

AMENDED AND RESTATED
DECLARATION OF
COVENANTS AND RESTRICTIONS
OF KENSINGTON GROVE

Cross Reference Inst. No. 2002-019741

AMENDED AND RESTATED
DECLARATION OF COVENANTS AND RESTRICTIONS
OF KENSINGTON GROVE

This Amended and Restated Declaration of Covenants and Restrictions of Kensington Grove was executed as of the date set forth hereafter.

WITNESS THAT the following facts are true:

The Kensington Grove subdivision located in Johnson County, Indiana was established by a certain “Declaration of Covenants and Restrictions of Kensington Grove” which was recorded on June 17, 2002, as **Instrument No. 2002-019741** in the Office of the Recorder of Johnson County, Indiana, said Declaration together with all amendments and/or supplements thereto being hereafter referred to as the “Original Declaration”; and

Plats filed with the Office of the Recorder of Johnson County, Indiana established a total of three hundred two (302) residential Lots and Common Area, comprising the Kensington Grove subdivision in accordance with the Original Declaration; and

Article XVI, Section 1 of the Original Declaration states that its covenants, conditions and restrictions may be amended upon approval by the Owners of at least seventy-five percent (75%) of the Lots; and

No Mortgagees requested notice of such action; and

A Special Meeting of the Owners and members of the Kensington Grove Homeowners Association, Inc. (“Association”) was held on August 26, 2024, for the Association’s members to discuss the following Amended and Restated Declaration; and

The Owners of more than seventy-five percent (75%) of the Lots approved the following Amended and Restated Declaration; and

The Owners of said Lots desire to amend certain provisions of the Original Declaration and to restate the same for the convenience of the Owners such that this Amended and Restated Declaration of Covenants and Restrictions in no way nullifies or changes the Original Declaration or the effective date of the Original Declaration. However, upon the date of recording of this Amended and Restated Declaration with the County Recorder’s Office, the Original Declaration shall no longer be in effect and shall be replaced by the following.

The Original Declaration contained exhibits. For historical purposes, these various exhibits may be referred to from time to time, and therefore, for cross-reference purposes, one should refer to them as they were filed with the County Recorder. Those exhibits, however, are not exhibits to this Amended and Restated Declaration. Except as to any exhibits to the Original Declaration that may remain relevant, all other provisions of the Original Declaration are hereby modified in their entirety, and superseded by this Amended and Restated Declaration.

NOW, THEREFORE, the Owners of more than seventy-five percent (75%) of the total number of Lots in Kensington Grove hereby amend and restate the Original Declaration such that all of the platted dwellings, Lots and lands located within Kensington Grove as they have been platted are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following restrictions, all of which were and are declared and agreed to be in furtherance of a plan for the improvement and sale of said dwellings, Lots and lands in Kensington Grove. Such restrictions below were and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the development as a whole and of each of said dwellings and Lots situated therein. All of the restrictions shall run with the land and shall be binding upon the Owners and upon the parties having or acquiring any right, title or interest, legal or equitable, in and to the real property or any part or parts thereof subject to such restrictions, and shall inure to the benefit of all successors in title to any real estate in the development. Now, therefore, the Original Declaration which is applicable to all Owners and residents within Kensington Grove is hereby amended and restated as follows:

**AMENDED AND RESTATED
DECLARATION OF COVENANTS AND RESTRICTIONS
OF
KENSINGTON GROVE**

**ARTICLE I
Definitions**

Section 1.1. The following words and terms, when used herein or in any supplement or amendment hereto, unless the context clearly requires otherwise, shall have the following meanings:

(a) “Act” shall mean and refer to the Indiana Nonprofit Corporation Act of 1991, as amended;

(b) “Association” shall mean and refer to Kensington Grove Homeowners Association, Inc., an Indiana nonprofit corporation organized under Indiana Code 23-17-1, et seq., which was incorporated on September 6, 2002, when its Articles of Incorporation were filed with the Indiana Secretary of State;

(c) “Articles” shall mean and refer to the Articles of Incorporation of the Association, as the same may be amended from time to time;

(d) “Board” or “Board of Directors” shall mean and refer to the governing body of the Association elected, selected or appointed as provided for in the Articles, By-Laws and this Declaration;

(e) “By-Laws” shall mean and refer to the Code of By-Laws of the Association, as the same may be amended from time to time;

(f) “Committee” shall mean and refer to the “Kensington Grove Architectural Control Committee”, the same being the committee or entity established pursuant to Article VIII, Section 1, of this Declaration for the purposes herein stated;

(g) “Common Areas” means those areas designated as such on the Plats for Sections 1 and 2. There are no Common Areas in Sections 3 or 4.

(h) “Common Expense” shall mean and refer to expenses of administration of the Association, and expenses for the upkeep, maintenance, repair and replacement of the Common Areas, and all sums lawfully assessed against the Owners by the Association, and all sums, costs and expenses declared by this Declaration to be Common Expenses. The Common Expenses arise out of and concern, but are not limited to, the following:

Lakes. The Common Area of the Lakes which with access thereto being provided appropriate governmental agencies concerned with drainage. (See Article XIII Lake Covenants).

The Association reserves the right, but not the obligation, to install, maintain, repair and replace fountains and utility service thereto for one or more of the Lakes.

THE ASSOCIATION MAKES NO REPRESENTATION THAT ANY CERTAIN LEVEL OF WATER WILL BE MAINTAINED IN ANY LAKE.

Signage and Fencing. Identification signage at each of three entrances to Kensington Grove from the major county arteries and accompanying landscaping, plus fencing at the Stones Crossing Road, Travis Road, and Morgantown Road entries.

Park Area (Section 1). This area is unimproved with the Association reserving the right, but not the obligation, to make improvements thereon for the benefit of the Kensington Grove Community. The Association reserves the right to install, without the obligation to install, utilities to service these areas with any user charges arising therefrom to be a Common Expense.

The Center of the Round-About (Section 1). The center of the round-about at the intersection of Coventry and Chancery shall be landscaped to some extent with possible utility service the user utility expense of which will be a Common Expense. Access by the Association shall be by reservation in the dedicated right of way or by an encroachment easement.

(i) “Dwelling Unit” shall mean and refer to any building, structure or portion thereof situated within the Kensington Grove subdivision designed and intended for use and occupancy as a residence by one (1) single family;

(j) “Lakes” shall mean and refer to the Lakes located within the Kensington Grove subdivision;

(k) “Lot” shall mean and refer to any and each portion of the Kensington Grove subdivision designated as such on the Plats.

(l) “Member” means a member of the Association;

(m) “Mortgagee” shall mean and refer to the holder of a recorded first mortgage lien on a Lot or Dwelling Unit;

(n) “Owner” shall mean and refer to the record Owner, whether one or more Persons of the fee simple title to any Lot, but in any event shall not include or mean or refer to a mortgagee or tenant unless and until such mortgagee or tenant has acquired title to any Lot, but upon so acquiring title to any Lot a mortgagee or tenant shall be an Owner;

(o) “Person” shall mean and refer to an individual, firm, limited liability company, corporation, partnership, association, trust, or other legal entity, or any combination thereof;

(p) “The Real Estate” or “Kensington Grove” shall mean and refer to the parcel of real estate in Johnson County, Indiana, described in final Plats filed with the Johnson County Recorder as Kensington Grove;

(q) “Restrictions” shall mean and refer to the agreements, conditions, covenants, restrictions, easements, assessments, charges, liens, and all other provisions set forth in this Declaration (including those set forth in Exhibit A which is attached hereto), as the same may be amended from time to time;

(r) “Rules and Regulations” shall mean and refer to rules and regulations relative to the use, occupancy, operation, and enjoyment of the Real Estate, the Lots, and the Common Areas;

(s) “Community” or “Project” refers to the Kensington Grove project as it has been developed. There are a total of three hundred two (302) Lots;

Section 2. Other terms and words defined elsewhere in this Declaration shall have the meanings herein attributed to them.

ARTICLE II

Declaration; Common Areas and Rights Therein

Section 2.1. Declaration. All of the Lots and the Common Areas within Kensington Grove shall be held, transferred and occupied subject to the Restrictions as covenants running with the Real Estate. The Owners of any Lot, and all other Persons, by (i) acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, or (ii) by the act of occupancy of any Lot, shall conclusively be deemed to have accepted such deed, executed such contract and undertaken such occupancy subject to each Restriction and agreement herein contained. By acceptance of such deed, or execution of such contract, or undertaking such occupancy, each Owner and all other Persons acknowledge the rights and powers of the

Committee and of the Association with respect to these Restrictions, and also for itself, its heirs, personal representatives, successors and assigns, covenant, agree and consent to and with the Committee, the Association, and the Owners and subsequent Owners of each of the Lots affected by these Restrictions to keep, observe, comply with and perform such Restrictions and agreements.

Section 2.2. Easement to Owner. A non-exclusive easement is granted in favor of each Owner for the use, enjoyment and benefit of the Common Areas subject to all of the Restrictions of this Declaration, and such easement shall be an easement running with and appurtenant to each Lot.

ARTICLE III Association; Membership; Voting; Functions

Section 3.1. Membership in Association. Each Owner of a Lot shall, automatically upon becoming an Owner, be and become a member of the Association and shall remain a member until such time as his or her ownership of a Lot ceases, but membership shall terminate when such Owner ceases to be an Owner, and membership will be transferred to the new Owner of his or her Lot; provided, however, that any Person who holds the interest of an Owner in a Lot merely as security for the performance of an obligation shall not be a member until and unless he or she realizes upon his or her security, at which time he or she shall automatically be and become an Owner and a member of the Association.

Section 3.2. Voting Rights. The Association has a single class of membership consisting of all Owners. Other matters pertaining to voting rights are set forth in the Association's By-Laws.

