poles, wires and conduits, including underground facilities, and for drainage, sewers and other facilities or utilities deemed convenient or necessary by Developer or its successors and assigns for the service of the Subdivision, over, below or under all of the areas designed as "Utility Easements", or with words of similar import, on the Plat, and along and upon all roadways now existing or hereafter established and abutting all the residential lots in the Plat. Developer also reserve also reserve to itself, and to its successors and assignees, the right to go upon or permit any public or quasi-public company to go upon the residential lots from time to time to install, maintain and remove such utility lines and to trim trees and shrubbery which may interfere with the successful and convenient operation of such equipment. No structures, or any part thereof, shall be erected or maintained over or upon any part of the areas designated as "Utility Easement", or with words of similar import, upon the Plat. The term "structures" as used in the foregoing portion of this paragraph shall include residential lot improvements such as driveways, paved parking areas and fences. No owner of any residential lot shall have the right to reserve or grant any easement or rights of way upon or over any of the residential lots without prior written consent of the Developer, its successors and assigns. Notwithstanding the provisions of Section 2.25, the rights reserved to the Developer in this Section 3.1 shall survive the transfer of the Developer's rights reserved to the Developer in this Section 2.25. the rights granted to the Developer in this Article III, Section 3.1 shall remain exclusively vested in the Developer for a period of twenty (20) years from and after the date hereof, notwithstanding any assignment by the Developer to the Association of the Developer's rights, privileges and powers as provided in Article III, Section 3.1 hereof. Upon the expiration of such twenty (20) year period, or at such earlier time as the Developer may designate, the rights granted to the Developer in this Article III, Section 3.1 shall terminate.

3.2 Pond Use. The costs to maintain Lots C and F and any future ponds including, but not limited to, insurance, weeding, etc., shall be shared by the members of the Riverbend Pond Association on an equal basis. The costs to maintain Lots A and B including but not limited to, insurance, weeding, etc., shall be shared by the members of the Riverbend Homeowner's Association. The ponds shall at all times be maintained in a first-class condition free of debris and contamination. The Developer hereby reserves and creates over those portions of the Pond Lots covered by the Pond, as same may change from time to time, a perpetual exclusive easement in favor of the Pond Lot owners to traverse the pond by non-motorized watercraft, which shall be limited to canoes, row boats, paddle boats, sailing craft (maximum 16 feet in length) for purpose of recreational use, which shall include fishing and boating, subject to (1) the right of any Pond Lot owner to place within said easement area docks approved by the Developer under Section 2.1 hereof, and (2) the existence of any drainage and/or other such utility easement created and/or reserved by the Developer pursuant to the Plat or this Declaration, provided, however, under no circumstances will any swimming be permitted in the Pond at any time. The owners of the Pond Lots, by majority vote, may also from time to time adopt rules and regulations concerning the ice fishing and/or ice skating on the Pond, and may prohibit same upon such majority vote.

3.3 Exclusive Use. All Lot Owners with property contiguous to the Ponds shall enjoy a thirty (30) foot exclusive use easement extending beyond their property line extending into the Ponds. This easement is intended to provide exclusive waterfront access to each Pond Lot Owner. Furthermore, for any thirty (30) foot easement areas that overlap with adjacent Lot Owners, the determination of the exact easement area shall be resolved by the Developer.

3.4 Plantings. No plantings or groups of trees may obstruct the water view of any Pond Lot Owner.

## ARTICLE IV

### THE RIVERBEND POND ASSOCIATION

4.1 Restrictions on Pond/Lake Use. Without limiting the powers of the Pond Association to adopt rules and regulations pertaining to the use, enjoyment and maintenance of the ponds, the Developer hereby creates, declares and stipulates that the following restrictions shall hereby apply to the ponds identified as Lots C and F and any future ponds identified in subsequent plats ("Ponds" or "Lakes"):

