

Tax Parcel Nos. 3-34-19.00-33.00 - 137.00;  
174.00 - 194.00; 230:00 - 233.00;  
236.00 - 239.00; and 256.00 - 264.00

**Prepared by and Return to:**

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**REHOBOTH BEACH YACHT & COUNTRY CLUB HOMES ASSOCIATION**

**SECOND AMENDED DECLARATION OF RESTRICTIVE COVENANTS**

**Rehoboth Beach Yacht & Country Club Homes Association  
P.O. Box 192  
Rehoboth Beach, DE 19971**

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**SECOND AMENDED DECLARATION OF RESTRICTIVE COVENANTS**

THIS SECOND AMENDED DECLARATION OF RESTRICTIVE COVENANTS ("Second Amended Declaration") is made and executed this \_\_\_\_ day of June, 2022, by the Rehoboth Beach Yacht & Country Club Homes Association, a Delaware nonstock corporation (the "Association").

**WHEREAS**, the Association was created pursuant to a Deed, dated July 27, 1964, between Great South Beach Improvement Co., a New York corporation, and Robert W. Tunnell of Georgetown, Delaware, recorded in the land records at the Office of the Recorder of Deeds in and for Sussex County, Delaware ("Recorder of Deeds") in Deed Book 578 at page 408, *et. seq.*, (the "Deed"); and

**WHEREAS**, the Deed contains various conditions, covenants, agreements, easements, reservations, restrictions and charges (collectively, the "1964 Restrictive Covenants") applicable to a portion of the area within a plot of the Rehoboth Beach Yacht and Country Club recorded in the land records at the Recorder of Deeds in Plot Book 5 at page 32, that area being all those certain lots, pieces and parcels of land on said plot identified as follows ("the Property"):

- Lot Numbers 1 through 9, inclusive ---- Block 14
- Lot Numbers 1 through 9, inclusive ---- Block 18
- Lot Numbers 1 through 41, inclusive --- Block 19
- Lot Numbers 1 through 28, inclusive --- Block 20
- Lot Numbers 1 through 37, inclusive --- Block 21; and

**WHEREAS**, a Survey Plot & Waterways of Rehoboth Beach Yacht & Country Club at Plot Book 9, Pages 32 and 33, recorded on January 24, 1975, included the Property as Section "D" and created an additional ten (10) lots which were not part of the Property under the Deed; and

**WHEREAS**, pursuant to Article G (Organization and Operation of Property Owners Association) of the 1964 Restrictive Covenants, after more than fifty percent (50%) of the aforementioned lots were sold to individual purchasers, all privileges, rights, powers, duties, and authority of Great South Beach Improvement Co. vested in the Association; and

**WHEREAS**, the Association is the fee simple owner of certain common areas designated on said plot; and

**WHEREAS**, under Article F (Modification of Restrictions) of the 1964 Restrictive Covenants (“1964 Article F”), the Association, by and with the written agreement executed by the then record owners of more than fifty percent (50%) in area of all the lands conveyed by the Deed, desires to amend the 1964 Restrictive Covenants in order to comprehensively update the restrictions and obligations set forth therein; and

**WHEREAS**, under 1964 Article F, amendment of the 1964 Restrictive Covenants was duly effectuated by that certain First Amended Declaration of Restrictive Covenants recorded in the land records at the Recorder of Deeds on June 6, 2020 (“2020 Restrictive Covenants”) in Deed Book 5250 at page 76, *et. seq.*;

**WHEREAS**, under Article F of the 2020 Restrictive Covenants (“2020 Article F”), amendment of the 2020 Restrictive Covenants may be effectuated by and with the written agreement executed by the then record owners of more than fifty percent (50%), with each lot weighed equally without regard to the size of a lot, of all the lots conveyed by the Deed between January 1, 2022 and June 30, 2022 (“2022 Amendment Period”); and

**WHEREAS**, the Association desires to provide for the preservation of the values within the Property and for the maintenance of common lands and facilities, and to this end, desires to subject the Property to the further amended conditions, covenants, agreements, easements, reservations, restrictions and charges set forth in the Deed, as hereinafter set forth, for the benefit of the Property and each owner thereof (as newly amended, the “2022 Restrictive Covenants” or “these Restrictive Covenants”); and

**WHEREAS**, during the 2022 Amendment Period, the Association, based upon its official records: (a) identified the record owners of all privately owned lots within the Property, and (b) duly notified such record owners, by electronic communications using email addresses provided to the Association by such owners, as well as by U.S. mail, postage prepaid to those owners who notified the Association that they preferred to receive information from the Association by U.S. mail, of the opportunity to consider the amendment of the 2020 Restrictive Covenants as set forth herein;

**WHEREAS**, during the 2022 Amendment Period, the record owners of more than fifty percent (50%) of all the Lots conveyed by or otherwise subject to the Deed executed a written agreement attached hereto as Exhibit A and incorporated by reference, to amend the 2020 Restrictive Covenants, by substituting the 2022 Restrictive Covenants in place of the 2020 Restrictive Covenants;

**NOW THEREFORE**, the Association hereby declares that the following Restrictive Covenants shall run with, burden, and bind the Property:

**ARTICLE A**  
**DEFINITIONS**

The following words when used in this Second Amended Declaration, unless context shall prohibit, shall have the following meanings:

1. "ARC" or "Committee" shall mean and refer to the Architectural Review Committee as provided in Article D, Section 2 of this Second Amended Declaration.
2. "Association" shall mean and refer to the Rehoboth Beach Yacht & Country Club Homes Association, a Delaware Corporation, its successors and assigns. Unless otherwise stated, any action that the Association may take pursuant to its Articles of Incorporation, its Bylaws or these Restrictive Covenants, may be undertaken on its behalf by its Board of Directors, or by the ARC upon delegations from and under the direction of the Board of Directors.
3. "Bay" shall collectively mean and refer to Rehoboth Bay, White Oak Creek and adjoining waters.
4. "Board" shall mean and refer to the Board of Directors of the Association.
5. "Building Plans" shall mean and refer to one or more documents as described and designated as such by the ARC from time to time.
6. "Common Areas" shall mean and refer to, but not be limited to, storm water management water ways and community park areas deeded to the Association by the Developer, as well as that portion of West Side Drive that was also deeded to the Association by the Developer but was not deeded to DelDOT, and shall not include any Lot as defined herein.
7. "Days" shall mean and refer to calendar days. "Business Days" shall refer to the calendar days that are not Saturdays, Sundays and any other day that is a Federal and/or State declared holiday.
8. "DelDOT" shall mean and refer to the Delaware Department of Transportation.
9. "Development" shall mean and refer to the properties and improvements within the area governed and administered by the Association.
10. "Developer" shall mean and refer to Great South Beach Improvement Co., a New York corporation.
11. "DNREC" shall mean and refer to the Delaware Department of Natural Resources and Environmental Control.
12. "Dwelling" shall mean and refer to a privately owned, single family, residential house and attached garage, located or to be located in the Development.
13. "Front Yard" shall mean and refer to the area forward of the front building line of the Dwelling, including the area comprising the right-of-way. In the case of a corner Lot, the street which the house faces is the front yard and the other street is the side street.
14. "Governing Documents" shall mean and refer to the Association's Certification of Incorporation as amended from time to time, the Association's Bylaws as amended from time to time, the Deed, and this First Amended Declaration of Restrictive Covenants, as amended from time to time.



15. "Improved Lot" shall mean and refer to a Lot containing a Dwelling.
16. "Lot" shall mean and refer to any unimproved or improved plot of land intended and subdivided for a detached single unit residence, shown on the Record Plot as a numbered parcel, but shall not include the Common Areas.
17. "Mean Low Water Mark" means the average lowest point on a bank, tide flat, beach or shore, where a tidal body of water meets the land, during normal tide conditions.
18. "Member" shall mean and refer to the Owner(s) collectively of a Lot.
19. "Membership" shall mean and refer to the Members collectively.
20. "New Construction" shall mean and include those types of demolition and construction projects described in Article D, Section 6.
21. "Owner" shall mean and refer to the record Owner(s) of a Lot whether one or more persons or entities, holding a fee simple title to any Lot, but shall not mean or refer to any mortgagee or subsequent holder of a mortgage, unless and until such mortgagee or holder has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.
22. "PODs" shall mean portable storage units, the use and location of which shall be subject to the authority of the ARC.
23. "Record Plot" shall mean the plot of record in the Office of the Recorder of Deeds, in and for Sussex County, Delaware, recorded in Plot Book 5, at Page 32, as amended by the Survey Plot & Waterways of Rehoboth Beach Yacht & Country Club, Section "D." at Plot Book 9, Pages 32 and 33, recorded on January 24, 1975, to add ten (10) Lots to the Property, and any other amendment thereto approved and recorded.
24. "Revised Building Plans" shall mean and refer to one or more documents as described and designated as such by the ARC, typically after action has been taken on the Building Plans.
25. "ROW" shall mean the right-of-way easement as set forth in DelDOT's regulations and comprising the area extending twenty-five (25) feet from the centerline of the roadway into the Lot, including the swale.
26. "Single Family" shall mean one adult individual Owner or Tenant (occupying the Dwelling under Section 3 of Article B hereof) living alone; one or more adult individual Owners or Tenants living together; one or more adult individual Owners or Tenants living with other individuals, including children, all of whom are related by blood, marriage, partnership, adoption, guardianship, e.g., foster persons, or care giving employment.
27. "Solar Panels" shall mean one or more solar panels and solar collectors which can be affixed to the ground or to the roof of a Dwelling.
28. "Structure" is defined as anything constructed or erected, the use of which requires more or less permanent location on the ground, or attached to something having a permanent location on the ground. Walls and fences are included as structures. Hardscape used for ground level walkways, patios and driveways are not included as structures.
29. "Tenant" or "Tenants" shall mean and refer to any individual person or persons who comprise a Single Family and who lease or rent a Dwelling in accordance with Section 3 of Article B hereof.
30. "USPS" shall mean and refer to the United States Postal Service.

31. "Water Lot" is a Lot that is bounded at least, in part, by a bulkhead or riprap.
32. "Waterway" shall mean a navigable body of water that is wide and deep enough for a boat such as a canal, river, or inlet. For the purposes of determining setbacks to waterways, the setback line to the water is the existing bulkhead or riprap where there is no bulkhead.
33. "Wetlands" shall mean and refer to any lands that have been identified as such by the Army Corp of Engineers and any other proper government agency.

**ARTICLE B**  
**RESIDENTIAL USES**

1. **LOT USE.** Except as permitted by Section 1.c. of Article C hereof, all Lots shall be used for private residential purposes only, and no building or structure of any kind whatsoever shall be erected, maintained, or used thereon except as a Dwelling and accessory structures permitted pursuant to this Second Amended Declaration, each Dwelling to be constructed for and occupied only by a single family as defined in Section 2 of this Article. A private garage, with or without an apartment, may be erected but only if it is attached to the Dwelling and is used only by the respective Owners or occupants of such residence and their guests, friends, and full-time domestic employees without the payment of rental or other consideration. The garage shall be deemed "attached" to the dwelling for purposes of this requirement if a covered breezeway whose roof is at least six (6) feet in width connects the garage to the Dwelling. No more than one Dwelling shall be erected upon any one Lot. No building shall be used as a residence until fully completed in accordance with the Building Plans as previously approved therefore, as provided in Article D hereof. No one shall reside on any Lot, whether casually, temporarily or permanently, except in a Dwelling.
2. **SINGLE FAMILY DWELLING.** Only a Single Family, and their occasional, temporary guests, and tenants under Section 3 of this Article, may take up residency in or otherwise live or stay in a Dwelling House whether as an Owner or a tenant.
3. **TENANTS AND LEASE AGREEMENTS.** No Owner shall offer to lease/rent, or lease/rent, a Dwelling House for rent or other consideration, except under the following terms and conditions:
  - a. All rentals shall be to a Single Family only, and used for single-family residential purposes exclusively. Any and all other leases/rentals are prohibited.
  - b. The leasing or renting of a Dwelling for less than an initial term of twelve (12) consecutive months is prohibited.
  - c. Each lease/rental arrangement, and renewal/extension thereof, shall be in the form of a written agreement duly executed by all adult Tenants, except in the case where an adult Tenant is the child(ren) of one or more of the adult Tenants who are executing the agreement, at the beginning of each term and renewal or extension thereof. The term of any lease arrangement shall be for no less than one (1) year comprised of twelve (12) consecutive months. Upon the expiration of the initial one (1) year term, a lease may be renewed or extended for an additional annual term or on a month-to-month basis with the same Tenant. The lease agreement must be for the entire Dwelling House and the entire Lot.