Section 3.3. Functions. The Association has been formed for the purpose of providing for the maintenance, repair, replacement, administration, operation and ownership of the Common Areas as and to the extent provided herein, to pay taxes (if any) assessed against and payable with respect to the Common Areas, to pay any other necessary expenses and costs in connection with the Common Areas, and to perform such other functions as may be designated for it to perform under this Declaration.

ARTICLE IV Board of Directors

Section 4.1. Management. The business and affairs of the Association shall be governed and managed by the Board of Directors. No person shall be eligible to serve as a member of the Board of Directors unless he or she is an Owner of record.

Section 4.2. Additional Qualifications. Where an Owner consists of more than one Person or is a partnership, corporation, trust or other legal entity, then one of the Persons constituting the multiple Owner, or a partner or an officer or trustee shall be eligible to serve on the Board of Directors, except that no single Lot or Dwelling Unit may be represented on the Board of Directors by more than one Person at a time.

Section 4.3. Term of Office, Vacancy, Number of Directors and Other Board Matters. All other matters pertaining to the Board of Directors are set forth in the By-Laws.

**ARTICLE V
Real Estate Taxes; Utilities**

Section 5.1. Real Estate Taxes. Real estate taxes on each Lot, and on any Dwelling Unit or other improvements on each Lot, are to be separately assessed and taxed to each Lot and shall be paid by the Owner of such Lot. Any real estate taxes or other assessments against the Common Areas shall be paid by the Association and treated as a Common Expense.

Section 5.2. Utilities. Each Owner shall pay for his own utilities which, to the extent possible, shall be separately metered to each Lot and Dwelling Unit. Utilities which are not separately metered to an Owner's Lot or Dwelling Unit shall be treated as and paid as part of the Common Expense, unless otherwise determined by the Association.

**ARTICLE VI
Maintenance, Repair and Replacement**

Section 6.1. By the Owner. Each Owner shall be responsible for, if the need therefor arises, all maintenance, repairs, decoration and replacement of his own Dwelling Unit, both interior and exterior. In addition, each Owner shall furnish and be responsible for the maintenance of all portions of his Lot, except for such portions thereof as may, in accordance with the terms of this Declaration, be designated as a part of the Common Areas for purposes of maintenance only. All fixtures and equipment installed within or as part of a Dwelling Unit, commencing at the points where the utility lines, pipes, wires, conduits or systems enter the Lot upon which said Dwelling Unit is located, shall be maintained and kept in repair by the Owner thereof. Each Owner shall promptly perform all maintenance and repair of his Lot and Dwelling Unit which, if neglected, might adversely affect any other Lot or Dwelling or any part of the Common Areas or in the judgment of the Board negatively impact on the preservation and enhancement of values in Kensington Grove. Such maintenance and repairs include but are not limited internal water lines, plumbing, electric lines, gas lines, appliances and other fixtures, equipment and accessories belonging to the Owner and a part of or appurtenant to his Dwelling Unit or Lot.

Section 6.2. By the Association. Maintenance, repairs, replacements and upkeep of the Common Areas shall (except to the extent provided herein as the obligation of Owners) be furnished by the Association, as a part of its duties, and the cost thereof shall constitute a part of the Common Expenses as detailed in Article I, Section 1.1(h).

The Board of Directors may adopt such other rules and regulations concerning maintenance, repair, use and enjoyment of the Common Areas as it deems necessary, provided that the same are not inconsistent with the express provisions of this Declaration.

Notwithstanding any obligation or duty of the Association to repair or maintain any of the Common Areas (or items deemed Common Areas for purposes of maintenance), if, due to the

willful, intentional or negligent acts or omissions of an Owner or of a member of his family or of a guest, invitee, or other occupant or visitor of such Owner, damage shall be caused to the Common Areas (or items deemed as such for purposes of maintenance), or if maintenance, repairs or replacements shall be required thereby which would otherwise be at the Common Expense, then such Owner shall pay for such damage and such maintenance, repairs and replacements, as may be determined by the Association, unless such loss is covered by the Association's insurance with such policy having a waiver of subrogation clause. If not paid by such Owner upon demand by the Association, the cost of repairing such damage shall be added to and become a part of the assessment to which such Owner's Lot is subject.

The authorized representatives of the Association, the Board and the Managing Agent for the Association (if any) shall be entitled to reasonable access to any Lot as may be required in connection with maintenance, repairs or replacements of or to the Common Areas and items deemed as Common Areas for purposes of maintenance, including, but not limited to, access to any easements reserved, granted or created by any Kensington Grove subdivision plat.

ARTICLE VII Lake Covenants

Section 7.1. Ownership of Lakes. Each Lake area as shown on the Plats are general Common Areas.

Section 7.2. Rights To Use Lakes. Subject to the easement rights with respect to the Lakes described in the recorded plats applicable to the Real Estate, all Owners together with guests in their presence, shall have the rights to use and enjoyment of such Lake provided they access such Lakes only via Common Areas and not through Lots owned by others and provided further that they not interfere with the drainage system of the subdivision of which the Lakes are a part and comply with limitations on the use thereof and Rules and Regulations adopted relative thereto.

Section 7.3. Limitations on Use of Lakes. No person shall do or permit to be done any action or activity which could result in pollution of the Lakes, diversion of water, elevation of Lake levels, earth disturbance resulting in silting or any conduct which could result in an adverse effect upon water quality, drainage of the subdivision or proper Lake management.

The Lakes are and will be an integral part of the storm water drainage system serving the Real Estate and are intended to be used for such purpose and primarily as visual and aesthetic amenities and not as recreational amenities. Accordingly, no use shall be made of any of the Lakes which in any way interferes with their proper functioning as part of such storm water drainage system.

The Lakes shall be kept free and clean of rubbish, debris and other unsightly materials. No structure of any kind shall be placed in the Lakes or on the Lake property without the prior written approval of the Committee.

No boating, swimming, diving, skiing or ice skating shall be permitted in or on said Lakes except as permitted by the Board of Directors under written and promulgated Rules and Regulations.

No sewage, garbage, refuse or other solid, liquid, gaseous or other materials or items (other than storm and surface water drainage) shall be put into said lakes, except the Board of Directors may take steps to clear and purify the waters thereof by the addition of chemicals or other substances commonly used for such purposes or by providing therein structures and equipment to aerate the same.

Fishing from the shores of such lakes shall be permitted subject to obedience and compliance with all applicable fishing and game laws, ordinances, Rules and Regulations.

Section 7.4. Costs of Maintenance. Estimated costs of maintenance and repair of the Lake property related to the storm water drainage system shall be included in the Common Expenses subject to general assessment for all Lots.

ARTICLE VIII Architectural Standards

Exterior changes to property after the Dwelling Unit is built requires Committee approval pursuant to Exhibit A. Nothing, including any fence, deck, dock, recreational equipment (including basketball goals), or any structure, storage shed, doghouse or other improvements, shall be erected on any Lot, and no construction, which term shall include within its definition staking, clearing, excavation, grading, and other site work, no exterior alteration or modification of existing improvements, and no plantings or removal of plants, trees, or shrubs shall take place except in strict compliance with this Article, until the requirements below have been fully met, and until the approval of the Committee has been obtained pursuant to Section I below.

Section 8.1. Architectural Control Committee. There shall be, and hereby is, created and established the "Kensington Grove Homeowners' Association Architectural Control Committee" ("Committee") which shall have exclusive jurisdiction over all construction on any portion of Kensington Grove except for the original construction of new Dwelling Units. (The original developer's appointees retain that power). The Committee shall be a standing committee of the Association, consisting of not more than seven, nor less than three, persons as may, from time to time, be provided in the By-Laws. If the By-Laws do not at any time provide for the Committee, then the Board shall be and constitute the Committee.

Notwithstanding the provisions of this Article VIII, the original developer shall retain the power to approve all construction of new Dwelling Units that remain to be built.

Section 8.2. Approval Process. The Committee has prepared and promulgated, on behalf of the Board of Directors, design and development guidelines and application and review procedures. Copies are on file in the office of the Association or its Managing Agent which are incorporated into this Declaration by reference. The guidelines and procedures shall be those of the Association, and the Committee shall have sole and full authority to prepare and to amend

them. It shall make the guidelines and procedures available to Owners and builders who seek to engage in development of construction, modification, addition or alteration made on or to any existing structure, upon all or any portion of Kensington Grove and such Owners and builders shall conduct their operations strictly in accordance therewith. The Committee, or its designee, must give written approval for any building contractor selected by the Lot Owner for construction. Prior to any construction on any Lot, the approval of the Committee must be obtained after written application has been made to the Committee by the Owner of the Lot requesting authorization from the Committee. Such written application shall be made in the manner and form prescribed from time to time by the Committee in its guidelines and procedures which will contain requirements to promote the standard of quality of workmanship and design and harmony of external design with existing structures, location in relation to surrounding structures, topography and finish grade elevation as determined by the Committee.

Section 8.3. Power of Disapproval. The Committee may refuse to grant permission to construct, place or make the requested improvement, when:

- (a) the plans, specifications, drawings or other material submitted are, themselves, inadequate or incomplete, or show the proposed improvement to be in violation of this Declaration, the plat restrictions or any rules, regulations or guidelines adopted by the Committee;
- (b) the design or color scheme of a proposed improvement or the materials proposed to be used are not in harmony with the general surroundings of the Lot or with adjacent buildings or structures in the sole opinion of the Committee; or
- (c) the proposed improvement, or any part thereof, would, in the sole opinion of the Committee, be contrary to the interest, welfare or rights of all or part of other Owners.

Section 8.4. Duties of Committee. The Committee shall approve or disapprove proposed improvements within thirty (30) calendar days after all required information shall have been submitted to it. One copy of submitted material shall be retained by the Committee for its permanent files. All notifications to applicants shall be in writing, and in the event that such notification is one of disapproval, it shall specify the reason or reasons therefor.

