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# READ ME BEFORE PURCHASING OR LEASING IN THE VILLAGES OF KILN CREEK

This introductory flier provides necessary, but basic, information regarding the Villages of Kiln Creek. This flier is a layman's supplement to the Governing Documents and in no way excuses a homeowner/tenant from reading those very important documents. The Kiln Creek Governing Documents are as follows:

- ❖ Declaration
- ❖ Articles of Incorporation
- ❖ By-laws (a commonly used document)
- ❖ Handbook: Rules & Architectural Standards

The Villages of Kiln Creek are organized as a Planned Unit Development (PUD) under the Virginia Property Owners' Association Act (POA), Title 55. The continuing increase in property values in The Villages of Kiln Creek has not occurred by accident. Kiln Creek remains one of the Peninsula's most desirable locations for two reasons: first because it is composed of residents like you who care about their homes; and second, because it is a planned community with written standards to guide you in the exterior maintenance of your home.

This means that Kiln Creek homeowners are expected to abide by the Association's RULES and ARCHITECTURAL STANDARDS. The Rules & Architectural Standards are found in exhibit 1 of this disclosure; now titled the "Kiln Creek Handbook". This handbook is directive in nature, is prepared in accordance with the Association's Governing Documents, and is legally enforceable. **You are strongly encouraged to read the Kiln Creek Handbook before purchasing or leasing property in Kiln Creek.**

The nature of Kiln Creek is variety. We have 31 individual villages containing a mix of single family homes, town homes, condominiums, duplexes and apartments. Our development spans 1200 acres of lush land containing forests, grassy areas, beautiful lakes and an 18-hole championship golf course. The exterior appearance of the majority of our homes was styled to emulate Colonial Williamsburg's aesthetics, while some areas feature homes with a more transitional appearance. Recognizing the unique character of each village and helping to manage the continuity of that unique character is the responsibility of the Architectural Review Board (ARB). Now that you have purchased your home, you may have changes you would like to make on your lot. Please submit an application for exterior alteration prior to any changes or enhancements being initiated.

As a new Kiln Creek homeowner, one of your very first duties MUST be to visit the Homeowners office to assure that you are now recorded in the Association's documents. Bring your closing statement (HUD-1) as verification. Assure that your assessments are current and you know the amount, dates, and where to submit your monthly payments/assessments.

**FOR HOMEOWNERS RESIDING IN THE VILLAGES THAT ARE WITHIN PRIVATE PROPERTY:** Contact the Property/Condo Association Manager and provide your information. The village Neighborhood Advisory Board (NAB) Chairman can provide assistance.

Neighborhood Advisory Boards (NAB's), act as an intermediary between the Association's Board of Directors and the community. With approximately 2918 homes and 12,000 residents, the NAB's are the best method of communication within our Association.

Demographics: The Villages of Kiln Creek Owners Association is comprised of:

Occupied Properties: 2,918 homes  
Population: approximately 12,000 residents  
Area: 1,250 acres of land and lakes  
Villages: 31  
Jurisdictions: 2 (Newport News and York County)

*Kiln Creek Courier* is the Association's newsletter to the homeowners. It is published quarterly.

The Association's Board of Directors meets on the 4<sup>th</sup> Thursday of each month at 6:00 p.m. at Kiln Creek Golf Club & Resort. You will find reminders of upcoming meetings on the Association's message boards located along Kiln Creek Parkway and Brick Kiln Blvd. Homeowners are welcome to attend.

Association Committees of the Board of Directors- Please see the *Kiln Creek Courier* or our website for current committees and chairmen.

Written communication (email, fax, letter) is encouraged when describing your comments, concerns, or suggestions to the Board of Directors or to the Director of Operations. Written documents carry the message much more clearly from the author's perspective versus a transcribed telephone call.

The Association's Annual Meeting is held each year on the 1<sup>st</sup> Tuesday in March at the Kiln Creek Golf Club & Resort or the Kiln Creek Elementary School (whichever is available). Notice will be mailed prior to the meeting and reminders will be posted on the message boards.

Kiln Creek's Recreational Amenities require a Recreation Pass to be printed for all residents over the age of 1 year. You can obtain your Rec Pass at the HOA office. Our amenities include the Recreation Center, 2 Swimming Pools (an Olympic size chlorinated pool at the Rec Center, and a smaller salt water pool at the Club), Playgrounds, Multi-Purpose-Basketball Court, Tennis Courts, Walking/Biking Paths, Golf Course, Fitness Center, Restaurant and Tot Lots scattered throughout the community. *The golf cart paths are different than the walking/bike paths and are only to be used by golfers, not walkers/bikers.*

Security: Cameras are placed at the entrances to each neighborhood. Call 911 for emergency Police, Fire or Medical assistance.

Kiln Creek's Lakes and Aerators: Several of the Kiln Creek properties are located along one of our 19 lakes. Some properties may be adjacent to a fountain, properly called an aerator, which serves to control algae growth in waterways. While many of our residents find the sounds from the aerator to be soothing, others believe the sound is an irritant. For this reason, we offer a word of caution: If you are looking at a property near an aerator, we urge you to consider the noise tolerance level of the residents in your home.

Vegetative Buffer Around Lake Boundaries: The vegetative buffer around the lakes is designed to meet both ecological and safety concerns. The purposeful naturalization serves to prevent shoreline erosion; it traps debris that would otherwise go into the water, and it hastens lawn chemical run-off, which contributes to algae growth. The buffer is also home to birds and insects that eat mosquitoes, while at the same time, the landscape is unattractive to Canadian geese. Lastly, the buffer serves to deter youngsters who might otherwise wander in the water. Since the Association maintains the buffer in accordance with the government standards, it is requested that homeowners refrain from mowing or distributing this buffer.

#### General Information:

Kiln Creek Owners Association  
970 Brick Kiln Boulevard, Newport News VA 23602  
Telephone: (757) 877-9835 Fax: (757) 877-9862  
Director of Operations- Laura Carnrike, CMCA®, AMS®, PCAM® Email: Laura@kilncreek.org

Office Hours: Monday-Friday: 8:00 a.m. until 5:00 p.m.

Emergency (after hours) 757-874-2600

Web site: [www.kilncreek.org](http://www.kilncreek.org) Facebook: [www.facebook.com/KilnCreekHOA](https://www.facebook.com/KilnCreekHOA)  
See the Association's web site for the latest issue of our newsletter, Kiln Creek Courier





## **MEMBER INFORMATION UPDATE**

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

Owner Name(s): \_\_\_\_\_  
\_\_\_\_\_

Kiln Creek Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone Number: (h) \_\_\_\_\_

(w) \_\_\_\_\_

(c) \_\_\_\_\_

How many people live in your household? \_\_\_\_\_

Email Address: \_\_\_\_\_

- Please return this form to the HOA office at your earliest convenience, there is a mail drop on our front door for your convenience after hours. If you wish to email this form to our office, please email it to [admin@kilncreek.org](mailto:admin@kilncreek.org)

# Villages of Kiln Creek Owners Association (the "Association") Tenant Information Sheet

**Any Owner who rents or leases their Lot is required to complete, sign and return this Tenant Information Sheet to the Association Director of Operations, at the address provided below.**

Pursuant to the Second Amended and Restated Declaration of Covenants and Restrictions of Villages of Kiln Creek Owners Association (the "Declaration") Article VII Section 7.5 the Owners who lease a dwelling unit located on a Lot shall submit this form prior to the Tenant's occupancy of such dwelling unit.

Owner Name(s): \_\_\_\_\_

Owner(s) Mailing Address: \_\_\_\_\_

Owner(s) Telephone Number(s): \_\_\_\_\_

Property Address: \_\_\_\_\_

Name of agent or property manager (if applicable): \_\_\_\_\_

Address of agent or property manager: \_\_\_\_\_

Telephone of agent or property manager: \_\_\_\_\_

Tenant Name(s): \_\_\_\_\_

Tenant's Telephone Number: \_\_\_\_\_ Length of Lease: \_\_\_\_\_

**Pursuant to Declaration Section 7.5 in connection with the leasing or rental of any Lot within the Association, the Owner(s) agree as follows:**

1. The Owner or his/her agent has provided Tenant(s) a current copy of the Association Articles of Incorporation, Bylaws and Declaration (the "Governing Documents").
2. Any lease made by the Owner to lease or rent his/her unit shall require the lessee to comply with the Governing Documents.
3. Any lease made by the Owner to lease or rent his/her unit shall provide that failure to comply with the Governing documents constitutes a default under the lease.

\_\_\_\_\_  
Owner Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Owner Signature

\_\_\_\_\_  
Date

Return to:

Villages of Kiln Creek Owners Association  
970 Brick Kiln Blvd.  
Newport News, VA 23602

<b>Office use only</b>
Account # _____
Assessments checked _____
Lot Files Checked _____
Rec Pass Exp. Date _____

AIRCRAFT NOISE/ACCIDENT DISCLOSURE

This information is taken from the Amended and Restated Declaration of Covenants and Restrictions for the Villages of Kiln Creek Owners Association.

Section 9.11. Aircraft Noise/Accident Disclosure. Each Owner, by acceptance of a deed to his lot or Parcel, acknowledges that (i) the Properties are located within a noise and/or accident zone adjacent to the Newport News/Williamsburg International Airport; (ii) that he has been given an opportunity to fully investigate and satisfy himself or themselves of the impact of the noise likely to occur on and around the Properties; (iii) that he has evaluated the effect on the use and enjoyment of his Lot or Parcel after having voluntarily elected to purchase his Lot or Parcel and having been fully informed concerning such noise and/or possible accidents; and (iv) that he has been given an opportunity to review the Maps and Records of the City of Newport News and the County of York, Virginia, and of the Peninsula Airport Commission. In addition, in the sale of his Lot or Parcel to a purchaser, each Owner agrees to obtain a written statement from such purchaser certifying the foregoing information.

I hereby certify that I have received a copy of the above foregoing information and that I have read and understand the information contained therein.

\_\_\_\_\_  
Purchaser

\_\_\_\_\_  
Purchaser

\_\_\_\_\_  
Purchaser

\_\_\_\_\_  
Purchaser

## LAKES AND SNAKES

With the approach of warm weather, people venture outside. We have 18 lakes within our 1200 acres, ranging in depth from 6 to 50'. Most of the lakes are 18-25' deep. Everyone is attracted to water and while the lakes are posted with signs that playing in the lakes is NOT permitted- cool water is a great temptation. It should be noted that poisonous snakes (water moccasins, rattlesnakes and copperheads) have been seen in and around our lakes.












Please take the time to study the lake map and memorize the lake numbers. Both Newport News and York County Emergency Communications Center have been given detail papers on the location of all 18 lakes. If a water incident occurs and you have to call for emergency assistance you must be able to intelligently report where the water incident is located. Here is a recommended reporting procedure.

- \*Dial 911 (Stay calm so the dispatcher can understand you).
- \*Give your name
- \*Give your address (include community name) Rock Creek, Tradewinds, etc.
- \*Give your telephone number
- \*Describe the incident; ie "possible drowning, swimming, snake bite, etc".
- \*Give the lake number and location; ie "lake #4, behind house #302 on Rock Creek Court, in Rock Creek.
- \*Stay on the phone
- \*Have someone go to the street to guide in the Rescue Unit.

Please help make our community safe!

LAKES OF THE VILLAGES OF KILN CREEK

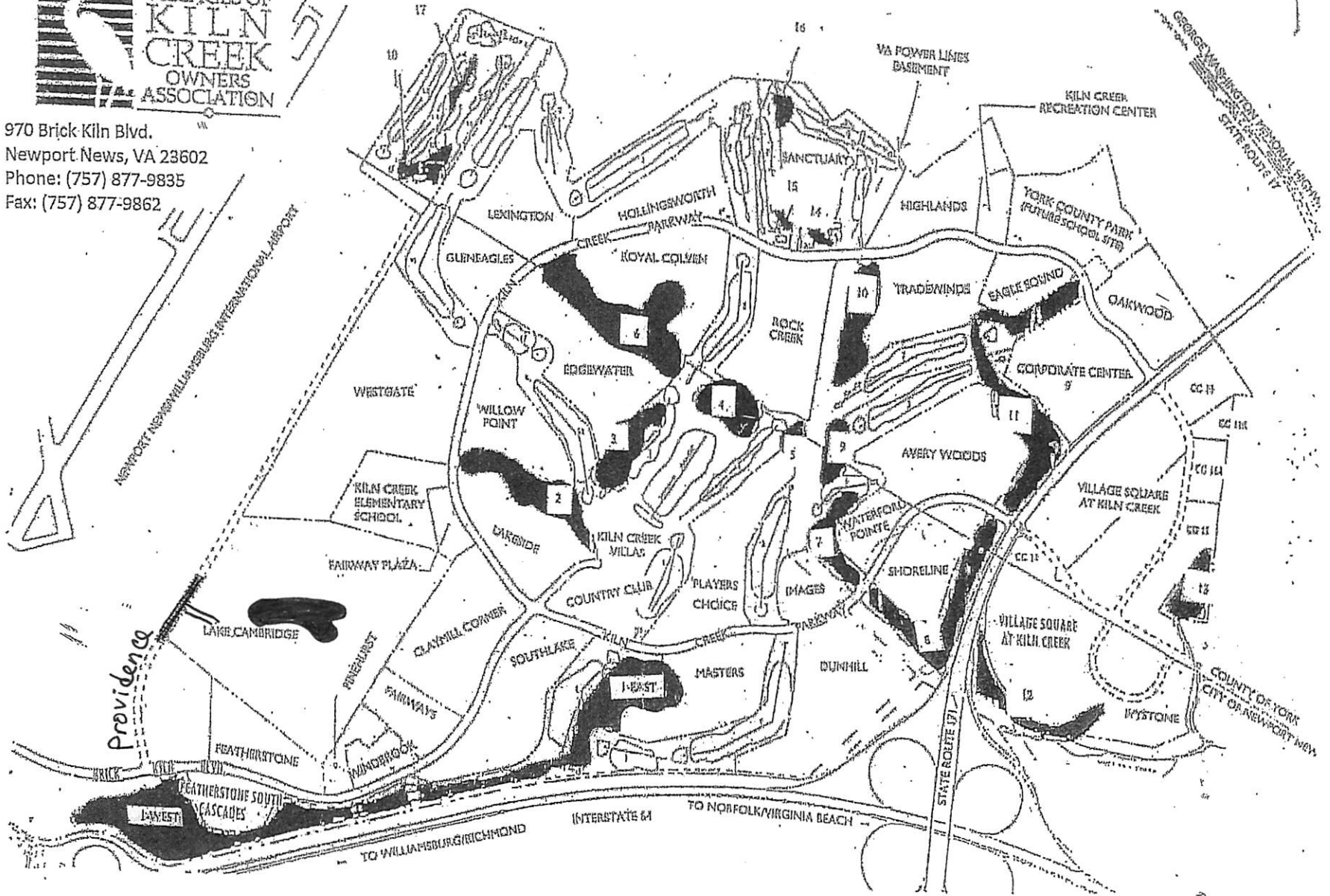
LAKE NUMBERS AND PROPORTIONATE SIZES

LAKE	DEPTH	SHAPE	LOCATION
1 W	18-25'		Parallels Brick Kiln Boulevard and behind Cascades.
1 E	18-25' 4-8' shallow		In between Southlake & Masters, also borders on the outer loop of Kiln Creek Parkway.
2	18-25'		Along the side and behind Lakeside and next to Willow Point.
3	18-25'		Behind Edgewater.
4	50'		Behind Rock Creek.
5	18-25'		Behind Rock Creek and along the VA powerline easement.
6	25'		Between Edgewater and Royal Colven.
7	18-25'		On the side and behind Waterford Pointe and along the VA powerline easement.
8	18-25'		Along State highway 171 and around two sides of Shorelines and the VA powerline easement.
9	18-25'		Along the VA Power easement, behind the right rear corner of Rock Creek, as well as the left rear corner of Avery Woods.
10	18-25'		On the left side of Tradewinds and along the VA powerline easement.

- |    |        |  |   |
|----|--------|--|---|
| 11 | 18-25' |  | Along State highway 171 and between Avery Woods and the corporate center. Along the right side and rear of Eagle Sound just touching the right rear side of Tradewinds. |
| 12 | 18-25' |  | Along highway 171 and behind Farm Fresh.  |
| 13 | 18-25' |  | Behind Super K in the wooded area just off of Commonwealth Drive.   |
| 14 | 18-25' |  | On the right side at the entrance to the Sanctuary.   |
| 15 | 18-25' |  | On the left side at the entrance to Sanctuary.  |
| 16 | 18-25' |  | Behind the left rear of the Sanctuary.  |
| 17 | 18-25' |  | Behind Lexington on the far side of the golf course near the airport fence.   |
| 18 | 18-25' |  | Behind Lexington on the far side of the golf course near the airport fence.   |
| 19 | 20-25' |  | In the middle of the Lake<br>Cambridge Community  |



970 Brick Kiln Blvd.  
 Newport News, VA 23602  
 Phone: (757) 877-9835  
 Fax: (757) 877-9862



## **ASSOCIATION DISCLOSURE PACKET NOTICE**

**Note to prospective purchasers:** The lot being purchased is in a development which is subject to the provisions of the Virginia Property Owners' Association Act. The contract to purchase a lot shall disclose that the lot is located in a property owners' association. The purchaser may have the right to cancel the contract after receiving the disclosure packet and the purchaser may request an update of the disclosure packet pursuant to article 55.509.4 of the Code of Virginia.

Living in a community association carries with it certain rights, responsibilities and benefits. Benefits include the right to use common areas, which may include swimming pools, parks, playgrounds and other recreational facilities. In order to finance the operation of the community, each owner is responsible for and obligated to pay periodic assessments, and if necessary, special assessments to ensure that the financial requirements are met.

The use of common areas, financial obligations of lot owners' and other rights, responsibilities and benefits associated with the ownership of a lot in this common interest community are subject to the provisions of governing documents that typically include a declaration, bylaws, articles of incorporation and rules and regulations. These documents are important and should be reviewed carefully prior to your purchase.

Some decisions are made by the association board of directors, while other decisions are reserved to a vote of association members. The purchaser is bound by all decisions of the association and the board of directors and the provisions of the governing documents.

Failure to comply with the association governing documents can result in legal action being taken against the lot owner. Failure to pay assessments and mandatory fees may result in the association filing a lien and/or lawsuit against the lot owner, foreclosing the lien, and other actions permitted by the governing documents and the Property Owners' Association Act.

Documents and information contained the in disclosure packet describe the basis for living in a common interest community and should be reviewed carefully prior to purchase of the lot.

**The name of your association is: Villages of Kiln Creek Owners Association**

**Assessments and/or Mandatory Fees you are responsible for:**

**Assessments 2023: \$1,292.64 paid in twelve (12) monthly installments of \$107.72**  
**Due and payable in advance on the first day of each month.**  
**Special Assessments: N/A**

**Failure to pay any of the above Assessments and/or mandatory Fees may result in the following: The lien of the assessments provided for in this document may be perfected and enforced in the manner provided in Section 55-516 of the Virginia Code. The Association may also bring an action at law against any Owner personally obligated to pay the same, either in the first instance or for deficiency following foreclosure, and interest, late charges and costs of collection including attorney's fees shall be added to the amount of such assessment and secured by the assessment lien. The association may also suspend the right of an Owner to use or benefit from any of the Common Areas or the Neighborhood Common Areas for the period during which any assessment against his Lot or Parcel is delinquent.**

**ALL DOCUMENTS AND INFORMATION CONTAINED IN THIS DISCLOSURE PACKET PLAY AN IMPORTANT ROLE IN LIVING WITHIN A COMMON INTEREST COMMUNITY AND SHOULD BE REVIEWED CAREFULLY PRIOR TO YOUR PURCHASE OF THE PROPERTY. A LIST OF THOSE DOCUMENTS IS PRINTED ON THE BACK OF THIS NOTICE.**

**Recipient Name (print): \_\_\_\_\_**

**Recipient signature: \_\_\_\_\_**

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



Commonwealth of Virginia  
Common Interest Community Board  
Department of Professional and Occupational Regulation



Post Office Box 29570  
Richmond, Virginia 23242-0570  
(804) 367-8510  
[cic@dpor.virginia.gov](mailto:cic@dpor.virginia.gov)  
[www.dpor.virginia.gov](http://www.dpor.virginia.gov)

Common Interest Community Board  
PROPERTY OWNERS' ASSOCIATION DISCLOSURE PACKET NOTICE

Section 54.1-2350 of the *Code of Virginia* requires that this form accompany disclosure packets issued pursuant to § 55.1-1809 of the *Code of Virginia*.

The lot being purchased is in a development subject to the Property Owners' Association Act ("Act"). Properties subject to the Act are considered "common interest communities" under the law. Owning and living in a community governed by a common interest community association has benefits and obligations. Upon accepting title to a lot within a community governed by a common interest community association, membership in the property owners' association ("association") is mandatory and automatic. The Act specifies the contents of the **disclosure packet**, and fees that may be charged for preparation and distribution of the disclosure packet.

In addition to information provided in the disclosure packet, the following are important considerations when purchasing a lot in a community governed by an association.

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### Assessments

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Each owner is responsible for and obligated to pay regular assessments and, if applicable, other assessments, including special assessments, and other mandatory fees to ensure that the association's financial requirements are met. Assessments are mandatory, imposed by the association for expenses incurred for maintenance and services provided for the benefit of some or all of the lots, reserves for future expenditures, the maintenance, repair, and replacement of the common area, including for the construction or maintenance of stormwater management facilities, insurance, administrative expenses, and other costs and expenses established in the governing documents. Failure or refusal to pay assessments and any other mandatory fees may result in imposition of late fees, interest, costs and attorney fees, recordation of a lien, filing a lawsuit and obtaining

judgment against the lot owner, foreclosing on the lot to enforce the lien, and other actions permitted by the governing documents and the Act.

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## **Declaration and Other Governing Documents**

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Governing documents typically include a declaration, plats, articles of incorporation, bylaws, rules and regulations, and architectural standards or guidelines (“governing documents”). The governing documents, association policies, and other information contained in the disclosure packet describe the basis for living in a community governed by a common interest community association. The form of governance, nature and scope of services, as well as limitations on property use are addressed in the governing documents, and association policies.

Owners have the responsibility, among other things, to comply with the restrictive covenants and association policies that outline what owners may and may not do on lots and common area. Use of common area, financial obligations of owners and other rights, responsibilities and benefits associated with ownership in a common interest community are subject to the provisions of governing documents and association policies. Some decisions are made by the association board of directors, while other decisions are reserved to a vote of association members. Failure to comply with the governing documents and association policies may result in monetary penalties, a lien against the lot, suspension of certain privileges, and legal action against the lot owner.

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## **Limitations**

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The governing documents and association policies may establish limitations affecting use of individual lots and the common area. While the limitations applicable to each association may vary from community to community, § 54.1-2350 of the Code of Virginia makes particular reference to the following. The governing documents and association policies may establish:

- Limitations on an owner’s ability to rent the lot.
- Limitations on parking and storage of certain types of motor vehicles and boats within the community.
- Limitations on maintenance of pets on a lot or in common areas.
- Limitations on operation of a business within a dwelling unit on a lot.
- Architectural restrictions applicable to an owner’s lot.
- The period or length of time that the declarant (developer) may control membership on the board, make decisions on behalf of the association, and therefore operate the association. This period is often

referred to as the *declarant control period*. At the conclusion of the declarant control period, control of the association is transferred to the members.

This list does not represent all limitations that may affect lots within the common interest community.

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## **Important Notice for Purchasers**

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The contract to purchase a lot within a community governed by a common interest community association is a legally binding document. The purchaser may have the right to cancel the contract after receiving the disclosure packet.

Information provided in this form is a summary of select matters to consider when purchasing a lot in a community governed by a common interest community association but should not be relied upon exclusively to understand the character and nature of the community and association.

The purchaser is responsible for examining the information contained in and provided with the disclosure packet. The purchaser shall carefully review the entire disclosure packet. The purchaser may request an update of the disclosure packet.

*The contents of the disclosure packet control to the extent that there are any inconsistencies between this form and the disclosure packet.*

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The Disclosure Packet must include the following:

- 1  Association name, and if incorporated, the state of incorporation and the name and address of its registered agent in Virginia;
- 2  A statement of any expenditures of funds approved by the association or the board of directors that shall require an assessment in addition to the regular assessment during the current year or the immediately succeeding fiscal year;
- 3  A statement, including the amount of all assessments and any other mandatory fees or charges currently imposed by the association, together with any post-closing fee charged by the common interest community manager, if any, and associated with the purchase, disposition, and maintenance of the lot and to the right of use of common areas, and the status of the account;
- 4  A statement of whether there is any other entity or facility to which the lot owner may be liable for fees or other charges;
- 5  The current reserve study report or summary thereof, a statement of the status and amount of any reserve or replacement fund, and any portion of the fund allocated by the board of directors for a specified project;
- 6  A copy of the association's current budget or a summary thereof prepared by the association, and a copy of its statement of income and expenses or statement of its financial position (balance sheet) for the last fiscal year for which such statement is available, including a statement of the balance due of any outstanding loans of the association;
- 7  A statement of the nature and status of any pending suit or unpaid judgment to which the association is a party and that either could or would have a material impact on the association or its members or that relates to the lot being purchased;
- 8  A statement setting forth what insurance coverage is provided for all lot owners by the association, including the fidelity bond maintained by the association, and what additional insurance would normally be secured by each individual lot owner;
- 9  A statement that any improvement or alteration made to the lot, or uses made of the lot or common area assigned thereto, are or are not in violation of any of the declaration, bylaws, rules and regulations, architectural guidelines and articles of incorporation, if any, of the association;

- 10  A statement setting forth any restriction, limitation, or prohibition on the right of a lot owner to place a sign on the owner's lot advertising the lot for sale;
- 11  A statement setting forth any restriction, limitation, or prohibition on the right of a lot owner to display any flag on the owner's lot, including but not limited to reasonable restrictions as to the size, place, and manner of placement or display of such flag and the installation of any flagpole or similar structure necessary to display such flag;
- 12  A statement setting forth any restrictions as to the size, place, duration, or manner of placement or display of political signs by a lot owner on his lot.
- 13  A statement setting forth any restriction, limitation, or prohibition on the right of a lot owner to install or use solar energy collection devices on the owner's property;
- 14  The current declaration, the association's articles of incorporation and bylaws, and any rules and regulations or architectural guidelines adopted by the association;
- 15  Any approved minutes of the board of directors and association meetings for the six calendar months preceding the request for the disclosure packet;
- 16  The notice given to the lot owner by the association of any current or pending rule or architectural violation;
- 17  A copy of the fully completed form developed by the Common Interest Community Board pursuant to § 54.1-2350;
- 18  Certification that the association has filed with the Common Interest Community Board the annual report required by § 55.1-1835, which certification shall indicate the filing number assigned by the Common Interest Community Board and the expiration date of such filing;
- 19  A statement indicating any known project approvals currently in effect by secondary mortgage market agencies; and
- 20  The association complaint procedure required by 18 VAC 48-70-60 and pursuant to 18 VAC 48-70-40 and 18 VAC 48-70-50.



VILLAGES OF  
**KILN CREEK**  
OWNERS ASSOCIATION®

970 Brick Kiln Blvd. Newport News, VA 23602

757.877.9835 • [www.kilncreek.org](http://www.kilncreek.org) • [admin@kilncreek.org](mailto:admin@kilncreek.org)

# Villages of Kiln Creek Owners Association Handbook

The Premier Place to LIVE  
on the Peninsula

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CONTAINS:

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Revised:

October 28, 2021





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## **FOREWORD TO HANDBOOK**

The Villages of Kiln Creek (“Kiln Creek”) is a master planned community comprised of thirty-one (31) villages (or “Neighborhoods”) and more than twelve-thousand (12,000) residents. The Villages of Kiln Creek Owners Association (the “Association”) is the master homeowners’ association for all residential property within Kiln Creek.

The Association is incorporated as a Virginia non-stock corporation. As such, it is governed by the Virginia Nonstock Corporation Act, as well as other laws such as the Virginia Property Owners Association Act.

When an Owner closes on the purchase of a Lot in Kiln Creek, such Owner automatically and legally becomes a Member of the Association. By accepting title to a Lot, an Owner is deemed legally to have agreed to abide by the Association’s governing documents which include: the Second Amended and Restated Declaration of Covenants and Restrictions (“Declaration”); the Second Amended and Restated Articles of Incorporation (“Articles”); the Second Amended and Restated Bylaws (“By- laws”); and the Supplemental Declarations applicable to each Neighborhood within Kiln Creek (collectively, the “Governing Documents”). The Declaration, Articles and Bylaws require the affirmative vote of two-thirds (2/3) of the Members (as defined in the Declaration) of the Association to amend and therefore cannot be easily amended.

The Villages of Kiln Creek Rules set forth in Part I of this Handbook (“Rules”) and the Architectural Standards set forth in Part II of this Handbook (“Standards”) are more fluid documents which may be amended from time to time by the Association’s Board of Directors to accommodate the needs and standards of the community and its Members. Pursuant to Section 4.2 of the Declaration, Article 4.2 of the Bylaws and Section 55-513 of the Virginia Property Owners Association Act, the Association’s Board of Directors has the express authority from time to time to adopt and enforce rules and regulations. In addition, Section 6.6 of the Declaration authorizes the Architectural Review Board, subject to the approval of the Board of Directors, to establish guidelines and standards to be used in considering whether to approve or disapprove Plans.

The motto of the Association is “to Enhance and Maintain a Community of Excellence.” The purpose of the Rules is to provide direction for Members to assist them in living within the Properties; the purpose of the Standards is to assist Owners in understanding how architectural standards apply when contemplating and designing a proposed Improvement. Adherence to the Rules, Standards and Governing Documents is vital to the community spirit of the Association, and ultimately leads to enhanced property values throughout Kiln Creek. (See pg. 8 for Enforcement Procedures)

The goal of the Association is not to invade Members’ privacy or impose undue burdens upon residents, but rather to carry out and enforce the provisions and covenants found in the Governing Documents. Residents may inquire about the Rules or Standards at the Association’s office on any week- day during the operating hours, via the Association’s improved website at <http://www.kilncreek.org>, or during the monthly Board of Directors meetings held at the Kiln Creek Golf Club & Resort, the Association Office or the Association Rec. Center. The location of the meeting will be posted at the Association Office. The Board of Directors and Association Staff serve the community and its Members and welcome the opportunity to discuss and explain the Association policies and guidelines.

This document supersedes and replaces the Kiln Creek Handbook Rules and Architectural Standards dated June 27, 2019. Please keep this Handbook in a convenient place so that you may refer to these documents when necessary. For any questions or comments, please call the Association’s office at (757) 877-9835. By becoming knowledgeable about, and abiding by the Rules and Standards, we all do our part to enhance & maintain Kiln Creek as a “Community of Excellence.”

# **VILLAGES OF KILN CREEK OWNERS ASSOCIATION**

**Part I:**

**RULES**



## SECTION I

### INTRODUCTION (RULES)

1. **Authority.** Section 7.1(c) of the Second Amended and Restated Declaration of Covenants and Restrictions of the Villages of Kiln Creek Owners Association (the “Declaration”) provides that the Board of Directors of the Villages of Kiln Creek Owners Association (the “Association”) may adopt general rules, including, but not limited to, rules regulating potential problems relating to the use of property and that such rules and any subsequent amendments thereto shall be binding on all Members, except where expressly provided otherwise in such rule. By resolution effective October 28, 2021, the Board of Directors approved revisions to the rules governing the Properties, such rules, as amended, are set forth herein (collectively, the “Rules”).
2. **Governing Documents.** The Rules and the Architectural Standards (see Part II of this Handbook) shall be considered with the Second Amended and Restated Declaration of Covenants and Restrictions (“Declaration”), the Supplemental Declaration applicable to your Neighborhood, the Second Amended and Restated Articles of Incorporation of the Association (“Articles”), and Second Amended and Restated Bylaws of the Association (“Bylaws”) (collectively referred to as the “Governing Documents.”) If any provision of these Rules conflicts with the terms or provisions of any of the Governing Documents, the terms and provisions of the applicable Governing Document(s) shall control.
3. **Architectural Standards.** Section 6.5 of the Declaration provides that no Improvement (as defined in Section 6.2 of the Declaration) shall be constructed, erected, installed or maintained on any Lot or Parcel, nor shall any Improvement be altered, enlarged, demolished or removed in a manner that alters the exterior appearance (including without limitation paint color) of the Improvement of the Lot or the Parcel on which it is situated, unless the Application, Plans and construction schedule therefore (sic) have been approved by the Architectural Review Board (“ARB”). Pursuant to Section 6.6 of the Declaration, the ARB has established, and the Board of Directors has approved, certain standards known as the “Architectural Standards” to be used in considering whether to approve or disapprove plans for Improvements. These Rules are closely related to the Architectural Standards, and in many instances specific reference is made to the Architectural Standards for additional requirements and guidance.
4. **Neighborhood Rules.** Individual Neighborhoods may have rules that are more, but not less, restrictive than the Association.
5. **Definitions.** Unless otherwise indicated, defined terms used herein shall have the meaning set forth in the Governing Documents.
6. **Enforcement Procedures** begin on pg. 22.

## SECTION II

### RULES / USE OF PROPERTY

1. **Animals:** In recognition of the need for animal control and safety within Kiln Creek, and the right of each resident to enjoyment of their Lots, the Common Areas and Neighborhood Common Areas, the following rules and policies are hereby established to minimize and address animal problems, and to provide procedures for processing animal questions and complaints.
  - a. The maintenance, keeping, boarding or raising of non-domesticated animals, livestock, poultry or reptiles of any kind, regardless of number, is prohibited on any Lot or upon the Common Area or Neighborhood Common Area. Keeping of guide animals, service animals and orderly domestic pets (e.g., dogs, cats or caged birds) without the approval of the Board of Directors, is permitted; provided that such pets are not kept, bred or maintained for commercial purposes.
  - b. When outdoors, pets must be leashed and accompanied by a responsible person who can control the pet. Pets may not be left unattended except while in a fenced private yard. Pet owners who want to install invisible, underground electric fences to keep their animals inside their Lot must file an application for exterior alteration with the Association's ARB. No pet may be leashed or tethered to any stationary object. **Pet owners are responsible for the immediate removal and proper disposal of animal waste.**
  - c. Any Owner who keeps or maintains any pet upon any portion of the Properties agrees to indemnify and hold the Association and each Owner harmless from and against any loss, claim or liability of any kind or character whatsoever arising by reason of keeping or maintaining such pet within the Properties. Owners shall ensure that their pets are vaccinated against rabies and that such vaccinations remain current and up to date.
  - d. No pets shall be permitted on golf course and/or exclusive golf cart paths.
  - e. **The Association will monitor all signed and written formal concern forms regarding free roaming cats, dogs off leash, and/or dog and cat excreta. If warranted, a notice of violation will be issued to the Owner of the Lot following a signed written complaint (see pg. 22).**
  - f. Written complaints received by the Association concerning nuisance animals will be processed for a hearing by the Association in accordance with the Enforcement Procedures in Section IV. A written concern form must be submitted to the Association along with the signature of any other complaining residents, stating the particulars (dates and times) of the alleged nuisance. All residents signing the statement must be willing to attend a Board of Directors meeting, to which the Owner of the Lot where the pet resides has also been invited, for a hearing. Please **remember** that your concern form must be completed in its entirety.
  - g. Any pet causing or creating a nuisance or unreasonable disturbance, or noise may be permanently removed from the Properties upon ten (10) days written notice from the Board of Directors. The foregoing notwithstanding, any pet which threatens the safety of or attacks any person(s) lawfully on or occupying the Properties, may be ordered permanently removed from the Properties immediately, without ten (10) days written notice from the Board of Directors, if the Board of Directors deems such removal necessary to protect the safety or welfare of such person(s), and in such cases, the Board of Directors shall provide such notice as is reasonable under the circumstances. The Association will refer all residents to the SPCA if an alleged domestic animal (dog or cat) control problem exists on residential private property.



2. **Association Property:** The Common Area and Neighborhood Common Area shall be used only for the furnishing of the services and facilities for which the same is reasonably suited and which are incident to the use and occupancy of the Lots. The improvements located on the Common Area and Neighborhood Common Area shall be used only for their intended purposes, except as otherwise expressly provided in the Governing Documents. No Owner shall make any private, exclusive or proprietary use of any of the Common Area or Neighborhood Common Area. Common Areas include but are not limited to lake banks, water bodies, wooded areas, golf course, conservation areas, or any other property not owned by a Lot Owner. There shall be **no dumping** (such as grass, limbs, debris, garbage, etc.) on any Common Area or Neighborhood Common Area. If an Owner or an Owner's guest damages any Common Area, Neighborhood Common Area, or any equipment, property or Improvements thereon, they will be held responsible for the cost of repairing such damage.
3. **Casualty:** Damage to property by fire, casualty, accident or other cause must be promptly reported to the Association by any person having knowledge thereof. If a building or other improvement located upon a Lot is damaged or destroyed, the Owner thereof shall restore the site either: (i) by repairing or reconstructing such building or Improvement (See "Maintenance" on pgs. 14-15); or (ii) by clearing away the debris and restoring the site to an acceptable condition compatible with the remainder of the Properties. Such work must be commenced promptly after the date of casualty and substantially completed no later than six (6) months after the date of casualty; provided, however, that any unsafe structure must be immediately secured. An extension may be granted by the Board of Directors, in its sole and absolute discretion.
4. **Vandalism:** Damage to property by vandalism on common property must be promptly reported to the Association and law enforcement by any person having knowledge thereof. Remediation of vandalism on personal property must be commenced no later than 30 days after the occurrence. An extension may be granted by the Board of Directors, in its sole and absolute discretion.
5. **Clothes Drying Equipment:** No clotheslines or other clothes drying apparatus shall be permitted outside an enclosed structure on any Lot. No portion of a Lot shall be used for the drying or hanging of laundry or the airing of clothes or other items unless such laundry or other items are located within an enclosed structure.
6. **Commercial Use:** Pursuant to Section 7.1(w) of the Declaration, no Lot shall be used for any business, commercial, manufacturing, mercantile, storing, vending or other non-residential purpose. An Owner may operate a home occupation and/or office located in the dwelling on the Lot if:
  - Such occupation/office generates no significant number of visits (as determined by the Board of Directors) by clients, customers or other persons related to the business;
  - No equipment or other items related to the business are stored, parked or otherwise kept on such Owner's Lot or the Properties outside of an approved enclosure;
  - Such Owner has obtained approvals for such use as may be required by the City of Newport News or the County of York;
  - Such Owner's home and/or office is operated in accordance with all requirements of applicable governmental ordinances.
  - If Owner elects to have a sign, it may be no larger than one (1) foot by one (1) foot, located near the main entrance of the dwelling.



7. **Drones (unmanned aerial vehicles):** Due to the close proximity of Kiln Creek to the Airport, recreational use of drones (unmanned aerial vehicles) is prohibited.
8. **Emissions:** There shall be no emissions of dust, sweepings, dirt, cinders, odors, gases or other substances into the atmosphere except for normal residential chimney emissions and no production, storage or discharge of Hazardous Materials on the Properties or discharges of liquid, solid wastes or other environmental contaminants into the ground or any body of water. See also, Section 7.1(j) of the Declaration. Normal amounts of BBQ grill/firepit smoke/emissions shall not be considered a violation, provided such grills are operated in accordance with the requirements of paragraph 13 below.
9. **Firearms:** Because of the density of homes in Kiln Creek, no discharge of firearms or other projectile weapons is permitted. Any and all city and county ordinances must be followed. This includes, without limitation, guns, rifles, paint ball guns, BB Guns, pellet guns, sling shots and archery equipment.
10. **Firewood:** Because of the threat of pest problems, firewood must be stored a minimum of six (6) inches off the ground. Firewood must be stored behind the rear foundation line of the dwelling on the Lot and stacked in a neat and orderly manner and shall not be stored in a manner that blocks access to any door or throughway, or any Common Area or Neighborhood Common Area. Firewood shall not be stacked in excess of four (4) feet in height. Owners must clean and sweep Common Areas and Neighborhood Common Areas that have been littered due to the delivery of firewood. Consult the applicable Supplemental Declaration which may contain additional regulations. If firewood is to be covered, a neutral-colored tarp/covering must be used.
11. **Fireworks:** Fireworks are prohibited; except in instances of an Association fireworks display.
12. **Garage Doors:** To enhance the security of the community and aesthetics of the homes and streetscapes, garage doors should be kept closed to the maximum extent possible. It is the Owner's responsibility to keep the garage door in good repair.
13. **Grills/Firepits:** Except as provided in applicable Supplemental Declarations, use of portable barbecue grills/firepits or other outdoor cooking equipment is permitted on the Lots. Grills/Firepits shall be a minimum of 5 (five) feet from the property line. When in use, outdoor cooking equipment must be placed behind the dwelling, whenever possible, and positioned so that smoke will not disturb neighboring properties. Fires must be extinguished promptly after use. Permanent grills/firepits require approval from the ARB. If a grill/firepit is rusting, a cover is required. See Architectural Standards, Neighborhood rules, if any, and Supplemental Declaration applicable to your Neighborhood for further restrictions.
14. **Holiday/Seasonal/Temporary Decorations and Lighting:** Holiday decorations as used herein mean those temporary decorations and lighting associated with a particular national, state, local or religious holiday. These decorations may be displayed for up to thirty (30) days before and fourteen (14) days after the applicable holiday. Seasonal decorations may be displayed during the calendar year's seasonal dates. Inflatable decorations are permitted for holiday decorations only, not seasonal. Owners are urged to take care and exhibit consideration for their neighbors when displaying holiday/seasonal/ temporary decorations so as not to cause an unreasonable source of annoyance to occupants of neighboring property. Please contact the Association's office for special circumstances regarding holiday decorations.

Decorative lighting remaining longer than stated above requires an application. See pg. 47-48 for standards regarding permanent decorative lighting.

Neighborhood Entrances (Common Areas and Neighborhood Common Areas). The Association encourages the display of decorations and our nation's flag at the entrances of the villages. Neighborhoods wishing to display any decorations or the flag within Neighborhood Common Areas located at the entrance to a Neighborhood must notify the Association and designate a point of contact who will be responsible for the placement, maintenance and removal of such decorations and/or flags. Decorations and flags will not be affixed to the Neighborhood signs. All decorations must be placed in a manner that will not impede routine maintenance and will not adversely impact traffic sight lines. Neighborhood entrance decorations shall be removed within 7 days.

15. **Hoses/Sprinklers (non-permanent):** Except when in use, garden hoses shall be stored in a neat and orderly fashion. Hoses/sprinklers shall not be used as a permanent irrigation system. See pg. 56 “Sprinkler Systems/Irrigation” for more information.
16. **Lakes and Water Bodies:** As provided in Section 7.1(f) of the Declaration and subject to the use of the lakes for irrigation purposes by the Association, all lakes within the Properties are aesthetic amenities and no other use thereof, including, without limitation, swimming, boating, fishing, playing or use of personal floatation devices shall be permitted. Any of the above are considered trespassing. The City/County are authorized to take enforcement action if necessary. No piers or docks shall be constructed on any portion of the lakes nor attached to the shorelines or banks thereof, except those approved by the Board of Directors. All lakefront property Owners are to observe the easement around each lake that has been dedicated to the Association. No dumping is allowed along lake banks or into any lake itself. Please refer to the “Lakes and Snakes” bulletin from your disclosure package for more information. The Association shall not be responsible for any loss, damage or injury to any person or property arising out of the authorized or unauthorized use of the lakes within the Properties. **Owners are prohibited from trimming any vegetation on common property bordering the lakes.**
17. **Landscaping Care:** It is the Owner’s responsibility to keep all shrubs, trees, grass and ground cover neatly trimmed, properly cultivated and free from all trash, weeds, and other unsightly materials. The Owner is also required to maintain the grass located behind fences on easements up to an Owner’s property line. No resident may seed, fertilize, mow or otherwise disturb the area past the Lot’s property line; likewise, it is prohibited to plant invasive species of plants in a manner that will encroach on neighboring property. Examples of invasive plants consist of, but are not limited to: English Ivy, Japanese Honeysuckle and Purple Loosetrife. Artificial vegetation of any kind (e.g., plastic or silk flowers or bushes) is prohibited. Shrubs, trees and grasses should be chosen by their height at maturity and be in proportion to the bed, lawn, home and lot. (Local nursery personnel are often knowledgeable and are usually willing to share their expertise regarding these areas.) The Association typically conducts lawn inspections following the weekends. If a Lot is not being maintained, and after notice has been given, the Association is permitted to go onto an Owner’s Lot and perform the maintenance at the Owner’s expense, per the Governing Documents.
  - **Lawn Maintenance-** Overall, lawns shall have a generally well-groomed and maintained appearance. Grass shall be mowed on a regular basis. The height of the grass shall at no time exceed six (6) inches. During high growth seasons, mowing may need to be done as often as once a week. There shall be no weeds in the place of grass and there shall also be no bare spots in the lawn. Lawns that have either of these problems must be weeded and/or seeded during the next appropriate growing season. Watering is also important. Lawns should be watered enough to maintain a green, healthy appearance (however, city and county water regulations should be adhered to at all times). The area/edges where your lawn meets your house, driveway, walkway, fence, patio, or other obstruction shall be neatly trimmed and free of weeds. The Association may notify an Owner of the need for one or more of the following: (i) turf applications (weed control), (ii) soil preparation, (iii) aeration, (iv) seeding, (v) fertilizing, (vi) watering and (vii) any other steps necessary for the Owner’s lawn to be established. All driveways, walkways, patios and other similar areas shall be kept free from all grass, weeds,

debris or other materials. Residents, or those with lawn service contractors shall ensure that they do not blow grass clippings, branches, grass or any debris down storm drains, into the streets, Common Areas, Neighborhood Common Areas or other Owners' Lots.

- **Flowerbed Maintenance-** All flowerbeds, gardens, or other areas segmented from the lawn shall be well kept, free of all grass and weeds. Landscaping materials such as mulch, stones, blocks, bricks, etc. shall also be kept weed and mold/algae/fungus free and repaired/replaced if they are disjointed or broken. (See Architectural Standards pgs.46 for edging specifications.) If an area appears unkempt or fades into your lawn, you may be asked to have this area differentiated by either creating a distinct flowerbed or removing the plant material and seeding to encompass this area into your lawn.
- **Leaves:** The burning of leaves and other yard debris within the Villages of Kiln Creek is **strictly prohibited.**

Collection: At no time shall leaves or other yard debris be piled in streets for vacuuming and/or collection by the City of Newport News or York County, as neither locality collects un-bagged leaves in Kiln Creek. All local city or county ordinances for trash collection must be followed. A Lot Owner shall not rake or blow leaves into a Common Area, Neighborhood Common Area or street. Un-bagged debris gets washed into storm drains and may clog up our lake system.

Removal: Leaf removal shall be done on a routine basis, especially during Fall months. Only clear bags shall be used and placed by the curb. In Newport News, bagged leaves are collected year-round as bulk trash every other week. In York County, from mid-November to mid-January, leaves are collected every other week. Please refer to both locality websites for up to date collection information.

Newport News: <https://www.nnva.gov/771/Solid-Waste-Collection-Schedule-Calendar>  
York County: <http://www.yorkcounty.gov/795/yard-debris-collection>

Leaves are considered bulk trash and shall not be placed on the curb earlier than bulk trash times as described on pg. 19-20.

- **Trees:** It is the owners responsibility to keep all shrubs, trees, grass and ground cover neatly trimmed, properly cultivated and free from all trash, weeds, and other unsightly materials. If a tree hangs over onto another owners property, it is the owners responsibility to maintain up to their property line, keeping the tree as aesthetically pleasing as possible. Trees shall be trimmed around streetlights and street signs.

18. **Leasing:** Section 7.5 of the Declaration contains restrictions governing leases of residential dwellings in Kiln Creek. All leases of dwellings in Kiln Creek shall be for one (1) year minimum. Only one lease per Lot is permitted and no portion of a dwelling (other than the entire dwelling) may be leased. No Owner shall lease a Lot other than on a written form of lease. Therefore, any type of "AirBnB/VRBO" type of listings/postings or any other short term rental marketing site/listing/posting that issues a temporary "license" or lease to third parties are strictly prohibited.

Kiln Creek requires:

- a. The lessee to comply with the Governing Documents and Rules (including, without limitation, individual Neighborhood rules).
- b. Failure to comply with the Governing Documents and Rules (including, without limitation, Neighborhood rules) constitutes a default under the lease. All absentee Owners shall promptly notify the Association of their new address, e-mail address, phone number and the name, work and home phone numbers of their tenants and Property Management Company, as applicable. It is the

responsibility of the Owner to ensure that the required Tenant Information Sheet is completed, signed by the Owner, and returned to the Association prior to the tenant's occupancy of the dwelling unit. Failure to do so shall constitute a violation of the Declaration and the Rules.

19. **Maintenance:** As provided in Section 7.2 of the Declaration, each Owner shall keep all Lots and Parcels owned by him and all Improvements thereon in good order and repair, free of debris, all in a manner and with such frequency as is acceptable to the Association and consistent with a first-quality development. Common maintenance items include, but are not limited to: painting the exterior of your home; cleaning/painting mailboxes; cleaning algae/mold/mildew on roofs, siding, fences, etc. See Exhibit A for a sample review checklist of more items viewed during reviews. In the event an Owner shall fail to maintain their Lot and the Improvements situated thereon as provided herein, the Association, after notice to the Owner and approval of the Board of Directors, shall have the right to enter upon such Lot to correct such failure. All costs related to such correction shall become a special assessment upon such Lot and as such shall be regarded as a special assessment with respect to lien rights and remedies of the Association.
- a. **Maintenance of Lots/Reviews:** The Association may conduct property reviews at any time. See Exhibit A on pg. 24 for the extended list of what is typically checked during such reviews.
  - b. **Maintenance of Lot During Exterior Construction/Remodeling/Renovation:** All Lots must be maintained free of debris during the course of construction. Adjoining streets must be kept cleaned of debris and mud. Building sites that maintain a portable toilet for the use of subcontractors working on the site should be located, whenever possible, near the side of the property and out of view. In no instance, shall a portable toilet be allowed to be located in the sidewalk, gutter or street. Lots served by portable toilets or dumpsters shall be dumped on a weekly basis and such portable toilets/dumpsters shall have prior approval from the Association. Construction activity must be limited to the hours of 7:00 a.m. to 8:00 p.m. No radios may be played at levels that cause an unreasonable nuisance to adjoining Lots.
  - c. **Construction, Remodeling and Renovation Restrictions.** The continuous observation of the following rules and regulations as they pertain to the performance of construction activity shall be mandatory for all contractors working within Kiln Creek. Specifically, in addition to those items previously addressed herein, each contractor, and their sub-contractors must observe the following:
    - 1) Each contractor shall maintain the exterior grounds and premises in a neat and clean condition, free of all trash and debris.
    - 2) No materials, except those that shall be incorporated into the project during a maximum of thirty (30) days following delivery, will be allowed on the exterior of the site. Those materials stored on site will be maintained in a neat order.
    - 3) Trailers, trucks, vans and portable storage containers carrying construction tools or materials must not be parked on the street or any Common Area or Neighborhood Common Area overnight. Dumpsters must be placed in the driveway. (See pgs. 16-17 for parking regulations.)
    - 4) Construction must be completed within six (6) months. Additional time may be granted on a case by case basis.
    - 5) Prior approval from the Association office is required for dumpsters and portable toilets so that the Owners may receive a permit from the Association for their use/placement. Please display this permit on the dumpster or toilet in an area that is visible from the street.



(Such permit is in addition to other permits required by applicable laws and ordinances.) Each permit is valid for up to 90 days. If more time is needed, Board of Directors approval is required. At no time shall a dumpster or portable toilet be kept longer than 6 months.

- 6) All construction material, scaffolding, ladders, dumpsters large bulk trash/debris such as Bagsters® and portable toilets shall be removed within seven (7) days after completion of work.
20. **Motorized Vehicles:** No motorized vehicles of any type shall be driven on the community trails, pathways, cart paths, Common Areas or Neighborhood Common Areas (other than streets and parking areas). The foregoing rules regarding motorized vehicles do not apply to the use of maintenance vehicles used by the Association, and Golf Club & Resort, or motorized wheelchairs or other devices to assist persons with disabilities. Pedestrians have the right of way in all instances. The foregoing rules do not apply to the golf course.
21. **Moving:** Move-ins and move-outs shall be conducted between the hours of 7:00 a.m. and 9:00 p.m. unless otherwise approved by the Association’s Director of Operations. If leasing or vacating a dwelling, the Owner must provide the Association with his/her/their change of address in writing. Please be considerate and do not block driveways, trash cans or mailboxes. If any damage is done to any Common Area, Neighborhood Common Area, or other property, the moving Owner shall be held liable (See pg. 10 “Association Property”). Large moving vans and trucks may not remain overnight. U-haul type vehicles including but not limited to, trailer hauls/trucks/vans may remain on a lot for a maximum of three (3) consecutive days and you must notify the Association office prior to its arrival. See pg. 19 regarding portable storage (PODS).
22. **Multi-Unit Dwellings:** Rules for garbage and trash storage, storage and usage of grills and storage of firewood may be established by state law and the individual Neighborhoods for multi- unit dwellings provided such rules do not contradict or conflict with the Rules of the Association.
23. **Noise:** All persons present on the Properties shall comply with all applicable local noise ordinances and shall not permit or engage in any activity, practice or behavior that causes unreasonable annoyance, discomfort or disturbance to any other person(s) lawfully present on any portion of the Properties. Residents are encouraged to call local authorities to report such violations or occurrences.
24. **Neighbor-to-Neighbor Disputes:** Unless required by law, KCOA does not get involved with neighbor-to-neighbor disputes, including but not limited to property line, drainage or tree disputes. The Board of Directors shall make the sole determination whether a dispute is deemed “neighbor-to-neighbor”.
25. **Nuisances:** Section 7.1(a) of the Declaration provides that no nuisance shall be permitted to exist on any Lot or Parcel.” Noxious, destructive, or offensive activity, or any activity constituting an unreasonable source of annoyance, shall not be conducted on any Lot, Parcel, Common Area, Neighborhood Common Area, or on any part thereof, and the Association has authority to initiate legal proceedings to abate such activity. Residents are encouraged to call local authorities to report unlawful occurrences.
26. **Obstructions:** No person shall obstruct any of the Common Area or Neighborhood Common Area, or otherwise impede the rightful access of any other person on any portion of the Properties upon which such person has the right to enter. No person shall place or cause or permit anything to be placed on or in any of the Common Areas or Neighborhood Common Areas without the approval of the Board of Directors. Nothing shall be altered or constructed or removed from the Common Areas or Neighborhood Common Areas except with the proper written approval of the Board of Directors.

27. **Outdoor Recreational Group Activities:** In Common Areas and Neighborhood Common Areas, outdoor recreational activities may be permitted from sunrise to sunset in designated areas if approved by the Association's Director of Operations. The Board of Directors may, in its discretion, consult the Neighborhood representatives, as applicable, regarding behavior rules, parking areas for bicycles and other play equipment (skateboards, etc.), and trash disposal. Any picnic tables in Common Areas and Neighborhood Common Areas are on a first come, first served basis.
28. **Parking and Vehicular Restrictions:**
- a. If a Neighborhood has its own separate association with a separate board of directors, enforcement of such separate association's parking and vehicular restrictions may be conducted by its board of directors or its management company. (See Exhibit 1 pg. 61 of this Handbook for a list of sub/associations.)
  - b. Parking in the Properties shall be restricted to personal vehicles and only within the driveways and parking areas designated for parking. Curbside parking within the interior streets of a Neighborhood in those portions which are not designated "No Parking" by corresponding signage and/or marking is permitted when the vehicle is parked so as not to impede traffic or block access to trash bins, mail boxes, stop signs and driveways and so as not to damage vegetation. Vehicles may not be parked within fifteen (15) feet of fire hydrants. No parking on lawns, Common Areas or Neighborhood Common Areas shall be permitted. Vehicles parked in such a way that blocks or creates a hazard for vehicles in a designated traffic lane are not permitted.
  - c. Junk, derelict vehicles not in compliance with local or state laws or inoperable vehicles are prohibited. Any vehicle not displaying current registration plates and current city/county and state inspections is prohibited on any portion of the Properties unless enclosed in a garage. If during an inspection it is noted a vehicle is not current on its tags or inspection, a member of the Association staff will send a "reminder" notice and a re-inspection will be done. If the vehicle is still not in compliance with the Rules and/or with local or state laws, the vehicle will be subject to towing without further notice. All repairs of any motor vehicle which shall cause the vehicle to remain inoperable at the end of one (1) day are prohibited upon any portion of the Properties. If a vehicle is showing substantial damage, the Owner of the vehicle may be asked to cover it with a form fitting cover. Broken windows shall be repaired within thirty (30) days.
  - d. An operable and registered vehicle may be covered with a clean, tight fitting cover designed specifically for the vehicle. Vehicles covered with a car cover shall not be parked on the street. Car covers shall be earth toned in a solid color (i.e. brown, green, tan). Those owners with assigned spaces, who wish to cover their vehicles, may only do so within their assigned space.
  - e. Advertising is prohibited on vehicles (including but not limited to websites, phone numbers, etc.).
  - f. Commercial vehicles are **prohibited**, except in garages. "Commercial Vehicles" are vehicles that are not designed and used for customary, personal/family purposes. The absence of commercial lettering or graphics on a vehicle shall not be determinative of whether it is a commercial vehicle. Concurrently, lettering or graphics on a vehicle advertising a business is indicative of a commercial vehicle except dealer installed emblems and/or license plate holder, as is a commercial license plate. The lettering or graphics on a vehicle may be covered with a magnetic strip the same color as the vehicle or covered with a vehicle cover in order to bring it into compliance, provided there are no other features which cause the vehicle to be considered commercial. The foregoing and below restrictions regarding commercial vehicles shall not apply to temporary parking of commercial vehicles in connection with construction or providing pick-

up and delivery and other commercial services, nor shall any such restrictions apply to any vehicles of the Association. The parking of service vehicles for repairs and/or service within the Properties shall be confined to the period between 7:00 a.m. and 9:00 p.m. except in the case of emergencies.

- g. Campers, RVs, jet skis, construction trucks, trailers or boats are not to be parked/stored overnight on Lots, driveways, streets, Common Areas or Neighborhood Common Areas without the express prior permission of the Director of HOA Operations.
- h. Non-resident overnight parking is restricted to house guests only. The storing of any vehicle is not permitted on the street.
- i. No items, materials, recreational items, etc. shall be stored on the exterior of any vehicle.
- j. All motor vehicles, including, but not limited to ATV's, trail bikes, motorcycles, and dune buggies-shall be driven only upon paved streets and parking areas. A speed limit of fifteen (15) mph should be observed within the subdivision streets unless otherwise posted. All motorized vehicles, including, but not limited to golf carts (other than on the golf course and golf cart paths) and motorized scooters, are prohibited on any of the Association's Common Areas or Neighborhood Common Areas to include pathways or unpaved portions. Those vehicles used by the Association to carry out its day-to-day operations, motorized wheelchairs, or other devices to assist the disabled are exempt from the above restrictions.
- k. Subject to applicable laws and ordinances, any vehicle parked in violation of these and other restrictions set forth in the Governing Documents may be towed by the Association at the sole expense of the vehicle owner. The Association shall not be liable to the owner of the towed vehicle for trespass, damage, or otherwise, nor shall the Association be guilty of any criminal act by reason of the towing. In cases of towing in which notice is required, once such notice is posted, neither its removal nor failure of the vehicle owner to notice it or receive it for any reason, shall be grounds for relief of any kind. An affidavit of the person posting such notice stating that the notice was properly posted shall be deemed conclusive evidence of proper posting of the notice.
- l. If a vehicle is parked in a No Parking Zone or Fire Lane, is double-parked or otherwise blocking throughways, fire hydrant access, or is causing an emergency situation, it will be subject to towing without notice at the sole expense of the vehicle owner.
- m. If a vehicle is parked in violation of these Rules and other restrictions set forth in the Governing Documents but is not causing an emergency situation, for at least twenty-four (24) hours, a notice of violation will be placed on the vehicle and it will be subject to towing without further notice at the sole expense of the vehicle owner.

29. **Play Equipment, Strollers, Etc.:** All bicycles, tricycles, scooters, skateboards, and other play equipment, wading pools, baby strollers, and similar items shall be stored so as not to be visible from streets and neighboring properties when not in use. When not in use, wading pools should be emptied for health and safety purposes and stored within an enclosed structure. Swing sets, trampolines and similar playground equipment require prior ARB approval.

30. **Recreational/Athletic Equipment:**

- a. For Recreational, Athletic Equipment and Portable Basketball Goals: See pg. 53 in the Architectural Standards.

- b. No permanent recreational/athletic equipment (i.e. baseball cages, skateboard ramps, hockey or soccer nets) shall be permitted on any Lot.
- c. When not in use, all recreational equipment, except for portable basketball goals, must be stored inside a privacy fence, shed, garage or other unobtrusive backyard area where it will not be visible by neighboring properties, and shall be stored in an orderly fashion.
- d. Portable freestanding athletic equipment which shall include, but is not limited to, skateboarding ramps may not be set up and used on any neighborhood street.
- e. Use of home-based outdoor recreational equipment, including, but not limited to basketball goals, is prohibited between sundown and 9:00 a.m. (See Architectural Standards item entitled “Recreational/Athletic Equipment – Portable Basketball Goals on pg. 53.”)

31. **Sale of Lots:** Virginia law **requires** sellers of residential property to order a disclosure package (book or electronic) for the purchasers for their Lot. Upon an Owner’s request, the Association will provide a disclosure packet as required by the Virginia Property Owners Association Act. The Association charges a fee for providing the disclosure packet. Contact the Association office for more information.

32. **School Spirit Emblems/Sidewalk Chalk:**

- School spirit emblems no larger than 12” x 12” may be painted on a driveway at the termination of the driveway into the street provided temporary paint is used that can be completely removed when the emblem is no longer meaningful, or when the resident moves out. The driveway must be designated exclusively for the use of a single residence. Emblems may not be installed on Common Areas, Neighborhood Common Areas, or shared driveways. As in all cases, please check your Neighborhood rules, Supplementary Declaration, and if applicable, the governing documents for any separate association applicable to your Lot for additional guidance.
- Sidewalk Chalk is permitted on private driveways/walkways.

33. **Signs:** No Sign of any kind may be displayed on any Lot except as follows:

- a. One (1) sign of not more than six (6) square feet advertising the property for sale or rent provided the sign is removed no later than 3 days after the sale (closing) of the property to a new Owner or occupancy by tenant.
- b. One (1) sign of not more than six (6) square feet expressing support or opposition to political candidates or other issues which appear on the ballot of a primary, general, or special election, provided that such political signs shall not be placed on a Lot earlier than sixty (60) days before such election and shall be removed within two (2) days after such election and shall not have a maximum elevation in excess of six (6) feet.
- c. Security signage (e.g., no trespassing, alarm and dog warning) are permitted. Signs must be no more than one (1) square foot in size, (maximum two (2) signs per lot).
- d. Solicitation Signage: One (1) small “No Solicitation” sign, one (1) square foot or less is permitted by entrance doors of the dwelling.
- e. An Owner’s personal vehicles legally parked may display one (1) “For Sale” sign on a vehicle window not to exceed 8½" by 11" in size.
- f. Free standing, temporary signs are permitted for individual Neighborhoods to inform residents



of Neighborhood events. Signs may be displayed seven (7) days in advance of the event and must be taken down within 24 hours after the event. Real estate “open house” signs may be displayed at Neighborhood entrances from 9:00 a.m. Saturday morning to 5:00 p.m. Sunday evening. The sign must be of suitable size not to exceed six (6) square feet (recommended 3’ x 2’) and must be placed as directed by the Board of Directors.

- g. Neighborhoods wishing to display signs other than meeting notices (i.e. yard of the month) must obtain prior approval from the HOA Office.
- h. A sign advertising yard/garage/estate sale shall not be placed on any property other than that of the Lot of the person conducting such sale. The sign must be of suitable size not to exceed six (6) square feet (recommended 3’ x 2’) and shall not remain longer than 72 hours.
- i. One (1) sign for home occupation/office no larger than One (1) square foot is permitted if located by the front entrance of the dwelling.
- j. Special occasion signs/decorations permitted for up to 2 weeks (i.e. Welcome Home, Graduation, Anniversary, Birthday, etc.)

- 34. **Solicitation/Pamphleteering/Advertising:** Kiln Creek has established itself as a non-soliciting community; however, local ordinances are subject to change at any time. We suggest that homeowners either post a small no-solicitation sign at the front door of their dwelling, and/or do not respond to these solicitors. Soliciting, pamphleteering and advertising are prohibited within the entire community of Kiln Creek, including on Resort grounds. Under special circumstances, with the written permission of the Board of Directors, exceptions to this rule may be allowed on a case by case basis.
- 35. **Storage:** The storage of items outside of a dwelling is prohibited. This includes but is not limited to boxes, bins, tools, lawn/gardening supplies, recreational equipment, toys, luggage racks, ladders, vehicle parts/doors/caps etc. Any items not mentioned will be addressed on a case by case basis at the discretion of the Board. Exceptions see pg. 55.
- 36. **Portable Storage Containers:** All portable storage containers shall obtain permission prior to bringing to property. All portable storage containers such as PODs®, SmartBox® and other similar storage devices are prohibited on a Lot, except for 3 days when moving in/out, or as permitted by the Board of Directors or Director of HOA Operations for construction activities.
- 37. **Trash:** All garbage and trash stored on the Properties shall be kept in covered containers, and, except for a reasonable amount of time to permit collection on scheduled days of trash collection, shall be kept inside a privacy fence, shed, garage or other concealed or screened area, so as not to be visible from the street. Accumulation or storage of litter, refuse, bulk materials, building materials, garbage or trash of any other kind shall not be permitted on any Lot. No incinerator shall be kept or maintained upon the Properties. The burning of trash, leaves or other debris is strictly prohibited within Kiln Creek.

\*Please note private villages may have their own trash/recycling regulations.\*

Trash and recycling containers shall be placed curbside no earlier than 5:00 p.m. the day before scheduled pickup and should be removed from the curb in a timely manner following trash pickup. In no case shall a container remain curbside later than 9:00 p.m. on the day of pickup. Residents who continuously violate this rule will be subject to Formal Hearing with the Board of Directors.

Bulk waste, which includes bagged grass clippings and collapsed moving boxes, shall be placed curbside no earlier than 5:00 p.m. the day before scheduled pickup.

- All trash bags placed on curb must be made of clear plastic. Black trash bags are prohibited.

