

**THIRD AMENDED AND RESTATED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS AND EASEMENTS OF THE RIVERTON
COMMUNITY ASSOCIATION, INC.**

DATE: May 6, 2021

The land affected by the within instrument lines in the Town of Henrietta, County of Monroe, New York

WHEREAS, certain Property (as hereinafter defined in section 1.16) was made subject to a certain Declaration of Covenants, Conditions, Restrictions and Easements dated as of June 13, 1973, and duly recorded in the Office of the Monroe County Clerk on June 14, 1973, at Liber 4461 of Deeds, page 45. ("the Original Declaration"); and

WHEREAS, such Property (as hereinafter defined in section 1.16) was thereafter made subject to a certain Amended and Restated Declaration of Covenants,. Conditions, Restrictions and Easements dated as of October 18, 1978 and duly recorded in the Office of the Monroe County Clerk on October 18, 1978 in Liber 5520 of Deeds at Page 202 ("Amended Declaration");

WHEREAS, such Property (as hereinafter defined in section 1.16) was thereafter made subject to a certain Second Amended and Restated Declaration of Covenants,. Conditions, Restrictions and Easements dated as of November 20, 2002 and duly recorded in the Office of the Monroe County Clerk on December 18, 2002 in Liber 9720 of Deeds at Page 277 ("Second Amended Declaration");

WHEREAS, such Property (as hereinafter defined in section 1.16) was thereafter made subject to a certain Amendment to the Second Amended and Restated Declaration of Covenants,. Conditions, Restrictions and Easements dated as of March 19, 2005 and duly recorded in the Office of the Monroe County Clerk on December 18, 2002 in Liber 10243 of Deeds at Page 587 ("Amendment to the Second Amended Declaration");

WHEREAS, the Association was formed in order to perform certain functions on behalf of the owners of property in, and residents of, Riverton, including: the development of land, the ownership of land; the building of facilities; the operation, management and maintenance of such land and facilities; the provision of services; the assessment, collection and application of all charges imposed in order to carry out the aforesaid activities; and the enforcement of all' covenants, conditions, restrictions and easements contained in the Original Declaration and the Amended Declaration and all liens, fines and rights created thereby; and

WHEREAS, The members of the Association desire to amend and restate the Second Amended and Restated Declaration and the Amendment to the Second Amended Declaration in the manner set forth herein. In furtherance of that objective, the proper officers of the Association are executing this Third Amended and Restated Declaration of Covenants, Conditions, Restrictions

and Easements (the "Third Amended Declaration") pursuant to a resolution executed by more than 2/3 of the total number of registered members of the Association consistent with the requirements of Article XI of the Second Amended and Restated Declaration;

NOW, THEREFORE, in consideration of the premises, the Association and its members hereby declares, that all of the property described in Exhibit A attached hereto shall be held, sold and conveyed subject to the following covenants, conditions, restrictions and easements, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property. These covenants, conditions, restrictions and easements shall run with the Property and shall be binding on all parties having or acquiring any right, title or interest in and to any plot or parcel of land constituting any part of the Property (as hereinafter defined at 1.16 below) and shall inure to the benefit of each Owner thereof, his grantees, distributees, successors and assigns, and to the benefit of each Resident, of the Association, and of the United States.

As of the "Effective Date" of this Third Amended and Restated Declaration of Covenants, Conditions,

ADOPTED THIRD AMENDED AND RESTATED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS AND EASEMENTS OF THE RIVERTON
COMMUNITY ASSOCIATION, INC.

WITNESSETH:

Whereas, pursuant to Section 11.2 of the Second Amended Declaration and pursuant to a resolution approved by not less than a two-thirds (2/3) majority of the registered Owners, Members or Residents present in person or by proxy at a regular or special meeting of the membership called and held after at least thirty (30) days notice of meeting to all Members. Such notice was made by posting in at least three (3) prominent places within the Property and mailing by first class mail to each Registered Member (as of the date of the mailing) of a notice of such meeting setting out the Board resolution or a summary thereof proposed for ratification at such meeting, provided, however, that to the extent permitted by the Not-for-Profit Corporation Law, such Notice may also be made by publication.

Declarants of the Owners, Member or Residents of the lots situate at the certain property in the Town of Henrietta, County of Monroe, and State of New York, which is more particularly described as:

ALL THAT TRACT OF PARCEL OF LAND situate in the Town of Henrietta, County of Monroe and State of New York and is more particularly described in Section 1.01:

NOW, THEREFORE, Declarants hereby declare the Original Declaration, the Amended Declaration, the Second Amended Declaration and the Amendment to the Second Amended Declaration are hereby repealed and replaced by this Third Amended Declaration and that all of the properties previously, currently and in the future subject to said Original Declaration, the Amended Declaration, the Second Amended Declaration and the Amendment to the Second Amended Declaration described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and

assigns, and shall insure to the benefit of each owner thereof.

Article I. DEFINITIONS

Section 1.01 "**Property**" shall mean and refer to that certain real property described more particularly in Exhibit A hereto, together with such additional lands as may be subjected to the provisions hereof by the Association and the owner of such lands executing and recording in the Office of the Clerk of the County of Monroe an instrument describing such additional property. Nothing contained in this Declaration or in any recorded or unrecorded plat, map, picture, drawing, brochure or other representation of a scheme of development shall be construed as requiring the Association, or any successor or assignee thereto, to subject to the provisions of this Declaration any other land now or hereafter owned by either of them, regardless of whether or not such other land is governed by agreements similar or identical to the provisions hereof.

Section 1.02 "**Association**" shall mean and refer to the Riverton Community Association, Inc., its successors and assigns.

Section 1.03 "**Declaration**" shall mean and refer to this Third Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements as the same may from time to time be supplemented or amended in the manner prescribed herein.

Section 1.04 "**Board**" shall mean and refer to the Board of Directors of Riverton Community Association, Inc.

Section 1.05 "**Lot**" shall mean and refer to:

- (a) any plot or parcel of land shown on a plat or subdivision map of any part of the Property (as hereinafter defined in section 1.16) filed in the Office of the Clerk of the County of Monroe,
- (b) any other plot or parcel of land constituting part of the Property (as hereinafter defined in section) with respect to which a Single Family Dwelling Unit, Multifamily Structure, or Nonresidential Structure shall have been erected or the plans for the erection of which Dwelling Unit or Structure shall have been filed with the appropriate department in the Town of Henrietta or the County of Monroe, State of New York, on or after the effective date of the Original Declaration, the Amended and Restated Declaration, the Second Amended and Restated Declaration and Amendment to the Second Amended and Restated Declaration.
- (c) any plot or parcel as designated in a Declaration filed pursuant to the Condominium Act of the State of New York. With respect to any of the foregoing, the term Lot shall include all permanent structural improvements thereon. The term Lot shall not include Common Property.

Section 1.06 "**Single Family Detached Dwelling Unit**" shall mean and refer to any building designed as a residence for one family or one family sized group of persons which consists of a single building on a Lot not attached to any other adjacent buildings and specifically excluding a condominium or cooperative unit and excluding single family houses of the type known as townhouses or row houses.

Section 1.07 "**Single Family Dwelling Unit**" shall mean and refer to any building designed as a residence for one family or one family-sized group of persons, including each single condominium or cooperative unit and including single family houses of the type known as town houses or row

houses.

Section 1.08 "**Single Family Attached Dwelling Unit**" shall mean and refer to any building designed as a residence for one family or family sized group of persons which consists of a condominium(s) or cooperative units or townhouses or row houses and specifically excluding a single building on a Lot not attached to any other adjacent buildings.

Section 1.09 "**Completed Living Unit**" shall mean and refer to any building or portion of a building situated upon the Property on which construction has been completed, which is either occupied or ready for occupancy, and which is designed as a residence for one family or one family-sized group of persons.

Section 1.10 "**Multifamily Structure**" shall mean and refer to any building containing two or more Completed Living Units under one roof, excluding single family homes of the type known as town houses or row houses and excluding condominium or cooperative units.

Section 1.11 "**Nonresidential Structure**" shall mean and refer to any building or any portion of a building which has a nonresidential use, as defined by local zoning regulations, and which is situated on the Property.

Section 1.12 "**Owner**" shall mean and be limited to individual(s) or entity(ies) specified as grantees in the most recently filed deed in Monroe County Clerk's Office for a **Lot, Single Family Detached Dwelling Unit, Single Family Attached Dwelling Unit, Multifamily Structure or Nonresidential Structure**. Multiple individuals or entities specified as grantees in the most recently filed deed shall be deemed to have a single "Owner" for purposes of being a Member of the Association. Former Sponsor(s) have no vote.

Section 1.13 "**Member**" shall mean and refer to every person or entity that shall be a member of the Association, pursuant to Section 3.1 hereof.

Section 1.14 "**Resident**" shall mean and refer to any person who currently lawfully resides in a Completed Living Unit within the Property and is registered with the Association by the Owner.

Section 1.15 "**Structure**" shall mean and refer to:

- (a) any thing or object (other than trees, shrubbery, hedges, landscaping) the placement of which upon any plot or parcel constituting part of the Property may substantially affect the appearance of such plot or parcel, including by way of illustration and not limitation, any building or part thereof, garage, porch, shed, greenhouse, bathhouse, coop, cage, swimming pool, signboard, living quarters (including any house trailer), or other similar improvement to such plot or parcel; and
- (b) any excavation, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of surface waters from, upon or across any plot or parcel constituting part of the Property, or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel from, upon or across any such plot or parcel.