Section 8.5. No Waiver of Future Approvals. The approval of the Committee of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of such Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

Section 8.6. Variance. The Committee may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and applicable zoning laws, ordinances and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance

shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of this Declaration, or (c) estop the Committee from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, the terms of any financing, or the initiation of work without the required approval of the Committee shall not be considered hardships warranting a variance.

Section 8.7. Compliance with Guidelines. Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of the guidelines and procedures promulgated by the Committee may be excluded by the Board from Kensington Grove without liability to any person, subject to the notice and hearing procedures adopted by the Board. Further, if any approval required by this Declaration is not granted in writing with respect to any item prior to its installation, the respective Owner thereof shall remove promptly the unapproved item or structure, upon request by the Association.

Section 8.8. Non-Liability of Committee. The Committee shall not be responsible in any way for any defect in any plans, specifications or other materials submitted to it, nor for any defects in any work done according thereto. Further, the Committee does not make, and shall not be deemed by virtue of any action of approval or disapproval taken by it to have made, any representation or warranty as to the suitability or advisability of the design, the engineering, the method of construction involved, or the materials to be used or as to the compliance of any plans submitted for approval with these Restrictions, any recorded plat governing Kensington Grove or any applicable code, regulation or law.

Section 8.9. Inspection. The Committee may inspect work being performed to assure compliance with these Restrictions, the plat restrictions and applicable regulations. However, neither the Committee, nor any member thereof, nor any agent or contractor employed or engaged by the Committee, shall be liable or responsible for defects, nonconformity or deficiencies in any work inspected or approved by it or them, or on its or their behalf. Further, no such inspection or approval given by or on behalf of the Committee shall be taken or deemed to be or constitute a warranty or guaranty of the work so inspected or approved.

Section 8.10. No Compensation. Neither the Committee nor any of its members shall be entitled to any compensation for performing its duties or obligations set forth in this Declaration.

Section 8.11. Rules Governing Building on Several Contiguous Lots Having One Owner. Whenever two or more contiguous Lots shall be owned by the same Person, and such Owner shall desire to use two or more of said Lots as a site for a single Dwelling Unit, he or she shall apply in writing to the Committee for permission to so use said Lots. If permission for such a use shall be granted, the Lots constituting the site for such single Dwelling Unit shall be treated as a single Lot for the purpose of applying these Restrictions to said Lots, so long as, and only so long as, the Lots remain improved with one single Dwelling Unit; provided, however, that any dues, fees or other charges shall be assessed against each Lot individually.

ARTICLE IX
Use Restrictions, Covenants and Regulations

The covenants and restrictions contained in Exhibit A attached and made a part hereof concerning the use and enjoyment of the Lots, Dwelling Units, and Common Areas are in addition to any other covenants or restrictions contained herein and in the Final Plats of Kensington Grove. All such covenants and restrictions are for the mutual benefit and protection of the present and future Owners and shall run with the land and inure to the benefit of and are enforceable by an Owner, or by the Association. Present or future Owners or the Association shall be entitled to injunctive relief against any violation or attempted violation of any such covenants and restrictions, and shall, in addition, be entitled to damages for any injuries or losses resulting from any violations thereof including reasonable attorney fees, but there shall be no right of reversion or forfeiture resulting from such violation.

ARTICLE X
Assessments

Section 10.1. Annual Accounting. Annually, after the close of each fiscal year of the Association, the Board shall cause to be prepared and furnish the Owners with a financial statement of operations by the Association, which statement shall show all receipts and expenses received, incurred and paid during the preceding fiscal year.

Section 10.2. Proposed Annual Budget. Before the date of the October or November annual meeting of the Association at which the budget is to be acted upon, the Board of Directors shall cause to be prepared a proposed annual budget for the next ensuing fiscal year estimating the total amount of the Common Expenses for such next ensuing fiscal year and shall furnish a copy of such proposed budget to each Owner at or prior to the time the notice of such annual or special meeting is mailed or delivered to such Owners. The annual budget shall be submitted to the Owners at the annual meeting of the Association for adoption and, if so adopted, shall be the basis for the Regular Assessments (hereinafter defined) for the next ensuing fiscal year. At such annual meeting of the Owners, the budget may be approved in whole or in part or may be amended in whole or in part by a majority vote of the Owners attending such meeting (virtual or otherwise) (i.e. majority of a quorum as defined in the By-Laws of namely 10%); provided, however, that in no event shall such annual or special meeting of the Owners be adjourned until an annual budget is approved and adopted at such meeting, either the proposed annual budget or the proposed annual budget as amended. The annual budget, the Regular Assessments and all sums assessed by the Association shall be established by using generally accepted accounting principles applied on a consistent basis. The failure or delay of the Board of Directors to prepare a proposed annual budget and to furnish a copy thereof to the Owners shall not constitute a waiver or release in any manner of the obligations of the Owners to pay the Common Expenses as herein provided, whenever determined. Whenever, whether before or after the annual meeting of the Association at which the budget is to be acted upon, there is no annual budget approved by the Owners as herein provided for the current fiscal year, the Owners shall continue to pay Regular Assessments based upon the last approved budget or, at the option of the Board, based upon one hundred and ten percent (110 %) of such last approved budget, as the new budget.

Section 10.3. Regular Assessments. The annual budget as adopted shall, based on the estimated cash requirement for the Common Expenses in the fiscal year covered thereby as set forth in said budget, contain a proposed assessment against each Lot, which shall be the same amount for each Lot, provided, immediately following the adoption of the annual budget, each Owner shall be given written notice of the assessment against his respective Lot (herein called the "Regular Assessment"). The aggregate amount of the Regular Assessments shall be equal to the total amount of expenses provided and included in the final annual budget. The Regular Assessment against each Lot shall be paid, in full in advance by a date specified by the Board. However, at the option of the Board, the Regular Assessment against each Lot may be paid in advance in equal semi-annual installments. Payment of the Regular Assessment, whether in one payment or in semi-annual installments, shall be made to the Board of Directors or the Managing Agent, as directed by the Board of Directors. The Board can give the Owners the option of either paying in one lump sum payment or in two semi-annual installments, but if an Owner chooses the option to pay in two installments, the Board can charge an additional fee to cover the extra administrative costs.

Section 10.4. Special Assessments. From time-to-time Common Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time and without the approval of the Owners, unless otherwise provided in this Declaration, the Articles, the By-Laws or the Indiana Homeowners Association Act, the Board of Directors shall have the full right, power and authority to make special assessments which, upon resolution of the Board, shall become a lien on each Lot, prorated in equal shares (herein called "Special Assessment"). Without limiting the generality of the foregoing provisions, Special Assessments may be made by the Board of Directors from time to time to pay for capital expenditures and to pay for the cost of any repair or reconstruction of damage caused by fire or other casualty or disaster to the extent insurance proceeds are insufficient therefor under the circumstances described in this Declaration, and for operating deficits.

Section 10.5. Failure of Owner to Pay Assessments.

(a) No Owner may exempt himself from paying Regular Assessments and Special Assessments, or from contributing toward the expenses of administration and of maintenance and repair of the Common Areas and items deemed Common Areas for purposes of maintenance, and toward any other expense lawfully agreed upon, by waiver of the use or enjoyment of the Common Areas or by abandonment of the Lot belonging to him. Each Owner shall be personally liable for the payment of all Regular and Special Assessments against his Lot. Where the Owner constitutes or consists of more than one Person, the liability of such Persons shall be joint and several. Regular and special assessments should constitute a lien against the Lots and Dwelling Units thereon. If any Owner shall fail, refuse or neglect to make any payment of any Regular Assessments or Special Assessments against his Lot when due, the lien for such Assessment on the Owner's Lot and Dwelling Unit may be filed and foreclosed by the Board for and on behalf of the Association as a mechanic's lien on real property or as otherwise provided or permitted by law. Upon the failure of an Owner to make timely payments of any such Regular Assessments or Special Assessments, when due, the Board may, in its option, bring a suit to recover a money judgment for any unpaid Regular Assessment or Special Assessment without foreclosing (and without thereby waiving) the lien securing the same. In any action to recover a

Regular Assessment or Special Assessment, or any other charges due the Association, whether by foreclosure or otherwise, the Board, for and on behalf of the Association, shall be entitled to recover from the Owner of the respective Lot and Dwelling Unit all of the costs and expenses of such action incurred (including but not limited to reasonable attorneys' fees) and interest from the date such Assessments or charges were due, until paid, at a rate equal to 18% per annum. The Board may, in its discretion, accelerate the entire balance of the unpaid Assessments and declare the same immediately due and payable, notwithstanding any other provisions hereof to the contrary. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Regular Assessment or Special Assessment without foreclosing (and without thereby waiving) the lien securing the same. In connection with any effort to collect or in any action to recover an Assessment, regardless of whether litigation is initiated, the Board, for and on behalf of the Association, shall be entitled to recover from the Owner of the Dwelling Unit, not only the delinquent Assessments, but also all late fees, interest, all court costs, all costs of collection, charges, fees and expenses incurred by the Association with respect to such collection effort or action, including but not limited to charges, costs, fees or other expenses incurred by the Association to the Managing Agent for administering, monitoring or processing delinquent Owners' accounts, and reasonable attorney's fees. The Association need not accept any tender or a partial payment of an Assessment, or any installment of an Assessment, and all costs, expenses, charges and attorneys fees attributable thereto, and any acceptance of any such tender shall not be deemed to be a waiver of the Association's right to demand and receive full payments thereafter. In addition, the Board shall have the power to adopt by Board resolution additional rules and regulations or delinquency procedures.