- a. Annual Registration. Any boat on the Ponds at Riverbend must be registered with the Riverbend Pond Association, and current registration decals must be displayed on the stern/starboard side of each boat.
- b. Boat Types and Size Allowed. Row boats, rowing shells/canoes, sailboats, inflatable boats (minimum 6 feet) and electric powered boats. Maximum length for any watercraft at Riverbend is 18 feet and a beam no more than 8 feet. No boat shall draw more than 30 inches of water.
- c. Electric Powered Boats. Hull construction is limited to fiberglass, fiberglass/composite or wood. All boats require electric motors to be inboard and configured for household 125 volt shore power.
- d. Positive Flotation. All boats must have positive flotation, meaning still able to float if full of water.
- e. Safety and Operation. All applicable boats are subject to a safety inspection for life vests, seaworthiness and operable navigation lights for day and night cruising; maximum speed on the lake is six (6) miles per hour.
- f. No boats shall be allowed to be left on the shoreline overnight.
- g. No boats shall be stored, placed or moored on any lot or Lots C and F after November 1 or before May 15 of each calendar year.

The following rules and regulations shall apply to the deck/docks to be built adjacent to Lots C and F, and future waterways in Riverbend:

- a. All deck/docks shall be cantilevered over water and parallel to the shore, approved by the Architectural Control Committee or the Riverbend Pond Association, and not to exceed sixteen (16) feet wide (required to be parallel with shore) and six (6) feet deep (perpendicular to shore).
- b. All deck/docks shall be constructed of composite plastic as approved by the Architectural Control Committee.
- c. Deck/docks should not exceed six (6) feet beyond the normal water mark or water level (as defined by the plat), and will be cantilevered over the water with no structures or supports being placed in the water.
- d. All deck/docks must be in compliance with all federal, state, and local codes.
- e. No swimming platforms or rafts shall be permitted on any waterways in Riverbend.

- f. Each deck/dock shall be the exclusive use of each particular Lot Owner and shall not be used by any other Lot Owner or third party, without the express permission of the Lot Owner upon which each deck/dock is located.

Additional rules and regulations governing the use of the Ponds may be promulgated from time to time by the Developer, its successors and assigns, and/or the Pond Association, and such rules and regulations shall be strictly observed by all Pond Lot owners.

The lot owners adjacent to Lots A and B of Plat 1 will not be members of the Pond Association. The lot owners acknowledge and agree that no watercraft of any kind shall be used on Lot A or Lot B of Plat 1.

4.2 Purposes and Powers of the Pond Association. The Pond Association shall have the power to own, operate, control and maintain the Ponds and/or such other property as Developer or any other entity decides to convey to the Pond Association and to assess all owners of the Pond Lots (and/or other owners of property to whom Developer elects to give access privileges to the Ponds, who will then be assessed a fee determined by the Developer to be commensurate with the extent of such privileges given). In the event any such assessment is not paid when due, the Pond Association shall have the right and power to lien the property of all Pond Association members who have not paid said assessments in the same manner and fashion as the Association may do pursuant to these Articles. Without limiting any of the foregoing, the Pond Association shall specifically take all reasonable measures to insure that the level of the Ponds and their shoreline are adequately protected from and against erosion and/or deterioration.

4.3 Easement in Favor of All Lot Owners. Developer, in addition to the other easements reserved herein, hereby reserves over, across, under and upon Lots A, B, C and F and any future ponds and the Pond perpetual non-exclusive drainage easements in favor of all lot owners in the Plat, the Subdivision, the Association itself and all of their respective heirs, successors and assigns for purposes of permitting the storm water drainage and placement of storm water drainage facilities (some of those easements are shown on the Plat), and the right to from time to time maintain and repair same; it being expressly understood and agreed that under no circumstances shall anything other than storm water be permitted to be drained into the Ponds from property within the Plat of Riverbend.

## ARTICLE V

### DURATION OF RESTRICTIONS, AMENDMENTS

5.1 Term. These covenants and restrictions shall run with the land and shall be binding upon the Developer, and all persons claiming under or through Developer, the Association and/or the Pond Association until the first day of January, 2034 at which time these covenants and restriction shall be automatically extended for successive periods of ten (10) years.

5.2 Amendments. These covenants and restrictions may be amended or revoked by the Developer or its assigns at any time until ninety five (95%) of the residential lots in the Subdivision have been sold (Developer intends to have approximately four hundred eighty five (485) acres of property in the Subdivision), which amendment shall become effective from and after the filing with the Recorder of Wood County, Ohio, of an instrument stating the amendment and signed by all necessary approving lot owners with the formalities required by law.