Section 1.16 "**Common Property**" shall mean and refer to the real property now or hereafter owned or leased by the Association for the common use and enjoyment of the Owners, Members and Residents.

Section 1.17 "**Assessable Property**" shall mean and refer to the whole of the Property (as defined in section 1.12 herein), with the exception of the following which shall be exempted from any assessments created under this Declaration:

- (a) all land and permanent improvements owned by the United States, the State of New York, the County of Monroe, or the Town of Henrietta, New York;
- (b) all Common Property; and
- (c) all land and permanent improvements exempt from real property taxation by virtue of applicable law.

Section 1.18 "**Easement Area**" shall refer to easements reserved for the purposes set forth in Article XI hereof, and shall mean and refer to:

- (a) those areas on each Lot with respect to which easements are shown on a recorded deed or on any filed or recorded map or plat relating thereto; or
- (b) to the extent not inconsistent with other easements shown on such deed, map or plat, a strip of land within the Lot lines ten (10) feet in width in the front and rear of the Lot and five (5) feet in width on each side of the Lot, each said distance being measured in each case from the Lot line toward the center of the Lot, provided, however, that there shall be specifically excluded from said strips of land subject to easements hereunder any area of land on which there is standing a Structure.

Section 1.19 "**Noncompliance**" shall mean the failure of an Owner or Resident to comply in full with any of the terms or conditions contained in this Declaration, the By-Laws or any other relevant law, ordinance or regulation in the State of New York for a period of in excess of thirty (30) days, following notice thereof from the Association, Board or their successors, heirs and/or assigns.

Section 1.20 "**Notice**" shall mean written notice from the Association or Board to any Owner, Member or Resident concerning any Non-compliance or any other matter relating to this Declaration or the By-Laws.

- (a) Notices herein may be sent by email, United States Postal Service First Class Mail, facsimile or overnight delivery at the address submitted in writing to with the Secretary of the Board for such Notice.
- (b) Should any Owner, Member or Resident own or occupy more than one unit at the Property, then notice shall be effective if sent to all such units owned or occupied by such Owner, Member or Resident located upon the Property.
- (c) Notice shall be deemed effective upon the date of transmittal or deposited to the custody of the United States Postal Service or overnight delivery service.
- (d) Notice shall be deemed effective upon any Resident of a Completed Living Unit in a Multi-Family Structure if said Notice is affected on the Owner or Member of the Resident's Completed Living Unit.
- (e) In the event that any Owner, Member or Resident fails to submit, in writing, a current, valid email or address for Notice concerning any Non-compliance or any other matter relating to this Declaration or the By-Laws with the Secretary of the Board, such Owner, Member or Resident shall be deemed to have constructive notice of any Notices sent by the Association or Board at their last known email or address.

Section 1.21 "**Restrictions**" shall mean and refer to all covenants, conditions, restrictions, easements, charges, liens and other obligations created or imposed by this Declaration.

Section 1.22 "**Secretary**" shall mean and refer to the Secretary of Housing and Urban Development acting through the New Community Development Corporation or other authorized representative.

Section 1.23 "Architectural Review Board" and "ARB" shall mean and refer to the board, if any, established and authorized pursuant to Article V of these Covenants.

Article II. POWERS OF THE ASSOCIATION

Section 2.01 APPROVAL OF ALL PROPERTY ACQUIRED, TRANSFERRED OR DEVELOPED.

- (a) The Board shall first approve any and all Property prior to such Property being acquired by purchase, gift, or otherwise by the Association, including, but not limited to Common Property as set forth more fully below.
- (b) The Board shall also approve any and all development of any undeveloped Property by any Owner or Member, through the Architectural Review Board as set forth in Article V herein.
- (c) The Board may impose any reasonable restriction, condition or other regulation upon any Property coming under Association ownership as a condition of its acquisition, holding or disposal by the Association.
- (d) The Board may also regulate the construction, renovation and demolition of any Structure or other improvement located upon the Property or upon the individual Lot of any Owner, Member or Resident.

Section 2.02 COMMON PROPERTY

- (a) The Association shall have the power to receive and hold property as Common Property on behalf of the Members and to levy user charges as to all or a part thereof, in addition to the Assessments set forth herein.
- (b) Every Owner by reason of such ownership shall have the right to use and enjoy the Common Property, which right shall be appurtenant to and shall pass with each Lot upon transfer. Every Resident shall have the right to use and enjoy the Common Property until he shall cease to be a Resident of Association. The Association may permit non-Owners and non-Residents to use and enjoy part or all of the Common Property subject to such limitations, and upon such terms and conditions, as it may from time to time establish consistent with the rules and regulations of any Federal, State or municipal body having jurisdiction thereof.
- (c) c. **SPONSORSHIP.** The Association shall be authorized to act in all respects as the sponsor of further development of the Property, including the filing from time to time of documents required of such sponsor in connection with an Offering Plan filed with the Office of the Attorney General of the State of New York.

Section 2.03 **POWERS OF THE BOARD.** In addition to the powers, rights and privileges conferred in Section 2.01 and 2.02 the Board shall also have the following powers, rights and privileges:

- (a) Borrow money for the purpose of carrying out the activities of the Association, including the improvement of Common Property, and in aid of such improvement to mortgage the same; provided, however, that any such mortgage shall be approved by two-thirds (2/3) vote of the Members present, in person or by proxy, at a duly called meeting of the Members.
- (b) Dedicate or transfer all or any part of the Common Property to any municipality or other governmental body, agency or authority, for such purposes and subject to such conditions as may be agreed upon by the Board and such grantee, and to transfer to private persons

any unimproved land immediately adjacent to pathways under terms which permit continued use of the pathways by the Members and for such consideration as the Board may deem appropriate. Any such dedication or transfer shall be subject to the approval of a two-thirds (2/3) vote of the Members present, in person or by proxy, at a duly called meeting of the members; no such dedication or transfer shall be made in violation of any deed restrictions affecting the Common Property so dedicated or transferred; and no dedication or transfer shall be made without the written consent of the transferee.

- (c) Promulgate rules and regulations relating to the development, operation and maintenance of the Common Property. .
- (d) Grant easements or rights-of-ways covering Common Property to any municipality or other governmental body, agency or authority, or to any quasi-public agency or to any utility corporation.
- (e) Charge and collect fees commensurate with the costs of the facilities and services, receive grants, subsidies and gifts, and seek and exercise proxies.
- (f) To regulate the construction, renovation or demolition of any Structure or other improvement located upon the Property or any individual Lot of any Owner, Member or Resident.
- (g) Regulate the development of any Property by any Owner or Member through the Architectural Review Board as set forth in Article V herein.
- (h) Impose any fine upon any Member, Owner or Resident for Non-Compliance, in any amount authorized in this Second Amended Declaration, the By-Laws, or any other document governing the Association.
- (i) Promulgate rules with respect to the discharge of its powers and duties including the power to expand or reduce the powers of the Board to act for and on behalf of the Association.

Section 2.04 **RESIDUAL POWERS.** In furtherance of, and not in limitation of, any of the foregoing rights and privileges, the Board and the Association shall continue to have all of the powers of a corporation organized under the Not-For-Profit Corporation Law of the State of New York, and may do each and everything necessary, suitable, convenient or proper for, or in connection with, or incidental to, the accomplishment of any one or more of the purposes of the Association as set forth in its Certificate of Incorporation.

Article III. MEMBERSHIP AND VOTING RIGHTS

Section 3.01 The following shall be Members and shall constitute the entire membership of the Association:

Section 3.02 **CLASS A MEMBERS - Single Family Detached Dwelling Unit.**

- (a) Each Owner of a **Single Family Detached Dwelling Unit** expressly excluding owners of Single Family Attached Dwelling Units, Multifamily Structures and Nonresidential Structures and non-Owner Residents, shall be entitled to be a Class A Member and, if registered in accordance with Section 3.07 hereof, shall be entitled to one (2) votes for each **Single Family Detached Dwelling Unit** owned. In the event two or more persons or entities owns a **Single Family Detached Dwelling Unit**, all such persons shall be entitled to a two (2) vote for each **Single Family Detached Dwelling Unit**. The Owners shall determine amongst themselves which owner shall be entitled to vote. In the event more than one (2) vote by the Owners is received for a Class A Member **Completed Living**

Unit, said votes shall not be counted. Regardless of the number of Owners, the Owner that shall be entitled to vote shall be counted as one (1) Member for purposes of a quorum.

- (b) Notwithstanding Section 3.02(a) if the **Single Family Detached Dwelling Unit** is not Owner occupied, the Resident, if registered in accordance with Section 3.07 hereof, of the **Single Family Detached Dwelling Unit** shall be allocated one (1) vote of the two (2) votes allocated to the Owner. In the event two or more Residents occupies a Completed Living Unit in a Multifamily Structure, all such persons shall be entitled to a one (1) vote for each **Single Family Detached Dwelling Unit**. The Residents shall determine amongst themselves which Resident shall be entitled to vote.
- (c) In the event more than 2 votes are received for an individual **Single Family Detached Dwelling Unit**, all said votes shall not be counted.

Section 3.03 CLASS A MEMBERS - Single Family Attached Dwelling Unit.