(b) Notwithstanding anything contained in this Section or elsewhere in this Declaration, the Articles or the By-Laws, any sale or transfer of a Lot and Dwelling Unit to a Mortgagee pursuant to a foreclosure on its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in the manner provided by law with respect to mortgage foreclosures, shall extinguish the lien of any unpaid installment of any Regular Assessment or Special Assessment or other charges as to such installments which became due prior to such sale, transfer or conveyance; provided, however, that the extinguishment of such lien shall not relieve the prior Owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Lot and Dwelling Unit or the purchaser at such foreclosure sale, or grantee in the event of conveyance in lieu thereof, from liability for any installments of Regular Assessments or Special Assessments or other charges thereafter becoming due or from the lien therefor. Such unpaid share of any Regular Assessments or Special Assessments or other charges, the lien for which has been divested as aforesaid, shall, if not collected from the party personally liable therefor, be deemed to be a Common Expense, collectible from all Owners (including the party acquiring the subject Lot and Dwelling Unit from which it arose).

(c) In addition to the remedies above stated for failure to pay assessments, the Association may disqualify a delinquent Owner from his right to vote and to hold office or committee membership in the Association while Assessment are delinquent in addition to charging a late fee of up to \$25.00 per day of delinquency to among other things, cover the administrative expense of addressing the delinquency.

ARTICLE XI
Mortgages

Section 11.1. Notice to Association. Any Owner who places a first mortgage lien upon his Lot, or the Mortgagee, may notify the Secretary of the Association thereof and provide the name and address of the Mortgagee. A record of each such first mortgage, and name and address of the Mortgagee, shall be maintained by the Secretary and any notice required to be given to the Mortgagee pursuant to the terms of this Declaration, the By-Laws or otherwise shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record or in the time provided. Unless notification of any such mortgage and the name and address of Mortgagee are furnished to the Secretary, either by the Owner or the Mortgagee, no notice to any Mortgagee as may be otherwise required by this Declaration, the By-Laws or otherwise shall be required and no Mortgagee shall be entitled to vote on any matter to which he otherwise may be entitled by virtue of this Declaration, the By-Laws, a proxy granted to such Mortgagee in connection with the mortgage, or otherwise.

The Association shall, upon written request of a Mortgagee who has furnished the Association with its name and address as hereinabove provided, furnish such Mortgagee with written notice of any default in the performance by its borrower of any obligations of such borrower under this Declaration or the By-Laws which is not cured within sixty (60) days.

Section 11.2. Notice of Unpaid Assessments. The Association shall, upon request of a Mortgagee, a proposed mortgagee, or a proposed purchaser who has a contractual right to purchase a Lot, furnish to such Mortgagee or purchaser a statement setting forth the amount of the unpaid Regular Assessments or Special Assessments or other charges against the Lot, which statement shall be binding upon the Association and the Owners, and any Mortgagee or grantee of the Lot shall not be liable for nor shall the Lot conveyed be subject to a lien for any unpaid assessments or charges in excess of the amounts set forth in such statement except as such assessments may be adjusted upon adoption of the final annual budget, as referred to in Section 3 of Article IV hereof.

ARTICLE XII
Insurance
Preface

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS ARTICLE XII (INSURANCE), THE ASSOCIATION WILL SEEK TO OBTAIN THE COVERAGES INDICATED SUBJECT HOWEVER TO THE LIMITATION OF WHAT'S AVAILABLE FROM INSURANCE CARRIERS FOR KENSINGTON GROVE COUPLED WITH CONSIDERATION AS TO EXCEPTIONS AND EXCLUSIONS OF COVERAGE, AND DEDUCTIBLES TO MAINTAIN CONTROL OF THIS ITEM OF COMMON EXPENSE.

THE ASSOCIATION WELCOMES THE OWNERS' INPUT REGARDING THE BEST COVERAGE FOR THE BEST PRICE AND WILL SUPPLY OWNERS WITH A SUMMARY FROM THE ASSOCIATION'S INSURANCE PROFESSIONAL WHICH WE URGE OWNERS TO SHARE AND CHALLENGE THEIR OWN INSURANCE PROFESSIONAL

FOR RECOMMENDATIONS AS TO THEIR REQUIRED INSURANCE AND ANY ADVISABLE ADDITIONAL COVERAGE (GAP OR OTHERWISE) FOR DIRECT PURCHASE BY OWNERS.

Section 12.1. Casualty Insurance. The Association shall purchase a master casualty insurance policy affording fire and extended coverage insuring the Common Areas in an amount consonant with the full replacement value of the improvements, if any, which, in whole or in part, comprise the Common Areas. If the Board of Directors can obtain such coverage for reasonable amounts they shall also obtain "all risk" coverage. The Board of Directors shall be responsible for reviewing at least annually the amount and type of such insurance and shall purchase such additional insurance as is necessary to provide the insurance required above. If deemed advisable by the Board, the Board may cause such full replacement value to be determined by a qualified appraiser. The cost of any such appraisal shall be a Common Expense. Such insurance coverage shall name the Association as the insured, for the benefit of each Owner (to the extent, if any, that individual Owners have an independent interest in the property covered thereby).

All proceeds payable as a result of casualty losses sustained which are covered by insurance purchased by the Association shall be paid to it or to the Board of Directors. In the event that the Board of Directors has not posted surety bonds for the faithful performance of their duties as such Directors or if such bonds do not exceed the funds which will come into its hands, and there is damage to a part or all of the Common Areas resulting in a loss, the Board of Directors shall obtain and post a bond for the faithful performance of its duties in an amount to be determined by the Board, but not less than 150% of the loss, before the Board shall be entitled to receive the proceeds of the insurance payable as a result of such loss. The sole duty of the Board in connection with any such insurance proceeds shall be to receive such proceeds as are paid and to hold the same for the purposes elsewhere stated herein, and for the benefit of the Owners. The proceeds shall be used or distributed by the Association or the Board, as appropriate, only in accordance with the provisions of this Declaration.

Such master casualty insurance policy, and "all risk" coverage if obtained, shall (to the extent the same are obtainable) contain provisions that the insurer (a) waives its right to subrogation as to any claim against the Association, the Board of Directors, its agents and employees, Owners, their respective agents and guests, and (b) waives any defense based on the invalidity arising from the acts of the insured, and providing further, if the Board of Directors is able to obtain such insurance upon reasonable terms (i) that the insurer shall not be entitled to contribution against casualty insurance which may be purchased by individual Owners, and (ii) that notwithstanding any provision thereof giving the insurer an election to restore damage in lieu of a cash settlement, such option shall not be exercisable in the event the Association does not elect to restore.

Section 12.2. Public Liability Insurance. The Association shall also purchase a master comprehensive public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time, but in any event with a minimum combined limit of Two Million Dollars (\$2,000,000.00) per occurrence. Such comprehensive public liability insurance policy shall cover all of the Common Areas and shall insure the Association,

the Board of Directors, Officers, any committee or organ of the Association or Board, any Managing Agent appointed or employed by the Association, and all persons acting or who may come to act as agents or employees of any of the foregoing with respect to Kensington Grove, all Owners of Lots and all other persons entitled to occupy any Lot or Dwelling Unit. Such public liability insurance policy shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association or other Owners.

Section 12.3. Other Insurance. The Association shall also obtain any other insurance required by law to be maintained, including but not limited to worker's compensation and occupational disease insurance, and such other insurance as the Board of Directors may from time to time deem necessary, advisable or appropriate, including but not limited to, liability insurance on vehicles owned or leased by the Association and Directors' and Officers' liability policies. Such insurance coverage shall also provide for and cover cross liability claims of one insured party against another insured party. Such insurance shall inure to the benefit of each Owner, the Association, the Board of Directors and any Managing Agent acting on behalf of the Association. Each Owner shall be deemed to have delegated to the Board of Directors his right to adjust with the insurance companies all losses under the policies purchased by the Board of Directors the proceeds of which are payable to the Board or the Association.

Section 12.4. General Provisions. The premiums for all insurance hereinabove described shall be paid by the Association as part of the Common Expenses. Upon request of any Owner or Mortgagee whose interest may be affected thereby, the Association shall provide such Owner or mortgagee with a description of the insurance coverage maintained by the Association. In no event shall any distribution of insurance proceeds be made by the Board of Directors directly to an Owner where there is a mortgagee endorsement on the certificate of insurance or insurance policy as it applies to such Owner's share of such proceeds. In such event any remittances shall be to the Owner and his Mortgagee jointly. The same method of distribution shall also apply to the distribution of any condemnation awards in connection with any taking of any of the Common Areas. Notwithstanding the foregoing, under no circumstances shall any distribution of insurance proceeds or condemnation awards be made by the Association to any Owners or Mortgagees if to do so would be in violation of the Act or if the same would constitute a distribution of earnings, profits or pecuniary gain to the Members of the Association; in any such event, any such insurance proceeds or condemnation awards shall be retained by the Association for use in the payment of its expenses of operation.

Section 12.5. Insurance by Owners. Each Owner shall be solely responsible for and may obtain such additional insurance as he deems necessary or desirable, at his own expense, affording coverage upon his personal property, his Lot, his Dwelling Unit, the contents of his Dwelling Unit, his personal property stored anywhere on the Real Estate, and for his personal liability, but all such insurance shall contain the same provisions for waiver of subrogation as referred to in the foregoing provisions for the master casualty insurance policy to be obtained by the Association.

ARTICLE XIII
Casualty and Restoration

In the event of damage to or destruction of any of the Common Areas due to fire or any other casualty or disaster, the Association shall promptly cause the same to be repaired and reconstructed. The proceeds of insurance carried by the Association, if any, shall be applied to the cost of such repair and reconstruction.