- Homeowners have the option to place house identification numbers visibly on the front of their trash can with adhesive stickers no larger than three (3) inches in height. (Painting of these numbers is not permitted.)
- Large bulk trash/debris such as Bagsters® shall be removed within seven (7) days after completion of work.
- Specific details regarding trash may be found on the local government websites of the City of Newport News and York County.

Newport News: (757) 933-2311

<https://www.nnva.gov/771/Solid-Waste-Collection-Schedule-Calendar>

York County: (757) 890-3780

<https://www.yorkcounty.gov/581/Bulk-Collections>

38. **Underground Utilities:** No water, sewer, gas, or drainage pipe, television cable, electrical wire, or other similar transmission or utility line shall be installed or maintained upon any Lot or Parcel above the surface of the ground (not to include utilities affixed to the dwelling).
39. **Window Treatments:** Drapes or other window treatments (such as blinds or shutters) must be white, off white or have a white lining or backing. No plastic wrap may be affixed to a window. Sheets, blankets, towels or other materials not intended for use as window coverings are prohibited.

Decorative films or clings require the approval of the ARB prior to installation (see pgs. 59-60).

Window tinting: See Architectural Standards on pgs. 59-60.

40. **Yard/Garage/Estate Sales:** Yard/garage/estate sales are permitted within the Properties provided the following requirements are observed:
- a. If the resident resides in Newport News, all Newport News regulations must be followed, and the proper permit needs to be obtained. York County does not currently require a permit (as of the last revision date of these Rules).
  - b. No more than four (4) yard/garage/estate sales are permitted at one residence per year. Exhibition of merchandise must be confined to resident's Lot. \*Note\* The Association has a community-wide yard sale 2 times a year; please contact the Association's office for dates, typically held on the first Saturday in April and October. Contact the HOA Office for further details.
  - c. Yard/garage/estate sales may only be conducted between the hours of 7:00 a.m. and dusk.

\*\*See Rules for signs on pgs. 18-19\*\*

## SECTION III

### RECREATION AREAS

**Recreation Passes are required** for the use of the Kiln Creek recreational facilities. Please contact the KCOA office for information on how to obtain passes.

**Recreation Center, Swimming Pools, Basketball Court, Golf Club & Resort and Tennis Courts/Pickleball Courts.**

Please view the Recreation Center, Pool, Basketball Court, Golf Club & Resort and Tennis Court/Pickleball Court Rules in our office for a handout, or on our mobile app or website at [www.kilncreek.org](http://www.kilncreek.org) as these rules are routinely updated.

**Playground/Picnic Areas**

All Kiln Creek playgrounds and the picnic areas will be open from 9:00 a.m. until dusk, seven (7) days a week. These areas are available on a first-come, first-served basis. No loitering in these areas is permitted.

**Paths/Trails**

Paths/Trails are for use of residents and their guests. Please use at your own risk.

## SECTION IV

### ENFORCEMENT PROCEDURES

Courtesy and cooperation among residents and homeowners are necessary for community living. When enforcement concerns involve your neighbors, it is often best to simply discuss the problem with them. Should the enforcement concern remain unsolved or if you feel uncomfortable talking to your neighbor, please contact the Association to request assistance. The concern filed with the Association should be in writing and should document the problem as thoroughly as possible. Concern forms are available at the Association office or on the Association website. If appropriate, the Association will attempt to resolve the problem informally. Final recourse is available through the Board of Directors, which will schedule a panel to consider the alleged violation(s).

#### **Procedures for Violations of the Governing Documents**

1. Noncompliance with the Governing Documents, the Rules and the Architectural Standards may be noted by a resident, an Owner, or employee of the Association or by a city/county employee acting in an official capacity, by initially reporting such in writing to the Association. Such notice, to the extent feasible, shall specify the time, date, place and nature of the violation. The Virginia Property Owners' Association Act and Section 9.3 of the Declaration authorizes the Association to enforce the Rules and Architectural Standards.
2. Upon receipt of such notice and after the Association has evaluated the same, the Association shall send a written first notice to the Owner stating the time, date, place and nature of violation (to the extent known to the Association). The notice will provide a time period for compliance. If the violation is not corrected within the time period given, such violation may result in the imposition of sanctions, charges, legal action, or any other remedies that the Association may pursue under law, including but not limited to, those under Section 55-513 of the Virginia Property Owners' Association Act, as amended. A record of this action and a copy of all notices sent by the Board of Directors and any correspondence relating thereto shall be kept in the Association files and may be sent to the Association's legal counsel.
3. Every Owner of a Lot which is the subject of an enforcement complaint and/or noted violation shall receive notice from the Association describing the violation. Before any charges are assessed against such Owner, the Owner who is the subject of the violation shall have the opportunity to be heard and represented by counsel before the Board of Directors or a tribunal selected by the Board of Directors. Notice of a hearing shall be hand delivered or mailed by certified mail, return receipt requested, to the Owner (pursuant to VA Code Section 55-513) and, if applicable to the resident, at the address(es) of record with the Association, at least fourteen (14) days prior to the hearing. If, after the hearing, the Board of Directors determines that a violation of the Governing Documents, Rules and/or Architectural Standards has occurred, the Board of Directors shall have the power to assess charges against any Owner for any violation for which the Owner or the Owner's family members, tenants, guests, or other invitees are responsible. Pursuant to VA Code Section 55-513, the amount of any charges assessed by the Board shall be up to Fifty Dollars (\$50.00) for a single offense or Ten Dollars (\$10.00) per day for any offense of a continuing nature and shall be treated as a special assessment against the Owner's Lot. The foregoing remedies are in addition to any remedy the Association may seek through the legal process.

4. If the Board of Directors finds that the same violation is recurring within a six (6) month time period but is not present on a continuous basis, the violation(s) will be treated as multiple single offenses and a charge of up to \$50.00 per occurrence will be levied for each day the violation is noted on the property during a specified period of time (e.g. six months) and shall be treated as a special assessment against the Owner's Lot. The foregoing remedies are in addition to any remedy the Association may seek through the legal process.
5. Notwithstanding anything contained within these Rules to the contrary, the Association shall have the authority to institute legal action against an Owner, on an emergency basis, without having previously satisfied any notice or other requirements contained in this Section IV



# REVIEW CHECKLIST

	Roof Stains- Roofs should be free of algae/mold/stains			
	Algae/Mold on Siding, Dryvit, Brick needs to be cleaned			
	Shutters need painting			
	Garage Door needs painting/replaced/panel replaced			
	Front Door/Sidelight window trim needs painting			
	Chimney Cap/Chase Cover needs painting/replaced			
	Algae/Mold on Fence needs to be cleaned			
	Gutters or Soffit Cleaned- Gutters and soffit should be free of dirt, stains and algae/mold			
	Trash Can Visible/Stored incorrectly- needs to be stored out of sight/concealed			
	Trash on Curb Early/Late/Bulk trash on curb at wrong time			
	Lawn Not Mowed/Edged			
	Bushes Not Pruned			
	Driveway Cracks Filled/Repaired/Replaced			
	Flowerbeds need to be weeded			
	Advertising Signs not permitted			
	Commercial Vehicle/Trailer/Camper/RV at residence overnight or permanatly			
	Colored Window Coverings or Broken Window Blinds/Window Grids			
	Any exterior alterations without ARB approval? (Swing Sets, Sheds, Trampolines, Landscaping, Gazebos)			
	Pets outside unattended/tethered			
	Vehicles without proper registration tags or inspection			
	Toys/Play Equip./Recreational Equip./Strollers, etc. being stored outside when not in use			
	Storing of any items outside of the home is not permitted (except typical outdoor furniture)			

\*\*\*Please be reminded that this is not ALL that we look for, it is simply a guideline for you to use. Please consult your Rules, Regulations and Architectural Standards for further information.





**VILLAGES OF KILN CREEK  
OWNERS ASSOCIATION**

**Part II:**

**ARCHITECTURAL STANDARDS**



## SECTION I

### **INTRODUCTION (ARCHITECTURAL STANDARDS)**

The Villages of Kiln Creek remains one of the Peninsula's most desirable locations for many reasons. The primary reason is because it is composed of Owners like you who care about the appearance of their homes, and because it is a planned community with written architectural standards ("Architectural Standards") to guide you when making an Exterior Modification to your Lot or when doing maintenance to your home. This document details those Architectural Standards and is designed to help you, the Owner, continue to enhance the aesthetics of your Lot. Periodically, these Architectural Standards are reviewed for completeness and accuracy. This document supersedes and replaces all prior Architectural Standards and guidelines, including, without limitation, the Architectural Standards dated June 27, 2019.

Architectural variety is the essence of the Villages of Kiln Creek. Our thirty-one (31) individual Neighborhoods (also commonly referred to as "Villages") contain a mix of single-family homes, condominiums, duplexes and apartments. Our development spans one-thousand two-hundred (1,200) acres of lush land containing woods, grassy areas, beautiful lakes and an 18-hole championship golf course. The exterior appearance of the majority of our homes was styled to emulate Colonial Williamsburg's aesthetics, while some areas feature homes with a more transitional appearance. Recognizing the unique character of each Neighborhood and helping to manage the continuity of that unique character is the responsibility of the Architectural Review Board (the "ARB").

Article VI of the Second Amended and Restated Declaration of Covenants and Restrictions of Villages of Kiln Creek Owners Association ("Declaration") provides that the Association shall appoint and maintain the ARB for the purpose of reviewing and, as appropriate, approving or disapproving all Plans (as defined in the Declaration) submitted by Owners. The ARB is a three (3) person board composed of volunteers who are Owners within the Association. The ARB meets every two (2) weeks, except in December when Applications are rarely received. Plan ahead and call the ARB Coordinator at the Association's Office to find out the next scheduled meeting and the cut-off date for Applications to be considered at that meeting.

Here are some general considerations to help you in your dealings with the ARB:

1. Generally, if you are replacing a previously approved item with another exactly like it (same color, size, material, etc.) you do not need to submit an Application to the ARB. **However, if you are not sure whether the item was originally approved or if the replacement is not an exact duplicate, please submit an Application.**
2. Please be aware that by submitting an Application, the Owner grants the ARB authorization to visit and enter upon their Lot, with prior notification, to view the site (exterior only) of the proposed alteration (exterior only). Additionally, Owners have no expectation of privacy with regard to Applications, Plans and/or other supporting material, as the ARB meetings are open to the public.

Thank you for your cooperation!

Let's continue to make Kiln Creek "The Premier Place to Live on the Peninsula."

## Purpose Statement

The purpose of these Architectural Standards is to:

- (a) maintain and enhance property values within the Villages of Kiln Creek;
- (b) assist Owners in understanding how architectural standards apply when designing a proposed improvement, and in determining how to apply for approval;
- (c) provide criteria for consistent decisions by the Architectural Review Board (“ARB”) and Board of Directors.

## Preliminary Matters

### 1. **Authority.**

Section 6.1 of the Second Amended and Restated Declaration of Covenants and Restrictions of Villages of Kiln Creek Owners Association (“Declaration”) establishes the ARB for the purpose of reviewing, and, as appropriate, approving or disapproving all Applications and Plans required to be submitted by Owners in accordance with Article VI of the Declaration.

Section 6.5 of the Declaration provides that “No Improvement [as defined in Section 6.2 of the Declaration and reprinted in Paragraph 3 below] shall be constructed, erected, installed, or maintained on any Lot or Parcel, nor shall any Improvement be altered, enlarged, demolished or removed in a manner that alters the exterior appearance (including, without limitation, paint color) of the Improvement or of the Lot or the Parcel on which it is situated, unless the Application, Plans, and construction schedule therefor have been approved by the Architectural Review Board.”

Pursuant to Section 6.6 of the Declaration, the ARB may, in its discretion, establish guidelines and standards to be used in considering whether to approve or disapprove an Application.

Accordingly, the Board of Directors adopted the following Architectural Standards (including the exhibits attached hereto) to facilitate the ARB’s review of Applications. Owners are cautioned that the Architectural Standards are guidelines only, and subject to the terms and provisions of the Declaration. The ARB may exercise, in its sole discretion, whether to approve or disapprove any Application.

- ### 2. **Governing Documents (Amended and Restated as of August 2009).**
- These Architectural Standards (also referred to herein as “Standards”) should be considered together with the Second Amended and Restated Declaration (“Declaration”), the Supplementary Declaration applicable to each Neighborhood (“Supplemental Declaration”), the Second Amended and Restated Articles of Incorporation of the Association (“Articles”), and the Second Amended and Restated Bylaws of the Association (“Bylaws”). The foregoing documents are collectively referred to as the “Governing Documents.” If any provision of these Standards conflicts with the terms or provisions of any of the Governing Documents, the terms and provisions of the applicable Governing Document(s) shall control. In light of certain overlap with and the interconnectedness with the Rules, these Architectural Standards are packaged with the Rules (Part I) in a Handbook for each Owner's reference.

3. **Definitions.** Capitalized terms not defined in these Standards shall have the meaning set forth in the Governing Documents.

4. **Application Procedure.** An Application (as defined below) is required (or all Improvements except (or those Improvements that herein specifically state that an Application is not required). All Applications should be submitted to the ARB at the following address: Villages of Kiln Creek Owners Association, 970 Brick Kiln Road, Newport News, Virginia 23602, Attention: Architectural Review Board.

a. Section 6.2 of the Declaration sets forth the Application procedure for obtaining approval. This section provides, in part:

"Section 6.2 Plans to be Submitted. Before commencing the construction, erection or installation of any building, addition, patio, deck, pool, fence, wall, animal pen or shelter, exterior lighting, sign, mailbox or mailbox support, improvement or other structure (each of the foregoing being hereinafter referred to as an "improvement") on any Lot or Parcel, including any site work in preparation therefore, and before commencing any alteration, enlargement, demolition or removal of an Improvement or any portion thereof in a manner which alters the exterior appearance (including but not limited to paint color) of the improvement or of the Lot or the Parcel on which it is situated, each Owner shall submit to the Architectural Review Board a completed application on the form provided by the Architectural Review Board (the "Application"), a proposed construction schedule and a set of plans and specifications of the proposed construction, erection, installation, alteration, enlargement, demolition or removal, which plans and specifications shall include (unless waived by the Architectural Review Board):

- i. A site plan showing the size, location and configuration of all improvements, including driveways and landscaped areas, and all setback lines, buffer areas and other features required under the Zoning Ordinance or guidelines adopted by the Architectural Review Board. Any incomplete application will be automatically rejected and sent back to the owner for correction/completion;
- ii. As to improvements initially constructed on a Lot or a Parcel, landscaping plans showing the trees to be removed and to be retained, and shrubs, plants and ground cover to be installed;
- iii. Architectural plans of the improvements showing exterior elevations, construction materials, exterior colors, and driveway material;
- iv. A sediment and erosion control plan; and
- v. A tree protection plan and such other information as the Architectural Review Board in its discretion shall require (collectively, the "Plans").

The Architectural Review Board may, in its sole discretion, waive the requirement that any or all of the required Plans be submitted in a particular case where it determines such Plans are not necessary to properly evaluate the Application. **The Architectural Review Board shall not be required to review any Plans unless and until the Application has been submitted in completed form with the proposed construction schedule and the Plans contain all of the required items.** The Application, Plans and the proposed construction schedule must be submitted to the Architectural Review Board at the address of the Association in the same manner as notices are to be sent to the Association pursuant to Article XI.”

Owners contemplating the submission of Plans to the ARB in connection with the construction or

alteration of improvements are urged to take special note of the following provisions of Article VI (Architectural Control) of the Declaration.

- b. The required ARB application form (“Application”) is set forth in Exhibit 2 on pages 62-65.
  - c. Once an Owner submits an application to the Association for consideration, the Application, Plans, and/or other material may be shared with others. Accordingly, Owners have no expectation of privacy in their submitted Application.
  - d. Improvement(s) specified in the Application must be completed within twelve (12) months of ARB approval unless extenuating circumstances exist, which the ARB may decide in its sole and absolute discretion. If improvement(s) specified in the Application are not completed within twelve (12) months of ARB approval, a new Application must be submitted to the ARB.
5. **Composition.** Pursuant to the Declaration, the ARB is composed of three (3) Owners. The ARB is appointed by the Board of Directors of the Association. The Board of Directors may appoint one (1) alternate member to the ARB who may vote only in the absence of a regular member. The members of the ARB shall serve for such terms as determined by the Board of Directors.
  6. **Compliance with all Laws and Building Codes.** **Before commencing** the construction, erection or alteration of any improvement, Owners must contact the appropriate local building code compliance agency for either York County or the City of Newport News to determine whether a building permit is required. Owners are responsible for ensuring that the improvements are constructed, erected or altered in accordance with all applicable local, state and federal laws and regulations. Any violation of such laws and regulations shall constitute a violation of these Architectural Standards and may result in local and/or other disciplinary action being taken by the Board of Directors.
  7. **Breaking Ground.** It is required that before any digging is initiated, the applicant must call Virginia Utility Protection Services at 811 or 1 (800) 552-7001 for existing locations of utilities.
  8. **Erosion Control and Drainage.** Owners must take appropriate erosion control measures as required by the local building code compliance agency for York County or the City of Newport News during the construction, erection or alteration of any improvement. Any improvements shall not adversely impact the proper drainage of the Owner’s Lot or that of any adjoining property. The burden of proof shall be on the owner adversely effected. The Association will not get involved with neighbor-to-neighbor disputes. Owners are solely and independently responsible for ensuring that they take all appropriate erosion control measures. Owners shall be obligated to indemnify and hold harmless the association, its affiliates, agents, or assigns, from any liability resulting from violation of this rule (see pg. 15).
  9. **Major Changes.** Major changes shall include, but are not limited to, room additions, decks, fences, storage sheds, ramps, exterior lifts, and major landscape changes.
  10. **Requests for an Accommodation Relating to a Disability.** Additions and modifications relating to a disability require the submission of an Application. To assist the Association in processing requests for accommodations relating to a disability, Owners are requested to fill out and submit The ARB Supplemental Disability part of the Application, attached hereto as Exhibit 2 pg. 64.
  11. **Guidelines for Separate Associations.** Neighborhoods that have Separate Associations (see Exhibit 1 pg. 61) may have separate architectural standards and approval requirements/procedures as set forth in

the governing documents for those Separate Associations. Owners wishing to make modifications to Lots within such Neighborhoods are responsible for seeking all required approvals, if any, from their separate Association in addition to obtaining the ARB's approval. In the event of a conflict between these Architectural Standards and any applicable guidelines utilized by a separate Association, these Architectural Standards shall control; provided, however, a separate Association's guidelines may be more restrictive than these Architectural Guidelines.

Upon the ARB's receipt of an Application for a major change to a Lot located within a Neighborhood which has a separate Association (see Exhibit 1), the ARB may, as a courtesy to the separate Association, direct the Association's ARB Coordinator to send a letter to such separate Association's manager (or other point of contact for which the Association has received notice), notifying the separate Association of the ARB's receipt of an Application for a major change from an Owner whose Lot is located within the separate Association. Any such notification letter shall be sent solely as a courtesy and shall neither impede nor delay the ARB's review and processing of such Application. A separate Association's failure to receive such a notice letter from the ARB shall not affect nor delay the ARB's consideration of an Application.

12. **Similar Improvements.** Granting approval for Improvements for one Lot or Parcel *does not automatically grant approval of similar Improvements for other Lots or Parcels.*
13. **Appeals.** If a homeowner disagrees with the ARB's disposition of an application, the homeowner may appeal to the ARB at one of their regularly scheduled meetings to discuss the decision. If the final decision by the ARB does not satisfy the homeowner, then the homeowner may appeal to the Board of Directors.
14. **Variations.** *Owners are advised that the ARB supports the application and enforcement of these Architectural Standards, and therefore, variations will not be routinely granted.* Requests for variations will be reviewed by the Board of Directors on a case-by-case basis. Each situation will stand on its own merit, regardless of whether similar variations have been previously approved for other Owners under similar circumstances. To be valid, any variance granted by the Board of Directors must be evidenced by a duly adopted written resolution of the Board of Directors. **Variations may or may not convey to future Owners depending on circumstances.** Records of all approved variations are filed in the associated Lot file.
15. **Grandfathered Exceptions.** Unless the Board of Directors, in adopting new Architectural Standards, specifies to the contrary, additions or alterations made by an Owner which were in "compliance" (**i.e., a prior Application had been approved**) under previous Architectural guidelines or standards shall not be in violation with current or future Architectural Standards, if such current or Architectural Standards conflict with or render the prior Architectural Standards invalid. The Board has the right to determine if such alteration needs to be removed at the time of sale or replacement of the alteration.
16. **After the Fact Fee.** Applications for exterior alteration which are received by the Architectural Review Board after the described work has been started or has already been completed shall be subject to an ARB administrative fee of \$50 to cover the costs of additional correspondence and inspections. The ARB, in its discretion, may waive the fee. Emergency repairs will be excluded from this fee.
17. **Cease and Desist.** Owners commencing a Major Renovation without prior approval are subject to being served with a cease and desist order, may be brought to formal hearing and may be subject to charges to be determined by the Board of Directors in addition to any additional remedies available to the Association under its Governing Documents and applicable law.



## SECTION II

### ARCHITECTURAL STANDARDS

#### **ANTENNAS (Television and Communication Antennas)**

The installation of television antennas and satellite dish structures is governed in accordance with the FCC Telecommunications Act of 1996, Section 207 (“FCC Act”). As stated therein, landlords or property owners’ associations cannot disallow the installation of devices which are one meter or less in diameter or require approval prior to installation. However, the FCC Act does allow a property owners’ association to regulate the location of such devices in order to minimize any negative visual impact to neighboring properties and to ensure the safety of installation.

Accordingly, a separate Antenna/Satellite Dish Installation form (available on [www.kilncreek.org](http://www.kilncreek.org) or hard copy at the HOA office) **IS REQUIRED** to be submitted to the Association office **after** installation of the antennae or dish to record such installation as an exterior Improvement and its placement on the property. The location of antennas and dishes, consistent with the ability to receive an acceptable signal, **are required to be located on the rear of the home or in the rear yard according to #1 below.** Owners that are not able to receive acceptable signal in this location are required to follow the priority list below, starting with the most preferred location:

1. Rear of the property below the wall level, attached to the house, not visible from the street;
2. Rear or side of house, below roof line, not visible from the street or screened from view by landscaping;
3. Rear or side of house, above roof line;
3. At front of property or the side facing the street on ground level and screened from view by landscaping.

*\*\*If none of the above locations can receive an acceptable signal, a signature and note from the installation company is required on the Antenna/Satellite Dish Installation form. The note shall specify that there was no acceptable signal at the above locations and must be installed as indicated on the form. A formal letter from the installation company is acceptable in lieu of signature/note and shall be affixed to the form.*

When no longer in use or changing providers, antenna/satellite dishes and their hardware are required to be removed. Furthermore, the area where it was installed shall be repaired to its original state (i.e. shingles with holes replaced, holes in wood filled, etc.).

**\*\*See next page for form\*\***

**Antenna/Satellite Dish Installation Form**

(Television and Communication Antennas)

**\*\*This form shall be submitted to the HOA office once installation has been completed\*\***

Neighborhood: \_\_\_\_\_ Acct # \_\_\_\_\_ Date \_\_\_\_\_  
Name: \_\_\_\_\_ Email: \_\_\_\_\_  
Address: \_\_\_\_\_ Phone: \_\_\_\_\_

**Location/description of where antenna/dish was installed \*\*Attach Picture if Possible\*\*:**

\_\_\_\_\_  
\_\_\_\_\_

**ALL** antennas and dishes **are required to be located on the rear of the home or in the rear yard according to #1 below.** Owners that are not able to receive acceptable signal in this location are required to follow the priority list, (#2-#4 below), starting with the most preferred location. **Please place a check mark** next to the location where your antenna/satellite dish has been installed according to the KCOA Standards:

- #1. Rear of the property below the wall level, attached to the house, not visible from the street;
- #2. Rear or side of house, below roof line, not visible from the street or screened from view by landscaping;
- #3. Rear or side of house, above roof line;
- #4. At front of property or the side facing the street on ground level and screened from view by landscaping.
- \*\*If none of the above locations can receive an acceptable signal, a signature and note from the installation company is required below. The note shall specify that there was no acceptable signal at the above locations and must be installed as indicated in the location/description described above. *A formal letter from the installation company is acceptable in lieu of signature/note and shall be affixed to this form.***

**NOTES FROM INSTALLATION COMPANY CERTIFYING NO ACCEPTABLE SIGNAL IN ABOVE LOCATIONS:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**INSTALLATION COMPANY REPRESENTATIVE:**

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

**OWNER SIGNATURE:** I, \_\_\_\_\_, certify that the aforementioned antenna/satellite dish has been installed on my property in accordance with the KCOA Rules & Architectural Standards as indicated on this form.

Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## **ATTIC VENTILATORS, EXTERIOR**

### **All attic ventilators require an Application.**

The following Standards are intended to help balance individual economic interests with Neighborhood aesthetic concerns:

1. Ventilators shall be located on the rear of the dwelling whenever possible;
2. The ventilator should protrude no more than twelve (12) inches above the roof surface;
3. Blocking airflow through the ventilator should be accomplished from the inside of the dwelling.

## **AWNINGS/SUN SHADES/SAILS**

### **All awnings/sun shades/sails require an Application.**

The ARB will review these Applications based on the following:

1. Compatibility with the dwelling architectural character; colors must be muted as sampled in paint and deck color palette at HOA office.
2. Consistency with the visual scale of the dwelling to which the devices will be attached;
3. Effects of awnings on view, sunlight and natural ventilation of neighboring properties;
4. Drawings of the proposed awning/**sun shades/sails** as installed in the stored and extended position;
5. If the proposed awnings/**sun shades/sails** will be removed for winter storage, framing structure also must be removed.
6. All awnings/**sun shades/sails** shall be kept in proper working order and material must not be torn, tattered, faded or stained.
7. The electrical supply should be protected by conduit or chase.

## **CHIMNEY CAPS/CHASE COVERS (metal around the top of a chimney)**

Damaged or rusted chimney caps/chase covers shall be replaced by non-corrosive material (i.e. not copper, but galvanized or stainless steel) or painted with black, white, silver or gray rust resistant paint.

## **COMPOST BINS**

Compost bins require an Application.

Compost bins shall be kept in containers, inside a privacy fence or other concealed or screened area, so as not to be visible from the street.

## **DECKS AND PATIOS**

**All decks and patios (new or altered) require an Application.** Applications should include the following:



1. A description of the materials to be used (i.e. wood, metal, composite, etc.).
2. Location of the proposed deck or patio must be included on a copy of the plat. Drawings should be submitted which show elevations of the house, any railings or stairs to be constructed and dimensions and height above grade where applicable.
3. An explanation of any relocation of windows or doors, meters, and heating/air conditioning units.
4. A description of any changes in exterior lighting.
5. A description of plantings to be removed for construction of or added in conjunction with the deck or patio.
6. If a deck is to be stained or painted, a *sample must accompany the Application*.
7. If railings are to be installed on the deck, a description of material and appearance shall be included.
8. Approved color palette of muted colors for decks and patios is available at the HOA office. Approved fence colors may also be used for patios and decks.
9. Coverings such as awnings or other shade devices above patios and/or decks require an application. (See pgs. 59, Trellises, Pergolas, Arbors, Gazebos, Temporary Gazebos, Canopies, Privacy and Screening Walls. Also, see pg. 34 for Awnings/Sun Shades/Sails.)

### **DOMESTIC ANIMAL HOMES AND DOMESTIC ANIMAL RUNS**

**All dog and domesticated animal homes require an Application.** Dog runs are prohibited.

All dog and domesticated animal homes must be located behind the rear foundation line. They must be within a fenced yard. All domesticated animal homes should be positioned as not to create a nuisance. Domesticated animal homes should match the dwelling.

For additional information regarding all animals, see the Association Rules item entitled “Animals” pg. 9.

### **DOORS**

All new exterior doors and replacement doors (including: front, side and garage doors) require an Application unless replacing with an identical style and color door.

All decorative door films/coverings require an Application. (See also Storm Doors on pg. 56-57 and Window Tinting & Film on pgs. 59-60.)

Decorative Doors/Hardware require an application.

It is the Owner’s responsibility to keep all doors in good repair. Please note: If a door is visibly dented/damaged/faded, this item will be viewed during the Association’s regular review and may need to be painted repaired or replaced.

Approved color list is available at the HOA Office for review. If applicable, refer to your Neighborhood property management company for approved colors.

## **DRIVEWAYS & WALKWAYS**

**An application is required for all new driveways, driveway expansions and walkways**, which shall include size, location and materials proposed. Stamped concrete walkways and patios also require an Application. Stamped concrete driveways are not permitted. Only concrete and aggregate driveways are permitted. Any modification to / alteration of an existing driveway requires an Application.

No Application is required for repairs/replacements as long as such repairs/replacements use the same materials and color as the original construction. Driveway seal coatings that are the same color as the current driveway do not require ARB approval. Driveway cracks/repairs shall use a filler material that matches the existing color of the driveway as closely as possible.

All driveway expansions in existence as of September 1, 2001 are retroactively approved. However, in order to conserve green space, new driveway expansions will be considered by the ARB on a case by case basis.

Painting of concrete or aggregate driveways, sidewalks, walkways is prohibited. Concrete sealers are permitted and shall match as best as possible to the original color.

## **FENCES**

**Any new fence, replacement, modification, addition or removal to existing fencing requires an Application.** The Association has established special fence standards for certain Neighborhoods on pgs. 41-42.

### **Definitions:**

**Type 1 Fence:** Only a Type 1 fence may be constructed along Kiln Creek Parkway and Brick Kiln Boulevard. Only a Type 1 fence will be considered a privacy fence.

**Type 2 Fence:** A Type 2 fence, because of its height and open slats, cannot be considered a privacy fence. Lake and golf course properties shall only have Type 2 or Type 3 fencing.

**Type 3 Fence:** A Type 3 fence, because of its height and open slats, cannot be considered a privacy fence. Lake and golf course properties shall only have a Type 2 or Type 3 fencing.

Front yard fencing is prohibited.

Only approved fences are permitted. Approved fences must be of the type specified in the diagrams and lists shown below.

No fence may be installed across, around or through pedestrian access or utility easements as shown on plat surveys. Owners are responsible for maintenance of easement areas unless Neighborhood specific rules apply. Grass shall be maintained around edges of fencing.

Fences shall not be constructed in front of the two (2) primary front corners of the home but must be along the property lines. Symmetry of appearance when seen from the front of the home will also be a consideration of fence placement.

**Framing and posts must be on the interior of the fence, resulting in a smooth area on the exterior of the fence.** For those that wish to have a smooth appearance on the inside of their fence, it is acceptable to have a “smooth” side on both sides of the fence.

Fences shall not be painted. Fences may be coated with a clear weatherproofing agent or a semi-transparent stain. Choices of stain colors are available at the Association's office. Proper maintenance on both sides of all fences is required to assure a quality appearance. Washing or any other convenient method is recommended to prevent algae/mold and mildew build-up, followed by the application of a finish.

Fences made of synthetic material (i.e. vinyl, Trex, etc.) in place of wood will be considered if height, and style is same as current standard. Choices of synthetic materials are available at the HOA office. White fences are **not** permitted.

**Kiln Creek Parkway & Brick Kiln Boulevard Fences:** Only vinyl fencing that matches as close as possible to Freedom brand "Sand" color are permitted to be constructed (or replace wood) along Kiln Creek Parkway and Brick Kiln Blvd.; all homes with sides visible from KC Parkway and Brick Kiln Blvd shall be vinyl, interior sides can be wood or vinyl. (New wood fences are no longer permitted along the Parkway or Boulevard.) To ensure consistency of fence color along the main thoroughfares, the color match to "Sand" is at the discretion of the ARB and a sample of the requested vinyl is required with the application prior to approval.

Damaged fencing shall be repaired within thirty (30) days of damage occurrence, and repairs must duplicate the original or approved fencing.

Alternate gate & fence styles will be considered on a case by case basis. Decorative fences shall only be installed within a type 1 fence.

Builder signs are not permitted on newly constructed fences. Upon change in ownership grandfathered signs must be removed.

Chicken wire/garden netting used to keep out rabbits or other animals may be used on the inside bottom half of Type 2 fences only. Type 3 fence may only use clear garden netting.

For privacy and screening walls see pg. 59.

Fences shall be level at the same height on one side. No "stepping" of fences is permitted.

Grass behind fences shall be maintained to property line.

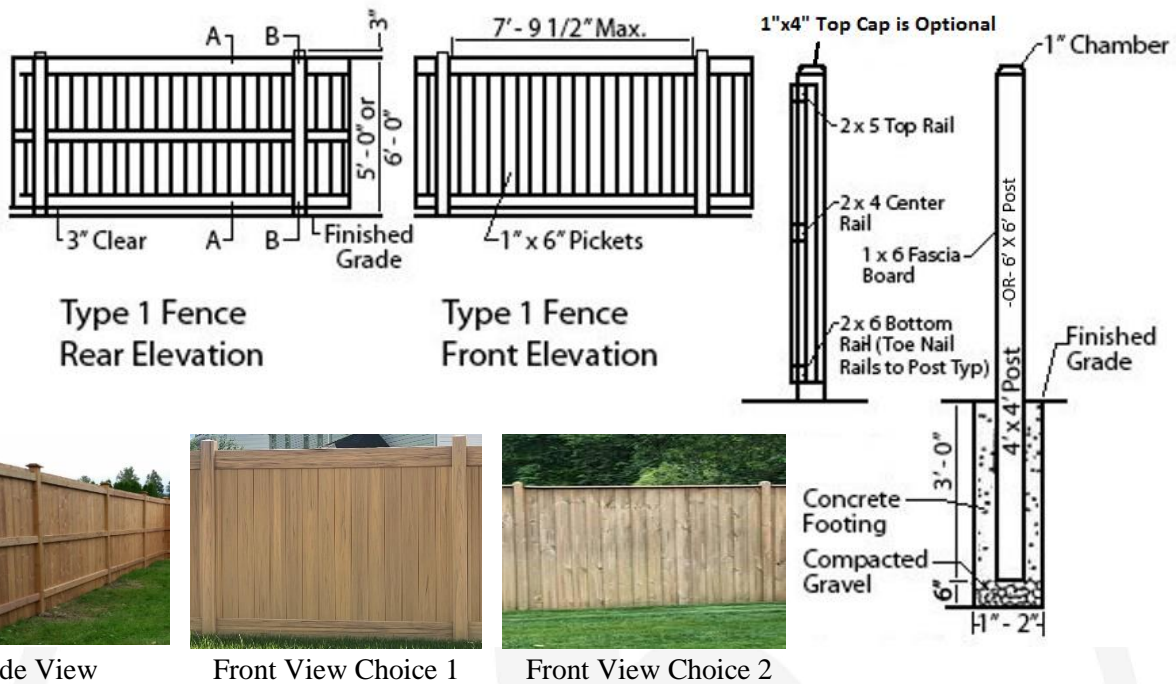


### **Post Caps**

Application is required. Will be reviewed on a case by case basis.



## Type 1 Fence Criteria

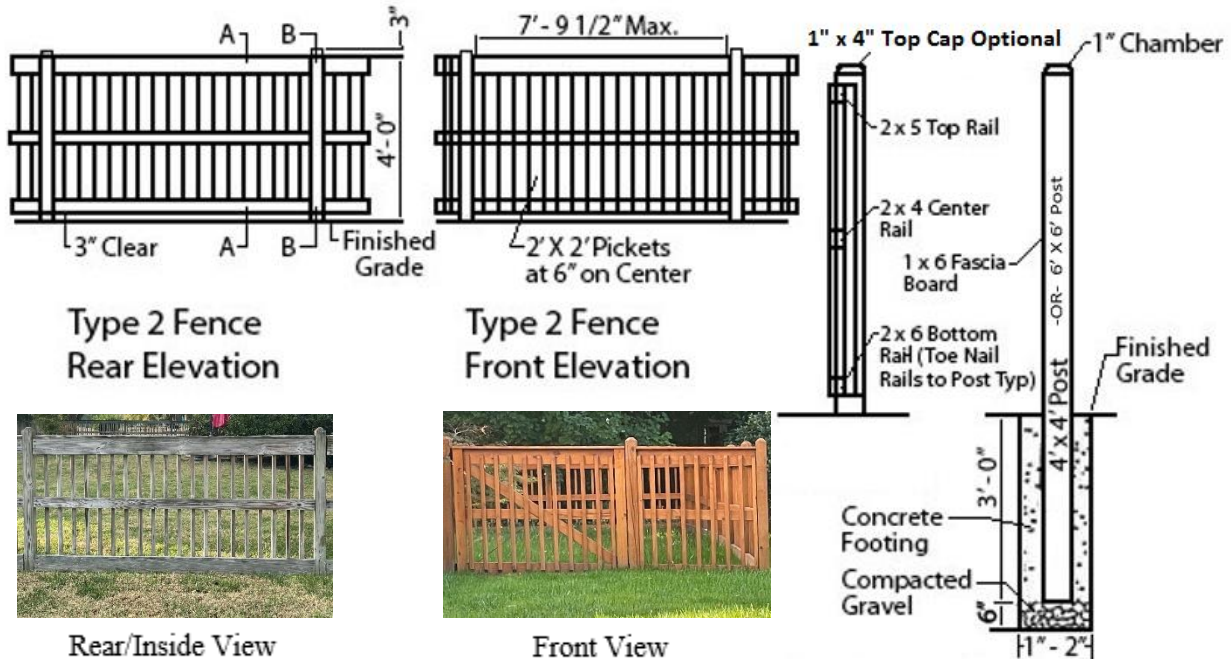


1. All wood members to be pressure-treated Southern yellow pine, grade 2 or better, or clear white cedar or "sand" tone colored synthetic material (white fences not permitted).
2. All wood members are to be free of warp or weave.
3. All lumber sizes shown are nominal sizes.
4. All gates shall match design of the applicable fence to which they are attached.
5. All hardware and fasteners shall be aluminum, stainless steel or hot-dip galvanized finish, sized to suit Application.
6. Fences shall not be erected in front of the two primary front corners of a dwelling. Fences not attached at the rear corners of the house, shall be attached at an equal distance from the front of the house on both sides.
7. **The front elevation (smooth side) of Type 1 fences shall face outward.**
8. Only Type 1, 6ft (NOT 5ft) **vinyl** fence shall be constructed along Kiln Creek Parkway and Brick Kiln Boulevard. Only vinyl fencing that matches as close as possible to Freedom brand "Sand" color are permitted to be constructed (or replace wood) along Kiln Creek Parkway and Brick Kiln Blvd.; all homes with sides visible from KC Parkway and Brick Kiln Blvd shall be vinyl, interior sides can be wood or vinyl. (New wood fences are no longer permitted along the Parkway or Boulevard.) To ensure consistency of fence color along the main thoroughfares, the color match to "Sand" is at the discretion of the ARB and a sample of the requested vinyl is required with the application prior to approval.
9. Type 1 fences shall not be constructed along lakes or Golf Course.
10. Type 1 fencing may be 5 feet or 6 feet in height.
11. Type 1 fence may be constructed along other applicable Lots not defined in Notes 8 and 9 above.
12. Fences which do not meet all criteria contained herein shall not be allowed.

\*\*See more fence specifications on pgs. 36-37.

\*\*Individual neighborhood specifications on pgs. 41 & 42.

## Type 2 Fence Criteria



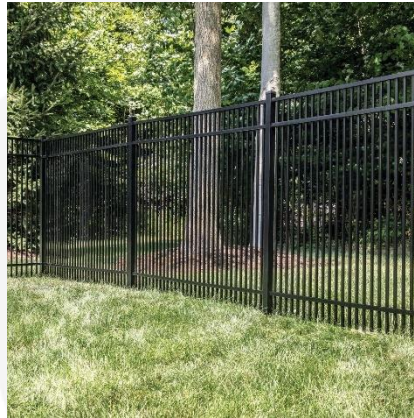
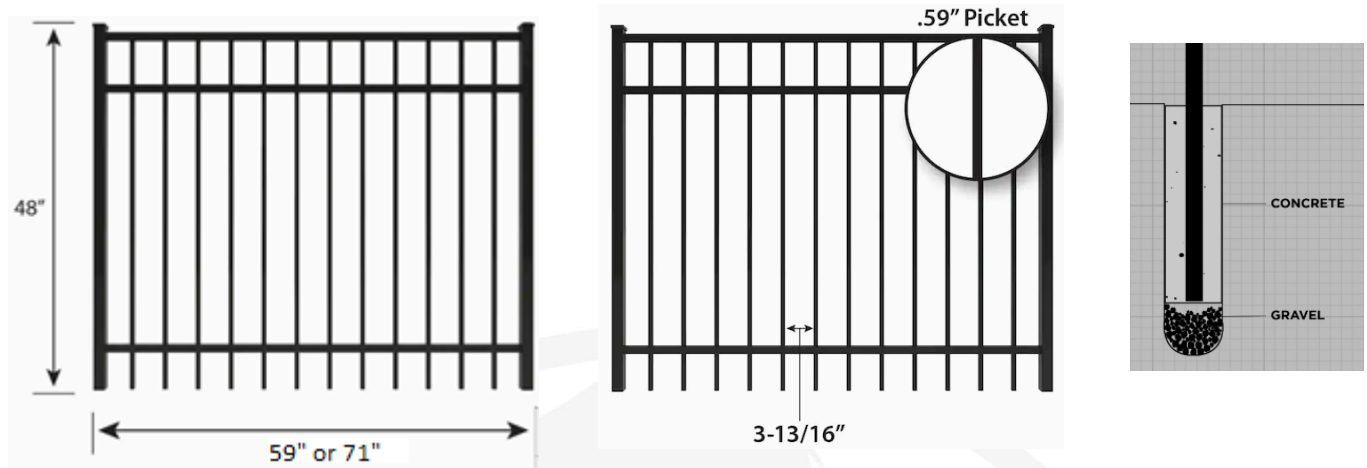
1. All wood members to be pressure-treated Southern yellow pine, grade 2 or better, or clear white cedar or wood tone colored synthetic material (white fences not permitted).
2. All wood members to be free of warp or weave.
3. All lumber sizes shown are nominal sizes.
4. All gates shall match design of the applicable fence to which they are attached.
5. All hardware and fasteners shall be aluminum, stainless steel or hot-dip galvanized finish, sized to suit Application.
6. Fences shall not be erected in front of the two primary front corners of a dwelling. Fences not attached at the rear corners of the house, shall be attached at an equal distance from the front of the house on both sides.
7. **The front elevation (smooth side) of Type 2 fences shall face outward.**
8. Type 2 fence **shall not** be constructed along Brick Kiln Boulevard and Kiln Creek Parkway.
9. Only Types 2 or 3 fencing may be constructed facing lakes and golf course.
10. Type 1, or Type 2 fence may be constructed along other applicable Lots not defined in Notes 8 and 9 above.
11. Fences which do not meet all criteria contained herein shall not be allowed.
12. Type 2 fences shall only be 4ft in height.

\*\*See more fence specifications on pgs. 36-37.

\*\*Individual neighborhood specifications on pgs. 41-42.



## Type 3 Fence Criteria



Freedom<sup>®</sup>-Standard Sheffield, Ironcraft<sup>®</sup>-Berkshire, or similar brand/type. 4-ft h x 5-ft w or 4-ft h x 6-ft w  
Black Powder-Coated Aluminum Post-and-Rail Flat-Top Decorative Metal Fence Gate

1. Type 3 fences shall only be 4ft in height. Width shall be either 5ft or 6 ft panels.
2. Type 3 fences shall have 3 cross members: one at the top, one approximately 6 inches below the top cross member, and one approximately 6 inches above ground level.
3. All gates on Type 3 fences shall match the design of the fence.
4. All hardware and fasteners shall be black powder-coated aluminum finish, sized to suit Application.
5. Fences shall not be erected in front of the two primary front corners of a dwelling. Fences not attached at the rear corners of the house, shall be attached at an equal distance from the front of the house on both sides.
6. **The front elevation (smooth side) of Type 3 fences shall face outward.**
7. Type 3 fence **shall not** be constructed along Brick Kiln Boulevard and Kiln Creek Parkway.
8. Only Types 2 or 3 fencing may be constructed facing lakes and golf course.
9. Types 1, 2 or 3 fencing may be constructed along other applicable Lots not defined in Notes 7 and 8 above.
10. Type 3 fence should be properly anchored
11. Fences which do not meet all criteria contained herein shall not be allowed.

\*\*See more fence specifications on pgs. 36-37.

\*\*Individual neighborhood specifications on pgs. 41-42.

## Architectural Standards for Fences Listed By Neighborhood

New fences or replacement fences must meet the particular fence type requirements for individual Neighborhoods, as follows:

**Avery Woods** Types 1, 2 or 3 only

**Cascades** 5-foot Type 1 fence around trash units; 4-foot lattice type fence around mechanical units

**Claymill Corner** 6-foot stockade and 6-foot shadow box dog ear. At time of replacement, must be replaced with a 6-foot shadowbox dog ear fence, as shown below.



**Dunhill** Types 1, 2 or 3 only

**Eagle Sound** No fences

**Edgewater** Types 1, 2 or 3 only

**Fairways** **5-foot** Type 1 with 18-inch lattice top



**Featherstone** 6-foot shadowbox dog ear fence around trash units; 3-foot shadowbox dog ear fence around mechanical units

**Gleneagles** **4 foot** with 18" lattice top and cap



**Highlands** Types 1, 2 or 3 only

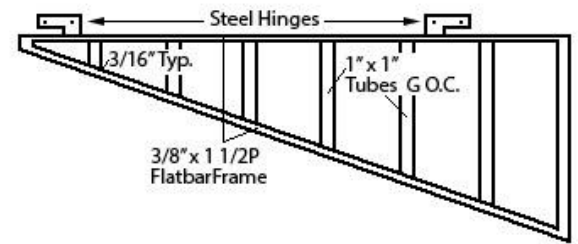
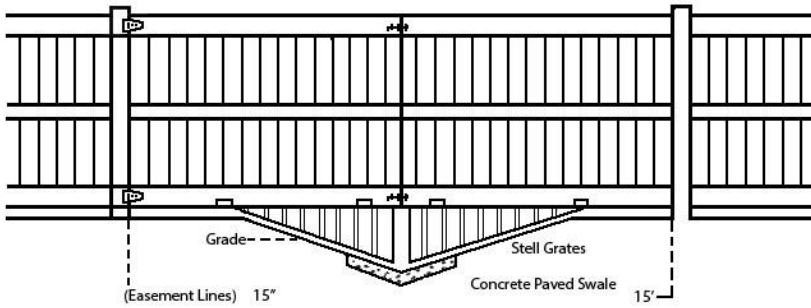
**Hollingsworth** Types 1, 2 or 3 only

**Images** Types 1, 2 only

**Ivystone** Dog ear flat only

**Lake Cambridge** Types 1, 2 or 3 only, with required drainage easement fence with gate when necessary. See next page for Lake Cambridge swale information.

**Lake Cambridge Required Drainage Easement Fence w/ Gate. Steel sections must be primed & painted steel gray.**



<b>Lakeside</b>	6-foot dog-ear, 3 foot dog-ear, Types 1 and 2. When the dog-eared fences need to be replaced, either a Type 1 or 2 fence shall be installed.
<b>Lexington</b>	Types 1, 2 or 3 only
<b>Masters</b>	Builder-installed 6-foot dog ear, painted to match existing fences.
<b>Oakwood</b>	Types 1, 2 or 3 only
<b>Pinehurst</b>	6-foot stockade (5 ½ inch “W” boards) with 1” x 6”, flush with top rail, 3 back rails on 4” x 4” posts
<b>Players Choice</b>	Types 1, 2 or 3 only
<b>Rock Creek</b>	Types 1, 2 or 3 only
<b>Royal Colven</b>	Types 1, 2 or 3 only
<b>Sanctuary</b>	Types 1, 2 or 3 only
<b>Shoreline</b>	No fences
<b>Southlake</b>	Types 1, 2 or 3 only
<b>Tradewinds</b>	Types 1, 2 or 3 only
<b>Villas</b>	No fences
<b>Waterford Pointe</b>	Types 1, 2 or 3 only
<b>Westgate</b>	Types 1, 2 or 3 only
<b>Willow Point</b>	Type 1, Type 2 or Type 3 fences shall be installed to replace all perimeter fencing (including all dog ear fences). Privacy fencing (new and replacements) between Lots shall be six (6) foot Type 1 fence with framing structure facing inward. Type 1 and Type 2 fences may be coated with a clear weatherproofing agent or an approved semi-transparent stain. Choices of stain colors are available at the Association office. <b>Existing gray dog-eared fences shall be stained with Behr “Light Lead” color DR542 Solid Wood Stain.</b>
<b>Windbrook</b>	Typical 5-foot Type 1 with 18” lattice top around trash units (these will become standard 6-foot Type 1 when needed to be replaced)



**FIRE PITS** See Grills/Firepits pg. 44

### **FLAGS, FLAG POLES AND DISPLAYS**

The flying of an American flag no larger than 3' X 5' is encouraged and does not require an Application. In addition, one (1) decorative flag (no larger than 3' X 5') is allowed and does not require an Application.

Free standing flag poles are prohibited.

All flags must be affixed to a flag staff that is bracket-mounted to the home below the roofline. Decorative flags may not portray any design, language or scene which may be construed as offensive.

Note: American flags may be displayed at the Neighborhood entrances on federal holidays, as well as on September 11<sup>th</sup>. All flags must be displayed and flown according to established flag etiquette. Any other flags or wind propelled displays (windmills, windsocks, chimes, etc.) require an Application and approval prior to being displayed.

American flags shall not be flown upside down for longer than 1 day (as it is a sign of distress).

### **FOUNTAINS AND WATER FEATURES**

All fountains and water features such as fishponds, waterfalls, etc. require an Application. All fountains and water features shall:

- Contain no stagnant water;
- Be treated to prevent mosquitoes;
- Not create noise that will disturb the neighbors.

The preferred location for all fountains and water features is in the backyard of a Lot.

**GARAGE DOORS** – See “Doors” pg. 35.

### **GARDENS**

All vegetable/fruit/flower gardens less than 100 sq. ft. and located behind the rear of the house do not require an Application.

All other gardens require an Application.

An Application is required for all netting systems. Netting must be removed when no longer in use.

\*\*No plastic – all raised beds should be of natural material, no synthetic.

### **GENERATORS**

#### **Exterior Standby Power Generators**

An Application must be submitted and approved by the ARB prior to the installation of a fixed exterior standby power generator.

Because of the intrusive nature of this equipment due to its large size, the resulting noise produced, and the small Lot sizes in Kiln Creek, the Owner must exercise care in properly locating a standby generator on his or her Lot so as to minimize the visual and noise impact on their neighbors. The following general restrictions apply for Exterior Standby Generators:

- Fuel- Only piped natural gas is permitted
- Noise- Sound output, as specified by the manufacturer, shall not exceed 69 dba at the rated capacity
- Operation- System shall operate only during periods of utility power failure, except for periodic testing at reduced power.
- Enclosure- The unit shall be completely enclosed. The enclosure shall be corrosion resistant and of a neutral color.

The Application shall also include a depiction of equipment's specific location on the Lot, a brochure depicting the equipment with its capacity and noise rating specified, and any other exterior changes, including landscaping changes or additions.

### Portable Generators

All emergency electrical generators are considered portable equipment and, as such, do not require an Application. However, portable generators shall not be placed or stored outside of the Dwelling Unit except when in actual operation during a power outage. Extreme care must be taken to prevent the carbon monoxide exhaust from entering the garage or house and, in the storage of fuel containers for such generators.

Users of portable generators, which are significantly noisier than enclosed fixed equipment, should be considerate of their neighbors by limiting usage hours.

### **GEOTHERMAL HEATING AND AIR CONDITIONERS**

All new Geothermal Heating and Air Conditioners require an Application.

### **GRILLS/FIRE PITS**

Grills/Firepits shall be a minimum of five (5) feet from the property line. Permanent grills/fire pits require an Application. For portable grills/fire pits, see Rules pg. 11 for more information.

### **GUTTERS AND DOWNSPOUTS**

When replacing existing gutters and/or downspouts or portions thereof (including leaf guard gutters), no Application is necessary. **However, an Application is required if an Owner is installing gutters and/or downspouts for the first time or in any way altering the existing system, e.g., changing color or relocating the existing systems.**

No installation should adversely impact the proper drainage of the Owner's Lot or that of any adjoining property.

Proper maintenance requires that gutters and downspouts be kept in good repair.

### **HEATING AND AIR CONDITIONING UNITS**

**An Application is required prior to installation or relocation of an external heating and/or air conditioning unit.** Replacement of an existing unit with a unit of similar size and in the same location as the unit being replaced does not require an Application.

Window and wall A/C units or window fans shall be allowed provided they do not protrude beyond the outer wall of the window. No exterior heating and/or air conditioning units shall be located in the front of the home and all units shall be suitably screened from view.

Equipment must be of a neutral/earth tone color.

## **LANDSCAPING**

\*\*See page 12-13 for lawn care maintenance

**An Application is required along with a plat or plan indicating the position and materials for the following:** Uniformity is the goal. In no case shall landscaping beds cover the entire yard.

1. **Installation of new landscaping (including trees, mulch and edging)**
2. **Re-sizing of existing beds**
3. **Installation of edging around landscaped beds**

Landscape borders shall be a maximum of eight (8) inches in height above the ground level. The depth of edging shall be no deeper than 12 inches. If using landscaping rocks as edging, rocks shall be no smaller than 5 inches in length. All edgings should be earth tone or neutral in color and will be considered on a case by case basis (please present a sample). Edging must be maintained to original appearance. Only one style of bed edging permitted per bed. Edging taller than 8 inches in height will be considered a "wall" and will be reviewed on a case-by-case basis.

When installing landscaping materials such as stone, blocks, wood or bricks, such materials shall be uniformly stacked and neatly arranged. Over time, these landscaping materials may become disjuncted or broken, at which point they shall be repaired or replaced with the same approved material. Segmented edging is not permitted; **except** as noted at the bottom of pg. 46. If installed, such segmented edging shall be recessed in the ground so that only the top "bulb" of the edging is seen.

Bed edging materials shall not be painted.

4. **Installation of all bed coverings other than wood mulch.**

Please submit a sample of the bed covering to the ARB. If using rocks as bed covering, rocks shall be less than 5 inches in length. Rocks under 2 inches require an approved style of edging. *Replanting of existing beds or mulch replacement with earth tone or redwood stained mulch does not require an Application. Other colored mulch is not permitted.*

5. **Protective netting systems.**

An Application is required for all netting systems. Netting must be removed when no longer in use.

## Flowerbed Edging and Borders

Please note that the following pictures are only examples. If you have something that varies, please contact the Association's office for further information.

### Acceptable types of edging/borders:

Cement



Pavers



Rocks



Wood



Rubber (not black)



Stacked or Flat Stone



Metal



Brick



### Please DO NOT install these types of segmented borders:



**\*\*\*NOTE:** If you have had one of these borders for many years, you must put in an Application for exterior alteration if you wish for it to remain. Please make sure to specify how long it has been in place. Each Application will be evaluated on a case by case basis.

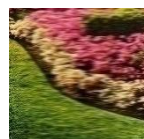
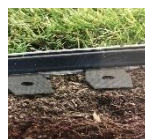
**Exceptions:** The only plastic borders permitted are displayed in the pictures to follow. These plastic borders are permitted because they are not decorative edging, they are borders to retain soil/mulch.

- a. **“Bulb” Edging:** Please note that only the very top “bulb” is permitted to show. If we notice that this type of border has been installed higher than the “bulb”, we will ask that you place it further down into the ground.

**Only Top Bulb Visible** →  
**Recess Bottom into Ground** →



- b. **“No Dig” Edging:** Please ensure this style of edging stays neatly secured in an upright manner.



## **LAWN/FLOWERBED ORNAMENTS**

Lawn/Flowerbed ornaments shall be defined as including, **but not be limited to:** statues, fountains, sundials, figurines, bird baths, planters, weather vanes, whirligigs, plaques, garden signs/flags and furniture. All Applications must be accompanied by a plat layout of the location of each ornament and its type and size. Ornaments made of natural materials such as wood, pottery, stone or metal are preferred. Lawn ornaments may not portray any design, language or scene which may reasonably be construed as offensive.

**Plastic Ornaments** require an Application and will be reviewed on a case-by-case basis. Ornaments being placed in the lawn, rather than the flowerbed require an Application.

**Artificial Flowers and Plants** in hanging baskets or on porches, including wreaths/decorations are acceptable without application; however, they shall not be visibly faded. Artificial flowers and/or plants are not permitted on lawns or in flower beds.

**All Lawn Ornaments visible from the street require an Application except as noted below. This shall include window planters and plastic ornaments which will be evaluated on a case by case basis as they tend to fade/break more easily.**

**Exception: Each Lot may display up to five (5) lawn ornaments 24 inches or less in height without submitting an Application.**

One (1) Egret under 48 inches tall does not require an Application. One (1) birdbath on the property does not require an Application.

In making its determination the ARB will consider the number and size of lawn ornaments based in part upon the Lot size, ornament(s) location and other features such as shrubs, flower beds and proximity to road and driveway. The ARB reserves the right to approve or disapprove any lawn ornament Application on a case-by-case basis. Neighborhood Associations may have specific rules regarding lawn ornaments; please also consult your applicable Neighborhood Rules.

## **LAMP POSTS:**

An application for exterior alteration is required for all lamp posts. Height not to exceed 7ft including fixture.

## **LAWN FURNITURE**

Lawn furniture shall mean furniture located in flower beds or on a front lawn. Lawn furniture requires an Application. This includes but is not limited to park benches and gliders. All lawn furniture shall be maintained in good condition.

## **LIGHTING**

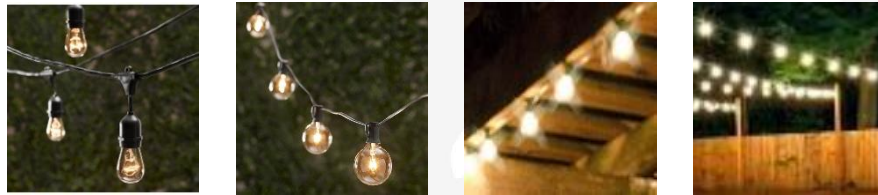
The replacement of an approved existing exterior light fixture with an exact match to the old fixture does not require an Application. **In instances where a change in the style, size, shape, color or position of the fixture will occur, or if new light fixtures are to be installed where there were none before, an Application is required.** Total height shall not exceed seven (7) feet tall.

### **1. Permanent Exterior Lighting**

All exterior lighting should be chosen and installed so as to match the style of the home.



- a. **All new security lighting requires an Application.** Flood lights and various types of high output lights are considered security lighting. Exterior lighting of this category should be considered more carefully because of the impact on neighboring properties. New light fixtures of this type should be aimed so that they illuminate only a specific area, such as a doorway. Some high output light fixtures may have to be shielded in a manner similar to some street light installations to prevent unwanted or excessive intrusion of light from one property to another.
- b. **All new low voltage yard, deck or house lighting requires an Application and will be considered on a case-by-case basis.** The style of the lighting should be complimentary to the style of the house. The Application must be accompanied by a plat showing the number and exact location of the fixtures. The top of the yard fixtures are not to exceed fifteen (15) inches above ground level. All low voltage lighting must be maintained in proper operating order.
- c. Decorative lighting (low voltage) requires an ARB application and will be considered on a case by case basis. Temporary decorative lighting for parties/events does not need an application, but shall not remain longer than 14 days. Any new structures in conjunction with permanent lighting also require an application. Permanent decorative lighting remaining longer than 14 days shall be limited to the following examples:



2. **Temporary/Holiday Lighting.** See Rules Item entitled “Holiday/Seasonal Decorations and Lighting” pgs. 11-12. Typical holiday lighting is not permitted permanently and is therefore considered temporary. There are examples of temporary lighting:



## **MAILBOXES**

Mailboxes for residences within Kiln Creek must be of the type specified in the lists and diagrams below.

Mailboxes shall be numbered. Mailbox numbers for the Colonial Style boxes shall be 3 to 4.5 inches in height and clearly defined.

Mailboxes and posts when being replaced may be made of wood or PVC material.

Mailboxes and posts shall be painted white or the color to match the trim on the Dwelling Unit.

Mailboxes and posts shall not have more than five (5) nails or similar bird deterrent spikes. Other deterrents require an Application.

**COLONIAL Mailbox Specifications**

Mailboxes must be either a Colonial “open top” model, or a Colonial “open front” model.

The “open top” model is preferred (but not required) by the US Postal Service.

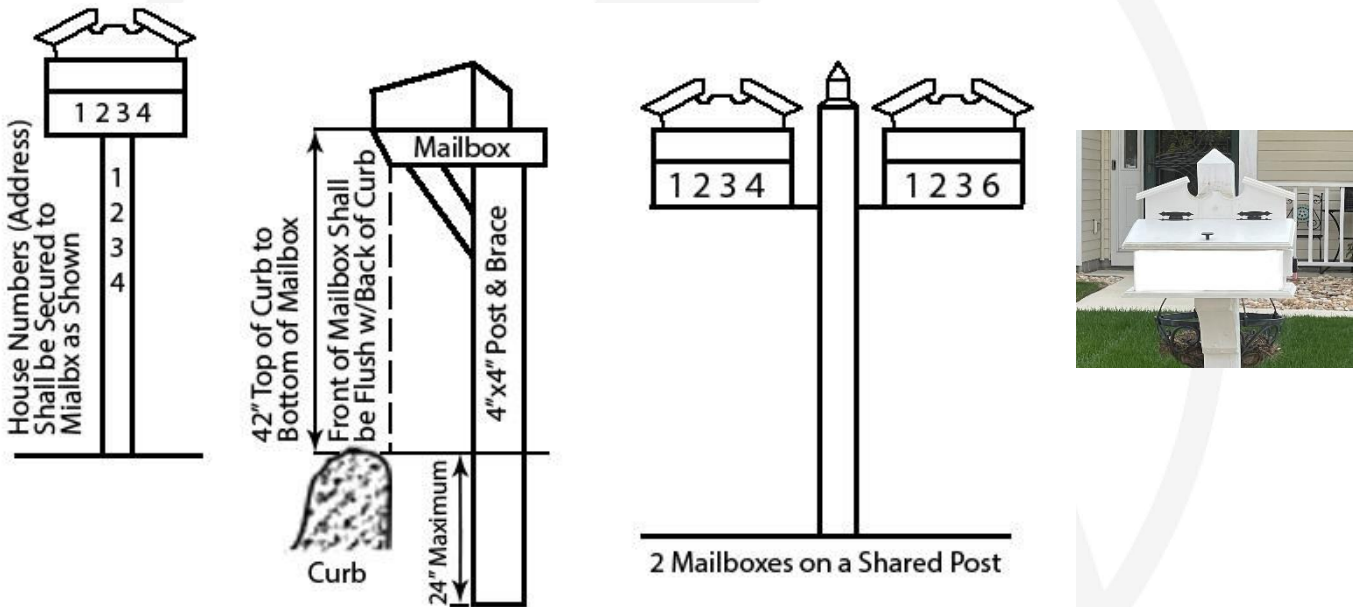
PVC models of the Colonial mailboxes are available at local hardware stores.

When replacing Colonial Mailboxes, they may be replaced with PVC or wood.

The mailbox must be mounted on a 4” x 4” treated wood/cedar post with brace or a 4” X 4” plastic (composite) post with top cap and brace.

The posts must be located relative to the curb as shown. The mailbox and post must be one color to match the house, the house trim or white, except where two mailboxes share the same post, in which case, both the mailbox and post shall be white. The house numbers may be black or brass and must be displayed horizontally on the front of the mailbox, or vertically on the front of the post, in accordance with postal regulation. On a shared post, numbers shall be displayed on the front of the mailbox.

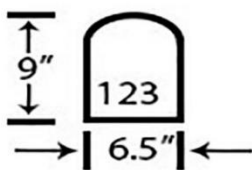
**COLONIAL MAILBOXES**



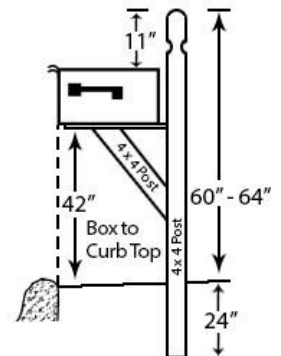
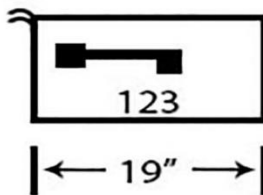
**WILLOW POINT Mailbox Specifications (White Metal or Plastic)**

House numbers must be on the front or side of the mailbox. Front of the box is flush with back of curbing. Post must be painted white.

**Front View**



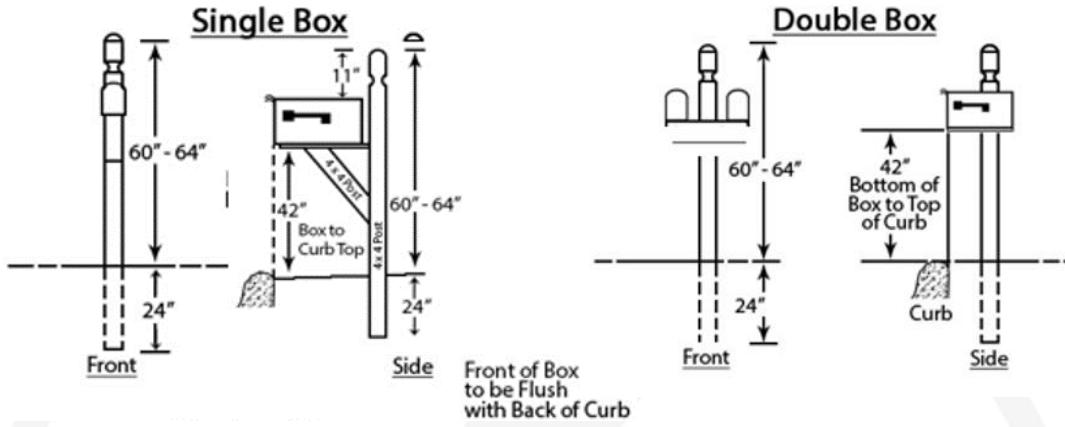
**Side View**



**CLAYMILL CORNER Mailbox**

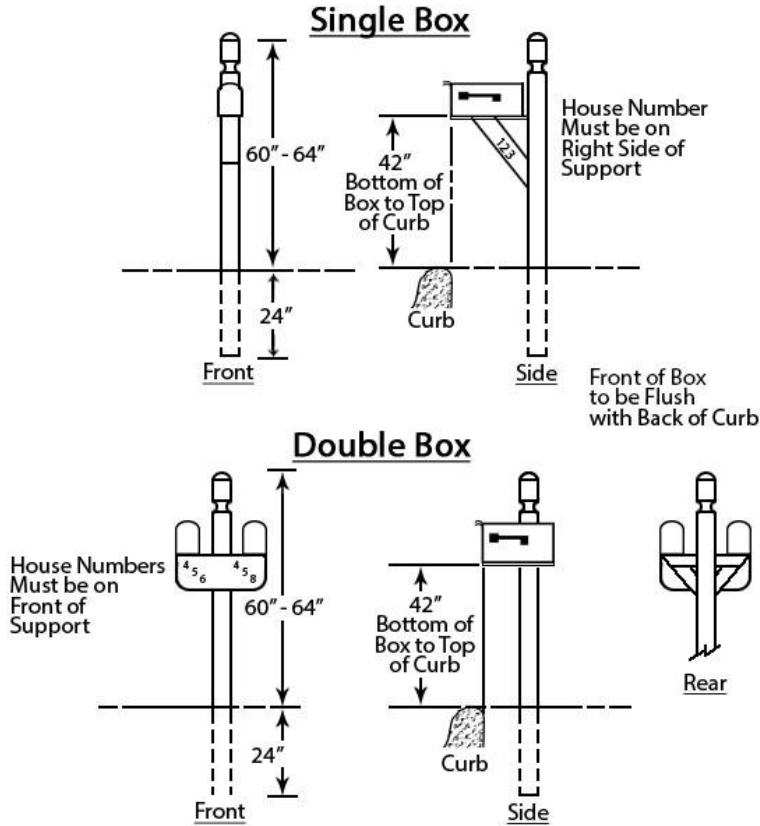
Black Plastic or Metal Mailbox. House numbers must be on the front or side of the mailbox. Front of the box is flush with back of curbing.