- (a) Each Owner of a **Single Family Attached Dwelling Unit** expressly excluding owners of Single Family Detached Dwelling Units, Multifamily Structures and Nonresidential Structures and non-Owner Residents, shall be entitled to be a Class A Member and, if registered in accordance with Section 3.07 hereof, shall be entitled to **1.7** votes for each **Single Family Attached Dwelling Unit** owned. In the event two or more persons or entities owns a **Single Family Attached Dwelling Unit**, all such persons shall be entitled to 1.7 votes for each **Single Family Attached Dwelling Unit**. The Owners shall determine amongst themselves which owner shall be entitled to vote. In the event more than 1.7 vote by the Owners is received for a **Single Family Attached Dwelling Unit**, said votes shall not be counted. Regardless of the number of Owners, the Owner that shall be entitled to vote shall be counted as one (1) Member for purposes of a quorum.
- (b) Notwithstanding Section 3.03(a) if the **Single Family Attached Dwelling Unit** is not Owner occupied, the Resident, if registered in accordance with Section 3.07 hereof, of the **Single Family Attached Dwelling Unit** shall be allocated a .85 vote of the 1.7 votes allocated to the Owner. In the event two or more Residents occupies a Completed Living Unit in a Multifamily Structure, all such persons shall be entitled to a .85 vote for each **Single Family Attached Dwelling Unit**. The Residents shall determine amongst themselves which Resident shall be entitled to vote.
- (c) In the event more than 1.7 votes are received for an individual **Single Family Attached Dwelling Unit**, all said votes shall not be counted.

Section 3.04 CLASS B MEMBERS.

- (i) Each Owner of a **Multifamily Structure** shall be entitled to be a Class B Member and, if registered in accordance with Section 3.07 hereof, shall be entitled to one (1) vote, plus an additional vote for every **125** Completed Living Units contained in Multifamily Structures owned by said Owner. In the event two or more persons or entities owns a Multifamily Structure, all such persons shall be entitled to a vote as one (1) Class B Member for each Multifamily Structure. The Owners shall determine amongst themselves which Owner shall be entitled to vote. In the event more than one (1) Owner votes by as a Class B Member for any Multifamily Structure, said all votes shall be void and not counted. Regardless of the number of Owners, the Owner that shall be entitled to vote shall be counted as one (1) Member for purposes of a quorum.
- (ii) A Resident of a Completed Living Unit in a Multifamily Structure shall be entitled to be a Class B Member and, if registered in accordance with Section 3.07 hereof, shall be

entitled to a .4 vote. In the event two or more Residents occupies a Completed Living Unit in a Multifamily Structure, all such persons shall be entitled to a single .4 vote for each **Completed Living Unit in a Multifamily Structure**. The Residents shall determine amongst themselves which Resident shall be entitled to vote. In the event more than one .4 vote by Residents are received for a **Completed Living Unit in a Multifamily Structure**, all said votes shall not be counted. Regardless of the number of Residents of a **Completed Living Unit in a Multifamily Structure**, the Resident that shall be entitled to vote shall be counted as one (1) Member for purposes of a quorum. For purposes of establishing a quorum of Members at any annual or special meeting of the Members, Each Class B Member entitled to vote shall count as one (1) Member.

- (iii) Each Owner of a Nonresidential Structure, except for the Owner of any building or part thereof, garage, porch, shed, greenhouse, bathhouse, coop, cage, swimming pool, signboard, living quarters (including any house trailer), or other similar improvement to a Lot, plot or parcel shall be entitled to be a Class B Member and, if registered in accordance with Section 3.07 hereof, shall be entitled to one (1) vote, plus an additional vote for each full **3,500** square feet contained in Nonresidential Structures owned by said Owner. In the event two or more persons or entities owns a Nonresidential Structure, all such persons shall be entitled to a vote as one (1) Class B Member. The Owners shall determine amongst themselves which owner shall be entitled to vote. In the event more than one (1) Owner votes by as a Class B Member for any Nonresidential Structure, all said votes shall be void and not counted. Regardless of the number of Owners, the Owner that shall be entitled to vote shall be counted as one (1) Member for purposes of a quorum.
- (iv) Each Owner of a vacant Lot shall be entitled to be a Class B Member and, if registered in accordance with Section 3.07 hereof, shall be entitled to a .1 vote. In the event two or more persons or entities owns a vacant Lot, all such persons shall be entitled to a vote as one (1) Class B Member. The Owners shall determine amongst themselves which owner shall be entitled to vote. In the event more than .1 votes by a Class B Member for any individual vacant Lot, all said votes shall be void and not counted. Regardless of the number of Owners, the Owner that shall be entitled to vote shall be counted as one (1) Member for purposes of a quorum.

Section 3.05 The presence, in person or by proxy; of one hundred (100) Members who are registered in accordance with the Declaration, or one-tenth (1/10) of the total Members who are registered in accordance with the Declaration, shall be required in order to constitute a quorum for the transaction of business at any meeting of the Members. Once a quorum is established, it shall not terminate due to any Members leaving the Meeting. Any meeting, at which a quorum is obtained, may be adjourned from time to time as determined by a vote at such meeting. In the absence of a quorum at any meeting of the Members, the Members present may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented, at which time any business may be transacted which might have been transacted at the meeting as originally called.

Section 3.06 PROXIES. Each Member entitled to vote at a meeting of the Members may vote in person or by proxy. A proxy shall be in writing, designate the name, address, telephone number and email of the individual authorized to exercise the Member's proxy, the specific meeting of the Members which it applies and said Member's signature must be notarized, dated and filed with the Secretary of the Association. However, such individual designated by a Class A member shall be

a Resident of the Association as set forth in the Declaration. Further, such individual designated by a Class B member shall be a Resident of the Association as set forth in the Declaration or a director or officer of a Class B member if such Class B member is not an individual. A proxy shall be only be valid for which specific meeting for which the proxy has been submitted to the Secretary. Every proxy shall be revocable at the pleasure of the Member executing the same, except as otherwise provided by law.

Section 3.07 MEETING BY CONFERENCE TELEPHONE OR OTHER DEVICES. Any one or more Class A or Class B Members, or any committee thereof, may participate in a meeting of the Members by means of a conference telephone or other communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means will constitute presence in person at a meeting for purposes of a quorum and voting. Proxy votes shall not be allowed except in person at a meeting.

Section 3.08 Qualification to vote shall require registration as an Owner on the official register of voting members maintained by the Board or its representatives.

- (a) Any individual or entity entitled to be a Class A or Class B Member may become a registered Member upon submission of proof satisfactory in form and content to the Board as to status as a Member. Only registered Members of the Association may vote at regular or special meetings of the Members of the Association.
- (b) To prove membership status, the Owner shall provide a copy most recently filed deed in Monroe County Clerk's Office establishing ownership or a copy of a current written lease specifically listing the individual as a Resident of for purposes of registering as a Class A or Class B Member. Copies of the most recently filed deed may be obtained without cost from the Monroe County Clerk's website.
 - (i) The register shall remain open for new registrations at such times during reasonable business hours as the Board may direct. Owners may also register at any annual or special meeting of the Members.
- (c) Members who have registered prior to the effective date of this Third Amended Declaration need not re-register.

Section 3.09 The Board may suspend the voting rights and rights of enjoyment in the Association of any Member who:

- (a) Shall be determined by the Board to be in Noncompliance for more than thirty (30) days following Notice, thereof; or
- (b) Shall be more than thirty (30) days past due in the payment of any assessment, administrative charge or fine levied by the Association or Board pursuant to the provisions of this Declaration.
- (c) Such suspension shall be for the balance of the period in which the Member remains in Noncompliance, as aforesaid, as determined by the Association in its reasonable judgment, unless sooner terminated by the Board.

Section 3.10 No Individual or Entity shall continue to be a Member after he/she/it ceases to an Owner entitled to be a Member for any Lot, Single Family Detached Dwelling Unit, Single Family Attached Dwelling Unit, Multifamily Structure or Nonresidential Structure.

Section 3.11 There shall be no distinction or difference between a vote or votes of a Class A or Class B Member on any issue that is subject to a vote of the Members of the Association except

for the election of the Class A and Class B directors.

Section 3.12 There shall be no distinction or difference between the presence or proxy of a Class A or Class B Member for purposes of establishing a quorum for any meeting of the Members except for the election of the Class A and Class B directors.

Article IV. DIRECTORS.

Section 4.01 The Board shall be divided into two (2) classes, designated as "Class A" and "Class B" Directors. The Class A Members shall elect Class A Directors and the Class B Members shall elect the Class B Directors.

Section 4.02 A person shall be required to be an Owner or Resident of the Association in order to be a Director.

Section 4.03 There shall be six Class A Directors and one Class B Director

Section 4.04 Each Director, who shall serve three -year terms. Two Class A Directors shall be elected each year and the one Class B Director shall be elected every three years. Each Director shall serve until a successor is elected or appointed and qualifies, unless his directorship shall be vacated by resignation, death or removal. Six Class A Directors shall be elected pursuant to subsection (d) of this Section 3.3 and shall be divided by lot into three groups of two Directors each. The first group shall. serve one-year terms; the second group shall serve two year terms, and the third group shall serve three-year terms. Thereafter, all Directors shall serve three-year terms.

Section 4.05 Nominations for the election of Class A Directors shall be made by a nominating committee appointed by the Six Class A Directors from among Members entitled to vote for Class A Directors. Class A Directors shall be eligible to serve on such nominating committee. The nominating committee for Class B Directors shall be the Board until such time as a Class B Director is elected, at which time the incumbent Class B Director shall be the nominating committee for that Class. In addition to the nominating committee,. nominations for a Class A Director may also be made · by written petition of ten or more Class A Members and nominations for the Class B Director may be made by written petition of two or more Class B Members, provided that the nominating petitions are filed with the Board at least seven (7) days prior to the annual meeting of the Members. Nominations may not be made from the floor at the annual meeting.