If the insurance proceeds, if any, received by the Association as a result of any such fire or any other casualty or disaster are not adequate to cover the cost of repair and reconstruction of the Common Areas, or in the event there are no insurance proceeds, the cost for restoring the damage and repairing and reconstructing the Common Areas so damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be assessed by Association against all of the Owners in equal shares. Any such amounts assessed against the Owners shall be assessed as part of the Common Expenses and shall constitute a lien from the time of assessment as provided herein.

For purposes of this Article, repair, reconstruction and restoration shall mean construction or rebuilding the Common Areas to as near as possible the same condition as they existed immediately prior to the damage or destruction and with the same architecture and materials.

Immediately after a fire or other casualty or disaster causing damage to any property for which the Board of Directors or Association has the responsibility of maintenance and repair hereunder, the Board shall obtain reliable and detailed estimates of the cost to replace the damaged property in a condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Directors desires or deems necessary.

Encroachments upon any Lot which may be created as a result of such reconstruction or repair of any of the Common Areas shall not constitute a claim or basis of a proceeding or action by the Owner upon whose Lot such encroachment exists, provided that such reconstruction was either substantially in accordance with the plans and specifications or as the Common Areas were originally constructed.

ARTICLE XIV
Annexation

The original developer of Kensington Grove developed the community on a section by section basis. The Plat for Section One was the first filed with the County Recorder. Thereafter, the developer filed Plats for Sections Two, Three and Four. As a result of that process, there are a total of three hundred two (302) Lots in Kensington Grove. All Lots are subject to this Declaration.

ARTICLE XV
Amendment of Declaration

Section 15.1. Generally. This Declaration may be amended or changed, in whole or in part, at any time upon approval by the Owners of at least one hundred eighty (180) of the three hundred and two (302) Lots in Kensington Grove. All Owners must be given the opportunity to vote on the proposed amendment(s). Such approval for an amendment to this Declaration may be obtained:

- (a) at a meeting of the members of the Association duly called and held in accordance with the provisions of the Association's By-Laws; or
- (b) by written consents or approvals received from the Owners either by U.S. Mail, express delivery, hand delivery, email, or through an online voting platform; or
- (c) pursuant to any other procedure recognized under Indiana law, including those recognized under the Indiana Nonprofit Corporations Act of 1991, as amended, including, but not limited to, written mail-in ballots; or
- (d) any combination of the above.

In the event any Lot or Dwelling Unit is subject to a first mortgage, the Mortgagee shall be notified of the meeting and the proposed amendment in the same manner as an Owner if the Mortgagee has given prior notice of its mortgage interest to the Board of Directors in accordance with the provisions hereof.

(b) Special Amendments. No amendment to this Declaration shall be adopted which changes (1) the applicable share of an Owner's liability for the Common Expenses, or the method of determining the same, or (2) the provisions of this Declaration with respect to casualty insurance to be maintained by the Association, or (3) the provisions of this Declaration with respect to reconstruction or repair of the Common Areas in the event of fire or any other casualty or disaster, or (4) the provisions of this Declaration establishing the Committee and providing for its functions, without, in each or any of such circumstances, the unanimous approval of all Owners and of all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of the Declaration.

(c) Recording. Each amendment to the Declaration shall be executed by the President and Secretary of the Association and shall be recorded in the office of the Recorder of Johnson County, Indiana, and such amendment shall not become effective until so recorded.

ARTICLE XVI
Acceptance and Ratification

All present and future Owners, Mortgagees, tenants and occupants of the Lots and Dwelling Units, and other Persons claiming by, through or under them, shall be subject to and

shall comply with the provisions of this Declaration, the Articles, the By-Laws and the rules, regulations and guidelines as adopted by the Board of Directors and (to the extent of its jurisdiction) the Committee, as each may be amended or supplemented from time to time. The acceptance of a deed of conveyance of the act of occupancy of any Lot or Dwelling Unit shall constitute an agreement that the provisions of this Declaration, the Articles, the By-Laws and rules, regulations and guidelines, as each may be amended, or supplemented from time to time, are accepted and ratified by such Owner, tenant or occupant, and all such provisions shall be covenants running with the land and shall bind any Person having at any time any interest or estate in an Lot or Dwelling Unit or the Real Estate, all as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. All Persons who may own, occupy, use, enjoy or control a Lot or Dwelling Unit or any part of the Real Estate in any manner shall be subject to this Declaration, the Articles, the By-Laws, and the rules, regulations and guidelines applicable thereto as each may be amended or supplemented from time to time.

ARTICLE XVII **Negligence**

Each Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his negligence or by that of any member of his family his or their guests, employees, agents, invitees or lessees, to the extent that such expense is not covered by the proceeds of insurance carried by the Association. An Owner shall pay the amount of any increase in insurance premiums occasioned by his violation of any of the Restrictions or any violation thereof by any member of his family or his or their guests, employees, agents, invitees or tenants.

ARTICLE XVIII **Benefit and Enforcement**

Section 18.1. Covenants Appurtenant to Land. These covenants are to run with the land, and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date this Amended and Restated Declaration is recorded, at which time said covenants shall be automatically extended for successive periods of ten (10) years each, unless at any time all Lot Owners agree to terminate said covenants in whole and in their entirety; provided, however, that no termination of said covenants shall affect any easement hereby created or granted unless all persons entitled to the beneficial use of such easement shall consent thereto.

Section 18.2. Prosecution of Violations. Subject to the requirements and provisions of the By-Laws concerning “Grievance Resolution Procedures” that are mandated by the Indiana Homeowners Association Act, it shall be lawful for the Association, the Committee (as to matters for which it has responsibility) or any Lot Owner to prosecute any proceedings at law or in equity against the person or persons violating, or attempting to violate any covenant, conditions, provisions or restrictions contained herein either to prevent such person or persons from doing so, or to recover damages or other dues for such violation, or to require the removal of structures erected in violation hereof. All costs of litigation and attorneys' fees resulting from violation of these covenants and restrictions shall be the financial responsibility of the Lot Owner

or Owners found to be in violation. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect. Failure to enforce any specific requirement of the covenant shall not be considered as a waiver of the right to enforce any covenant herein, thereafter.

The Association may as respects an Owner who violates these restrictions, after written notice to the Owner detailing the nature of the violation with a time period established by the Association to cure or conform, disqualify the voting rights and right to hold office while the violation continues and may further in the Board's sole discretion, impose a fine (if permitted by law), in whole or in part, with each day after the cure period being a separate violation at a chargeable rate of up to one hundred dollars (\$100.00) per violation per day. This fine, if not paid when required, will be processed and collected in the same manner as delinquent assessments.

ARTICLE XIX

Non-Liability of Johnson County Drainage Board

The Johnson County Drainage Board shall not be responsible in any way for, and disclaims any liability for, any defect in any plans, specifications or other materials approved by it in connection with the storm drainage system for the Kensington Grove Project, or for any defects in the construction thereof.

ARTICLE XX

Miscellaneous

Section 20.1. Costs and Attorneys' Fees. In any proceeding arising because of failure of an Owner to make any payments required by this Declaration, the Articles or the By-Laws, or to comply with any provision of this Declaration, the Articles, the By-Laws, or the rules, regulations and guidelines adopted pursuant thereto, as each may be amended from time to time, the Association shall be entitled to recover its costs and reasonable attorneys' fees incurred in connection with such default or failure.

Section 20.2. Waiver. No Owner may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use of enjoyment of any of the Common Areas or by abandonment of his Lot or Dwelling Unit.

Section 20.3. Severability Clause. The invalidity of any covenant, restriction, condition, limitation or other provision of this Declaration, the Articles or the By-Laws shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration, the Articles or the By-Laws and each shall be enforceable to the greatest extent permitted by law.

Section 20.4. Pronouns. Any reference to the masculine, feminine or neuter gender herein shall, unless the context clearly requires the contrary, be deemed to refer to and include all genders. Words in the singular shall include and refer to the plural, and vice versa, as appropriate.

Section 20.5. Interpretation. The captions and titles of the various articles, sections, sub-sections, paragraphs and subparagraphs of this Declaration are inserted herein for ease and convenience of reference only and shall not be used as an aid in interpreting or construing this Declaration or any provision hereof.

[EXHIBIT A FOLLOWS]

EXHIBIT A

ARTICLE XXI Kensington Grove Covenants and Restrictions

Section 21.1. Air Cooling Units; Backup Power Generators. Air cooling units, backup power generators or other like utilities that are outside of the residential structure must be located at the side or rear of the home and except as may be permitted by the Committee. No window air conditioning units may be installed on any Lot.

Section 21.2. Animals and Pets. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats or other usual and common household pets not to exceed a total of three (3) may be permitted on a Lot unless approved by the Association. However, those pets which are permitted to roam free, or, in the sole discretion of the Association, endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Lots shall be removed upon the request of the Board. No pets shall be kept, bred, or maintained for any commercial purpose. Dogs shall at all times whenever they are outside a Lot be confined on a leash held by a responsible person.

Section 21.3. Antennas. No exterior antennas, aerials, satellite dishes, or other apparatus for the transmission of television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon any portion of the Properties, including any Lot, without the prior written consent of the Committee; provided, however, that any such device may be installed and maintained on any Lot without the necessity of such written approval if: (a) it is not visible from the neighboring Lots, streets or Common Area; or (b) the device is virtually indistinguishable from structures, devices, or improvements, such as heat pumps, air-conditioning units, barbecue grills, patio furniture, and garden equipment, which are not prohibited by these covenants or the rules and regulations of the Association, or (c) it is a satellite dish one (1) meter (approximately 39”) or less in diameter and not affixed to the roof of a residence; or (d) if prohibition of the installation, use, and maintenance of such device is specifically preempted and superseded by applicable governmental authority.