The mailbox post will remain natural wood, free of stain or paint; however, a clear weatherproofing agent should be applied as needed.



**PLAYERS CHOICE Mailbox Specifications**

White Metal or Plastic Mailbox. Post shall be painted white.





## **SOUTHLAKE Mailbox Specifications**

Black Plastic Rubbermaid Model #s MB515B and 52668 (formerly Model# 7272)

Post must be painted white.



**MAINTENANCE.** As provided in Section 7.2 of the Declaration, each Owner shall keep all Lots and Parcels owned by him or her, and all Improvements therein or thereon, in good order and repair, free of debris, all in a manner and with such frequency as is acceptable to the Association and consistent with a first-quality development. Please see the Rules Item entitled “Maintenance”. Examples of such maintenance items contained in the Rules (pgs. 14-15) are:

1. Maintenance of Lot During Exterior Construction/Remodeling/Renovation
2. Construction, Remodeling and Renovation Restrictions.

## **MAJOR BUILDING ADDITIONS AND RENOVATIONS**

**All major building additions, exterior renovations and any interior renovation which alters the outside of the home (i.e., cutting new windows or doors) (“Major Renovation”) require an Application accompanied by working drawings and specifications and a copy of the physical survey and Plans.**

Major Renovations include, but are not limited to, greenhouses, porches or sunroom renovations and room additions.

During any additions or renovations, the property must be properly maintained. (See Rules Section entitled “Maintenance of Lot During Exterior Construction/Remodeling/Renovation” on pg. 14).

The design of major additions and exterior renovations shall be consistent with the existing shape, style and size of the dwelling in the following ways:

1. Siding, roofing, brick, and trim materials shall be the same as, or compatible with, the existing materials of the dwelling in color and texture.
2. New windows and doors shall be compatible with those of the existing dwelling in style and color. These shall also be located on walls at the same approximate height as those of the dwelling and be trimmed in a similar manner.
3. Roof eaves and fascia should be the same depth, style and approximate height as existing eaves and fascia. New roofs should be approximately the same slope as those existing on the dwelling.

Porches or other additions changing the footprint of the house will require approval in addition to a County/City building permit.

The following conditions shall determine the acceptability of additional locations:

1. Additions should not significantly impair the view, amount of sunlight, ventilation of adjacent residences or the public's use or enjoyment of open space.
2. New additions should not create situations in which adjacent neighbors will have difficulty adding to, modifying or maintaining existing dwellings.
3. Additions must not adversely affect drainage conditions on adjacent properties through changes in grade or other significant run-off conditions.

### **PAINING AND STAINING EXTERIOR**

**Painting/repainting or staining an exterior part of the home does not require an Application as long as the Owner is not changing the color.**

**If using a color that is not on the approved color list you must submit an Application.**

New or existing non-painted brick shall not be painted.

Painting of concrete or aggregate driveways, sidewalks, or walkways is prohibited. Concrete sealers are permitted and shall match as best as possible to the original color of the driveway, sidewalk or walkway.

To ensure continued attractive Neighborhood appearance, the painted and/or stained exterior portions of all Dwelling Unit and accompanying structures shall be maintained by re-painting or re-staining on a regular basis.

As homes in the Villages of Kiln Creek continue to age it has become problematic to determine what the original, approved color was as applied by the builder. Additionally, some Neighborhood Associations have individual paint color restrictions which must be observed, while others do not. Recognizing that the traditional "look" of Kiln Creek is important to enhancing all Owners' property values, the ARB has worked to develop an extensive list of paint color choices. **An approved color list is available through the Association's office.** Paint colors shall be selected from this palette.

**If applicable, refer to your Neighborhood property management company for approved colors.**

### **PLAY EQUIPMENT: SWING SETS – SANDBOXES - JUNGLE GYMS. ETC.**

**Play equipment (including swing sets, sandboxes, jungle gyms, trampolines, etc.) requires an Application.**

The following Standards are intended to assist in both planning the play area and filing the necessary Application:

1. All play equipment should be located behind the rear foundation line in such a way as to minimally affect any site line or neighbor's view and maintained in an orderly fashion. Whenever possible the equipment should not be visible from the street. The ARB will consider the site-line impacts on a case by case basis. ARB consideration will be given to those Lots unable to comply with this restriction.
2. Play equipment shall be no higher than fifteen (15) feet tall or within ten (10) feet of the Owner's property line. ARB consideration will be given to those Lots unable to comply with this restriction.
3. See the Rules Item entitled "Play Equipment, Strollers, Etc." page 17.
4. The ARB reserves the right in its sole discretion to limit the number of play equipment/structures depending on size and layout of the Lot.

## **RAIN BARRELS**

All rain barrels require an Application, shall be of a neutral color, and preferably in the rear yard. Any variations will be considered on a case by case basis. Neutral colors include but are not limited to tan, brown, or earth tone.

## **RECREATIONAL/ATHLETIC EQUIPMENT – PORTABLE BASKETBALL GOALS**

*Permanent* pole mounted or house mounted basketball goals are prohibited.

**Full-size *portable* basketball goals do not require an Application; however, they MUST comply with the following criteria:**

1. Only one portable basketball goal is permitted on a Lot.
2. Basketball goals may not be located on any Neighborhood street, Common Area, Neighborhood Common Area, common parking pad or parking lot.
3. Portable goals shall not be located within ten (10) feet of any Owner's property line.
4. The basketball goal must be properly maintained (including the net) and must be of proper construction.
5. The base of the portable goal must be filled with sand or other suitable material to provide stability to the structure. Objects may not be placed on the goal's base.
6. If the portable goal is to be folded down for maintenance or other reasons, it should be stored so as not to be visible from the street or neighboring properties.
7. Claymill Corner & Lakeside shall not have portable basketball goals. Individuals in other Neighborhoods will need to contact their management companies and/or check their Supplemental Documents to see if any additional restrictions on portable basketball goals may apply.

## **RESIDENTIAL IDENTIFICATION SIGNS (HOUSE NUMBERS)**

All permanent signs except for house numbers require an Application.

No more than three (3) sets of house numbers are permitted. One set of numbers is required to be displayed conspicuously on the house and one set is required to be on the mailbox/post; except for those Neighborhoods with cluster mailboxes (see "Mailboxes" pgs. 48-51). An additional set may be displayed as a lawn/flowerbed ornament. Numbers should be 3 to 4.5 inches in height. Painting house numbers on the curbing is prohibited.

## **RE-SIDING, RE-ROOFING AND RE-STYLING**

### **Re-Siding**

As the homes in the Villages of Kiln Creek age or are damaged it will become problematic that the style and color of the original siding may become unavailable when manufacturers change their product line. Attached homes are of special concern with regard to the continuity of color and style of material. Owners must submit samples of the old and proposed new material along with their Application ***prior to installation*** for ARB consideration.

## Re-roofing

As of June 2019, all roofs being replaced are required to install an Architectural Style shingle, with the exception of the Willow Point neighborhood (see below). Changing from standard to architectural type shingles is required. Creased or sheet-style metal roofs are not permitted except for existing metal roofs over entranceways, dormers & porches, which may be replaced with the same material. Metal roofs that conform to the appearance of traditional architectural style roofing require an application and will be considered on a case by case basis. Changes in shingle color requires an ARB application. Roof repairs do not require an ARB application so long as the replacement shingles are the same as the original or closely approximate in color and texture. Brand, color and warranty length are required when submitting an ARB Application.

**All other cases**, such as attached homes/condos with common roofs, changes in roof color and/or texture or roofing, require prior Application and ARB approval. A sample of proposed shingle shall be included in any Application if not available at the HOA office.

Houses sharing roofs/rooflines are permitted to have a combination of Architectural and 3 tab shingles, with the exception of the Willow Point neighborhood.

Willow Point roofs shall be replaced with Architectural Shingles under the following circumstances:

- a) When both owners of the duplex agree to replace the roof at the same time.
- b) When one roof of the duplex already has Architectural Shingles, the other owner shall replace their roof to match the existing Architectural shingles.

Willow Point roofs shall be replaced with matching 3-tab shingles under the following circumstances:

- a) When one roof of the duplex currently has 3-tab shingles and both owners of the duplex are not in agreement to replace the roof with Architectural Shingles at the same time.

Shingles that need to be repaired/patched without replacing the entire roof shall use new shingles that match the existing/current color of the roof as best as possible. Example: Black shingles that weather to gray, will need to be replaced with gray shingles in order to match the current color of the roof. In this case, please do not replace with black shingles because it will not match.

## Re-styling

Re-styling requires an Application.

Re-styling is a change which alters the external appearance of a dwelling and requires an Application. Such changes include, but are not limited to, the following: alterations to porch railings, shutter shape or size, windows of a different style, permanent window boxes, change in door style and change to or addition of trim not originally on the house.

## **ROCK GARDENS**

**Rock gardens require an Application accompanied by a plan and materials list.** Rock gardens will be considered on a case-by-case basis and are intended to provide aesthetic benefit to the appearance of the Lot. In no case can an entire lawn be planted as a rock garden.

**SECURITY CAMERAS:** All security cameras require an application, except “Ring” or “Nest” doorbells (or equivalent), whose appearance blends with the existing architecture. Installation of any exterior camera MUST comply with all Federal, State, and Local laws or ordinances and ensure that any camera does not point towards an area in which any other resident has a reasonable expectation of privacy. **Owners are solely and independently responsible for ensuring that they adhere to all law pertaining to audio and visual**

**photography, live streaming, or recording. Owners shall be obligated to indemnify and hold harmless the Association, its affiliates, agents, or assigns, from any liability resulting from installation and use of security or doorbell cameras.**

### **SHEDS OR OTHER ACCESSORY STRUCTURES**

1. **A shed or other accessory structure requires an Application.** The Application should include a detailed plan specifying the proposed structure's Lot placement, its dimensions, and the materials to be used. A sketch of the proposed structure accompanied by site plans, elevations, dimensions and height above grade are also necessary. Exterior walls, planes and masses should be of a scale compatible with the size of the Lot and the dwelling on the Lot.

Sheds and accessory structures are considered a major structural change and are not to be considered temporary structures; therefore, the construction must be of quality materials. (Refer to above Section entitled "Major Building Additions and Renovations"). The siding and roof materials shall approximate type and color of the dwelling as best as possible. **THEREFORE, NO METAL OR PLYWOOD EXTERIORS OF ANY TYPE WILL BE ALLOWED.**

Only one (1) shed per Lot will be permitted. The overall base area of such structure shall not exceed one-hundred and fifty (150) square feet with a maximum height of ten (10) feet from ground level. Such a structure shall be of a mass and scale compatible with the size of the Lot and the dwelling.

All sheds, including large resin sheds over 25 sq ft. and accessory structures, shall be anchored firmly in place, either to a concrete slab, a suitable foundation of cement block, or secured with screw anchors to reduce the possibility of the shed or accessory structure becoming detached in a severe wind storm. Large resin sheds shall have metal or wooden framing (may not be made of entirely resin frames to ensure stability).

The shed or accessory structure must be located behind the rear foundation line of the dwelling and be located in such a way as to minimally affect any sight-line or neighbor's view. The ARB will consider the sight-line impacts on a case-by-case basis and each case will stand on its own merit regardless of whether similar cases have been previously approved for other Owners in the area.

Homes having brick, stone, stucco or dryvit exterior walls (which are not practical for sheds) may select a siding for a shed of composite shingles (hardboard), wood shingles or horizontal vinyl clapboard design siding. The finished color of the siding shall approximate the color of the house. Plywood or batt and board siding (T 1-11) is not permitted. The shed roof shall be the same type and color as the house for stick built sheds. If the color of a roof is changed, the roof of the shed shall also be changed.

Sheds must be located at least five (5) feet from the property line.

If electric power will be installed in such sheds or other accessory structures, please specify the amperage of the service. Please note that all exterior wiring shall be routed underground.

2. Smaller Rubbermaid and similar molded plastic resin storage structures, excluding a shed which is addressed in the previous paragraph require an application, shall be made of heavy duty, quality material with a height of no more than sixty (60) inches and have a floor area no greater than twenty-five (25) square feet. Color must be neutral and remain unpainted. They must be placed behind the rear foundation line of the dwelling immediately adjacent to the dwelling such as on a deck or patio, so as not to block a sight line or neighbor's view. Consideration will be given to those Lots whose size makes them unable to comply with these ARB restrictions.



3. All other storage containers require prior notification to the office. Extenuating circumstances requiring longer durations must be approved by the Board. Deck boxes less than fifteen (15) square feet **do not** require an application.

4. If shed or storage structure becomes faded, weathered, worn or in general dis-repair, maintenance rules shall apply, and you may be asked to replace parts or entire shed depending on severity of maintenance required. Please be aware that resin style sheds may fade/weather faster and may require repairs/replacement more often than stick built sheds.

**SKY LIGHTS AND SOLAR TUBES:** New Installations of sky lights and solar tubes require an application.

### **SOLAR COLLECTORS**

Due to the large visual impact solar panels can have on a community; **Solar panels/collectors require an Application.**

The proposed solar panels to the maximum extent possible shall:

- have a minimal visual effect on the immediate neighbors
- not be readily visible from the street
- lie flat upon the dwelling's roof
- be located on the rear roof
- conform to local building and plumbing codes

### **SPRINKLER SYSTEMS / IRRIGATION**

**An Application is required prior to the installation of an in-ground irrigation or sprinkler system.**

Backflow preventers should be located on the side or rear of the house. Backflow preventers shall be shielded from view from the street and neighboring properties and shall be located within the property lines. Water wells are not permitted. (See "Water Wells" pg. 59)

### **STORM DOORS / SCREEN DOORS**

Newly installed storm doors or the replacement of an existing storm door must be full view and clear and do not require an Application. The color of the storm door frame shall match the color of the house trim, door, or be white. Any other configuration of storm door requires an Application.

Storm doors shall be full view and have clear, uninterrupted glass, top to bottom (ventilating doors shall be full view in each section).

Storm doors with etching will be allowed only around the edge of the glass no more than three and a half (3.5) inches from the door frame and require an Application.

All decorative film/coverings require an Application. Double door entries require two (2) matching storm doors.

For the single rear doors that face a back yard, deck or patio, a self-storing storm and screen combination door is permissible with the colors to match the existing trim around the door or be white. See also, "Window/Storm Door Tinting & Films" pg. 59-60.

**\*\*See next page for storm door examples\*\***

**Full View**  
(front or rear)



**Full View Ventilating**  
(front or rear)



**Half View Ventilating**  
(REAR only)



## **SWIMMING POOLS, HOT TUBS AND SPAS**

### **Above Ground Swimming Pools**

Above ground pools are prohibited.

Children's wading pools are permitted without Applications. However, depth shall not exceed one (1) foot and diameter shall not exceed six (6) feet.

1. All such pools must be drained. When not in use, these shall be stored out of sight or be kept to the rear of the two primary rear corners of a dwelling in a neat and orderly fashion.
2. However, they must be located so as to be drained without affecting neighboring properties.

### **Hot Tubs and Spas**

**All exterior hot tubs and spas require an Application and are considered a major addition.** Some of the criteria for Application review include:

1. Whether installation requires excavation, and if so, the effect of excavation upon adjacent properties, lakes, and other topographical features and environmental impact.
2. Electrical source & connections shall be installed by a licensed contractor.
3. A scale drawing showing the proposed tub or spa situated on the plat.
4. The visual effect on adjacent properties.
5. Shall be drained in a manner that does not affect neighboring properties.

Hot tubs and spas must be located behind the rear foundation line. ARB consideration will be given to those Lots unable to comply with this restriction.

Inflatable hot tubs are **not** permitted.

### **In-ground Pools**

In ground pools require an Application. Due to the complex nature of in-ground pool installation, Kiln Creek has created specific in-ground pool criteria, which **must be obtained at the Association's office**. Please review the criteria before beginning the Application process.

## **TRASH CONTAINER ENCLOSURES**

Trash enclosures require an Application.

If applying a color stain to the enclosure, then the stain color should be chosen from the approved stain color palette or painted to match the trim.

## **TREE AND VEGETATION REMOVAL**

The Association encourages the conservation of all trees and vegetation in our community. The **following trees/shrubs require that an Application** be submitted and approved *before* they can be removed:

1. A tree having a trunk diameter of five (5) inches or more, when measured at a height of three (3) feet above the ground.
2. Flowering or ornamental evergreen trees or shrubs having a trunk diameter of three (3) inches or more when measured at a height of three (3) feet above ground level.
3. Vegetation on slopes greater than twenty (20) percent.
4. Areas marked on recorded subdivision plats as "no cut" areas.

Note: In order to make an informed decision regarding an Application, the ARB may require a statement from an arborist stating that the tree is diseased, damaged, or should be removed for other reasons. Therefore, in accordance with Section 6.3 of the Declaration, the ARB may hire a certified arborist and the Owner agrees to pay all fees incurred.

All trees and shrubs approved for removal should have the stump ground out or dug up. If Owner chooses stump may be cut at ground level and covered with soil.

The ARB may require replacement of a tree or shrub that is removed by replacing with new planting at the first appropriate planting season. The ARB encourages trees that reach maturity in five to seven years. Trees recommended by the ARB include, but are not limited to, the following:

Crepe myrtle	Japanese Maples	Ornamental Evergreens
Birch	Sycamore	Red Bud
Service Berry	Flowering Cherry	Crabapple
Dogwood	Fringe Tree	Star Magnolias
Saucer Magnolias	Cleveland Pears (replaces Bradford Pears)	

Extensive pruning of trees, as opposed to seasonal pruning, shall require ARB approval.

### **Emergency Removal**

If an Owner believes that a tree is in imminent danger of falling, such Owner may remove said tree without prior authorization of the ARB; however, the Owner is required to notify the Association office in writing and/or with photographs with reasons for the tree's removal within two (2) weeks of the removal. After the fact ARB Application is required. Trees that have fallen as a result of a storm shall be removed and the stump removed as specified in this section.

Removal of a tree(s) without prior ARB approval when there was no imminent threat is a violation of these Architectural Standards and may subject the Owner to a formal hearing and charges and/or additional remedies available to the Association under the Governing Documents and applicable law.



**TRELLISES, PERGOLAS, ARBORS, GAZEBOS, TEMPORARY GAZEBOS, CANOPIES, PRIVACY AND SCREENING WALLS**

**All trellises, pergolas, arbors, gazebos, canopies, privacy walls and screening walls require an Application.** The ARB will consider the site line impacts of these structures on a case by case basis.

If the structure is to be stained or painted, a color sample must accompany the Application. The ARB encourages the use of a clear weatherproofing agent in lieu of a stain.

Temporary gazebos/canopies require ARB approval and shall be anchored. If temporary gazebo is placed on a deck, then it must be bolted to the deck.

Neighborhood Associations have established their own criteria with respect to trellises, pergolas, arbors, gazebos, canopies, and privacy/screening walls. Owners of Lots in such Neighborhoods are advised to consult their Neighborhood Association’s governing documents prior to submitting an Application.

**TRIM**

Wrapping existing wood trim with a synthetic material or aluminum is permitted without an application. Color shall match current trim color or be white. A change in trim color requires an application.

**VENTS & VENT COVERS**

Dryer, bathroom and range/hood vents on the side walls of your home require a cover of a louver or basket type.

**WATER WELLS**

**The installation of a well is prohibited** due to the high iron content of the subsurface water under Kiln Creek. The “red water” permanently stains fences, walkways, driveways and sidewalks. Previously approved wells may remain in place.

**WINDOWS**

**Window Screens**

In order to maintain a uniform, look on the front of the house, if one double-hung window has a screen then all double-hung windows must have screens.

**Replacement Windows**

All window replacements require an Application. In order to preserve the original architectural styling of the house, replacement windows shall retain, as closely as possible, the same style as the original window configuration.

Acceptable window grid styles shown below are optional; however, windows shall all have grids of the same style or all have no grids. Exceptions will be made on a case by case basis.



All other proposed window replacements, including changes in size, configuration, type or color require ARB approval.

## **Etching**

Etching will be allowed only around the edge of the glass no more than three and a half (3.5) inches from the frame and require an Application.

## **Window/Storm Door Tinting and Film**

Light reducing tinting and films shall be a neutral color. The visible light transmittance shall be fifty percent (50%) or greater. All window tinting and films require an Application.

## **Decorative Window Films**

All decorative window films on sidelight windows and transom windows require an Application. In no case shall window clings be used on all windows.

**Window Treatments:** See Rules on pg. 20.

## **WIND POWERED GENERATORS**

Wind powered generators require an application.

## **OTHER ALTERATIONS**

Proposed exterior alterations which are not addressed in these Architectural Standards require submittal of a complete Application.

## Exhibit 1

### List of Villages with Separate Associations (“Separate Associations”)

(Membership in these Separate Associations is in addition to membership in the Association)

Neighborhood	*Management Company as of November, 2019	Telephone Number of Management Company
Cascades	Community Group	757-873-1800
Claymill Corner	KCOA	757-877-9835
Eagle Sound	Diamond Management	757-344-6941
Fairways	Harrison & Lear	757-825-9100
Gleneagles	Harrison & Lear	757-825-9100
Images	Chesapeake Bay Management	757-534-7751
Ivystone	Chesapeake Bay Management	757-534-7751
Lakeside	KCOA	757-877-9835
Masters	Harrison & Lear	757-825-9100
Pinehurst	Chesapeake Bay Management	757-534-7751
Players Choice	Harrison & Lear	757-825-9100
Sanctuary	United Property	757-873-1185
Shoreline	Community Group	757-873-1800
Southlake	KCOA	757-877-9835
Westgate	Advanced Assoc. Mgmt.	757-873-0111
Willow Point I Willow Point II	Harrison & Lear	757-825-9100
Windbrook	Advanced Assoc. Mgmt.	757-873-0111

\*Management companies subject to change at any time. Please contact the HOA office to confirm.

970 BRICK KILN BLVD.  
NEWPORT NEWS, VIRGINIA 23602  
PHONE (757) 877-9835 FAX (757) 877-9862

**APPLICATION FOR EXTERIOR ALTERATION**

AFTER THE FACT \_\_\_\_\_

NEIGHBORHOOD: \_\_\_\_\_ LOT NUMBER: \_\_\_\_\_  
NAME: \_\_\_\_\_ EMAIL: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_ PHONE: \_\_\_\_\_  
DESCRIPTION OF ALTERATION: \_\_\_\_\_

YES  NO IS THIS AN APPLICATION FOR A MODIFICATION RELATING TO A DISABILITY? IF SO, PLEASE COMPLETE PART B OF THIS APPLICATION

PLEASE COMPLETE A SEPARATE APPLICATION FOR EACH IMPROVEMENT.

THE FOLLOWING SUPPLEMENTAL MATERIALS ARE REQUIRED AND APPLICATIONS ARE NOT DEEMED COMPLETE UNTIL ALL REQUIRED SUPPLEMENTAL MATERIALS HAVE BEEN RECEIVED:

FOR ATTACHED / DETACHED ADDITIONS / DECKS / FENCES / MAJOR RENOVATIONS

- WRITTEN PLANS and SPECIFICATIONS
- PLAT OR SURVEY showing exact location and dimensions(s) of addition and any easements of records
- SITE PLAN with drawing of exact location, configuration, and size of alteration(s)
- ARCHITECTURAL PLANS/ILLUSTRATIONS OF IMPROVEMENTS  
(Exterior elevations, construction materials and exterior colors)
- SEDIMENT/EROSION CONTROL PLAN and/or TREE PROTECTION PLAN (if applicable)
- PHOTOGRAPH(S) and/or DRAWING(S)

FOR COLOR/MATERIAL CHANGE

- PHOTOGRAPH(S)
- BROCHURE OR SAMPLES OF THE PROPOSED COLOR / MATERIAL
- ANY ADDITIONAL INFORMATION (Please specify)

FOR TREE REMOVAL

- PHOTOGRAPH(S)
- SITE PLAN showing location of tree to be removed
- OTHER SUPPORTING INFORMATION (such as arborist statement, photographs, etc.)

**HOMEOWNERS:** By signing below you are indicating that you understand you must wait for receipt of your written approval of this application before beginning the foregoing alteration(s), and that approval of such alteration(s) by the Architectural Review Board does not release you from your obligations to ensure that such alteration(s) is (are) in compliance with the applicable Building and Zoning ordinances for the City/County AND YOUR NEIGHBORHOOD ARCHITECTURAL REVIEW BOARD in which the above referenced Lot is located and all other applicable laws. Further, Owners have no expectation of privacy with regard to Applications, Plans and/or other supporting material, as ARB meetings are open to all Members.

If the above information is not supplied and the ARB must obtain further information, the cost will be incurred to your account pursuant to the KC Declaration Article VI, section 6.3, "The Architectural Review Board may engage or consult with architects, engineers, planners, surveyors, attorneys and others. Any person seeking the approval of the ARB agrees to pay all fees thus incurred by the ARB and agrees to pay an administrative fee to the ARB in such amount as the ARB may from time to time reasonably establish. The payment of such fees is a condition to the approval or disapproval by the ARB of any plans, and the commencement of review of any plans may be conditioned upon the payment of the ARB's estimate of such fees."

All applications must be submitted to the VKCOA office. Applications are reviewed twice a month, so please plan to allow adequate time to receive a response. If you have any questions call the ARB Coordinator at the VKCOA office (877-9835). Applicants may attend the ARB meeting.

*I / We understand that any damage that may occur during the course of this alteration are my/our responsibility, whether the damage is done to common property or private property (including, but not limited to underground wiring, landscaping, roadways, etc.)*

\*OWNERS' SIGNATURE(S) \_\_\_\_\_ DATE: \_\_\_\_\_  
\_\_\_\_\_ DATE: \_\_\_\_\_

Note: All record Owners must sign.

Neighborhood \_\_\_\_\_

Lot # \_\_\_\_\_

**FOR ARCHITECTURAL REVIEW BOARD USE ONLY**

**DATE OF REVIEW BY ARB [“EFFECTIVE DATE”]:**

\_\_\_\_\_

- APPROVED\***
- APPROVED WITH COMMENTS/CONDITIONS**
- DISAPPROVED**
- DECISION WITHHELD**
- OTHER**

\_\_\_\_\_

**\* NOTE –ALTERATIONS MUST BE COMPLETED WITHIN 12 MONTHS FROM THE EFFECTIVE DATE ABOVE, OR A NEW APPLICATION MUST BE SUBMITTED.**

**COMMENTS:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**REVIEWED BY:** \_\_\_\_\_

ARB Supplemental Disability Application



Dear \_\_\_\_\_:

To assist us in processing requests for accommodations in a timely and appropriate manner, we are providing you with the enclosed form which you can use to make a request to the Villages of Kiln Creek Owners Association (the "Association") for Reasonable Accommodation or Modification for your disability.\* Below are instructions for completing the form:

- Question #1 – Fill in the name and phone number of the member of the household who has the disability and describe the disability.
- Question #2 - For a **physical change to the Association's property** put an "x" in the first section then describe the change that you need. For a physical change to your property, put an "x" in the second part of the question #2 and describe the modification that you need.  
For a **change in the rules, policies, practices, procedures or services**, put an "x" in the third part of question #2 and describe the change that you need.
- Question #3 – If the reason for such request is not obvious based on the description of the disability, describe how the change that you are requesting will change or assist in some aspect of your disability.
- Question #4 - Enter the number of days by which you need a response.
- Question #5 – Put an "x" beside the applicable section indicating whether the disability is visible or not visible. If the disability of the resident is not visible, please enter a health professional who can confirm that you (or other member of your household) are disabled and that the change that you are requesting would assist you (him/her) with that disability.
- Be sure to sign the form prior to sending it.

If you have any questions, please contact the Association's Director of Operations at the number above.

Sincerely,

\_\_\_\_\_

\* Should you need assistance in completing the form, please do not hesitate to contact the Association's Director of Operations who can assist you in doing so. This form is not the exclusive means by which you can request an accommodation/modification; instead, it is meant to be of assistance in facilitating your request and the Association's review of same.



Request for Reasonable Accommodation / Modification

To: Villages of Kiln Creek Owners Association Phone: (757) 877-9835 Facsimile: (757) 877 9862

1 The following member of this household has a disability as defined below:

*A physical or mental impairment that substantially limits one or more of life's major activities, a record of such impairment, or being regarded as having such an impairment)*

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_

Describe Disability: \_\_\_\_\_

2. As a result of my/his/her disability the following change(s) are needed so that I/he/she can live as easily or successfully as other residents.

( ) A change/modification to the Association's Common Area/Neighborhood Common Area described as follows:  
\_\_\_\_\_

( ) A change/modification to my (his/her) property (or leased premises, as applicable) which change would normally not be permitted under the Association's current covenants, rules and/or architectural guidelines but for my/his/her disability, described as follows:  
\_\_\_\_\_

[Note: This request does not negate the requirement that the Lot Owner submit an Application for Exterior Alteration together with plans and other materials indicated on the Application, in connection with any proposed exterior alterations to the home or the Lot, in addition to this request.]

( ) A change in the following rule, policy, practice, procedure or service:  
\_\_\_\_\_

3. If the reason for such request is not obvious based on the stated description of the disability above, please answer the following: This accommodation/modification is so that:  
\_\_\_\_\_

4. I request a written response to this request within \_\_\_\_\_ days of the receipt of this request.

5. Check one of the following:

( ) My disability is visible.  
( ) My disability is not visible and you may verify the disability and the need for this request by contacting:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_

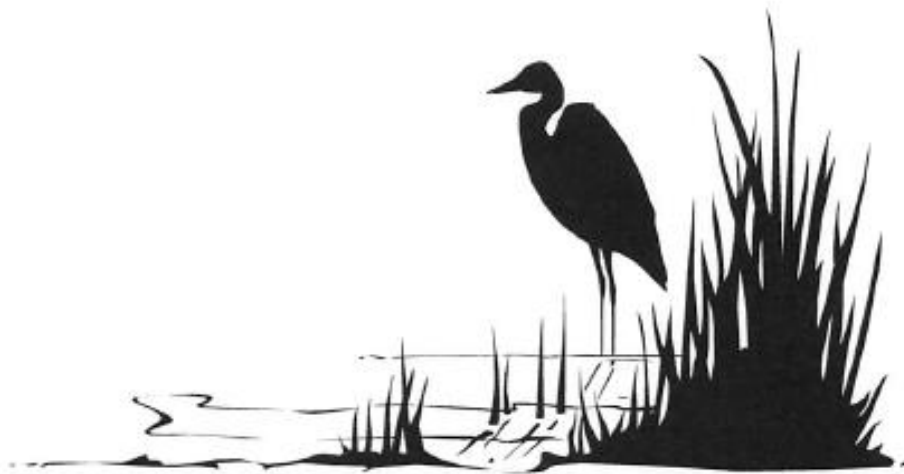
I give you permission to contact the above individual for the purpose of verifying that I or a member of my household has a disability and needs the reasonable accommodation requested above. I understand that the information you obtain will be kept confidential and used solely to determine if you will provide the accommodation.

Signed: \_\_\_\_\_

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



# **Villages of Kiln Creek Owners Association Policies**





The following policies were enacted by Boards of Directors in the belief they were a necessary adjunct to the Association's governing documents and thereby allow for a response to the ongoing demands of governance.

It is recommended that these policies be reviewed annually, preferably towards the end of a sitting Board's tenure.

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1. ACCELERATION ON DELINQUENT ACCOUNTS

Motion was duly made, seconded and unanimously carried and resolved to create an Acceleration Policy in reference to Article V Section 5.6 of the Second Amended and Restated Declaration & Article VIII Section 8.4 of the Second Amended and Restated Articles of Incorporation. (February 23, 2012)

2. ADDITIONAL SPEEDING FINES IN YORK COUNTY

Motion was duly made, seconded and unanimously carried to designate Kiln Creek Parkway as the streets for enforcement purposes for additional speeding fines in York County.

Note: This motion supersedes the February 18, 1998 motion regarding Additional Speeding Fines in York County. (July 21, 2004)

3. AFTER THE FACT FEE

Motion was duly made, seconded and unanimously carried so that applications for exterior alteration which are received by the Architectural Review Board after the described work has been started or has already been completed shall be subject to an ARB administrative fee of \$50 to cover the costs of additional correspondence and inspections. The ARB in its discretion may waive the fee. (July 27, 2017)

4. ANNUAL ELECTION POLICIES & PROCEDURES- See Exhibit A-6 below.

5. ASSESSMENT COUPON BOOKS & COUPONS ON DEMAND

Motion was duly made, seconded and carried unanimously to charge \$5.00 for replacement of KCOA, Lakeside, Claymill Corner & Southlake Assessment coupon books. (March 5, 2015)

Motion was duly made, seconded and carried to approve the HOA office to print on-demand coupons for lost coupons at \$5 per coupon excluding new homeowners for one month, whose can be printed at no charge.

(August 25, 2016)

6. BOARD EMPLOYMENT

Motion was duly made, seconded and unanimously carried that the Board adopt an employment policy that requires any member of the Board who desires employment with the Association to resign their position with the board prior to applying.

Note: This motion supersedes paragraph 1 of the Board Employment & Board Member/Employee Sub Association motion dated October 22, 2001. (July 21, 2004)

7. BOARD MEMBER/SUB-ASSOCIATION

Motion was duly made, seconded and unanimously voted that Board members serving on its neighborhood board or neighborhood advisory board must resign their position after being voted on or appointed to the Kiln Creek Board of Directors. This motion supersedes Paragraph 4 of the Board Member/Sub Association motion dated April 6, 2006. (January 16, 2008)

8. BOARD LIAISON TO DIRECTOR OF OPERATIONS

Motion was duly made, seconded and unanimously carried that the Board of Directors designate the President of the Board, or the President's designated liaison, as the liaison officer, who shall be authorized to instruct and deal with the Director of Operations on any and all matters pertaining to the Association.

It is further proposed that Board members refrain from instructing and/or advising the Director of Operations directly, unless such actions are of an emergency nature.

Otherwise, Board members are to make their needs and concerns known either through agenda discussion or by requesting the Board liaison to bring their concern or wishes to the Director of Operations. This does not preclude however, joint conferences of Board members, the Board liaison and the Director of Operations, if such is agreed is necessary and appropriate. (June 18, 2003)

9. BOARD MEETING AGENDA

Motion was duly made, seconded and unanimously carried that the President of the Board be required together with the Director of Operations to develop the agenda for all Board meetings and that in the absence of the President, the Vice-President shall assume this responsibility and that this procedure become a policy of the Association.(April 30, 2003)

10. BOARD MEETING – INFORMATION TO HOMEOWNERS

Motion was duly made, seconded and unanimously carried that in order to fully inform homeowners of the Board's activities and decision, the following be authorized:

1. Board meeting agendas will be posted in full view at the Association office.
2. Current Month's Board Book available at HOA office.

#### 11. BOARD MEMBER TRAINING

Motion was duly made, seconded and unanimously carried to adopt the following policy regarding Board member attendance at training sessions: (November 27, 2001)

- Only training related to the community association management field will be paid out of the Association's operating budget for Board members. The Board President will have the final decision on what constitutes related training.
- All new Board members are encouraged to attend one session of the ABC's Course offered by the Community Associations Institute (CAI) at the expense of the association.

One board member will be provided a full conference registration, airfare or other mode of travel, and hotel expenses (not to exceed \$1,500.00 for all) to attend the community Associations Institute Fall or Spring Conference once a year. Priority will be given to the President if he or she desires to attend.

Otherwise the Board of Directors will determine by majority vote which Board member will attend.

- All Board members are encouraged to attend the annual CA Day and Trade Show that is sponsored by the Southeastern Virginia Chapter of CAI and is held in March of each year. The Association will pay conference registration.
- All other training requests should be submitted to the Board President for consideration. The Board President will check with the Director of Operations to determine if funds are available to support the request. Required staff training will be given priority over Board member training requests other than those outlined above.

#### 12. BOARD & COMMITTEE PACKAGES

In accordance with § 55.1-1816 of the Act, the Association will make available for inspection one (1) copy of the Packages at the Association's office (collectively, the "Review Packages") simultaneously with the Packages becoming available to the Directors of the Association and Committees, as applicable. The Review Packages shall not be removed from the Association office. The office staff will make accommodations for appointments with members to inspect and examine the Review Packages at the Association's office; or, members can request copies of all or portions of the Review

Packages in accordance with the Association's policy for inspecting and copying its books and records pursuant to § 55.1-1815 of the Act as outlined in the Association's records request policy and copying policy. (June 25, 2020)

In the event the Board of Directors or Committee hold a web-based/digital meeting, Packages may not be provided; therefore, no Packages will be available for review.

13. BUDGET/UNBUDGETED ITEMS

Motion was duly made, seconded and unanimously carried that the Board of Directors adopt a policy authorizing the Director of Operations to implement the approved fiscal year budget and seek Board approval for any unbudgeted items exceeding the sum of three-thousand dollars (\$3,000.00). The Director of Operations shall not be obligated to seek Board approval for the payment of costs and expenses contained in the approved fiscal year budget. (April 11, 2002)

14. COLLECTIONS Motion was duly made, seconded and unanimously carried that the following "Collections Policy" be adopted by the Board of Directors and will supersede the former "Collections Policy" (dated February 23, 2017); approved March 24, 2022)

- 1) All homeowners are subject to finance/interest fees of 3% per month, of the entire unpaid balance on their account, in excess of 30 days. The finance/interest fees will be charged to the account on a monthly basis.
- 2) A 30 day past-due notice/invoice will be sent to the delinquent homeowner indicating their account is 30 days past due and is required to be paid by the specified timeframe.
- 3) A 60-day past-due certified notice/invoice will be sent to owner indicating their account remains in arrears and will be referred to our legal team and a lien will be filed on the delinquent homeowner's account if not paid within 30 days of the date on the notice.
- 4) At 90 days delinquent, the owner's account will be turned over to the legal team to pursue collection and place a lien on the property.
- 5) At time the account is turned over to the collection attorney, the owner's account will be accelerated through December 31<sup>st</sup> of the current year (all monthly assessments become due and payable).
- 6) At time the account is referred to the legal team:
  - a. The homeowner will be sent notice, by regular mail, stating their account has been sent to the collections attorney. Homeowner will also be advised they are required to contact the attorney to make payment on the past due amount.
  - b. A \$20 administrative processing fee will be applied to the homeowner account.
  - c. The total balance being referred will be removed from the homeowner account as bad debt. Payments forwarded to the Association from the attorney are subject to collection processing fees. Upon receipt of these payments from the attorney, the monies will offset the previous bad debt adjustment.
  - d. The homeowner account will be processed for the next formal hearing with the Board of Directors to suspend privileges for the use of common area amenities and facilities.
- 7) All incurred collections fees, including late fees, attorney's fees, interest and lien related fees will be applied to the owners account.

15. COMPETITIVE BIDDING

Motion was duly made, seconded and unanimously carried to allow the Director of Operations to waive the requirement for competitive bidding for anything under \$3,000.00; the requirement for competitive bidding on any contract between \$3,000.00 and \$5,000.00 may be waived with approval of either the President or Vice-president; and any contract over \$5,000.00 requires competitive bidding. In the event of a hazardous condition occurs the Director of Operations has decision making power to correct the hazardous condition without competitive bidding. (November 15, 1999)

16. COPIER USE

Motion was duly made, seconded and unanimously carried that the Association's copier is for official business only and is not available for private use. Neighborhood representatives may use the Association's copier for official neighborhood business if they provide their own paper supplies. (April 11, 2002)

17. COURIER ADVERTISEMENT CONTRACT

The current policy states "The Publisher reserves the right to revise, edit or reject any and all copy, and to reject any Advertiser in its sole and absolute discretion. The Advertiser agrees to indemnify and save harmless the Publisher against any and all loss, damage, cost and expense which the Publisher may incur or become liable for by reason of any and all claims or actions for libel, violation of right of privacy, plagiarism, copyright infringement, and any and all other claims in connection with advertising matter published pursuant to the terms and provisions of this contract, including without limitation, the expense and cost of defending any and all such claims and actions. Without limiting the forgoing, any false statement or misrepresentation by the Advertiser in this Contract or any copy submitted for publication shall be grounds for immediate termination of this Contract by the Publisher, without penalty to the Publisher.

Since many of our advertisers provide services which take place in the residences of our members, the Board voted on October 19, 2005 to establish a policy that strengthens the Association's rights to reject advertising when the Advertiser or its employees have been convicted of felonies or misdemeanor crimes involving moral turpitude. To this end, certain language was added to the advertising contract to require the Advertiser to disclose whether it or its employees have ever been convicted of such a crime and if so, to provide information regarding the crime. The contract was also modified to specifically state that the Association has the right to reject any Advertiser in its sole and absolute discretion and to provide that any false statement or misrepresentation by the Advertiser in the contract or in any copy submitted for publication will be grounds for immediate termination of the contract by the Association, without penalty to the Association."

To assist the Association in screening potential advertisers, the following statement was added to the Courier Advertisement contract:

**While the Villages of Kiln Creek Owners Association will not endorse any advertising included in the Courier, it desires to take precautions to protect its residents against criminal activity within the community.**

Have you or any of your employees ever been convicted of a felony or misdemeanor involving moral turpitude? Yes \_\_\_/ No \_\_\_ If yes, what was the nature of the crime, the date of such conviction, and in which state?

---

Signed: \_\_\_\_\_ Title: \_\_\_\_\_  
Date: \_\_\_\_\_”  
(November 21, 2005)

18. COURIER ADVERTISMENT PAYMENT

Motion was duly made, seconded and unanimously carried to require the advertisers pay for the ads in advance. (May 12, 1994)

19. COURIER EMPLOYEE DISCOUNT

Motion was duly made, seconded and unanimously carried to approve a 50% discount on Courier ads up to a ¼ page for association employees. (May 15, 2002)

20. CPA OVERSIGHT OF FINANCIAL

Motion was duly made, seconded and unanimously carried to establish a policy regarding monthly oversight of the books and financial statements each month by CPA in addition to the Treasurer. (May 18, 2005)

21. DISCLOSURE PACKAGE FEE

Motion was duly made, seconded and unanimously carried to increase the fees for disclosure packages per VA Code at the time the disclosure is ordered to reflect the price for professionally managed Associations; subject to written confirmation from legal. (March 23, 2017)

22. DISCLOSURE PACKAGE EXPIRATION

Motion was duly made seconded and unanimously carried to adopt the following policy regarding Disclosure Packages: (March 21, 2007)

Any disclosure package that is dated 1 year or older shall require the lot owner to purchase an entirely new package per VA Code.



23. DISCLOSURE PACKAGE INSPECTIONS

Motion was duly made, seconded, and unanimously carried that upon the request for resale disclosure packages, Kiln Creek staff shall do an on-site foot inspection of the front and back of each property inspected for disclosure. (May 20, 2010)

Each homeowner will sign a statement stating that they indemnify the Association staff and Kiln Creek Owners Association from any and all claims. They will also sign that there is no dog in the rear yard.

If said homeowner refuses to sign to indemnify the Association and staff, only a vehicle inspection will be conducted, and the resale certificate will indicate that the owner refused to indemnify us and only a vehicle inspection was conducted.

24. DISTRIBUTION OF GOVERNING DOCUMENTS TO NON-MEMBERS

Motion was duly made, seconded, and unanimously carried that requests for copies of the Association's governing documents shall be made to the Association's Director of Operations, and a fee of \$100.00 shall be charged.

Note: This motion supersedes the December 19, 2001 motion regarding the Distribution of Governing Documents to Non-Members. (July 21, 2004)

25. EMPLOYEE TRAVEL

Motion was duly made, seconded and unanimously carried to adopt a policy that any authorized training for personnel will be paid by the Association including air travel, mileage, lodging and meals outside the local area and in accordance with US GSA for the geographical area the employee is traveling to.

26. FORMAL HEARING FEE

Motion was duly made, seconded and unanimously carried by all members present to approve a processing fee of \$20 assessed to any owners account which requires a formal hearing with the Board of Directors. This fee will defer the cost of processing the certified mailings for notification of the hearing and the hearing results. (Sept. 23, 2021)

27. FORMAL HEARING CHARGES LIEN POLICY

1) A 30 day past-due notice/invoice will be sent to the delinquent homeowner indicating the Formal Hearing Charges on their account are 30 days past due and is required to be paid by the specified timeframe.

2) A 60 day past-due a certified notice will be sent to owner stating their account will be referred to our legal team and a lien will be filed on the delinquent homeowner's account if not paid within 14 days of the date on the notice.

- 3) At 90 days delinquent, the owner's account will be turned over to the legal team to pursue placing a lien on the property.
- 4) At time the account is referred to the legal team:
  - a. The homeowner will be sent notice, by regular mail, stating their account has been sent to the attorney to process a lien. Homeowner will also be advised they are required to contact the attorney to make payment on the past due amount.
  - b. A \$20 administrative processing fee will be applied to the homeowner account.
  - c. Once a lien has been placed on the property, the total amount of Formal Hearing Charges will be removed from the homeowner account as bad debt. Payments forwarded to the Association from the attorney are subject to collection processing fees. Upon receipt of these payments from the attorney, the monies will offset the previous bad debt adjustment.
- 5) All incurred collections fees, including late fees, attorney's fees, interest and lien related fees will be applied to the owners account.
- 6) The payment of such charges does not relinquish the Association's right to file for injunctive relief against violations that remain non-compliant.
- 7) Should the violations from the Formal Hearing come into compliance and the Formal Hearing Charges have not been paid, normal collections procedures established in the "Collections Policy" dated February, 23,2017 shall apply. (June 25, 2020)

28. GARDEN CLUB USE OF LOGO

Motion was duly made, seconded and unanimously carried that the Garden Club be allowed to use the Kiln Creek logo on their shirts. (February 19, 1997)

29. GUIDELINES FOR ELECTRONIC MEETINGS/VOTING

See Exhibit A-8 below.

30. INVESTMENT POLICIES

Motion was duly made, seconded and unanimously carried that all accounts open with financial institutions using the name "Kiln Creek" shall require the prior approval of the Board of Directors. All accounts being closed with a financial institution, using the name "Kiln Creek" requires the prior approval of the Board of Directors. All accounts with a financial institution having a Maturity Date, with or without penalty, require the prior approval of the Board of Directors. This approval is for the creation of any deposit accounts as well as the renewing or transferring of funds.

Unless otherwise required by the individual financial institution, the signature for all money market and checking accounts shall have the names of the Director of Operations, the Operating Manager and the four officers of the Kiln Creek Board of Directors. All such accounts, other than the petty cash and payroll accounts shall require the signature of two (2) individuals mentioned above, one of which must be an officer.

Also, unless otherwise required by the individual financial institution, the signature for all “time deposit accounts” shall have the names of the four officers of the Kiln Creek Board of Directors. All such accounts shall require the signature of two (2) officers to open, close, transfer, or withdraw funds.

31. SUB-ASSOCIATION ENTRANCE MAINTENANCE

Motion was duly made, seconded and unanimously carried that the routine maintenance items shown below shall be the responsibility of the Villages of Kiln Creek Owners Association and the non-routine maintenance items shall be the responsibility of the sub-association. In addition, it is hereby noted that while the staff will use care to keep any overspray off of the perennials (i.e., strong irrigation spray, chemicals, fertilizers, etc.) the association will not be responsible for replacing plants that are damaged during routine maintenance.

Note: This motion supercedes the February 16, 2000 motion regarding sub-association entrance maintenance. (July 21, 2004)

**Routine Maintenance:**

- Pruning and care of the holly bushes and river birches.
- Mulching two times per year according to the schedule set by the superintendent of maintenance.
- Planting of annuals two times per year according to the schedule set by the superintendent of maintenance.
- Grass mowing.
- Edging and weed removal of landscaped beds.
- Leaf removal.

**Non-Routine Maintenance:**

- Maintenance and care of the 200 perennial plants.
- Maintenance and care of the ponds.

32. MEMBER RIGHT TO VOTE AND/OR SERVE

- A. SUPERCEDED BY ANNUAL ELECTION POLICIES & PROCEDURES  
Effective November 19, 2020 as described in Exhibit A-6.

- B. Motion was duly made, seconded and unanimously carried to accept the following Policy pertaining to a member's right to serve on a Neighborhood Advisory Board: Members must clear delinquent accounts and assessments in order to serve on a Neighborhood Advisory Committee. (March 1, 2005)
33. MEMBER COMMUNICATION POLICY – See Exhibit A-7 below
34. MINUTES STYLE  
Motion was duly made, seconded and unanimously carried to go to resolution style minutes. (January 19, 1994)
35. MINUTES VOTE ABSTENTION  
Motion was duly made, seconded and unanimously carried to reflect abstentions as a non-unanimous vote (i.e., 7 ayes, 1 abstention) in future minutes and that Board members be required to state the reason for any abstentions with the reason being recorded in the minutes. (March 15, 2000)
36. NEIGHBORHOOD/CLUB/GROUP USE OF REC CENTER FACILITIES  
See Exhibit A-2 (October 27, 2022)
37. NON-SUFFICIENT FUND FEES  
In the instance the Association is notified by a bank of a returned payment by a homeowner, a \$50 Processing Fee will be immediately charged to the owner's account with the Association, along with the value of the returned payment. (November 15, 2016)
38. OPERATING PROCEDURES FOR ADVISORY COMMITTEES 12.17.2015  
See Exhibit A-1
39. PAYMENT PLANS

- WDR  
CZ
- 1) The Director of HOA Operations is granted the authority to approve or deny payment plans on a case by case basis prior to being turned over to collections; *In the event a payment plan is approved:*
  - 2) All owners are subject to finance/interest fees of 3% per month, of the entire unpaid balance on their account, in excess of 30 days. The finance/interest fees will be charged to the account on a monthly basis.
  - 3) Owners on payment plans shall pay at minimum by the 1<sup>st</sup> of each month, THE SUM of:
    - a. The full amount of the current month's Association and Sub-Association Assessments, PLUS,
    - b. The full amount of 3% interest on the total delinquent balance, PLUS,
    - c. Any dollar amount equal to or larger than \$20 towards the delinquent balance owed;
  - 4) If payment is not received by the 1<sup>st</sup> of each month,
    - a. The Kiln Creek Owners Association will proceed with collection procedures and any and all information obtained will be for the benefit of collecting said debt;
    - b. No future payment plans will be accepted by the same owner;
    - c. A 5% late fee will be added back to the account for months the Assessments were not paid on the payment plan;
  - 5) Approved payment plans shall be paid in full within 3 years; no payment plan shall exceed 3 years;

ADOPTED by the Board of Directors for The Villages of Kiln Creek Owners Association this

21 day of December, 2017.

40. RECORDS REQUESTS (Books and Records of the Association)

See Exhibit A-4

41. RECREATION CENTER – EMPLOYEE USE

Staff See Employee Handbook

42. RECREATION CENTER RENTAL – TENANTS

Motion was duly made, seconded and unanimously carried to adopt a policy that the “Attachment to Lease” be required for a tenant renting the Recreation Center.

43. REMOVAL OF PLANT MATERIAL FROM COMMON AREA

Motion was duly made, seconded and unanimously carried that trees and plant life will not be removed by the association from the parks, lake banks, streetscapes, common areas or neighborhood common areas unless it can be established that there is an immediate threat to the health, safety and welfare of the lot owner. Neighborhood boards desiring to alter their neighborhood common area(s) are hereby reminded that any exterior alteration requires an application be made to the Architectural Review Board. (April 11, 2002)

44. RETURN OF CREDIT BALANCE

Credit balances on an owners account may be returned to the owner or payee of such funds (realtor/tenant, etc.) as authorized by the owner, so long as the credit balance

reached a dollar amount equivalent to or larger than one month of General Assessments (August 25, 2016)

45. REZONING COMMUNICATIONS

Motion was duly made, seconded and unanimously carried that the Board of Directors hereby appoints the Association's legal council, Elizabeth L. White, Esq., to be the sole point of contact and spokesperson to interact, with such developer and no board member or staff person shall communicate with such developer, its representatives, employees or contractors with respect to such proposed development, unless such communication is expressly authorized by Board resolution. (April 24, 2007)

46. RIGHTS AND RESPONSIBILITIES FOR BETTER COMMUNITIES

Motion was duly made, seconded and unanimously carried to accept the following policy resolution: (April 10, 2006)

See Exhibit A-3

47. SEWER BACK-UP PROCEDURE

Motion was duly made, seconded and unanimously carried to accept the following policy:

In the event that there is a sewer back up for the three villages, Lakeside, South Lake or Claymill the following procedure shall be the standard for responding to these emergencies.

In response to Sewer Back-ups, we should follow the same policy as the city and county does. If the blockage is found from the curb out, it will be the Association and/or city's responsibility to maintain. If the blockage is found from the curb to the house it is the homeowner's responsibility to have repaired.

Standard policy for sewage back-ups shall be that homeowner must contact plumbing company to have blockage cleared, as there is no plumber on our staff. Line must be scoped to find out exactly where blockage is located. This will inform the Master Association of who is responsible for the repair. Master Association will not take a written report from any plumbing company as to where the blockage was found. A video tape of the scoping must accompany the invoice. If the blockage is found to be village's responsibility, we will then reimburse homeowner for costs.

The board does not endorse or recommend any of the contractors listed below, however they have done work on the property in the past and have completed the jobs in a satisfactory manner. (May 17, 2006)



48. STANDARDS OF CONDUCT POLICY

Motion was duly made, seconded and unanimously carried to accept the following Standards of Conduct Policy and distribute it to the homeowners:

The Villages of Kiln Creek Owners Association (“VKCOA”) is dedicated to providing an atmosphere to all employees, agents and residents that is free of harassment and intimidating conduct. All contact between the residents and the Director of Operations and VKCOA’s employees and contractors (hereinafter “Agents”) shall be conducted in a courteous and professional manner. VKCOA policy prohibits any and all harassing, demeaning, intimidating or abusive conduct in regard to any contact or interaction between the residents and the Director of Operations and VKCOA’s employees, or contractors. In addition, the VKCOA is an equal opportunity employer and strives to provide a workplace to all of its employees which is free of any workplace harassment based on race, color, religion, sex, national origin, age, disability, veteran’s status, or any other factor covered by federal, state or local law. In pursuit of this policy, VKCOA endeavors to curb harassment of any of its agents by non-employees and residents during the performance of their duties on behalf of VKCOA. Any conduct that violates this policy will not be tolerated by VKCOA. This policy applies to all residents, the Director of Operations, and all employees and contractors of VKCOA. In accordance with the foregoing policy, the following guidelines are established:

1. Residents shall conduct themselves in a polite, courteous and professional manner at all times when interacting or conversing with any agent. Conduct that is obscene, abusive, demeaning, derogatory or intimidating will not be tolerated. Residents shall not make any threats, either verbal or physical, to any agent. In addition, residents are prohibited from making any statements or comments to any agent which are demeaning or derogatory based on race, color, religion, sex, age, national origin, disability or any other factor covered by federal, state or local law. In the event a resident disagrees with any comments or advice offered by an agent, the resident’s sole means of regress is to ask to be placed on the agenda for the next VKCOA Board meeting, at which point the resident shall have an opportunity to present his grievance to the Board. Residents are not to place repeated, harassing phone calls to the Association office. In the event that a resident continues to place harassing phone calls to the Director of Operations, the Director of Operations shall refuse to accept such calls. The agents are hereby directed to report any conduct by any resident that violates this policy to the VKCOA Board of Directors for appropriate handling.

a. In the event a resident subjects an agent to conduct which violates this policy, the agent shall inform the resident that the conduct is inappropriate and such conduct will not be further tolerated. The agent shall then terminate any and all contact with the resident and report the conduct to the Director of Operations or the Board. The resident shall then be required to forward any further discussion or comments to the VKCOA Board, in writing. Until the VKCOA Board addresses all issues contained in the written statement of the resident, the resident shall not attempt to

have any further contact with the Director of Operations or any other agent to discuss the issues any further. Thereafter, the resident will only be allowed to contact the Association office so long as the contact remains courteous, polite, and professional. The Director of Operations has discretion to discontinue all future contact with any resident who demonstrates that they are unable to comply with this policy. In that event, the Director of Operations shall inform the resident, in writing, that all future contact and discussion regarding VKCOA business shall be carried out directly between the resident and the VKCOA Board, and further informing the resident that there shall be no further contact with the Association office or any agents.

2. The agents shall conduct themselves in a polite, courteous and professional manner at all times when interacting with the residents. The agents shall not engage in any conduct which is obscene, demeaning, derogatory or intimidating to any resident. Agents shall attempt to address all resident concerns in a professional manner free of unnecessary criticism. In the event a resident feels that he has been subjected to any conduct by the agents which is obscene, demeaning, derogatory or intimidating, he shall report such conduct to the VKCOA Board of Directors in writing, directed to the Association, to the attention of the Board, for appropriate handling. Residents shall not take any retaliatory actions against the agents.
3. Repeated harassing or abusive telephone calls by residents to the Association office or any agent shall not be tolerated. In the event any resident continues to place harassing or abusive telephone calls to the Director of Operations, the Director of Operations or any other agent shall have the right to refuse any further calls from that resident.
4. In the event that any resident physically threatens any agent, or violates any federal, state or local law in regard to conduct directed at an agent, appropriate legal action may be taken.

Note: This motion supercedes the October 18, 2000 motion regarding the Standards of Conduct Policy. (July 21, 2004)

49. SURVEILLANCE VIDEO POLICY (June 28, 2018)

See exhibit A-5

50. SWIMMING POOL RENTAL

Motion was duly, seconded and carried with a unanimous vote that the Kiln Creek swimming pool (Rec Center Pool) shall not be rented for private parties. (June 20, 2007)

51. TRANSFER FEE

Motion was duly made, seconded and carried to approve increase of transfer/capital contribution fee to \$1500 as part of the 2023 proposed budget. (October 27, 2022)

52. USE OF COMPANY TRUCK

Motion was duly made, seconded and unanimously carried that the maintenance superintendent shall no longer be allowed use of the company truck to drive to and from work. The trucks will only be used for official company business.  
(January 21, 1998)

## **EXHIBIT A-1**

### **12.17.15 Policy Resolution: Amendment of Operating Procedures for Advisory Committees**

#### RECITALS:

The Board of Directors on behalf of the Association has the authority to create various Committees and appoint members to such committee; upon which, members of the Board of Directors may be appointed. The Board of Directors desires to adopt certain procedures and amend the previous procedures for these Committees to adhere to in reference to the number of Directors permitted to be appointed to any such committee.

### **OPERATING PROCEDURES FOR ADVISORY COMMITTEES**

#### **1. PURPOSE**

The purpose of these Operating Procedures is to provide for the operation of all Advisory Committees of the Association.

#### **2. DEFINITIONS**

Unless otherwise indicated, defined terms used herein shall have the meaning set forth in the Association's Declaration of Covenants and Restrictions, as amended (the "Declaration"), Supplemental Declarations, as amended, for individual Neighborhoods, (each a "Supplemental Declaration"), (collectively the Declaration and Supplemental Declaration for all Neighborhoods are hereinafter referred to collectively as the "Covenants,"), the Articles of Incorporation, the Bylaws, the Architectural Review Board ("ARB") Guidelines and such additional policies, rules and regulations as adopted from time to time by the Board of Directors. As used herein, the term "Governing Documents" means collectively the Covenants, the Articles of Incorporation, the Bylaws, the ARB Guidelines and such additional rules and regulations as adopted from time to time by the Board of Directors.

#### **3. FORMATION OF ADVISORY COMMITTEES**

The Board of Directors (hereinafter "Board") shall establish such Advisory Committees as it deems necessary for carrying out its purposes. Such Advisory Committees shall be permanent (hereinafter "Standing Committees") or temporary (hereinafter "Special Committees"). The composition and duration of Standing or Special Committees shall be within the sole discretion of the Board of Directors.

#### **4. STANDING COMMITTEES**

The Association shall have the following Standing Committees: **Communications Committee, Swim Team Committee, Neighborhood Advisory Boards**, and such other committees as the Board of Directors may establish and appoint from time to time.

**5. SPECIAL COMMITTEES**

The Board of Directors may, in its discretion, form and appoint Special Committees from time to time.

**6. COMPOSITION**

a. Advisory Committee Composition

Each Committee shall consist of no fewer than two (2) members.

Each Committee shall have no more than four (4) Directors serving as members of the committee.

b. Advisory Committee Positions

At a minimum, the positions of members serving on each Advisory Committee shall consist of a Chair and a Recording Secretary. The Chair and Recording Secretary shall be selected annually by a majority vote of the committee members of each respective Advisory Committee. The Advisory Committee Chair shall oversee the Advisory Committee and ensure that the committee's Advisory duties are carried out. The Recording Secretary shall be responsible for maintaining all Advisory Committee records, maintaining the minutes and attendance of Advisory Committee meetings, publications, announcements and other duties as may be assigned.

**7. APPOINTMENT & REMOVAL OF ADVISORY COMMITTEE MEMBERS**

a. Eligibility for Advisory Committee

To be eligible to be appointed to and/or to serve on any Advisory Committee, Members and their Lots must be in financial good standing as indicated on the books and records of the Association and committee members must remain in good standing during the term of the committee member. In addition, to be eligible for service, a committee member's Lot must not be in violation of the Governing Documents during the committee member's term. Finally, Members wishing to serve on any Advisory Committee must not be involved in a dispute with the Association at the time they seek appointment or at any time during their term.

b. Appointment

Unless provided otherwise in the respective Advisory Committee Charters, appointment to Standing Committees shall be made by November of each year or within a reasonable amount of time after a vacancy occurs on an Advisory Committee. Appointment to Special Committees shall be made from time to time at the discretion of the Board of Directors.

c. Term

Advisory Committee members shall serve for terms at the discretion of the Board of Directors. The Board of Directors may seek input from the Advisory Committees as to the practical considerations for establishing terms. Unless provided otherwise in the respective Advisory Committee Charters (or in the case of a mid-term vacancy), terms shall commence on January 1 of each year. Advisory Committee members may serve a total of two (2), three-year (3-year) terms, unless extended by the Board of Directors. Whenever possible, terms should be staggered for continuity purposes. Vacancies occurring between regular term expirations may be filled by the Board of Directors and Members who are so appointed shall serve the remainder of the committee member's term.

d. Resignation

An Advisory Committee member may resign at any time by delivering written notice to the Board of Directors, its President, or Secretary and copying the Advisory Committee Chair. A resignation is effective when the notice is delivered unless the notice specifies a later effective date. If a resignation is made effective as of a later date, the Board of Directors may fill the pending vacancy before the effective date if the Board of Directors provides that the successor does not take office until the effective date.

e. Removal

All Advisory Committee members serve at the pleasure and discretion of the Board of Directors. Advisory Committee members may be removed by the Board of Directors at any time for any reason with or without cause.

**8. ADVISORY COMMITTEE RESPONSIBILITIES**

a. Advisory Duties

The Advisory Committees have no policy-making authority. Only the Board of Directors may establish and approve policy. Advisory Committees shall advise the Board of Directors on various aspects of the Association's operations as directed by the Board of Directors. Advisory Committees appointed by the Board of Directors shall not have any of the powers and duties invested by law or the Governing Documents in the Board of Directors, but shall act in an advisory capacity only. The Advisory Committees shall have no role or authority beyond that which is set forth in these Operating Procedures and within the individual Advisory Committee Charters.

b. No Authority to Contract

All contracts must be approved and signed by an authorized officer of the Association in accordance with the Association's policies for contracts to which the Association is a party. No Advisory Committee or committee members shall participate in the solicitation of contract bids without the prior consent of the Board of Directors. Under no circumstances shall

Advisory Committees enter into contracts, including, without limitation, insurance contracts, or incur financial obligations by or on behalf of themselves and/or the Association. Further, in the case of any concerns pertaining to a contractor or sub-contractor, or concerns with governmental agencies, committee members shall contact the Association Manager to address the situation. At no time shall any committee member contact a contractor or sub-contractor, **as a representative of the Association**, without first contacting the Association Manager and receiving permission from the Board of Directors.

c. No Authority to Hire or Supervise Association Employees

All hiring of employees shall be conducted by the Association Manager in accordance with the Association's employment policies and procedures. No Advisory Committee or Committee members shall participate in the hiring and/or supervision of Association employees.

d. Conflicts of Interest

Advisory Committee members shall disclose perceived or potential conflicts of interest regarding any aspect of the business operations of their respective Advisory Committee and/or the Association. Advisory Committee members shall avoid participation in transactions in which a perceived, potential, or actual conflict of interest exists.

**9. MEETINGS**

a. Meeting Requirements

All Advisory Committees shall meet regularly or as provided in the individual Advisory Committee Charter. Further, unless as provided otherwise in the individual Advisory Committee Charter, Advisory Committee members shall attend a minimum of seventy-five percent (75%) of Advisory Committee meetings. A meeting may be conducted by telephone or video-conference or other similar electronic means. If a meeting is conducted by telephone, video or electronic means, at least two (2) members of the Advisory Committee shall be physically present at the meeting place indicated by the Notice (as defined in Paragraph c below). The audio equipment shall be sufficient for any member in attendance to hear what is being said. Minutes shall be maintained using the Standard Combined Form for Advisory Committee Minutes / Meeting Report, attached hereto as Exhibit 1.

b. Open Meeting Requirements

All Advisory Committees shall comply with the open meeting requirements set forth in the Virginia Property Owners Association Act.

c. Notice of Advisory Committee Meetings

Notice of the time, date and place of each meeting of the Advisory Committees shall be published where it is reasonably calculated to be available to a majority of the Lot



Owners. Notice, reasonable under the circumstances, of Special Meetings shall be given contemporaneously with the notice provided to the members of respective Advisory Committee conducting the meeting.

c. Quorum

A quorum of an Advisory Committee shall be a majority of its voting members.

d. Advisory Committee Reports

The Advisory Committee shall complete and deliver an Advisory Committee Meeting Report using the Standard Combined Form for Advisory Committee Minutes / Meeting Report, attached hereto as Exhibit 1, to the Association Recording Secretary at the Association Offices, no later than the deadline established by the Board of Directors for inclusion in the Board of Directors meeting packages. Further, at least one Advisory Committee representative shall attend each regularly scheduled Board of Directors meeting and present the most recent Advisory Committee Report unless otherwise specified in the respective Advisory Committee charter.