- d. No Tenant or other person in a Single Family shall sublet or assign his, her or their interest(s) in any lease to another person.
- e. The Owner shall cause a copy of all Governing Documents to be delivered to the Tenants no later than the date when the Tenants have the legal right to occupy the Dwelling, and the Tenants' use of the premises shall be subject to the provisions thereof. Each lease must state that the Tenants are bound and subject to the Governing Documents as they may be amended from time to time.
- f. Within thirty (30) days of initial occupancy by any of the Tenant(s), the Owner shall provide the Association with the name and current cellphone number, email address, and mailing address of each Tenant (if different from the street address of the leased Dwelling), a copy of the lease (with the financial information redacted) and paper or electronic confirmation that the Tenant(s) has/have acknowledged in writing his/her/their receipt of the Governing Documents. The Owner shall also provide the Association with the Owner's current cellphone number, email address (if the Owner or their designated representative uses one), and mailing address. By leasing the Dwelling, the Owner does not relinquish any right to participate in Association business and will continue to have the usual and customary voting rights, including the right to designate proxies for purposes of voting on issues that come before the Association, so long as the Owner otherwise remains a Member of the Association in good standing, e.g., timely pays of all duly assessed and payable dues and other assessments. Within the same thirty (30) day period, the Owner shall also deliver to the Association payment in the amount of One Thousand Dollars (\$1,000.00) which amount will be held by the Association as a refundable security deposit to secure the Owner's full performance of its obligations under this Section 3 ("Security Deposit"), it being mutually understood and agreed that the Association shall not be obligated to pay the Owner any interest on the Security Deposit and may commingle the Security Deposit with other monies in the Association's accounts. The Association shall return the Security Deposit to the Owner within thirty (30) days of the later of: (i) the date when the Tenants have removed themselves and all of their property from the Dwelling, or (ii) the date when the Board and the Owner have finally resolved any then outstanding dispute(s) relating to the Owner's and the Tenant's compliance with its obligations under this Section 3, but only to the extent that any portion of the Security Deposit was not needed by the Association to achieve such compliance or to pay for the services of legal counsel who may have been engaged by the Board to address any matters arising in connection with the lease/rental. The Board shall give the Owner ten (10) days prior written notice before using any portion of the Security Deposit for such purposes.
- g. No Dwelling shall be offered, through any medium such as Airbnb, or used, as a matter of legal definition or with practical effect, as a group house, rooming house, motel, hotel, hostel, for any duration. It shall be the Owner's responsibility to ensure that all persons occupying the single Dwelling under a lease constitute a single family as defined in Section 2 of Article B above.
- h. The Owner shall have full responsibility to ensure that all Tenants and guests of such Tenants fully comply with the provisions of the Governing Documents, including but not limited to the requirement that all Tenants and guests of such Tenants keep the

Lot/yard/premises clean and well maintained. The Board shall have the authority, in the exercise of its sole discretion, to act to remedy violations and will notify both the Owner and the Tenants if such violations occur. The Owner's failure to correct violation(s) in a timely manner shall subject the Owner to further action as well as penalties and the assessment of fines, legal fees and costs against the Owner.

**ARTICLE C**  
**RESTRICTIVE AND PROTECTIVE COVENANTS**

**1. PROHIBITED USES.**

- a. No person shall reside on a Lot casually, temporarily or permanently except in a single Dwelling which complies with the Building Plans or the Revised Building Plans as approved by Sussex County and separately by the ARC, and only after the ARC has received a copy of the Owner's Occupancy Permit issued by Sussex County. No structure or any items of personal property shall be erected, permitted, or maintained on any Lot except as permitted by these Restrictive Covenants. The prohibitions include, but are not limited to, a parking of a trailer, boat or RV, or the installation of a tent, barn, and shed. Structures or yards intended to house animals are prohibited. Playground structures and related equipment are permitted so long as they do not impede any Owner's pre-existing water view of the Bay or such Owner's pre-existing view of Rehoboth Beach Country Club's golf course and use of them does not create a nuisance.
- b. No structures or objects, including but not limited to, playground equipment, bounce houses, etc. shall be placed or used on any Common Areas without the prior written approval of the Board. If approved by the Board, the placement of such structures or objects shall be temporary only and shall be removed within seventy-two (72) hours of the event for which the structure was authorized. While the Board shall have the authority to make recommendations to the Members for changes in the landscaping of the Common Areas as well as for the erection of temporary or permanent recreational structures on the Common Areas, all such changes and erected structures shall be subject to the prior majority vote of the Lots represented in person or by proxy at any Annual Meeting of the Association or at a duly called Special Meeting of the Association. In all cases, no structure or object, or the use thereof, shall be approved by the Board or by the membership unless they are covered by adequate insurance for the benefit of the Association. The Board shall have the authority to establish pertinent conditions and limitations for such structures and objects.
- c. No Lot or Dwelling shall be used for any commercial business except where customer/client visits to the Lot occur only during regular business hours, are usually not daily, and involve only a single vehicle parked on the Owner's Lot at any one time, and such business is largely conducted within the Dwelling. No sign of any type identifying such business shall be permitted under any circumstances.