Section 21.4. Artificial Vegetation, Artificial Turf, Exterior Sculpture, and Similar Items. No artificial vegetation (including artificial turf) shall be permitted on the exterior of any portion of the Lots except as approved by the Architectural Control Committee. Exterior sculpture, fountains, and similar items must be approved in accordance with Article VIII of this Declaration.

Section 21.5. Business Use. No garage sale, moving sale, rummage sale or similar activity and no trade or business may be conducted in or from any Lot, except that an Owner or occupant of a Lot may conduct business activities within the Unit so long as: (a) the existence or operation of the business activity is not apparent to detectable by sight, sound or smell from outside the Unit; (b) the business activity conforms to all zoning requirements, (c) the business activity does not involve persons coming onto the Kensington Grove property who do not reside in Kensington Grove or door-to-door solicitation of residents of Kensington Grove; and (d) the

business activity is consistent with the residential character of Kensington Grove and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of Kensington Grove, as may be determined in the sole discretion of the Board.

Section 21.6. Clothesline, Garbage Cans, Tanks, Etc. All clothes, sheets, blankets, rugs, laundry clotheslines, garbage cans, mechanical equipment (except air conditioning and heat pump units), and other similar items on Lots shall be located or screened so as to be concealed from view of neighboring Lots, streets, and property located adjacent to the Lot. Outside clotheslines and open air composting systems will not be permitted. Fuel storage tanks will not be allowed. All rubbish, trash, and garbage shall be stored in appropriate containers approved by the Committee hereof and shall regularly be removed from the Lots and shall not be allowed to accumulate thereon. No Owner shall burn or permit burning out-of-doors of garbage or other refuse.

Section 21.7. Association's Right to Perform Certain Maintenance and Removal. In the event that any Owner of a Lot shall fail to maintain his Lot and any improvements, or remove any unauthorized item or structure, situated thereon in accordance with the provisions of these Restrictions and the provisions of any recorded plat, the Association through its agents and employees or contractors, should have the right to enter upon said Lot and repair, mow, clean, remove or perform such other acts as may be reasonably necessary, to make such Lot and improvements situated thereon, if any, conform to the requirements of these Restrictions and the provisions contained in any such plat. The cost thereof to the Association shall be collected as a special assessment against such Owner and his Lot in the manner provided for herein for the collection of Common Expenses. Neither the Association, nor any of its agents, employees or contractors, shall be liable for any damage which may result from any maintenance work performed hereunder.

Section 21.8. Ditches and Swales and Erosion Control. It shall be the duty of the Owner of any Lot on which any part of an open storm drainage ditch or swale is situated to keep such portion thereof as may be situated upon his Lot continuously unobstructed (both by improvements and plant material) and in good repair, and to provide for the installation of such culverts upon said Lot as may be reasonably necessary. It shall be the duty of the Owner of any Lot to establish as needed and to maintain all erosion control on his or her respective Lot.

Section 21.9. Drilling. No oil or water drillings, oil development operations, oil refining, quarries or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil, water or natural gas shall be erected, maintained or permitted on any Lot.

Section 21.10. Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed on any Lot unless it is an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the Committee pursuant to Article VIII of this Declaration.

Solar installations must have the approval of the Committee before any work is undertaken. An application for the installation of solar panels will not be considered unless the application is accompanied by a site plan, description of the dwelling, color of the solar system, name of the professional vendor and installer, plans and specifications of the solar system. Installations other than on the roof will not be considered. Roof installations that extend over the roof by more than six (6) inches are not permitted.

Section 21.11. Fences. No hedges, walls, dog runs, animal pens or fences of any kind shall be permitted on any Lot except as approved in accordance with Article VIII of this Declaration. The only style of approved fence will be a four foot high black wrought-iron style. Chain-link fences will not be permitted.

Section 21.12. Firearms. The discharge of firearms within the Properties is prohibited. The term "Firearms" includes bows and arrows, slingshots "B-B" guns, pellet guns, paint-ball guns and other firearms of all types, regardless of size. Notwithstanding anything to the contrary, contained herein or in the By-Laws, the Association shall not be obligated to take action to enforce this Section.

Section 21.13. Ground Elevations and Erosion Control. It shall be the Lot Owner's responsibility to maintain and comply with all building and site finish ground elevations and erosion control as finally required and approved by the Johnson County Drainage Board and the Department of Planning and Zoning as evidenced upon the final construction plans for the development of this subdivision.

Section 21.14. Heating Plant. Every Dwelling Unit must contain a heating plant installed in compliance with the applicable codes and capable of providing adequate heat for year-round human habitation of the Dwelling Unit.

Section 21.15. Insurance Impact. Nothing shall be done or kept by an Owner in any Dwelling Unit, or on any Lot, or on any of the Common Areas, which will cause an increase in the rate of insurance on any Common Areas. No Owner shall permit anything to be done or kept in his Dwelling Unit or on his Lot which will result in a cancellation of insurance on any part of the Common Areas, or which would be in violation of any law or ordinance or the requirements of any insurance underwriting or rating bureau.

Section 21.16. Landscape Easements. There are strips and areas of ground shown marked "Landscape Easement" on the Final Plats. They are reserved for the use of Owners of Lots to the extent and limited for the purposes set forth in this Declaration and for the use of the Association for the installation, maintenance, repair and replacement of:

- fences,
- walls,
- landscaping,
- other screening material,
- street directories,
- street signs,

water wells and
other items requiring maintenance.

Except as installed and maintained by Lot Owners pursuant to the requirements of this Declaration, or by the Association, no Owner can erect or maintain a permanent or other structure (except for approved walls, sidewalks and fences) on said strips, and the Owners of such Lots shall take and hold title to their lots subject to the foregoing rights of the Association and shall not do or permit to be done anything which will obstruct or interfere with or remove any installations or landscaping made by the original developer or the Association in any such "Landscape Easement".

Section 21.17. Landscaping. Landscape modifications will not require approval by the Committee under the following conditions: (1) the landscaped area is not enlarged; (2) landscape plants are replaced by similar kind and like quality of plants and trees fitting with the general style of the Kensington Grove community; (3) trees do not exceed twelve (12) feet in height at planting; and (4) drainage easements are not affected. Modifications to an existing patio or deck will not require approval by the Committee if the patio or deck is not enlarged, the painting/stain compliments the house's colors, and the changes are in keeping with the general style of the property. In all other cases, approval by the Committee will be required. Landscape lighting does not require approval.

Section 21.18. Lighting. Except for seasonal holiday decorative lights, the only approved color for exterior lighting is white. Holiday decorative lights must be removed as soon as possible following the holiday.

Section 21.19. Maintenance of Lots and Improvements. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her Lot. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the forgoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of Kensington Grove. No waste shall be committed in any Dwelling or on any Lot. Each Owner shall:

- (i) Mow the Lot at such times as may be reasonably required in order to keep the grass no longer than five inches and prevent the unsightly growth of vegetation and noxious weeds;
- (ii) Remove all debris or rubbish;
- (iii) Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Kensington Grove subdivision;
- (iv) Cut down and remove dead trees;
- (v) Where applicable, prevent debris and foreign material from entering drainage areas;
and

(vi) Keep the exterior of all improvements in such a state of repair or maintenance as to avoid their becoming unsightly.

Section 21.20. Home Occupations. No Lot or Lots shall be used by an Owner for any purpose other than as a single-family residence, except that a home occupation, which satisfies the following definition as well as all requirements of the applicable zoning ordinance, may be permitted: any use conducted entirely within the Dwelling and participated in solely by a member of the immediate family residing in said Dwelling, which use is clearly incidental and secondary to the use of the Dwelling for dwelling purposes and does not change the character thereof and in connection with which there is: (a) no sign or display that will indicate from the exterior that the Dwelling is being utilized in whole or in part for any purpose other than that of a dwelling; (b) no commodity sold upon the premises; (c) no person is employed other than a member of the immediate family residing in the Dwelling; (d) such office or business generates no significant number of visits or unreasonable parking usage by clients, customers or other persons related to the business; and (e) no manufacture or assembly operations are conducted. Provided however, that in no event shall the following or similar activities be conducted or considered to be a permitted Home Occupation: child day care, barber shop, styling salon, animal hospital, or any form of animal care or treatment such as dog grooming, or any other similar activities.

Section 21.21. Non-applicability to Association. Notwithstanding anything to the contrary contained herein, the covenants and restrictions set forth in this Article X shall not apply to or be binding upon the Association in its ownership, management, administration, operation, maintenance, repair, replacement and upkeep of the Common Areas to the extent the application thereof could or might hinder, delay or otherwise adversely affect the Association in the performance of its duties, obligations and responsibilities as to the Common Areas.

Section 21.22. Occupancy and Residential Use of Partially Completed Dwelling House Prohibited. No Dwelling Unit constructed or reconstructed on any of the Lots shall be occupied or used for residential purposes until an occupancy permit has been obtained.

Section 21.23. Occupants Bound. All provisions of this Declaration, the By-Laws and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants, guests and invitees of any Owner. Every Owner shall cause all occupants of his or her Lot to comply with this Declaration, the By-Laws and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations and losses to the Common Areas caused by such occupants, notwithstanding the fact that such occupants of a Lot are fully liable and may be sanctioned for any violation of this Declaration, the By-Laws and rules and regulations adopted pursuant thereto.

Section 21.24. Other Exterior Attachments. No Owner shall cause or permit anything to be hung or displayed on the outside of the windows of his or her Dwelling Unit or placed on the outside walls of any building, and no awning, canopy, shutter or other attachment or thing shall be affixed to or placed upon the exterior walls or roofs or any other parts of any building

without the prior consent of the Committee unless otherwise expressly authorized herein, or in any recorded subdivision plat, or by the rules, regulations and guidelines of the Committee.

Section 21.25. Parking and Prohibited Vehicles.