**10. AMENDMENTS TO THESE PROCEDURES**

These procedures may be amended, in whole or in part, only by resolution adopted by the Board of Directors.

## EXHIBIT A-2

### 10.27.2022 Policy Resolution for Neighborhood/Club/Group Use of Association Facilities and use of email blasts, reader boards and Association funds

#### RECITALS:

The Association has 31 Neighborhoods, which from time to time require a meeting place; the Association also has bridge clubs, garden clubs, art clubs, social groups, book clubs and other various Clubs/groups that need a meeting place. These Neighborhood meetings and Clubs/groups provide a sense of togetherness throughout the community. The Board of Directors (the Board) desires to adopt certain procedures for these Neighborhoods and Clubs/groups to adhere to when requesting to book and use the Rec. Center facilities free of charge, as follows:

#### Neighborhood Meeting Use:

1. Facilities will be limited to Rec Center Use Only. Use of KCGC&R facilities will be at the same rate and availability as for public use.
2. Neighborhoods shall be permitted to use the Rec Center for 1 meeting date a month, Mondays through Thursdays only, for required Sub-Association meetings.
3. Other neighborhood events such as holiday parties, neighborhood get-togethers, etc. will be permitted one day/evening a year Monday through Thursday only. Neighborhoods may only reserve weekend dates if facility is available one week in advance.
4. Each neighborhood shall contact the KC Golf Club & Resort at 757-874-2600 to seek availability for their meeting date and time. If available, the staff will approve the use of the facilities for that time.
5. The use of the facility depends on availability. If the space has previously been booked by KCOA or a paying party, the neighborhood should consider another date. Once the neighborhood has booked the date, every effort will be made not to move/cancel the meeting, as the Board recognizes how hard it is to set meetings. If, however, the recreation center is needed, the neighborhood will be given notice at least 10 days in advance to cancel their meeting. If emergency repairs of the facilities are needed, the neighborhood meeting may be cancelled without prior notification and we will make every effort to provide another space if possible.
6. The neighborhood meeting date & time will be posted in the newsletter and/or Friday email blast.
7. Each neighborhood is responsible for returning the facility to its original condition after each meeting. This includes sweeping and mopping the floors as necessary, removing items that are brought by the neighborhood to the facility, emptying the trash cans inside the rec. center upon their departure. Any materials left behind will be discarded. Thermostat should be returned at the end of the meeting to 65 degrees October-March or 75 degrees April-September.

8. The Association will provide tables and chairs for use; however, the neighborhood is permitted to bring their own.
9. A representative of the group shall call or stop by the Resort by 5:00pm the day before the event to obtain the door code and entrance procedures.

### **Club/Group Use:**

1. Each Club/group shall apply once a year to the Board to request use of the facilities, stating the basis of the Club/group and the dates they intend to use the facilities. Facilities will be limited to Rec Center use only. The use of KCGC&R facilities will be at the same rate and availability as for public use. Approvals for use of the Rec Center Facilities will be under the discretion of the Board and will be made on a case by case basis.
2. The use of the Rec Center depends on availability. If the recreation center is needed by KCOA or by a paying party, the Club/group will be given notice at least seven (7) days in advance to cancel their Club/group for a particular date. If emergency repairs of the facilities are needed, the Club/group meeting may be cancelled without prior notification.
3. The Board of Directors will try its best to accommodate each Club/Group to meet at least once a month.
4. Each Club/Group shall be open to every member of the Association regardless of age, race, color, national origin, religion, sex, familial status, or disability.
5. Each Club/Group shall follow all Fair Housing laws.
6. Each Club/Group meeting date and time will be posted in the newsletter and/or website.
7. The KCOA office will provide each Club/Group with at least 1, but no more than 3 email blasts for such groups events upon request. Email blasts will only be made in conjunction with a pre-scheduled blast. (i.e.: no blast will be sent if the request is made the day of the event and there was not a planned blast prior to the request)
8. The KCOA office will try its best to accommodate the use of the reader boards along thoroughfares to announce Club/Group meetings upon request. It is under the discretion of the office staff to determine if content is appropriate and if there is any space to display announcement. KCOA events and notices will have priority; if there is no space, we will be unable to accommodate the request. If the announcement is appropriate and there is space, Club/Group announcements will only be displayed on interior reader boards, not at main entrances.
9. The Association will not provide any food, drinks or supplies in conjunction with the Clubs/Groups events.
10. The Association will not pay for any expenses nor will they offer any door prizes or honorariums in conjunction with the Clubs/Groups events.
11. Each Club/Group will provide a list of members residing in Kiln Creek and a specific Chairperson for the Club/group; stating names, addresses and phone numbers. Each member may be permitted to invite up to two (2) non-residents to accompany them at any given meeting.

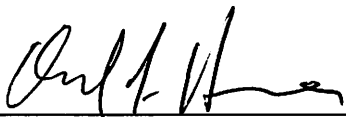
12. Each Club/group is responsible for returning the facility to its original condition after each activity. This includes sweeping and mopping the floors as necessary, removing items that are brought by the Club/group to the facility, and emptying the trash cans inside the rec. center upon their departure. Any materials left behind will be discarded. Thermostat should be returned at the end of the meeting to 65 degrees October-March or 75 degrees April-September.
13. The Association will provide tables and chairs for use; however, the Club/Group is permitted to bring their own.
14. A representative shall call or stop by the Resort prior to each meeting to obtain the door code.

NOW, THEREFORE, BE IT:

RESOLVED, that the board of directors recognizes the need for Neighborhoods and certain Clubs/groups to use the Rec. Center facilities free of charge and adopts the foregoing policy regarding its use; and

RESOLVED, that the foregoing policy shall continue to be in effect until such time as this policy resolution is rescinded, modified, or amended by a majority of the Board of Directors.

IN WITNESS WHEREOF, the Board of Directors of The Villages of Kiln Creek Owners Association has adopted the foregoing policy resolution upon motion duly made, seconded and carried unanimously on this 27<sup>th</sup> day of October, 2022 at a duly called and properly noticed meeting of the board of directors at which a quorum was present, to supersede the prior policy from September 22, 2016.



David Hause  
Secretary, KCOA

**PLEASE FILL OUT FOR CLUB/GROUP USAGE**

Club/group Name \_\_\_\_\_

Approved By Board of Directors on \_\_\_\_\_ (date)

Day/Date/Time of Approved Usage of Rec. Center \_\_\_\_\_

Acknowledged by Chair of Club/group \_\_\_\_\_

Signed Name

Printed Name

COMMUNITY ASSOCIATIONS INSTITUTE

# Rights and Responsibilities for Better Communities

## *Principles for Homeowners and Community Leaders*

### Homeowners Have the Right To:

1. A responsive and competent community association.
2. Honest, fair and respectful treatment by community leaders and managers.
3. Participate in governing the community association by attending meetings, serving on committees and standing for election.
4. Access appropriate association books and records.
5. Prudent expenditure of fees and other assessments.
6. Live in a community where the property is maintained according to established standards.
7. Fair treatment regarding financial and other association obligations, including the opportunity to discuss payment plans and options with the association before foreclosure is initiated.
8. Receive all documents that address rules and regulations governing the community association—if not prior to purchase and settlement by a real estate agent or attorney, then upon joining the community.
9. Appeal to appropriate community leaders those decisions affecting non-routine financial responsibilities or property rights.

### Homeowners Have the Responsibility To:

1. Read and comply with the governing documents of the community.
2. Maintain their property according to established standards.
3. Treat association leaders honestly and with respect.
4. Vote in community elections and on other issues.
5. Pay association assessments and charges on time.
6. Contact association leaders or managers, if necessary, to discuss financial obligations and alternative payment arrangements.
7. Request reconsideration of material decisions that personally affect them.
8. Provide current contact information to association leaders or managers to help ensure they receive information from the community.
9. Ensure that those who reside on their property (e.g., tenants, relatives, friends) adhere to all rules and regulations.

### Community Leaders Have the Right To:

1. Expect owners and non-owner residents to meet their financial obligations to the community.
2. Expect residents to know and comply with the rules and regulations of the community and to stay informed by reading materials provided by the association.
3. Respectful and honest treatment from residents.
4. Conduct meetings in a positive and constructive atmosphere.
5. Receive support and constructive input from owners and non-owner residents.

6. Personal privacy at home and during leisure time in the community.
7. Take advantage of educational opportunities (e.g., publications, training workshops) that are directly related to their responsibilities, and as approved by the association.

### Community Leaders Have the Responsibility To:

1. Fulfill their fiduciary duties to the community and exercise discretion in a manner they reasonably believe to be in the best interests of the community.
2. Exercise sound business judgment and follow established management practices.
3. Balance the needs and obligations of the community as a whole with those of individual homeowners and residents.
4. Understand the association's governing documents and become educated with respect to applicable state and local laws, and to manage the community association accordingly.
5. Establish committees or use other methods to obtain input from owners and non-owner residents.
6. Conduct open, fair and well-publicized elections.
7. Welcome and educate new members of the community—owners and non-owner residents alike.
8. Encourage input from residents on issues affecting them personally and the community as a whole.
9. Encourage events that foster neighborliness and a sense of community.
10. Conduct business in a transparent manner when feasible and appropriate.
11. Allow homeowners access to appropriate community records, when requested.
12. Collect all monies due from owners and non-owner residents.
13. Devise appropriate and reasonable arrangements, when needed and as feasible, to facilitate the ability of individual homeowners to meet their financial obligations to the community.
14. Provide a process residents can use to appeal decisions affecting their non-routine financial responsibilities or property rights—where permitted by law and the association's governing documents.
15. Initiate foreclosure proceedings only as a measure of last resort.
16. Make covenants, conditions and restrictions as understandable as possible, adding clarifying "lay" language or supplementary materials when drafting or revising the documents.
17. Provide complete and timely disclosure of personal and financial conflicts of interest related to the actions of community leaders, e.g., officers, the board and committees. (Community associations may want to develop a code of ethics.)



Community Associations Institute (CAI) is a national organization dedicated to fostering vibrant, responsive, competent community associations. Founded in 1973, CAI represents association-governed communities, such as condominium and homeowner associations, cooperatives, and planned communities. To learn more about CAI and its local, regional and state chapters, visit [www.caionline.org](http://www.caionline.org) or call CAI Direct at 703-548-8600.

Sponsored by CAI President's Club

**EXHIBIT A-4**  
**VILLAGES OF KILN CREEK OWNERS ASSOCIATION**

**RECORDS REQUEST POLICY RESOLUTION**

**Effective Date:** 3/28/19

***Definitions:***

**Records:** Documentation of the Association which consists of books and records, as such term is legally defined under applicable Virginia law, including without limitation, the Virginia Property Owners Association Act and the Virginia Nonstock Corporation Act, excluding Records subject to withholding and/or redaction as provided by applicable law.

***Purpose of Policy:***

To ensure Owners are aware of the required procedures for such requests and the time and related costs associated with an Owner's request to examine and/or copy Records of the Association, and that they will be subject to audio and/or video recording while reviewing Records in the Association's offices.

***Scope:***

This policy applies to all Owners who request to examine and/or copy books and records of the Association.

***Procedures:***

- a) Association records requests shall be made in writing on the appropriate "Association Records Request" form provided by the Association office.
- b) Management, at its discretion, may present any records requests to legal counsel for review.
- c) All records requests must identify the specific records requested and the request must state and be for a proper purpose relating to the Owner's membership in the Association.
- d) Upon the Association's receipt of a fully completed records request from an Owner in good standing, the Association shall provide the Owner with the Association's cost schedule which shall specify the charges for material and labor, including without limitation, the cost of copies and time spent researching records and/or redacting records for the Owner's examination.
- e) All labor will be tracked starting from the time of the original request, through the entire process, until completion of compiling the requested Records. Owners will be charged labor costs as stated in the attached cost schedule (exhibit A). **These charges must be paid in full PRIOR to being provided any documentation for review.** The Owner will be informed of the charges in their official response from the Association. At the time that the records are made available to the Owner for inspecting and/or copying, the requesting Owner's prepayment of charges will be adjusted to reflect the actual cost of providing the documents.
- f) Owners must remain at the Association office while reviewing the records that are provided and shall keep such records in the order and condition provided. Available office hours are Monday-Friday 8am-5pm.

***Definitions:***

**Records:** Documentation of the Association which consists of books and records, as such term is legally defined under applicable Virginia law, including without limitation, the Virginia Property Owners Association Act and the Virginia Nonstock Corporation Act, excluding Records subject to withholding and/or redaction as provided by applicable law.

***Purpose of Policy:***

To ensure Owners are aware of the required procedures for such requests and the time and related costs associated with an Owner's request to examine and/or copy Records of the Association, and that they will be subject to audio and/or video recording while reviewing Records in the Association's offices.

***Scope:***

This policy applies to all Owners who request to examine and/or copy books and records of the Association.

***Procedures:***

- a) Association records requests shall be made in writing on the appropriate "Association Records Request" form provided by the Association office.
- b) Management, at its discretion, may present any records requests to legal counsel for review.
- c) All records requests must identify the specific records requested and the request must state and be for a proper purpose relating to the Owner's membership in the Association.
- d) Upon the Association's receipt of a fully completed records request from an Owner in good standing, the Association shall provide the Owner with the Association's cost schedule which shall specify the charges for material and labor, including without limitation, the cost of copies and time spent researching records and/or redacting records for the Owner's examination.
- e) All labor will be tracked starting from the time of the original request, through the entire process, until completion of compiling the requested Records. Owners will be charged labor costs as stated in the attached cost schedule (exhibit A). **These charges must be paid in full PRIOR to being provided any documentation for review.** The Owner will be informed of the charges in their official response from the Association. At the time that the records are made available to the Owner for inspecting and/or copying, the requesting Owner's prepayment of charges will be adjusted to reflect the actual cost of providing the documents.
- f) Owners must remain at the Association office while reviewing the records that are provided and shall keep such records in the order and condition provided. Available office hours are Monday-Friday 8am-5pm.



- g) Owners are subject to being audio and/or video recorded while reviewing the records.
- h) Owners shall not disseminate Association books and records or make any part thereof publicly available. Owners shall not post or recopy such records on any public forum.
- i) Should an Owner request copies of the records provided, copies will be provided at the cost provided in the attached fee schedule (exhibit A). The cost for copies must be paid in full prior to the Association providing the copies.
- j) Failure to follow the requirements of this policy may result in legal or other disciplinary action by the Association against the responsible party.

***Responsibilities:***

Association :

- a) The General Manager, HOA Director and any necessary staff are responsible for providing records requests to legal counsel in an appropriate time frame.
- b) The General Manager and HOA Director are responsible for managing and coordinating compilation of requested records within the timeframe specified in the Virginia Property Owners' Act Section 55-510.
- c) The HOA Director is responsible for mailing the Association's response to the requesting owner.
- d) The HOA Director will review this policy from time to time as deemed necessary and provide recommendations regarding changes to the cost schedule to the Board for approval.

Members/Owners:

- a) Owners are responsible for submitting all required information and completing all portions of the Association's records request form in a manner that is clear, concise and legible and that reasonably identifies the specific records being requested.
- b) Owners requesting records must state their purpose for requesting the specific records.
- c) Owners acknowledge that the Association has up to 10 business days after its receipt of an Owner's records request to produce and, if applicable, redact, the requested records, and an Owner's review of same shall be conducted during business hours.
- d) By submitting a records request, an Owner acknowledges and agrees that records reviewed by such Owner and/or copied for such Owner are for that Owner's personal use and such Owner must safeguard all Association records that are in their possession.

## EXHIBIT A-5

### SURVEILLANCE VIDEO POLICY RESOLUTION

***Definitions:***

**Reception equipment:** any device capable of capturing and/or recording images, including audio and thermal imaging devices.

**Video Surveillance System:** refers to a video, physical, or other mechanical, electronic, digital, or wireless surveillance system or device that enables continuous or periodic video recording, observing or reviewing of specific locations on Kiln Creek Homeowners Association property/easements and buildings, and the actions of individuals in those locations.

***Purpose:***

This purpose of this policy is to regulate the use of video surveillance and recording throughout Kiln Creek Homeowners' Association common property/easements and buildings.

Information obtained through video surveillance will be used for the deterrence or detection of criminal activity, including theft, vandalism, or other property damage and will be used as a means of identification in the event of damage or criminal activity.

***Scope:***

This policy applies to all video surveillance cameras installed throughout the Kiln Creek Community by the Association, and whose presence is detailed on posted signage, and is exclusive of personal surveillance equipment installed by residents.

Video surveillance may be used to review exterior and interior areas of Kiln Creek Homeowners' Association common property/easements and buildings where there is no reasonable expectation of privacy.

Video surveillance is to be used as a tool of the Association and management, **not** as a service provided to the members.

***Policy Statement:***

Video surveillance of HOA premises will be conducted in a professional, ethical, and legal manner, in accordance with the following principles:

- a) Video surveillance must be conducted in accordance with local, state, and federal laws;

- b) Video surveillance will be used only where it is demonstrably necessary for deterrence of theft or destructive acts, such as vandalism and property damage. Video surveillance will also be used for Association personnel matters.
- c) Video surveillance will be used only by the Kiln Creek Homeowners' Association staff as authorized by the General Manager, HOA Director or Board of Directors.
- d) Appropriate signs and notice of video surveillance must be posted in areas subject to video monitoring;
- e) Employees and video service provider(s) will have access to information collected through video surveillance only where necessary in the performance of their duties and in accordance with the provisions of this Policy.
- f) Employees and video service providers who may require access to information collected through video surveillance will be provided proper training and orientation with regards to this Policy and their obligations under this Policy. Any employee who knowingly or deliberately breaches this policy or the Act will be subject to discipline up to and including termination. Failure of a video service provider to comply with this policy or the Act will constitute breach of contract and may result in termination of contract and legal action.
- g) The recording medium must be handled in a manner that maintains the integrity and security of the recorded information;
- h) All recorded information shall be destroyed (or recorded over) after 14 days excepting information specifically awaiting review by law enforcement agencies, information seized as evidence, or information that has been duplicated for use by law enforcement agencies or for Association management purposes.
- i) Due to the legal implication of surveillance, video footage will *only* be turned over to law enforcement, or to any other party in the event of a subpoena.
- j) Reception equipment locations and operation shall be limited to visual access of areas where there is no reasonable expectation of privacy. Video surveillance for the purpose of monitoring work areas, social areas, or sensitive areas will only occur in special circumstances, and must be consistent with the policy's principle purpose, which include the prevention/deterrence of illegal activity;
- k) When video surveillance footage is being displayed by authorized employees on a video monitor, the monitors will be in a position that cannot be viewed by others.
- l) The video surveillance system will be subject to periodic audit.

***Responsibilities:***

The General Manager, HOA Director and any necessary staff are responsible to operate and monitor the video surveillance system(s) when and as directed.

The General Manager and HOA Director are responsible to manage and coordinate maintenance of the video surveillance system(s), train employees who will access the system and ensure that the system is used in accordance with this policy.

The General Manager and HOA Director are responsible for oversight of the system, especially with respect to privacy issues, arranging periodic audits of the system, and recommending new video installations and system upgrades through the budget process.

# EXHIBIT A-6

## Villages of Kiln Creek Owners Association Annual Election

### Policies and Procedures

Effective: January 19, 2023

## **General Policies & Procedures for the Annual Election of Directors**

These Policies and Procedures document the practices and procedures of the Villages of Kiln Creek Owners Association ("Association") and govern the election of its directors.

1. The election of the Association's directors is by written ballot. The ballot may be cast directly by a member who is entitled to vote per the Association's governing documents and is present in person, by directed proxy\*, electronically through the Association's Mobile App/Rec Pass Module or by mail if the Board of Directors has authorized voting by mail in such election.

2. At least two (2) weeks before the Annual Meeting (or before the beginning of the voting period as established by the Board of Directors in the event of mail-in voting), the Board of Directors shall appoint the Inspectors of Election ("Inspectors"). In no case shall a director currently serving on the Board of Directors, a candidate for the Board of Directors, or any person related to, or residing in the same household as a current director or candidate, serve as an Inspector.

3. In accordance with Virginia Code § 13.1-847.1, each Inspector, before entering upon the discharge of his duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his ability. See Exhibit H attached hereto.

4. Upon the written request of any candidate, such candidate may designate an observer who may observe the counting of the ballots ("Observer"). Any Observer must be a Member of the Association and sign in with the Inspectors of Election. The physical location of the Observer during the ballot counting is in the discretion of the Inspectors. Observers are not permitted to audio or video record the counting of the ballots.

5. In the event of a tie (i.e. two or more candidates receiving the same number of votes) a "run off" election shall be held as soon as possible. A second round of "tie-breaker" ballots shall be distributed, cast, collected and tallied in accordance with the Association's procedures for voting, collecting and counting ballots.

6. At such time that the votes are tabulated and verified, if the election is conducted during the membership meeting, the Association's legal counsel, if present, or an Inspector if the Association's legal counsel is not present, shall announce the names of the candidates who have been elected to fill the vacancies. If the election is conducted by mail-in ballot, such names shall be made public within seven (7) business days after the announced deadline for the Association's receipt of the completed mail-in ballots and the closing of the polls.

7. The number of votes cast for individual candidates shall not be publicly announced.

8. At the completion of tabulation, election ballots and proxies, if applicable, shall be stored by the Association's legal counsel in a secure place for no less than one (1) year after the date of the election.

9. Subject to the Association's procedures for requesting books and records, Association Members who so desire may request to review and inspect the "Final Candidate Score Sheet."

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**\*Subject to reasonable verification procedures to ensure that the ballots cast by proxy holders have been cast in accordance with any instructions on the face of the proxies.**

# **Proxy Certification Procedures**



## **Proxy Certification Procedures and Chain of Custody Measure**

### Proxies

- A. The Chairperson of the meeting (or such other officer of the Association as determined by vote of the Board of Directors) is the default proxy holder as set forth on the proxy mailed to the Membership.
- B. Proxies shall be returned to the attention of the Association's Director of Operations or such other employee as may be designated by the Board of Directors from time to time and stated in the notice of the meeting.
- C. The Director of Operations shall be the custodian of the proxies, and all written proxies received by the Association prior to the date of the meeting shall be boxed and maintained by the Director of Operations and stored in a secure location at all times prior to the appointed time for reviewing and certifying the proxies ("Proxy Certification"). All electronic submissions of limited proxies through the Mobile App/Rec Pass Module received by the Association prior to the date of the meeting shall be secured and password protected by the Director of Operations.
- D. The Inspectors of Election and the Director of Operations shall conduct and oversee the Proxy Certification prior to the meeting at which the election is conducted.
- E. The procedures for Proxy Certification are as follows:
1. Open the envelope (if any) containing the proxy or print the electronic limited proxy.
  2. Review the proxy for compliance with the Proxy Checklist and eligibility to vote (See Exhibit A)
  3. If the proxy meets all of the criteria set forth on the Proxy Checklist and both the Member granting the proxy and the Member who is the proxy holder are eligible to vote, staple the appropriate ballot on top of the proxy and its open envelope [ballot on top, proxy behind the ballot, and envelope, if any (or email or fax cover sheet forwarding the proxy, if the proxy has been sent by email or by fax) behind the proxy]. (See Figure in Exhibit B). The color paper on which proxy-holder ballots are printed shall differ from the color of ballots cast in person.
  4. If the proxy fails to meet one or more of the criteria set forth on the Proxy Checklist or if the Member granting the proxy and/or the Member who holds the proxy is/are not eligible to vote, the Inspector shall staple a red "Invalid Proxy Sheet," to the front of the proxy (See Exhibit C and the Figure in Exhibit D), and check the reason the proxy is invalid. The Inspector must initial the form on the "First Review" line. All proxies deemed invalid must be reviewed a second time by a different Inspector who will either determine that the proxy is valid or confirm the proxy is invalid by initialing the red "Invalid Proxy Sheet" on the "Second Review"

line. Any questions concerning the validity of a specific proxy shall be directed to the Association's legal counsel.

5. All valid proxies for eligible Members with accompanying ballots shall be boxed and securely taped until the Annual Meeting/Election. Invalid proxies with accompanying "Invalid Proxy Sheets" shall be kept separately, also boxed and securely taped.

**Election Night  
Procedures  
(In-Person Meeting)**

Procedures for Check-in, Voting, Collecting & Counting Ballots

I. Member Check-in

- A. Member check-in shall take place *outside* of the meeting room.
- B. Association staff members will sit at a banquet table and conduct the Member check-in process.
- C. Association staff will check in Members, dividing the alphabet as staff sees fit (e.g. A-K, L-Z).
- D. Each Member must sign in by writing his or her name, address and telephone number on the sheet provided at the check-in table.
- E. When the Member checks in, the Association staff member shall review the sign-in sheet to determine whether a proxy holder has already signed in on behalf of the Member. If so, the staff member shall ask the Member if he or she wishes to revoke his or her proxy and vote in-person. If the Member wishes to vote in-person, he or she must locate his or her proxy holder, retrieve the proxy and attached ballot and turn them in to Association staff prior to receiving a ballot to vote in-person.
- F. When more than one Member who both own a Lot attend a meeting, the Association staff member shall ask such Members: “Are you in agreement among yourselves as to how each of these ballots may be cast/voted?” If the Members unanimously state that they are in agreement among themselves as to how each of these ballots may be cast/voted, then the staff member shall deliver each ballot as so directed; provided, however, if such Members state that they are in disagreement as to how one or both ballots may be cast/voted, then the staff member shall require that all Owners of the Lot execute a Voting Agreement in the form attached hereto as a condition to delivery of the requested ballot(s) to the specified Members. If only one Member who co-owns a Lot with another Member is present, the Association staff may assume that the Member present has the agreement of the other co-owner Members to cast the ballot(s) for the Lot(s) owned provided the Association staff has no knowledge or reason to believe otherwise.

II. Election Night Proxies

- A. If a Member brings one or more proxies to the meeting, such proxies shall be given to the designated staff member(s) at the check-in table for inspection.

- B. One of the Inspectors shall review the proxy(ies) for compliance with the Proxy Checklist and to determine whether the Member who granted the proxy was eligible to vote as of the Record Date. If a proxy does not meet the statutory requirements as set forth on the Proxy Checklist or if either the Member who is the holder of the proxy or the Member granting the proxy was ineligible to vote as of the Record Date, the Inspector will staple a red "Invalid Proxy Sheet" to the front of the proxy, initial the sheet, and submit it to another Inspector for a second review.
- C. If the proxy meets the requirements, and both the Member who granted the proxy and the Member who holds the proxy are eligible to vote, the Inspector shall staple the appropriate ballot on top of the proxy and its open envelope (if the proxy holder brought the envelope). The color paper on which proxy-holder ballots are printed shall differ from the color of ballots cast in person.

### III. Distribution of Ballots

- A. Once a Member and each Member represented by a proxy held by such Member, if any, has checked in and has been determined eligible to vote as per section II above, the Association's staff will provide such Member present with the ballot for the Member and separate ballots stapled to each valid proxy checked in as eligible to vote.

### IV. Voting

- A. At the designated time for casting ballots, the Association's legal counsel (or the Meeting Chair) shall announce the voting instructions to the voting Membership in attendance.
- B. Such instructions should include (but are not limited to) informing the Members not to unstaple any ballot from its attached proxy, instructing the Members on how to complete each type of ballot, instructing Members not to vote for more candidates than the number of seats up for election, and reminding Members that ballots which are cast for more candidates than open board seats and/or for write-in candidates will not be considered and shall be deemed void.

### V. Collection of Ballots

- A. Only the Inspectors and Association staff shall collect the ballots.
- B. Association Members must stay in their seats during the collection of the ballots.

### VI. Counting of Ballots

- A. Only the Inspectors and Association staff ("Counters") are permitted to count the ballots.
- B. The ballots will be sorted into two groups – 1) Ballots cast in-person and 2) ballots cast by holders of proxies.
- C. Prior to counting, ballots cast by proxy holders must be reviewed by Inspectors to first verify that the proxy holder executed the ballot in strict accordance with the Member's instructions, if any, as reflected on the proxy. Any ballots which have been cast in a manner which contravenes the directions on the proxy, if any, shall be invalidated and set aside as in the same manner described above for invalidating proxies. Only those ballots which have been cast in accordance with the instructions, if any, on the proxy, shall be segregated for distribution to the Counters.
- D. Ballots which are cast for more candidates than open board seats and ballots containing "write-ins" shall be deemed void, and the Inspectors of election shall follow the steps above and complete and Invalid Ballot Sheet for each such ballot.
- E. The two groups of valid ballots will be distributed among the Counters for tabulation.
- F. The number of votes received by each candidate shall be recorded first on the "Tick Mark Tally Sheet" (See Exhibit F) and then the totals shall be consolidated on the "Total Votes Sheet" (See Exhibits G & H).
- G. Each stack of ballots is counted twice, and the totals are only consolidated on the "Total Votes" sheet after two Counters have each counted them and arrived at the same number of votes.
- H. The total number of votes for each candidate shall be written in the "Total" column and initialed by the Inspector.
- I. Finally, the Totals shall be transferred to and reflected on the "Final Candidate Score Sheet" (See Exhibit H) which shall be initialed by two Inspectors.

## VII. Chain of Custody

- A. Preserving the chain of custody for all sign-in sheets, member lists, Voting Agreements, proxies, ballots and tabulation sheets Invalid Proxy Sheets, and Invalid Ballot Sheets, is of the utmost importance.
- B. At the conclusion of the meeting and once the names of the candidates who have been elected to fill the vacancies are announced, all sign-in sheets, member lists, Voting Agreements, proxies, ballots and tabulation sheets, Invalid Proxy Sheets, and Invalid Ballot Sheets shall be given to Association legal counsel who shall store same in a secure manner for no less than one (1) year.

## **Election by Mail-In Ballot & Electronic Ballot Procedures**

### **Mail-In Ballot & Electronic Ballot Election Procedures**

I. Authority. In lieu of conducting an election during the Association's annual meeting or other membership meeting, the Board of Directors may elect for the membership to vote for the election of directors by mail and electronically if the Board of Directors determines that the use of such mail-in and electronic ballots is in the best interests of the Association.

II. Procedures.

- A. Following the deadline established by the Board of Directors for the Association's receipt of nominating petitions from Members interested in serving on the Board of Directors in accordance with Section 5.2 of Article V of the Association's Second Amended and Restated Articles of Incorporation ("Articles"), the Board of Directors shall establish the time and date for the opening of the polls and the closing of the polls for mail-in voting.
- B. The Board of Directors shall establish and announce the record date to determine Member eligibility for voting, which date shall be the last business day before the mail-in ballots are made available to the membership.
- C. The Director of Operations shall mail to each Member a ballot, and/or, if previously announced in an earlier notice mailed to Members, post the form ballot on the Association's website and electronic ballot on the Association's Mobile App/Rec Pass Module, with the names of each eligible candidate who has submitted a nominating petition and has met the minimum qualifications to serve on the Board of Directors as set forth in Section 5.2 (e) of the Articles. (If the polls close for mail-in ballots on a date after an in-person membership meeting, the staff of the Association may supply ballots to those Members present in-person and may collect completed ballots from such Members and deliver them to the Association's Director of Operations or such other employee as may be designated by the Board of Directors from time to time; however, the ballot counting and verification process will follow the procedures for counting and verifying mail-in and electronic ballots.)
- D. The ballot shall contain directions for completing and returning the ballot and shall state a deadline for the return of ballots and the closing of the polls. Mail-in ballots may be returned to the Association by mail, personal delivery, email, or fax per the instructions on the ballot. Electronic Ballots shall be completed on the Association's Mobile App/Rec Pass Module ([www.kilncreek.mokopass.com](http://www.kilncreek.mokopass.com)).
- E. The Association shall follow the following additional procedures:
  - 1. Ballots shall be returned to the attention of the Association's Director of Operations or such other employee as may be designated by the Board of

Directors from time to time and stated in the directions for the return of ballots. Electronic Ballots shall automatically be submitted electronically to the Association's Director of Operations.

2. To be eligible for counting, every ballot must be signed, dated and marked in accordance with the written directions for casting ballots.
  3. Ballots with votes cast for more candidates than open board seats shall be void.
  4. The Association's Articles do not permit write-in candidates and ballots on which write-in candidates name(s) have been inserted shall be ineligible for counting and will be void.
  5. Ballots cast by Members ineligible to vote are void.
  6. Ballots cast by persons holding a power-of-attorney or an attorney-in-fact must be reviewed by an Inspector prior to counting to reasonably verify that the person executing the ballot was authorized to execute the ballot and did so in an authorized representative capacity.
  7. All ballots which are received by the Association prior to the date and time stated for the return of ballots and the closing of the polls shall be boxed and maintained by the Director of Operations and stored in a secure location at all times prior to the appointed time for reviewing and certifying the ballots ("Ballot Certification").
- F. The Inspectors of Election and the Director of Operations shall oversee and complete the Ballot Certification prior to the ballots being counted.
- G. The procedures for Ballot Certification are as follows:
1. Open the envelope (if any) containing the ballot or print the electronic ballot.
  2. Review the ballot for compliance with the ballot instructions and eligibility of the member to vote.
  3. If the ballot fails to meet one or more of the criteria set forth on the ballot instructions, or if the ballot was cast by a Member who was ineligible to vote as of the Record Date or by a person holding power-of-attorney or attorney-in-fact which cannot be verified, the Inspector shall staple a red "Invalid Ballot Sheet," to the front of the ballot (See Exhibit I), and check the reason the ballot is invalid. The Inspector must initial the form on the "First Review" line. All ballots deemed invalid must be reviewed a second time by a different Inspector who will either determine that the ballot is valid or confirms the ballot is invalid by

initialing the red "Invalid Ballot Sheet" on the "Second Review" line. Any questions concerning the validity of a specific ballot shall be directed to the Association's legal counsel.

4. All valid ballots shall be boxed and securely taped until the date the ballots are counted. Invalid ballots with accompanying "Invalid Ballot Sheets" shall be kept separately, also boxed and securely taped.
5. Only the Inspectors and Association staff ("Counters") are permitted to count the ballots.
6. Only valid ballots shall be provided to the Counters for counting. Invalid ballots shall remain segregated and shall not be counted.
7. The number of votes received by each candidate shall be recorded first on the "Tick Mark Tally Sheet" (See Exhibit F) and then the totals shall be consolidated on the "Total Votes Sheet" (See Exhibits G & H).
8. Each stack of ballots is counted twice and the totals are only consolidated on the "Total Votes" sheet after two Counters have each counted them and arrived at the same number of votes.
9. The total number of votes for each candidate shall be written without in the "Total" column and initialed by the Inspector.
10. Finally, the Totals shall be transferred to and reflected on the "Final Candidate Score Sheet" (See Exhibit H) which shall be initialed by two Inspectors.
11. Preserving the chain of custody for all member lists, Voting Agreements, ballots and tabulation sheets, and Invalid Ballot Sheets is of the utmost importance.
12. At the conclusion of the counting and once the names of the candidates who have been elected to fill the vacancies are announced, all sign-in sheets, member lists, Voting Agreements, ballots and tabulation sheets, and Invalid Ballot Sheets shall be given to Association legal counsel who shall store same in a secure manner for no less than one (1) year.



# EXHIBITS

## EXHIBIT A

### Association Proxy Checklist (Va. Code 13.1-847, et al.)

- The Proxy is duly executed in writing by one with authority to execute deeds. (All record owners must sign).
- The Proxy does not conflict with any current Voting Agreement received by the Association.
- There has been no actual notice given to the person presiding over the meeting that this proxy has been revoked.
- The Proxy is dated.
- Today's date is less than 11 months from the date stated in the proxy (unless otherwise provided for in the proxy).

EXHIBIT B

BY PROXY

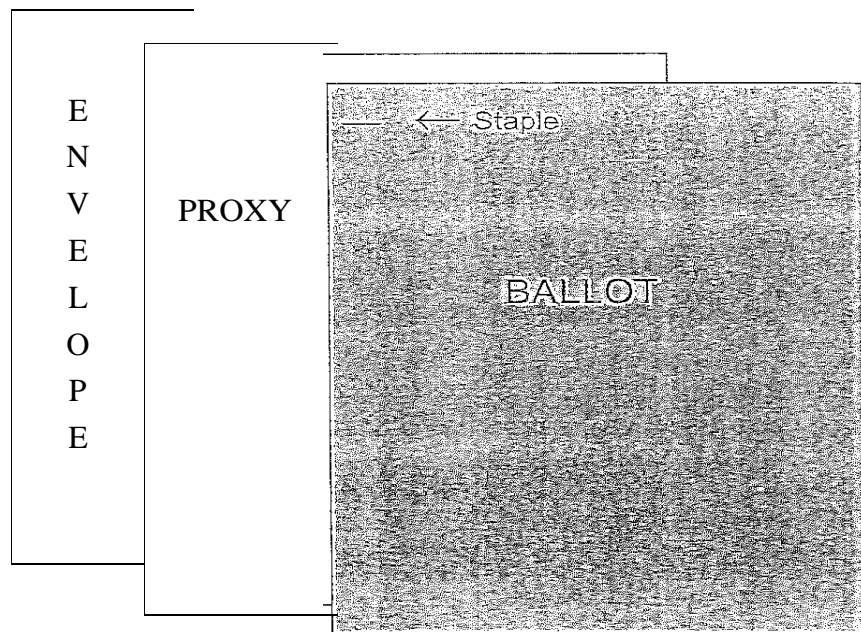


EXHIBIT C  
ASSOCIATION  
INVALID PROXY SHEET

The attached proxy fails to meet one or more of the requirements of a valid proxy under the Virginia Code (check all that apply):

- Proxy is not signed (or is not signed by proper persons)
- Proxy is not dated
- The member who executed this proxy is in attendance at the meeting and will be voting in person.
- The proxy conflicts with a current Voting Agreement received by the Association prior to the start of the meeting.
- The Association is on actual notice that this proxy has been revoked
- The proxy is dated more than 11 months prior to the date of the meeting.
- The proxy is illegible / indiscernible
- The proxy is incorrectly executed. (Please explain)

\_\_\_\_\_  
\_\_\_\_\_

- Other. (Please explain)

\_\_\_\_\_  
\_\_\_\_\_

Verified by:

First Review

Second Review

\_\_\_\_\_  
Initials

\_\_\_\_\_  
Initials

EXHIBIT D  
INVALID PROXY

Invalid  
Proxy

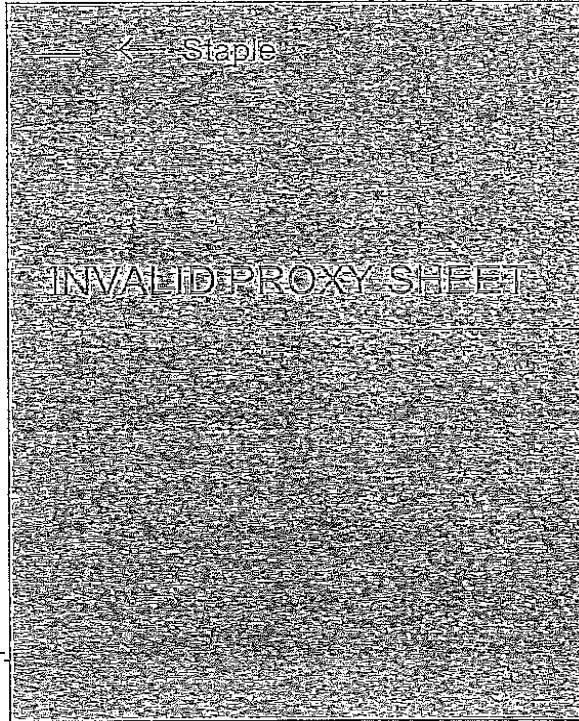


EXHIBIT E

Sample Tick Mark Tally Sheet

Candidate	Tick Marks	Total
Mickey Mouse		Initials _____
Donald Duck		Initials _____
Minnie Mouse		Initials _____
Daisy Duck		Initials _____

EXHIBIT F

Sample Total Votes Sheet

<b>Candidate</b>	<b>Number of Votes (Consolidated from Tick Mark Sheets)</b>	<b>Total</b>
Mickey Mouse		Initials ____
Donald Duck		Initials ____
Minnie Mouse		Initials ____
Daisy Duck		Initials ____

EXHIBIT G

Sample Final Candidate Score Sheet

Candidate	Total Number of Votes received – Final
Mickey Mouse	Initials ____ Initials ____
Donald Duck	Initials ____ Initials ____
Minnie Mouse	Initials ____ Initials ____
Daisy Duck	Initials ____ Initials ____



**EXHIBIT H**

**VILLAGES OF KILN CREEK OWNERS ASSOCIATION  
Inspector of Elections Oath**

**(In Accordance with Virginia Code § 13.1-847.1)**

I (printed name) \_\_\_\_\_, do solemnly swear (or affirm) that I shall execute the duties of inspector for the \_\_\_\_\_ [state year of election] Villages of Kiln Creek Owners Association election of directors with strict impartiality and according to the best of my ability.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

EXHIBIT I  
ASSOCIATION  
INVALID BALLOT SHEET

The attached ballot fails to meet one or more of the requirements of a valid ballot under Association's governing documents and voting procedures:

- Mail-in only: Ballot is not signed (or is not signed by proper persons)
- Mail-in only: Ballot is not dated
- The member who cast this ballot is not eligible to vote.
- The ballot conflicts with a current Voting Agreement received by the Association prior to the start of the voting.
- The Association is on actual notice, or has reason to believe, that the person executing the ballot in a representative capacity is not authorized to do so.
- The ballot is illegible / indiscernible
- The ballot purports to cast votes for more candidates than open seats on the Board of Directors and/or contains the name of write-in Candidate(s). (Please explain)

\_\_\_\_\_  
\_\_\_\_\_

- Other. (Please explain)

\_\_\_\_\_  
\_\_\_\_\_

Verified by:

First Review

Second Review

\_\_\_\_\_  
Initials

\_\_\_\_\_  
Initials

**VOTING AGREEMENT**

Villages of Kiln Creek Owners Association (VKCOA)  
Election of Members to the Board of Directors

For 20\_\_\_\_ Election

1. We, the undersigned, each represent to the other and to VKCOA that the undersigned are the sole Owners of the Lot having an address in the Villages of Kiln Creek of \_\_\_\_\_, and that the undersigned constitute all of the Owners of such Lot.

2. We request a ballot.

3. We acknowledge that, pursuant to the VKCOA Articles of Incorporation and Bylaws, voting is to be conducted by written ballot, and we each agree that \_\_\_\_\_ is authorized to cast such ballot in his/her discretion. We agree that the person casting the ballot shall not be required to disclose his/her vote to any other Owner or to any other person, other than is required by applicable law and VKCOA's Election Procedures.

4. We agree that VKCOA shall be entitled to rely on this Agreement for the captioned election unless and until it receives written Notice to the contrary signed by us.

**IN WITNESS WHEREOF** the undersigned Owners have signed this Agreement as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_ (signature)

Print or type full name: \_\_\_\_\_

\_\_\_\_\_ (signature)

Print or type full name: \_\_\_\_\_

**EXHIBIT A-7**  
**MEMBER COMMUNICATIONS POLICY**

**VILLAGES OF KILN CREEK OWNERS ASSOCIATION**  
**UNANIMOUS CONSENT OF THE BOARD OF DIRECTORS**  
**Adopting Member Communication Policy**

(Relative to member communication within the Association for Association-related Business)

The undersigned, who are all of the Directors of Villages of Kiln Creek Owners Association, a Virginia nonstock corporation ("Association"), do hereby execute this Unanimous Consent to evidence their consent to the following actions, in accordance with and as permitted by Section 13.1-865 of the Code of Virginia, 1950, as amended:

**WHEREAS**, the Second Amended and Restated Bylaws of the Villages of Kiln Creek Owners Association ("Bylaws"), Section 4.2, states that the Board of Directors ("Board") "shall have all of the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are by applicable law, the Declaration, the Articles or by these Bylaws required to be exercised and done by the Association;"

**WHEREAS**, pursuant to Section 4.2 of the Bylaws of the Association, the Board's powers include, without limitation, the power "to adopt and enforce rules and regulations with respect to the Common Areas... and with respect to such other areas of responsibility assigned to the Association by the Declaration or any Supplemental Declaration; provided, however such rules and regulations shall not be in conflict with the Declaration, applicable Supplemental Declarations, the Articles of these Bylaws;"

**WHEREAS**, section 55.1-1817 of the Virginia Property Owners Association Act states that the Board of Directors "shall establish a reasonable, effective, and free method, appropriate to the size and nature of the association, for lot owners to communicate among themselves and with the board of directors regarding any matter concerning the association;"

**WHEREAS**, in addition to existing avenues of communication in which Lot Owners can communicate with each other, the Board and Association staff, the Board believes it is in the best interests of the Association to establish an additional method whereby Lot Owners may communicate among themselves and with the Board;

**WHEREAS**, the Board desires to establish a page on the password-protected portion of the Association's website on which Lot Owner announcements and communications with the membership of the Association may be posted subject to the rules set forth herein; and

**WHEREAS**, the undersigned Directors of the Association believe it is in the best interest of the Association to adopt a written policy regarding member communications.

NOW, THEREFORE, BE IT:

**RESOLVED**, the policy attached hereto as Exhibit A is hereby adopted; and

**BE IT FURTHER RESOLVED**, that the Corporate Secretary of the Association is hereby instructed to file this Unanimous Consent in the minute book of the Association and the Director of HOA Operations is hereby directed to include this policy in the Association's Disclosure Packet and to publish this policy to members in accordance with the Virginia Property Owners' Association Act.

This Unanimous Consent may be executed in two or more counterparts and by facsimile or other electronic means, each of which shall be deemed an original, and all of which together shall constitute but one and the same instrument.

Effective Date: November 19, 2020

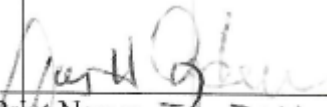
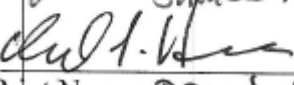
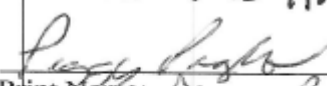
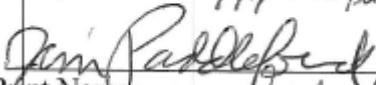
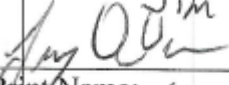

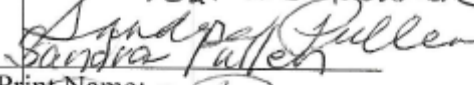
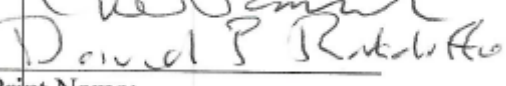
Association Directors:	Date Executed:
Signed:  Print Name: JAMES H. OSGREN	<u>10 Dec 2020</u>
Signed:  Print Name: DAVID HAUSE	<u>17 Dec 2020</u>
Signed:  Print Name: PEGGY PEOPLES	<u>18 Dec 2020</u>
Signed:  Print Name: Jim Paddelford	<u>17-18-2020</u>
Signed:  Print Name: Guy Dewees	<u>19 Dec 2020</u>
Signed:  Print Name: Nathan Muchmore	<u>21 Dec 2020</u>
Signed:  Print Name: Sandra Fuller	<u>23 Dec 2020</u>
Signed:  Print Name: Daniel S. Ritalotto	<u>24 Dec 2020</u>

EXHIBIT A-8

**VILLAGES OF KILN CREEK OWNERS ASSOCIATION (“ASSOCIATION”)**

**RESOLUTIONS OF THE BOARD OF DIRECTORS  
GUIDELINES FOR ELECTRONIC MEETINGS AND ELECTRONIC VOTING**

**WHEREAS**, the Bylaws of the Association (“Bylaws”), state, “The affairs of the Association shall be managed under the direction of its Board of Directors”; and, “The Board shall have all of the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are by applicable law, the Declaration, the Articles or by these Bylaws required to be exercised and done by the Association”;

**WHEREAS**, Section 55.1-1816(B) of the Code no longer requires “two members of the board of directors” to be “physically present at the meeting place included in the notice” of a meeting of the Board of Directors or of the Membership;

**WHEREAS**, Section 55.1-1832(F) of the Code now provides that “[a]ny meeting of the association, the board of directors, or any committee may be held entirely or partially by electronic means, provided that the board of directors has adopted guidelines for the use of electronic means for such meetings”;

**WHEREAS**, under Section 55.1-1800 of the Code, a meeting held electronically includes meetings held via “teleconference, videoconference, Internet exchange, or other electronic methods”;

**WHEREAS**, Section 55.1-1832(F) of the Code also provides that any electronic meetings must be accessible and allow Members the opportunity to participate in said meetings;

**WHEREAS**, Section 55.1-1832(F) of the Code states that “[i]f any person does not have the capability or desire to conduct business using electronic means, the association shall make available a reasonable alternative”;

**WHEREAS**, under Section 55.1-1832(D) of the Code, voting may also be conducted via electronic means at these meetings, but if the vote requires a secret ballot, “the electronic means shall protect the identity of the voter” or “another means of voting shall be used”;

**WHEREAS**, the Directors of the Association believe it is in the best interest of the Association to adopt guidelines for both virtual meetings and virtual voting in order to facilitate greater participation in meetings of the Board of Directors and Committees and in meetings of the Membership for those who cannot always be physically present or for those who prefer or who find it easier to participate in virtual meetings.

**NOW, THEREFORE, BE IT:**

**RESOLVED**, that the following shall apply to meetings of the Board of Directors:

The Directors may conduct meetings either entirely in-person, entirely virtual, or in a hybrid virtual/in-person format as long as the notice of the meeting provides the time of the meeting, the place of the meeting (if not entirely virtual), the format in which the meeting will be conducted, the means by which Members may attend and participate in it, basic instructions about how to attend and participate, and as long as that notice conforms to any other standards set out in the Bylaws for that type of meeting.

The Directors may vote verbally or by electronic means in the discretion of the Directors.

Every meeting, whether in person, in a hybrid virtual/in-person format, or entirely virtual, will provide an opportunity or period for Members to comment in accordance with any rules of order adopted by the chair or the Board of Directors.

During any comment period during any meeting of the Board, the Board will have the authority to dismiss a speaker who is attending in person or to silence a speaker's microphone if they are attending virtually in order to enforce any rules of order as adopted by the chair or by the Board of Directors, as well as to maintain the standards of decency and respect required to hold a successful meeting.

Comments made by individual Members shall be limited to 3 minutes in length as a part of any comment period reserved for Membership participation in a meeting.

Members desiring to attend a meeting either virtually or in person or to participate in a meeting either virtually or in person according to the format of the meeting may be given the means to do so within reason (i.e. given the login information, passwords, meeting links, etc.) and notified of those means in writing via email, text, mail, or hand delivery as a part of the notice of the meeting.

Directors have the discretion to determine when meetings will be held in-person, in a hybrid in-person/virtual format, or in an entirely virtual format as long as appropriate notices are given of the same.

**AND NOW, THEREFORE, BE IT:**

**RESOLVED**, that the following shall apply to meetings of Committees:

Committees may conduct meetings either entirely in-person, entirely virtual, or in a hybrid virtual/in-person format as long as the notice of the meeting provides the time of the meeting, the place of the meeting (if not entirely virtual), the format in which the meeting will be conducted, the means by which Members may attend and participate in it, basic instructions about how to attend and participate, and as long as that notice conforms to any other standards set out in the Bylaws for that type of meeting.

The Committee members may vote verbally or by electronic means in the discretion of the Committee members.

Every meeting, whether in person, in a hybrid virtual/in-person format, or entirely virtual, will provide an opportunity or period for Members to comment in accordance with any rules of order adopted by the Committee chair or the Board of Directors.

During any comment period during any meeting, the Committee will have the authority to dismiss a speaker who is attending in person or to silence a speaker's microphone if they are attending virtually in order to enforce any rules of order as adopted by the Committee chair or by the Board of Directors, as well as to maintain the standards of decency and respect required to hold a successful meeting.

Comments made by individual Members shall be limited to 3 minutes in length as a part of any comment period reserved for Membership participation in a meeting.

Members desiring to attend a meeting either virtually or in person or to participate in a meeting either virtually or in person according to the format of the meeting may be given the means to do so within reason (i.e. given the login information, passwords, meeting links, etc.) and notified of those means in writing via email, text, mail, or hand delivery as a part of the notice of the meeting.

Committees have the discretion to determine when meetings will be held in-person, in a hybrid in-person/virtual format, or in an entirely virtual format as long as appropriate notices are given of the same.

**AND NOW, THEREFORE, BE IT:**

**RESOLVED**, that the following shall apply to meetings of the Members:

Membership meetings may be either entirely in-person, entirely virtual, or in a hybrid virtual/in-person format as long as the notice of the meeting provides the time of the meeting, the place of the meeting (if not entirely virtual), the format in which the meeting will be conducted, the means by which Members may attend and participate in it, basic instructions about how to attend and participate, and as long as that notice conforms to any other standards set out in the Bylaws for that type of meeting.

Members may vote by electronic means provided the decision to allow electronic voting is in the discretion of the Directors as long as those electronic means are announced specifically via the appropriate notice in accordance with the Bylaws and as long as Members not wanting or able to vote by the electronic means specified in the notice are given the option to vote in person, by registered mail, or by any other reasonable means as specified in the Bylaws.

If any electronic vote of the Members requires a secret ballot, then the electronic vote shall protect the identity of the voter via encryption or any other form of technology which reliably hides the identity of the person casting the ballot.



During any meeting, the Board will have the authority to dismiss a speaker who is attending in person or to silence a speaker's microphone if they are attending virtually in order to enforce any rules of order as adopted by the chair or by the Board of Directors, as well as to maintain the standards of decency and respect required to hold a successful meeting;

Members desiring to attend a meeting either virtually or in person or to participate in a meeting either virtually or in person according to the format of the meeting may be given the means to do so within reason (i.e. given the login information, passwords, meeting links, etc.) and notified of those means in writing via email, text, mail, or hand delivery as a part of the notice of the meeting;

Directors have the discretion to determine when Membership meetings will be held in-person, in a hybrid in-person/virtual format, or in an entirely virtual format as long as appropriate notices are given of the same.

**BE IT FURTHER RESOLVED**, that the foregoing resolutions shall be effective as of the date specified below, the Corporate Secretary of the Association is hereby instructed to file these resolutions in the minute book of the Association and the manger is hereby directed to include this policy in the Association's Disclosure Packet and to publish this policy to members in accordance with the Virginia Property Owners' Association Act.

Effective Date: 1-27-2022

**Secretary's certificate:** The undersigned hereby certifies and attests that the foregoing resolutions were duly adopted by the Board of Directors at a meeting held on 1-27-2022, 2022 or by written unanimous consent dated \_\_\_\_\_, 2022.

By: David J. Hause

Print Name: David J. Hause

Villages of Kiln Creek Owners Association  
**PROPOSED 2023 OPERATING BUDGET**

(2022 Projections are actuals through October and forecast Nov-Dec)

**INCOME STATEMENT Calculation**

Ln#		Actual	Projection	Proposed	Variance
		2021	2022	Budget 2023	22 Proj vs. '23 Budg
REVENUE					
4011	Food Sales Golf	9,487.27	11,693.54	12,565.37	871.83
4012	Food Sales Catering	227,857.87	267,819.82	301,422.08	33,602.26
4013	Food Sales NEST/Grill	1,082,489.99	1,065,265.83	1,179,762.44	114,496.61
4014	Food Sales Bev Cart	12,410.50	3,222.50	9,484.00	6,261.50
4021	Liquor Sales Catering	30,685.00	40,671.00	38,301.10	(2,369.90)
4022	Liquor Sales NEST/Grill	229,636.80	194,825.00	235,483.16	40,658.16
4023	Liquor Sales Bev Cart	1,750.00	724.00	1,950.80	1,226.80
4031	Wine Sales Catering	11,930.00	16,644.00	22,619.40	5,975.40
4032	Wine Sales NEST/Grill	144,243.51	150,078.28	177,731.87	27,653.59
4041	Beer Sales Golf	9,070.40	10,615.50	11,493.79	878.29
4042	Beer Sales Catering	14,891.49	17,005.00	19,069.00	2,064.00
4043	Beer Sales NEST/Grill	143,547.48	113,776.00	142,369.02	28,593.02
4044	Beer Sales Bev Cart	17,086.50	5,427.00	12,722.30	7,295.30
4050	Room Rental	196,106.70	271,152.75	264,918.44	(6,234.31)
4060	Misc Rental Income	36,107.25	47,553.28	47,516.62	(36.66)
4080	Service Charge Income	368,535.39	366,564.71	389,755.00	23,190.29
4090	NEST Merchandise Sales	7.76	4.00	-	(4.00)
4100	Dues Income Club	327,599.90	353,978.76	358,823.77	4,845.01
4200	Merch Sales Golf Shop	152,844.08	133,053.67	153,000.00	19,946.33
4205	Bag Storage	-	375.00	-	(375.00)
4210	Club and Shoe Rentals	2,790.00	3,510.00	3,785.00	275.00
4220	Handicap Program	3,400.00	2,840.00	3,200.00	360.00
4225	Lessons and Schools	78,694.30	60,863.19	73,900.00	13,036.81
4230	Locker Rentals	240.00	130.00	-	(130.00)
4235	Practice Balls	57,204.31	42,994.64	50,000.00	7,005.36
4250	Tournament Income	1,011.99	1,824.91	-	(1,824.91)
4265	Greens Fees	261,538.76	269,328.21	295,902.35	26,574.14
4280	Cart Fees	404,204.28	333,686.00	357,850.45	24,164.45
4400	Hotel Room Revenue	294,028.51	368,087.92	387,250.00	19,162.08
4410	Hotel Misc Revenue	6,603.54	5,921.20	5,750.00	(171.20)
4500	Guest Fees Swim	-	10.00	2,300.00	2,290.00
4600	Assessments	3,960,246.00	4,089,193.96	4,222,091.52	132,897.56
4620	Assessments Apts	108,467.88	111,946.08	115,528.32	3,582.24
4625	Deferred Reserve Revenue	(98,317.69)	(312,991.03)	(305,493.04)	7,497.99
4650	Admin & Transfer Fees	321,824.56	266,608.16	278,230.00	11,621.84
4655	Courier Advertising Income	21,390.00	21,790.00	28,800.00	7,010.00
4660	Disclosure Pkgs	70,042.94	53,079.94	39,600.00	(13,479.94)
4665	Management Income	44,400.00	44,400.00	48,840.00	4,440.00
4670	Classes Revenue	960.00	2,333.00	4,980.00	2,647.00
4675	Rec Center Rental	10,440.00	6,300.00	32,000.00	25,700.00
4680	Interest	5,822.60	4,291.18	3,480.00	(811.18)
4685	Late Fee Income HOA	17,366.28	17,586.48	15,500.00	(2,086.48)
4695	Reciprocal Maint	103,872.84	106,989.00	106,989.00	-
4800	Gift Cards & Rain Cks Adj	8,703.13	(0.02)	-	0.02
4810	Misc Other Income	38,731.42	22,697.43	16,897.00	(5,800.43)
-----					
0020	TOTAL REVENUE	8,739,953.54	8,593,869.89	9,166,368.76	572,498.87
-----					

COST OF GOODS SOLD					
5000	Cost of Merchandise	107,906.71	92,528.26	107,100.00	(14,571.74)
5005	Cost of Food	468,709.77	480,719.93	536,640.67	(55,920.74)
5020	Cost of Beer	53,590.02	46,877.06	48,764.89	(1,887.83)
5025	Cost of Wine	39,837.18	44,066.06	56,098.36	(12,032.30)
5030	Cost of Liquor	53,854.73	49,296.22	52,389.66	(3,093.44)
5300	Waste Spoilage Shrink	15,158.71	10,257.57	12,750.00	(2,492.43)
5400	Merchandise Shrink	(223.45)	82.95	-	82.95
		-----	-----	-----	-----
0040	TOTAL COST OF GOOD SOLD	738,833.67	723,828.05	813,743.58	(89,915.53)
		-----	-----	-----	-----
		-----	-----	-----	-----
0050	GROSS MARGIN	8,001,119.87	7,870,041.84	8,352,625.18	662,414.40
		-----	-----	-----	-----
EMPLOYEE EXPENSES					
6010	Wages	2,356,157.25	2,452,300.33	2,786,067.88	(331,850.44)
6020	Overtime	56,496.65	31,691.47	36,890.78	(5,199.31)
6030	Temporary Staff	19,084.03	-	5,540.00	(5,540.00)
6035	Vacation Liability	(1,535.74)	33,791.33	-	33,791.33
6045	Deferred Compensation	161,330.53	243,097.12	161,148.00	81,949.12
6050	Commissions	23,030.37	33,797.31	34,278.87	(481.56)
6055	Lessons Paid to Staff	70,275.99	53,712.62	66,065.00	(12,352.38)
6060	Service Charges Paid to Staff	361,326.95	360,067.47	389,755.00	(29,687.53)
6070	FICA	223,506.90	238,861.51	258,141.75	(19,280.24)
6071	FUTA	5,223.33	5,507.86	5,876.00	(368.14)
6072	SUTA	13,778.24	8,789.95	14,226.00	(5,436.05)
6073	Simple IRA (401k) Expense	33,298.83	31,360.47	47,163.16	(15,802.69)
6074	Insurance Health	264,974.27	251,056.60	366,787.44	(115,730.84)
6075	Insurance Dental	15,007.25	14,811.74	20,708.64	(5,896.90)
6076	Insurance Life ADD STD LTD	15,676.95	16,690.48	28,829.76	(12,139.28)
6077	Insurance Work Comp	45,404.00	62,345.90	72,389.97	(10,044.07)
6078	Employee Meals	16,132.79	19,461.30	21,550.00	(2,088.70)
6085	Education	8,310.20	11,618.87	21,010.00	(9,391.13)
6086	Professional Dues Employee	3,524.03	3,749.03	4,445.00	(695.97)
6090	Recruiting and Interviewing	35,107.45	21,888.20	27,560.00	(5,671.80)
6091	Payroll Service	22,967.70	21,391.00	24,478.23	(3,087.23)
		-----	-----	-----	-----
0060	TOTAL EMPLOYEE EXPENSES	3,749,077.97	3,915,990.56	4,392,911.48	(475,003.81)
		-----	-----	-----	-----
OTHER EXPENSES					
6110	Artwork or Posters Expense	2,637.87	946.25	2,700.00	(1,753.75)
6115	Audit and Accounting Fees	85,094.00	43,105.00	42,504.00	601.00
6120	Bad Debt Expense	23,968.80	24,317.42	44,000.00	(19,682.58)
6130	Bank Charges	3,801.24	3,874.43	3,900.00	(25.57)
6135	Banquet Expense	11,659.65	15,152.10	15,600.00	(447.90)
6140	Advertising	23,026.42	24,223.60	37,010.00	(12,786.40)
6145	Bridge Bulkhd Path Repairs	-	-	2,150.00	(2,150.00)
6155	Cash Over or Short	339.76	(276.35)	-	(276.35)
6165	Chemicals	142,066.36	148,355.72	155,247.00	(6,891.28)
6170	China Glass and Silverware	6,835.06	4,039.79	6,000.00	(1,960.21)
6175	Cleaning and Janitorial Services	17,563.00	11,636.43	22,970.00	(11,333.57)
6185	Consulting Fees	225.00	-	9,200.00	(9,200.00)
6190	Contributions and Donations	1,615.00	(975.00)	1,680.00	(2,655.00)
6195	Copier and Printer Expenses	11,857.67	11,047.91	14,646.00	(3,598.09)
6200	Credit and Collection Expense	855.11	(320.29)	4,920.00	(5,240.29)
6205	Credit Card & Vendor Fees	96,969.14	101,771.11	111,704.27	(9,933.16)
6210	Damaged and Unsalable Merch	13.11	95.11	120.00	(24.89)
6215	Depreciation	828,412.85	896,003.39	1,053,131.00	(157,127.61)
6220	Depreciation Loan Costs	8,340.00	8,340.00	8,340.00	-
6225	Discounts	11,380.77	8,898.61	12,000.00	(3,101.39)
6230	Dues for Club	4,276.54	2,348.01	680.00	1,668.01
6235	Electricity	189,888.51	197,485.93	200,810.00	(3,324.07)