Section 4.06 A majority of the number of Directors shall constitute a quorum for the transaction of business at each meeting of the. Board. In the absence of a quorum, a majority of Directors present at any meeting: of the Board shall have the power to adjourn such meeting from time to time, without notice other than an announcement at such meeting. At such adjourned meeting, if a quorum shall be present, any business may be transacted which might have been transacted at the meeting of the Board as originally called. A majority of votes cast shall be sufficient to take any action except as otherwise provided by statute or By-Laws. Once a quorum has been established, a quorum shall not be terminated due to one or more Directors leaving the Meeting.

Section 4.07 Directors shall be elected by a simple majority of greater than fifty percent (50%) of all votes cast by secret written ballot, with the form fixed and determined by the Board. In the event there is no contest, those nominated shall be deemed elected upon certification thereof by the Secretary of the Association.

Section 4.08 Directors may be removed from office by the Board at any time with or without cause. Directors may also be removed from office at any time by a vote of the Class of Members that they represent, in the same manner and by the same majority required for election.

Section 4.09 A vacancy of a Class A Director shall be filled by a majority vote of the Class A Directors then in office and a Director so chosen shall serve until the next annual meeting of Members, when a Director shall be elected to serve any remaining balance of the term of the departing Class A Director. A vacancy of the Class B Director shall be filled by a special election of the Class B Members. The Board shall call such election for a date not later than 60 days after the occurrence of the vacancy. The Class B Director so elected shall serve the balance of the term of the departing Class B Director.

Section 4.10 The procedures for the election of Directors of the Association and the resolution of such other issues as may be brought before the membership of the Association shall be governed by the Not-For-Profit Corporation Law of the State of New York, the Certificate of Incorporation of the Association and the By-Laws of the Association, and by this Declaration as each shall from time to time be in force and effect.

Section 4.11 There shall be no distinction or difference between a vote or votes of a Class A or Class B Director on any issue that is subject to a vote of the Directors

Section 4.12 There shall be no distinction or difference between the presence or proxy of a Class A or Class B Director for purposes of establishing a quorum for any meeting of the Directors

Section 4.13 MEETING BY CONFERENCE TELEPHONE OR OTHER DEVICES. Any Director may participate in a meeting of the Board by means of a conference telephone or other communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means will constitute presence in person at a meeting for purposes of a quorum and voting. Proxy votes shall not be allowed except in person at a meeting.

Article V. ARCHITECTURAL REVIEW BOARD

Section 5.01 The Board shall have such powers concerning review and approval of plans and specifications and enforcement of this Declaration as are set forth herein; the Board may choose to delegate any of its powers specified in Articles V through XII hereof to the Architectural Review Board ("ARB").

Section 5.02 COMPOSITION, APPOINTMENT, REMOVAL.

- (a) The Board may establish and appoint an Architectural Review Board ("ARB") consisting of five (5) Members, who shall serve for two (2) year terms.
- (b) The Board shall fill vacancies within thirty (30) days after their occurrence and in the event that the Board shall fail to fill such vacancy within thirty (30) days, the ARB shall appoint a new member to fill such vacancy who shall continue to serve, subject to the approval of the Board. When a vacancy occurs, the remaining members of the ARB shall continue to act on matters pending before it.

Section 5.03 REVIEW PROCESS.

- (a) No development of any Property shall occur without the approval of the ARB.
- (b) No Structure or Dwelling unit shall be erected, placed, moved on to or permitted to remain on any Lot, nor shall any existing Structure upon any Lot be altered in any way which

substantially changes the exterior appearance thereof, unless plans and specifications therefor shall have been submitted to the Board and approved as provided for herein.

Section 5.04 SUBMISSION OF PLANS & SPECIFICATIONS.

- (a) No development of any Property shall take place, nor shall any new Structure be erected, placed, moved onto or permitted to remain on any Lot, nor shall any existing Structure upon any Lot be altered in any way which materially changes the exterior appearance thereof, nor shall any Lot or Structure be used for a purpose other than that for which it was originally designed or designated, unless plans and specifications (including a description of any proposed new use) therefore shall have been submitted to and approved in writing by the ARB.
- (b) Such plans and specifications shall be in such form and shall contain such information as may be required by the ARB, and shall include: a. a grading plan for the particular Lot; and b. a site plan of the Lot together with landscaping plans and plans showing the location, nature, kind, shape, height, materials and exterior colors of all Structures with respect to the particular Lot and with reference to all Structures on adjoining Lots, and the number and location of all parking spaces and driveways on the Lot.
- (c) Upon approval by the ARB of any plans and specifications submitted hereunder, a copy of such plans and specifications, as approved, shall be deposited for permanent record with the ARB and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same. Approval for use in connection with any Lot of any plans or specifications shall not be deemed a waiver of the ARB's right, in its discretion, to disapprove similar plans and specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use in connection with any other Lot or Lots. The ARB shall give Notice to the Board of such approval within ten (10) days thereafter. The Board shall then have the independent right to approve, disapprove or modify such plans or specifications, provided the Board takes such action within twenty (20) days following approval of the ARB. The failure of the Board to act within twenty (20) days following approval by the ARB after receipt of Notice thereof shall be deemed an approval of the ARB action. Approval of any such plans and specifications relating to any Lot, however, shall be final as to that Lot and such approval may not be revoked or rescinded thereafter, provided that there has been adherence to, and compliance with, such plans and specifications, as approved, and any condition attached to any such approval.

Section 5.05 The ARB shall have the right to disapprove any plans and specifications submitted hereunder because of any of the following:

- (a) the failure of such plans or specifications to comply with any of the Restrictions contained herein;
- (b) The failure to include information in such plans and specifications as may have been reasonably requested;
- (c) The objection to the location of any proposed Structure upon any Lot or with reference to other Lots in the vicinity;
- (d) The objection to the exterior design, appearance, proportions, materials or color scheme of any proposed Structure;
- (e) The incompatibility of any proposed Structure or use with existing Structures or uses upon

other Lots in the vicinity;

- (f) The objection to the grading plan for any Lot;
- (g) The objection to parking areas proposed for any Lot; or
- (h) Any other matter which, in the judgment of the ARB, would render the proposed Structure, Structures or uses not in harmony with the general plan of improvement of the area as determined by the Board or with Structures or uses located upon other Lots in the vicinity.

Section 5.06 In any case in which the ARB shall disapprove any plans or specifications submitted to it, or shall disapprove the same pending specified modifications or conditions, such disapproval or conditional disapproval shall be explained in writing by a statement of the grounds upon which such action was based. In any such case, the ARB shall, if requested, make reasonable efforts to assist and advise the applicant in submitting an acceptable proposal.

Section 5.07 The Board and the ARB may charge and collect a reasonable fee, which shall not exceed the cost of examination of any plans and specifications submitted pursuant to this Article, payable at the time such plans and specifications are submitted.

Section 5.08 MEETING BY CONFERENCE TELEPHONE OR OTHER DEVICES. The ARB may participate in a meeting by means of a conference telephone or other communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means will constitute presence in person at a meeting for purposes of a quorum and voting. Proxy votes shall not be allowed except in person at a meeting.

Section 5.09 The ARB shall exercise such powers set forth in this Article as are delegated to it by the Board. The ARB shall keep minutes for each of its meetings or written documentation regarding any decision, which shall record all votes and which shall be available for inspection by Members of the Association, applicants who submit plans and specifications and such others as the Board may designate. Such minutes shall be available for review by the Board in the event of appeal as hereinafter set forth. The Board shall have final power to adopt, ratify, reject or modify any decision of the ARB, provided the Board takes such action within twenty (20) days after Notice of ARB action.

Section 5.10 An applicant whose proposal is rejected by the ARB or who is otherwise dissatisfied by an ARB decision may, within ten (10) days of the date of the ARB decision, file a written notice of appeal to the Board, stating with reasonable specificity the basis for such appeal. The Board shall hear the appeal within twenty (20) days of the filing of the notice of appeal, and the applicant shall produce all such evidence as he shall require in addition to evidence, including plans and specifications, submitted to the ARB. The Board will deliver its decision in writing within ten (10) days following the date of hearing of the appeal.

Section 5.11 Upon completion of the construction or alteration of any Structure or Dwelling unit in accordance with plans and specifications previously approved by the ARB, the ARB shall, upon the written request of the Owner, Member or Resident issue a Certificate of Compliance. Any such Certificate of Compliance shall be prima facie evidence of compliance with this Article V as to any purchaser, mortgagee, or other holder of an interest who purchases in good faith and for value, or as to any title insurer. Such certificate of compliance shall be conclusive evidence that all Structures on the Lot, and the use or uses described therein, comply with all the requirements of this Declaration as to which the ARB or Board exercised any discretionary or interpretive powers.

Section 5.12 Any agent of the ARB, the Board or the Association, at any reasonable time or

times, upon reasonable notice to and with the consent of any Owner, Member or Resident, may enter upon any Lot owned or occupied by such Owner, Member or Resident for the purpose of ascertaining whether the maintenance of such Lot or the construction, alteration or exterior maintenance of any Structure thereon is in compliance with the provisions hereof.

Section 5.13 No member of the Board or the ARB may vote in any decision with respect to approval of plans and specifications on a matter in which he has a financial interest (other than in his capacity as a Member), or on a matter in which he has personally provided professional or consultative services.

Section 5.14 The Board and the ARB shall not discriminate or take any action the intent or effect of which is to discriminate against any person because of such person's race, color, sex, religion or national origin.