**2. LOT MAINTENANCE.**

Owners shall be responsible for the appearance of their Lot or Lots, whether improved or unimproved:

- a. Items that are commonly stored in garages, including but not limited to tools, tool organizers and ladders shall not be stored, or otherwise allowed to remain, anywhere outside on a Lot.
- b. No Lot shall be used, in whole or in part, for the placement or storage of anything that would likely emit a foul or offensive odor.
- c. Each Owner of an Improved Lot is responsible for proper care and maintenance of the Dwelling, landscaping beds, lawns, driveways, and storm water flow. The standards for an Improved Lot, include, but are not limited to, the following:
  - i. Each structure must remain in good repair with no visible defects, rot, or damage, including but not limited to siding, doors, shutters, roofing, painted surfaces, fences, mailboxes and driveways.
  - ii. The Dwelling, garage, fencing and any other structures must be kept in good repair and free of mildew and mold.
  - iii. Landscaping beds must remain clear from excessive overgrowth of weeds. Each Owner shall take reasonable measures to prevent/eliminate lawn diseases on their Lot. If plant growth from an Owner's Lot encroaches an adjacent property, the Owner will be responsible for the prompt removal of the encroaching plants and root systems and for restoring the adjacent property to pre-encroaching plant condition.
  - iv. The outside storage of firewood, compost, or both is permitted so long as it is stored in an orderly fashion, is not located in the front yard of any Lot, and is screened so that it is not visible from the street.
  - v. Building materials and supplies shall be stored in an orderly fashion and only on the Lot during active construction or repair on that Lot. If work is not underway within ten (10) days, then the material must be stored in a garage or location not visible from the street until work begins. When there is construction on a Lot or at a Dwelling, refuse and other materials must be kept in a dumpster and emptied as necessary. The location and use of dumpsters and PODs are regulated by the ARC. Accordingly, anyone wishing to allow the placement of a dumpster or POD on a Lot must first receive the written approval of the ARC which shall set reasonable conditions.
  - vi. Front Yards of Improved Lots shall be landscaped with grass, vegetative ground cover, mulch and/or stone. Vegetable and fruit gardens, but not an orchard, are permitted anywhere on the Lot. If grass or stone is used in the ROW, it shall be graded so that its elevation is lower than the road and shall provide positive drainage towards the Lot and away from any other Lot and the street.
  - vii. Each Owner shall prevent grass or weeds from growing more than eight (8) inches in height, and must ensure that regular mowing occurs to prevent excessive growth. Failure to comply shall result in notification from the Board, giving the Owner ten (10) days to cause the mowing by that deadline. If the Owner fails to mow the Lot within ten (10) days of such notice the

Association shall have the right to exercise all of the enforcement rights set forth in Section 1 of Article J hereof; provided, that entrance upon the Owner's Lot shall be subject to prior notice and the Owner's consent which consent shall not be unreasonably denied, delayed or conditioned.

- d. All Owners shall promptly remove dead standing trees, fallen trees, dead branches and dead plantings, including but not limited to bushes and shrubbery, dead weeds, grass clippings, trash, litter, debris, other rubbish, old building materials. In any event, such removal shall occur no later than ten (10) days after notice from the Board unless an extension is granted by the Board. Each Owner shall be responsible for contacting the Board within the ten (10) day period if removal is not possible in that time frame. Easements on an Owner's Lot, including but not limited to the ROW, are to be kept free and clear of debris. If the Owner fails to remove any of the material described in the first sentence of this provision within ten (10) business days of the original Board notice or a Board approved extension, the Board shall have the right to exercise all of the enforcement rights set forth in Section 1 of Article J hereof.
- e. Garbage, trash and recycling receptacles must be stored either in an enclosed garage or in a screened area adjacent to the Dwelling and outside of the Front Yard, so that such receptacles are not visible from either the street or adjacent properties. Receptacles shall be placed street-side for emptying no earlier than 5:00 P.M. the night prior to the immediate next scheduled pick-up and shall be returned to storage no later than midnight of the day of the pick-up day assuming the receptacles were picked-up that, or within the same timeframe if the receptacles are picked up the following day.
- f. All Owners shall ensure that all improvements on their Lot, including Dwellings, garages, fences, walkways, patios, bulkheads, retaining walls, riprap and other structures are in good condition as that term is usually understood.
- g. All Owners shall review the list of invasive species as defined from time to time by the State of Delaware when choosing landscaping plants. While the planting of invasive species should be avoided, if an Owner plants an invasive species, the Owner shall assume all of the costs and expenses associated with controlling and/or removing the planting(s) if required by the Board due to complaint(s) from any adjacent neighbor(s).
- h. Maintenance of all easement areas, including the ROW, is the responsibility of each Owner whose property contains any portion of the easement. Construction/installation of any type by or on behalf of the Owner within the ROW, including plantings, shall not damage any equipment owned by the State of Delaware or a utility company that is located within the ROW, and shall otherwise comply with DelDOT regulations. Nor shall such construction/installation otherwise interfere with the ready access by the State or Delaware or any utility company to the area comprising the ROW. The Owner shall assume all risks of loss of, or damage to, items of property, including but not limited to plantings, sprinkler systems and driveway, placed in the ROW by or on behalf of the Owner that may be caused by the State of Delaware or a utility company working in the ROW. Furthermore, neither the State of Delaware nor any utility company shall be obligated to return the ROW to its prior condition. This also applies to plantings, sprinkler systems and the driveway apron that crosses the ROW.

- i. No statuary shall be located in any Front Yard. Fountains and birdbaths, without statuary, are permitted in the Front Yard. While as a general matter the selection and installation of non-structural, lawn ornaments and yard art shall be at the discretion of each Owner, all lawn ornaments and yard art that will be used in the front of a Dwelling must be in good taste both in appearance and the number of separate pieces on the ground of the Front Yard. The types of lawn ornaments and yard art, including lighting, that are related to a seasonal event such as Halloween and Christmas, shall not be installed earlier than four weeks before the seasonal event and shall be removed within two weeks after such event, weather permitting. Those pieces of statuary, lawn ornaments and yard art that have been installed in the Front Yard as of the effective date of these Restrictive Covenants shall be grandfathered only for the period during which the current Owner owns the Lot, with the effect that the Board shall have the right to approve or disapprove the continued location/installation/use of such objects in the Front Yard of the subsequent Owner; provided, that if the Board disapproves, the Owner shall promptly remove the disapproved object(s).