- (a) **Parking.** Vehicles shall be parked only in the garages or in the driveways, if any, serving the Lots, Parking (of automobiles only) is allowed on dedicated streets only when an Owner has a social function, and the invited guests will not be able to park on such Owner's Lot. No overnight parking shall be permitted on any dedicated street.
- (b) **Prohibited Vehicles.** Commercial vehicles, vehicles with commercial writing on their exteriors or containing visible equipment, vehicles primarily used or designed for commercial purposes, tractors, mobile homes, recreational vehicles, trucks being bigger than one ton, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft and boat trailers shall be parked only in enclosed garages. Stored vehicles and vehicles which are either obviously inoperable or do not have current operating licenses shall not be permitted on the Properties except within enclosed garages. For purposes of this Section, a vehicle shall be considered "stored" if it is put up on blocks or covered with a tarpaulin and remains on blocks or so covered for fourteen (14) consecutive days without the prior approval of the Board. Notwithstanding the foregoing, service and delivery vehicles may be parked in the Properties for such period of time as is reasonably necessary to provide service or to make a delivery to a Lot. Any vehicle parked in violation of this Section or parking rules promulgated by the Board may be towed in accordance with the By-Laws.
- (c) **Garages and Driveways.** No dwelling shall have less than a full size 2-car or more than a 3-car attached garage, unless otherwise approved by the Committee. All driveways and vehicle parking areas must be hard surfaced with concrete, must meet the architectural standards of the Kensington Grove community, and shall be so surfaced from their point of connection with the abutting street to their point of connection with the garage apron. No gravel, asphalt or stone driveways will be permitted. Only concrete is permitted. For Owners who own two (2) contiguous Lots, no additional driveway is permitted.

Section 21.26. Playground. Any Playground or other play areas or equipment furnished by the Association or erected within Kensington Grove shall be used at the risk of the user, and the Association shall not be held liable to any Person for any claim, damage, or injury occurring thereon or related to use thereof. No playground equipment (including, but not limited to, trampolines), tree houses, or similar structures shall be erected on any Lot without prior approval pursuant to Article VIII hereof; provided, however, children's play equipment such as sandboxes, swings and slides, shall not require approval by the Committee provided such equipment is not more than eight (8) feet high, maintained by the Owner in good repair (including painting) and every reasonable effort has been made by the Owner to screen or shield such equipment from view of adjacent Lot Owners. Equipment higher than eight (8) feet shall require approval of the design, location, color, material and use by the Committee.

Section 21.27. Private Water Wells. Private water wells will not be allowed.

Section 21.28. Prohibition of Used Structures. All structures constructed or reconstructed or placed on any Lot shall be constructed or reconstructed with substantially all new materials, and no used structures shall be relocated or placed on any such Lot.

Section 21.29. Quiet Enjoyment. No portion of Kensington Grove shall be used, in whole or in part, for the storage or any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any portion of Kensington Grove that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious, illegal, or offensive activity shall be carried on upon any portion of Kensington Grove. For greater clarification, no Owner shall knowingly or willfully make or create any unnecessary, excessive or offensive noise or disturbance which destroys the peace, quiet and/or comfort of the Owners or allow any such noise or disturbance to be made on his or her Lot, including any noise by the use of musical instruments, radio, television, loudspeakers, electrical equipment, amplifiers or other machines or equipment. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way obnoxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of Kensington Grove. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted within Kensington Grove. Gas-sourced fire pits are permitted. Also, excessive grass clippings from the mowing of lawns or other lawn/tree rubbish will not be allowed to be left on any street within the development.

Section 21.30. Residential Use. Kensington Grove shall be used only for single family residential purposes; provided, however, that such restriction shall not apply to any Lot or part thereof or any other part of Kensington Grove at any time owned by the Association which constitutes a part of the Common Areas and upon which no Dwelling Unit is located.

Section 21.31. Sanitary Waste Disposal.

- A. **Nuisances.** No outside toilets shall be permitted on any Lot (except during a period of construction and then only with the consent of the Committee), and no sanitary waste or other wastes shall be permitted to be exposed.

Section 21.32. Sidewalks. Sidewalks shall be constructed as required by the sidewalk plan approved by the Johnson County Plan Commission, which construction shall be the responsibility of the lot owner upon whose lot the sidewalk is constructed, provided, however, that any Common Area sidewalks were constructed by the original Developer as designated on the final development sidewalk plan. All sidewalks shall be poured concrete, with expansion joints, such construction to be perpetual and continuous along the street frontages and across the driveway of each Lot. If there is damage to a sidewalk or street curb caused by the Owner, the Owner's guests, or by a contractor hired by the Owner, or by force of nature, in such a manner as to cause a safety hazard, such Owner shall be responsible for repairing said damage. Maintenance of Common Area sidewalks is the responsibility of the Association.

Section 21.33. Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

Section 21.34. Signs. No yard signs on the Owner's Lot are permitted, except for the following: Contractor and realtor signs are permitted while the contractor is working on the Owner's property or while the property is for sale. When work has completed, or the property has sold and closed, Owner must remove the sign. School spirit signs are allowed. Signs must be placed adjacent to the home. Other signs advertising businesses or services are not permitted. Political signs are permitted subject to the following restrictions: (1) Only one sign per Lot owned by the Owner; (2) signs must be no larger than 24 inches by 18 inches; (3) signs may only be displayed beginning thirty (30) days before and ending five (5) days after the date of the election to which the sign relates.

Section 21.35. Swimming Pools. Swimming Pools must have the approval of the Committee before any work is undertaken. No above ground swimming pools shall be allowed, provided nothing herein shall preclude installation and use of hot tubs, spas, jacuzzies or similar apparatus with prior approval of the Committee. Permanent backyard pools will be approved by the Committee only after careful consideration of the potential effect of such a pool on neighboring properties. An application for the construction of a swimming pool will not be considered unless the application is accompanied by an application for acceptable fence or other safety protection and landscape design approval. The design of such fence shall conform to county or municipal regulations for such fencing. Use of plantings in the vicinity of the proposed pool may be required to soften the effect of sound and required pool fencing, on adjacent properties. Overhead lighting should have low impact on neighboring properties. Swimming pool accessories (pool toys, floats, etc.) must be stored out of sight when not in use.

Section 21.36. Tennis Courts, Racquetball Courts, Pickle Ball Courts, Paddle Ball Courts, Etc. Tennis courts, racquetball courts, pickle ball courts, paddle ball courts, squash courts, and other recreational or sporting facilities are not permitted.

Section 21.37. Basketball Goals. All basketball backboards or any other fixed games and play structures shall be located behind the front foundation line of the main structure (defined as containing first floor living space) and within Lot set-back lines unless otherwise approved by the Committee. In cases where it is not feasible to install the basketball goal behind the front foundation line, the basketball goal must be located within fifteen (15) feet of the front foundation line of the main structure but not closer than twenty (20) feet from the street. The Committee must approve the location and type of basketball goals. All basketball backboards must be made of a transparent material.

When placement of the basketball goal can impact neighboring property due to errant balls, the Lot Owner must notify the affected neighbor of their intent to install the basketball goal. Approval by the Committee will be considered when the application is accompanied by (1) an affidavit affirming that the neighbor has been informed about the basketball goal; and (2) a plan to add a barrier, landscape or otherwise, to minimize balls from entering the neighbor's Lot.

Permanent basketball goals must be well-maintained. Needed repairs or replacements must be promptly addressed to ensure proper function and visual appeal. No lighted basketball goals or courts are permitted.

Only permanent basketball goals are allowed. All other kinds of basketball goals, including temporary or portable basketball goals, are prohibited.

Section 21.38. Tents, Trailers and Temporary Structures. No tent, utility shed, shack, trailer or other structure of a temporary nature shall be placed upon a Lot or the Common Areas. Notwithstanding the above, party tents or similar temporary structures may be erected for special events for a period not longer than 48 hours unless otherwise consented to by the Board of Directors.

Section 21.39. Tree Removal. No trees shall be removed, except for diseased or dead trees needing to be removed to promote the growth of other trees or for safety reasons, unless approved in accordance with Article IX of this Declaration. In the event of an intentional or unintentional violation of this Section, the violator may be required by the Committee to replace the removed tree with one (1) or more trees of such size and number, and in such locations, as the Committee may determine in its sole discretion

Section 21.40. Utility Lines. No overhead utility lines, including lines for cable television, shall be permitted within Kensington Grove, except for temporary lines as required during construction and high voltage lines if required by law or for safety purposes.

Section 21.41. Additional Structures. One detached, non-residential building will be allowed per lot in the Estates upon approval of applicable site plan and building plans by the Committee and the Johnson County Planning Department. The Committee has prepared and promulgated, on behalf of the Board of Directors, design and development guidelines for the minimum standards upon which approval will be based such as, but not limited to, the building having the same architectural style as the existing residential dwelling including similar brick or exterior finish and similar shingles. Additional structures will not be allowed in The Overlook, The Crossings, and The Villages unless approved by the Committee.

Section 21.42. Flags. Flags are permitted when attached to the Owner's dwelling with mounting hardware. Only one (1) mounted flag per Lot. Flags can be no larger than five (5) feet by three (3) feet. Flags are not permitted to be affixed to the mailbox. Flagpole installations must be approved by the Committee. Only one (1) flagpole is permitted per Lot. No more than two flags may be added to a flagpole.