Section 5.15 If any new development is undertaken by any Owner, Member or Resident or any Structure is altered, erected, placed or maintained upon any Lot, or any new use commenced upon any Lot, other than in accordance with the plans and specifications previously approved by the ARB pursuant to the provisions of this Article V, such development, alteration, erection, maintenance or use shall be deemed to be in Noncompliance with this Article V and without the required approval of the ARB and the Board. If, in the opinion of the ARB, such Noncompliance shall have occurred, the ARB shall notify the Board. If the Board shall agree with the determination of the ARB *with* respect to such Noncompliance, then upon Notice from the Board, any such development or such Structure so altered, erected, placed or maintained upon any Lot *in* Noncompliance *with* this Article shall be removed or re-altered, and any such use shall be terminated, so as to extinguish such Noncompliance. If the Owner, Member or Resident of the Lot upon which such Noncompliance exists shall not have taken reasonable steps towards eliminating such Noncompliance within twenty (20) days following Notice, then the ARB or the Board shall have the Right of Enforcement as provided in Article XIII.

Section 5.16 SITE DESIGN AND LAYOUT

This Section set forth minimum standards or guidelines to be applied by the Board or the ARB, where such authority has been duly delegated, in approving site design and layout, lot and house design, landscaping and recreational facilities. It is specifically the duty of the Board, or the ARB, where such duty has been delegated by the Board, to consider the design, layout and condition of open space which is to be maintained by the developer during development of a phase or which is to be conveyed to the Association in conjunction with the completion of the development of lots by a developer in conjunction with site design and layout.

- (a) 60 feet minimum width for single-family detached home lots.
- (b) 6,000 square feet minimum for single-family detached lots.
- (c) Street lighting on all streets - same style, spacing, specifications as existing.
- (d) Cluster mailboxes on concrete pads located near streetlights - must be accessible to the handicapped.
- (e) Bikeway, with lighting, must be provided for in all parcels, with adequate connection to the street between adjacent parcels, as necessary. Bike-path similar to all other Riverton parcels (not less than 5 feet wide, blacktop, lighting similar to existing bike-path lighting, shade trees, and benches, on a 15-foot wide right-of-way through recreational and/or green areas). *Note: Bike-path connections to streets, when routed between adjacent lots, may have less than a 15-foot right-of-way.*

- (f) Bikeway "connectors" must connect each street to the bikeway system.
- (g) Street layouts are required to limit through streets to the minimum number reasonably necessary and to provide maximum access to recreational areas, green areas, and bikeways.
- (h) Screen plantings and/or berms between house lots and commercial property and/or utilities.
- (i) Screen plantings and/or berms between house lots and Erie Station/East River Road/Scottsville West Henrietta Roads.
- (j) One recreational facility per 50 lots or portion thereof (minimum) - type to be approved by the Board. Refer to Recreational Facilities Section for design criteria requirements.
- (k) Street trees on all streets - type to be approved by the Board, or ARB, where applicable, for each section.
- (l) No residential drives exiting onto Erie Station Road, East River, or Scottsville West Henrietta Rd.
- (m) 1.12 Sidewalks on one side of all connecting streets.
- (n) 1.13 Drainage systems, which do not use open ditches.
- (o) 1.14 Mature trees left on site must be approved by the Board, or ARB, where applicable.
- (p) 1.15 All berms mowable with ride-on mowing equipment.
- (q) 1.16 All new utilities underground.

Section 5.17 Open Space Land Use Plan - Any developer, individual or other entity, in addition to submitting to the ARB its development plans for construction, must also submit a land use plan for open space ("Open Space Land Use Plan"). Such Open Space Land Use Plan shall be submitted at the same time any development plans are submitted to the ARB, and shall be clearly marked as the Open Space Land Use Plan. The Open Space Land Use Plan is subject to the following requirements.

- (a) The amount of open space for the proposed development shall be clearly marked.
 - (i) The location, size, width, and surface of any bike paths or similar paved accessways throughout the open space areas must be shown.
 - (ii) Specific and detailed plans shall be provided for in the Open Space Land Use Plan, which shall include, but not be limited to, grading, draining, clearing and seeding the entire open space area. The developer shall also include a schedule of the projected dates on when such activities shall take place. The ARB shall have the right, as part of its approval authority of the Open Space Land Plan, to require additional work to be performed in the open spaces or to vary the schedule and timeline within which such work shall be performed.
 - (iii) The ARB shall be the board charged with the responsibility of reviewing and approving the Open Space Land Use Plan.
 - (iv) No development work of any kind shall begin until the Open Space Land Use Plan has been approved by the ARB.
 - (v) After the Open Space Land Use Plan is approved by the ARB, the ARB, and/or the Board shall ensure a developer's compliance with the work and schedule of work proposed. In the event that the ARB finds a developer to be in noncompliance with the Open Space Land Use Plan, which was approved by the ARB, the ARB shall provide notice of such noncompliance to the Board. The Board, or the ARB, shall thereafter have the authority to take any corrective action necessary, including the power to impose fines and to order

the developer to stop-work and cease any other development or construction activities, including the construction of any residential or commercial structures on any lots located in the Property, as defined in the Declaration. The Board and/or the ARB have the discretion to take any or all enforcement measures at its disposal. Failure by the Board or ARB to take any enforcement measure shall not be deemed to waive the Board's right to seek the same or other enforcement measure hereafter, if the developer remains in violation of the terms of any approval to develop. In the event that the Board, or the ARB, shall levy fines, such fines shall be levied daily, at a rate to be determined by the Board, or the ARB, and shall continue until such time as the developer has complied with the Open Space Land

Section 5.18 Use Plan. If the Board or ARB shall order the discontinuance of other work by the developer, such discontinuance shall remain in effect until such time as the developer has complied with the requirements of the Open Space Land Use Plan. In addition to other remedies it may have, the Board, to protect the Association members, may seek injunctive relief from the Supreme Court of the State of New York in Monroe County. In any such action for injunction, the Board and or the Association shall be relieved of any obligation, otherwise required by the laws of the State of New York, to post a bond or undertaking.

Section 5.19 Nothing herein is intended to supersede the Board's final power to adopt, ratify, reject or modify any decision of the ARB, as specifically provided for in Article 5.08 of the Declaration.

Section 5.20 LOT AND HOUSE DESIGN

- (a) 60 feet minimum width for Single Family Detached Dwelling Units.
- (b) 6,000 square feet minimum for Single Family Detached Dwelling Units.
- (c) Two car garages with 4-car parking in driveway is the minimum requirement for all single-family detached lots. One car garage with 2-car parking in each driveway and overflow parking for a minimum of one car is the minimum requirement for all **Single Family Detached Dwelling Units**.
- (d) Minimum of two trees per single-family lot, one of which may serve as a street tree.
- (e) Blacktop driveways (binder and finish coat) on all lots within one year.
- (f) Full basement in all single-family homes.
- (g) Street trees on all streets - type to be approved by the Board, or ARB, where applicable, for each section.
- (h) No residential drives exiting onto Erie Station Road, East River Road, or Scottsville West Henrietta Road.
- (i) Sidewalks on one side of all connecting streets.

Section 5.21 LANDSCAPING

- (a) Minimum of two trees per single-family lot, one of which may serve as a street tree.
- (b) Screen plantings and/or berms between house lots and commercial property and/or utilities.
- (c) Screen plantings and/or berms between house lots and Erie Station/East River Road/Scottsville West Henrietta Roads.
- (d) Street trees on all streets - type to be approved by Board, or ARB, where applicable, for each section.

- (e) Mature trees left on site must be approved by the Board, or ARB, where applicable.
- (f) All berms mowable with ride-on mowing equipment.
- (g) All lots, open spaces and recreational areas must be properly graded and seeded in accordance with an approved Open Space Land Use Plan, as provided in Section 5.16

Section 5.22 BIKEWAY AND RECREATIONAL FACILITIES

- (a) Bikeway, with lighting, must be provided for in all parcels, with adequate connection to the street between adjacent parcels, as necessary. Bike-path similar to all other Riverton parcels (not less than 5 feet wide, blacktop, lighting similar to existing bike-path lighting, shade trees, and benches, on a 15-foot wide right-of-way through recreational and/or green areas). *Note: Bike-path connections to streets, when routed between adjacent lots, may have less than a 15ft right-of-way.*
- (b) Bikeway "connectors" must connect each street to the bikeway system.
- (c) One recreational facility per 50 lots or portion thereof (minimum) - type to be approved by the Board.

Article VI. ASSESSMENTS

Section 6.01 COVENANT. Each Owner for himself, his distributees, legal representatives, successors and assigns, by acceptance of a deed or other conveyance of a Lot or other portion of the Assessable Property, whether or not the Restrictions contained herein shall be expressed in any such deed or other conveyance, and whether such acceptance occurred while such Lot was subject to the Original Declaration, the Amended and Restated Declaration or occurs while such Lot is subject to this Declaration, each hereby covenants and agrees by such acceptance that he will pay to the Association the assessments which may or shall be levied by the Association against each Lot owned by him. Each Owner covenants and agrees that he shall be personally liable for all such assessments which become due while he is the Owner of each Lot being assessed and that such assessment shall be a continuing charge and lien upon each Lot against which an assessment is made.

Section 6.02 PURPOSE AND LIMITATIONS OF ASSESSMENTS. The assessments levied by the Association shall be used exclusively for the purposes of promoting the recreation, health, safety, education, cultural enrichment and welfare of the Members, including but not limited to the improvement and maintenance of the Common Property, the enforcement of the Restrictions contained in this Declaration, the costs and expenses of the operation of the Association and the operation of programs and provision of services related to such purposes.