**3. RECREATION/ENTERTAINMENT USES.**

- a. ARC approved, fixed or non-fixed playground/swing sets and playhouses, commercially available, fixed or non-fixed fire pits, patios, and decks are permitted but only in the back yard of Improved Lots. Outside playing and other types of recreational/entertainment activities, including the use of music and other audio sounds from any source conducted on a Lot are permitted so long as the activity is not conducted in a way that exceeds the decibel levels under Delaware State or Sussex County noise ordinances during the time period after 10:00 P.M. and before 7:30 A.M. local time hours. For the avoidance of doubt, the prior to 7:30 A.M. restriction for recreational and entertainment related activities is intentionally stricter than specified in Delaware's noise ordinance. DNREC approved piers are permitted on waterfront properties. Other than a Dwelling with attached garage, no free-standing structures including but not limited to gazebos and storage sheds, are permitted. Each structure shall remain in a functional condition, in good repair, painted or stained, and with no visible defects, rot or damage.
- b. Above-ground pools, whether separate from or part of a Dwelling, are prohibited on any Lot; provided, that any above-ground pool that was installed prior to 2018, as part of the front structure of a Dwelling, is hereby grandfathered; provided further, that such above-ground pool and pool area are screened from the street view at street level and from the adjacent Lot Owners from their second floor levels. Each in-ground pool must comply with all applicable federal, state and local regulations, including applicable setbacks. In-ground pools shall be located only either behind the Dwelling or on the side of a Dwelling so long as the side yard is not on the street side of a corner Lot. Wherever a pool is located on a Lot, it must be screened from the street view at street level and from adjacent neighbors as viewed at their Lot levels; provided, however, that if the pool is located in such a way that screening of it would obstruct any Owner's pre-existing view of the Bay waters or of any Owner's pre-existing view of the Rehoboth Beach Country Club's golf course, screening shall be neither required nor permitted to the extent of such obstruction.

- c. Except as limited for activities contemplated under Section 3.a. of Article C hereof, each Owner shall use their Lots in compliance with the noise ordinances of Delaware State and Sussex County as they may be amended from time to time. Irrespective of the time of day, all Owners, Tenants and their respective guests are expected to be mutually considerate of each other as relates to noise emanating from their Lots.
  - d. The discharge of rockets, fireworks and similar items is prohibited.
4. **PARKING.** The parking of any vehicle, dumpster, equipment, or other object on the street is exclusively regulated by DelDOT. No Owner shall have the authority to supersede or waive those regulations. Each Owner, with respect to work to be performed on their Lot, shall notify those performing such work of the importance of complying with the following parking restrictions within the Development, and shall prevent his/her Lot, including the Lot's ROW, from being used in violation of these restrictions. The parking of commercial vehicles as well as associated open and enclosed trailers, and heavy equipment on a Lot, including the Lot's ROW is prohibited except under the following conditions: (a) the Owner of the Lot has given specific permission; (b) the parking occurs only during normal work hours for construction, maintenance, pickup and delivery; and (c) the parking occurs only when the pertinent project is actively underway that day. To the extent that street parking is permitted by DelDOT, and to the extent practicable, such street parking shall not impede the flow of two-way traffic on the street or the normal use of any adjacent Lots. No commercial vehicle, associated open or enclosed trailer, or heavy equipment shall be parked overnight on the street. In the case of enclosed trailers and heavy equipment associated with ongoing construction work, overnight parking on a Lot, including the Lot's ROW, is permitted but only if it is not practicable to remove such enclosed trailer or heavy equipment on a daily basis. No open trailers associated with construction work may be parked overnight anywhere in the Development. Parking on vacant lots is not permitted at any time. Parking of an inoperable vehicle, or one whose inspection and/or registration has expired, on the street, driveway or a Lot outside a garage is prohibited. Contractor vehicles not owned by an Owner, dumpsters, trailers and heavy equipment are allowed to be parked on an Owner's driveway or ROW but only while the project is actively underway and only with the approval of the Owner of the Lot.
5. **ANIMALS.**
- a. Non-domestic animals are prohibited from being housed in any Dwelling or garage or on any Lot. Domestic cats and dogs, or other traditional and commonly recognized household pets are permitted.
  - b. For the safety, health and comfort of all residents, pet owners shall comply with all applicable local, county and state ordinances, laws and regulations, including but not limited to, those relating to noise and shots. Dogs must be leashed when off the Owner's Lot, and otherwise controlled whether on or off the Owner's Lot.
  - c. Fecal matter from a pet belonging to any Owner, any family member of an Owner, any guest of any Owner, or any Tenant, family member of a Tenant or guest of any Tenant shall be promptly removed and placed in the Owner's or the Tenant's waste container with a lid. Every owner of a pet located within the Development shall take all reasonable steps to prevent pet-related noise, waste, or odors from annoying other residents.



- d. Feeding of feral cats, deer, or both, is discouraged as it has been shown to attract animals proven to be dangerous and aggressive, e.g., raccoons and foxes. The Association has the authority to ban feedings of feral cats, deer and any other animal if such activities are shown to be attracting raccoons, foxes or other dangerous animals.
- e. Except for very small pets, e.g., aquarium fish and birds, the burial of the body of a deceased pet, or of any other dead animal, on any Lot is prohibited. The burial of a pet's ashes on an Owner's Lot is permitted. No burials of any type shall be performed on the Common Areas.
- f. Special care should be taken to avoid walking one's pet on another Owner's property, including such Owner's driveway, without such Owner's permission. All persons within the Development shall comply with all applicable Sussex County leash laws.