6240	Entertainment	29,578.94	36,802.84	37,800.00	(997.16)
6245	Equipment	17,555.93	10,191.38	22,700.00	(12,508.62)
6250	Equipment Rental	942.76	509.08	3,320.00	(2,810.92)
6255	Fertilizer	19,155.74	13,671.92	23,800.00	(10,128.08)
6260	Flowers Decorations and Gifts	14,154.42	15,016.28	21,750.00	(6,733.72)
6265	Fuel Diesel	7,764.03	15,080.95	13,300.00	1,780.95
6270	Fuel Gasoline	33,950.76	38,722.70	37,570.00	1,152.70
6275	Gain or Loss Sale of Asset	(3,965.71)	8,547.18	-	8,547.18
6280	Ground Improvements	15,343.26	23,919.45	20,702.88	3,216.57
6285	Handicap Expense	4,486.00	4,268.00	4,500.00	(232.00)
6290	Heating Fuel	23,843.31	25,312.28	25,139.16	173.12
6295	Hospitality Staff	5,157.07	4,863.58	7,305.00	(2,441.42)
6300	Insurance Business	90,538.00	93,393.67	100,888.80	(7,495.13)
6312	Interest Bank Consolid Loan	348,100.64	487,091.18	624,488.00	(137,396.82)
6320	Interest Auto Loans	1,034.15	1,547.36	1,068.00	479.36
6325	Interest Leased Equipment	15,036.56	10,875.78	27,535.35	(16,659.57)
6330	Junior Golf Expense	-	289.76	-	289.76
6335	Kitchen Utensils & Supplies	3,147.15	2,057.11	3,200.00	(1,142.89)
6340	Lake Maintenance	55,575.93	48,652.83	74,350.00	(25,697.17)
6350	Landscape Maintenance	252,862.44	245,821.93	242,880.00	2,941.93
6355	Laundry and Dry Cleaning	482.00	528.00	2,850.00	(2,322.00)
6365	Lease Copier	12,541.44	13,817.49	16,068.00	(2,250.51)
6367	Lease Dishwasher	5,173.63	6,504.45	7,619.89	(1,115.44)
6370	Lease Golf Carts	93,794.40	93,794.40	93,840.00	(45.60)
6380	Lease HOA Equipment	890.28	874.28	960.00	(85.72)
6400	Legal Fees	22,379.50	55,404.11	35,500.00	19,904.11
6405	Library and Subscriptions	3,376.43	3,518.33	2,871.00	647.33
6410	Linens	20,351.54	14,846.96	22,290.00	(7,443.04)
6415	Lubricants	2,411.28	2,689.08	3,000.00	(310.92)
6420	Contracted Services	313,401.80	353,191.70	371,083.08	(17,891.38)
6425	Member and Guest Relations	12,967.61	14,809.43	17,437.00	(2,627.57)
6430	Musak Cable TV Internet	29,229.02	36,446.17	39,544.29	(3,098.12)
6435	Newsletter Expense	17,074.69	21,019.59	21,200.00	(180.41)
6440	Office Rental Expense	5,957.00	7,126.00	8,124.00	(998.00)
6445	Painting and Decorating	33,455.06	7,797.22	21,505.00	(13,707.78)
6450	Penalties Fines and Late Fees	116.19	16.64	-	16.64
6455	Permits and Licenses	15,267.41	18,146.65	20,363.00	(2,216.35)
6460	Pest & Wildlife Mgmt	6,642.21	13,852.31	9,315.00	4,537.31
6470	Postage and Shipping Expense	17,477.85	17,287.79	20,135.00	(2,847.21)
6473	Practice Balls and Bags	6,240.00	3,380.00	8,000.00	(4,620.00)
6474	Practice Facilities Expense	231.95	-	4,000.00	(4,000.00)
6475	Printing and Stationery	9,622.93	11,528.15	19,090.00	(7,561.85)
6480	RM Building	18,277.05	32,271.46	35,929.00	(3,657.54)
6485	RM Cart Paths	-	253.93	1,200.00	(946.07)
6490	RM Carts	1,146.63	4,954.57	3,800.00	1,154.57
6495	RM Computer	122,893.58	143,352.34	158,336.00	(14,983.66)
6500	RM Drainage	7,689.86	8,083.80	14,700.00	(6,616.20)
6505	RM Electrical	9,282.58	5,208.65	4,500.00	708.65
6510	RM Elevator	5,070.51	3,743.64	4,555.00	(811.36)
6515	RM Equipment	93,593.18	121,764.38	84,900.00	36,864.38
6520	RM HVAC	10,826.34	20,510.61	18,332.00	2,178.61
6525	RM Irrigation	15,730.25	(16,566.68)	3,300.00	(19,866.68)
6530	RM Plumbing	2,907.60	4,744.35	7,150.00	(2,405.65)
6535	RM Pool	1,984.59	458.00	3,000.00	(2,542.00)
6540	RM Signs	15,340.68	5,447.18	9,450.00	(4,002.82)
6545	RM Storm Damage	505.00	2,378.75	7,700.00	(5,321.25)
6550	RM Streets & Lights	7,097.69	13,396.92	17,150.00	(3,753.08)
6555	RM Vehicle	11,442.52	8,404.05	11,910.00	(3,505.95)
6570	Recreation Items	298.40	2,320.75	1,200.00	1,120.75
6575	Rental Club Expense	404.23	-	3,000.00	(3,000.00)
6580	Safety Equipment Expense	4,098.28	4,312.71	6,610.00	(2,297.29)
6585	Sand Soil and Gravel	23,605.52	15,551.28	19,900.00	(4,348.72)
6590	Scorecards Pencils and Tees	879.10	2,041.51	4,400.00	(2,358.49)
6595	Security Expense	13,250.78	15,207.10	14,498.00	709.10
6600	Seed and Sod	12,363.21	22,466.65	23,300.00	(833.35)

6605	Shop and Hand Tools	972.40	980.77	1,500.00	(519.23)
6610	Soil Testing	6,037.10	6,000.00	6,000.00	-
6618	Strategic Planning	98,765.15	(60.29)	-	(60.29)
6620	Supplies Banquet	5,434.42	5,033.78	7,000.00	(1,966.22)
6625	Supplies Bar & Restaurant	7,122.29	6,085.64	7,200.00	(1,114.36)
6630	Supplies Club Repair	58.20	-	200.00	(200.00)
6635	Supplies Course	16,303.74	14,668.96	17,500.00	(2,831.04)
6640	Supplies Engraving	-	-	500.00	(500.00)
6645	Supplies Equipment	7,036.18	10,090.82	12,100.00	(2,009.18)
6650	Supplies Golf Cart	-	310.55	1,200.00	(889.45)
6652	Supplies Hotel	-	-	2,250.00	(2,250.00)
6655	Supplies Janitorial	74,950.10	59,766.78	66,325.00	(6,558.22)
6660	Supplies Locker Room	3,970.44	2,947.31	6,600.00	(3,652.69)
6665	Supplies Office	8,597.20	9,286.78	12,125.00	(2,838.22)
6670	Supplies Paper	46,698.67	41,944.41	48,160.00	(6,215.59)
6675	Supplies Pet Stations	6,465.72	4,168.28	6,000.00	(1,831.72)
6680	Supplies Teaching	-	-	1,200.00	(1,200.00)
6685	Swim Team Expense	5,687.00	5,500.00	6,500.00	(1,000.00)
6688	Taxes Income	10,543.00	1,035.46	15,000.00	(13,964.54)
6695	Taxes Personal Property	65,303.10	67,391.90	70,876.00	(3,484.10)
6705	Taxes Sales	697.28	306.16	1,592.00	(1,285.84)
6710	Telephone	35,697.75	37,659.00	44,492.86	(6,833.86)
6715	Tourney Expenses	1,405.87	385.00	1,900.00	(1,515.00)
6720	Travel	1,338.60	2,277.20	28,000.00	(25,722.80)
6725	Uniforms	29,863.65	26,919.79	31,975.00	(5,055.21)
6730	Waste Removal	35,890.81	41,187.81	40,817.30	370.51
6735	Water and Sewage	38,132.46	40,649.88	42,543.90	(1,894.02)
6740	Web Site Expenses	31,192.86	38,913.84	58,370.80	(19,456.96)
		-----	-----	-----	-----
0070	TOTAL OTHER EXPENSES	3,951,023.03	4,127,038.96	4,783,152.58	(656,113.62)
		-----	-----	-----	-----
0075	Total All Expenses	8,438,934.67	8,766,857.57	9,989,807.64	(1,221,032.96)
		-----	-----	-----	-----
0010	TOTAL INCOME (LOSS)	301,018.87	(172,987.68)	(823,438.88)	(648,534.09)
		=====	=====	=====	=====

#### EBITDA Calculation

	INCOME (GL# 0010 Above)	301,018.87	(172,987.68)	(823,438.88)	(577,675.44)
4625	Deferred Reserve Revenue	98,317.69	312,991.03	305,493.04	(7,497.99)
6215	Depreciation	828,412.85	896,003.39	1,053,131.00	(157,127.61)
6220	Depreciation Loan Costs	8,340.00	8,340.00	8,340.00	-
6312	Interest Bank Consolid Loan	348,100.64	487,091.18	624,488.00	(137,396.82)
6320	Interest Auto Loans	1,034.15	1,547.36	1,068.00	479.36
6325	Interest Leased Equipment	15,036.56	10,875.78	27,535.35	(16,659.57)
6688	Taxes Income	10,543.00	1,035.46	15,000.00	(13,964.54)
6695	Taxes Personal Property	65,303.10	67,391.90	70,876.00	(3,484.10)
6705	Taxes Sales	697.28	306.16	1,592.00	(1,285.84)
	EBITDA	1,676,804.14	1,612,594.58	1,284,084.51	328,510.07

#### FREE CASH FLOW Calculation

	INCOME (GL# 0010 Above)	301,018.87	(172,987.68)	(823,438.88)	(577,675.44)
4625	Deferred Reserve Revenue	98,317.69	312,991.03	305,493.04	(7,497.99)
6215	Depreciation	828,412.85	896,003.39	1,053,131.00	(157,127.61)
6220	Depreciation Loan Costs	8,340.00	8,340.00	8,340.00	-
	Free Cash Flow	1,236,089.41	1,044,346.74	543,525.16	500,821.58

Kiln Creek Owners Association

**2023 BUDGET**

Line Item Descriptions

REVENUES

4011-4016	Food sales throughout the facility
4021-4023	Liquor sales throughout the facility
4031-4032	Wine sales throughout the facility
4041-4044	Beer sales throughout the facility
4050	Rental of banquet and meeting rooms
4060	Misc rental items, chairs, linens, A/V equipment, etc.
4080	100% of all gratuities & tips collected to be disbursed to staff
4090	Merchandise sales in NEST Kitchen & Taphouse
4100	Golf and social member dues
4200	Golf related merchandise (clothing/equipment) from the golf retail shop
4205	Fees for Golf Bag Storage
4210	Fees to rent golf clubs or golf shoes
4220	100% of fees charged to manage golfer handicaps via the VSGA
4225	100% of Golf lesson fees charged
4230	Annual locker rental fees
4235	Practice ball rental for use on the practice facility
4250	Entry fees and similar income related to golf tournaments
4265	All green fees collected
4280	All cart fees collected
4400	Room revenue generated in the hotel from overnight stays
4410	Miscellaneous charges in the hotel (packages, special supplies, etc.)
4500	Monies collected from the sale of guest pool passes to residents
4600	Annual homeowners fees to the Association & additional annual homeowners fees to the residents of Claymill, Lakeside and Southlake
4620	Fees paid to the Association by the owner of Featherstone I & II Apartments
4625	Reserve funds collected; showing as a negative number since reserves are allowable <i>expenses</i> to offset income calculations
4650	Monies collected by the Association for transfer fees; transfer fees are the administrative fees collected at closing from each new deed on a lot (purchaser); budget is based on actual turnover history and pursuant to the Association's documents
4655	Income from the sale of advertising spots in the Courier newsletter
4660	Each time a lot is sold, a Disclosure Package is required by Virginia Law; the criteria and amount for disclosure packages is established by Virginia Code, the projected amount is based on actual turnover history
4665	Monies paid to the Kiln Creek Association from Claymill Corner, Lakeside, and Southlake for the management of their interior neighborhoods; the overhead fee covers staff time for the preparation of separate financials,

selection and supervision of contractors who perform landscaping and other work within the neighborhood, extra inspections, and informational meetings with the Neighborhood Advisory Boards as requested. It also includes an annual audit, and management of a neighborhood replacement reserve account

- 4670 Fees for aerobics classes at Pool; also pilates and yoga classes
- 4675 Represents monies received for rental of the Recreation Center
- 4680 Interest computed on Operating Accounts and miscellaneous charges such as certified letter charges to delinquent owners, administrative fees for filing liens, monetary charges, vending machine income, etc.
- 4685 Based on actual late fee income over the last few years
- 4695 Monies paid to the Association by members of the Professional and Business Association for the benefit they receive from maintenance of our collector roads; the governing documents cap increases at 3% each year
- 4800 Unused rain checks and gift cards sold (adjusted upon expiration)
- 4810 Misc Other Income – NSF fees, Craft Fair Vendors, Rec Passes, Formal Hearing Fees

#### COST OF GOODS SOLD

- 5000 Actual cost of golf merchandise for resale in the Golf Shop
- 5005-5300 Actual cost of food, beer, wine & liquor products for resale and items associated with waste or spoilage
- 5400 Expenses related to inventory loss, damage, or other shrink

#### EMPLOYEE EXPENSES

- 6010 Wages for both salaried & hourly staff
- 6020 Wages in excess of 40 hours per week for hourly employees
- 6030 Use of temporary labor for special projects
- 6035 Vacation Liability matches the specific accrual and use of vacation time
- 6045 Compensation deferred until year end and at-risk compensation
- 6050 Commissions paid as a percentage of the sales generated by commissioned employees
- 6055 Lessons reimbursed to Golf Professionals
- 6060 Gratuities and tips paid to the service staff
- 6070 Social security and Medicare payroll taxes
- 6071 Federal unemployment taxes
- 6072 State unemployment taxes
- 6073 Employer portion of 401K/Simple IRA contributions for eligible employees
- 6074 Health insurance costs paid on behalf of eligible employees
- 6075 Dental insurance costs paid on behalf of eligible employees
- 6076 Life, disability, and AD/D insurance paid on behalf of eligible employees

- 6077 Workers compensation costs
- 6078 Cost of employee meals for eligible employees
- 6085 Continuing education for selected employees
- 6086 Costs associated with dues paid on behalf of employee
- 6090 Cost of pre-hire testing, drug tests, etc.
- 6091 Charges related to payroll processing

OTHER EXPENSES

- 6110 Production costs associated with display posters throughout the facility
- 6115 Fees for independent audits of operations
- 6120 Losses related to residents and customers' failure to pay obligations (all types); number based on expectation of new bad debt to be incurred based on historical tendencies; existing bad debt to be applied to current year financials
- 6130 Fees charged by the banks for account maintenance
- 6135 Expenses incurred as a result of hosted banquets
- 6140 Advertising and promotions
- 6145 Repairs to bridges and erosion control bulkheads throughout the golf course and community
- 6155 Loss or gain from inaccuracies in cash daily operations
- 6165 Chemicals used by the Agronomy Department in the maintenance of turf and landscaping areas; chemicals utilized in cleaning and maintenance of other areas
- 6170 Replacement costs of china, glassware and tableware
- 6175 Cleaning related services (carpets, draperies, etc.)
- 6185 Fees for the Reserve Study required every five years by law
- 6190 Charitable contributions or donations made to outside entities
- 6195 All costs related to copiers (toner, paper, cartridges)
- 6200 Attorney fees to the collection of past due accounts
- 6205 Fees paid to the credit card service provider for processing credit card transactions
- 6210 Items that may become damaged while on display in the golf shop
- 6215 – 6220 Depreciation associated with the life of all fixed assets
- 6225 Discounts on sales (promotions, etc.)
- 6230 Organizational dues such as Chamber of Commerce fees
- 6235 Utility costs related to electricity
- 6240 Costs incurred by the Club not being passed to the customer (e.g. DJ during event)
- 6245 Costs under \$1000 not considered a capital expense (not a fixed asset on the balance sheet); examples include small communication radios, pressure washer, etc.
- 6250 Rental of specialized equipment (e.g. bucket-lift for lights repairs)
- 6255 Fertilizer costs for all turf and landscape areas as determined by the fertility plan



6260 Flowers and decorations for the facilities  
6265 Diesel fuel for maintenance vehicles  
6270 Gasoline for maintenance and company vehicles  
6275 Revenue or loss posted against the sale or disposal of a physical asset  
6280 Specific projects related to beautification of grounds  
6285 Incurred expense from governing body to manage golfing handicaps  
6290 Utility cost related to heating buildings  
6295 Annual staff party costs, etc.  
6300 Business package insurance  
6312 Interest costs related to total debt service (purchase of the Resort, renovation of Rec Center facilities, development of NEST, irrigation replacement project, etc.)  
6320 Interest costs related to auto loans  
6325 Interest costs on leased equipment (primarily landscaping vehicles, etc.)  
6330 Costs related to Junior Golf Camps, etc.  
6335 Small kitchen supplies and equipment utilized in the F&B operation  
6340 Aquatic management of all community and golf course lakes (e.g. algae control)  
6350 Costs related to maintain landscape beds, etc. (e.g. mulch)  
6355 Costs associated with cleaning linens and other items used for banquets and in the hotel  
6365 Annual lease for Copiers  
6367 Annual lease for Dishwasher  
6370 Annual lease for the fleet of golf carts  
6375 Fees associated with Annual lease of Agronomy Equipment  
6380 Annual lease for postage meter/machine at HOA office  
6400 Fees paid for legal work and advice related to all management and operating concerns  
6405 Publications and newspapers  
6410 Purchase/rental cost of linens utilized in the management of banquet events and hotel operations (in some cases billed back to customers)  
6415 All lubricants utilized by the equipment maintenance operation  
6420 Cost of any contracted services such as individual village management, pool management, village landscaping contracts, and other necessary services requiring outside contractors  
6425 Annual member appreciation party; complimentary meals and gifts; anything for the purpose of promoting membership sales and satisfaction  
6430 Utility cost for cable, internet and Wi-Fi services for all office, clubhouse, and hotel operations  
6435 Cost of Courier newsletter production for homeowners  
6440 Rental fees for off-site storage units (accounting records, decorations, etc.)  
6445 Annual upkeep costs related to painting (interior and exterior) and facility presentation needs

6450 Penalties, fines, late fees, loan closing costs or fees (2019 value related to closing the Old Point refinance)

6455 Business license, elevator permit, pesticide applicator licenses, ABC permits, etc.

6460 Termite and similar pest control expenses

6470 Cost of postage services and postage machines for use in business operations

6473 Cost to maintain the inventory of practice balls and bags

6474 Cost to maintain the practice facility (coolers, cups, stands, mats, etc.)

6475 Business cards, letterhead, envelopes, statement paper, purchase orders, etc.

6480 Repairs and maintenance to the main buildings (offices, maintenance facilities, recreation center, clubhouse, etc.)

6485 Repairs and maintenance to community and course paths

6490 Repairs and maintenance to golf carts (some repairs are under warranty)

6495 Repairs and maintenance specifically related to computer systems; includes maintenance contracts

6500 Repairs and maintenance related to drainage throughout the community

6505 Repairs and maintenance specifically involving electrical components

6510 Repairs and maintenance to elevators in the recreation center and clubhouse; annual service contracts here also

6515 Repairs and maintenance to operating equipment (e.g. ovens, blowers, mowers, radios, etc.)

6520 Repairs and maintenance to the HVAC (heating/cooling) systems

6525 Repairs and maintenance to the irrigation systems throughout the community and on the golf course

6530 Repairs and maintenance specifically related to plumbing concerns

6535 Repairs and maintenance to the pool and pool equipment

6540 Repairs and maintenance to community and facility signage

6545 Repairs and maintenance related to damage and clean-up from storm damage

6550 Repairs and maintenance to streets & lights

6555 Repairs and maintenance related to vehicles (trucks and automobiles)

6570 Misc recreation items (balls, games, etc)

6575 Expenses associated with the purchase and maintenance of the rental clubs

6580 Safety equipment expense related to hearing protection, protective gear, etc.

6585 All soils and aggregates utilized for drainage, landscaping, and golf course operations

6590 Costs for Scorecards, Pencils & Tees for golf carts

6595 Costs related to alarm systems, security cameras, etc. (cost of security personnel is covered in Employee Costs)

6600 Seed and sod for use throughout the community and on the golf course; includes seed for seasonal overseeding and sod for annual repairs to turf

6605 Small tools utilized chiefly by the equipment management staff  
6610 Cost of soil tests to determine fertilizer, chemical, and other agronomic needs  
6618 Funds allocated for the specific use of the Strategic Planning Committee in order to facilitate the study and analysis of potential community improvement projects  
6620 Banquet related supplies such as platters, chafing dishes, etc.  
6625 Supplies for use in bar operations (jiggers, blenders, etc.)  
6630 Supplies utilized in the repair of golf clubs  
6635 Flagsticks, tee markers, and related golf course supplies  
6640 Supplies utilized for engraving throughout the facility  
6645 Anything needed to operate equipment (e.g. a new hose for a pressure washer)  
6650 Towels, pencils, signage for golf carts  
6652 Supplies exclusive to the hotel (disposables primarily)  
6655 Tools and supplies utilized when cleaning the facility and hotel (carts, mops, etc.)  
6660 Supplies for locker rooms  
6665 Pens, pencils, staples, etc.  
6670 Paper towels, toilet paper, disposable cups, disposable eating utensils, etc.  
6675 Disposable bags for use at all pet stations throughout the community  
6680 Items utilized during golf, swim or fitness lessons  
6685 Donation to Kiln Creek Swim Team  
6688 Income taxes due (rarely relevant since we may deduct depreciation and reserves as expenses)  
6695 Taxes on the value of property held by Association (desks, computers, furniture, etc.)  
6705 Sales taxes on leases  
6710 Utility costs for telephone services in all offices, the hotel, etc.  
6715 Expenses associated with in house tournament events  
6720 Mileage reimbursements and other travel related costs  
6725 Cost of uniforms supplied to maintenance and service staffs  
6730 Cost of garbage, recycled products, and plant material removal  
6735 Utility costs related to water and sewer  
6740 Hosting and support costs related to the website

**VILLAGES OF KILN CREEK OWNERS ASSOCIATION**  
**BALANCE SHEET**

DECEMBER 31, 2021

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**ASSETS**

Current Assets:

Cash and cash equivalents (including designated funds of \$903,580)	\$ 3,010,651
Accounts receivable, net of allowance of \$49,212	99,748
Employee retention credit receivable	420,567
Inventory	122,273
Prepaid expenses	79,371
Total Current Assets	<u>3,732,610</u>

Noncurrent Assets:

Property and equipment, net	<u>7,687,686</u>
<b>Total Assets</b>	<b><u>\$ 11,420,296</u></b>

**LIABILITIES AND EQUITY**

Current Liabilities:

Accounts payable and accrued expenses	\$ 593,017
Contract Liabilities:	
Deferred revenue	201,855
Deferred dues	522,576
Prepaid assessments and fees	346,007
Contract liability reserves	903,580
Long-term debt, current portion	221,268
Capital leases, current portion	103,946
Total Current Liabilities	<u>2,892,249</u>

Long-Term Liabilities:

Long-term debt, net	5,939,849
Capital leases, less current portion	85,693
Total Long-Term Liabilities	<u>6,025,542</u>
Total Liabilities	8,917,791

Equity

Equity	<u>2,502,505</u>
<b>Total Liabilities and Equity</b>	<b><u>\$ 11,420,296</u></b>

**VILLAGES OF KILN CREEK OWNERS ASSOCIATION**  
**STATEMENT OF REVENUES, EXPENSES, AND CHANGES IN EQUITY**

YEAR ENDED DECEMBER 31, 2021

**Revenues:**

Hotel		\$	300,873
Golf operations			1,302,550
Agronomy			3,821
Recreation			19,330
Food and beverage			2,553,196
HOA administration			4,233,697
Neighborhood sub-associations assessments	\$	419,887	
Amounts deferred to contract liability reserves		(98,318)	
Neighborhood sub-associations assessments, net			<u>321,569</u>
Total Revenues			<u>8,735,036</u>

**Expenses:**

Hotel			426,197
Golf operations			742,413
Agronomy			1,853,377
Recreation			287,582
Food and beverage			2,918,150
HOA administration			1,892,704
Neighborhood sub-associations			<u>307,968</u>
Total Expenses			<u>8,428,391</u>
Excess of Operating Revenues Over Expenses			<u>306,645</u>

**Other Revenues:**

Employee retention credit revenue			764,260
Payroll Protection Program loan forgiveness revenue			1,408,056
Other revenue			<u>4,918</u>
Total Other Revenues			<u>2,177,234</u>
Excess of Revenues Over Expenses Before Income Taxes			2,483,879

Income tax expense			<u>10,543</u>
Excess of revenues over expenses			2,473,336
Equity, beginning of year			<u>29,169</u>
Equity, end of year		\$	<u><u>2,502,505</u></u>

There is no pending litigation.



# COMMONWEALTH of VIRGINIA

Department of Professional and Occupational Regulation

9960 Mayland Drive, Suite 400, Richmond, VA 23233

Telephone: (804) 367-8500

EXPIRES ON

05-31-2023

NUMBER

0550000681

## COMMON INTEREST COMMUNITY BOARD COMMON INTEREST COMMUNITY ASSOCIATION REGISTRATION



VILLAGES OF KILN CREEK OWNERS' ASSOCIATION, INC  
LAURA CARNRIKE  
1003 BRICK KILN BLVD  
NEWPORT NEWS, VA 23602



*Demetrios J. Mella*  
Demetrios J. Mella, Director

Status can be verified at <http://www.dpor.virginia.gov>

(SEE REVERSE SIDE FOR PRIVILEGES AND INSTRUCTIONS)

DPOR-LIC (02/2017)

(DETACH HERE)



COMMONWEALTH of VIRGINIA

Department of Professional and Occupational Regulation

COMMON INTEREST COMMUNITY BOARD  
COMMON INTEREST COMMUNITY ASSOCIATION REGISTRATION  
NUMBER: 0550000681 EXPIRES: 05-31-2023

VILLAGES OF KILN CREEK OWNERS' ASSOCIATION, INC  
LAURA CARNRIKE  
1003 BRICK KILN BLVD  
NEWPORT NEWS, VA 23602



(FOLD)

Status can be verified at <http://www.dpor.virginia.gov>

DPOR-PC (02/2017)



## LICENSE PRIVILEGES AND INSTRUCTIONS

This license, certificate, or registration is issued to the individual or business named on the front of this document and is **NOT TRANSFERABLE**. Notify the Board of changes to name (individual, business, and/or trade), mailing address, or location.

The privileges of this license, certificate, or registration are hereby granted to the individual or business to operate in accordance with the terms of the license, certificate, or registration herein designated and the applicable statutes of the Commonwealth of Virginia and the regulations of the Board.

The privileges conferred by this license, certificate, or registration shall continue until the expiration date. However, the license, certificate, or registration may be suspended or revoked prior to expiration.

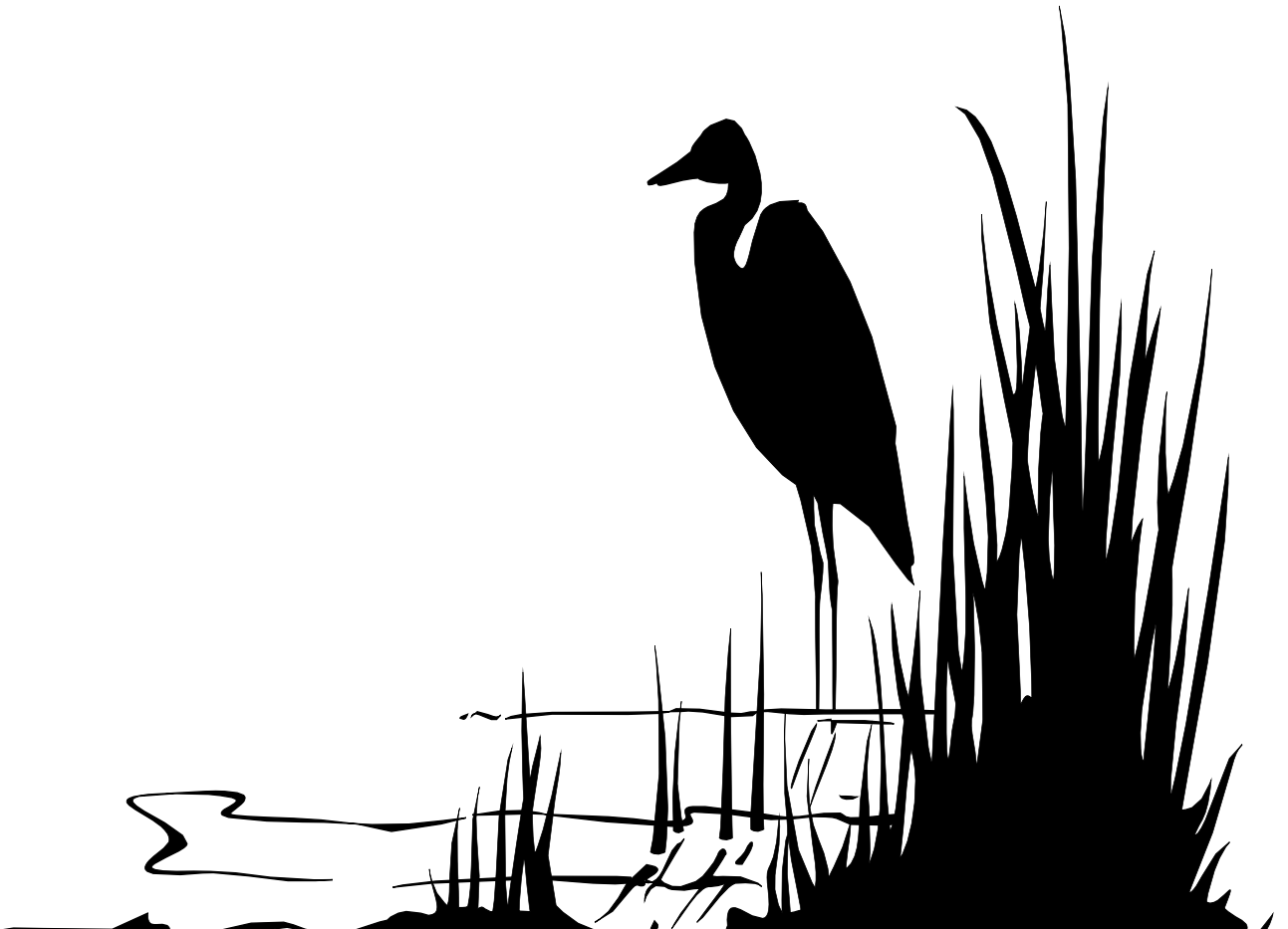
Information about our agency, boards, and programs can be found at <http://www.dpor.virginia.gov>. Any questions relative to the issuance, privileges and maintenance of your license, certificate, or registration should be addressed to the Board.

**THIS DOCUMENT AND POCKET CARD CONTAIN SECURITY FEATURES. ALTERATION OF THIS DOCUMENT OR A POCKET CARD, USE AFTER EXPIRATION, OR USE BY ANOTHER INDIVIDUAL OR BUSINESS MAY RESULT IN CRIMINAL PROSECUTION UNDER THE CODE OF VIRGINIA.**

THIS DOCUMENT AND POCKET CARD  
CONTAIN SECURITY CARD FEATURES.  
ALTERATION OF THIS DOCUMENT  
OR POCKET CARD, USE AFTER  
EXPIRATION, OR USE BY ANOTHER  
INDIVIDUAL OR BUSINESS MAY  
RESULT IN CRIMINAL  
PROSECUTION UNDER THE  
CODE OF VIRGINIA.

# Kiln Creek Owners Association Declaration Section

- 1) First Amendment to Second Amended & Restated  
Declaration of Covenants & Restrictions
- 2) Declaration of Common Area
- 3) Second Amended and Restated Declaration of  
Covenants & Restrictions



Prepared by and return to:  
Elizabeth L. White, Esquire (VSB #27432)  
Sands Anderson PC  
263 McLaws Circle, Suite 205  
Williamsburg, VA 23185

**FIRST AMENDMENT TO SECOND AMENDED AND RESTATED DECLARATION  
OF COVENANTS AND RESTRICTIONS**

**Villages of Kiln Creek**

This FIRST AMENDMENT TO SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS ("Amendment") is made this 15 day November, 2018 by VILLAGES OF KILN CREEK OWNERS ASSOCIATION, a Virginia non-stock corporation ("Association") having an address of 970 Brick Kiln Boulevard, Newport News, VA 23602 [index as "Grantor" and "Grantee" for recording purposes].

**RECITALS**

A. By instrument entitled "Villages of Kiln Creek Declaration of Covenants and Restrictions" dated May 25, 1988 and recorded June 3, 1988 in the Clerk's Office of the Circuit Court of the City of Newport News (the "Newport News Clerk's Office") in Deed Book 1176, at page 99, and in the Clerk's Office of the County of York (the "York County Clerk's Office") in Deed Book 545, at page 245 (collectively, the "Original Declaration"), Kiln Creek Associates, a Virginia general partnership ("Kiln Creek Associates"), as "Developer" thereunder subjected certain real property more particularly described in Exhibit A thereto to the covenants, restrictions, easements, charges and liens of the Original Declaration.

B. By various instruments entitled "Supplementary Declaration of Covenants and Restrictions" (collectively, the "Supplemental Declarations"), Kiln Creek Associates

(and its successors and assigns as "Developer") subjected certain additional real property described in Exhibit A of each Supplemental Declaration to the Original Declaration (and later to the "Amended and Restated Declaration" and the "First Amended and Restated Declaration" as hereinafter defined).

C. By instrument entitled "Villages of Kiln Creek Amended and Restated Declaration of Covenants and Restrictions" dated April 1, 1991 and recorded in the Newport News Clerk's Office in Deed Book 1248, at page 719, and in the York County Clerk's Office in Deed Book 612, at page 286, the Original Declaration was amended and restated (the "Amended and Restated Declaration")

D. The Amended and Restated Declaration was subsequently amended by instrument entitled "First Amendment to Amended and Restated Declaration of Covenants and Restrictions" dated August 1, 1991 and recorded in the Newport News Clerk's Office in Deed Book 1263 (1258), at page 1009 (631), and in the York County Clerk's Office in Deed Book 624, at page 565 (the "First Amendment"); and by instrument entitled "Second Amendment to Amended and Restated Declaration of Covenants and Restrictions" dated September 13, 1991 and recorded in the Newport News Clerk's Office in Deed Book 1265, at page 139, and in the York County Clerk's Office in Deed Book 637, at page 577 (the "Second Amendment").

E. By instrument entitled "Third Amendment to Amended and Restated Declaration of Covenants and Restrictions" dated August 18, 2004, and recorded in the Newport News Clerk's Office in Deed Book 1947, at page 1995, and in the York County Clerk's Office as instrument number LR040017641 (the "Third Amendment"), the Amended and Restated Declaration was further amended. The Amended and Restated

Declaration as further amended by the First Amendment, Second Amendment and Third Amendment is hereinafter referred to as the "First Amended and Restated Declaration."

F. By instrument entitled "Second Amended and Restated Declaration of Covenants and Restrictions of Villages of Kiln Creek Owners Association" dated August 25, 2009 (the "Second Declaration"), and recorded in the Newport News Clerk's Office as instrument number 090017258, and in the York County Clerk's Office as instrument number 090018824, the Villages of Kiln Creek Owner's Association amended and restated the First Amended and Restated Declaration in its entirety.

G. At the time of the Second Declaration, the country club and golf course located within the Villages of Kiln Creek were privately owned by an independent unrelated entity, separate and apart from the Association, and the Second Declaration included a provision setting forth this fact. Subsequent to the Second Declaration, in 2013, by instrument entitled "Deed of Bargain and Sale and Reservation of Conservation Easement" dated December 19, 2013, and recorded in the Newport News Clerk's Office as instrument number 140001556, and in the York County Clerk's Office as instrument number LR140002013, the Association acquired title to the golf course (the "the Golf Course") and related land located within the Villages of Kiln Creek as more particularly described in such Deed (collectively the "Golf and Resort Land").

H. By instrument entitled "Declaration of Common Area" dated December 19, 2013, and recorded in the Newport News Clerk's Office as instrument number 130022263, and in the York County Clerk's Office as instrument number LR130025017 (collectively, the "Declaration of Common Area"), the Villages of Kiln Creek Owner's

Association designated the Golf and Resort Land as "Common Area" as defined in the Second Declaration.

I. Article IX, Section 9.2 of the Second Declaration provides that the Second Declaration may be amended "...by a vote of two-thirds (2/3) of the Board of Directors pursuant to the authority set forth in Section 55-515.2 of the Code of Virginia", which Code provision allows for the principal officer of a property owners' association to execute and record a corrective amendment upon a two-third (2/3) vote of the members of the board of directors of said property owners' association.

J. The Board of Directors of the Association, pursuant both to a resolution adopted by a vote of at least two-thirds (2/3) of its Directors and to the authority vested in it by Section 55-515.2 of the Code of Virginia, voted to amend the Second Declaration to correct an inconsistency, to clarify an ambiguity in the Second Declaration with regard to an objectively verifiable fact (i.e., the record ownership of the Golf Course and the Golf and Resort Land), and to correctly disclose the Association's ownership of the Golf Course and the Golf and Resort Land now that the Association owns such property and such property constitutes Common Area of the Association.

#### **AMENDMENT**

NOW, THEREFORE, the Second Declaration is hereby amended to delete Section 9.9 of Article IX in its entirety and to replace it with the following:

Section 9.9. Kiln Creek Golf Club and Resort. The Golf and Resort Land (including but not limited to the Golf Course), together with the facilities and improvements thereon, are owned by the Association and comprise a portion of the Common Area owned, operated and maintained by the Association. The Association

may enter into agreements with non-Owners to utilize the Golf Course and other facilities located within the Golf and Resort Land as authorized in Article IV of this Declaration.

IN WITNESS WHEREOF, this Amendment is executed as of the date and year first written above.

VILLAGES OF KILN CREEK OWNERS ASSOCIATION, a Virginia non-stock corporation

By:   
David Radcliffe, President

The undersigned president of the Association hereby certifies that he executes this Amendment pursuant to a duly adopted resolution of the Board of Directors of the Association upon the affirmative vote of two-thirds or more of the directors serving on the Board of Directors of the Association to approve this Amendment.

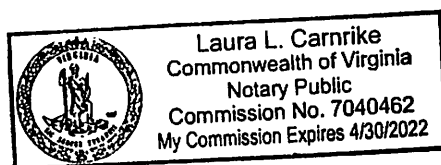
  
David Radcliffe, President

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit

The foregoing instrument was acknowledged before me in Newport News, Virginia, this 15 day of November, 2018, by David Radcliffe, President of Villages of Kiln Creek Owners Association, a Virginia non-stock corporation, on its behalf.

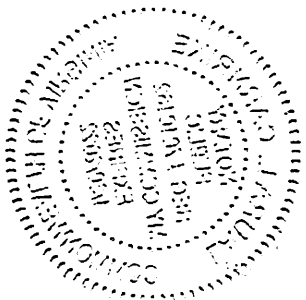
  
Notary Public

My commission expires: 4/30/22  
Registration No.: 7040462



INSTRUMENT 180022148  
RECORDED IN THE CLERK'S OFFICE OF  
YORK COUNTY - POQUOSON CIRCUIT COURT ON  
DECEMBER 6, 2018 AT 10:10 AM  
KRISTEN N. NELSON, CLERK  
RECORDED BY: DMH

*Debra M. Hest*





may enter into agreements with non-Owners to utilize the Golf Course and other facilities located within the Golf and Resort Land as authorized in Article IV of this Declaration.

IN WITNESS WHEREOF, this Amendment is executed as of the date and year first written above.

INSTRUMENT 180015895  
RECORDED IN THE CLERK'S OFFICE OF  
NEWPORT NEWS CIRCUIT COURT ON  
DECEMBER 6, 2018 AT 11:26 AM  
GARY S. ANDERSON, CLERK  
RECORDED BY: LXS

VILLAGES OF KILN CREEK OWNERS  
ASSOCIATION, a Virginia non-stock  
corporation

By: David Radcliffe  
David Radcliffe, President

The undersigned president of the Association hereby certifies that he executes this Amendment pursuant to a duly adopted resolution of the Board of Directors of the Association upon the affirmative vote of two-thirds or more of the directors serving on the Board of Directors of the Association to approve this Amendment.

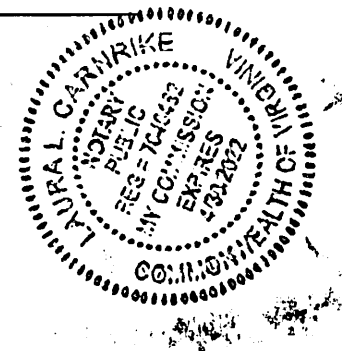
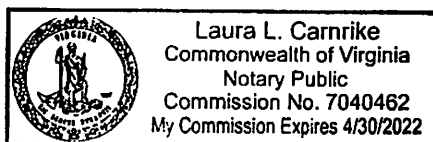
David Radcliffe  
David Radcliffe, President

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit

The foregoing instrument was acknowledged before me in Newport News, Virginia, this 15 day of November, 2018, by David Radcliffe, President of Villages of Kiln Creek Owners Association, a Virginia non-stock corporation, on its behalf.

Laura L. Carnrike  
Notary Public

My commission expires: 4/30/22  
Registration No.: 7040462



130022263

Prepared by and return to:  
Lori H. Schweller, Esq.  
VSB No. 42399  
LeClairRyan, P.C.  
5388 Discovery Park Blvd., Third Floor  
Williamsburg, Virginia 23188

York County GPIN/Tax Map parcel Nos: R04c-1305-2400, R04c-1987-2154, R04d-4731-0192, R03b-3961-3650  
City of Newport News GPIN/Tax Map parcel Nos.: 133000590, 113000101, 113000103, 123000426, 132000602,  
142000501

**DECLARATION OF COMMON AREA  
(Open Space)**

THIS DECLARATION OF COMMON AREA ("Declaration") is made this 19th day of December, 2013, by VILLAGES OF KILN CREEK OWNERS ASSOCIATION, a Virginia nonstock corporation (the "Association"), to be indexed both as both "Grantor" and "Grantee" for recording purposes.

**RECITALS:**

A. By deed from KCCC, L.L.C. ("KCCC"), recorded prior to this instrument, the Association acquired that certain real property, containing approximately 288.45 acres, described on Exhibit A attached hereto and incorporated herein (the "Property"). The Property contains an 18-hole golf course, clubhouse and related improvements, as well as an approximately 60-acre natural area formerly the site of a nine-hole golf course.

B. The Association adopted the Second Amended and Restated Declaration of Covenants and Restrictions of Villages of Kiln Creek Owners Association," dated August 25, 2009, and recorded August 28, 2009 in the Clerk's Office of the Circuit Court for the City of Newport News, Virginia and in the Clerk's Office of the Circuit Court for York County as Instrument Number 090018824 (the "Declaration").

C. Section 1.8 of the Declaration provides that the "Common Area" includes all "real estate and improvements or facilities now or hereafter owned by the Association which are intended to be devoted to the common use and enjoyment of the Owners and such non-Owners, if any, who have been authorized to use such Common Area..."

D. The Association desires to designate the Property as Common Area for the use and enjoyment of the Members of the Association (as defined in the Declaration), and to such non-Owners who have been authorized to use the Property, which use and enjoyment shall be subject to such rights, obligations and limitations set forth in the Declaration with respect to Common Area of the Association.

NOW, THEREFORE, the Association hereby declares that the Property is designated as Common Area pursuant to Section 1.8 of the Declaration, and shall be held, transferred, sold, conveyed and occupied subject to such designation.

A. As to all of the Property other than that described on Exhibit B, attached hereto and incorporated herein:

1. The Association, by the affirmative vote or consent in writing of a majority or more of the Owners of the Lots subject to the Declaration, may authorize the President of the Association to execute a Supplemental Declaration to declare that all or part of the Property is no longer Common Area, evidenced by such Owners joining in an instrument to be recorded in the land records of the jurisdiction(s) in which the land is located, declaring that such property is no longer Common Area; and

2. The Declaration is subordinate to the conservation easement (including the Association's obligation to execute, at the request of KCCC, its deed of gift of easement in order to affirm the Association's agreement to be bound by its covenants and restrictions) reserved by KCCC, L.L.C. in the deed (and exhibits) conveying the Property to the Association.

B. As to only that portion of the Property described on Exhibit B, the Board of Directors of the Association, by the affirmative vote or consent in writing of at least two thirds (2/3) of the Directors, evidenced by adoption of a written resolution or execution of a written consent, may authorize the President of the Association to execute a Supplemental Declaration to declare that all or part of such Property described on Exhibit B is no longer Common Area.

This Declaration may be executed in counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

*[Signature pages follow.]*

[Signature page to Declaration of Common Area]

IN WITNESS WHEREOF, the Association has executed this Declaration as of the date printed above.

**VILLAGES OF KILN CREEK OWNERS ASSOCIATION,**  
a Virginia nonstock corporation

By: David P. Radcliffe

Name: David P. Radcliffe

Title: President

COMMONWEALTH OF VIRGINIA

In the City of Newsport News, to wit:

I, a Notary Public for the City and State aforesaid, do hereby certify that David Radcliffe, personally appeared before me this day and acknowledged that he is the President of Villages of Kiln Creek Owners Association, a Virginia non-stock corporation, and that as President being authorized to do so, executed the foregoing on behalf of the Association.

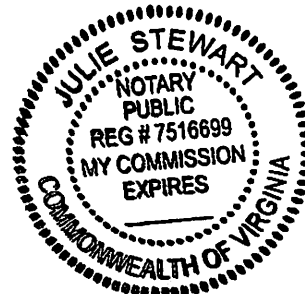
Witness my hand and official seal, this 18 day of December

2013.

Julie Stewart  
Notary Public

My Commission Expires: 7/31/14

Registration ID No.: 7516699



**JOINDER OF LENDER**

KCCC, L.L.C., a Virginia limited liability company, is the beneficiary (the "Lender") of that certain Deed of Trust dated as of December 19, 2013, from Villages of Kiln Creek Owners Association, a Virginia nonstock corporation, to Bennett L. Stein and M. Scott Stein, Trustees, whose address is 724 Thimble Shoals Blvd, Suite 100, Newport News, Virginia 23606, and recorded in the Clerk's Offices of the Circuit Courts of the City of Newport News, Virginia and County of York, Virginia, immediately preceding this instrument.

By signing below, the Lender hereby joins in and consents to this Declaration of Common Area.

**LENDER:**                    **KCCC, L.L.C.,**  
   a Virginia limited liability company

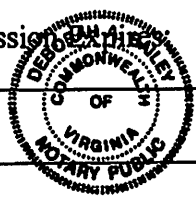
By: H.R. Ashe  
   H. R. Ashe, Manager

STATE OF VIRGINIA  
CITY  
COUNTY OF NEWPORT NEWS

The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of December, 2013, by H.R. Ashe, whose title is MANAGER of KCCC, L.L.C., a Virginia limited liability company, and who executed the aforesaid instrument on behalf of the company.

Deborah A. Bailey  
Notary Public, State of VIRGINIA  
at Large.

My Commission Expires \_\_\_\_\_  
Serial No. \_\_\_\_\_



**Deborah A. Bailey**  
**NOTARY PUBLIC**  
Commonwealth of Virginia  
Reg. #207023  
My Commission Expires 6/30/2016

Personally known OR produced identification \_\_\_\_\_  
Identification produced \_\_\_\_\_

**EXHIBIT A**

**PARCEL I:** All those pieces or parcels of land lying and being situate in the City of Newport News and the County of York, Virginia, commonly known as the Golf Course of the Kiln Creek Golf and Country Club, and being more particularly shown and designated as:

Parcels D & E on the record plat entitled "Subdivision of the Property of Villages of Kiln Creek Limited Partnership, Villages of Kiln Creek Golf Course, Showing Parcels D & E, York County, Virginia," recorded in the Clerk's Office of the Circuit Court of the County of York, Virginia, in Plat Book 11 at pages 303-308; and

Parcels A, B, C and F on the record plat entitled "Subdivision of Parcels A, B, C & F, Property of Villages of Kiln Creek Limited Partnership, Newport News, Virginia", recorded in the Clerk's Office of the City of Newport News, Virginia, in Deed Book 1246 at pages 1750-1765; and

the "Pump Station Lot at Lake No.1" as designated on the record plat entitled "Subdivision Plat of Lake No.1, The Villages of Kiln Creek, Newport News, Virginia," recorded in the Clerk's Office of the City of Newport News, Virginia, in Deed Book 1259 at page 1334; and

TOGETHER WITH that certain lot or parcel of land lying and being situate in the City of Newport News, Virginia, containing 0.082 acres, more or less, and being more particularly described as Parcel F within the "Subdivision of the Property of R.G. Moore Building Corporation, Westgate, Right-of-Way, Section Two (2), The Villages of Kiln Creek, Newport News, Virginia," as shown on a certain plat prepared by Sledd, Runey and Associates, P.C., dated May 31, 1990 entitled "Subdivision of the Property of R. G. Moore Building Corp., Westgate, Right-of-Way Section Two (2), The Villages of Kiln Creek, Newport News, Virginia," which was recorded August 1, 1990 in the Clerk's Office of the Circuit Court for the City of Newport News, Virginia, in Deed Book 1230 at page 558; and

TOGETHER WITH AND SUBJECT TO all rights, uses, easements, reservations, duties, charges and obligations as are contained in or shown on any attached plat to those certain instruments recorded in Deed Book 1190 at page 505; Deed Book 1230 at page 119; Deed Book 1227 at page 1531; Deed Book 1262 at page 1240; Deed Book 1262 at page 1245; Deed Book 1262 at page 1253 and in Deed Book 1329 at page 1544, among the land records of the City of Newport News, Virginia, and further TOGETHER WITH AND SUBJECT TO all rights, uses, easements, reservations, duties, charges, obligations as are contained in or shown on any attached plat to those certain instruments recorded in Deed Book 633 at page 433, Deed Book 741 at page 239, Deed Book 747 at page 346, Deed Book 790 at page 557 and in Plat Book 11 at page 286, among the land records of York County, Virginia.

**LESS AND EXCEPT** all of that certain lot or parcel of land lying and being situate in the County of York, Virginia, and being more particularly described on that certain plat entitled "Resubdivision of The Villages of Kiln Creek Golf Course Parcel E and Apt/Condo 2, County of York, Virginia," prepared by Sledd, Runey and Associates, P.C., Engineers, Planners and Surveyors, a copy of which was recorded in the Clerk's Office of the Circuit Court of the County of York, Virginia, in Plat Book 11 at pages 351-352.

**LESS AND EXCEPT** that portion of the subject property designated as Parcel B1 on plat of resubdivision of Parcels B and F, Kiln Creek Golf and Country Club, The Villages of Kiln Creek, City of Newport News, Virginia, described by metes and bounds as follows: Beginning at a point on the northeasterly right-of-way line of Kiln Creek Parkway, said point being the Intersection of the northeasterly right-of-way line of Kiln Creek Parkway with the southeasterly right-of-way line of Brick Kiln Boulevard; thence N 07° 28' 05" E a distance of 50.00 feet; thence N 64° 50' 16" E a distance of 139.50 feet to a point of curvature of a tangent curve concave to the southeast; thence northeasterly along the arc of said curve to the right, having a radius of 1,600.00 feet and a central angle of 04° 36' 01" for an arc distance of 133.28 feet to a point of reverse curvature of a tangent curve concave to the north; thence easterly along the arc of said curve to the left, having a radius of 839.90 feet and a central angle of 02° 32' 10" for an arc distance of 37.18 feet to a point of reverse curvature of a tangent curve concave to the south; thence easterly along the arc of said curve to the right, having a radius of 839.90 feet and a central angle of 06° 03' 44" for an arc distance of 88.87 feet to a non-tangent line; thence S 02° 08' 12" E a distance of 314.82 feet; thence N 87° 56' 23" E a distance of 38.63 feet; thence S 02° 38' 49" E a distance of 108.86 feet; thence S 53° 54' 36" W a distance of 111.42 feet; thence S 83° 54' 02" W a distance of 16.77 feet to a point on the arc of a non-tangent curve concave to the southwest; thence northwesterly along the arc of said curve to the left, having a radius of 2,551.25 feet and a central angle of 02° 32' 54" for an arc distance of 113.47 feet to a point of tangency; thence N 49° 58' 44" W a distance of 200.00 feet to a point of curvature of a tangent curve concave to the northeast; thence northwesterly along the arc of said curve to the right, having a radius of 834.00 feet and a central angle of 08° 00' 21" for an arc distance of 116.53 feet to the point of beginning, containing 2.710 acres, more or less, as shown on plat entitled "Plat of Resubdivision, Parcels B and F, Kiln Creek Golf and Country Club, The Villages of Kiln Creek, City of Newport News, Virginia," prepared by Sledd, Runey & Associates, P.C., dated January 25, 1994.

**LESS AND EXCEPT** that portion of the subject property designated Parcel B2 on plat of resubdivision of Parcels B and F, Kiln Creek Golf and Country Club, The Villages of Kiln Creek, City of Newport News, Virginia, described by metes and bounds as follows: Beginning at a point located 259.74 feet in a northerly direction from a second point located on the northerly right-of-way line of Brick Kiln Boulevard, said second point being located 862.13 feet in an easterly and northerly direction from a third point located on the northeasterly right-of-way line of Kiln Creek Parkway, said third point being the intersection of the northeasterly right-of-way line of Kiln Creek Parkway with the southeasterly right-of-way line of Brick Kiln Boulevard; thence northwesterly along the arc of a curve to the left, having a radius of 75.00 feet and a central angle of 25° 18' 55" for an

arc distance of 33.14 feet to a point of reverse curvature of a tangent curve concave to the east; thence northerly along the arc of said curve to the right, having a radius of 100.00 feet and a central angle of  $83^{\circ} 44' 59''$  for an arc distance of 146.17 feet to a point of reverse curvature of a tangent curve concave to the west; thence northerly along the arc of said curve to the left, having a radius of 75.00 feet and a central angle of  $56^{\circ} 06' 41''$  for an arc distance of 73.45 feet to a point of reverse curvature of a tangent curve concave to the east; thence northerly along the arc of said curve to the right, having a radius of 125.00 feet and a central angle of  $07^{\circ} 08' 29''$  for an arc distance of 15.58 feet to a non-tangent line; thence S  $81^{\circ} 01' 00''$  E a distance of 166.00 feet; thence S  $08^{\circ} 59' 00''$  W a distance of 80.00 feet; thence N  $81^{\circ} 01' 00''$  W a distance of 30.06 feet; thence S  $08^{\circ} 59' 00''$  W a distance of 29.17 feet; thence S  $81^{\circ} 01' 00''$  E a distance of 6.59 feet; thence S  $08^{\circ} 59' 00''$  W a distance of 66.65 feet; thence N  $81^{\circ} 01' 00''$  W a distance of 25.00 feet; thence S  $08^{\circ} 59' 00''$  W a distance of 67.00 feet; thence N  $81^{\circ} 01' 00''$  W a distance of 78.11 feet to the point of beginning, containing 0.789 acres, more or less, as shown on the plat entitled "Plat of Resubdivision, Parcels B and F, Kiln Creek Golf and Country Club, The Villages of Kiln Creek, City of Newport News, Virginia," prepared by Sledd, Runey & Associates, P.C., dated January 25, 1994.

LESS AND EXCEPT that portion of the subject property designated Parcel B3 on plat of resubdivision of Parcels B and F, Kiln Creek Golf and Country Club, The Villages of Kiln Creek, City of Newport News, Virginia, described by metes and bounds as follows: Beginning at a point located N  $46^{\circ} 06' 45''$  E a distance of 324.20 feet from a second point located on the northeasterly right-of-way line of Kiln Creek Parkway, said second point being located 663.26 feet in a southeasterly direction from a third point located on the northeasterly right-of-way line of Kiln Creek Parkway, said third point being the intersection of the northeasterly right-of-way line of Kiln Creek Parkway with the southeasterly right-of-way line of Brick Kiln Boulevard; thence N  $53^{\circ} 52' 52''$  E a distance of 280.00 feet; thence S  $36^{\circ} 07' 08''$  E a distance of 136.00 feet; thence S  $53^{\circ} 52' 52''$  W a distance of 280.00 feet; thence N  $36^{\circ} 07' 08''$  W a distance of 136.00 feet to the point of beginning, containing 0.874 acres, more or less, as shown on plat entitled "Plat of Resubdivision, Parcels B and F, Kiln Creek Golf and Country Club, The Villages of Kiln Creek, City of Newport News, Virginia," prepared by Sledd, Runey & Associates, P.C., dated January 25, 1994.

LESS AND EXCEPT that portion of the subject property designated Parcel B4 on plat of resubdivision of Parcels B and F, Kiln Creek Golf and Country Club, The Villages of Kiln Creek, City of Newport News, Virginia, described by metes and bounds as follows: Beginning at a point on the northeasterly right-of-way line of Kiln Creek Parkway a distance of 520.07 feet in a southeasterly direction from a second point on the northeasterly right-of-way line of Kiln Creek Parkway, said second point being the intersection of the northeasterly right-of-way line of Kiln Creek Parkway with the southeasterly right-of-way line of Brick Kiln Boulevard; thence N  $53^{\circ} 57' 31''$  E a distance of 58.66 feet; thence N  $36^{\circ} 02' 29''$  W a distance of 44.28 feet; thence N  $53^{\circ} 57' 31''$  E a distance of 44.36 feet; thence S  $36^{\circ} 03' 51''$  E a distance of 169.48 feet; thence S  $53^{\circ} 57' 31''$  W a distance of 84.93 feet; thence N  $43^{\circ} 53' 15''$  W a distance of 58.82 feet to a point of curvature of a tangent curve



concave to the southwest; thence northwesterly along the arc of said curve to the left, having a radius of 2,551.25 feet and a central angle of 01° 31' 13" for an arc distance of 67.70 feet to the point of beginning, containing 0.314 acres, more or less, as shown on plat entitled "Plat of Resubdivision, Parcels B and F, Kiln Creek Golf and Country Club, The Villages of Kiln Creek, City of Newport News, Virginia, prepared by Sledd, Runey & Associates, P.C., dated January 25, 1994.

LESS AND EXCEPT that portion of the subject property conveyed to The Hersand Companies, a Virginia corporation, by deed dated August 25, 1993 and recorded in the Clerk's Office of the Circuit Court of the County of York, Virginia, in Deed Book 747 at page 346.

PARCEL II: That portion of Industrial 1 (One) Area, The Villages of Kiln Creek, York County, Virginia, described by metes and bounds as follows:

Beginning at a point located N 36° 37' 02" W a distance of 237.99 feet from the northwest corner of Lexington Subdivision; thence N 36° 37' 02" W a distance of 777.06 feet; thence N 56° 35' 53" E a distance of 1709.47 feet; thence S 76° 14' 48" E a distance of 65.21 feet; thence S 46° 33' 28" E a distance of 748.33 feet; thence S 56° 37' 06" W a distance of 1880.55 feet to the point of beginning, containing 32.26 acres, more or less.

PARCEL III: Parcel G, Kiln Creek Golf and Country Club Limited Partnership, York County, Virginia, described by metes and bounds as follows:

Beginning at the southeast corner of Kiln Creek Golf and Country Club Fairway No. 12; thence N 21° 09' 02" E a distance of 945.88 feet; thence N 41° 40' 21" E a distance of 575.47 feet; thence S 63° 41' 24" E a distance of 271.00 feet; thence S 14° 29' 03" E a distance of 453.01 feet; thence N 80° 28' 45" E a distance of 181.17 feet; thence S 28° 03' 06" E a distance of 489.13 feet; thence S 14° 29' 58" E a distance of 203.80 feet; thence S 51° 00' 14" W a distance of 400.10 feet; thence S 38° 59' 46" E a distance of 15.00 feet; thence S 51° 00' 14" W a distance of 574.26 feet; thence N 66° 36' 50" W a distance of 460.04 feet to a point of curvature of a tangent curve concave to the northeast; thence northwesterly along the arc of said curve to the right, having a radius of 910.00 feet and a central angle of 02° 26' 05" for an arc distance of 38.67 feet to a point of compound curvature of a tangent curve concave to the east; thence northwesterly and northerly along the arc of said curve to the right, having a radius of 25.00 feet and a central angle of 92° 19' 47" for an arc distance of 40.29 feet to a point tangency; thence N 28° 09' 02" E a distance of 204.08 feet; thence S 79° 20' 58" E a distance of 335.03 feet; thence N 44° 09' 02" E a distance of 100.00 feet; thence N 30° 39' 02" E a distance of 185.00 feet; thence N 42° 39' 02" E a distance of 175.00 feet; thence N 47° 39' 02" E a distance of 135.52 feet; thence N 05° 20' 58" W a distance of 95.96 feet; thence N 46° 20' 58" W a distance of 145.24 feet; thence N 49° 20' 58" W a distance of 310.00 feet; thence N 12° 20' 68" W a distance of 150.00 feet; thence S 77° 39' 02" W a distance of 135.00 feet; thence S 31° 55' 01" W a distance of 114.32 feet; thence S 21° 09' 02" W a distance of 635.86 feet; thence S 09° 50' 58" E a distance of 197.46 feet; thence S 28° 09' 02" W a distance of 192.91 feet to a point of curvature of a tangent curve concave to the north; thence southwesterly and westerly along the arc of said curve to the right, having a radius of 25.00 feet and a central angle of

94° 47' 48" for an arc distance of 41.36 feet to a point of compound curvature of a tangent curve concave to the northeast; thence northwesterly along the arc of said curve to the right, having a radius of 910.00 feet and a central angle of 15° 26' 21" for an arc distance of 245.21 feet to a point of tangency; thence N 41° 36' 50" W a distance of 76.25 feet to the point of beginning, containing 25.652 acres, more or less, as shown on plat entitled "Subdivision of the Property of Kiln Creek Golf and Country Club Limited Partnership, Parcel G, York County, Virginia," prepared by Sledd, Runey & Associates, P.C., dated March 25, 1994.

AND

That portion of Industrial 1 (One) Area, The Villages of Kiln Creek, Newport News, Virginia, described by metes and bounds as follows:

Beginning at a point located N 36° 37' 02" W a distance of 237.99 feet from the northwest corner of Lexington Subdivision; thence S 56° 37' 06" W a distance of 164.98 feet; thence N 30° 56' 57" W a distance of 776.48 feet; thence N 56° 35' 53" E a distance of 88.16 feet; thence S 36° 37' 02" E a distance of 777.06 feet to the point of beginning, containing 2.254 acres, more or less.

EXHIBIT B

Parcel B5 as shown on that certain draft plat of subdivision prepared by Campbell Land Surveying, Inc. dated December 10, 2013 entitled, "Subdivision of the Remainder of Parcel B (D.B. 1363, PG. 1914), PROPERTY OF PROPERTY OF K.C.C.C., LLC (sic), a Virginia limited liability company, City of Newport News, Virginia," recorded in the Clerk's Office of the Circuit Court of Newport News, Virginia as Exhibit B to the deed from KCCC, L.L.C. to the Villages of Kiln Creek Owners Association, as it may be amended pursuant to City subdivision plat approval, more particularly described by the following metes and bounds description:

BEGINNING AT A POINT ON THE NORTHERLY RIGHT OF WAY OF KILN CREEK PARKWAY, A PUBLIC RIGHT OF WAY, WHERE THE COMMON PROPERTY LINE BETWEEN THE NEW PARCEL B-5 AND THE PROPERTY OF MEADOW LAND, LLC ( PARCEL B1B ) INTERSECT THE RIGHT OF WAY LINE; THENCE FROM THE POINT OF BEGINNING THUS ESTABLISHED, ALONG THE COMMON PROPERTY LINE WITH MEADOW LAND, LLC N-83-54-02-E, 16.78' TO A POINT; THENCE N-53-54-36-E, 111.42' TO A POINT ; THENCE N-02-38-49-W, 108.86' TO A POINT ; THENCE S-87-56-23-W, 38.63' TO A POINT; THENCE N-02-08-12-W, 314.82' TO A POINT ON THE EASTERLY RIGHT OF WAY OF BRICK KILN BOULEVARD, A PUBLIC RIGHT OF WAY ; THENCE ALONG THE RIGHT OF WAY OF BRICK KILN BOULEVARD ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 839.90' AND AN ARC LENGTH OF 24.07' TO A POINT; THENCE ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 300.00' AND AN ARC LENGTH OF 169.07' TO A POINT;

THENCE ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 50.00' AND AN ARC LENGTH OF 32.63' TO A POINT; THENCE CONTINUING ALONG SAID RIGHT OF WAY ON A CURVE TO THE LEFT WITH A RADIUS OF 50.00' AND AN ARC LENGTH OF 187.53' TO A POINT ON THE RIGHT OF WAY WHERE THE COMMON PROPERTY LINE BETWEEN PARCEL B-5 AND THE WILLOW POINT SUBDIVISION MEET; THENCE ALONG THE COMMON PROPERTY LINE N-19-22-37-E , 20.00' TO A POINT ON THE NEW PROPERTY LINE BETWEEN PARCEL B-5 AND THE REMAINDER OF THE ORIGINAL PARCEL B; THENCE ALONG THE COMMON PROPERTY LINE ON A CURVE TO THE LEFT WITH A RADIUS OF 65.00' AND AN ARC LENGTH OF 117.98' TO A POINT ; THENCE N-05-22-37-E, 93.37' TO A POINT; THENCE ALONG A CURVE TO THE LEFT WITH A RADIUS OF 75.00' AND AN ARC LENGTH OF 28.39' TO A POINT ON THE COMMON PROPERTY LINE WITH

THE VILLAS OF KILN CREEK CONDOMINIUMS ( PARCEL B-2); THENCE ALONG THE COMMON PROPERTY LINE S-81-01-00-E, 78.11' TO A POINT ; THENCE N-08-59-00-E, 67.00' TO A POINT; THENCE S-81-01-00-E, 25.00' TO A POINT; THENCE N-08-59-00-E, 66.65' TO A POINT; THENCE N-81-01-00-W, 6.59' TO A POINT; THENCE N-08-59-02-E, 29.17' TO A POINT; THENCE S-81-01-00-E, 30.06' TO A POINT; THENCE N-08-59-00-E, 80.00' TO A POINT ON THE NEW LINE BETWEEN THE NEW PARCEL B-5 AND THE REMAINDER OF PARCEL B; THENCE CONTINUING ALONG THE COMMON PROPERTY LINE S-47-02-00-E, 708.95' TO A POINT; THENCE S-47-21-51-W, 543.82' TO POINT ON THE COMMON CORNER BETWEEN THE NEW PARCEL B-5, THE REMAINDER OF PARCEL B AND THE PROPERTY OF TERRAPIN DEVELOPMENT, KC, LLC

( PARCEL B-3); THENCE ALONG THE COMMON PROPERTY LINE BETWEEN THE NEW PARCEL B-5 AND THE PROPERTY OF TERRAPIN DEVELOPMENT , KC, LLC N-36-07-08-W, 136.00' TO A POINT; THENCE

S-53-52-52-W, 280.00' TO A POINT; THENCE S-36-07-08-E, 136.00' TO A POINT ON THE COMMON PROPERTY LINE BETWEEN THE NEW PARCEL B-5 AND THE REMAINDER OF PARCEL B; THENCE ALONG THE COMMON PROPERTY LINE S-48-01-52-W, 305.59' TO A POINT ON THE NORTHERLY RIGHT OF WAY OF KILN CREEK PARKWAY; THENCE ALONG THE RIGHT OF WAY LINE OF KILN

**CREEK PARKWAY**

**N-43-53-15-W, 141.18' TO A POINT ON THE COMMON PROPERTY LINE WITH PARCEL B-4; THENCE ALONG THE COMMON PROPERTY LINE N-53-57-31-E, 84.93' TO A POINT; THENCE N-36-03-51-W, 169.48' TO A POINT; THENCE S-53-57-31-W, 44.36' TO A POINT; THENCE S-36-02-29-E, 44.28' TO A POINT ; THENCE**

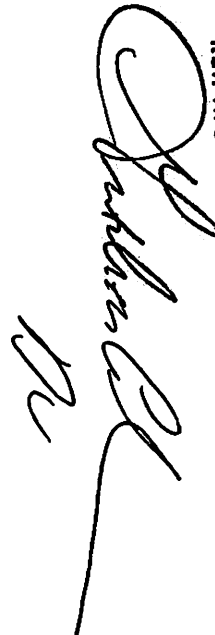
**S-53-57-31-W, 58.66' TO A POINT ON THE NORTHERLY RIGHT OF WAY OF KILN CREEK PARKWAY; THENCE ALONG THE RIGHT OF WAY ON A CURVE TO THE LEFT WITH A RADIUS OF 2551.25', 90.06' TO THE POINT OF BEGINNING, CONTAINING 13.1850 ACRES BEING KNOWN AS PARCEL B-5, BEING A PORTION OF THE REMAINDER OF PARCEL B SHOWN ON " PLAT OF RESUBDIVISION, PARCELS B AND F , KILN CREEK GOLF AND COUNTRY CLUB " RECORDED IN DEED BOOK 1363, PAGE 1914, BEING BOUNDED ON THE SOUTH BY KILN CREEK BOULEVARD, ON THE WEST BY THE PROPERTY OF MEADOW LAND, LLC , BRICK KILN BOULEVARD, WILLOW POINT SUBDIVISION, VILLAS AT KILN CREEK AND THE REMAINDER OF PARCEL B, ON THE NORTH AND EAST BY THE REMAINDER OF PARCEL B.**

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RECORDED

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STATE OF MISSISSIPPI  
NEWPORT NEWS CIRCUIT COURT  
REX A. DAVIS, CLERK. BY



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Prepared by and return to:  
Lori H. Schweller, Esq.  
VSB No. 42399  
LeClairRyan, P.C.  
5388 Discovery Park Blvd., Third Floor  
Williamsburg, Virginia 23188



York County GPIN/Tax Map parcel Nos: R04c-1305-2400, R04c-1987-2154, R04d-4731-0192, R03b-3961-3650  
City of Newport News GPIN/Tax Map parcel Nos.: 133000590, 113000101, 113000103, 123000426, 132000602, 142000501

**DECLARATION OF COMMON AREA  
(Open Space)**

THIS DECLARATION OF COMMON AREA ("Declaration") is made this 19th day of December, 2013, by **VILLAGES OF KILN CREEK OWNERS ASSOCIATION**, a Virginia nonstock corporation (the "Association"), to be indexed both as both "Grantor" and "Grantee" for recording purposes.