Section 6.03 ADJUSTED UNIT FACTOR FOR ASSESSMENTS

- (a) A **Single Family Detached Dwelling Unit** shall be equal to 1 single unit for the purposes of determining the annual assessment amount.
- (b) **"Single Family Attached Dwelling Unit"** shall be equal to .85 of single unit for the purposes of determining the annual assessment amount.
- (c) **Completed Living Unit** within a **Multifamily Structure** shall be equal to .40 of a single unit for the purposes of determining the annual assessment amount.
- (d) Any **Lots** upon which there is no Completed Living Unit, Multifamily Structure, or Non-Residential Structure shall be equal to .10 of a single unit for the purposes of determining the annual assessment amount.

Section 6.04 ANNUAL ASSESSMENTS APPLICABLE TO CLASSES OF COMPLETED LIVIN UNITES AND VACANT LAND

- (a) The Board shall levy an Annual Assessment at the start of each of its fiscal years commencing on or before July 1st of each year, or as soon thereafter as practicable. The Board shall send a Notice of written bill to each Owner, Member or Resident stating: the amount of the Annual Assessment imposed against each Lot owned by the Owner, the method used to determine the same; the time period for payment thereof, and the administrative and/or service charges to be charged for late payments thereof.
- (b) Each Annual Assessment shall be due and payable on or before August 31st in the year in which the same is levied and billed.
 - (i) Each Single Family Detached Dwelling Unit shall be assesses as follows:
 - 1) The forth coming fiscal year's projected budget, less the total amount of the projected commercial assessments, as approved by the Treasurer pursuant to a report of the Audit and Compliance Committee as established in the By-Laws shall be divided by the number of adjusted single units and approved by a majority vote of the Directors; plus
 - 2) An additional percentage, not to exceed 10%, to the calculations determined in section 6.04(b)(i)(1) and approved by a majority vote of the Directors; plus
 - 3) An amount as approved by the Treasurer pursuant to a report of Audit and Compliance Committee as established in the By-Laws for the Association capital reserve account and approved by a majority vote of the Directors.
 - (ii) Each Single Family Attached Dwelling Unit shall be assessed at a rate equal to 85% of the Single Family Detached Dwelling Unit calculated in accordance with 6.04(b)(i).
 - (iii) Each Completed Living Unit in a Multifamily Structure shall be assessed at a rate equal to 40% of the assessment rate of a Single Family Detached Dwelling Unit calculated in accordance with 6.04(b)(i). and
 - (iv) Any lots upon which there is no Completed Living Unit, Multifamily Structure, or Non-Residential Structure shall be assessed at a rate equal to 10% of the assessment rate of a Single Family Detached Dwelling Unit calculated in accordance with 6.04(b)(i).
- (c) A majority vote of the Directors may include a special annual assessment that may be levied against any property by an amount not to exceed 10% of the maximum assessment calculated for the forthcoming fiscal year.

Section 6.05 ANNUAL ASSESSMENTS APPLICABLE TO NON-RESIDENTIAL STRUCTURES

- (a) Non-Residential Structures shall be assessed at the rate of \$113.35 for each 1000 sq. ft. or portion thereof of Structure contained in such Non-Residential Structure; plus
- (b) An additional assessment, not to exceed 10%, to the amount determined in section 6.05(a) may approved by a majority vote of the Directors;
- (c) The rate set forth in section 6.05(a) and 6.05(b) for the forth coming fiscal year shall then be the rate set forth in 6.05(a) for the next fiscal year following the immediate forthcoming fiscal year.

Section 6.06 SPECIAL ASSESSMENTS.

- (a) In addition to the Annual Assessments authorized in this Article, the Board may levy Special Assessments. Any Special Assessment levied shall be charged against the

Assessable Property in the same ratio as the Annual Assessment. The levy of any such Special Assessment shall be subject to approval by a vote of two-thirds (2/3) of the votes of a quorum of the Members at a Special Meeting of the Members called for that purpose in accordance with the By-Laws of the Association.

- (b) Notice of bill for a Special Assessment, if so approved, shall be sent to each Owner after the Special Meeting approving the same and such Special Assessment shall be due and payable thirty (30) days after the mailing of such bill.

Section 6.07 LATE PAYMENTS.

- (a) Should any Owner, Member or Resident fail to pay in full any assessment or portion thereof such Owner, Member or Resident shall be assessed an administrative charge of not less than ten dollars (\$10.00) per month.
- (b) Failure to make such payment on or before August 31st in the year in which the same is levied and billed shall also render such Owner subject to a one and one-half percent (1.5%) per month service charge for each month or any portion thereof that said assessment or portion thereof remains unpaid after August 31. Such unpaid amount, together with administrative charges, service charges, court costs, lien filing fees and reasonable attorney's fees actually incurred to collect such unpaid sums, shall become a binding personal obligation of such Owner, Member or Resident, as well as a lien on such Owner enforceable pursuant to the provisions of Article XIII hereof.
- (c) By acceptance of a deed, lease or other conveyance or interest in and to any Lot or other portion of the Assessable Property, prior to or subsequent to the effective date hereof as set forth in 14.1 below, each Owner or Resident, hereby agrees to such personal liability.
- (d) The Board may from time to time change the administrative and service charges, which shall be charged for payment received after the due date of any assessment or any portion thereof.

Section 6.08 CERTIFICATE OF PAYMENT.

- (a) Upon written demand by an Owner, the Association shall within a reasonable period of time; issue and furnish to such Owner a written certificate stating that all assessments (including charges and costs, if any) have been paid with respect to any specific Lot owned by said Owner as of the date of such Certificate or, if all assessments have not been paid, setting forth the amount of such then due and payable. The Association may make a reasonable charge for the issuance of such certificate.
- (b) Any such certificate when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the Association and any bona fide purchaser of, or lender secured by, the Lot or Lots to which any such certificate refers.

Section 6.09 ADDITIONAL PROCEDURES. The Board shall have the right to adopt procedures for the purpose of making the assessments provided herein and the billing and collection of the same, including, but not limited to any installment plan, provided that such procedures are not inconsistent with the provisions hereof.

Article VII. GENERAL COVENANTS AND RESTRICTIONS

Section 7.01 ABSOLUTE PROHIBITIONS. The following activities and uses are, and shall be, prohibited on, or in connection with, the Property:

- (a) No plot or parcel shall be used for the purpose of boring, mining, quarrying, exploring for or removing oil or other hydrocarbons, minerals, gravel or earth.
- (b) Except during construction undertaken in accordance with plans and specifications approved by the Board, or as otherwise provided in Section 10.1 (b), no water pipe, gas pipe, sewer pipe or drainage pipe shall be installed or maintained on any plot or parcel above the surface of the ground, except hoses and movable pipes used for irrigation purposes.
- (c) Except during construction undertaken in accordance with plans and specifications approved by the Board, or as otherwise provided in Section 5.5, no facilities, including poles and wires, for the transmission of electricity or telephone messages, and no radio or television antennas or similar apparatus, shall be installed or maintained on any plot or parcel above the surface of the ground.
- (d) Except during construction undertaken in accordance with plans and specifications approved by the Board, or as otherwise provided in Section 5.5, no activity which may be considered noxious or offensive by reason of odor, sound, appearance or sight shall be permitted upon any portion of the Property, nor shall anything be done thereon, which may be or become a nuisance or annoyance to the neighborhood.

Section 7.02 CONDITIONAL PROHIBITIONS. The following activities and uses are, and shall be, prohibited on, or in connection with, the Property except upon the prior written approval of the ARB or the Board.

- (a) a. No temporary building, trailer, garage or building in the course of construction shall be used, temporarily or permanently, as a residence on any plot or parcel.
- (b) b. No Lot shall be sub-divided for sale, resale, gift, transfer or otherwise.
- (c) c. No fence, wall, enclosure, screen or covered patio of any kind, not originally approved pursuant to the provisions of Section 5.5, shall be erected or permitted on any Lot.
- (d) d. No driveways shall be developed, maintained or extended on any Lot beyond the boundaries of, or in areas other than, the areas previously approved therefor.

Section 7.03 6.3. SLOPE CONTROL. Within any slope control area shown on any filed or recorded map or plat of any part of the Property, no Structure, planting, or other materials shall be placed or permitted to remain, nor shall any activity be undertaken, which may create erosion or sliding or which may obstruct or retard the flow of water through drainage channels. The slope control areas of each Lot or other parcel of the Property and all improvements in them shall be maintained continuously by the Owner of the Lot or such parcel, except for those improvements for which a public authority or utility company is responsible.

Section 7.04 TRASH~ No lumber, metals, bulk materials, refuse or trash shall be kept, stored or allowed to accumulate outside on any Lot, except building materials during the course of construction of a Structure, unless such items are screened from view by enclosures or fences. During construction, it shall be the responsibility of each Owner to insure that the construction sites are kept free of unsightly accumulations of rubbish and scrap materials, and that construction materials, trailers, shacks and the like, are kept in a neat and orderly manner. No burning of any trash and no accumulation or storage of litter or trash of any kind shall be permitted on any Lot. If trash or other refuse is to be disposed of by being picked up and carried away on a regular and recurring basis, containers may be placed in the open on any day that a pickup is to be made at such place on the Lot so as to provide access to persons making such pickup. At all other times

such containers shall be stored in such a manner that they cannot be seen from adjacent and neighboring Lots and from streets.