**6. BOATS AND OTHER RECREATIONAL PROPERTY.**

a. An Owner may park/store one or more boats of any size and jet skis only in their Garage or on the Owner's dock/pier or dock lift or moored at their dock/pier; provided that one or more small boats that do not use engines or street worthy trailers, such as canoes, kayaks, row boats, paddleboards, small sailboats such as Sunfish ("Small Boats") on the Owner's Lot inside their garage or outside on the Lot so long as any Small Boat(s) is/are parked/stored either anywhere behind the rear building line of the Dwelling extending to the side of a Lot, or on the side of the Dwelling while parked/stored in an enclosure or on a stand adjacent to the Dwelling.

b. Boats of any size, jet skis, snowmobiles and other mechanized recreational property, including associated trailers and RV's (collectively "Recreational Property"), that are not otherwise parked/stored in an Owner's garage may be parked only temporarily for no more than forty-eight (48) continuous hours in any calendar month on the Owner's driveway or in the ROW; provided, that an RV may be parked on an Owner's driveway only and for no more than forty-eight (48) continuous hours in any calendar month, and never in the street or the ROW. During the time that an RV is parked on an Owner's driveway, no person shall cook food, sleep overnight, or otherwise house a party in or create undue noise emanating from the RV.

7. **VEHICLES.** Except for (a) vehicles owned by a utility company, a governmental agency or by one of their contractors or sub-contractors, and (b) vehicles that are parked temporarily while making routine, commercial deliveries to Lot Owners, e.g., a Fedex truck parks temporarily in the ROW abutting Owner's Lot while delivering a package to that Owner or the Owner across-the-street, no vehicle shall park for any period of time on the ROW abutting an Owner's Lot without that Lot Owner's express permission; provided, that under no circumstances shall an RV park in a ROW.

**8. SIGNS.**

a. Only one real estate agency "for sale" sign or one "for sale by owner" sign (each a "For Sale Sign") shall be permitted and shall in design and location comply with the standards as established from time to time by the Board. Unless the Board has established and published a different standard from time to time, For Sale Signs shall be brown with a background area in green; each such sign must measure no more than eighteen (18)

inches wide and twelve (12) inches high; the lettering shall be white on a green background; the color of the stake used to erect the For Sale Sign shall be black, white, or brown and made of metal or wood; the placement of a company logo on the For Sale Sign is permitted if placed within the green background; and the highest point on the sign when installed may not exceed twenty-four (24) inches above ground level. No "For Sale" Sign shall be placed in a window of the Dwelling House or installed in the ROW. For Sale Signs may not be illuminated. "For Rent" signs are not permitted.

- b. All "For Sale" Signs must be removed no later than forty-eight (48) hours after, as applicable, the closing on the sale of the property.
  - c. The Board itself is authorized to place signs on Common Areas, and on an Owner's Lot subject to the Owner's prior approval, for purposes of improving community safety or announcing Association meetings. Meeting signs must be removed no later than two (2) days after the meeting, and safety signs placed by the Board shall not remain installed for longer than 1 month.
  - d. Unless Delaware State or Sussex County laws specify a date for the installation of political candidate signage, which includes signage by a national political party in support of or in opposition to any candidate for election to public office ("Election Signage"), that is earlier than permitted herein, or specify a date by which such signage must be removed, such signage shall not be erected earlier than sixty (60) days before the applicable election and shall be removed within five (5) days after the applicable election ("Installation/Removal Time Requirements"). The Installation/Removal Time Requirements shall apply to any Election Signage placed anywhere on an Owner's Lot, including on their pier/dock/ramp/lift and on any boat while so parked/stored/moored, on the exterior of their Dwelling, or on a flag flown on a pole anywhere on the Owner's Lot, including on their pier/dock/ramp/lift and any boat while so parked/stored/moored (individually and collectively, the "Owner's Signage Property"). The Installation/Removal Time Requirements do not apply to social "cause" signage, e.g., topics relating to firefighters, police, nondiscrimination, kindness, etc. The top of any political candidate signage shall not be higher off the ground, or larger in terms of height and width, than permitted by applicable law.
  - e. Each Lot Owner, for any candidate for nomination or election to public office, shall be limited to maintaining on their Owner's Signage Property Lot only one sign per candidate per nomination/election and only one sign per national political party represented by a candidate in the election/nomination. For example, during a primary election in which there are two Democrats and three Republicans running for their party's nomination for election to the same office, i.e., Governor, a Lot Owner may erect up to seven signs, one for each of the Democratic candidates, one for each of the three Republican candidates and one for each of the two political parties.
  - f. All homes must have plainly visible, house numbers on the front of the house and/or on the mailbox in order to assist emergency personnel.
9. **CLOTHES DRYING.** Except for nonfixed and collapsible drying racks that are located and used only behind a Dwelling, and are removed as soon as the drying is over and stored out of sight overnight, the installation and use of any other nonfixed or fixed, exterior clothes lines

of any type, including the hanging of clothes on any exterior part of a Dwelling, are prohibited.