**RECITALS:**

A. By deed from KCCC, L.L.C. ("KCCC"), recorded prior to this instrument, the Association acquired that certain real property, containing approximately 288.45 acres, described on Exhibit A attached hereto and incorporated herein (the "Property"). The Property contains an 18-hole golf course, clubhouse and related improvements, as well as an approximately 60-acre natural area formerly the site of a nine-hole golf course.

B. The Association adopted the Second Amended and Restated Declaration of Covenants and Restrictions of Villages of Kiln Creek Owners Association," dated August 25, 2009, and recorded August 28, 2009 in the Clerk's Office of the Circuit Court for the City of Newport News, Virginia and in the Clerk's Office of the Circuit Court for York County as Instrument Number 090018824 (the "Declaration").

C. Section 1.8 of the Declaration provides that the "Common Area" includes all "real estate and improvements or facilities now or hereafter owned by the Association which are intended to be devoted to the common use and enjoyment of the Owners and such non-Owners, if any, who have been authorized to use such Common Area..."

D. The Association desires to designate the Property as Common Area for the use and enjoyment of the Members of the Association (as defined in the Declaration), and to such non-Owners who have been authorized to use the Property, which use and enjoyment shall be subject to such rights, obligations and limitations set forth in the Declaration with respect to Common Area of the Association.

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NOW, THEREFORE, the Association hereby declares that the Property is designated as Common Area pursuant to Section 1.8 of the Declaration, and shall be held, transferred, sold, conveyed and occupied subject to such designation.

A. As to all of the Property other than that described on Exhibit B, attached hereto and incorporated herein:

1. The Association, by the affirmative vote or consent in writing of a majority or more of the Owners of the Lots subject to the Declaration, may authorize the President of the Association to execute a Supplemental Declaration to declare that all or part of the Property is no longer Common Area, evidenced by such Owners joining in an instrument to be recorded in the land records of the jurisdiction(s) in which the land is located, declaring that such property is no longer Common Area; and

2. The Declaration is subordinate to the conservation easement (including the Association's obligation to execute, at the request of KCCC, its deed of gift of easement in order to affirm the Association's agreement to be bound by its covenants and restrictions) reserved by KCCC, L.L.C. in the deed (and exhibits) conveying the Property to the Association.

B. As to only that portion of the Property described on Exhibit B, the Board of Directors of the Association, by the affirmative vote or consent in writing of at least two thirds (2/3) of the Directors, evidenced by adoption of a written resolution or execution of a written consent, may authorize the President of the Association to execute a Supplemental Declaration to declare that all or part of such Property described on Exhibit B is no longer Common Area.

This Declaration may be executed in counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

*[Signature pages follow.]*

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[Signature page to Declaration of Common Area]

IN WITNESS WHEREOF, the Association has executed this Declaration as of the date printed above.

**VILLAGES OF KILN CREEK OWNERS ASSOCIATION,**  
a Virginia nonstock corporation

By: David D. Radcliffe

Name: David D. Radcliffe

Title: President

COMMONWEALTH OF VIRGINIA

In the City of Newport News, to wit:

I, a Notary Public for the City and State aforesaid, do hereby certify that David Radcliffe, personally appeared before me this day and acknowledged that he is the President of Villages of Kiln Creek Owners Association, a Virginia non-stock corporation, and that as President being authorized to do so, executed the foregoing on behalf of the Association.

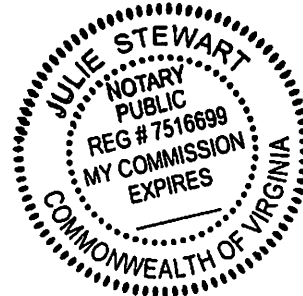
Witness my hand and official seal, this 18 day of December

2013.

Julie Stewart  
Notary Public

My Commission Expires: 7/31/16

Registration ID No.: 7516699



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**JOINDER OF LENDER**

KCCC, L.L.C., a Virginia limited liability company, is the beneficiary (the "Lender") of that certain Deed of Trust dated as of December 19, 2013, from Villages of Kiln Creek Owners Association, a Virginia nonstock corporation, to Bennett L. Stein and M. Scott Stein, Trustees, whose address is 724 Thimble Shoals Blvd, Suite 100, Newport News, Virginia 23606, and recorded in the Clerk's Offices of the Circuit Courts of the City of Newport News, Virginia and County of York, Virginia, immediately preceding this instrument.

By signing below, the Lender hereby joins in and consents to this Declaration of Common Area.

**LENDER:**                    **KCCC, L.L.C.,**  
   a Virginia limited liability company

By: *H.R. Ashe*  
   H. R. Ashe, Manager

STATE OF VIRGINIA  
CITY  
COUNTY OF NEWPORT NEWS

The foregoing instrument was acknowledged before me this 19th day of December, 2013, by H.R. Ashe, whose title is MANAGER of KCCC, L.L.C., a Virginia limited liability company, and who executed the aforesaid instrument on behalf of the company.

*Deborah A. Bailey*  
Notary Public, State of VIRGINIA

at Large.  
My Commission Expires:

Serial No. \_\_\_\_\_



**Deborah A. Bailey**  
**NOTARY PUBLIC**  
Commonwealth of Virginia  
Reg. #207023  
My Commission Expires  
6/30/2016

Personally known *DAB* OR produced identification \_\_\_\_\_  
Identification produced \_\_\_\_\_



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EXHIBIT A

**PARCEL I:** All those pieces or parcels of land lying and being situate in the City of Newport News and the County of York, Virginia, commonly known as the Golf Course of the Kiln Creek Golf and Country Club, and being more particularly shown and designated as:

Parcels D & E on the record plat entitled "Subdivision of the Property of Villages of Kiln Creek Limited Partnership, Villages of Kiln Creek Golf Course, Showing Parcels D & E, York County, Virginia," recorded in the Clerk's Office of the Circuit Court of the County of York, Virginia, in Plat Book 11 at pages 303-308; and

Parcels A, B, C and F on the record plat entitled "Subdivision of Parcels A, B, C & F, Property of Villages of Kiln Creek Limited Partnership, Newport News, Virginia", recorded in the Clerk's Office of the City of Newport News, Virginia, in Deed Book 1246 at pages 1750-1765; and

the "Pump Station Lot at Lake No.1" as designated on the record plat entitled "Subdivision Plat of Lake No.1, The Villages of Kiln Creek, Newport News, Virginia," recorded in the Clerk's Office of the City of Newport News, Virginia, in Deed Book 1259 at page 1334; and

TOGETHER WITH that certain lot or parcel of land lying and being situate in the City of Newport News, Virginia, containing 0.082 acres, more or less, and being more particularly described as Parcel F within the "Subdivision of the Property of R.G. Moore Building Corporation, Westgate, Right-of-Way, Section Two (2), The Villages of Kiln Creek, Newport News, Virginia," as shown on a certain plat prepared by Sledd, Runey and Associates, P.C., dated May 31, 1990 entitled "Subdivision of the Property of R. G. Moore Building Corp., Westgate, Right-of-Way Section Two (2), The Villages of Kiln Creek, Newport News, Virginia," which was recorded August 1, 1990 in the Clerk's Office of the Circuit Court for the City of Newport News, Virginia, in Deed Book 1230 at page 558; and

TOGETHER WITH AND SUBJECT TO all rights, uses, easements, reservations, duties, charges and obligations as are contained in or shown on any attached plat to those certain instruments recorded in Deed Book 1190 at page 505; Deed Book 1230 at page 119; Deed Book 1227 at page 1531; Deed Book 1262 at page 1240; Deed Book 1262 at page 1245; Deed Book 1262 at page 1253 and in Deed Book 1329 at page 1544, among the land records of the City of Newport News, Virginia, and further TOGETHER WITH AND SUBJECT TO all rights, uses, easements, reservations, duties, charges, obligations as are contained in or shown on any attached plat to those certain instruments recorded in Deed Book 633 at page 433, Deed Book 741 at page 239, Deed Book 747 at page 346, Deed Book 790 at page 557 and in Plat Book 11 at page 286, among the land records of York County, Virginia.

LESS AND EXCEPT all of that certain lot or parcel of land lying and being situate in the County of York, Virginia, and being more particularly described on that certain plat entitled "Resubdivision of The Villages of Kiln Creek Golf Course Parcel E and Apt/Condo 2, County of York, Virginia," prepared by Sledd, Runey and Associates, P.C., Engineers, Planners and Surveyors, a copy of which was recorded in the Clerk's Office of the Circuit Court of the County of York, Virginia, in Plat Book 11 at pages 351-352.

LESS AND EXCEPT that portion of the subject property designated as Parcel B1 on plat of resubdivision of Parcels B and F, Kiln Creek Golf and Country Club, The Villages of Kiln Creek, City of Newport News, Virginia, described by metes and bounds as follows: Beginning at a point on the northeasterly right-of-way line of Kiln Creek Parkway, said point being the Intersection of the northeasterly right-of-way line of Kiln Creek Parkway with the southeasterly right-of-way line of Brick Kiln Boulevard; thence N 07° 28' 05" E a distance of 50.00 feet; thence N 64° 50' 16" E a distance of 139.50 feet to a point of curvature of a tangent curve concave to the southeast; thence northeasterly along the arc of said curve to the right, having a radius of 1,600.00 feet and a central angle of 04° 36' 01" for an arc distance of 133.28 feet to a point of reverse curvature of a tangent curve concave to the north; thence easterly along the arc of said curve to the left, having a radius of 839.90 feet and a central angle of 02° 32' 10" for an arc distance of 37.18 feet to a point of reverse curvature of a tangent curve concave to the south; thence easterly along the arc of said curve to the right, having a radius of 839.90 feet and a central angle of 06° 03' 44" for an arc distance of 88.87 feet to a non-tangent line; thence S 02° 08' 12" E a distance of 314.82 feet; thence N 87° 56' 23" E a distance of 38.63 feet; thence S 02° 38' 49" E a distance of 108.86 feet; thence S 53° 54' 36" W a distance of 111.42 feet; thence S 83° 54' 02" W a distance of 16.77 feet to a point on the arc of a non-tangent curve concave to the southwest; thence northwesterly along the arc of said curve to the left, having a radius of 2,551.25 feet and a central angle of 02° 32' 54" for an arc distance of 113.47 feet to a point of tangency; thence N 49° 58' 44" W a distance of 200.00 feet to a point of curvature of a tangent curve concave to the northeast; thence northwesterly along the arc of said curve to the right, having a radius of 834.00 feet and a central angle of 08° 00' 21" for an arc distance of 116.53 feet to the point of beginning, containing 2.710 acres, more or less, as shown on plat entitled "Plat of Resubdivision, Parcels B and F, Kiln Creek Golf and Country Club, The Villages of Kiln Creek, City of Newport News, Virginia," prepared by Sledd, Runey & Associates, P.C., dated January 25, 1994.

LESS AND EXCEPT that portion of the subject property designated Parcel B2 on plat of resubdivision of Parcels B and F, Kiln Creek Golf and Country Club, The Villages of Kiln Creek, City of Newport News, Virginia, described by metes and bounds as follows: Beginning at a point located 259.74 feet in a northerly direction from a second point located on the northerly right-of-way line of Brick Kiln Boulevard, said second point being located 862.13 feet in an easterly and northerly direction from a third point located on the northeasterly right-of-way line of Kiln Creek Parkway, said third point being the intersection of the northeasterly right-of-way line of Kiln Creek Parkway with the southeasterly right-of-way line of Brick Kiln Boulevard; thence northwesterly along the arc of a curve to the left, having a radius of 75.00 feet and a central angle of 25° 18' 55" for an

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arc distance of 33.14 feet to a point of reverse curvature of a tangent curve concave to the east; thence northerly along the arc of said curve to the right, having a radius of 100.00 feet and a central angle of  $83^{\circ} 44' 59''$  for an arc distance of 146.17 feet to a point of reverse curvature of a tangent curve concave to the west; thence northerly along the arc of said curve to the left, having a radius of 75.00 feet and a central angle of  $56^{\circ} 06' 41''$  for an arc distance of 73.45 feet to a point of reverse curvature of a tangent curve concave to the east; thence northerly along the arc of said curve to the right, having a radius of 125.00 feet and a central angle of  $07^{\circ} 08' 29''$  for an arc distance of 15.58 feet to a non-tangent line; thence S  $81^{\circ} 01' 00''$  E a distance of 166.00 feet; thence S  $08^{\circ} 59' 00''$  W a distance of 80.00 feet; thence N  $81^{\circ} 01' 00''$  W a distance of 30.06 feet; thence S  $08^{\circ} 59' 00''$  W a distance of 29.17 feet; thence S  $81^{\circ} 01' 00''$  E a distance of 6.59 feet; thence S  $08^{\circ} 59' 00''$  W a distance of 66.65 feet; thence N  $81^{\circ} 01' 00''$  W a distance of 25.00 feet; thence S  $08^{\circ} 59' 00''$  W a distance of 67.00 feet; thence N  $81^{\circ} 01' 00''$  W a distance of 78.11 feet to the point of beginning, containing 0.789 acres, more or less, as shown on the plat entitled "Plat of Resubdivision, Parcels B and F, Kiln Creek Golf and Country Club, The Villages of Kiln Creek, City of Newport News, Virginia," prepared by Sledd, Runey & Associates, P.C., dated January 25, 1994.

LESS AND EXCEPT that portion of the subject property designated Parcel B3 on plat of resubdivision of Parcels B and F, Kiln Creek Golf and Country Club, The Villages of Kiln Creek, City of Newport News, Virginia, described by metes and bounds as follows: Beginning at a point located N  $46^{\circ} 06' 45''$  E a distance of 324.20 feet from a second point located on the northeasterly right-of-way line of Kiln Creek Parkway, said second point being located 663.26 feet in a southeasterly direction from a third point located on the northeasterly right-of-way line of Kiln Creek Parkway, said third point being the intersection of the northeasterly right-of-way line of Kiln Creek Parkway with the southeasterly right-of-way line of Brick Kiln Boulevard; thence N  $53^{\circ} 52' 52''$  E a distance of 280.00 feet; thence S  $36^{\circ} 07' 08''$  E a distance of 136.00 feet; thence S  $53^{\circ} 52' 52''$  W a distance of 280.00 feet; thence N  $36^{\circ} 07' 08''$  W a distance of 136.00 feet to the point of beginning, containing 0.874 acres, more or less, as shown on plat entitled "Plat of Resubdivision, Parcels B and F, Kiln Creek Golf and Country Club, The Villages of Kiln Creek, City of Newport News, Virginia," prepared by Sledd, Runey & Associates, P.C., dated January 25, 1994.

LESS AND EXCEPT that portion of the subject property designated Parcel B4 on plat of resubdivision of Parcels B and F, Kiln Creek Golf and Country Club, The Villages of Kiln Creek, City of Newport News, Virginia, described by metes and bounds as follows: Beginning at a point on the northeasterly right-of-way line of Kiln Creek Parkway a distance of 520.07 feet in a southeasterly direction from a second point on the northeasterly right-of-way line of Kiln Creek Parkway, said second point being the intersection of the northeasterly right-of-way line of Kiln Creek Parkway with the southeasterly right-of-way line of Brick Kiln Boulevard; thence N  $53^{\circ} 57' 31''$  E a distance of 58.66 feet; thence N  $36^{\circ} 02' 29''$  W a distance of 44.28 feet; thence N  $53^{\circ} 57' 31''$  E a distance of 44.36 feet; thence S  $36^{\circ} 03' 51''$  E a distance of 169.48 feet; thence S  $53^{\circ} 57' 31''$  W a distance of 84.93 feet; thence N  $43^{\circ} 53' 15''$  W a distance of 58.82 feet to a point of curvature of a tangent curve

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concave to the southwest; thence northwesterly along the arc of said curve to the left, having a radius of 2,551.25 feet and a central angle of  $01^{\circ} 31' 13''$  for an arc distance of 67.70 feet to the point of beginning, containing 0.314 acres, more or less, as shown on plat entitled "Plat of Resubdivision, Parcels B and F, Kiln Creek Golf and Country Club, The Villages of Kiln Creek, City of Newport News, Virginia, prepared by Sledd, Runey & Associates, P.C., dated January 25, 1994.

LESS AND EXCEPT that portion of the subject property conveyed to The Hersand Companies, a Virginia corporation, by deed dated August 25, 1993 and recorded in the Clerk's Office of the Circuit Court of the County of York, Virginia, in Deed Book 747 at page 346.

PARCEL II: That portion of Industrial 1 (One) Area, The Villages of Kiln Creek, York County, Virginia, described by metes and bounds as follows:

Beginning at a point located  $N 36^{\circ} 37' 02'' W$  a distance of 237.99 feet from the northwest corner of Lexington Subdivision; thence  $N 36^{\circ} 37' 02'' W$  a distance of 777.06 feet; thence  $N 56^{\circ} 35' 53'' E$  a distance of 1709.47 feet; thence  $S 76^{\circ} 14' 48'' E$  a distance of 65.21 feet; thence  $S 46^{\circ} 33' 28'' E$  a distance of 748.33 feet; thence  $S 56^{\circ} 37' 06'' W$  a distance of 1880.55 feet to the point of beginning, containing 32.26 acres, more or less.

PARCEL III: Parcel G, Kiln Creek Golf and Country Club Limited Partnership, York County, Virginia, described by metes and bounds as follows:

Beginning at the southeast corner of Kiln Creek Golf and Country Club Fairway No. 12; thence  $N 21^{\circ} 09' 02'' E$  a distance of 945.88 feet; thence  $N 41^{\circ} 40' 21'' E$  a distance of 575.47 feet; thence  $S 63^{\circ} 41' 24'' E$  a distance of 271.00 feet; thence  $S 14^{\circ} 29' 03'' E$  a distance of 453.01 feet; thence  $N 80^{\circ} 28' 45'' E$  a distance of 181.17 feet; thence  $S 28^{\circ} 03' 06'' E$  a distance of 489.13 feet; thence  $S 14^{\circ} 29' 58'' E$  a distance of 203.80 feet; thence  $S 51^{\circ} 00' 14'' W$  a distance of 400.10 feet; thence  $S 38^{\circ} 59' 46'' E$  a distance of 15.00 feet; thence  $S 51^{\circ} 00' 14'' W$  a distance of 574.26 feet; thence  $N 66^{\circ} 36' 50'' W$  a distance of 460.04 feet to a point of curvature of a tangent curve concave to the northeast; thence northwesterly along the arc of said curve to the right, having a radius of 910.00 feet and a central angle of  $02^{\circ} 26' 05''$  for an arc distance of 38.67 feet to a point of compound curvature of a tangent curve concave to the east; thence northwesterly and northerly along the arc of said curve to the right, having a radius of 25.00 feet and a central angle of  $92^{\circ} 19' 47''$  for an arc distance of 40.29 feet to a point tangency; thence  $N 28^{\circ} 09' 02'' E$  a distance of 204.08 feet; thence  $S 79^{\circ} 20' 58'' E$  a distance of 335.03 feet; thence  $N 44^{\circ} 09' 02'' E$  a distance of 100.00 feet; thence  $N 30^{\circ} 39' 02'' E$  a distance of 185.00 feet; thence  $N 42^{\circ} 39' 02'' E$  a distance of 175.00 feet; thence  $N 47^{\circ} 39' 02'' E$  a distance of 135.52 feet; thence  $N 05^{\circ} 20' 58'' W$  a distance of 95.96 feet; thence  $N 46^{\circ} 20' 58'' W$  a distance of 145.24 feet; thence  $N 49^{\circ} 20' 58'' W$  a distance of 310.00 feet; thence  $N 12^{\circ} 20' 68'' W$  a distance of 150.00 feet; thence  $S 77^{\circ} 39' 02'' W$  a distance of 135.00 feet; thence  $S 31^{\circ} 55' 01'' W$  a distance of 114.32 feet; thence  $S 21^{\circ} 09' 02'' W$  a distance of 635.86 feet; thence  $S 09^{\circ} 50' 58'' E$  a distance of 197.46 feet; thence  $S 28^{\circ} 09' 02'' W$  a distance of 192.91 feet to a point of curvature of a tangent curve concave to the north; thence southwesterly and westerly along the arc of said curve to the right, having a radius of 25.00 feet and a central angle of

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94° 47' 48" for an arc distance of 41.36 feet to a point of compound curvature of a tangent curve concave to the northeast; thence northwesterly along the arc of said curve to the right, having a radius of 910.00 feet and a central angle of 15° 26' 21" for an arc distance of 245.21 feet to a point of tangency; thence N 41° 36' 50" W a distance of 76.25 feet to the point of beginning, containing 25.652 acres, more or less, as shown on plat entitled "Subdivision of the Property of Kiln Creek Golf and Country Club Limited Partnership, Parcel G, York County, Virginia," prepared by Sledd, Runey & Associates, P.C., dated March 25, 1994.

AND

That portion of Industrial 1 (One) Area, The Villages of Kiln Creek, Newport News, Virginia, described by metes and bounds as follows:

Beginning at a point located N 36° 37' 02" W a distance of 237.99 feet from the northwest corner of Lexington Subdivision; thence S 56° 37' 06" W a distance of 164.98 feet; thence N 30° 56' 57" W a distance of 776.48 feet; thence N 56° 35' 53" E a distance of 88.16 feet; thence S 36° 37' 02" E a distance of 777.06 feet to the point of beginning, containing 2.254 acres, more or less.

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EXHIBIT B

Parcel B5 as shown on that certain draft plat of subdivision prepared by Campbell Land Surveying, Inc. dated December 10, 2013 entitled, "Subdivision of the Remainder of Parcel B (D.B. 1363, PG. 1914), PROPERTY OF PROPERTY OF K.C.C.C., LLC (sic), a Virginia limited liability company, City of Newport News, Virginia," recorded in the Clerk's Office of the Circuit Court of Newport News, Virginia as Exhibit B to the deed from KCCC, L.L.C. to the Villages of Kiln Creek Owners Association, as it may be amended pursuant to City subdivision plat approval, more particularly described by the following metes and bounds description:

BEGINNING AT A POINT ON THE NORTHERLY RIGHT OF WAY OF KILN CREEK PARKWAY, A PUBLIC RIGHT OF WAY, WHERE THE COMMON PROPERTY LINE BETWEEN THE NEW PARCEL B-5 AND THE PROPERTY OF MEADOW LAND, LLC ( PARCEL B1B ) INTERSECT THE RIGHT OF WAY LINE; THENCE FROM THE POINT OF BEGINNING THUS ESTABLISHED, ALONG THE COMMON PROPERTY LINE WITH MEADOW LAND, LLC N-83-54-02-E, 16.78' TO A POINT; THENCE N-53-54-36-E, 111.42' TO A POINT ; THENCE N-02-38-49-W, 108.86' TO A POINT ; THENCE S-87-56-23-W, 38.63' TO A POINT; THENCE N-02-08-12-W, 314.82' TO A POINT ON THE EASTERLY RIGHT OF WAY OF BRICK KILN BOULEVARD, A PUBLIC RIGHT OF WAY ; THENCE ALONG THE RIGHT OF WAY OF BRICK KILN BOULEVARD ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 839.90' AND AN ARC LENGTH OF 24.07' TO A POINT; THENCE ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 300.00' AND AN ARC LENGTH OF 169.07' TO A POINT; THENCE ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 50.00' AND AN ARC LENGTH OF 32.63' TO A POINT; THENCE CONTINUING ALONG SAID RIGHT OF WAY ON A CURVE TO THE LEFT WITH A RADIUS OF 50.00' AND AN ARC LENGTH OF 187.53' TO A POINT ON THE RIGHT OF WAY WHERE THE COMMON PROPERTY LINE BETWEEN PARCEL B-5 AND THE WILLOW POINT SUBDIVISION MEET; THENCE ALONG THE COMMON PROPERTY LINE N-19-22-37-E , 20.00' TO A POINT ON THE NEW PROPERTY LINE BETWEEN PARCEL B-5 AND THE REMAINDER OF THE ORIGINAL PARCEL B; THENCE ALONG THE COMMON PROPERTY LINE ON A CURVE TO THE LEFT WITH A RADIUS OF 65.00' AND AN ARC LENGTH OF 117.98' TO A POINT ; THENCE N-05-22-37-E, 93.37' TO A POINT; THENCE ALONG A CURVE TO THE LEFT WITH A RADIUS OF 75.00' AND AN ARC LENGTH OF 28.39' TO A POINT ON THE COMMON PROPERTY LINE WITH THE VILLAS OF KILN CREEK CONDOMINIUMS ( PARCEL B-2); THENCE ALONG THE COMMON PROPERTY LINE S-81-01-00-E, 78.11' TO A POINT ; THENCE N-08-59-00-E, 67.00' TO A POINT; THENCE S-81-01-00-E, 25.00' TO A POINT; THENCE N-08-59-00-E, 66.65' TO A POINT; THENCE N-81-01-00-W, 6.59' TO A POINT; THENCE N-08-59-02-E, 29.17' TO A POINT; THENCE S-81-01-00-E, 30.06' TO A POINT; THENCE N-08-59-00-E, 80.00' TO A POINT ON THE NEW LINE BETWEEN THE NEW PARCEL B-5 AND THE REMAINDER OF PARCEL B; THENCE CONTINUING ALONG THE COMMON PROPERTY LINE S-47-02-00-E, 708.95' TO A POINT; THENCE S-47-21-51-W, 543.82' TO POINT ON THE COMMON CORNER BETWEEN THE NEW PARCEL B-5, THE REMAINDER OF PARCEL B AND THE PROPERTY OF TERRAPIN DEVELOPMENT, KC, LLC ( PARCEL B-3); THENCE ALONG THE COMMON PROPERTY LINE BETWEEN THE NEW PARCEL B-5 AND THE PROPERTY OF TERRAPIN DEVELOPMENT , KC, LLC N-36-07-08-W, 136.00' TO A POINT; THENCE S-53-52-52-W, 280.00' TO A POINT; THENCE S-36-07-08-E, 136.00' TO A POINT ON THE COMMON PROPERTY LINE BETWEEN THE NEW PARCEL B-5 AND THE REMAINDER OF PARCEL B; THENCE ALONG THE COMMON PROPERTY LINE S-48-01-52-W, 305.59' TO A POINT ON THE NORTHERLY RIGHT OF WAY OF KILN CREEK PARKWAY; THENCE ALONG THE RIGHT OF WAY LINE OF KILN

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CREEK PARKWAY

N-43-53-15-W, 141.18' TO A POINT ON THE COMMON PROPERTY LINE WITH PARCEL B-4; THENCE ALONG THE COMMON PROPERTY LINE N-53-57-31-E, 84.93' TO A POINT; THENCE N-36-03-51-W, 169.48' TO A POINT; THENCE S-53-57-31-W, 44.36' TO A POINT; THENCE S-36-02-29-E, 44.28' TO A POINT; THENCE S-53-57-31-W, 58.66' TO A POINT ON THE NORTHERLY RIGHT OF WAY OF KILN CREEK PARKWAY; THENCE ALONG THE RIGHT OF WAY ON A CURVE TO THE LEFT WITH A RADIUS OF 2551.25', 90.06' TO THE POINT OF BEGINNING, CONTAINING 13.1850 ACRES BEING KNOWN AS PARCEL B-5, BEING A PORTION OF THE REMAINDER OF PARCEL B SHOWN ON " PLAT OF RESUBDIVISION, PARCELS B AND F, KILN CREEK GOLF AND COUNTRY CLUB " RECORDED IN DEED BOOK 1363, PAGE 1914, BEING BOUNDED ON THE SOUTH BY KILN CREEK BOULEVARD, ON THE WEST BY THE PROPERTY OF MEADOW LAND, LLC, BRICK KILN BOULEVARD, WILLOW POINT SUBDIVISION, VILLAS AT KILN CREEK AND THE REMAINDER OF PARCEL B, ON THE NORTH AND EAST BY THE REMAINDER OF PARCEL B.

VIRGINIA: In the Clerk's Office of the York County -  
Prothonotary Court, the 23<sup>rd</sup> day of  
December, 20 13. This deed was  
presented with the certificate annexed and admitted  
to record at 3:13 o'clock P.M.

Teste: LYNN S. MENDIBUR, CLERK

By: Jusa Brode D.C.

180015895

DOC. NO. 180015895

2010 DEC -6 AM 11:26

GARY S. ANDERSON, CLERK BY

5 pgs  
#21  
env



090017258

**SECOND AMENDED AND RESTATED**

**DECLARATION OF COVENANTS AND RESTRICTIONS OF**

**VILLAGES OF KILN CREEK OWNERS ASSOCIATION**

After Recording Return To:  
LeClairRyan  
5388 Discovery Park Blvd.  
3<sup>rd</sup> Floor  
Williamsburg, VA 23188

**SECOND AMENDED AND RESTATED  
DECLARATION OF COVENANTS AND RESTRICTIONS OF  
VILLAGES OF KILN CREEK OWNERS ASSOCIATION**

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**SECOND AMENDED AND RESTATED**  
**DECLARATION OF COVENANTS AND RESTRICTIONS OF**  
**VILLAGES OF KILN CREEK OWNERS ASSOCIATION**

THIS SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS (“this Declaration”) is made this 25th day of August, 2009, by **VILLAGES OF KILN CREEK OWNERS ASSOCIATION**, a Virginia non-stock corporation (“Association”) having an address of 1405-C Kiln Creek Parkway, Newport News, VA 23602 [index as “Grantor” and “Grantee” for recording purposes].

**RECITALS**

A. By instrument entitled “Villages of Kiln Creek Declaration of Covenants and Restrictions,” dated May 25, 1988 and recorded June 3, 1988 in the Clerk’s Office of the Circuit Court for the City of Newport News, Virginia (the “Newport News Clerk’s Office”), in Deed Book 1176, page 0099, and in the Clerk’s Office of the Circuit Court for the County of York, Virginia (the “York Clerk’s Office”), in Deed Book 545, page 245 (the “Original Declaration”), Kiln Creek Associates, a Virginia general partnership, as “Developer” subjected certain real property more particularly described in Exhibit A thereto to certain covenants, easements, liens, charges and restrictions set forth therein.

B. By various instruments entitled “Supplementary Declaration of Covenants and Restrictions” (collectively, the “Supplemental Declarations”), Kiln Creek Associates (and its successors and assigns as “Developer”) subjected certain additional real property described in Exhibit A of each Supplemental Declaration to the Original Declaration (and later to the

“Amended and Restated Declaration” and the “First Amended and Restated Declaration” as hereinafter defined).

C. By Deed dated December 31, 1990, and recorded in the Newport News Clerk’s Office in Deed Book 1241, page 316, and in the York Clerk’s Office in Deed Book 602, page 374, Kiln Creek Associates conveyed to Villages of Kiln Creek Limited Partnership all of its right, title and interest in and to certain of the real property shown on the Development Plan (as defined in the Original Declaration), and comprising the Properties (as defined in the Original Declaration).

D. By Assignment and Assumption Agreement dated December 31, 1990, and recorded in the Newport News Clerk’s Office in Deed Book 1241, page 374, and in the York Clerk’s Office in Deed Book 602, page 432, Kiln Creek Associates assigned all of its right, title and interest as “Developer” under the Original Declaration and the Land Use Matters (as therein defined) to Villages of Kiln Creek Limited Partnership.

E. By instrument entitled “Villages of Kiln Creek Amended and Restated Declaration of Covenants and Restrictions” dated April 1, 1991 and recorded in the Newport News Clerk’s Office in Deed Book 1248, at page 719 and in the York Clerk’s Office in Deed Book 612, at page 286, the Original Declaration was amended and restated (the “Amended and Restated Declaration”).

F. The Amended and Restated Declaration was subsequently amended by instrument entitled “First Amendment to Amended and Restated Declaration of Covenants and Restrictions” dated August 1, 1991 and recorded in the Newport News Clerk’s Office in Deed Book 1263 (1258), at page 1009 (631), and in the York Clerk’s Office in Deed Book 624, at page 565 (the “First Amendment”); and by instrument entitled “Second Amendment to Amended and Restated

Declaration of Covenants and Restrictions” dated September 13, 1991 and recorded in the Newport News Clerk’s Office in Deed Book 1265, at page 139, and in the York County Clerk’s Office in Deed Book 637, at page 577 (the “Second Amendment”).

G. By instrument dated June 30, 1992, and recorded in the Newport News Clerk’s Office, and in the York Clerk’s Office, Villages of Kiln Creek Limited Partnership assigned all of its rights, titles, interest as “Developer” to Kiln Creek Joint Venture, a Virginia general partnership. By instrument dated on or about August 25, 1993 and recorded in the Newport News Clerk’s Office, and in the York Clerk’s Office, Kiln Creek Joint Venture assigned all of its rights, titles and interests as “Developer” to D & B Venture, L.C., a Virginia limited liability company.

H. By Third Amendment (“Third Amendment”) to Amended and Restated Declaration of Covenants and Restrictions dated August 18, 2004, and recorded in the Newport News Clerk’s Office in Deed Book 1947, page 1995, and in the York Clerk’s Office as instrument number LR040017641, the Amended and Restated Declaration was further amended. The Amended and Restated Declaration as further amended by the First Amendment, Second Amendment and Third Amendment is hereinafter referred to as the “First Amended and Restated Declaration.”

I. Article IX, Section 9.2 of the First Amended and Restated Declaration provides that the First Amended and Restated Declaration may be amended “by a vote of two-thirds of the sum of (A) the Class A votes (including Developer as to Class A votes held by Developer) plus (B) the Class B votes, if any.”

J. Article IX, Section 9.2 of the First Amended and Restated Declaration provides that the “provisions of Articles II and VIII and Sections 3.2, 4.7, 5.8, 6.9 and this Section 9.2



may not be amended in any event without the written consent of Developer regardless of whether the Class B membership has terminated.”

K. The Class B membership has expired and, therefore, there is no Class B Member and no Class B vote. Furthermore, according to the records of the State Corporation Commission of the Commonwealth of Virginia, the Developer, D&B Venture, L.C., no longer exists and, therefore, the consent of D&B Venture, L.C. to the amendments set forth herein is not required.

L. The Association has determined it is in the best interests of the Association to amend and restate the First Amended and Restated Declaration in its entirety and to adopt the amendments set forth in this Second Amended and Restated Declaration, and the Owners of two-thirds or more of the Lots have approved this Second Amended and Restated Declaration.

NOW, THEREFORE, the First Amended and Restated Declaration is amended to delete Articles I through XI in their entirety, and the following Articles I through XI are hereby substituted therefor. This Declaration may be executed in counterparts, all of which shall be read together as one document.

## ARTICLE I

### DEFINITIONS

Section 1.1. “Additional Area” shall have the meaning set forth in Section 2.1 of this Declaration.

Section 1.2. “Annual Assessment” shall have the meaning set forth in Section 5.3 of this Declaration.

Section 1.3. “Architectural Review Board” shall have the meaning set forth in Section 6.1 of this Declaration.

Section 1.4. “Articles” means the Second Amended and Restated Articles of Incorporation of Villages of Kiln Creek Owners Association, as the same may be amended from time to time.

Section 1.5. “Association” means the Villages of Kiln Creek Owners Association, a Virginia nonstock corporation, its successors and assigns.

Section 1.6. “Bylaws” means the Second Amended and Restated Bylaws of Villages of Kiln Creek Owners Association, as the same may be amended from time to time.

Section 1.7. “Clerks’ Offices” means collectively the Newport News Clerk’s Office and the York Clerk’s office.

Section 1.8. “Common Area” means (i) all of the real estate specifically designated as “Common Area” on recorded plats of the Properties, in any Supplemental Declaration or in any amendment to this Declaration or in any other instrument executed by Developer and recorded in one or both of the Clerks’ Offices; (ii) the portions of the Properties, if any, designated for “buffer zones,” “scenic easements” or similar purposes on recorded plats of the Properties and conveyed (by deed or easement) to and accepted by the Association; and (iii) all other real property and improvements or facilities now or hereafter owned by the Association which are intended to be devoted to the common use and enjoyment of the Owners and such non-Owners, if any, who have been authorized to use such Common Area pursuant to Sections 4.1, 4.2 and/or 4.6 hereof. The Common Area includes or may in the future include, without limitation, certain streets which are not dedicated to the public, areas set aside for pedestrian and/or bicycle paths and other recreational facilities intended to be used by the owners. The term “Common Area” shall not be interpreted to include “Neighborhood Common Area.” Portions of the Common Area may be designated by the Association’s Board of Directors pursuant to Section 4.4 hereof

as “Limited Common Area(s)” for the primary or exclusive use of one or more but less than all of the Owners and such non-Owners, if any, who have been authorized to use such Limited Common Area pursuant to Sections 4.1, 4.2 and/or 4.6 hereof. Also, certain Parcels and/or Neighborhoods include open space areas, easements and facilities which are intended to be maintained privately either by private ownership or by separate associations and which are not designated as Common Area, Limited Common Area or Neighborhood Common Area and will not be maintained by the Association.

Section 1.9. “Declaration” means this Second Amended and Restated Declaration of Covenants and Restrictions, as the same may from time to time be supplemented or amended.

Section 1.10. “Developer” means D&B Venture, L.C., a Virginia limited liability company (which was the successor in interest to Kiln Creek Joint Venture, a Virginia general partnership which was the successor in interest to Villages of Kiln Creek Limited Partnership, a Virginia limited partnership, which was the successor in interest to Kiln Creek Associates, a Virginia general partnership).

Section 1.11. “General Assessments” shall have the meaning set forth in Section 5.3 of the Declaration.

Section 1.12. “Governing Documents” means the Articles, the Bylaws, this Declaration and any Supplemental Declaration, as the same may be amended or supplemented from time to time.

Section 1.13. “Improvement” shall have the meaning set forth in section 6.2 of this Declaration.

Section 1.14. “Limited Common Area” means a portion of the Common Area or the Neighborhood Common Area designated by the Association’s Board of Directors pursuant to

Section 4.4 hereof for the exclusive use of one or more but less than all of the Owners and such non-Owners, if any, who have been authorized to use such Limited Common Area pursuant to Sections 4.1, 4.2 and/or 4.6 hereof.

Section 1.15. “Lot” means any lot which is shown on a recorded subdivision plat of a Neighborhood (or any subsequently recorded subdivision plat) or, with respect to condominiums, a governmentally approved site plan, and on which is constructed or is to be constructed (i) a single family, detached residence; (ii) a townhouse; (iii) a zero lot line residence or other type of cluster house; or (iv) any condominium unit within a condominium created pursuant to the Condominium Act of Virginia, Section 55-79.39 et seq. of the Virginia code, as the same may be amended from time to time. The term “Lot” shall not include any portion of the Properties which at the time in question is not included in a recorded subdivision plat of a Neighborhood, or with respect to condominiums a governmentally approved site plan, nor shall “Lot” include Common Areas, Neighborhood Common Areas, Limited Common Areas, public streets or property dedicated to and accepted by a public authority.

Section 1.16. “Member” means every person or entity who holds membership in the Association.

Section 1.17. “Neighborhood” means one (1) or more Lots which are part of the same subdivision and are subject to the same Supplemental Declaration.

Section 1.18. “Neighborhood Assessment” shall have the meaning set forth in Section 5.3 of this Declaration.

Section 1.19. “Neighborhood Common Area” means the real property exclusive of Lots and any improvements thereon which is located within the boundaries of the Neighborhoods of Southlake, Lakeside and Claymill Corner as established by the Supplemental Declaration for the

respective Neighborhood and which is for the primary use and enjoyment of Owners residing in such Neighborhood and has been accepted as such by the Association. Stating further, the real property conveyed to the Association by the Southlake Deed (as defined in the Third Amendment to Amended and Restated Declaration of Covenants and Restrictions) constitutes Neighborhood Common Area for the Neighborhood of Southlake; the real property conveyed to the Association by the Lakeside Deed (as defined in the Third Amendment to Amended and Restated Declaration of Covenants and Restrictions) constitutes Neighborhood Common Area for the Neighborhood of Lakeside; and the real property conveyed to the Association by the Claymill Corner Deed (as defined in the Third Amendment to Amended and Restated Declaration of Covenants and Restrictions) constitutes Neighborhood Common Area for the Neighborhood of Claymill Corner. The term “Neighborhood Common Area” may also include real property, if any, classified as such pursuant to any Supplemental Declaration entered into by the Association pursuant to Article II below.

Section 1.20. “Owner” means the record holder, whether one or more persons or entities, of fee simple title to any Lot or Parcel, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.21. “Parcel” means any portion of the Properties subdivided from the residue thereof for the purpose of either (i) resubdivision into Lots or (ii) the construction of residential apartments thereon.

Section 1.22. “Parcel Developer” means any person or entity who purchases a Parcel for the purpose of development and sale of Lots.

Section 1.23. “Properties” means all property currently subjected to this Declaration, together with such other real property as may from time to time be subjected in whole or in part to this Declaration pursuant to Article II hereof.

Section 1.24. “Supplemental Declaration” shall have the meaning set forth in Section 2.3 hereof.

Section 1.25. “Virginia Code” shall mean the Code of Virginia (1950), as in effect on the first date of recordation of this Declaration and as amended from time to time thereafter. Except as otherwise expressly permitted herein, if any sections of the Virginia Code referred to in this Declaration are hereafter repealed or recodified, each such reference shall be deemed to apply to the section of the Virginia Code that is the successor to the previous section referred to herein, or, if there is no successor section, such reference shall be interpreted as if the section had not been repealed.

Section 1.26. “Zoning Ordinance” means (i) the Ordinance now set forth and contained in Chapter 24.1 of the County Code of York County, Virginia, as adopted as of the recordation of this Declaration in the York Clerk’s Office as may be amended from time to time (the “York County Zoning Ordinance”); (ii) the Ordinance now set forth and contained in Chapter 45 of the Code of Ordinances City of Newport News, Virginia, as adopted as of the recordation of this Declaration in the Newport News Clerk’s Office as may be amended from time to time (the “Newport News Zoning Ordinance”); (iii) the ordinances adopted by the Board of Supervisors of the County of York on June 2, 1988 [Case No. 088-20(R-1)], as amended on March 7, 1991 [Ordinance No. 091-7] including all proffered conditions incorporated therein, pursuant to which that portion of the Properties located in York County, Virginia was rezoned as a Planned Development - Major Residential Community (“PD-MRC”); (iv) the ordinances adopted by the

City Council of the City of Newport News on January 28, 1986 [Ordinance No. 3416-86], as amended on September 30, 1986 (Ordinance No. 3496-86); on November 24, 1987 [Ordinance No. 3672-87]; and on July 26, 1988 [Ordinance No. 3757-88], including all proffered conditions incorporated therein, pursuant to which that portion of the Properties located in the City of Newport News, Virginia was rezoned as a Planned Residential Development (“PRD”); and (v) all other zoning ordinances, rules and regulations applicable to the Properties. If the York County Zoning Ordinance, the Newport News Zoning Ordinance, the PD-MRC or PRD ordinances or any other applicable ordinances, rules and regulations in effect on the first date of recordation of this Declaration are subsequently repealed, amended or supplemented in any respect or if any variances or waivers are subsequently granted with respect thereto, the term “Zoning Ordinance” when used in interpreting or applying this Declaration at any point in time shall mean the foregoing ordinances and such other ordinances, rules and regulations as such respective ordinances, rules and regulations as have been repealed, amended, supplemented, varied or waived as of such point in time.

## ARTICLE II

### ADDITIONS TO THE PROPERTIES

Section 2.1. Additional Area. The real estate which is subject to this Declaration as of the date of its recordation in the Clerks’ Offices is described in Exhibit A hereto. The Developer's right to unilaterally extend the Declaration to portions of the Additional Area has expired. The Additional Area includes real estate located within a two (2) mile radius of the real estate described in Exhibit A (the “Additional Area”). The Association, by (i) the affirmative vote of two-thirds (2/3) or more of the directors serving on the Board of Directors of the Association and (ii) the consent in writing of the Owners of a majority or more of the Lots within

the Properties subject to this Declaration, may authorize the President of the Association to execute a Supplemental Declaration to extend this Declaration to all or portions of the Additional Area provided the Owner(s) of such Additional Area consent to such extension as evidenced by such Owner(s) joining in an instrument of record subjecting such real property to the covenants, liens, restrictions, easements, and other provisions of this Declaration. However, the Association shall not be obligated to bring all or any part of the Additional Area within the scheme of development established by this Declaration, and no negative reciprocal easement shall arise out of this Declaration so as to benefit or bind any portion of the Properties or the Additional Area until such portion of the Additional Area is expressly subjected to the provisions of this Declaration in accordance with Section 2.2 below and then such portion of the Additional Area shall be subject to any additions, deletions and modifications as are made pursuant to Section 2.2.

Section 2.2. Right to Subject Additional Area to Declaration. Each of the additions authorized pursuant to this Article II shall be made by Association's recordation in the applicable Clerk's Office of a Supplemental Declaration describing the portion(s) of the Additional Area subjected to this Declaration. Each such instrument may contain such additions, deletions and modifications to the provisions of this Declaration as may be desired by the Association. However, no negative reciprocal easement shall arise out of any additions, deletions or modifications to this Declaration made in the instruments which subject the Additional Area to this Declaration except as to the real estate expressly subject to such additions, deletions and modifications.

Section 2.3. Supplemental Declarations. In addition to subjecting the Additional Area to this Declaration as provided in Section 2.2, the Association may, in its discretion, execute and



record one or more supplemental declarations (each a “Supplemental Declaration”) for the purpose of establishing certain additional or different covenants, easements and restrictions (including without limitation a different level of assessments) applicable to a specific Neighborhood or Neighborhoods or certain specified Lot(s) and/or Parcel(s). However, no negative reciprocal easement shall arise out of any Supplemental Declaration so as to bind any real property not expressly subjected thereto.

Section 2.4. Power Not Exhausted by One Exercise, Etc. No exercise of the power granted Association hereunder as to any portion of the Additional Area shall be deemed to be an exhaustion of such power as to other portion(s) of the Additional Area not so subjected to the provisions hereof or to the provisions of a Supplemental Declaration. The discretionary right of the Association to subject the Additional Area to the provisions of this Declaration or a Supplemental Declaration is conditioned upon and subject to the prior approval of the Board of Directors of the Association and the required written consent of the requisite amount of Owners as set forth in Section 2.1 and therefore the requirements set forth in Section 9.2 for amendments to this Declaration shall not apply to this Article II. The failure of the Association to extend the provisions of this Declaration to the Additional Area or any portion(s) thereof shall not be deemed to prohibit the establishment of a separate scheme of development (including provisions substantially similar or identical to those contained herein) for such portion(s) of the Additional Area to which this Declaration is not extended.

Section 2.5. Development of Additional Area. The portion(s) of the Additional Area subjected to the provisions of this Declaration may contain additional Common Areas, Limited Common Areas, Neighborhood Common Areas and facilities to be owned and/or maintained by the Association.

## ARTICLE III

### VILLAGES OF KILN CREEK OWNERS ASSOCIATION

Section 3.1. Membership. Every Owner of a Lot and a Parcel shall be a member of the Association. Membership shall be appurtenant to, and shall not be separated from, ownership of any Lot or Parcel. Upon the recordation of a deed to a Lot or a Parcel or upon any other transfer or conveyance of the record title to any Lot or Parcel, the membership of the former Owner shall cease and the Owner who acquires record title shall become a member of the Association.

Section 3.2. Classes of Membership. The Developer's Class B Membership has expired, and, therefore, the Association now has one (1) class of voting membership. All Owners of Lots and Parcels including Developer as to any Lots owned by Developer shall be Class A members.

Section 3.3. Voting Rights. (a) Each Class A member shall be entitled to cast one vote for each Lot and Parcel owned.

(b) Notwithstanding subsection (a) above, if a Parcel is developed for residential apartment use, the Owner thereof shall be entitled to cast the product of three (3) Class A votes per acre multiplied by the acreage of the Parcel. If such product is other than a whole number, the product shall be adjusted upward to the nearest whole number.

Section 3.4. Suspension of Voting Rights. The Board of Directors of the Association may suspend the voting rights of any Member subject to assessment under this Declaration during the period when any such assessment shall be past due, but upon payment of such assessment the voting rights of such Member shall automatically be restored. The Board of Directors, after appropriate due process, may also suspend the voting rights of any Member who is in violation of the Governing Documents or the rules or architectural guidelines promulgated

by the Association and/or who allows a violation to exist on his/her Lot if such violation remains uncorrected after the last day of a period established for correction by the Association (such period to be stated in a notice to the Owner together with a statement of the violation complained of and the manner of its correction).

Section 3.5. Articles and Bylaws to Govern; Property Owners' Association Act.

Except to the extent expressly provided in this Declaration and in any Supplemental Declaration, all the rights, powers, and duties of the Association and the Members, including the Members' voting rights, shall be governed by the Articles and the Bylaws. However, in the event of any conflict or inconsistency between the provisions of this Declaration or any Supplemental Declaration and the provisions of the Articles or Bylaws, this Declaration and all Supplemental Declarations (to the extent applicable) shall control. In addition to all of the rights, powers and duties of the Association provided in this Declaration and the Supplemental Declarations, the Association shall have all of the rights, powers and duties provided in the Virginia Property Owners' Association Act, Section 55-508 et seq. of the Virginia Code, as the same may be amended from time to time.

Section 3.6. Neighborhoods. The Lots within a particular Neighborhood may be subject to additional covenants other than as set forth in this Declaration (including any Supplemental Declaration), and the Owner of a Lot may be a member of another owners association in addition to the Association. In addition, the Bylaws and/or some Supplemental Declarations may provide for the establishment of a Neighborhood Advisory Board or a Neighborhood Advisory Committee for each Neighborhood to advise the Board of Directors of the Association with regard to matters affecting such Neighborhood, including, without limitation, making recommendations regarding the proposed annual budget with regard to

Neighborhood Assessments payable by Owners within such Neighborhood. The Board of Directors may adopt rules and procedures to govern Neighborhood Advisory Boards and Neighborhood Advisory Committees, which rules and procedures may include, without limitation, a means by which an Owner who serves on a Neighborhood Advisory Board or a Neighborhood Advisory Committee may be removed by the Board of Directors of the Association after appropriate due process. Neighborhood Advisory Boards and Neighborhood Advisory Committees constitute standing committees of the Association and shall be subject to the same rules and procedures applicable to other committees of the Association.

#### ARTICLE IV

##### COMMON AREA, LIMITED COMMON AREA AND NEIGHBORHOOD COMMON AREA

Section 4.1. Obligations of the Association. The Association, subject to the rights of the Members set forth in this Declaration, and subject to the rights, if any, of non-Owners, but only to the extent non-Owners are granted rights pursuant to this Declaration, shall be responsible for the maintenance, management, operation and control, for the benefit of the Members, of the Common Area, the Limited Common Area and the Neighborhood Common Area and all improvements thereon (including fixtures, personal property and equipment related thereto) and shall keep the Common Area, the Limited Common Area, the Neighborhood Common Area and the improvements thereon in accordance with the requirements of the Zoning Ordinance, this Declaration and any applicable Supplemental Declaration, and the Association shall keep the same in good, clean, and attractive condition, order and repair.

The Association shall be responsible for the management, control and maintenance of all street intersection signs, direction signs, temporary promotional signs, plantings, street lights, entrance features and/or "theme areas," lighting, stone, wood or masonry wall features and/or

related landscaping and bicycle/pedestrian paths erected, installed or planted in the Common Areas, the Limited Common Areas and the Neighborhood Common Areas by the Developer or the Association, for the benefit of the Members or the Association; provided such items are not maintained by the applicable municipality or the Virginia Department of Transportation at its expense and are located within: (i) easement areas reserved for the benefit of the Association by virtue of this Declaration, any Supplemental Declaration, any recorded subdivision map of the Properties, or otherwise; or (ii) street right-of-ways, whether public or private.

In addition to the Association's responsibilities regarding the Common Areas, the Limited Common Areas and the Neighborhood Common Areas, the Association, acting through its Board of Directors, shall have the express right to enter into easements, cost sharing, use, maintenance and cross access arrangements with any other person or entity, including, without limitation, the City of Newport News or the County of York, and any other property owners association providing services and/or shared facilities in the vicinity of the Properties. Any costs and/or fees payable pursuant to such arrangements shall be included in the Association's budget as part of the Association's annual costs and expenses for the applicable year.

The Association, acting through its Board of Directors shall have the right to grant licenses for portions of the Common Areas, the Limited Common Areas and/or Neighborhood Common Areas to specified person(s) or entities, who need not be Owners, for the exclusive use of such portions of Common Areas, Limited Common Areas and/or Neighborhood Common Areas.

The Association may provide educational and training opportunities within The Villages of Kiln Creek, including providing funding and permitting use of facilities for such purposes. The Association may provide education and training activities as a tool for fostering Owner

awareness of the Association's governance, operations, and concerns. Appropriate educational topics include, but shall not be limited to, dispute or conflict resolution, issues involving the Governing Documents, and benefiting from and contributing to The Villages of Kiln Creek as a planned community. The Association also may fund and support the education and training for officers and directors of the Association.

Section 4.2. Owners' Rights of Enjoyment and Use of Common Areas. Subject to the provisions of this Declaration, any applicable Supplemental Declaration, the Articles, the Bylaws, and such rules and regulations as may be adopted from time to time by the Association's Board of Directors, every Owner shall have a right of enjoyment in and to the Common Areas which right of enjoyment shall be appurtenant to and shall pass with the title to every Lot and Parcel. The Common Areas shall be used by Owners only for the purpose or purposes for which the Common Areas may have been improved by Developer, the Parcel Developer or the Association and subject to any applicable restrictions in the Zoning Ordinance. Any Common Area which has not been improved for a particular use is intended to remain in its natural condition until so improved, and any use thereof by an Owner shall not damage or disturb such natural condition or the enjoyment thereof by other Owners. The Association reserves for itself the right to grant any person(s) a license and/or similar right to make exclusive use of portions of the Common Areas.

Section 4.3. Owners' Rights of Enjoyment and Use of Neighborhood Common Areas. Subject to the provisions of this Declaration, any applicable Supplemental Declaration, the Articles, the Bylaws, and such rules and regulations as may be adopted from time to time by the Association's Board of Directors, the Owners of Lots within a particular Neighborhood shall have the primary right of enjoyment in and to the Neighborhood Common Areas located within

such Neighborhood which right of enjoyment shall be appurtenant to and shall pass with the title to every Lot within such Neighborhood. The Neighborhood Common Areas shall be used by Owners of Lots within such Neighborhood only for the purpose or purposes for which the Neighborhood Common Areas may have been improved by Developer, the Parcel Developer or the Association and subject to any applicable restrictions in the Zoning Ordinance. Any Neighborhood Common Area which has not been improved for a particular use is intended to remain in its natural condition until so improved, and any use thereof by an owner of a Lot within such Neighborhood shall not damage or disturb such natural condition or the enjoyment thereof by other Owners of Lots within such Neighborhood. The Association reserves for itself the right to grant any person(s) a license and/or similar right to make exclusive use of portions of the Neighborhood Common Areas.

Section 4.4. Limited Common Areas. The Association shall have the power to restrict portions of the Common Area for the primary use of the Owners of one or more specific Lots (and such non-Owners, if any, who have been authorized to use such areas pursuant to Sections 4.1, 4.2 and/or 4.6 hereof) by designating such portions of Common Area as "Limited Common Area".

The Association may either: (i) indicate the locations of the Limited Common Area appertaining to one or more Lots by depicting such Limited Common Area and the Lots to which it is appurtenant on a plat attached to or recorded with a Supplemental Declaration; (ii) label a portion of the Common Area as "Common Area that may be assigned as Limited Common Area" on a plat attached as an exhibit to the applicable Supplemental Declaration and thereafter assign such Limited Common Area to one or more specific Lots by unilaterally amending the Supplemental Declaration to indicate the assignment depicting the Limited Common Area being

assigned and the Lots to which it is appurtenant; or (iii) indicating that such Common Area is Limited Common Area by a description in a document recorded in the applicable Clerk's Office.

Subject to the provisions of this Declaration, any applicable Supplemental Declaration, the Articles, the Bylaws, and such rules and regulations as may be adopted from time to time by the Association's Board of Directors, the Owners of Lot(s) to which Limited Common Area has been assigned and such non-Owners, if any, who have been authorized to use such Limited Common Area pursuant to Sections 4.1, 4.2 and/or 4.6 hereof shall have the exclusive right of enjoyment in and to the Limited Common Area assigned which right of enjoyment shall be appurtenant to and shall pass with the title to every Lot to which such Limited Common Area is appurtenant. The Limited Common Areas shall be used by Owners of Lots to which such Limited Common Areas have been assigned and such non-Owners, if any, who have been authorized to use such Limited Common Area pursuant to Sections 4.1, 4.2 and/or 4.6 hereof only for the purpose or purposes for which the Limited Common Areas may have been improved by the Developer, the Parcel Developer or the Association and subject to any applicable restrictions in the Zoning Ordinance. Any Limited Common Area which has not been improved for a particular use is intended to remain in its natural condition until so improved, and any use thereof by an Owner of a Lot to which such Limited Common Area is appurtenant shall not damage or disturb such natural condition or the enjoyment thereof by other Owners of Lots to which such Limited Common Area is appurtenant. Without limiting the generality of the foregoing, the Association reserves for itself the right to grant any person(s) a license and/or similar right to make exclusive use of portions of the Limited Common Areas.

The Association's rights to designate portions of the Common Area as "Limited Common Area" under this Section 4.4, are expressly subject to the regulations of the York County Zoning



Ordinance concerning minimum Common Open Space requirements for the portion of the Properties located within York County, and, therefore, any exercise of such rights by the Association shall ensure that such minimum requirements of the York County Zoning Ordinance shall continue to be met notwithstanding the exercise of such rights hereunder by the Association.

Section 4.5. General Limitations on Owners' Rights. The Owners' rights of enjoyment in the Common Areas, the Limited Common Areas and the Neighborhood Common Areas shall be subject to the following:

(i) the right of the Association's Board of Directors to establish reasonable rules and regulations and to charge reasonable admission and other fees for the use of the Common Areas, the Limited Common Areas and the Neighborhood Common Areas;

(ii) subject to the limitation imposed by the last sentence of Section 55-514C of the Virginia Code as in effect on the date hereof, the right of the Association's Board of Directors to suspend the right of an Owner to use or benefit from any of the Common Areas, the Limited Common Areas or the Neighborhood Common Areas for the period during which any assessment against his Lot or Parcel is delinquent;

(iii) the right of the Association's Board of Directors to suspend the right of an Owner to use or benefit from any of the Common Areas, the Limited Common Areas or the Neighborhood Common Areas for any period during which any other violation by the Owner of this Declaration, a Supplemental Declaration or the rules promulgated by the Association pursuant to this Declaration remains uncorrected after the last day of a period established for correction by the Association (such period to be stated in a notice to the

Owner together with a statement of the violation complained of and the manner of its correction);

(iv) subject to the Bylaws, the right of the Association's Board of Directors to mortgage and/or encumber any or all of the Common Areas, the Limited Common Areas or the Neighborhood Common Areas;

(v) subject to the Bylaws, the right of the Association's Board of Directors to grant or assign utility easements across the Common Areas, the Limited Common Areas and the Neighborhood Common Areas as provided in Section 8.1;

(vi) subject to the Bylaws, the right of the Association's Board of Directors to dedicate or transfer all or any part of the Common Areas, the Limited Common Areas or the Neighborhood Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be desired by the Association;

(vii) all of the other easements, covenants and restrictions provided for in this Declaration and any Supplemental Declaration(s) applicable to the Common Areas, the Limited Common Areas and/or the Neighborhood Common Areas;

(viii) subject to the right of the Association's Board of Directors to grant licenses and/or similar rights to persons to make exclusive use of the Common Areas, the Limited Common Areas and/or the Neighborhood Common Areas on such terms and conditions as deemed in the best interests of the Association by its Board of Directors; and

(ix) subject to the right of the Associations' Board of Directors to permit use of any facilities situated on Common Areas, Limited Common Areas or Neighborhood

Common Areas by persons, other than Owners, their families, lessees and guests upon payment of use fees or other consideration established by the Board of Directors.

Section 4.6. Delegation of Use. Any Owner may delegate his right of enjoyment to the Common Area, the Limited Common Area or the Neighborhood Common Area to members of his family living on his Lot and to his guests, and he may transfer such right to his tenants, subject to such rules and regulations and fees as may be established from time to time by the Association's Board of Directors.

Section 4.7. Damage or Destruction of Common Area, Limited Common Area or Neighborhood Common Area by Owner. In the event any Common Area, Limited Common Area, Neighborhood Common Area or improvement or feature thereon is damaged or destroyed by an Owner, his tenants, guests, licensees, agents or members of his family, the Association may repair such damage at the Owner's expense. The Association shall repair such damage in a good and workmanlike manner in conformance with the original plans and specifications of the area or improvement involved, or as the Common Area, the Limited Common Area, the Neighborhood Common Area or improvement may have been theretofore modified or altered by the Association, in the discretion of the Association. The cost of such repairs shall become a special assessment on the Lot of such Owner and shall constitute a lien on such Owner's Lot and be collectible in the same manner as other assessments set forth herein.

Section 4.8. Failure to Maintain Common Areas, Limited Common Areas or Neighborhood Common Areas in York County. If the Association or its successor(s) shall fail to maintain the Common Areas, the Limited Common Areas or the Neighborhood Common Areas located in York County, Virginia, in accordance with Section 4.1 and the Zoning Ordinance, the

County of York, Virginia may, after giving prior written notice to the Association or to the Owners, exercise the rights set forth in Section 9.13 hereof.

## ARTICLE V

### ASSESSMENTS

Section 5.1. Creation of the Lien and Personal Obligation for Assessments. Each Owner of any Lot or Parcel by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant, to pay to the Association assessments as set forth in this Declaration, any Supplemental Declaration and in the Bylaws. The assessments, together with interest thereon, late charges and costs of collection including all attorneys' fees, shall be a continuing lien upon the Lot or Parcel against which each such assessment is made in order to secure payment thereof and shall also be the personal obligation of the party who was the Owner of the Lot Or Parcel at the time the assessment fell due. No Owner may waive or otherwise avoid liability for the assessments provided herein by nonuse of the Common Areas, the Limited Common Areas, the Neighborhood Common Areas or abandonment of his Lot or Parcel. Each assessment that is not paid when due shall bear interest at the rate established by the Association's Board of Directors, which rate shall not exceed the maximum rate permitted by applicable law. Each assessment that is not paid within seven (7) days of its due date shall, at the option of the Association, incur a late charge and administration fee as each may be established from time to time by resolution duly adopted by the Board of Directors of the Association.

Section 5.2. Purpose of Assessments. The assessments levied by the Association shall be used for the management, maintenance, improvement, care, operation, renovation, repair and replacement of the Common Areas, the Limited Common Areas, the Neighborhood Common Areas and improvements thereon and other property owned or acquired by the Association of

whatsoever nature; for the discharge of all taxes and other levies and assessments against the Common Areas, the Limited Common Areas, the Neighborhood Common Areas and improvements thereon and other property owned or acquired by the Association; for the procurement of insurance by the Association in accordance with the Bylaws; for the establishment of reserves with respect to the Association's obligations; for the provision of services to Lots as may be authorized under applicable Supplemental Declarations; for the discharge of such other obligations as may be imposed upon or assumed by the Association pursuant to its Articles or Bylaws or this Declaration or any Supplemental Declaration, and any license, easement, or cost sharing, use, maintenance or cross access arrangement entered into with any other person or entity; for the payment of costs and expenses incurred by the Association in the course of its operations; and for such other purposes as may be authorized by or pursuant to the Articles, Bylaws, this Declaration or any Supplemental Declaration.

Section 5.3. Annual Assessments. "Annual Assessments" shall mean "General Assessments," "Limited Common Expense Assessments" and "Neighborhood Assessments."

(a) General Assessments.

1. Purpose. "General Assessments" shall mean those assessments used for the general purposes set forth in Section 5.2 above except that the General Assessments shall not be used for those purposes for which Neighborhood Assessments and Limited Common Expense Assessments shall be used.

2. Basis. The General Assessments shall be established and increased or decreased from time to time by the Board of Directors of the Association pursuant to the Bylaws.

(b) Neighborhood Assessments.

1. Purpose. "Neighborhood Assessments" shall mean those assessments used for such purposes as are authorized by the Supplemental Declaration for a given Neighborhood. The Neighborhoods of Southlake, Claymill Corner and Lakeside are subject to Neighborhood Assessments, which assessments are used to fund the costs of managing, owning, operating, maintaining, insuring, repairing and replacing the Neighborhood Common Areas and improvements thereon as well as the provision of services described in the applicable Supplemental Declaration for each of these Neighborhoods.