Section 7.05 SIGNS. No sign regardless of content, or other advertising device of any nature shall be placed upon any plot or parcel constituting part of the Property except as provided herein. Signs advertising real estate for sale or for rent may be placed on any such plot or parcel, subject, however, to the reasonable regulations of the ARB or the Board. Signs and other advertising devices may be erected and maintained upon any portion of the Property devoted to commercial or industrial uses, if approved by the ARB or the Board as set forth in Article V hereof.

Section 7.06 TREES. No living tree having a diameter of four (4) inches or more (measured at a point two feet above ground level) shall be destroyed or removed from any plot or parcel constituting part of the Property without the express prior written authorization of the ARB or the Board.

Section 7.07 WATERFRONT PLOTS OR PARCELS. On any plot or parcel constituting part of the Property adjacent to any lake or river, including the Genesee River:

- (a) No land vehicle shall be stored within twenty (20) feet of the water boundary thereof.
- (b) No boat canal for private use shall be dug or excavated therein, except with the prior approval of the ARB or the Board.
- (c) No bulkheading, barge, docks, piling, float or other marine Structure shall be erected adjacent thereto or thereupon, without the approval of the ARB or the Board.
- (d) No boat shall be moored so as to obstruct navigation on such waters. No power boat (whether powered by an inboard or outboard motor), except a boat powered by an electric motor, and no boat of a length overall greater than 18 feet, shall be launched into, or used on, lakes.
- (e) No refuse of any kind shall be placed or disposed of into the adjacent waters.

Section 7.08 ANIMALS. No animals, including birds, insects or reptiles, shall be kept or maintained on any residential Lot or residential portion of a mixed Lot, except as household pets. The ARB or the Board may, from time to time, impose and publish reasonable regulations setting forth the types and numbers of household pets that may be kept or maintained on or in any such Lots or Structures. No business enterprise involving the use or sale of animals shall be conducted on or in any commercial or industrial plot or parcel constituting part of the Property, or in any Structure or nonresidential portion of a mixed use Lot, except with the prior written consent of the ARB or the Board.

Section 7.09 MAINTENANCE. Each Member, Owner or Resident shall keep and maintain all Lots and Structures owned, leased or otherwise occupied by him in good condition and repair, including, but not limited to: the seeding, watering and mowing of all lawns; the pruning and trimming of all trees, hedges and shrubbery so that the same are not detrimental to adjoining Lots, obstructive of a view of street traffic or unattractive in appearance; and the repairing and painting (or other appropriate external care) of all Structures. Each Member, Owner or Resident shall also maintain all such shrubbery and trees, regardless of ownership, that are located upon such Lot owned, leased or otherwise occupied by such Member, Owner or Resident, or in the right-of-way upon such Lot. If, in the opinion of the ARB or the Board, any Member, Owner or Resident fails to perform the duties imposed by this Section, the ARB or the Board shall give Notice to the Member, Owner or Resident to correct such Noncompliance. Should such Member, Owner or Resident fails to correct such Noncompliance or to undertake reasonable steps to correct such

Noncompliance within thirty (30) days after Notice thereof from the ARB or the Board, then the ARB or the Board shall be entitled to avail itself of all Rights of Enforcement as provided in Article XIII.

Section 7.10 **AIR AND WATER POLLUTION.** No use of any plot or parcel constituting part of the Property will be permitted which emits pollutants into the atmosphere, or discharges liquid or solid wastes or other harmful matter into any waterway, in excess of environmental standards applicable thereto established by Federal and State law and any regulations thereunder applicable to the Property, or in violation of such standards, not inconsistent with applicable laws and regulations, as the Board may, from time to time establish. No waste or any substance or materials of any kind shall be discharged into any private or public sewer serving the Property, or any part thereof, in violation of any regulations of Monroe County, the Town of Henrietta, or any private or public body having jurisdiction thereof.

Article VIII. RESIDENTIAL COVENANTS AND RESTRICTIONS

The Restrictions contained in this Article VII shall pertain and apply to all Lots constituting part of the Property, which is designated as residential by local zoning authorities (hereinafter in this Article VII each such plot or parcel is called a "Residential Lot").

Section 8.01 **ABSOLUTE PROHIBITIONS.** No commercial, industrial or mixed use shall be maintained on a Residential Lot; nor shall any Nonresidential Structure be erected on a Residential Lot.

Section 8.02 **CONDITIONAL PROHIBITIONS.** No profession or home business or industry shall be conducted on any part of a Residential Lot, as defined by local zoning authorities, without the prior written approval of the ARB or the Board. The ARB or the Board in its discretion, upon consideration of the circumstances in each case, and particularly the effect on the surrounding area, may permit a Residential Lot to be used in whole or in part for the conduct of a profession or home business or industry, provided that such profession or home business or industry shall be compatible with a high quality residential neighborhood as determined in the reasonable discretion of the ARB or the Board. In this connection, the following activities, without limitation, may be permitted by the ARB or the Board in its reasonable discretion: music, art and dancing classes; day nurseries and schools; professional offices; fraternal or other social club meeting places; seamstress services; and the temporary maintenance of a real estate sales office limited to sales of real estate in the Property.

Section 8.03 **STORAGE.** The ARB or the Board may in its discretion require any personal property located in the open on any Lot or Structure to be enclosed or removed from said Lot or Structure, including, without limitation, non-operable or unlicensed motor vehicles and junk.

Section 8.04 **MACHINERY.** No machinery shall be placed or operated upon any Lot or Structure except such machinery as is usual in the maintenance of a private residence.

Section 8.05 **TEMPORARY USES.** Notwithstanding any other provisions contained herein, the ARB or the Board may authorize any Owner, Member or Resident with respect to a Lot or Structure owned by him to temporarily use or maintain:

- (a) a. A Single Family Dwelling Unit for more than one family.
- (b) b. A sign other than as expressly permitted herein.
- (c) c. The residential use of a Structure, which is not the principal dwelling house on such Plot

or Parcel.

- (d) d. Any other use which the ARB or the _ Board determines not to constitute a nuisance to Owners and Residents of other residential Plots or Parcels.

Section 8.06 **PARKING FACILITIES.** The ARB or the Board shall approve and regulate the appearance, size, location, design and adequacy of all parking facilities. The ARB or the Board in its reasoned discretion may require the Owner, Member or Resident to pave, seal, grade, repair or replace any portion or the entire paved surface of such parking facility situate upon such Owner, Member or Resident's Lot or adjacent to such Residential, Single-Family or Multi-Family Dwelling Unit or Structure.

Article IX. COMMERCIAL AND INDUSTRIAL COVENANTS AND RESTRICTIONS

The Restrictions contained in this Article IX shall pertain and apply to all Lots constituting part of the Property which are designated as commercial or industrial by local zoning authorities (hereinafter in this Article IX each such Lot shall be called a "Commercial or Industrial Lot ").

Section 9.01 **ABSOLUTE PROHIBITIONS.** No residential or mixed use shall be maintained on a Commercial or Industrial Plot or Parcel, nor shall any Single Family Dwelling Unit or Multifamily Structure be erected on a Commercial or Industrial Lot.

Section 9.02 **LANDSCAPING AND MAINTENANCE.** All areas on a Commercial or Industrial Lot not actually used for buildings, improvements or paved parking or walkways shall be landscaped so as to enhance the appearance of the site and shall at all times be maintained in a neat condition, with hedges trimmed and lawns mowed and adequately sprinkled in summer. All such areas shall be kept free at all times from debris, papers, branches, trash and refuse of all kinds, and excessive leaves.

Section 9.03 **PARKING FACILITIES.** The ARB or the Board shall approve and regulate the appearance, size, location, design and adequacy of all parking facilities. The ARB or the Board in its reasoned discretion may require the Owner, Member or Resident to pave, seal, grade, repair or replace any portion or the entire paved surface of such parking facility situate upon such Commercial or Industrial Lot. Each Owner, Member or Resident shall require all persons coming into his property to park any motor vehicles in the paved parking spaces and shall not permit any such person to park a motor vehicle on any street or road, either public or private, adjacent to a Commercial or Industrial Lot or at any place other than such paved parking spaces.

Section 9.04 **LIGHTING.** The ARB or the Board shall approve the design, location and direction of all exterior lighting.

Section 9.05 **STORAGE.** Raw materials, finished goods, products, supplies and other materials pertaining to the use of any Commercial or Industrial Plot or Parcel shall not be placed or stored outside of any building unless screened from view by enclosures or fences, and approval of any such enclosure or fence pursuant to Section 6.2 (c) shall not be unreasonably withheld.

Article X. MIXED-USE COVENANTS AND RESTRICTIONS

The Restrictions contained in this Article X shall pertain and apply to all Lots constituting part of the Property, which are designated as mixed use by local zoning authorities (hereinafter in this Article X each such plot or parcel is called a "Mixed-Use Lot").

Section 10.01 **CONDITIONAL PROHIBITIONS.** No Owner, Member or Resident shall occupy or use any Mixed Use Lot, nor shall any Structure be erected on a Mixed-Use Lot, without the prior written approval of the ARB or the Board.

Section 10.02 **OTHER RESTRICTIONS.** All the Restrictions contained in Articles VIII and Article IX hereof shall apply to Mixed-Use Lots.