10. **FIRES.** Bonfires, fireworks, campfires, the setting fire to and the burning of leaves, brush, other plantings or rubbish are prohibited on any Lot, the Common Areas or any street within the Development. The installation and use of residential, commercially available fire pits are permitted only at ground level so long as they are located only in the rear yard of an Improved Lot and are not used to burn leaves, brush, other plantings or rubbish. A fire pit may be movable or fixed to the ground/patio. For a fixed fire pit, the ARC's prior approval to install such a pit is required.
11. **MAILBOXES.** The placement, installation and design of, and the materials used for, all mailboxes must comply with DeDOT and USPS regulations. No mailbox constructed of brick, concrete, stucco, masonry material, or other non-breakaway material shall be erected in the ROW. All mailboxes shall be kept in good condition.
12. **YARD SALES.** Yard sales conducted solely in connection with either the Owner's announced sale of his or her Lot or the death of an Owner of the Lot are permitted upon at least ten (10) days' prior notice to the Board so long as the duration of such yard sale does not exceed two days, which must be consecutive. No other type of individual or community yard sale may be conducted without the prior, written approval of the Board.
13. **FIREARMS AND HUNTING.** If the discharge of a firearm by an Owner or his/her tenants/guests/agents on or into his/her Lot or on publicly maintained roads is lawful under applicable Federal, State and Sussex laws, rules and regulations, as they may change from time to time, such discharge is not prohibited under these Restrictive Covenants. Except in cases of self-defense, the discharge of a firearm by an Owner or his/her Tenants/guests/agents on, into or across another Owner's Lot is prohibited unless such other Owner has given his/her specific, advance, written permission. Except in cases of self-defense, the discharge of a firearm on, into or across any portion of the Common Areas by anyone other than enforcement authorities or a person authorized in writing by the Board is prohibited. Hunting by traps or cages is permitted only on the Lot of the Owner who has authorized in writing such hunt. Hunting by bow and arrow is permitted only on and in the direction of the Lot(s) of the Owner(s) who have already authorized in writing such hunt. For all bow and arrow hunting, prior written notice to all potentially affected Owners shall be mandatory. No hunting of any kind shall be permitted unless such hunting is conducted in strict compliance with all applicable Federal, Delaware and Sussex County laws, rules, regulations, and such hunting shall only be performed using best practices.
14. **WELLS.** Wells for well water are permitted so long as they are professionally installed and meet all applicable State and Sussex County standards for location, depth and use.

**ARTICLE D**  
**ARCHITECTURAL REVIEW COMMITTEE**

1. **OWNERS' RESPONSIBILITY.** All New Construction, examples of such are set forth in Section 6. of Article D hereof, shall require the prior written approval of the ARC. No New Construction shall be commenced, erected, altered, placed, used, or permitted to remain with respect to any Lot unless and until (i) the Owner of such Lot has submitted acceptable Building Plans to the ARC in accordance with the approval process set forth herein and (ii) such Owner has received the ARC's approval with or without special conditions.
  
2. **PURPOSE OF THE ARC.** The ARC is created to review as well as approve, modify or reject proposed New Construction as defined herein. All construction must be performed in full compliance with all applicable federal, state, and local regulations, as they may be amended from time to time, which are hereby incorporated by reference into these Restrictive Covenants. The ARC shall perform those duties and functions with regard to review and approval of Building Plans and Revised Building Plans for New Construction to be constructed, installed, or placed on the Owner's Lot, as set forth herein, and any of the ARC's members shall have the right, subject to the three-days prior written notice to the Owner and the consent of the Owner which consent shall not be unreasonably delayed, denied or conditioned, to enter the Lot and inspect construction in progress or completed to assure the conformance of the construction with the Building Plans approved by the ARC. The ARC is authorized to adopt and promulgate rules, regulations and policies not inconsistent with these Restrictive Covenants which are intended to make the review and action process as effective and efficient as practicable.
  
3. **ARCHITECTURAL REVIEW OBJECTIVES.**
  - a. The ARC shall have the right to reject and seek modification of any building or site features that would not align with the goals and standards set forth elsewhere herein.
  - b. Architectural and design review of Building Plans shall fulfill at least the factors and goals set forth in the Sub-Sections below:
    - i. Accounting for the extent to which diverse architectural styles and designs previously approved by prior ARC decisions so that duplicate construction is eliminated to the greatest extent possible to avoid monotony in architectural design.
    - ii. Preventing excessive or unsightly grading, indiscriminate earth moving, clearing of property, or removal of trees and vegetation that could cause excessive runoff or rainwater, or alter natural land forms.
    - iii. Ensuring that the architectural design of structures and materials used, along with colors, are not at variance with the community's then existing overall appearance, history, surrounding development, natural land and vegetation
    - iv. Ensuring that all structures and landscaping comply with the provisions of these Restrictive Covenants as they may be amended from time to time.

**4. ORGANIZATION OF THE ARC.**

- a. The ARC shall be a standing Committee of the Association comprised three (3) or more persons each of whom shall be Members of the Association in good standing and be appointed for one-year terms by the Board; provided, that the Members may dissolve the ARC upon a vote by a majority of the Members taken at the Association's Annual Meeting or at any duly called Special Meeting of the Members; provided further, that if the ARC is dissolved, the Board shall without any notice or further action assume all powers and responsibilities of the ARC going forward. Each member of the Committee shall have a single vote. Among the members of the Committee, the Board shall appoint the Committee's Chair who shall also be a voting member of the Board. The ARC shall cause to be engaged by and on behalf of the Association, at the sole expense of each Owner on whose behalf the Building Plans or Revised Building Plans are to be submitted for review and approval: an individual Delaware licensed and registered architect or a Delaware firm of licensed and registered architects (collectively, the "Architect") who/which shall have recognized standing in their profession to review and provide their comments/recommendations with respect to the Building Plans and the Revised Building Plans, as the case may be. The Architect shall not be a member of the Committee. The reasonableness of any fee that the Architect intends to charge the Owner in connection with the Architect's review of the Owner's Building Plans or Revised Building Plans shall be subject to the Board approval from time to time; provided, that if the Owner objects to the amount of the Architect's review fee and that objection cannot be mutually resolved, the Owner shall have the right to nominate an alternative Architect who/which is licensed and registered in the State of Delaware and who/which shall have recognized standing in their profession to review and provide their comments/recommendations with respect to the Building Plans and the Revised Building Plans, as the case may be; and provided further, that it is understood and agreed that such Architect shall owe its duty of loyalty exclusively to the Association and that there are no conflicts or potential of interest between the Architect and the Owner; provided further, that appointment and use of the alternative Architect in relation to the Owner's Building Plans shall be subject to the Association's approval. Only members of the ARC, officers of the Board, and the Architect shall have the right to inspect ongoing and after-completion New Construction to determine that such construction is being/has been performed/completed per the terms and conditions of the ARC approval of the New Construction. If, and only if (i) there is a mutual agreement between the Board/ARC and the affected Owner, or (ii) there is a legally binding, judicial decision compelling the Owner to pay, or (iii) the Owner is unsuccessful in his/her appeal, filed with the ARC, the Board, or a court of competent jurisdiction, of an ARC or Board decision acting on the Owner's Building Plan, the Owner shall pay the Association the fees and costs charged by any firm or person engaged by the Board to assist in the defense of the Board's/ARC's action that the Owner is challenging.
- b. The ARC shall act as a committee and all members of the Committee shall be given the opportunity to review all Building Plans, revisions and updates thereto, as well as all responses received in response to Committee inquiries. A majority of the Committee members shall constitute a quorum, and a majority vote of the members participating