## ARTICLE VI

### ENFORCEMENT OF RESTRICTION, OTHER GENERAL MATTERS

6.1 Violations Unlawful. Any violation or attempt to violate any of the covenants or restrictions herein shall be unlawful. Developer, the Riverbend Association, the Riverbend Pond Association, or any person or persons violating or attempting to violate any such restrictions to prevent him or them from so doing, to cause the removal of any violation, and/or to recover damages for such violation or attempted violation.

6.2 Saving Clause. The invalidity of any restriction hereby imposed, or any other provision hereof, or any part of any restriction or provision shall not impair or effect in any manner the validity, enforceability or effect of the rest of such restrictions and provisions.

6.3 Indemnification. Developer shall indemnify its partners, employees, and agents to the fullest extent permitted by law for their good faith actions taken on behalf of and at the direction of the Developer in the enforcement of these provisions and restrictions including defense of their validity.

6.4 Transfers Subject to Restrictions. All transfers and conveyances of each and every residential lot in the Plat shall be made subject to these restrictions.

6.5 Notices. Any notice required to be sent to any owner of a residential lot or any part thereof or to Developer, to the Riverbend Association or the Riverbend Pond Association shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as such owner or to the Developer, Riverbend Association or to the Riverbend Pond Association as such address appears on the applicable public record.

6.6 No Waiver of Violations. No restrictions imposed hereby shall be abrogated or waived by any failure to enforce the provisions hereof, no matter how many violations or breaches may occur.

6.7 Waiver of Restrictions by Developer. Each residential lot owner, by acceptance of a deed or other instrument of conveyance to a residential lot, hereby agrees and consents and shall be deemed to agree and consent for himself and for his heirs, personal representative, successors and assigns, that if, in the opinion of the Developer, the shape, dimensions, number of structures, location of natural features such as trees, or topography of the residential lot upon which a structure or improvement is proposed to be made, is such that a strict construction or enforcement of the requirements of the Plat or of any provision of these restrictions would work a hardship, the Developer may, in writing, grant waivers from these restrictions as to such residential lot so as to permit the erection of such structure or the making of the proposed improvements.

6.8 Paragraph Headings. The paragraph headings contained in this Declaration or Restrictions have been inserted for convenience of reference only and are not to be used in the construction and/or interpretation of these restrictions.

The undersigned has hereunto set its hands to this instrument as of the day and year first written above.

**McCARTHY RIVERBEND, LLC  
an Ohio limited liability company**

By: *Brian M. McCarthy*  
Brian M. McCarthy, authorized member

STATE OF OHIO            )  
  )SS.  
COUNTY OF Lucas    )

The foregoing instrument was acknowledged before me on this 1<sup>st</sup> day of December, 2014, by Brian M. McCarthy, as the authorized member of McCarthy Riverbend, LLC., an Ohio limited liability company, on behalf of said limited liability company.

*Georgie L. Davis*  
Notary Public  
GEORGIE L  
DAVIS

My Commission Expires  
July 30, 2019



**CONSENT OF TRUSTEE**

The undersigned, as record title holder of real property that constitutes Riverbend Lakes Subdivision Plat 2, hereby acknowledges, consents and ratifies the foregoing Restrictions.

**Louisville Title for N.W. Ohio, Inc., Trustee**

By: *John W. Martin*  
John W. Martin, CEO

Date: \_\_\_\_\_

State of Ohio, County of Lucas, ss:

The foregoing instrument was acknowledged before me this 1<sup>st</sup> day of December 2014, by John W. Martin, of Louisville Title Agency for N.W. Ohio, Inc., Trustee, an Ohio corporation, on behalf of the corporation.

*Deborah L. Horsman*  
Notary Public

This instrument prepared by:  
Jerome R. Parker Esq.  
Gressley, Kaplin & Parker, LLP,  
One SeaGate, Suite 1645  
Toledo, Ohio 43604



DEBORAH L. HORSMAN  
Notary Public - State of Ohio  
My Commission Expires 5-29-2017



EXHIBIT A

Lot numbers one hundred twenty-five (125) through one hundred fifty (150), both inclusive and Buffer Lots "A" and "B" in River Bend Lakes, Plat 2, a Subdivision in Middleton Township, Wood County, Ohio.