ARTICLE XXII Leasing and Rental Restrictions

Section 22.1. General Prohibition of Leased Dwelling Units and Lots ("Rental Ban"). The members of the Association wish to ensure that the residents within Kensington Grove share the same proprietary interest in and respect of the Dwelling Units, the Common

Areas and the other portions of the Kensington Grove community that the Association maintains, and to encourage residents to not only maintain property values but also to improve them. **Thus, there shall be no leasing, rental or occupancy of any Dwelling Unit or Lot except as otherwise provided in this Article XXII.**

Section 22.2. “Rental” and “Lease” Defined. The “Rental Ban” described in this Article XXII is intended to apply to all forms of non-Owner occupancies, including but not limited to Leases, Rentals, Land Contracts, or Rent-to-Own Agreements, except as specifically provided herein. For the purposes of this Article XXII, “rented” or “leased,” as used interchangeably herein, means leased or rented or occupied, whether or not for compensation of any kind, by anyone other than an Owner of the Lot together with members of his or her household. However, the “Rental Ban” will not apply to any situation where a Dwelling Unit is occupied by members of the Owner’s family (persons related by blood, marriage, adoption, foster care, or guardianship), or where the Owner continues to live in the Dwelling Unit as his or her principal place of residence. “Family” occupancy will not be considered to be a “rental” in the context of the Rental Ban; provided, however, the Owner and occupants are still subject to the remaining provisions and requirements of this Article XXII.

Any Lot owned by a Trustee or by a Fiduciary shall not be deemed to be a rental, provided that the resident is the Trustee, the Fiduciary of an Estate, or a beneficiary of the Trust or Estate, and further provided that no rent, payment, service or other consideration is paid or provided to the Owner or any other party in connection with that occupancy. The Trustee or Fiduciary shall submit a certificate to the Association indicating who is authorized to reside in the Dwelling Unit.

If the Dwelling Unit is occupied by a manager of an Owner that is a limited liability corporation, or a shareholder of an Owner that is a corporation, it will not be deemed a rental, provided that no rent, payment, service or other consideration is paid or provided to the Owner or any other person or party in connection with that occupancy. All other occupancies of a Dwelling Unit by representatives, employees, agents, guests, or lessees of a corporation, partnership or other entity shall be considered rentals for the purpose of this Rental Ban and are therefore prohibited. Any Dwelling Unit owned by a corporate entity shall submit a certificate of designated representative to the Association. This certificate will indicate both who is authorized to vote on behalf of the corporation as well as who is authorized to reside in the Dwelling Unit.

Section 22.3. Effective Date of “Rental Ban.” As of the date on which this Article XXII is recorded with the Johnson County Recorder (the “Recording Date”), these rental restrictions shall be deemed effective. Within thirty (30) days after the Recording Date, the Board shall provide written notice to all Owners setting forth the Recording Date. The Rental Ban shall not apply to any existing lease or rental in place as of the Recording Date, so long as the Owner-landlord mails or otherwise delivers to the Board or the Association’s Managing Agent (at the address shown in the notice of the Recording Date), within sixty (60) days after the Recording Date, a copy of each executed lease of such Dwelling Unit which is in effect as of the Recording Date. The Owners of such pre-Recording Date rented Lots shall not be subject to the Rental Ban, but shall be subject to the remaining provisions of this Article XXII. However, when the legal Owners of record of any of the pre-Recording Date rented Lots sell, transfer or convey such

Lot(s) to another Owner after the date of recording of this Amendment, such Lots shall immediately become subject to the Rental Ban. The failure of any such Owner-landlord of a leased or rented Lot to deliver a copy of such pre-Recording Date lease within said sixty (60) day period to the Board or Managing Agent shall result in said Owner-landlord's Lot(s) being subject to the Rental Ban (from and after the date of expiration of such pre-Recording Date lease).

Section 22.4. Hardship Exceptions and Waiver. An Owner may request the Board to waive the Rental Ban if the Owner establishes to the Board's satisfaction that the Rental Ban will cause an "undue hardship" as defined below. If the Board approves the Owner's request in writing, the Owner may rent or lease said Dwelling Unit, subject to any further conditions or limitations imposed by the Board in the Board's discretion, but only if the Owner satisfies all other requirements of Article XXII. Such decision shall be at the sole discretion of the Board and shall be subject to further conditions and limitations as the Board deems appropriate. The Board will only consider one of the following circumstances as an "undue hardship":

- a. Divorce or marriage of an Owner;
- b. Death of an Owner;
- c. The Owner is a reservist in the United States Armed Forces who is called to temporary active duty, or is active-duty personnel in the United States Armed Forces who is temporarily deployed more than one hundred (100) miles from Kensington Grove;
- d. Temporary job transfer of an Owner greater than one hundred (100) miles from Kensington Grove.

If an Owner desires to request an exception based upon one of the above hardship circumstances, the Owner must submit a written request describing the nature of the alleged hardship and need to rent. The Board may approve or deny such requests as it deems appropriate. As part of the conditions for any approval, the Board can also require the Owner to reapply after one year to seek an extension of the Board's approval. However, in no circumstance can a Dwelling Unit be rented for more than two (2) years.

Section 22.5. General Lease Conditions.

- a. All permitted leases, including renewals, shall be in writing, and no lease shall be entered into for an initial term of less than one (1) year or more than two (2) years without the prior written approval of the Board.
- b. No portion of any Dwelling Unit or Lot other than the entire Dwelling Unit and Lot shall be leased for any period.
- c. No subleasing shall be permitted.

d. All leases shall be made expressly subject and subordinate in all respects to the terms of this Declaration, the By-Laws, and any rules and regulations promulgated by the Board, as amended, (collectively referred to as the "Governing Documents") to the same extent as if the tenant were an Owner and a member of the Association; and shall provide for direct action by the Association and/or any Owner against the tenant with or without joinder of the Owner of such Lot. If such provision is not in the lease, it will be deemed to be in such lease.

e. The Owner must supply copies of such Governing Documents to the tenants prior to the effective date of the lease.

f. In addition, the Board shall have power to promulgate such additional rules and regulations as, in its discretion, may be necessary or appropriate concerning leasing.

g. All Owners who do not reside in the Dwelling Unit must provide the Board with the name of the tenant(s) and any other adult residents living in the Dwelling Unit, together with phone numbers and email addresses.

Section 22.6. Owner is Still Liable. No lease shall provide, or be interpreted or construed to provide, for a release of the Owner from his or her responsibility to the Association for compliance with the provisions of the Governing Documents, or from the Owner's liability to the Association for payments of assessments or any other charges.

Section 22.7. Association's Copy of Lease. A copy of each executed lease by an Owner which identifies the tenant (but which may have the rental amount and personal identifying information deleted) shall be provided to the Board by the Owner within thirty (30) days after execution.

Section 22.8. Violations. Any lease or attempted lease of a Dwelling Unit in violation of the provisions of this Article XXII is voidable at the election of the Board, except that neither party to such lease may assert this provision of this Article XXII to avoid its obligations thereunder. In the event of a violation of this Article XXII, the Association, or any Owner, shall have the right to exercise any available remedies at law or equity, including commencement of an action for injunctive relief to have the occupants removed from the Dwelling Unit. If the Association takes action to enforce this Article XXII, the Association shall have the right to recover all costs incurred in connection with its enforcement efforts, including attorneys' fees.

Section 22.9. Burden of Proof. Anything to the contrary herein notwithstanding, if at any time a Dwelling Unit is not occupied by one of the Owners thereof, there shall be a presumption that the Dwelling Unit is being leased and subject to the provisions of this Article XXII and the Owner shall have the burden of proving to the satisfaction of the Board that the occupancy is not in violation of the terms of this Article XXII, including but not limited to the delivery to the Board of a written statement of the nature and circumstances of the occupancy and any written document or memorandum that is the legal basis for the occupancy. For purposes of this Article XXII and this Section 22.9, any occupancy (including occupancy pursuant to a rent-to-own contract, land contract, any option to purchase, or similar agreement) by anyone other than an Owner shall be deemed a rental.

Section 22.10. Short-Term Rentals. Owners shall not lease, rent, or otherwise operate their Dwelling Unit on a hotel, transient or short-term rental basis. For the purpose of Article XXII, “short-term rental” is defined as any term of less than one (1) year. This short-term rental prohibition includes, but is not limited to, the use of a short-term rental platform through which unaffiliated parties offer to rent a Dwelling Unit or portion thereof to an occupant and collect consideration for the rental from the occupant. (For example, VRBO or Airbnb.)

Section 22.11. Institutional Mortgagees. The provisions of this Article XXII shall not apply to any institutional mortgagee (like a bank or mortgage company) of any Dwelling Unit which comes into possession of a Dwelling Unit. However, when a Dwelling Unit is sold or conveyed by such an institutional mortgagee to a subsequent purchaser, that subsequent purchaser or Owner shall be bound by the provisions of this Article XXII.

[The remainder of this page left blank intentionally; signature page follows]

The undersigned officers hereby represent and certify that all requirements for and conditions precedent for the effectiveness of this Amended and Restated Declaration of Covenants and Restrictions have been fulfilled and satisfied.

Executed this ____ day of October, 2024.

Kensington Grove Homeowners Association, Inc., by:

Terry Cleveland, President

Attest:

Tino Marquez, Secretary

STATE OF INDIANA)
) SS:
COUNTY OF _____)

Before me, a notary public, in and for said County and State, personally appeared Terry Cleveland and Tino Marquez, the President and Secretary, respectively, of Kensington Grove Homeowners Association, Inc., an Indiana nonprofit corporation, who acknowledged execution of the within and foregoing for and on behalf of said corporation and its members and who, being duly sworn, stated that the certifications and representations made therein are true. Witness my hand and notarial seal this _____ day of October, 2024.

Notary Public - Signature

Printed

My Commission Expires: _____

Residence County: _____

“I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.”

/s/ P. Thomas Murray, Jr., Esq.

This instrument prepared by, and should be returned to, P. Thomas Murray, Jr., EADS MURRAY & PUGH, P.C., Attorneys at Law, 9515 E. 59th Street., Suite B, Indianapolis, IN 46216. Telephone (317) 536-2565.