2. Basis. The respective Supplemental Declarations for the Neighborhoods of Southlake, Claymill Corner, and Lakeside provide the basis by which all Lots within the Neighborhoods of Southlake, Claymill Corner, and Lakeside shall be assessed for Neighborhood Assessments. If additional Neighborhoods are created pursuant to Article II hereof, the Supplemental Declaration applicable to such Neighborhood shall specify whether the Lots within such Neighborhood shall be assessed Neighborhood Assessments, and, if so, the basis of such Neighborhood Assessments.

(c) Limited Common Expense Assessments.

1. Purpose. "Limited Common Expenses" are those expenses attributable to managing, maintaining, improving, caring, operating, renovating, repairing, establishing appropriate reserves for, insuring and replacing Limited Common Areas, as well as the cost of providing certain services to individual Lots. The purpose of the "Limited Common Expense Assessment" is to provide a means whereby the Owners of Lots which directly benefit from specific Limited Common Area and/or certain services applicable to individual Lots pay their

proportionate share of the Limited Common Expenses attributable to such Limited Common Area and/or services.

2. Basis. Limited Common Expenses may be assessed by the Association only against the Lots benefited in proportion to their relative General Assessment liability, inter se or based on usage, as appropriate. Such Limited Common Expenses shall be determined as follows:

(i) Any expenses incurred in the managing, maintaining, improving, caring, operating, renovating, repairing, establishing appropriate reserves for, incurring and replacing Limited Common Area may be assessed only against the Lots served by such Limited Common Area; and

(ii) Any service to individual Lots based on usage.

Section 5.4. Special Assessments. In addition to the General, Neighborhood Assessments and Limited Common Expense Assessments, the Board of Directors of the Association may levy a periodic special assessment if the purpose in doing so is found by the Board of Directors to be in the best interest of the Association and the proceeds of such assessment are used for (1) the maintenance and upkeep, including capital expenditures, of the Common Area [or of (i) the Neighborhood Common Area, provided the special assessment is levied against only those Lots within such Neighborhood or (ii) the Limited Common Area, provided the special assessment is levied against only those Lots served by such Limited Common Area]; and (2) the discharge of taxes, the procurement of insurance, the establishment of reserves, payment of costs and expenses incurred by the Association in the course of its operations, and the discharge of such services and other obligations as may be assumed by the Association pursuant to its Articles, Bylaws, the Declaration or any Supplemental Declaration or

any cost sharing, use or cross easement arrangements entered into with any other person, and for such other purposes as authorized by or pursuant to the Articles or Bylaws.

Section 5.5. Date of Commencement of Annual Assessments. Subject to Section 5.9, the Annual Assessments provided for herein shall commence as to each Lot or Parcel on the first day of the month following the recordation of the deed to such Lot or Parcel to an Owner who purchases the same. The first Annual Assessment on a Lot or Parcel shall be adjusted according to the number of months remaining in the calendar year. Unless the Board of Directors of the Association amends the Bylaws to provide otherwise, the Annual Assessments shall be paid as provided in the Bylaws.

Section 5.6. Effect of Nonpayment of Assessments; Remedies of Association. The lien of the assessments provided for in this Declaration may be perfected and enforced in the manner provided in Section 55-516 of the Virginia Code. A statement from the Association showing the balance due on any assessment shall be prima facie proof of the current assessment balance and the delinquency, if any, due on a particular Lot or Parcel. The Association may also bring an action at law against any Owner personally obligated to pay the same, either in the first instance or for deficiency following foreclosure, and interest, late charges and costs of collection including all attorney's fees shall be added to the amount of such assessment and secured by the assessment lien. In addition, if any installment of any assessment is not paid within thirty (30) days after the due date, the Board of Directors shall have the right upon notice to the Owner to accelerate the installments owed and declare the entire balance of any annual assessment or special assessment due and payable in full.



Section 5.7. Subordination of Lien to Mortgages. The lien upon each of the Lots and Parcels securing the payment of the assessments shall have the priority set forth in Section 55-516A of the Virginia Code.

Section 5.8. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments and liens created herein: (i) all properties dedicated and accepted by a public authority; (ii) all Common Areas, Limited Common Areas and Neighborhood Common Areas; and (iii) all properties (other than Lots) wholly exempt from real estate taxation by state or local governments upon the terms and to the extent of such legal exemption.

Section 5.9. Annual Budget. The Board of Directors shall adopt an annual budget for each fiscal year, which budget shall provide for the annual level of assessments (including provision for reserves and physical damage insurance deductibles) and an allocation of expenses. There shall be no responsibility for the payment of assessments until after the Board of Directors adopts its initial annual budget.

## ARTICLE VI

### ARCHITECTURAL CONTROL

Section 6.1. Architectural Review Board. The Association shall maintain a board (the “Architectural Review Board”) for the purpose of reviewing and, as appropriate, approving or disapproving all Plans (hereinafter defined) submitted by Owners in accordance with this Article VI. The Architectural Review Board shall be composed of three persons, who shall be Members of the Association, from time to time appointed by the Board of Directors of the Association. The Board of Directors may appoint one alternate member to the Architectural Review Board, which alternate member may vote only in the absence of a regular member. The members of the

Architectural Review Board shall serve for such terms as may be determined by the Board of Directors of the Association, as the case may be.

Section 6.2. Plans to be Submitted. Before commencing the construction, erection or installation of any building, addition, patio, deck, pool, fence, wall, animal pen or shelter, exterior lighting, sign, mailbox or mailbox support, improvement or other structure (each of the foregoing being hereinafter referred to as an "Improvement") on any Lot or Parcel, including any site work in preparation therefor, and before commencing any alteration, enlargement, demolition or removal of an Improvement or any portion thereof in a manner that alters the exterior appearance (including but not limited to paint color) of the Improvement or of the Lot or the Parcel on which it is situated, each Owner shall submit to the Architectural Review Board a completed application on the form provided by the Architectural Review Board (the "Application"), a proposed construction schedule and a set of plans and specifications of the proposed construction, erection, installation, alteration, enlargement, demolition or removal, which plans and specifications shall include (unless waived by the Architectural Review Board): (i) a site plan showing the size, location and configuration of all Improvements, including driveways and landscaped areas, and all setback lines, buffer areas and other features required under the Zoning Ordinance or guidelines adopted by the Architectural Review Board, (ii) as to Improvements initially constructed on a Lot or a Parcel, landscaping plans showing the trees to be removed and to be retained and shrubs, plants and ground cover to be installed, (iii) architectural plans of the Improvements showing exterior elevations, construction materials, exterior colors, driveway material, (iv) a sediment and erosion control plan, and (v) a tree protection plan and such other information as the Architectural Review Board in its discretion shall require (collectively, the "Plans"). The Architectural Review Board may, in its sole

discretion, waive the requirement that any or all of the required Plans be submitted in a particular case where it determines such Plans are not necessary to properly evaluate the Application. The Architectural Review Board shall not be required to review any Plans unless and until the Application has been submitted in completed form with the proposed construction schedule and the Plans contain all of the required items. The Application, Plans and the proposed construction schedule must be submitted to the Architectural Review Board at the address of the Association in the same manner as notices are to be sent to the Association pursuant to Article XI.

If the Architectural Review Board shall fail to act upon any Application submitted to it within thirty (30) days after its receipt of a complete Application, Plans and proposed construction schedule, such Application shall be submitted to the Board of Directors for approval. If the Board of Directors shall fail to act within thirty (30) days after its receipt of such complete Application, Plans and approved construction schedule, then such Application, Plans and proposed construction schedule shall be deemed to have been approved as submitted and no further action shall be required; provided, however, that such failure to act by the Board of Directors shall not relieve the Owner of the obligation of complying with applicable federal, state and local building codes and architectural standards, covenants, design guidelines and rules and regulations set forth herein or adopted in accordance herewith in connection with the proposed action which was the subject of the Application, Plans and construction schedule or with the Association's guidelines.

Section 6.3. Consultation with Architects, etc.; Administrative Fee. In connection with the discharge of its responsibilities, the Architectural Review Board may engage or consult with architects, engineers, planners, surveyors, attorneys and others. Any person seeking the approval of the Architectural Review Board agrees to pay all fees thus incurred by the Architectural

Review Board and further agrees to pay an administrative fee to the Architectural Review Board in such amount as the Architectural Review Board may from time to time reasonably establish. The payment of all such fees is a condition to the approval or disapproval by the Architectural Review Board of any Plans, and the commencement of review of any Plans may be conditioned upon the payment of the Architectural Review Board's estimate of such fees.

Section 6.4. Approval of Plans. The Architectural Review Board shall not approve the Plans for any Improvement that would violate any of the provisions of this Declaration or of any Supplemental Declaration applicable thereto. In all other respects, the Architectural Review Board may exercise its sole discretion in determining whether to approve or disapprove any Plans, including, without limitation, the location of any Improvement on a Lot or Parcel.

Section 6.5. No Improvements to be Constructed, etc. Without Approval. No Improvement shall be constructed, erected, installed or maintained on any Lot or Parcel, nor shall any Improvement be altered, enlarged, demolished or removed in a manner that alters the exterior appearance (including without limitation paint color) of the Improvement or of the Lot or the Parcel on which it is situated, unless the Application, Plans and construction schedule therefor have been approved by the Architectural Review Board. After the Application, Plans and construction schedule therefor have been approved, all Improvements shall be constructed, erected, installed, maintained, altered, enlarged, demolished or removed strictly in accordance with the approved Plans and in compliance with all applicable federal, state and local building codes. Upon commencing the construction, erection, installation, alteration, enlargement, demolition or removal of an Improvement, all of the work related thereto shall be carried on with reasonable diligence and dispatch and in accordance with the construction schedule approved by the Architectural Review Board.

Section 6.6. Guidelines May Be Established. The Architectural Review Board may, subject to the approval of the Board of Directors, in its discretion, establish guidelines and standards to be used in considering whether to approve or disapprove Plans. Such guidelines may include, without limitation, uniform standards for signage and mailboxes and mailbox supports. However, nothing contained in this Declaration shall require the Architectural Review Board to approve the Plans for Improvements on a Lot or a Parcel on the grounds that the layout, design and other aspects of such Improvements are the same or substantially the same as the layout, design and other aspects of Improvements approved by the Architectural Review Board for another Lot or Parcel.

Section 6.7. Limitation of Liability. The approval by the Architectural Review Board (or by the Association's Board of Directors as applicable) of any Plans, and any requirement by the Architectural Review Board (or by the Association's Board of Directors as applicable) that the Plans be modified, shall not constitute a warranty or representation by the Architectural Review Board (or by the Association's Board of Directors as applicable) of the adequacy, technical sufficiency or safety of the Improvements described in such Plans, as the same may be modified, and the Architectural Review Board (or the Association's Board of Directors as applicable) shall have no liability whatsoever for the failure of the Plans or the Improvements to comply with applicable building codes, laws and ordinances or to comply with sound engineering, architectural or construction practices. In addition, in no event shall the Architectural Review Board (or the Association's Board of Directors as applicable) have any liability whatsoever to an Owner, a contractor or any other party for any costs or damages (consequential or otherwise) that may be incurred or suffered on account of the Architectural

Review Board's (or the Association's Board of Directors) approval, disapproval or conditional approval of any Plans.

Section 6.8. Other Responsibilities of Architectural Review Board. In addition to the responsibilities and authority provided in this Article VI, the Architectural Review Board shall, have such other rights, authority and responsibilities as may be provided elsewhere in this Declaration, in any Supplemental Declaration and in the Bylaws.

## ARTICLE VII

### USE OF PROPERTY

Section 7.1. Protective Covenants.

(a) Nuisances. No nuisance shall be permitted to exist on any Lot or Parcel. Noxious, destructive, or offensive activity, or any activity constituting an unreasonable source of annoyance, shall not be conducted on any Lot, the Common Area, the Limited Common Area or the Neighborhood Common Area or any part thereof, and the Association shall have standing to initiate legal proceedings to abate such activity. Each Owner shall refrain from any act or use of his or her Lot or Parcel which could reasonably cause embarrassment, discomfort, or annoyance to other Owners, and the Board of Directors shall have the power to make and to enforce reasonable rules in furtherance of this provision.

(b) Restriction on Further Subdivision. No Lot shall be further subdivided or separated into smaller Lots by any Owner, and no portion less than all of any such Lot, nor any easement or other interest herein, shall be conveyed or transferred by an Owner, provided that this shall not prohibit the vacating of boundaries between adjacent Lots to create a bigger Lot, deeds of correction, deeds to resolve boundary line disputes and similar corrective instruments and provided that this shall not prohibit the division or combination of condominium units in

accordance with law, or the creation of condominiums. In the event an Owner vacates a boundary line between two or more adjacent Lots to create a bigger Lot, such Owner shall be liable for and shall continue to owe assessments based on the number of the original Lots shown on the original plat (or, in the case of a condominium, the original approved site plan) for the Neighborhood in which the Lot(s) is/are located.

(c) Rules. From time to time the Board of Directors may adopt general rules, including but not limited to rules to regulate potential problems relating to the use of Properties and the well-being of Members, such as the definition of nuisances, keeping of animals, storage and use of all vehicles, assignment of designated parking spaces for the exclusive use of one (1) or more designated Owners or persons, storage and use of machinery, use of outdoor drying lines, antennas, satellite dishes, over-the-air-reception-devices, signs, trash and trash containers, restrictions on sprinkler and irrigation systems, private irrigation wells and uses of lakes, water bodies and wetlands, maintenance and removal of vegetation on the Properties and the type and manner of application of fertilizers or other chemical treatments to the Properties in accord with non-point source pollution control standards (collectively, the “Rules”). All such Rules and any subsequent amendments thereto shall be binding on all Members and occupants of the Properties, including their tenants, guests and invitees, except where expressly provided otherwise in such Rules. Such Rules as adopted from time to time are herein incorporated by reference and shall be as binding as if set forth herein in full; provided, however, that in the event of a conflict between any provision(s) in the Rules and the Governing Documents, the provision(s) set forth in the Governing Documents shall control.

(d) Exceptions. In certain special circumstances, the Board of Directors may issue variances exempting a particular Lot or Parcel from any of the provisions of this Article VII.

(e) Irrigation. Subject to the rights retained by Developer in Section 8.8, and to the extent, if any, such retained rights still exist, no sprinkler or irrigation system of any type which draws upon water from creeks, streams, rivers, lakes, ponds, wetlands, canals or other ground or surface waters within the Properties shall be installed, constructed or operated within the Properties without the written approval of Developer, except that the Association shall have the right to draw upon water from such water bodies for irrigation of the Common Area, the Limited Common Area and/or the Neighborhood Common Area. All sprinkler and irrigation systems shall be subject to approval in accordance with Section 6.5 of this Declaration.

(f) Lakes and Water Bodies. All lakes, ponds and streams within the Properties, if any, shall be aesthetic amenities only, and except for those activities sponsored by the Association no other use thereof, including, without limitation, swimming, boating, playing or use of personal flotation devices, shall be permitted. No piers or docks shall be constructed on any portion of lakes, streams or ponds, nor attached to the shoreline or banks thereof. The Association, upon the affirmative vote of its Board of Directors, may authorize fishing from designated areas of certain specified lakes for specified dates and times. The Association shall not be responsible for any loss, damage or injury to any person or property arising out of the authorized or unauthorized use of lakes, ponds, streams or other water bodies within the Properties.



(g) Permitted Uses. Except as otherwise provided in the Governing Documents (including without limitation any applicable Supplemental Declaration), no Lot shall be used for other than residential purposes.

(h) Hazardous Uses; Waste. Nothing shall be done or kept on the Properties which will increase the rate of insurance over such rates applicable to permitted uses of the Common Area, the Limited Common Area, the Neighborhood Common Area or any part thereof without the prior written consent of the Board of Directors, including, without limitation, any activities which are unsafe or hazardous with respect to any person or property. No person shall permit anything to be done or kept on the Properties which will result in the cancellation of any insurance on the Common Area, the Limited Common Area, the Neighborhood Common Area or any part thereof or which would be in violation of any law, regulation or administrative ruling. No vehicle of any size which transports flammable or explosive cargo may be kept or driven on the Properties at any time. Each Owner shall comply with all federal, state and local statutes, regulations, ordinances, or other rules intended to protect the public health and welfare as related to land, water, groundwater, air or other aspects of the natural environment (the "Environmental Laws"). Environmental Laws shall include, but are not limited to, those laws regulating the use, generation, storage or disposal of hazardous substances, toxic wastes and other environmental contaminants (collectively, the "Hazardous Materials"). No Owner shall knowingly use, generate, manufacture, store, release, dispose of or knowingly permit to exist in, on, under or about such Owner's Lot, the Common Area, the Limited Common Area, the Neighborhood Common Area or any portion of the Properties, or transport to or from any portion of the Properties any Hazardous Materials except in compliance with the Environmental Laws. No

waste shall be committed on the Common Area, the Limited Common Area or the Neighborhood Common Area.

(i) Lawful Use. No improper, offensive or unlawful use shall be made of the Properties or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental agencies having jurisdiction thereof shall be observed. All laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereof relating to any portion of the Properties shall be complied with, by and at the sole expense of the Owner, the Association, or any owners association or condominium unit owners association, whichever shall have the obligation for the upkeep of such portion of the Properties, and, if the Association, then the cost of such compliance shall be included in the Annual Assessment, as appropriate.

(j) Emissions. There shall be no emissions of dust, sweepings, dirt, cinders, odors, gases or other substances into the atmosphere except for normal residential chimney emissions; no production, storage or discharge of Hazardous Materials on the Properties or discharges of liquid, solid wastes or other environmental contaminants into the ground or any body of water, if such emission, production, storage or discharge may adversely affect the use or intended use of any portion of the Properties or may adversely affect the health, safety or comfort of any person. The foregoing shall not be interpreted to prohibit reasonable emissions associated with normal residential equipment such as barbecue grills, lawn mowers and leaf blowers, nor shall the foregoing be interpreted to prohibit the lawful storage and use of standard household items in customary quantities notwithstanding that such items may constitute Hazardous Materials or environmental contaminants provided such items are used and stored in compliance with Environmental Laws.

(k) Noise. No person shall cause any unreasonably loud noise under normal circumstances anywhere on the Properties, nor shall any person permit or engage in any activity, practice or behavior for the purpose of causing annoyance, discomfort or disturbance to any person lawfully present on any portion of the Properties.

(l) Obstructions. No person shall obstruct any of the Common Area, the Limited Common Area, the Neighborhood Common Area, or otherwise impede the rightful access of any other person on any portion of the Properties upon which such person has the right to enter. No person shall place or cause or permit anything to be placed on or in any of the Common Area, the Limited Common Area or the Neighborhood Common Area without the approval of the Board of Directors of the Association. Nothing shall be altered or constructed in or removed from the Common Area, the Limited Common Area or the Neighborhood Common Area except with the proper written approval of the Board of Directors.

(m) Association Property. The Common Area, the Limited Common Area and the Neighborhood Common Area shall be used only for the furnishing of the services and facilities for which the same is reasonably suited and which are incident to the use and occupancy of the Lots or Parcels. The improvements located on the Common Area, the Limited Common Area and the Neighborhood Common Area shall be used only for their intended purposes. Except as otherwise expressly provided in the Governing Documents, no Owner shall make any private, exclusive or proprietary use of any of the Common Area, the Limited Common Area or the Neighborhood Common Area without the prior written approval of the Board of Directors and then only on a temporary basis.

(n) Mining. No Lot or Parcel shall be used for the purpose of boring, mining, quarrying, exploring for or removing oil or other hydrocarbons, minerals, gravel or earth except with the prior written approval of the Board of Directors.

(o) Signs. No signs of any character shall be erected, posted or displayed in a location that is visible from the Common Area, the Limited Common Area, the Neighborhood Common Area, or any other Lot or Parcel, except as otherwise expressly permitted in the Rules and/or the guidelines adopted from time to time by the Architectural Review Board and approved by the Association's Board of Directors. All signage must comply with the City of Newport News and the County of York's sign ordinances.

(p) Trash. Except in connection with construction activities, no burning of any trash and no accumulation or storage of litter, refuse, bulk materials, building materials, garbage, or trash of any other kind shall be permitted on any Lot or Parcel. Trash, leaves and other materials shall not be burned in violation of local ordinances. No incinerator shall be kept or maintained upon the Properties without the prior written approval of the Board of Directors. All trash collection, storage and removal shall be in accordance with the Rules.

(q) Landscaping; Sight-lines. No tree, hedge or other landscape feature shall be planted or maintained in a location which obstructs sight-lines for vehicular traffic on public or private streets. Pavement, plantings and other landscape materials shall not be placed or permitted to remain upon any Lot or Parcel: (i) if such materials may damage or interfere with any easement for the installation or maintenance of utilities; (ii) in violation of the requirements of such easements; (iii) unless in conformity with public utility standards; or (iv) if such materials may unreasonably change, obstruct or retard direction or flow of any drainage channels. No water pipe, sewer pipe, gas pipe, drainage pipe, television cable, electrical wire, or

other similar transmission line shall be installed or maintained upon any Lot or Parcel above the surface of the ground; provided, however, that temporary lines installed by a utility company shall be permitted provided the same are buried under the surface of the ground within a reasonable time after the temporary installation of the same.

(r) Vegetation. No live trees with a diameter in excess of five (5) inches, measured three (3) feet above ground, nor trees in excess of three (3) inches in diameter, similarly measured, which are generally known as flowering trees (such as dogwood or redbud) or as broad leaf evergreens (such as holly, laurel, or rhododendron), no live vegetation on slopes of greater than 20 percent (20%) gradient or marked “no cut” areas on approved site plans, and no street trees (regardless of size) installed pursuant to one or more community-wide street tree plans may be cut without prior approval of the Architectural Review Board. The Board of Directors may set rules for cutting of trees to allow for selective clearing or cutting. Any cutting within the public right-of-way may require approval by the City of Newport News or County of York including, but not limited to, obtaining a pruning permit, if applicable.

(s) Temporary Structures. No structure of a temporary character, such as, by way of illustration and not limitation, trailers, tents, shacks, “PODs” or similar storage units, barns, pens, kennels, runs, stables, sheds not anchored on foundations or other temporary accessory buildings shall be erected, used or maintained on any Lot or Parcel except in connection with construction activities. The guidelines adopted by the Architectural Review Board and approved by the Board of Directors, from time to time, may contain further limitations with respect to permanent accessory structures which may be erected, used or maintained on any Lot or Parcel.

(t) Fences. Except for any fence installed by the Developer or the Association, no fence shall be installed except in conformance with standards established therefore and with the written approval of the Architectural Review Board. No chain link fencing will be permitted on the Properties, provided, however, that the Association may erect a chain link fence for the temporary storage of building materials, for the protection of building sites or around swimming pools, ponds, tennis courts, and recreation facilities.

(u) Vehicles. Except in connection with construction activities, no trucks (except for private passenger trucks, including without limitation, extended cab trucks and "Dooleys"), commercial vehicles, construction trucks, trailers, campers, recreational vehicles, all terrain vehicles, personal watercraft, jet skis, boats or other large vehicles, including grounds maintenance equipment, may be parked on any portion of the Common Area, the Limited Common Area, the Neighborhood Common Area, or any portion of a Lot or Parcel visible from the Common Area, the Limited Common Area, the Neighborhood Common Area, or any other Lot or Parcel, on any public streets or private right-of-way within or adjacent to the Properties or any grass area, unless expressly permitted by the Board of Directors and only in such parking areas or for such time periods (if any) as may be designated for such purpose. Parking of all such vehicles and related equipment, other than on a temporary and non-recurring basis, as approved by the Board of Directors, shall be in garages or screened enclosures approved by the Architectural Review Board or in areas designated in the Rules, if any. All vehicles must be parked so as not to impede traffic or damage vegetation. No junk or derelict vehicle or other vehicle on which current registration plates and current city or county and state inspection permits are not displayed shall be kept upon any portion of the Common Area, the Limited Common Area, the Neighborhood Common Area, or any portion of a Lot visible from the

Common Area, the Limited Common Area, the Neighborhood Common Area, or another Lot, or any public or private right-of-way. Vehicle repairs and storage of vehicles are not permitted, except in accordance with the Rules; provided, however, that noncommercial repair of vehicles is permitted within enclosed structures. All motor vehicles including, but not limited to, trail bikes, motorcycles, dune buggies, and snowmobiles shall be driven only upon paved streets and parking lots. No motor vehicles, motorized scooters, “Segways” or similar motorized equipment shall be driven on community trails, pathways or unpaved portions of the Common Area, the Limited Common Area or the Neighborhood Common Area, except (i) such vehicles as are authorized by the Board of Directors as needed to maintain, repair, or improve the Common Area, the Limited Common Area or the Neighborhood Common Area, and (ii) motorized wheelchairs or other devices to assist disabled persons. This prohibition shall not apply to normal vehicular use of designated streets and alleys constructed on the Common Area, the Limited Common Area or the Neighborhood Common Area.

(v) Timeshares. No Lot or Parcel shall be subjected to or used for any timesharing, cooperative, licensing or other arrangement that would entail daily, weekly, monthly, or any other type of revolving or periodic occupancy by multiple Owners, cooperators, licensees, or timesharing participants. The foregoing sentence shall not be interpreted to limit the leasing of apartment units located within the Parcel currently known as “Featherstone Apartments.”

(w) Professional Offices. No Lot or Parcel containing a dwelling unit shall be used for any business, commercial, manufacturing, mercantile, storing, vending or other non-residential purpose; provided, however, that an Owner may maintain a home occupation as permitted by the City of Newport News and/or County of York and may maintain an office in the

dwelling constructed or otherwise located on such Owner's Lot or Parcel if (i) such occupation or office generates no significant number of visits (as determined by the Board of Directors) by clients, customers or other persons related to the business, (ii) no equipment or other items related to the business are stored, parked or otherwise kept on such Owner's Lot or Parcel or the Properties outside of an approved enclosure, and (iii) such Owner has obtained approvals for such use as may be required by the City of Newport News or County of York, Virginia. As a condition to such use, the Board of Directors may require the Owner to pay any increase in the rate of insurance or other costs for the Association which may result from such use.

(x) Animals. The maintenance, keeping, boarding or raising of animals, livestock, poultry or reptiles of any kind, regardless of number is prohibited on any Lot, the Common Area, the Limited Common Area and the Neighborhood Common Area, except that the keeping of guide animals and orderly domestic pets (e.g., dogs, cats or caged birds) is permitted, subject to the Rules; provided, however, that such pets are not kept or maintained for commercial purposes or for breeding and that any pet causing or creating a nuisance or unreasonable disturbance or noise may be permanently removed from the Properties upon ten (10) days written notice from the Board of Directors. Pets shall not be permitted upon the Common Area, the Limited Common Area or the Neighborhood Common Area unless accompanied by someone who can control the pet and unless carried or leashed. Pet droppings shall be removed by the Owner of the pet. Any Owner who keeps or maintains any pet upon any portion of the Properties agrees to indemnify, defend and hold the Association and each Owner free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such pet within the Properties. All pets shall be registered and inoculated as required by law.



(y) Clothes Drying Equipment. Due to the close proximity of dwellings and Lots or Parcels, no clothes lines or other clothes drying apparatus shall be permitted outside of an enclosed structure on any Lot or Parcel. No portion of a Lot or Parcel (outside of an enclosed structure) shall be used for the drying or hanging of laundry.

(z) Mailboxes. Only mailboxes permitted pursuant to and approved by the Architectural Review Board and/or the Board of Directors shall be permitted. The Architectural Review Board with the approval of the Board of Directors may adopt specific criteria applicable to mailboxes from time to time. Newspaper “tubes” or boxes are not permitted.

(aa) Lighting. No exterior lighting shall be directed outside the boundaries of any Lot or Parcel.

(bb) Pools. Above ground swimming pools are prohibited. Inground swimming pools require approval by the Architectural Review Board.

(cc) Construction Activities. This section shall not be construed as forbidding any work involved in the construction or maintenance of any portion of the Properties so long as such work is undertaken and carried out (i) with the minimum practical disturbance to persons occupying other portions of the Properties; (ii) in such a way as does not violate the rights of any person under other provisions of this Declaration; and (iii) in accordance with all applicable restrictions in the Rules, any architectural guidelines, the resolutions of the Board of Directors and the other provisions of this Declaration. The Architectural Review Board may approve temporary structures for construction purposes which may otherwise be in violation of the Governing Documents or the rules or the architectural guidelines.

(dd) Archaeological Finds. Subject to applicable state and federal law regarding archaeological finds, all archaeological materials found within the Properties belong to

the Association. Upon discovery of archaeological materials during periods of construction or otherwise, the Owner of a Lot or Parcel shall immediately notify the Board of Directors and cease construction activity. The Board of Directors shall have ten (10) days to notify the Owner if it intends to exercise the Association's right under this section. Thereafter, the Board of Directors shall have a period of sixty (60) days to remove the archaeological materials without compensation to the Owner for the archaeological materials, the use of the Lot or Parcel or delay in construction. The Association shall not be obligated to remove archaeological materials nor be held liable for failure to remove such materials.

(ee) Septic Tanks. No septic tank shall be installed, used, or maintained on any Lot or Parcel.

(ff) Antennas and Similar Devices. Only those antennas expressly permitted under the Federal Communications Commission's Over-the-Air Reception Devices (OTARD) Rule implementing Section 706 of the Telecommunications Act of 1996, as amended from time to time, are allowed. All others are expressly prohibited. As of the date of the recording of this instrument, the following are permitted under OTARD: (a) direct broadcast satellite (DBS) antenna one (1) meter or less in diameter or diagonal measurement; (b) antennas designed to receive Multipoint Distribution Services (MDS) that are 39.37 inches (one (1) meter) or less in diameter; (c) antennas designed to receive television broadcast signals of any size; (d) transmission-only antennas if they are necessary for the use of a covered reception antenna and are one (1) meter or less in diameter; and (e) masts used in conjunction with any of these antennas (collectively, the foregoing are referred to as "Covered Antennas"). The foregoing list is subject to change pursuant to changes in OTARD and/or any other applicable laws. Covered Antennas shall be located in accordance with architectural guidelines adopted by the

Architectural Review Board, to the extent such restrictions are not prohibited by the OTARD Rule, and an application for Architectural Review Board approval must be submitted for any device deviating from the following:

(i) Television broadcast Covered Antennas must be installed inside a dwelling unit whenever possible;

(ii) No roof antenna shall extend more than ten (10) feet above the highest point on the roof;

(iii) Satellite dish antenna if eighteen inches or less, shall be located on the rear of the house either just below the roof ridge or the fascia board below the roof eaves, or if larger than eighteen inches, be located behind the rear foundation of the house.

(iv) Any cable associated with satellite dish or other antenna shall be buried or shall not be visible on the structure to which it is attached or extended.

Section 7.2. Maintenance of Property.

(a) Owner Obligation. To the extent that exterior maintenance is not provided for in this Declaration or in a Supplemental Declaration, each Owner shall keep all Lots and Parcels owned by him, and all Improvements therein or thereon, in good order and repair, free of debris, all in a manner and with such frequency as is acceptable to the Association and consistent with a first-quality development, any rules adopted by the Association and any architectural guidelines adopted by the Architectural Review Board.

(b) Reconstruction and Repair. If a building or other major Improvement located upon a Lot is damaged or destroyed, the Owner thereof shall restore the site either (i) by repairing or reconstructing such building or other major Improvement, or (ii) by clearing away the debris and restoring the site to an acceptable condition compatible with the remainder of the Properties. Unless the Architectural Review Board permits a longer time period, such work must

be commenced within sixty (60) days after the date of the casualty and substantially completed within twelve (12) months after the date of the casualty.

(c) Failure to Maintain. In the event an Owner shall fail to maintain his Lot or Parcel and the Improvements situated thereon as provided herein, the Association, after notice to the Owner and approval of the Board of Directors shall have the right to enter upon such Lot or Parcel to correct such failure. All costs related to such correction shall become a special assessment upon such Lot or Parcel and as such shall be regarded as any other assessment with respect to lien rights of the Association and remedies provided herein for non-payment.

Section 7.3. Capital Contribution. Upon the acquisition of record title to a Lot or Parcel from an Owner, a mandatory capital contribution to the Association's working capital shall be made by or on behalf of the "grantee" or Owner who acquires such title in an amount equal to \$500.00 or such other amount as may be established by the Board of Directors in its discretion from time to time. Owners who acquire title to a Lot or Parcel are obligated to pay such Capital Contribution to the Association regardless of whether such new Owner acquired title to such Lot or Parcel by purchase (with or without consideration), gift or devise. This amount shall be deposited in the purchase and sales escrow at settlement and shall be disbursed therefrom to the Association, or, if there is no settlement, shall otherwise be paid directly to the Association upon such new Owner obtaining title. The Association may use all such amounts as the Board of Directors determines in its sole and absolute discretion. Amounts payable under this Section 7.3 are in addition to any assessments and any fees associated with the Association's preparation and delivery of the Disclosure Packet pursuant to the Virginia Property Owners' Association Act (§ 55-509 et. seq., of the Code of Virginia, as amended). The amount of any unpaid Capital Contribution shall constitute a lien on such Owners Lot or Parcel and shall be

deemed a special assessment upon such Lot or Parcel and as such shall be regarded as any other assessment with respect to lien rights of the Association and remedies provided herein for non-payment.

Section 7.4. Security. NEITHER THE ASSOCIATION, NOR DEVELOPER SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS, TENANTS, GUESTS, AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE ASSOCIATION AND DEVELOPER, AND COMMITTEES ESTABLISHED BY THE BOARD OF DIRECTORS, ARE NOT INSURERS AND THAT EACH OWNER, TENANT, GUEST, AND INVITEE ASSUMES ALL RISK OF LOSS OR DAMAGE TO PERSONS, TO STRUCTURES OR OTHER IMPROVEMENTS SITUATED ON LOTS AND PARCELS, AND TO THE CONTENTS OF ANY IMPROVEMENTS SITUATED ON LOTS AND PARCELS AND FURTHER ACKNOWLEDGE THAT THE BOARD OF DIRECTORS HAS MADE NO REPRESENTATIONS OR WARRANTIES, NOR HAS ANY OWNER, TENANT, GUEST, OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE RELATIVE TO ANY SECURITY MEASURES RECOMMENDED OR UNDERTAKEN.

Section 7.5 Owner Occupancy. No dwelling unit located on a Lot or any portion thereof shall be used or occupied for transient or hotel purposes or in any event leased for an initial period of less than twelve (12) months; provided, however if a Parcel is developed for residential apartment use or an assisted or special care use, wherein the Owner's Parcel is not

subdivided into Lots, such use may be for a period of less than twelve (12) months. No portion of any dwelling unit (other than the entire dwelling unit) shall be leased for any period. No Owner shall lease a Lot other than on a written form of lease: (1) requiring the lessee to comply with the Governing Documents and the Rules; and (2) providing that failure to comply with such documents constitutes a default under the lease. Owners who lease a dwelling unit located on a Lot shall submit a completed tenant information sheet using the form approved by the Association's Board of Directors to the Association prior to the Tenant's occupancy of such dwelling unit. The Supplemental Declarations for individual Neighborhoods may contain additional restrictions regarding leasing.

## ARTICLE VIII

### EASEMENTS

In addition to any easements reserved elsewhere in this Declaration or by separate plats or instruments of record, the following easements may apply to the Properties (including but not limited to Lots, Parcels, Common Areas, Limited Common Areas and Neighborhood Common Areas).

Section 8.1. Utility Easements. Developer has reserved perpetual easements, rights and privileges to install, maintain, repair, replace and remove poles, wires, cables, conduits, pipes; mains, pumping stations, siltation basins, tanks and other facilities, systems and equipment for the conveyance and use of electricity, telephone service, sanitary and storm sewer, water, gas, cable television, drainage and other public conveniences or utilities, upon, in or over those portions of the Properties (including Lots, Parcels, Common Areas, Limited Common Areas and Neighborhood Common Areas) as Developer, its successors or assigns may consider to be reasonably necessary (the "Utility Easements"). However, after Developer ceases to be the

Owner of a Lot or Parcel, no Utility Easements shall be placed on the portion of such Lot or Parcel on which is already located a building which was either constructed by Developer or approved by the Architectural Review Board or on which a building is to be located pursuant to Plans approved by the Architectural Review Board or on any portion of a Lot or Parcel which is not described or shown as an easement area on a recorded subdivision plat or Supplemental Declaration applicable to such Lot or Parcel. The Utility Easements shall include the right to cut trees, bushes or shrubbery and such other rights as Developer or the applicable governmental authority or utility company providing the utilities may require. The utility lines installed pursuant to the Utility Easements may be installed above or below ground, except as otherwise provided in any Supplemental Declaration. Developer shall have the right to convey Utility Easements to other Owners, to Parcel Developers, to the owner of any golf course adjacent to the Properties, to governmental authorities or utility companies, to the Association and to any other party or parties.

Section 8.2. Erosion Control. Developer has reserved a perpetual easement, right and privilege to enter upon any Lot, Parcel, Common Area, Limited Common Area or Neighborhood Common Area, and the Association is granted a perpetual easement, right and privilege to enter upon any Lot or Parcel, either before or after a building has been constructed thereon or during such construction, for the purpose of taking such erosion control measures as Developer or the Association deems necessary to prevent or correct soil erosion or siltation thereon; provided, however, that Developer or the Association shall not exercise such right unless it has given the Owner of the Lot or Parcel or the Association (as to the Common Area, the Limited Common Area and the Neighborhood Common Area) at least ten days' prior notice thereof and the Owner or the Association, as the case may be, has failed to take appropriate action to correct or prevent

the erosion or siltation problem. The cost incurred by the Association or by Developer in undertaking such erosion control measures on any Lot or Parcel shall become a special assessment on such Lot or Parcel and shall constitute a lien against such Lot or Parcel and shall be collectible in the manner provided herein for the payment of assessments. This Section shall not apply to Lots or Parcels owned by Developer.

Section 8.3. Maintenance of Lots and Parcels. Developer has reserved the perpetual easement, right and privilege, and the Association is granted the perpetual easement, right and privilege, to enter on any Lot or Parcel, after at least five days' notice to the Owner thereof, for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds or other unsightly growth, dispensing pesticides, herbicides and fertilizer and grass seed, removing trash and taking such other action as the Developer or the Association may consider necessary to correct any condition which detracts from the overall beauty of the Properties or which may constitute a hazard or nuisance. The cost incurred by the Association in taking such action (including any overhead costs associated therewith) shall constitute a special assessment on the Lot or Parcel and shall be collectible in the manner provided herein for the payment of assessments. This Section shall not apply to Lots or Parcels owned by Developer.

Section 8.4. Construction Easements and Rights. Notwithstanding any provision of this Declaration or of any Supplemental Declaration, so long as Developer is engaged in developing or improving any portion of the Properties or the Additional Area, Developer shall have an easement of ingress, egress and use over any lands not conveyed to an Owner for, (i) movement and storage of building materials and equipment, (ii) erection and maintenance of directional and promotional signs and (iii) conduct of sales activities, including maintenance of model residences.



Section 8.5. Right of Entry for Governmental Personnel. A right of entry on any Lot, Parcel, Common Area, Limited Common Area and Neighborhood Common Area is hereby granted to law enforcement officers and fire and rescue personnel as needed to lawfully carry out their duties, including but not limited to enforcement of cleared emergency vehicle access, public utility and public utility works vehicles in the performance of their installation, maintenance and repair duties and inspections personnel for the purpose of reviewing the Association's proper maintenance of the Common Areas, the Limited Common Areas and the Neighborhood Common Areas.

Section 8.6. Easement for Landscaping, Signs and Related Purposes. There shall be and is hereby reserved to the Association a non-exclusive easement over all Lots, Parcels, Common Area, Limited Common Area and Neighborhood Common Area for a distance of twenty (20) feet behind any Lot or Parcel line which parallels, and is adjacent to, a street (whether public or private) for the purpose of erecting and maintaining street intersection signs, directional signs, temporary promotional signs, plantings, street lights, entrance features and/or "theme areas," lighting, stone, wood, or masonry wall features and/or related landscaping. Nothing in this paragraph shall be interpreted to obligate the Association to maintain any landscaping, structures, facilities, equipment or improvements for which the Association is not otherwise obligated to maintain pursuant to this Declaration or separate agreement. Exercise of this easement shall be with the consent of the owner of the affected Lot or Parcel, or the Architectural Review Board if such Owner does not consent.

Section 8.7. Disclosure and Release Regarding Golf Course. Portions of the Properties may abut or be located beside, within, or close proximity to a golf course. Each Owner, by acceptance of the deed conveying fee simple title to the Lot or Parcel acquired by such Owner,

whether or not expressly stated in such deed, is hereby deemed to acknowledge and accept the following inherent risks associated with the existence of the golf course adjoining or in close proximity to the Properties and the maintenance, use and play on the golf course:

(a) Maintenance on the golf course may begin early in the morning and extend late into the evening, ordinarily occurring from sunrise to sunset;

(b) During certain periods of the year, the golf course may be heavily fertilized;

(c) The maintenance of the golf course may require the use of chemicals and pesticides;

(d) The golf course may be watered with reclaimed water, which may emit certain undesirable odors; and

(e) Golf balls are not susceptible of being easily controlled and accordingly may enter Owner's air space, strike an Owner, an Owner's guests, invitees, licensees, yard, walls, roofs, windows, landscaping and personal property causing personal injury or property damage thereto. Each Owner, for itself, its family members, lessees, guests and invitees, hereby releases the Association and its Members, any successor in interest to the Association, and any agents, servants, employees, directors, officers, affiliates, representatives, receivers, subsidiaries, predecessors, successors and assigns of any such parties (collectively referred to hereafter as the "Released Parties"), and shall not in any way hold the Released Parties responsible for any claims, damages, losses, demands, liabilities, obligations, actions or causes of action whatsoever, including, without limitation, actions based on (i) any invasion of any Owner's use or enjoyment of its Lot or Parcel, (ii) improper design of the Lots or Parcels or dwellings constructed thereon

adjoining or in close proximity to the golf course, (iii) the level of skill of any golfer (regardless of whether such golfer has the permission of the management to use the golf course), or (iv) trespass by any golfer or any golf balls on, over, across or through any Lot or Parcel that may result from or in property damage or personal injury to any person or improvements located within any or adjacent roadways or Common Area, Limited Common Area or Neighborhood Common Area. Further, each Owner hereby assumes the risk inherent in owning real property adjacent to or nearby a golf course, including, without limitation, the risk of personal injury and property damage from errant golf balls, and hereby agrees to hold the Released Parties harmless from any and all loss arising from claims by such Owner or persons using or visiting such Owner's property for any personal injury or property damage.

Section 8.8. Easement for Encroachment. Each Lot, each Parcel, the Common Area, the Limited Common Area, the Neighborhood Common Area and any golf course situated adjacent to the Properties are hereby declared to have an easement over all adjoining Lots, all adjoining Parcels, the Common Area, the Limited Common Area, the Neighborhood Common Area and any golf course situated adjacent to the Properties for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of a building, or any other similar cause, and any encroachment due to building overhang or projection. There shall be valid easements for the maintenance of said encroachments so long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settling or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful act or acts with full knowledge of said owner or Owners. In the event a structure on any Lot or Parcel is partially or totally destroyed, and then repaired or rebuilt, the owners of each

Lot or Parcel agree that minor unintentional encroachments over adjoining Lots shall be permitted, and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist.

## ARTICLE IX

### GENERAL PROVISIONS

Section 9.1. Duration. The covenants and restrictions of this Declaration shall run with and bind the Properties (subject, however, to the right to amend as provided for herein) for a term of twenty-five (25) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of twenty-five (25) years, subject to termination by amendment as provided in Section 9.2. Notwithstanding the foregoing, the provisions of Section 4.2 and Article VIII shall be perpetual except to the extent that a shorter period is specified therein.

Section 9.2. Amendments. Except as otherwise set forth in this Declaration and subject to Section 10.4 of the Bylaws, this Declaration may be amended (i) by an instrument of record after the written consent thereto by the Owners of two-thirds or more of the Lots in accordance with Section 55-515.1 of the Code of Virginia and/or (ii) by a vote of two-thirds (2/3) of the Board of Directors pursuant to the authority set forth in Section 55-515.2 of the Code of Virginia. In addition, in accordance with Section 24.1-497 and Section 24.1-498 of the York County Code for so long as such sections so require (i) all covenant conditions required by Section 24.1-497 shall remain in full force and effect unless the Board of Supervisors shall consent to an amendment to the Declaration, or the County Attorney shall verify that the requested amendment comports with the requirements of Section 24.1-497; and (ii) any proposed amendment to this Declaration that would establish encumbrances of the Common Area shall be

submitted to and reviewed by the County Attorney to ensure compatibility with the terms of Section 24.1-498 and the County Attorney's approval shall be evidenced by his signature on such amendment; however, the granting of Utility Easements in the normal course of the Association's business shall not trigger the need for the consent or approval as set forth in Section 24.1-497 or Section 24.1-498 of the York County Code.

Section 9.3. Enforcement. Developer, the Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, easements, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration or any Supplemental Declaration. Without limiting the generality of the foregoing, if any Owner fails to comply with any of the provisions of this Declaration or any Supplemental Declaration and such failure continues for at least five (5) days after notice thereof is given to the Owner, then either Developer or the Association may, but without any obligation to do so, take such action as either of them considers necessary or appropriate (including, without limitation, entering the Owner's Lot or Parcel) to correct the noncompliance; provided, however, that judicial proceedings are instituted before any major Improvements are subsequently altered or demolished. The cost incurred in taking such action shall constitute a special assessment upon the Owner's Lot(s) and/or Parcel(s) and shall be collectible in the manner provided herein for the payment of assessments. Failure by the Developer, the Association or any Owner to enforce any provision of this Declaration or any Supplemental Declaration shall in no event be deemed a waiver of the right to do so thereafter.

Section 9.4. Limitations. As long as the Developer has an interest in developing the Properties, any golf course adjacent to the Properties and/or the Additional Area, the Association may not use its financial resources to defray any costs of opposing the development activities of

Developer so long as they remain consistent with the general intent of this Declaration. Nothing in this Section shall be construed to limit the rights of Members to act as individuals or in affiliation with other Members or groups.

Section 9.5. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 9.6. Conflict. In the event of conflict among the Governing Documents, this Declaration shall control, then applicable Supplemental Declarations, then the Articles, then the Bylaws except that in all cases where the Governing Documents may be found to be in conflict with statute, the statute shall control.

Section 9.7. Interpretation. Unless the context otherwise requires, the use of the singular shall include the plural and vice versa; the use of one gender shall include all genders; and the use of the term “including” shall mean “including, without limitation.” The headings used herein are for indexing purposes only and shall not be used as a means of interpreting or construing the substantive provisions hereof.

Section 9.8. Use of the Words “Kiln Creek,” “Villages of Kiln Creek” or “Villages of Kiln Creek Owners Association.” No person or entity shall use the words “Kiln Creek,” “Villages of Kiln Creek” or “Villages of Kiln Creek Owners Association” or any derivative thereof in any printed or promotional material without the prior written consent of Developer or the Association.

Section 9.9. Country Club. As of the date of recordation of this Declaration, the country club and golf courses located within the Villages of Kiln Creek is privately owned by an independent entity separate and apart from the Association and, therefore, neither membership in

the Association nor ownership or occupancy of a Lot or Parcel currently confers any ownership interest in or right to use any country club or golf course ("Country Club"), which lies contiguous to portions of the Properties, even though Developer granted to the owners of the Country Club the right to use "Kiln Creek" in part of its name. Rights to use the Country Club will be granted only to such persons and on such terms and conditions as may be determined from time to time by the respective owners of the Country Club. The owners of the Country Club shall have the right, from time to time in their sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of the Country Club, including, without limitation, eligibility for and duration of use rights, categories of use and extent of use privileges, and number of users, and shall also have the right to reserve use rights and to terminate use rights altogether. All Members are hereby advised that no representations or warranties have been or are made by the Developer, the Association or any other person with regard to the continuing ownership or operation of the Country Club. All Members are further advised that the Country Club and all real property which constitutes the Country Club facilities have not, as of the date of recordation of this Declaration, been submitted to the provisions of this Declaration. No negative reciprocal easement shall arise out of the Declaration or out of any Supplemental Declaration so as to bind any real property not expressly subjected thereto.

Section 9.10. Approvals and Consents. All approvals and consents required or permitted by this Declaration (other than approvals or consents given by Members in a vote conducted in accordance with the Bylaws) shall be in writing, shall be signed by the party from whom the consent or approval is sought and, unless otherwise provided herein, may be withheld by such party in its sole discretion.

Section 9.11. Aircraft Noise/Accident Disclosure. Each Owner, by acceptance of a deed to his Lot or Parcel, acknowledges that (i) the Properties are located within a noise and/or accident zone adjacent to Newport News/Williamsburg International Airport; (ii) that he has been given an opportunity to fully investigate and satisfy himself or themselves of the impact of the noise likely to occur on and around the Properties; (iii) that he has evaluated the effect on the use and enjoyment of his Lot or Parcel after having voluntarily elected to purchase his Lot or Parcel and having been fully informed concerning such noise and/or possible accidents; and (iv) that he has been given an opportunity to review the Maps and Records of the City of Newport News and the County of York, Virginia, and of the Peninsula Airport Commission. In addition, in the sale and/or conveyance of his Lot or Parcel to a purchaser, each Owner agrees to obtain a written statement from such purchaser certifying the foregoing information.

Section 9.12. Successors and Assigns. The provisions hereof shall be binding upon and shall inure to the benefit of Developer, the Association and (subject to Article II hereof) the Owners and their respective heirs, legal representatives, successors and assigns.

Section 9.13. Rights of York County, Virginia.

(a) Failure of Association to Maintain Common Areas, Limited Common Areas and/or Neighborhood Common Areas. In the event the Association, or any successor organization, shall at any time after establishment of the development fail to maintain those Common Areas, Limited Common Areas and/or Neighborhood Common Areas within York County, Virginia, or any improvements thereon, in reasonable order and condition in accordance with the York County Zoning Ordinance and/or the PD-MRC Ordinance, York County, Virginia (the "County"), acting through its County Administrator or his designee, may serve notice in writing upon the Association and upon the Owners of Lots within that portion of the Properties



located within the County setting forth the manner in which the Association has failed to maintain such Common Area, Limited Common Area, Neighborhood Common Area and/or improvements thereon in reasonable condition, and such notice shall contain a demand that such deficiencies of maintenance be cured within thirty (30) days thereof. If such deficiencies of maintenance are not cured within the thirty (30) day cure period, then the County Administrator or his designee should serve a second notice upon the Association and upon the Owners within the County portion of the Properties and shall state the date and place of a public hearing before the County's Board of Supervisors, which shall be held within thirty (30) days after the end of the thirty (30) day cure period specified in the notice served upon the Association.

1. At such hearing the County's Board of Supervisors may modify the terms of the original notice as to the deficiencies and may grant an extension of time within which they shall be cured.

2. If the deficiencies set forth in the original notice or in the modifications thereof shall not be remedied on or before the date of the public hearing of the Board of Supervisors or such later date as may have been established by the Board of Supervisors at its hearing, the County, in order to preserve the taxable values of the properties within the County portion of the development and to prevent those Common Areas, Limited Common Areas, Neighborhood Common Areas and/or improvements thereon located within the County from becoming a public nuisance, may, subject to budgetary limitations, enter upon such Common Areas, Limited Common Areas and Neighborhood Common Areas, and maintain, repair and/or replace, (herein referred to collectively as "maintenance") or contract for the maintenance of, the same for an initial period not to exceed one (1) year.

3. Such entry and maintenance shall not vest in the general public any rights to use such Common Areas, Limited Common Areas and Neighborhood Common Areas, except when the same is/are voluntarily dedicated to the public by the Association.

4. Before the expiration of such period of up to one (1) year, the County shall, upon its initiative or upon the request of the Association, call a public hearing before the County's Board of Supervisors upon thirty (30) days' notice in writing to the Association and to the Owners of Lots within the County portion of the Properties, at which hearing the abilities of the Association to resume maintenance responsibilities shall be assessed by the County's Board of Supervisors.

5. If the County's Board of Supervisors shall determine that the Association is ready and able to maintain such Common Areas, Limited Common Areas and Neighborhood Common Areas in reasonable condition, the County shall cease to maintain such Common Areas, Limited Common Areas and Neighborhood Common Areas.

6. If the County's Board of Supervisors shall determine that the Association is not ready and able to maintain such Common Areas, Limited Common Areas and Neighborhood Common Areas in a reasonable condition, the County may, in its discretion, continue to maintain or contract for the maintenance of, such Common Areas, Limited Common Areas and Neighborhood Common Areas.

7. The cost of such maintenance by the County and all associated administrative costs incurred by the County shall be assessed ratably against the Lots within the County portion of the Properties that have a right of enjoyment of the Common Areas, Limited Common Areas and Neighborhood Common Areas, as applicable, and shall become a charge on such Lots, and may be collected by the County as taxes and levies are collected.

(b) County's Right to Review Records. The County and its duly authorized representatives shall have the right, upon reasonable notice and during the Association's business hours, to review the Association's financial and related records at the offices of the Association for the purpose of ensuring the Association's solvency and capacity to maintain such Common Areas, Limited Common Areas and Neighborhood Common Areas and any improvements located thereon as are located within the County.

## ARTICLE X

### DISSOLUTION OF THE ASSOCIATION

The Zoning Ordinance and proffers submitted by the Developer in connection with the initial rezoning of the Villages of Kiln Creek require that all residential Lots be subject to a residential owners association. Accordingly, the future dissolution of the Association would be conditioned on the prior consent of the governing body of each locality in which the Properties are located. In addition, dissolution of the Association would require the vote of more than two-thirds (2/3) of the votes, in person or by proxy, of the Class A Members at a duly held meeting at which a quorum is present. Prior to dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be offered for dedication to the locality in which they are situated. In the event that such dedication is refused acceptance upon dissolution, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to similar purposes.

## ARTICLE XI

### NOTICES

All notices, demands, requests and other communications required or permitted hereunder shall be in writing and shall either be delivered in person or sent by overnight express

courier or by U.S. first class mail, postage prepaid. Notices to the Association or to Owners may be sent to the address which the Bylaws provide shall be used for them. All such notices, demands, requests and other communications shall be deemed to have been given when sent to the appropriate address specified above. Rejection or other refusal to accept shall not invalidate the effectiveness of any notice, demand, request or other communication. Notwithstanding the foregoing, any notice of the filing of a memorandum of assessment lien shall be sent in the manner required by Section 55-516C of the Virginia Code.

The foregoing notwithstanding, at such time, if any, as Virginia law authorizes notices to be sent by means other than as set forth above, the Association may utilize such alternative means of notifying Owners to the fullest extent authorized by law.

WITNESS the following signatures and seals as of the date first above written.

VILLAGES OF KILN OWNERS ASSOCIATION,  
a Virginia non-stock corporation

BY: Charles Behmer  
Title: President

COMMONWEALTH OF VIRGINIA  
COUNTY OF YORK, to-wit:

The foregoing Second Amended and Restated Declaration of Covenants and Restrictions was acknowledged before me this 26th day of August, 2009, by Charles Behymer, President of Villages of Kiln Creek Owners Association, a Virginia nonstock corporation.

[SEAL]

Sara Marie Martin  
Notary Public

My commission expires: 3-31-2012  
Registration No: 294156

**CERTIFICATION PURSUANT TO VIRGINIA CODE SECTION 55-515.1F**

BY: Charles Behmer  
Title: President

COMMONWEALTH OF VIRGINIA  
COUNTY OF YORK, to wit:

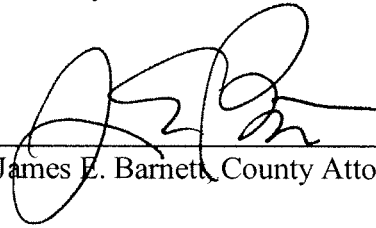
The foregoing instrument was acknowledged before me this 26th day of August, 2009, by Charles Behymer, President of Villages of Kiln Creek Owners Association, a Virginia nonstock corporation, on behalf of the corporation, who did state and certify that the requisite percentage of Owners of Lots have voted to approve and have given their consent to and ratified such Second Amended and Restated Declaration of Covenants and Restrictions by signing a document evidencing their consent to such Second Amended and Restated Declaration of Covenants and Restrictions

[SEAL]

Sara Marie Martin  
Notary Public

My commission expires: 3-31-2012  
Registration No: 294156

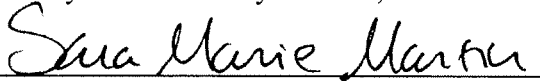
In accordance with York County Code Section 24.1-496 et seq., this Second Amended and Restated Declaration of Covenants and Restrictions of the Villages of Kiln Creek Owners Association has been approved by the County Attorney's Office.

  
James E. Barnett, County Attorney

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY OF York, to wit:

The foregoing instrument was acknowledged before me this 29<sup>th</sup> day of August, 2009, by James E. Barnett, who is either personally known to me or who produced \_\_\_\_\_ as identification, as County Attorney for the County of York, on its behalf.

[SEAL]

  
Sara Marie Martin  
Notary Public

My commission expires: 3-31-2012  
Registration No: 294156

#3018833v7

**EXHIBIT A**

**VILLAGES OF KILN CREEK**

All those certain lots, pieces and parcels of land which were subjected to that certain instrument entitled "Villages of Kiln Creek Declaration of Covenants and Restrictions" dated May 25, 1998 and recorded June 3, 1988 in the Clerk's Office in the City of Newport News (the "Newport News Clerk's Office") in Deed Book 1176, at page 99, and in the Clerk's Office of the County of York (the "York County Clerk's Office") in Deed Book 545, at page 245 (the "Original Declaration"); as such document was amended and restated in its entirety by that certain instrument entitled "Villages of Kiln Creek Amended and Restated Declaration of Covenants and Restrictions" dated April 1, 1991 and recorded in the Newport News Clerk's Office in Deed Book 1248, at page 719, and in the York County Clerk's Office in Deed Book 612, at page 286 (the "Amended and Restated Declaration"); as such document was amended by instrument entitled "First Amendment to Amended and Restated Declaration of Covenants and Restrictions" dated August 1, 1991 and recorded in the Newport News Clerk's Office in Deed Book 1263 (1258), at page 1009 (631), and in the York County Clerk's Office in Deed Book 624, at page 565 ("First Amendment"); and by instrument entitled "Second Amendment to Amended and Restated Declaration of Covenants and Restrictions" dated September 13, 1991 and recorded in the Newport News Clerk's Office in Deed Book 1265, at page 139, and in the York County Clerk's Office in Deed Book 637, at page 577 ("Second Amendment"); and by instrument entitled "Third Amendment to Amended and Restated Declaration of Covenants and Restrictions" dated August 18, 2004 and recorded in the Newport News Clerk's Office in Deed Book 1947, at page 1995, and in the York County Clerk's Office as instrument number LR040017641 ("Third Amendment"). The foregoing Amended and Restated Declaration as amended by the First Amendment, Second Amendment and Third Amendment, is hereinafter referred to as the "First Amended and Restated Declaration." The property submitted to this Second Amended and Restated Declaration of Covenants and Restrictions includes, without limitation, all those lots, pieces and parcels of land comprising "Lots", "Common Area", and "Neighborhood Common Area" (as such terms are defined in this Second Amended and Restated Declaration of Covenants and Restrictions) previously subjected to the foregoing instruments of record by the foregoing instruments, deeds and/or by various Supplementary Declarations of Covenants and Restrictions of record in the Newport News Clerk's Office and/or in the York County Clerk's Office as applicable, for the various Neighborhoods comprising the residential subdivisions of the Villages of Kiln Creek located in the City of Newport News and the County of York, Virginia. Such Neighborhoods include, without limitation, the following Neighborhoods: Avery Woods; Cascades; Claymill Corner; Dunhill; Eagle Sound; Edgewater; Fairways; Gleneagles; Highlands; Hollingsworth; Images; Ivystone; Lake Cambridge; Lakeside; Lexington; Masters; Oakwood; Pinehurst; Players Choice; Rock Creek; Royal Coven; Sanctuary; Shoreline; Southlake; Tradewinds; Waterford Pointe; Westgate; Willow Pointe and Windbrook.

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DAVIS, CLERK, BY  
D. Davis

COMMONWEALTH OF VIRGINIA



090017258

OFFICIAL RECEIPT  
NEWPORT NEWS CIRCUIT COURT  
DEED RECEIPT

(1143-005 508)

DATE: 08/28/09 TIME: 15:23:57 ACCOUNT: 700CLR090017258 RECEIPT: 09000937824  
CASHIER: DNR REB: NL02 TYPE: DEC PAYMENT: FULL PAYMENT  
INSTRUMENT : 090017256 BOOK: PAGE: RECORDED: 08/28/09 AT 03:21  
GRANTOR: VILLAGES OF KILN CREEK OWNERS ASSOCIATION INC EX: Y LOC: CI  
GRANTEE: VILLAGES OF KILN CREEK OWNERS ASSOCIATION INC EX: Y FCT: 100X  
AND ADDRESS : 1405-C KILN CREEK PARKWAY NEWPORT NEWS, VA, 23602  
RECEIVED OF : LECLAIRRYAN DATE OF DEED: 08/28/09

CHECK: \$55.00  
DESCRIPTION 1: DECLARATION OF COVENANTS AND RESTRICTIONS PAGES: 71 O/P 0  
2: VILLAGES OF KILN CREEK OWNERS ASSOCIATION NAMES: 0  
CONSIDERATION: .00 A/V/L: .00 M/R: .00  
PIN:

301 DEEDS 48.50 145 VSLF 1.50  
106 TECHNOLOGY TRST FND 5.00  
TENDERED : 55.00  
AMOUNT PAID: 55.00  
CHANGE AMT : .00

CLERK OF COURT: REX A. DAVIS



WITNESS the following signatures and seals as of the date first above written.

VILLAGES OF KILN OWNERS ASSOCIATION,  
a Virginia non-stock corporation

BY: Charles Behymer  
Title: President

COMMONWEALTH OF VIRGINIA  
COUNTY OF YORK, to-wit:

The foregoing Second Amended and Restated Declaration of Covenants and Restrictions was acknowledged before me this 26th day of August, 2009, by Charles Behymer, President of Villages of Kiln Creek Owners Association, a Virginia nonstock corporation.

[SEAL]

Sara Marie Martin  
Notary Public

My commission expires: 3-31-2012  
Registration No: 294156

**CERTIFICATION PURSUANT TO VIRGINIA CODE SECTION 55-515.1F**

BY: Charles Behymer  
Title: President

COMMONWEALTH OF VIRGINIA  
COUNTY OF YORK, to wit:

The foregoing instrument was acknowledged before me this 26th day of August, 2009, by Charles Behymer, President of Villages of Kiln Creek Owners Association, a Virginia nonstock corporation, on behalf of the corporation, who did state and certify that the requisite percentage of Owners of Lots have voted to approve and have given their consent to and ratified such Second Amended and Restated Declaration of Covenants and Restrictions by signing a document evidencing their consent to such Second Amended and Restated Declaration of Covenants and Restrictions

[SEAL]

Sara Marie Martin  
Notary Public

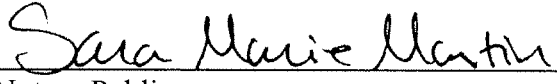
My commission expires: 3-31-2012  
Registration No: 294156

In accordance with York County Code Section 24.1-496 et seq., this Second Amended and Restated Declaration of Covenants and Restrictions of the Villages of Kiln Creek Owners Association has been approved by the County Attorney's Office.

  
James E. Barnett, County Attorney

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY OF York, to wit:

The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of August, 2009, by James E. Barnett, who is either personally known to me or who produced \_\_\_\_\_ as identification, as County Attorney for the County of York, on its behalf.

  
Sara Marie Martin  
Notary Public

[SEAL]  
My commission expires: 3-31-2012  
Registration No: 294156

#3018833v7

**EXHIBIT A****VILLAGES OF KILN CREEK**

All those certain lots, pieces and parcels of land which were subjected to that certain instrument entitled "Villages of Kiln Creek Declaration of Covenants and Restrictions" dated May 25, 1998 and recorded June 3, 1988 in the Clerk's Office in the City of Newport News (the "Newport News Clerk's Office") in Deed Book 1176, at page 99, and in the Clerk's Office of the County of York (the "York County Clerk's Office") in Deed Book 545, at page 245 (the "Original Declaration"); as such document was amended and restated in its entirety by that certain instrument entitled "Villages of Kiln Creek Amended and Restated Declaration of Covenants and Restrictions" dated April 1, 1991 and recorded in the Newport News Clerk's Office in Deed Book 1248, at page 719, and in the York County Clerk's Office in Deed Book 612, at page 286 (the "Amended and Restated Declaration"); as such document was amended by instrument entitled "First Amendment to Amended and Restated Declaration of Covenants and Restrictions" dated August 1, 1991 and recorded in the Newport News Clerk's Office in Deed Book 1263 (1258), at page 1009 (631), and in the York County Clerk's Office in Deed Book 624, at page 565 ("First Amendment"); and by instrument entitled "Second Amendment to Amended and Restated Declaration of Covenants and Restrictions" dated September 13, 1991 and recorded in the Newport News Clerk's Office in Deed Book 1265, at page 139, and in the York County Clerk's Office in Deed Book 637, at page 577 ("Second Amendment"); and by instrument entitled "Third Amendment to Amended and Restated Declaration of Covenants and Restrictions" dated August 18, 2004 and recorded in the Newport News Clerk's Office in Deed Book 1947, at page 1995, and in the York County Clerk's Office as instrument number LR040017641 ("Third Amendment"). The foregoing Amended and Restated Declaration as amended by the First Amendment, Second Amendment and Third Amendment, is hereinafter referred to as the "First Amended and Restated Declaration." The property submitted to this Second Amended and Restated Declaration of Covenants and Restrictions includes, without limitation, all those lots, pieces and parcels of land comprising "Lots", "Common Area", and "Neighborhood Common Area" (as such terms are defined in this Second Amended and Restated Declaration of Covenants and Restrictions) previously subjected to the foregoing instruments of record by the foregoing instruments, deeds and/or by various Supplementary Declarations of Covenants and Restrictions of record in the Newport News Clerk's Office and/or in the York County Clerk's Office as applicable, for the various Neighborhoods comprising the residential subdivisions of the Villages of Kiln Creek located in the City of Newport News and the County of York, Virginia. Such Neighborhoods include, without limitation, the following Neighborhoods: Avery Woods; Cascades; Claymill Corner; Dunhill; Eagle Sound; Edgewater; Fairways; Gleneagles; Highlands; Hollingsworth; Images; Ivystone; Lake Cambridge; Lakeside; Lexington; Masters; Oakwood; Pinehurst; Players Choice; Rock Creek; Royal Cloven; Sanctuary; Shoreline; Southlake; Tradewinds; Waterford Pointe; Westgate; Willow Point; and Windbrook.