Article XI. EASEMENTS, ZONING AND RESTRICTIONS

Section 11.01 **EASEMENTS.** Easements and rights-of-way are hereby expressly reserved to the Association, its successors and assigns, or any assignee of such rights pursuant to a duly recorded instrument, in, on, over and under the Easement Area of each Lot, for the following purposes: :-

- (a) The erection, installation, construction and maintenance of wires, lines, conduits and poles and the necessary or proper attachments in connection with the transmission of electricity, telephone, community antenna television cables, and other utilities and similar facilities.
- (b) The erection, installation, construction and maintenance of storm-water drains, land drains, public and private sewers, pipe lines for supplying gas, water and heat, and for any other public or quasi-public facility, service or function, whether above ground or underground.
- (c) Slope control purposes, including the right to grade and plant slopes and prevent the doing of any activity which might interfere with slope ratios previously approved or which might create erosion or sliding problems or which might change, obstruct or retard drainage flow.
- (d) The planting or replanting of hedges, shrubbery, bushes, trees, flowers and plants of any nature on any portion of an Easement Area which is designated on a recorded deed or on a filed or recorded map or plat as a screen planting easement".
- (e) Subject to all of the other Covenants, Conditions and Restrictions contained in this Declaration, each Owner, Member or Resident shall have the right to use the Easement Area of his Lot in any manner not inconsistent with the purposes for which such Easement Area has been reserved pursuant to this Declaration.

Section 11.02 **ENTRY.** The Association and its respective agents, successors and assigns, shall have the right at all reasonable times to enter upon all parts of the Easement Area of each Lot for any of the purposes for which said easements and rights-of-way are reserved, without being deemed to have committed a trespass or wrongful act solely by reason of such entry. The Association and its respective agents, successors and assigns, shall be responsible for leaving each Lot in good condition and repair following any work or activity undertaken in an Easement Area pursuant to the provisions of Section 10.1.

Section 11.03 **ZONING AND PRIVATE RESTRICTIONS.** The Restrictions shall not be construed as permitting any action prohibited by applicable zoning laws, or by the laws, rules or regulations of any governmental body, or by any deed or lease. In the event of any conflict, the most restrictive provision of such laws, rules, regulations, deeds, leases or the Restrictions shall be taken to govern and control.

Section 11.04 **NONDISCRIMINATION.** No Owner, Member or Resident or other person with any interest in any portion of the Property shall refuse to sell or rent, after the making of a bona fide offer, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny any portion of the Property to any person because of race, color, religion, sex or national origin. This covenant shall run with the land and shall remain in effect without any limitation in time. The

Association and the Secretary (or the United States) shall each be deemed a beneficiary of this covenant. As such beneficiaries, the Association and the Secretary (or the United States), in the event of any breach of this covenant, shall have the right to exercise all the rights and remedies, and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such breach, to which beneficiaries of this covenant may be entitled. Any restrictive covenant on the Property relating to race, color, religion, sex or national origin is recognized as being illegal and void and is specifically disclaimed.

Article XII. DURATION AND AMENDMENT

Section 12.01 **DURATION.** This Declaration and the Restrictions contained herein shall run with and bind the Property, shall inure to the benefit of and shall be enforceable by each Owner, Member or Resident and his grantees, distributees, successors, assigns or legal representatives, the Association, the Board, the ARB and the Secretary (or the United States) for a period of ten (10) years from the date of adoption, after which time the Declaration shall be automatically renewed for successive periods of ten (10) years, unless, prior to the expiration of any such renewal period, an instrument terminating this Declaration and the Restrictions contained herein shall be executed by the proper Association officers and recorded in the Office of the Clerk of the County of Monroe or in such other place of recording as may be appropriate at the time of the execution of such instrument, pursuant to a resolution to such effect approved by a majority of the total number of Members.

Section 12.02 **AMENDMENT.** This Declaration may not be amended in any respect except by an amendment executed by the proper Association officers and recorded in the Office of the Clerk of the County of Monroe or in such other place of recording as may be appropriate at the time of the execution of such instrument, pursuant to a resolution approved by not less than a two-thirds (2/3) majority of a quorum of registered Members present in person or by proxy at a regular or special meeting of the membership called and held after at least thirty (30) days notice of meeting to all Members. Such notice shall be made by posting in at least three (3) prominent places within the Property and mailing by first class mail to each Registered Member (as of the date of the mailing) of a notice of such meeting setting out the Board resolution or a summary thereof proposed for ratification at such meeting, provided, however, that to the extent permitted by the Not-for-Profit Corporation Law, such Notice may also be made by publication.

Article XIII. ENFORCEMENT

Section 13.01 **FINES FOR NONCOMPLIANCE.** The ARB or the Board may, after having first afforded the alleged offending Member, Owner or Resident reasonable Notice and opportunity to be heard before the ARB or the Board, levy reasonable fines against a Member, Owner or Resident for any Noncompliance, committed by such Member, Owner, Resident, or any occupant of any unit owned, leased or otherwise occupied by such Member, Owner or Resident. Such fines shall be imposed as set forth in the By-Laws and each Owner, Member, or Resident, by acceptance of a deed, lease, or other conveyance or property interest in and to any Lot or other portion of the Assessable Property, whether or not the Restrictions contained herein shall be expressed in any such deed, lease, or other instrument of conveyance, or property interest and whether such acceptance occurred while such Lot was subject to the Original Declaration, the Amended Declaration or occurs while such Lot is subject to this Second Amended and Restated Declaration, hereby covenants and agrees that such Owner, Member or Resident shall pay to the Association

any and all fines that may be levied by the ARB or the Board against each Lot owned, leased or otherwise occupied by such Owner, Member or Resident. Each Owner, Member or Resident covenants and agrees to be personally liable for all such fines which may be imposed by the ARB or the Board against any such Lot owned, leased or otherwise occupied by such Owner, Member or Resident and that such fine shall be a continuing charge and lien upon each such Lot. Each Member, Owner or Resident shall be entitled to the same Notice and opportunity to be heard as set forth in Section 6.1(b) of the ByLaws.

Section 13.02 **SPECIFIC PERFORMANCE.** Nothing contained herein shall be deemed to affect or limit the rights of the Association, any Owner, Member or Resident of any Lot within the Property to enforce the Restrictions hereof by appropriate judicial proceedings. However, the Association hereby declares that it is impossible to measure in money the damages which will accrue to a beneficiary hereof, its transferees, successors or assigns, by reason of any Noncompliance; and therefore, any beneficiary hereof shall be entitled to relief by way of injunction or specific performance, as well as any other relief available at law or in equity, to enforce the provisions hereof.

Section 13.03 **LIENS.** The Association shall have a lien on each Lot securing the total amount of any" and all unpaid assessments, costs, fines, administrative charges, services charges, or other charges (including reasonable attorney's fees, costs, disbursements and lien filing fees) imposed upon any Lot pursuant to this Declaration, which lien shall be prior to all other liens, including all liens which are subordinate to the Original Declaration, or the First Amended Declaration, except only liens for real property taxes or assessments, and all sums unpaid on a first mortgage of record. Any such lien may be enforced by the Association to the same extent, including a foreclosure sale and deficiency judgment, and subject to the same procedures as in the case of a foreclosure of a real property mortgage under the laws of the State of New York. In any action to enforce such a lien for unpaid assessments, fines, administrative charges, service charges or late payment fees as set forth herein, the amount which may be recovered by the Association shall include all such assessments, costs or other charges, as the case may be, plus the cost of such enforcement proceedings, including the greater of interest at the legal rate of nine percent (9%) per year or the total amount of administrative charge, service charges and late payment fees, together with the Association's reasonable attorney's fees. The foreclosure of a lien by the Association or the acceptance of a deed in lieu thereof, shall extinguish the lien for such assessments, costs or other charges as shall have accrued prior to the date of delivery of a deed pursuant to such foreclosure proceedings, or acceptance of a deed in lieu thereof.

Section 13.04 **NO WAIVER.** The failure of any beneficiary, his or its respective legal representatives, heirs, successors and assigns, to enforce any Restriction contained herein shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to such violation or breach occurring prior or subsequent thereto.

Section 13.05 **ADDITIONAL RULES.** The Association, consistent with the provisions hereof, may adopt and promulgate reasonable rules, regulations and procedures regarding the administration, interpretation and enforcement of the provisions of this Declaration.

Article XIV.MISCELLANEOUS

Section 14.01 **NO REVERTER.** No Restriction herein is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.

Section 14.02 **INVALIDITY.** The determination by a court that any provision hereof is invalid for any reason shall not affect the validity of any other provision hereof. ·

Section 14.03 **INTERPRETATION.** The Board, where specifically authorized herein to act, shall have the right to construe and interpret the provisions of this Declaration, and in the absence of an adjudication by a court of competent jurisdiction to the contrary, such construction or interpretation shall be final and binding as to all persons (except the Secretary) or property benefited or bound by the provisions hereof.

Section 14.04 **HEADINGS.** The headings of the Articles and Sections hereof are for convenience only and shall not affect the meaning or interpretation of the contents of this Declaration.

Section 14.05 **GENDER AND NUMBER.** Throughout this Declaration, the masculine gender shall be deemed to include the feminine and neuter, and the singular the plural, and vice versa, unless the context otherwise requires.

Article XV. EFFECTIVE DATE OF THIS DECLARATION

Section 15.01 **RECORDING AND EFFECTIVE DATE.** This Third Amended and Restated Declaration shall be recorded in the Office of the Clerk of the County of Monroe promptly after the execution hereof by the Officers of the Association. Notwithstanding anything herein to the contrary, this Amended Declaration shall become effective as of the date and time of recording in the Office of the Clerk of the County of Monroe.

RIVERTON COMMUNITY

ASSOCIATION, INC.

By: _____

President

By: _____

Vice President

By: _____

Secretary

By: _____

Treasurer