71

VIRGINIA: In the Clerk's Office of the York County -  
 Poquoson Circuit Court, the 28<sup>th</sup> day of  
August, 2009. This deed was  
 presented with the certificate annexed and admitted  
 to record at 9:58 o'clock A.M.

Teste: LYNN S. MENDIBUR, CLERK

By: Kenneth E. Withmore D.C.



(1143-005 508)

OFFICIAL RECEIPT  
YORK COUNTY - POPPSON CIRCUIT COURT  
DEED RECEIPT

DATE: 08/28/09 TIME: 10:06:54 ACCOUNT: 199CLR090018824 RECEIPT: 09000026000  
 CASHIER: REV REG: YK52 TYPE: DEC PAYMENT: FULL PAYMENT  
 INSTRUMENT : 090018824 BOOK: PASE: RECORDED: 08/28/09 AT 09:58  
 GRANTOR: VILLAGES OF KILN CREEK OWNERS ASSOCIATION EX: N LOC: CO  
 GRANTEE: VILLAGES OF KILN CREEK OWNERS ASSOCIATION EX: N PCT: 100X  
 AND ADDRESS :  
 RECEIVED OF : ECLAIR RYAN DATE OF DEED: 08/25/09  
 CHECK: \$55.00 1538  
 DESCRIPTION 1: SECOND AMENDED AND RESATED DECLARATION OF CO PAGES: 71 D/P 0  
 2: VENANTS AND RESTRICTIONS KILN CREEK NAMES: 0  
 CONSIDERATION: .00 A/VAL: .00 NAP: PIN:  
 301 DEEDS 48.50 145 VSLF 1.50  
 106 TECHNOLOGY TRST FMD 5.00  
 TENDERED : 55.00  
 AMOUNT PAID: 55.00  
 CHANGE AMT : .00

CLERK OF COURT: LYNN S. MENDIBUR

**SECOND AMENDED AND RESTATED**  
**ARTICLES OF INCORPORATION OF**  
**VILLAGES OF KILN CREEK OWNERS ASSOCIATION**

ARTICLE I

NAME

The name of the corporation is Villages of Kiln Creek Owners Association, hereinafter called the "Association".

ARTICLE II

PURPOSES

The Association does not contemplate pecuniary gain or profit to the Members thereof, and the specific purposes for which it is formed are to provide for the management, maintenance and care of certain real estate within the development known as "Villages of Kiln Creek" located in the County of York and City of Newport News, Virginia, as more particularly described in the Second Amended and Restated Declaration of Covenants and Restrictions dated August 25, 2009, recorded in the Clerk's Office of the Circuit Court of the County of York, Virginia, as Instrument Number 090018824, and in the Clerk's Office of the Circuit Court for the City of Newport News, Virginia, as Instrument Number 090017258, as the same hereafter be amended, restated, or supplemented (collectively "the Declaration"), and to provide a means whereby the Owners, acting together, may provide for the management, maintenance and care of the Common Areas and the Neighborhood Common Areas and for this purpose to: (a) enforce the Declaration and exercise all of the powers and privileges and perform all of the duties and obligations of the Association; (b) fix, levy, collect and enforce payment by any lawful means, of all charges or assessments pursuant to the Declaration and Bylaws; (c) pay all expenses of the Association; (d) subject to the Declaration and the Bylaws, acquire, encumber, own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association; and (e) have and exercise any and all powers, rights and privileges which a corporation organized under the Nonstock Corporation Act of the Commonwealth of Virginia may by law now or hereafter have or exercise. No part of the net earnings of the Association shall inure (other than by providing management, maintenance and care of the Common Areas and the Neighborhood Common Areas and other than by a rebate of excess membership dues, fees and assessments) to the benefit of any private individual.

### ARTICLE III

#### DEFINITIONS

Except as expressly defined herein, all capitalized terms used herein shall have the respective meanings set forth in the Declaration or in the Bylaws of this Association.

### ARTICLE IV

#### MEMBERSHIP

Section 4.1. Membership. Every Owner of a Lot and a Parcel shall be a Member of the Association. Membership shall be appurtenant to, and shall not be separated from, ownership of any Lot or Parcel. Upon the recordation of the deed to a Lot or Parcel or upon any other transfer or conveyance of the record title to any Lot or Parcel, the membership of the former Owner shall cease and the Owner who acquires record title shall become a Member of the Association.

Section 4.2. Classes of Membership and Voting Rights. The designation of classes of membership and the voting rights of Members shall be as provided in the Bylaws.

### ARTICLE V

#### BOARD OF DIRECTORS

Section 5.1. Number. The Association shall have a Board of Directors comprised of nine (9) Directors.

Section 5.2. Election of Directors.

(a) With respect to the election of the Board of Directors, nominations for election to the Board of Directors shall occur only as set forth in this Section. In order to be nominated, a nomination petition signed by the Owners of at least three (3) Lots (other than the Lot owned by the Owner being nominated) shall be submitted to the Board of Directors at least twenty-one (21) days before the annual meeting. The petition shall include a certification signed by the Owner nominee which certifies that the Owner is willing to be nominated, that the Owner satisfies the eligibility requirements set forth in the Bylaws and that the information set forth in the biographical sketch of the nominee is true and correct. The format of the petition and the biographical sketch shall be determined by resolution of the Board of Directors. The Board of Directors shall cause the names of all those who are duly nominated along with a copy of their biographical sketches, to be (i) mailed or hand delivered to every Owner and/or (ii) posted on the members only portion of the Association's website, not less than ten (10) days prior to the annual meeting. Nominations from the floor at the annual meeting shall be prohibited.

(b) The terms of Directors shall be staggered with the objective that the majority of the nine (9) Directors will each serve a two (2) year term and that all nine (9) Director positions

do not come up for election in any given year. The Board of Directors shall have the authority to determine the term length for any upcoming election to effect the intent of this Section. At the first annual meeting of the Association following the passage of these Second Amended and Restated Articles of Incorporation, nine (9) Directors shall be elected. All eligible Members of the Association shall be entitled to vote on all Directors to be elected and the candidate(s) receiving the most votes shall be elected. Five (5) Directors shall each serve a term of two (2) years and four (4) Directors shall each serve a term of one (1) year. Unless the persons so elected at such meeting otherwise agree among themselves, each of the Directors who receive the five (5) highest number of votes shall serve a two (2) year term and the remaining four (4) Directors shall each serve a term of one (1) year. In the event of a tie in the balloting, the terms of the tied Directors shall be chosen by drawing lots. At each annual meeting thereafter, Members shall elect Directors to fill the positions of the Directors whose terms are expiring (or which have otherwise become vacant) for a term of two (2) years each [unless the Board of Directors has adopted a resolution prior to the annual meeting declaring that one or more of such Director positions up for election shall be for one (1) year terms(s) to ensure, to the extent reasonably possible, that the terms of the Directors remain staggered]. The election shall be by secret ballot (unless dispensed with unanimous consent) and by a plurality of votes cast. There shall be no cumulative voting. Votes may be cast by proxy as provided in the Bylaws.

(c) At any regular or special meeting of the Association duly called where the meeting notice states that the purpose, or one of the purposes, of the meeting is removal of the director, any one or more of the members of the Board of Directors may be removed, with or without cause, by a majority vote of the Members and a successor may then and there be elected to fill the vacancy thus created. A Director whose removal has been proposed shall be given at least seven (7) days' notice of the time, place and purpose of the meeting and shall be given an opportunity to be heard at the meeting.

(d) Vacancies in the Board of Directors occurring for any reason other than the removal of a director by vote of the Members, shall be filled by a vote of the majority of the remaining Directors, even though less than a quorum, at any meeting of the Board of Directors or, in the absence of any remaining directors, vacancies may be filled by the Association's registered agent. Each person so selected shall serve until the next annual meeting.

(e) To be eligible to be appointed to, and/or to serve on, the Board of Directors, Members and their Lots must be in financial good standing as indicated on the books and records of the Association and must remain in financial good standing during the Member's term on the Board of Directors. In addition, to be eligible to run for the Board of Directors a Member's Lot must not be in violation of the Governing Documents during the Member's term on the Board of Directors. For the purposes of this Section 5.2, a Member's Lot shall be deemed to be in violation if the Association has notified the Owner of such Lot of a violation of the Governing Documents and such Member has not cured the violation within the time specified by the Association (or if no time is specified by the Association, within a reasonable time after the date of such notice from the Association). Due to the time commitment required to serve on the Board of Directors as well as the heightened potential for conflicts of interest, Owners may not simultaneously serve on the Board of Directors while serving as members of any Neighborhood Advisory Board, Neighborhood Advisory Committee or separate association for any Neighborhood. Finally, Members running for election to the



Board of Directors must not be involved in a dispute with the Association at the time they seek appointment or at any time during their term. For the purposes of this paragraph, a "dispute" shall mean (i) a disagreement of a material or adversarial nature (as determined by the Board of Directors), (ii) a legal claim or cause of action or (iii) a threat of a claim or cause of action, against the Association, its officers, directors or agents; provided, however, that a dispute does not include a good faith disagreement (but not a claim) regarding an Association policy or interpretation of the Governing Documents provided the Member asserts such disagreement in a professional, business-like and non-adversarial manner and abides by the Board of Directors' disposition of such disagreement.

(f) Only Members who reside within the Villages of Kiln Creek are eligible to serve on the Board of Directors. If, due to hardship, a Director becomes a non-resident of the Villages of Kiln Creek during such Director's term and does not re-establish his/her residency within the Villages of Kiln Creek on or before the date that is sixty (60) days before the next annual meeting of the Association, that Director may continue to serve on the Board of Directors until the next annual meeting of the Association.

## ARTICLE VI

### LIMIT ON LIABILITY AND INDEMNIFICATION

6.1 Limit on Liability. In every instance in which the Virginia Nonstock Corporation Act, as it exists on the date hereof or may hereafter be amended, permits the limitation or elimination of liability of directors or officers of a corporation to the corporation or its Members or of the directors or officers of a "community association" (as defined in the Virginia Nonstock Corporation Act), any liability of the directors and officers of this Association shall be so limited or eliminated.

6.2 Mandatory Indemnification. The Association shall indemnify any individual who is, was or is threatened to be made a party to a civil, criminal, administrative, investigative or other proceeding (including a proceeding by or in the right of the Association or by or behalf of its Members) because such individual is or was a director or officer of the Association, a member of the Architectural Review Board or of any other legal entity controlled by the Association, against all liabilities (including, without limitation, liabilities resulting from activities performed and decisions made on behalf of the Association) and reasonable expenses incurred by him or her on account of the proceeding, except such liabilities and expenses as are incurred because of his or her willful misconduct or knowing violation of the criminal law. Unless a determination has been made that indemnification is not permissible, the Association shall make advances and reimbursement for expenses incurred by any of the persons named above upon receipt of an undertaking from him or her to repay the same if it is ultimately determined that such individual is not entitled to indemnification. The Association is authorized to contract in advance to indemnify any of the persons named above to the extent it is required to indemnify them pursuant to this Section 6.2.

6.3 Miscellaneous. The rights of each person entitled to indemnification under this Article shall inure to the benefit of such person's heirs, executors and administrators.



Indemnification pursuant to this Article shall not be exclusive of any other rights of indemnification to which any person may be entitled, including indemnification pursuant to a valid contract, indemnification by legal entities other than the Association and indemnification under policies of insurance purchased and maintained by the Association or others. No person shall be entitled to indemnification by the Association to the extent he or she is indemnified by another, including an insurer.

## ARTICLE VII

### AMENDMENT

These Articles of Incorporation may be amended pursuant to Virginia Code Annotated § 13.1-886 and with the approval of two-thirds of the Class A votes.

#3000402v5

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

AT RICHMOND, SEPTEMBER 10, 2009

The State Corporation Commission has found the accompanying articles submitted on behalf of  
Villages of Kiln Creek Owners Association

to comply with the requirements of law, and confirms payment of all required fees. Therefore, it  
is ORDERED that this

CERTIFICATE OF RESTATEMENT

be issued and admitted to record with the articles of restatement in the Office of the Clerk of the  
Commission, effective September 10, 2009.

The corporation is granted the authority conferred on it by law in accordance with the articles,  
subject to the conditions and restrictions imposed by law.

STATE CORPORATION COMMISSION

By

A handwritten signature in black ink, reading "Judith Williams Jagdmann". The signature is written in a cursive style with a large initial "J".

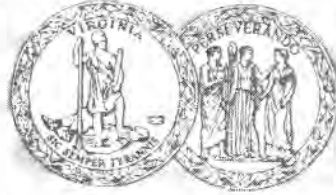
Commissioner

MARK C. CHRISTIE  
COMMISSIONER

JAMES C. DIMITRI  
COMMISSIONER

JUDITH WILLIAMS JAGDMANN  
COMMISSIONER

# COMMONWEALTH OF VIRGINIA



JOEL H. PECK  
CLERK OF THE COMMISSION  
P.O. BOX 1197  
RICHMOND, VIRGINIA 23218-1197

## STATE CORPORATION COMMISSION Office of the Clerk

September 10, 2009

ELIZABETH L WHITE  
LECLAIRRYAN A PROFESSIONAL CORPORATION  
5388 DISCOVERY PARK BLVD 3RD FL  
WILLIAMSBURG, VA 23188

RECEIVED  
SEP 21 2009

RE: Villages of Kiln Creek Owners Association  
ID: 0322484 - 7  
DCN: 09-09-01-0011

Dear Customer:

This is your receipt for \$25.00 to cover the fee(s) for filing articles of restatement for a corporation with this office.

The effective date of the restatement is September 10, 2009.

Thank you for contacting our office. If you have any questions, please call (804) 371-9733 or toll-free in Virginia, (866) 722-2551.

Sincerely,

A handwritten signature in black ink that reads 'Joel H. Peck'.

Joel H. Peck  
Clerk of the Commission

AMENACPT  
CIS0436

**SECOND AMENDED AND RESTATED**  
**BYLAWS OF**  
**VILLAGES OF KILN CREEK OWNERS ASSOCIATION**

ARTICLE I

Plan of Ownership

Section 1.1. Applicability. These Bylaws provide for the governance of Villages of Kiln Creek Owners Association, a Virginia nonstock corporation (the "Association"). Capitalized terms used herein without definition shall have the meanings specified for such terms in the Second Amended and Restated Articles of Incorporation of the Association (the "Articles") or in the Second Amended and Restated Villages of Kiln Creek Declaration of Covenants and Restrictions dated as of August 25, 2009, made by the Association, and recorded in the Clerk's Office of the Circuit Court of the County of York, Virginia, as Instrument Number 090018824, and in the Clerk's Office of the Circuit Court of the City of Newport News, Virginia, as Instrument Number 090017258, as the same may hereafter be amended, restated or supplemented, (collectively, the "Declaration").

Section 1.2. Compliance. Every Owner and all those entitled to occupy a Lot or Parcel shall comply with these Bylaws.

Section 1.3. Office. The principal office of the Association shall be located at the Properties or at such other place as may be designated from time to time by the Board of Directors.

ARTICLE II

Membership

Section 2.1. Membership. Every Owner of a Lot and a Parcel shall be a Member of the Association. Membership shall be appurtenant to, and shall not be separated from, ownership of any Lot or Parcel. Upon the recordation of a deed to any Lot or Parcel or upon any other transfer or conveyance of the record title to any Lot or Parcel, the membership of the former owner shall cease and the Owner who acquires record title shall become a member of the Association.

Section 2.2. Classes of Members. All Owners of Lots and Parcels shall be Class A Members. (The Developer's Class B membership has expired, and, therefore, the Association now has one class of Members of the Association. In addition, according to the records of the State Corporation Commission of the Commonwealth of Virginia, the Developer, D&B Venture, L.C. was voluntarily dissolved as of March 1, 2004 and, therefore, the Developer is no longer in existence.)

Section 2.3. Voting Rights.

(a) Each Class A Member shall be entitled to cast one vote for each Lot and Parcel owned.

(b) Notwithstanding subsection (a) above, if a Parcel is developed for residential apartment use, the Owner thereof shall be entitled to cast the product of three (3) Class A votes per acre multiplied by the acreage of the Parcel. If such product is other than a whole number, the product shall be adjusted upward to the nearest whole number.

(c) The Board of Directors may suspend the voting rights of any Member during the period when any assessment shall be past due, but upon payment in full of such assessment the voting rights of such Member shall be automatically restored. The Board of Directors, after appropriate due process, may also suspend the voting rights of any Member who is in violation of the Declaration, a Supplemental Declaration or the rules or architectural guidelines promulgated by the Association and/or who allows a violation to exist on his/her Lot if such violation remains uncorrected after the last day of a period established for correction by the Association (such period to be stated in a notice to the Owner together with a statement of the violation complained of and the manner of its correction).

ARTICLE III

Meetings of Members

Section 3.1. Annual Meetings. Beginning in the calendar year following the year in which these Second Amended and Restated Bylaws are adopted by the Members of the Association, the annual meeting of Members of the Association shall be held on the first Tuesday in March of each year unless the same shall fall on a legal holiday, in which case the annual meeting shall be held on the next succeeding business day which is not a legal holiday, or on such other date as shall be designated from time to time by the Board of Directors and stated in the notice or waiver of notice of the meeting. (Prior to such time, the annual meeting of the Members of the Association shall be held on the date specified in the Amended and Restated Bylaws.)

Section 3.2. Special Meetings. The President shall call a special meeting of the Association if so directed by resolution of the Board of Directors or upon a petition signed and presented to the Secretary by Owners holding not less than ten percent (10%) of the Class A membership votes. The notice of any special meeting shall state the time, place and purpose thereof. Only business within the purpose or purposes described on the notice of a special meeting shall be transacted at the meeting.

Section 3.3. Place of Meetings. Meetings of the Members shall be held at the principal office of the Association or at such other suitable place as may be designated by the Board of Directors.

Section 3.4. Notice of Meetings. The Secretary shall send to each Owner a notice of each annual or regularly scheduled Members' meeting of the Association at least fourteen (14) but not more than sixty (60) days before such meeting, stating the time, date and place thereof. Notice of any other membership meeting shall be given at least seven (7) but not more than sixty (60) days prior to such meeting, stating the time, place and the purpose thereof. Notwithstanding the foregoing, notice of any membership meeting at which there shall be voted upon any amendment to the Articles, a plan of merger, a proposed sale of assets pursuant to Section 13.1-900 of the Virginia Code or the dissolution of the Association shall be given as required by Section 13.1-842 of the Virginia Code. The mailing or personal delivery of a notice of meeting in the manner provided in these Bylaws and Section 55-510(E) of the Virginia Code and by any of the means authorized by Section 13.1-842 of the Virginia Code shall be considered service of notice. Notwithstanding the foregoing provisions, a waiver of notice in writing, signed by the Member or Member(s) entitled to such notice, whether before or after the meeting, shall be equivalent to the giving of such notice to such Member(s). A Member who attends a meeting shall be deemed to have had timely and proper notice of the meeting unless such Member attends for the express purpose of objecting because the meeting is not lawfully called or convened.

Section 3.5. Adjournment of Meetings. If at any meeting of the Members a quorum is not present, Owners holding a majority of the votes who are present at such meeting in person or by permitted proxy may adjourn the meeting to a time not less than *forty-eight hours* after the time the original meeting was called. Notice of an adjournment of any meeting of the Association shall be posted at a community communications board located at the Association's offices or other conspicuous location and shall state the time and place for the meeting to be reconvened. Notice may also be posted on any Website of the Association; however, posting of notice on such a Website shall not constitute official notice of such meeting. If a meeting is adjourned to a different date, time or place, the notice required pursuant to Section 3.4 above need not be given if the new date, time or place is announced at the meeting before adjournment.

Section 3.6. Voting. Voting at all meetings of the Association shall be on the basis set forth in these Bylaws. Where the ownership of a Lot or Parcel is in more than one person, the person who shall be entitled to cast the vote appurtenant to such Lot or Parcel shall be the person named in a certificate executed by all of the Owners of such Lot or Parcel and filed with the Secretary or, in the absence of such person from the meeting, the person entitled to cast the vote appurtenant to such Lot or Parcel shall be the person owning such Lot or Parcel who is present. If more than one person owning such Lot or Parcel is present, then such vote shall be cast only in accordance with their unanimous agreement, and absent such unanimous agreement, the vote appurtenant to such Lot or Parcel may not be cast at such meeting. Such certificate shall be valid until revoked by a subsequent certificate similarly executed. Wherever the approval or disapproval of an Owner is required by the Declaration, the Articles or these Bylaws, such approval or disapproval shall be made only by the person who would be entitled to cast the vote of such Lot or Parcel at any meeting of the Association. Except where a greater number is required by law, the Declaration, the Articles or these Bylaws, Owners holding more than one-half of the aggregate Class A membership votes present in person or by proxy at a duly convened meeting at which a quorum is present ("Majority of Owners") are required to adopt decisions at any meeting of the Association.

Section 3.7. Proxies. A vote may be cast in person or by proxy. Proxies shall be duly executed in writing by one with authority to execute deeds pursuant to the requirements of Section 13.1-847 of the Virginia Code and must be filed with the Secretary before the appointed time of the meeting. Such proxy shall be deemed revoked only upon actual receipt of notice of revocation by the person presiding over the meeting from any of the persons owning such Lot or Parcel. Except with respect to proxies in favor of a Mortgagee (hereinafter defined), no proxy shall in any event be valid for a period in excess of eleven months after the execution thereof and, in any event, any proxy shall terminate automatically upon the adjournment of the first meeting, or any continuance thereof, held on or after the date of the proxy.

Section 3.8 Alternative Voting Procedures. Notwithstanding any other provision of these Bylaws, to the extent permitted by the laws of Virginia, including, but not limited to, Section 13.1-846 of the Virginia Code, and provided the Board of Directors deems it to be in the best interest of the Association, any vote to be taken of the Members for the election of directors may be taken by mail or electronically by e-mail or similar service which satisfies the requirements of Section 13.1-846 of the Virginia Code, and the number of votes necessary for election as a director shall be the same as if the vote were taken at a meeting.

Section 3.9 Quorum. Except as otherwise provided in these Bylaws, the presence in person or by proxy of the Owners holding ten percent of the aggregate Class A membership votes shall constitute a quorum at all meetings of the Members of Association.

Section 3.10 Conduct of Meetings. The President (or, in the absence of the President, the Vice-President or other duly designated officer) shall preside over all meetings of the Association, and the Secretary (which may be a recording secretary) shall keep the minutes of the meeting and record in a minute book all resolutions adopted and a record of all other transactions occurring, at the meeting.

## ARTICLE IV

### Board of Directors

Section 4.1. Number and Election. The affairs of the Association shall be managed under the direction of its Board of Directors. Directors shall be elected by the Members or otherwise appointed in accordance with the provisions of these Bylaws, the Articles and the Virginia Non-Stock Corporation Act. No more than two directors may be Owners in the same Neighborhood. The Articles contain additional provisions regarding a Member's eligibility to serve on the Board of Directors. Due to the time commitment required to serve on the Board of Directors as well as the heightened potential for conflicts of interest, Owners may not simultaneously serve on the Board of Directors while serving as members of any Neighborhood Advisory Board, Neighborhood Advisory Committee or separate association for any Neighborhood. The method of nominating and electing Directors and the term for which each Director is to be elected shall be as provided in the Articles. The removal of Directors and the filling of vacancies in the Board of Directors shall also be as provided in the Articles.

Section 4.2. Powers and Duties. The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Association and may do all such

acts and things as are by applicable law, the Declaration, the Articles or by these Bylaws required to be exercised and done by the Association. The Board of Directors shall have the power from time to time to adopt and enforce rules and regulations with respect to the Common Areas, the Limited Common Areas and the Neighborhood Common Areas, and with respect to such other areas of responsibility assigned to the Association by the Declaration or any Supplemental Declaration; provided however, such rules and regulations shall not be in conflict with the Declaration, applicable Supplemental Declarations, the Articles or these Bylaws. The Board of Directors may from time to time elect to have the Association treated as a "homeowner's association" within the meaning of Section 528 of the Internal Revenue Code of 1986, as amended. In addition to the duties imposed by these Bylaws or by any resolution of the Association that may hereafter be adopted, the Board of Directors on behalf of the Association shall have the power and duty to:

(i) Prepare an annual budget in which there shall be established the Annual Assessments of each Owner.

(ii) Make Annual Assessments and, to the extent permitted by the Declaration, special assessments against Owners to defray the costs and expenses of the operation of the Association and the Common Areas, the Limited Common Areas and the Neighborhood Common Areas and the services provided by the Association, establish the means and methods of collecting such assessments from the Owners and establish the period of the installment payments of the assessments. Unless otherwise determined by the Board of Directors and except as set forth in the Declaration, the regular assessment against each Lot and Parcel shall be payable in equal semi-annual installments, each such installment to be due and payable in advance on the first day of January and July of each year.

(iii) Provide for the operation, care, upkeep, maintenance and servicing of the Common Areas, the Limited Common Areas and the Neighborhood Common Areas.

(iv) Designate, hire and dismiss the personnel necessary for the operation, care, upkeep, maintenance and servicing of the Common Areas, the Limited Common Areas and the Neighborhood Common Areas and such other areas of responsibility of the Association and, where appropriate, provide for the compensation of such personnel and for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties.

(v) Collect the assessments against the Owners, deposit the proceeds thereof in bank depositories designated by the Board of Directors or prudently invest the same (for which purpose the Board of Directors may retain an investment adviser) to the extent such proceeds are not immediately required, and use the proceeds to carry out the administration of the Association.

(vi) Enact and amend rules and regulations from time to time to govern the use and enjoyment of the Common Areas, the Limited Common Areas and the Neighborhood Common Areas and establish fees for the use of the Common Areas, the Limited Common Areas and the Neighborhood Common Areas; provided however, that no such rules and regulations so adopted shall be in conflict with the Declaration, any applicable Supplemental Declaration, the Articles or these Bylaws; and provided further



that no such rules and regulations shall bind or be construed so as to impair in any manner the lien of any mortgage or deed of trust with respect to any Lot and/or Parcel and/or the Common Areas, the Limited Common Areas and/or the Neighborhood Common Areas.

(vii) Open bank accounts on behalf of the Association and designate the signatories thereon.

(viii) Make, or contract for the making of, repairs, additions, demolition and improvements to or alterations of the Common Areas, the Limited Common Areas and the Neighborhood Common Areas in accordance with the Declaration.

(ix) Enforce by legal means the provisions of the Declaration, the Supplemental Declaration, the Articles, these Bylaws and the rules and regulations promulgated pursuant thereto.

(x) Obtain and carry insurance as provided in the Declaration and in Article IX of these Bylaws.

(xi) Pay the cost of all authorized services rendered to the Association and not billed to Owners or otherwise provided for.

(xii) Keep books with detailed accounts of the receipts and expenditures affecting the Association and the administration of the Common Areas, the Limited Common Areas and the Neighborhood Common Areas, specifying the expenses of maintenance and repair of the Common Areas, the Limited Common Areas and the Neighborhood Common Areas and any other expenses incurred. All books and records shall be kept in accordance with generally accepted accounting principles consistently applied (but may be on the cash method of accounting).

(xiii) Subject to Section 10.4 of these Bylaws, acquire (by gift, purchase, or otherwise) own, improve upon, operate, maintain, convey, encumber, sell, lease, transfer, dedicate for public use or otherwise, dispose of Lots, Parcels, Common Areas, Limited Common Areas, Neighborhood Common Areas and other property of whatsoever nature.

(xiv) Enter into land contracts, leases and maintenance agreements, cost sharing, shared use, and cross access arrangements with any person, including without limitation, any other property owners association providing services and/or shared facilities in the vicinity of the property.

(xv) Do such other things and acts not inconsistent with the Declaration, the Supplemental Declarations, the Articles or these Bylaws which the Board of Directors may be authorized to do under applicable law or by a resolution of the Association.

(xvi) Subject to Section 10.4 of these Bylaws, grant permits, licenses and easements under, through and over the Lots and Parcels (as provided in the Declaration), the Common Areas, the Limited Common Areas and the Neighborhood Common Areas for drainage, utilities, roads and access and other purposes which are reasonably necessary to the ongoing development and operation of the Common Areas, the Limited Common Areas and the Neighborhood Common Areas, any golf course adjacent to the Properties and any development adjoining the Properties.

(xvii) When it is authorized to do so as set forth in the Declaration, appoint members of the Architectural Review Board.

(xviii) Borrow money and mortgage, lien, pledge or hypothecate any or all of the real or personal property owned by the Association as security for money borrowed or debts incurred.

(xix) Grant to any person or persons a license and/or similar right to make exclusive use of portions of the Common Areas, the Limited Common Areas and the Neighborhood Common Areas provided such grant is evidenced by a duly executed resolution of the Board of Directors.

#### Section 4.3. Management.

(a) Employment of Manager or Management Agent. The Board of Directors may employ for the Association a Director of Operations and/or contract with an independent "Managing Agent" at a compensation to be established by the Board of Directors. Any agreement with a Managing Agent shall be for a term not exceeding one (1) year and must permit termination by either party without cause and without termination fee upon no more than ninety (90) days' written notice.

(b) Duties. The Director of Operations (or the Managing Agent, as the case may be) shall perform such duties and services as the Board of Directors shall authorize, which may include but are not limited to the duties listed in Section 4.2(i), (iii), (iv), (v), (viii), (ix), (x), (xi), and (xii) of these Bylaws. The Board of Directors may delegate to the Director of Operations (or to the Managing Agent, as the case may be) all of the powers granted to the Board of Directors by these Bylaws other than the powers set forth in Section 4.2(ii), (vi), (vii), (xiii), (xiv), (xv), (xvi), (xvii), and (xix) of these Bylaws.

(c) Standards. The Board of Directors may impose appropriate standards of performance upon the Director of Operations (or the Managing Agent as the case may be.)

(d) Liaison. The Board of Directors may designate one of its members as liaison officer who shall be authorized to instruct and deal with the Director of Operations or the Managing Agent on any matter.

Section 4.4. Annual Meeting. The annual meeting of the Board of Directors shall be held promptly following the annual meeting of the Members of the Association. No notice shall be necessary to the newly elected members of the Board of Directors in order legally to constitute such meeting, provided a quorum of the Board of Directors shall be present.

Section 4.5. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the directors. Notice of regular meetings of the Board of Directors shall be given to each director, by mail or hand delivery, at least three business days before the day named for such meeting.

Section 4.6. Special Meetings. Special meetings of the Board of Directors may be called by the President on one business days' notice to each director, given by mail or hand

delivery, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and with like notice on the written request of at least two directors.

Section 4.7. Waiver of Notice. Any director may at any time, in writing signed by such director, waive notice of any meeting of the Board of Directors, and such waiver shall be deemed equivalent to the giving of such notice. Except in the circumstances described in section 13.1-867B of the Virginia Code, attendance by a director at any meeting of the Board of Directors shall constitute a waiver of notice by him of the time, place and purpose of such meeting. If all directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

Section 4.8. Quorum of Board of Directors. At all meetings of the Board of Directors a majority of the directors shall constitute a quorum for the transaction of business, and the vote of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. If at any meeting of the Board of Directors there shall be less than a quorum present, those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

Section 4.9. Compensation. No director shall receive any compensation from the Association for acting as such; however, the Board of Directors may in its discretion reimburse any director for actual expenses incurred.

Section 4.10. Conduct of Meetings. The President (or, in the absence of the President, the Vice-President or other duly designated officer) shall preside over all meetings of the Board of Directors, and the Secretary (which may be a recording secretary) shall keep a minute book of the Board of Directors recording therein all resolutions adopted by the Board of Directors and a record of all transactions and proceedings occurring at such meetings.

Section 4.11. Action Without Meeting. Any action by the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting if all of the members of the Board of Directors shall individually or collectively consent in writing to such action. Any such written consent shall be filed with the minutes of the proceedings of the Board of Directors.

Section 4.12. Meetings by Telephone Conference, etc. The Board of Directors may meet by means of a telephone conference, video-conference or similar communication equipment by means of which all persons participating in the meeting can hear each other and participation by such means shall constitute presence in person at such meeting. Such meetings may be called by the President or by a majority of the directors, and at least two (2) of the directors shall be physically present at the meeting place specified in the notice.

## ARTICLE V

### Committees and Neighborhood Advisory Boards

Section 5.1. Committees. The Board of Directors may create one or more committees and may appoint members of the Board, officers of the Association or Members to such committees. Committees shall perform such tasks and serve for such periods as may be designated by resolution adopted by the Board. Each committee shall operate in accordance with the terms of resolution of the Board of Directors designating such committee or with rules adopted by the Board. The provisions of these Bylaws which govern meetings, action without meetings, notice and waiver of notice, quorum and voting requirements of the Board of Directors shall apply to committees as well.

Section 5.2. Neighborhood Advisory Boards and Neighborhood Advisory Committees. The Supplemental Declarations applicable to certain Neighborhoods contain provisions for the creation of an advisory “board” to act in an advisory role to the Association’s Board of Directors. Such advisory boards, together with any committees created from time to time by the Board of Directors, shall be treated as committees of the Association and shall be subject to all of the requirements set forth in these Bylaws and under applicable laws relating to committees.

Section 5.3. Eligibility. To be eligible to be appointed to, and/or to serve on, a committee, Members and their Lots must be in financial good standing as indicated on the books and records of the Association and must remain in financial good standing during the committee member’s term. In addition, to be eligible for service, a committee member’s Lot must not be in violation of the Governing Documents during the committee member’s term. For the purposes of this Section 5.3, a Member’s Lot shall be deemed to be in violation if the Association has notified the Owner of such Lot of a violation of the Governing Documents and such Member has not cured the violation within the time specified by the Association (or if no time is specified by the Association, within a reasonable time after the date of such notice from the Association). Finally, Members wishing to serve on a committee must not be involved in a dispute with the Association at the time they seek appointment or at any time during their term. For the purposes of this paragraph, a “dispute” shall mean (i) a disagreement of a material or adversarial nature (as determined by the Board of Directors), (ii) a legal claim or cause of action or (iii) a threat of a claim or cause of action, against the Association, its officers, directors or agents; provided, however, that a dispute does not include a good faith disagreement (but not a claim) regarding an Association policy or interpretation of the Governing Documents provided the member asserts such disagreement in a professional, business-like and non-adversarial manner and abides by the Board of Directors disposition of such disagreement.

## ARTICLE VI

### Architectural Review

Section 6.1. Architectural Review Board. There shall be an Architectural Review Board as provided in the Declaration. The number of members, the method of their appointment or election and their duties and powers shall be as set forth in the Declaration. The provisions of

these Bylaws governing meetings, action without a meeting, notice and waiver of notice and quorum and voting of the Board of Directors shall apply to the Architectural Review Board as well.

## ARTICLE VII

### Officers

Section 7.1. Designation. The principal officers of the Association shall be the President, the Vice President, the Secretary and the Treasurer, all of whom shall be elected by the Board of Directors. The Board of Directors may appoint an assistant treasurer, an assistant secretary and such other officers as in its judgment may be desirable. The President shall be a member of the Board of Directors. Any other officers may, but need not, be members of the Board of Directors. Officers shall be members of the Association.

Section 7.2. Election of Officers. The officers of the Association shall be elected annually by the Board of Directors at the annual meeting of the Board of Directors and shall hold office (unless sooner removed) until the next annual meeting of the Board or until their replacements are elected.

Section 7.3. Removal of Officers. Any officer may be removed, either with or without cause, and a successor may be elected at any regular meeting of the Board of Directors or at any special meeting of the Board of Directors called for such purpose.

Section 7.4. President. The President shall be the chief executive officer of the Association, preside at all meetings of the Association and of the Board of Directors, and have all of the general powers and duties which are incident to the office of president of a corporation organized under the Virginia Nonstock Corporation Act.

Section 7.5. Vice President. The Vice President shall take the place of the President and perform the duties of the President whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other member of the Board of Directors to act in the place of the President on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him or her by the Board of Directors or by the President.

Section 7.6. Secretary. The Secretary shall keep the minutes of all meetings of the Association and of the Board of Directors; have charge of such books and papers as the Board of Directors may direct; maintain a register setting forth the place to which all notices to Owners and Mortgagees requesting notices shall be delivered; upon request by a conveying Owner, deliver statements of all unpaid assessments applicable to the Lot to be conveyed; execute notices of delinquent assessment in accordance with the Declaration; execute notices of and releases of the lien for delinquent assessments as described in the Declaration and, in general, perform all the duties incident to the office of secretary of a corporation organized under the Virginia Nonstock Corporation Act.

Section 7.7. Treasurer. The Treasurer shall have the responsibility for Association funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of all required financial data, and be responsible for the deposit of all monies and other valuables in the name of the Board of Directors, the Association or the Managing Agent, in such depositories as may from time to time be designated by the Board of Directors; and, in general, perform all the duties incident to the office of treasurer of a corporation organized under the Virginia Nonstock Corporation Act.

Section 7.8. Compensation of Officers. No officer shall receive any compensation from the Association for acting as such; however, any officer may be reimbursed for actual expenses incurred as such officer.

## ARTICLE VIII

### Operation of the Property

Section 8.1. Fiscal Year. The fiscal year of the Association shall be the calendar year unless otherwise determined by the Board of Directors.

Section 8.2. Adoption of Budget and Establishment of Assessments. The Board of Directors shall adopt a budget (which shall include any proposed capital expenditures) for each fiscal year as set forth in the Declaration and shall establish the amount of the annual assessment for every Member subject thereto. The Board of Directors shall make the annual budget and assessment amount available to every Member at least 15 days in advance of adopting the same. These shall be available in the Association's office and on the Association's website. In adopting a budget, the Board of Directors shall provide for a reserve fund including a reserve for the deductible on physical damage insurance policies. The failure or delay of the Board of Directors to prepare or adopt a budget for any fiscal year after the initial budget is adopted shall not constitute a waiver or release in any manner of an Owner's obligation to pay his assessment as herein provided whenever the same shall be determined and, in the absence of any annual budget or adjusted budget, each Owner liable therefor shall continue to pay each periodic installment at the rate established for the previous fiscal year until notice of the periodic payment which is due more than ten days after such new annual or adjusted budget shall have been delivered.

Section 8.3. Payment of Assessments. Each Owner shall pay the assessments established by the Declaration, the Supplemental Declaration applicable to such Owner's Lot, and these Bylaws. No Owner shall be liable for the payment of any part of the assessment against his Lot or Parcel and due subsequent to the date of recordation of a deed by him in fee of such Lot or Parcel to a successor Owner (except a conveyance as security for the performance of an obligation). Each Owner waives the benefit of the homestead exemption as to any assessments levied against either the Lot or Parcel or the Owner. Each such assessment, together with the interest at the highest lawful rate, late charges as established by the Board of Directors and costs of collection (including attorneys' fees) shall also be the personal obligation of the Owner at the time the assessment fell due.

Section 8.4. Collection of Assessments. The Board of Directors, or the Managing Agent at the request of the Board of Directors, may take action to collect any assessments, interest and late charges due from any owner. Each defaulting Owner shall also pay all costs of collection, including without limitation attorneys' fees, incurred in the collection of any unpaid assessment and shall also pay any expense incurred as a result of a check being returned to the Association without payment. Any installment of an Annual Assessment or a Special Assessment not paid on or before the due date shall be delinquent in which case the Board of Directors may exercise any remedies available to the Association at law, under these Bylaws and/or the Declaration. In addition, if such installment is not paid within thirty (30) days after the due date, the Board of Directors shall have the right upon notice to the Owner to accelerate the installments owed and declare the entire balance of any Annual Assessment or Special Assessment due and payable in full.

Section 8.5. Statement of Assessments and Access to Records. In addition to complying with the requirements of Section 8.6 of these Bylaws, the Board of Directors shall promptly provide any Owner, contract purchaser or Mortgagee so requesting the same in writing with a written statement of the amount of the general and any special assessment levied against a Lot or Parcel and all unpaid assessments due from such Owner. The Association shall keep detailed records of its operation and administration and make the same available for inspection as provided in Section 55-510 of the Virginia Code. The Association may impose and collect a charge, reflecting the actual cost of materials and labor, before providing copies of any books and records to a Member.

Section 8.6. Disclosure Packets. In addition to providing a statement of assessments and making the Association records available as provided in Section 8.5 of these Bylaws, the Association shall provide to the owner of a Lot or Parcel who has contracted to sell the same, within 14 days of the actual receipt by the Association of a written request therefor, a disclosure packet containing all of the documents and other information required under Section 55-509.5 of the Virginia Code. The Association may charge a fee for the preparation and issuance of each disclosure packet to reflect the actual cost of the preparation thereof, not to exceed the maximum amount allowed under Section 55-509.6 of the Virginia Code (if the Association engages a Managing Agent) or under Section 55-509.7 of the Virginia Code (if the Association employs a Director of Operations and not a Managing Agent).

Section 8.7. Maintenance, Repair, Replacement and Other Expenses. The Association shall be responsible for such maintenance, repair and replacement of the Common Areas, the Limited Common Areas and the Neighborhood Common Areas as is set forth in the Declaration. Unless otherwise determined by the Board of Directors, all repairs and replacements shall be substantially similar to the original construction and installation and shall be of good quality. The method of approving payment vouchers for repairs and replacements performed by the Association shall be determined by the Board of Directors.

## ARTICLE IX

### Insurance

#### Section 9.1. General Requirements.

(a) Purchase of Insurance. All insurance policies relating to the Common Areas, the Limited Common Areas and the Neighborhood Common Areas shall be purchased by the Association. Neither the Board of Directors nor the Managing Agent shall be liable for failure to obtain any coverage required by the Declaration, by this Article IX or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverages from reputable insurance companies, or if such coverage is available only at unreasonable cost.

(b) Required Provisions in Policies. Each insurance policy for the Common Areas, the Limited Common Areas and the Neighborhood Common Areas shall provide that:

(i) The insurer waives any right to claim (A) by way of subrogation against, the Association, the Board of Directors, the Managing Agent or the Owners, and their respective lessees, and (B) invalidity arising from acts of the insured.

(ii) Such policy may not be cancelled, not renewed or substantially modified without at least thirty (30) days prior written notice to the Association and the Managing Agent, and in the case of physical damage and fidelity insurance, to all Owners and Mortgagees and mortgage loan servicers.

(iii) The Association and the Managing Agent, if any, shall be named insureds.

(c) Insurance Companies. All policies of insurance shall be written by reputable companies licensed to do business in the Commonwealth of Virginia and, in the case of the physical damage insurance, holding a rating of B/III or better by Best's Insurance Reports.

#### Section 9.2 Physical Damage Insurance.

(a) All Risk Coverage. The Association shall obtain and maintain a policy of insurance against fire and such other hazards within the meaning of "all risk" insuring the improvements to the Common Areas, the Limited Common Areas and the Neighborhood Common Areas (including fixtures and building service equipment and personal property), naming the Association as insured for the use and benefit of all Owners in an amount equal to not less than 100% of the then current replacement cost of the improvements to the Common Areas, the Limited Common Areas and the Neighborhood Common Areas (exclusive of land, excavations, foundations and other items usually excluded from such coverage), such amount to be redetermined annually by the Board of Directors with the assistance of the insurance company affording such coverage. Any deductible shall not exceed the lesser of \$10,000 or 1% of the amount of coverage and such deductible shall be considered in establishing the level of reserves.

(b) Required Provisions. Such policy shall also provide (unless otherwise provided):



(i) A waiver of any right of the insurer to repair, rebuild or replace any damage or destruction if a decision is made not to do so.

(ii) The following endorsements (or equivalent) if applicable and available: (A) "contingent liability from operation of building laws", "demolition cost" and "increased cost of construction", (B) "agreed amount" or its equivalent and "inflation guard," and (C) "steam boiler and machinery coverage" with minimum liability per accident of not less than the lesser of the insurable value of the building housing the boiler or machinery or \$2,000,000.

(iii) That any "no other insurance" clause expressly excludes individual Owners' policies from its operation so that the physical damage policy purchased by the Board of Directors shall be deemed primary coverage and any individual Owners' policies shall be deemed excess coverage, and in no event shall the insurance coverage obtained and maintained by the Board of Directors hereunder provide for or be brought into contribution with insurance purchased by individual Owners or their Mortgagees, unless otherwise required by law.

(c) Delivery of Policies to Mortgagees. A duplicate original of the policy of physical damage insurance, all renewals thereof, and any subpolicies or certificates and endorsements issued thereunder together with proof of payment of premiums shall be delivered by the insurer at least ten days prior to the expiration of the then current policy to any Mortgagee requesting the same.

(d) Prohibited Provisions. The Association shall not obtain a policy where (i) under the terms of the carrier's charter, bylaws or policy, contributions or assessments may be made against any Owner or Mortgagee or mortgage loan servicer or become a lien on the Properties; or (ii) by the terms of the carrier's charter, bylaws or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders or members; or (iii) the policy includes any limiting clauses (other than insurance conditions) which could prevent the Association from collecting insurance proceeds.

Section 9.3. Liability Insurance. The Association shall obtain and maintain comprehensive general public liability and property damage insurance in such limits as the Board of Directors may from time to time determine (but not less than \$1,000,000 for bodily injury or property damage), insuring the Association, each member of the Board of Directors, the Managing Agent, and each Owner against any liability to the public or to the Owners (and their invitees, agents and employees) arising out of, or incident to the ownership and/or use of the Common Areas, the Limited Common Areas and the Neighborhood Common Areas and other areas (if any) under the supervision of the Association including, to the extent applicable and available: host liquor liability, elevator collision liability, comprehensive automobile liability, contractual liability, garage keeper's liability and bailee's liability. Such insurance shall be issued on a comprehensive liability basis and shall contain a "severability of interest" endorsement which shall preclude the insurer from denying liability to an owner because of negligent acts of the Association or of another Owner. The Board of Directors shall review such limits once each year. "Umbrella" liability insurance in excess of the primary limits may also be obtained.

Section 9.4. Other Insurance. The Association shall obtain and maintain:

(i) Fidelity coverage to protect against dishonest acts on the part of officers, directors, employees and agents (including the Managing Agent) of the Association and all others who handle, or are responsible for handling, funds of the Association. Such fidelity bonds shall: (A) name the Association as an obligee; B) be written in an amount to cover the maximum funds that will be in the custody of the Association or the Managing Agent at any time and in any event not less than three (3) months' aggregate assessments on all Lots plus reserves; and (C) contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression;

(ii) Worker's compensation and employer's liability insurance if and to the extent necessary to meet the requirements of law and which, if carried, shall name the Managing Agent (if any) as an additional insured; and

(iii) Such other insurance as the Board of Directors may determine or as may be requested from time to time by Owners of a majority of the Lots.

Section 9.5. Separate Insurance by Owners. Each Owner shall have the right and responsibility, at his own expense, to obtain insurance for his own Lot or Parcel and improvements thereon and for his own benefit; provided, however, that no Owner shall be entitled to exercise his right to obtain such insurance coverage so as to decrease the amount which the Association, on behalf of all Owners, may realize under any insurance policy maintained by the Association or to cause any insurance coverage maintained by the Association to be brought into contribution with insurance coverage obtained by an Owner. Each Owner shall obtain liability insurance with respect to his Lot or Parcel in the amount of at least \$100,000.00. All such policies shall contain waivers of subrogation as against the Association and its Board of Directors, and the Managing Agent (if any), and their respective agents and employees. No Owner shall obtain separate insurance policies in conflict with this Section 9.5.

Section 9.6. Board of Directors as Agent. The Board of Directors is hereby irrevocably appointed the agent and attorney-in-fact (coupled with an interest) for each Owner, each Mortgagee, other named insureds and their beneficiaries and any other holder of a lien or other interest in the Property to adjust and settle all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims and to pursue and settle all claims arising out of the taking by way of eminent domain of any of the Common Areas, the Limited Common Areas and the Neighborhood Common Areas.

## ARTICLE X

### Mortgages

Section 10.1. Notice to Board of Directors. An Owner who acquires a Lot shall promptly notify the Board of Directors of his name and address. Any holder or beneficiary of a mortgage or deed of trust on a Lot or Parcel ("Mortgagee") may give written notice to the Association of its name and address and the address of the Lot or Parcel to which its mortgage applies.

Section 10.2. Notice of Default. Upon request, the Association shall give notice to any Mortgagee of the Owner's default in paying an assessment or any other default with respect to that Mortgagee's Lot or Parcel which has not been cured within 60 days of the date such assessment became due or the date the Association notified such Owner of the default, respectively.

Section 10.3. Other Rights of Mortgagees. Upon written request, any Mortgagee shall be entitled to receive written notice of meetings of the Association, and all Mortgagees or their designees shall be entitled to attend meetings of the Association and shall have the right of a member to speak at such meetings. All Mortgagees shall have the right of a member to examine the books and records of the Association.

Section 10.4. Mortgagees' Approvals. Unless two-thirds of the Mortgagees holding first liens on Lots and Parcels (voting on the basis of one vote for each Mortgage owned) or two-thirds of the Owners of Lots and Parcels, have given their prior written approval, the Association shall not be entitled to:

(i) By act or omission materially change, waive or abandon any scheme of regulations or their enforcement pertaining to the architectural design or the exterior appearance of Lots and Parcels, the maintenance of the Common Areas, the Limited Common Areas and the Neighborhood Common Areas walks, common fences and driveways and the upkeep of lawns and plantings in the Properties; or

(ii) Change the method of determining the obligations, assessments, dues or other charges that may be levied against an Owner of a Lot or Parcel, provided, however, that the method of determining the assessments against Lots in one Neighborhood may differ from the method for Lots in other Neighborhoods;

(iii) By act or omission, seek to abandon, partition, subdivide, mortgage, sell or transfer the Common Areas, the Limited Common Areas and the Neighborhood Common Areas (except that the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas, the Limited Common Areas and the Neighborhood Common Areas by the Owners and lawful occupants of the Properties shall not be deemed a transfer within the meaning of this clause);

(iv) Use hazard insurance proceeds for losses to any portion of the Common Areas, the Limited Common Areas and the Neighborhood Common Areas for other than the repair, replacement or reconstruction of the Common Areas, the Limited Common Areas and the Neighborhood Common Areas; or

(v) Fail to maintain fire and extended coverage on insurable Common Areas, Limited Common Areas and Neighborhood Common Areas on a current replacement cost basis in an amount at least equal to 100% of the insurable current replacement cost.

Section 10.5. Payment of Charges. First Mortgagees of Lots and Parcels may:

(i) jointly or singly pay taxes or other charges that are in default and that may have become charges against the Common Areas, the Limited Common Areas and the Neighborhood Common Areas; and

(ii) pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage for the Common Areas, the Limited Common Areas and the Neighborhood Common Areas in case of lapse of a policy.

First Mortgagees making such payments are due immediate reimbursement from the Association, and upon request by a First Mortgagee the Association shall execute an agreement reflecting the foregoing in favor of all first Mortgagees.

## ARTICLE XI

### Miscellaneous

Section 11.1. Notices. All notices, demands, requests, statements or other communications under these Bylaws shall be in writing and shall be either delivered by overnight express mail, in person or if sent by U.S. first class mail, postage prepaid, return receipt requested, (i) if to an Owner, at the address which the Owner shall designate in writing and file with the Secretary or, if no such address is designated, at the address of the Lot of such Owner, or (ii) if to the Association, at 1405-C Kiln Creek Parkway, Newport News, Virginia 23602, or at such other address as shall be designated by notice in writing to the Owners pursuant to this Section, or (iii) if to a Mortgagee, to the address provided by the Owner or to such other address as the Mortgagee may specify by written notice to the Association. All such notices, demands, requests, statements or other communications shall be deemed to have been given when sent to the appropriate address above. Rejection or other refusal to accept shall not invalidate the effectiveness of any notice, demand, request, statement or other communication. The Association may utilize electronic forms of communication to serve notices, demands, requests, statements or other communications to the extent such forms of communication are authorized for such purposes under applicable law.

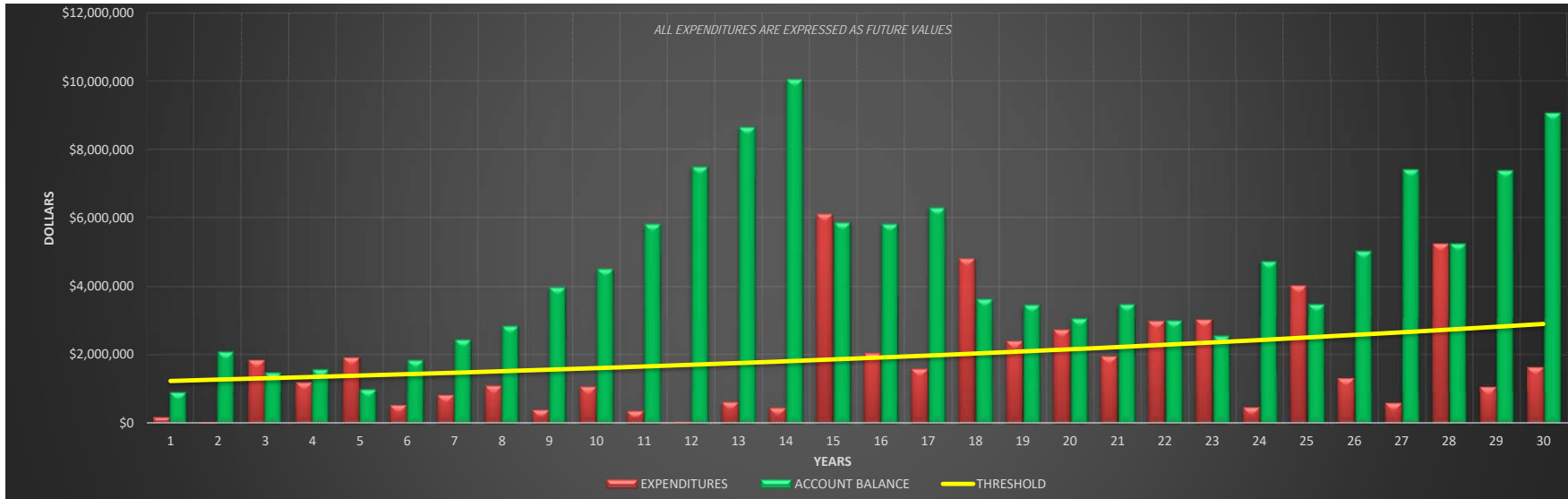
Section 11.2. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these Bylaws or the intent of any provision thereof.

Section 11.3. Gender, Etc. The use of the masculine gender in these Bylaws shall be deemed to include the feminine and neuter genders and the use of the singular shall be deemed to include the plural, and vice versa, whenever the context so requires.

Section 11.4. Construction. These Bylaws are intended to comply with applicable laws and shall be so interpreted and applied. In the event of conflict between the Declaration, any Supplemental Declaration or the Articles and these Bylaws, the Declaration, Supplemental Declaration or Articles shall control.

Section 11.5. Amendments. These Bylaws may be amended by a vote of at least two-thirds (2/3) of the Class A votes entitled to be cast by Members present in person or by proxy at a duly convened meeting at which a quorum is present. For purposes of this Section 11.5, the presence in person or by proxy of Members entitled to cast 50% of the aggregate Class A membership votes shall constitute a quorum; however, to the extent any such amendment would be inconsistent with the Declaration or a Supplemental Declaration, such amendment shall be adopted in the same fashion as an amendment to the Declaration or the Supplemental Declaration.

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EXPENDITURE | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 | 2033 | 2034 | 2035 | 2036 | 2037 | 2038 | 2039 | 2040 | 2041 | 2042 | 2043 | 2044 | 2045 | 2046 | 2047 |

<b>Inflation rate historical period; <u>select year</u>:</b>	<u>2</u>	years	<b>Annual escalation to the contribution per year, if any:</b>	<u>3.7%</u>	<u>37</u>
<b>Anticipated annual construction inflation rate:</b>	<u>3.00%</u>	per year			
<b>Threshold Balance to be Maintained in Account:</b>			<b>Annual Contribution in Year:</b>		
A selected minimum balance of:	<u>\$0</u>	<b>OR</b>	<b>2018</b>	<u>\$301,401</u>	\$301,401
Total of the next 30 years of expenditures, times:	<u>5.0%</u>	50	<b>2019</b>	<u>\$1,200,000</u>	<u>\$312,553</u>
			<b>2020</b>	<u>\$1,244,400</u>	
			<b>2021</b>	<u>\$1,290,443</u>	
			<b>2022</b>	<u>\$1,338,189</u>	

The graph above is a pictorial representation of the cash flow funding model used for this analysis. It illustrates the projected reserve account balance in each of the next 30 years (green bars) as it is impacted by the projected reserve expenditures over the same period (red bars). The yellow line is a designated threshold or "floor" of the reserve account - a line that allows the plan to keep the account balance equal to or greater than in the lowest balance year(s). It essentially represents a contingency balance that the account will always be available over and above the amounts required to fund all of the components when the funding model projects them to be replaced. This threshold value is not prescribed by law or standards, and can be adjusted to a level desired by the community.

The graph is called a "navigator" because the funding model can be adjusted from this sheet to react to varying inflation rates, interest rates, actual adjusted account balances, and variations in reserve expenditures and project schedules based on your community's actual experience, and in response to changes in priorities. These adjustments are typically performed in real time during a live working session, where the participants can see the impact of any and all changes on the account, and determine how to respond to them.

If this navigator shows an inflation rate of 0.0% and an annual escalation to the contribution of 0.0% then all numbers in the analysis shown are in current dollars only. These rates will be adjusted in the live working session.

**Villages of Kiln Creek Owners Association (the "Association")**

**Complaint Policy and Procedures Governing Complaints Submitted Per Virginia Code Section 55-530 and Regulations of the Common Interest Community Board (the "Complaint Policy")**

**1. Introduction.**

- a. This Complaint Policy is adopted by the Board of Directors (the "Board") of the Association pursuant to the requirements of Virginia Code Section 55-530 and the related regulations promulgated by the Virginia Common Interest Community Board ("CICB"), specifically, 18 VAC 48-70 *et seq.*
- b. This Complaint Policy is designed to address complaints by both members of the Association as well as other citizens of the Commonwealth of Virginia.

**2. Certification.**

- a. The Association shall certify with each annual report submitted to the CICB that this Complaint Policy has been adopted and is in effect.

**3. Complaints.**

**a. Who May Submit A Complaint.**

Any member of the Association (as such term is defined in the Association's governing documents) and/or any citizen of the Commonwealth of Virginia may submit a complaint (the "Complaint") to the Association in accordance with the following requirements and procedures.

**b. Complaints Limited to Violations of Applicable Laws and Regulations.**

The Complaint may only concern a matter regarding an action, inaction, or decision by (i) the Board, (ii) the community manager (if applicable), or (iii) the Association, that is inconsistent with applicable laws and regulations of the Commonwealth of Virginia. A Complaint may not relate to general matters about the Association's business and affairs, separate and apart from a violation of a law or regulation of the Commonwealth of Virginia.

**c. Form of Complaint.**

- i. The Complaint must be in writing.
- ii. The Complaint must be on the form maintained by the Association for that purpose, and such form shall be provided to the complaining person upon

his or her request. Such form is attached hereto as Exhibit A, and incorporated herein by reference.

- iii. The Complaint must state the complaining person's mailing address.
- iv. The Complaint must be delivered to the Association and its legal counsel via certified mail, return receipt requested, addressed accordingly:

Villages of Kiln Creek Owners Association  
970 Brick Kiln Blvd.  
ATTN: Laura L. Camrike, Director of Operations.  
Newport News, VA 23602

with a copy to:

Elizabeth L. White, Esq.  
Sans Anderson  
263 McLaws Circle, Suite 205  
Williamsburg, Virginia 23185

- v. The Complaint must include all supporting documentation that the complaining person believes supports the Complaint. By way of illustration, and not limitation, the Complaint must include copies of any contracts, meeting minutes, records, and pictures that the complaining person may have in support of the Complaint.
  - vi. To the extent that the complaining person has knowledge of the law(s) or regulation(s) applicable to the Complaint, the Complaint must also reference the specific law(s) of the Commonwealth of Virginia, regulation(s) of the Commonwealth of Virginia, or provision(s) of the Association's governing documents relating to the Complaint.
  - vii. The Complaint must also state a request for action by the Association, or a proposed resolution by the Association, and an explanation for why such an action or resolution is appropriate and warranted.
- d. Association's Response to the Complaint.
- i. Acknowledgment. Within 7 days of the Association's receipt of a Complaint, the Association will provide written acknowledgement of receipt of the Complaint to the complaining person. Such acknowledgement will be hand delivered, or mailed by certified mail, return receipt requested, to the complaining person, at the address provided by the complaining person on the Complaint. Written acknowledgement of the Complaint does not constitute a representation by the Association that the Complaint is complete, nor that it complies with this Complaint Policy. 2



- ii. **Compliance Review.** The Association will review the Complaint to ensure that it fully complies with all of the terms and conditions of this Complaint Policy and Virginia law. The Association shall have twenty-one (21) days to conduct such a review, and in the event that the Complaint fails to fully comply with the terms and conditions of this Complaint Policy and Virginia law, the Association shall send a notice to the complaining person via certified mail, return receipt requested that such Complaint is deficient and the reason for any such deficiency. [NOTE: this twenty-one (21)-day period runs concurrently with, and is not in addition to, the twenty-one (21)-day review period described in 3(d)(iii) below].
- iii. **Review and Assessment.** After the Association receives a Complaint that fully complies with the terms of this Complaint Policy and Virginia law, it shall have twenty-one (21) days to review and assess the Complaint, and during that time it shall be entitled to issue written request(s) to the complaining person for any additional information from the complaining person that the Association reasonably believes that it needs in order to evaluate and assess the Complaint. The Association shall issue such request(s) via certified mail, return receipt requested, and the complaining person shall have twenty-one (21) days to respond to such request(s) from the date that such request(s) are mailed by the Association. The Association shall then have an additional twenty-one (21) days to review and assess the additional information. In the event the complaining person fails to respond to the Association within that time period, the Complaint will be disposed of, and the Association will have no further obligation whatsoever related to the Complaint.
- iv. **Notice of Consideration:**
1. In the event that the Association does not issue any written request(s) to the complaining person, pursuant to 3(d)(iii) above, the Association will, within ten (10) days of the end of the twenty-one (21) day period for reviewing and assessing the Complaint, deliver via hand delivery or certified mail, return receipt requested, to the complaining person, a statement that will contain notice of the date, time, and location that the Complaint will be considered by the Association's Board of Directors.
  2. In the event that the Association issues any written request(s) to the complaining person, pursuant to 3(d)(iii) above, the Association will, within ten (10) days following the additional twenty-one (21) day period for reviewing and assessing the additional information, deliver via hand delivery or certified mail, return receipt requested, to the complaining person, a statement

specifying the date, time, and location that the Complaint will be considered by the Association's Board of Directors.

- v. Consideration. The Association's Board of Directors shall convene in executive session with its legal counsel for the purpose of considering the Complaint. As such proceeding will be conducted in executive session, the complaining person will not have any right to attend, observe, and/or record such proceeding in executive session.
- vi. Final Determination. After a final determination is made about the Complaint by the Association's Board of Directors, in consultation with its legal counsel, the Association shall, within seven (7) days, send a written notice of final determination (the "Final Determination") to the complaining person by either hand delivery or certified mail, return receipt requested.
- vii. Requirements of Final Determination.
  - 1. The Final Determination shall be dated as of the date of issuance, and, to the extent reasonably possible, will include specific citations to applicable governing documents of the Association, and/or laws and regulations. The Final Determination will also include the registration number of the Association, and, if applicable, the name and license number of its common interest community manager.
  - 2. The Final Determination will also include a notice that the complaining person has a right to file a "Notice of Final Adverse Decision with the CICB via the Common Interest Community Ombudsman," and will provide the applicable contact information.
- viii. No Appeal. A complaining person does not have the option to appeal the Final Determination to the Association; any appeal must be made to the Common Interest Community Ombudsman.

#### 4. Distribution.

- a. The Association will make a copy of this Complaint Policy available upon the request of any member of the Association and a citizen of the Commonwealth of Virginia.
- b. This Complaint Policy will be included as an attachment to the Association's disclosure packet.

#### 5. Maintenance of Complaints.

- a. All Complaints filed with the Association pursuant to this Complaint Policy shall be maintained by the Association for at least five (5) years.





### **CLOTHES DRYING EQUIPMENT:**

No clotheslines or other clothes drying apparatus shall be permitted outside an enclosed structure on any Lot. No portion of a Lot shall be used for the drying or hanging of laundry or the airing of clothes or other items unless such laundry or other items are located within an enclosed structure.

### **GEOHERMAL HEATING AND AIR CONDITIONERS**

All new Geothermal Heating and Air Conditioners require an Application.

### **SOLAR COLLECTORS**

Due to the large visual impact solar panels can have on a community; **Solar panels/collectors require an Application.**

The proposed solar panels to the maximum extent possible shall:

- have a minimal visual effect on the immediate neighbors
- not be readily visible from the street
- lie flat upon the dwelling's roof
- be located on the rear roof
- conform to local building and plumbing codes

**TRUIST ASSOCIATION SERVICES**  
**Truist Bank, formerly known as BB&T**  
**ASSOCIATION PAY – AUTHORIZATION TO CANCEL**

Mail To: Truist Association Services, P.O. Box 2914, Largo, FL 33779-2914  
Phone No.: 727-549-1202  
Fax To: 727-548-0277 or Toll Free Fax: 866-297-8932  
Email Address: ASDAutopay@Truist.com  
Attention: Truist Association Services

- Truist Association Services must receive this form by the 27th of the month to be effective for the next debit month. If the 27th is on a weekend or a holiday, Truist Association Services must receive this form by the last business day prior to the 27th. Some exceptions apply, visit Truist.com/Payments to view an Association Pay deadline calendar.
- Management companies or self-managed associations are authorized to complete a cancel request on behalf of homeowners by using Web Vault Unit Manager or by completing this form.

Do you want all payment obligations on Association Pay for this unit cancelled?  Yes  No  
If No, please list the specific payment obligations that you would like to cancel.

If you are cancelling Association Pay for units in different associations, please submit the information on separate cancel forms.

**I authorize Truist Association Services to CANCEL Association Pay, for the unit below.**

Terminate Service: Month: \_\_\_\_\_ Year: \_\_\_\_\_

Association/Community Name: \_\_\_\_\_

Homeowner's Name: \_\_\_\_\_

Homeowner's Phone No.: \_\_\_\_\_ Contact email address: \_\_\_\_\_

Homeowner's Unit No.: \_\_\_\_\_ Amount of Payment: \_\_\_\_\_

\_\_\_\_\_  
Signature of Authorized Signer on Bank Account that is debited

\_\_\_\_\_  
Date

**Management Company Use Only:**

Reason for Cancel

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Management Company Name  
Truist Bank, Member FDIC.