shall be required for any action or decision of the ARC. At each meeting of the Board, the Chair of the ARC shall report at least orally, and preferably in writing, on the status of each pending application for approval of Building Plans and Revised Building Plans and of progress of projects on Lots where construction is being performed where such construction requires prior approval of the ARC.

- c. The Board shall have full power to remove, at any time, any and all members of the Committee with or without cause, and to fill such vacancies by majority vote of the Board.

**5. PROCESSES OF THE ARC.**

- a. The ARC shall issue procedures for the submission of Building Plans for approval. When the ARC determines that the Architect should be involved in reviewing a particular project, the Owner shall pay the Architect's fee directly to the Architect for the review of the Building Plans and any other related information. The ARC shall have the authority to require the Owner to enter into a written agreement with the Association by which the Owner is required to make certain representations, warranties and agreements upon which the ARC and the Board, as the case may be, will rely in acting on the Owner's application for approval of the Building Plans. The Owner must be current in payment of all Association fees and assessments and the Architect's fee in order for the Owner's application(s) to be accepted for review.
- b. Within thirty (30) days of the initial submission of the Building Plans, the ARC shall respond to Owner with question(s) and request(s) for additional documents and information. The ARC shall have no obligation to begin its full evaluation of the Building Plans until it is satisfied that all elements of such plans have been received by the Committee and the Architect and the Owner's/builder's responses to all questions raised and requests for information made by the Committee and the Architect have been adequately answered. From the date when all such elements/responses have been received by the Committee and the Architect, the ARC shall use good faith efforts to reach a decision with respect to the Building Plans within thirty (30) days of such date so long as there are no exigent circumstances relating to the workload of the Architect who has been engaged to review the Building Plans or Revised Building Plans, and to the availability and workload of the Committee members, all of whom are Owners and voluntarily serve without compensation. Where time will be of the essence from an Owner's perspective, such Owner shall prepare accordingly by beginning the application filing process early and expediting the delivery of full responses to all ARC and architect originated questions and requests for information.
- c. Once the ARC acts on the Building Plans or the Revised Building Plans, the ARC shall, by email if the Owner has provided the Association with the Owner's email address, or by regular mail if the Owner does not use email, inform the Owner of its decision either approving, approving with conditions, or denying the Building Plans or the Revised Building Plans. If the ARC approves the Building Plan or the Revised Building Plans, the approval will specify any special conditions for the construction/modification. No change in the location, footprint or height of any proposed structure, land elevation,

- grading, driveway opening, setback, location of exterior mechanical equipment, hardscape, landscape or pool, may be made to the approved Building Plans without the prior approval of the ARC. No work on any changes to the elements noted above contained in approved Building Plans shall be performed unless and until the ARC has approved such changes set forth in the Revised Building Plans submitted by Owner.
- d. The ARC shall have the right to reject and seek modification of any proposed building or site features that do not comply with any of the provisions of these Restrictive Covenants or would not align with the underlying goals and standards set forth elsewhere herein.
- e. If it is discovered that any construction or installation has not been done, or is not being done, in accordance with the originally approved Building Plans, with the approved Revised Building Plans, with any of conditions of approval of those plans, or with any of these Restrictive Covenants, the Board, and not the ARC, shall have the authority to:
- i. Provide written notification to the Owner of the issues identified and identify the required corrective action to be taken;
  - ii. Require the immediate stoppage of all work whether or not covered by any previously approved Building Plans;
  - iii. Request the submission of a Revised Building Plan that accurately and fully reflects the as-constructed design;
  - iv. Rescind any and all approvals previously granted;
  - v. Impose a reasonable fine, either as a one-time fine or on a monthly basis for continuing violations;
  - vi. Require the Owners to promptly make the necessary steps to cure the issue at Owner expense; and/or
  - vii. Pursue further legal action at the sole expense of the Owner.
- f. If the ARC disapproves the Building Plans or Revised Building Plans for any proposed project submitted by an Owner or places conditions on its approval that are not acceptable to the Owner, the ARC shall provide the Owner with written notice of its reasons for such disapproval or, as the case may be, provide the Owner, after notice from the Owner, the reason why the conditions were imposed. In either event, the Owner shall have the right to appeal by submitting the matter to the Board. An Owner desiring to take an appeal shall give written notice to the Board and the ARC within thirty (30) days after the Owner's receipt of written notice of disapproval of any such Building Plans. In his/her notice, the Owner shall include the reasons and arguments for the appeal and shall provide the Board with copies of all pertinent documents previously submitted to the ARC. The ARC will then have thirty (30) days to respond, in writing, to the Owner's appeal by submitting in writing to the Board and the Owner its reasons, supported by any available documentation, why the appeal should be dismissed or denied. The Board shall review the entire record and, within thirty (30) days after receiving the ARC's written submission, render its decision. The fees and expenses, if any, charged by the Architect for review of the Owner's appeal shall be promptly paid by the Owner. Promptly after an appeal is filed, the Board shall provide the Owner with a preliminary estimate of the total costs that are likely to be involved in addressing and resolving the appeal before the Board. Whether the appeal is granted, dismissed or denied, all reasonable attorney fees

and expenses incurred by the Board and/or the ARC in connection with the appeal shall be promptly paid by the Owner taking the appeal.

- g. With respect to any construction requiring the prior approval of the ARC, and subject to the three-days prior written notice to the Owner and the consent of the Owner which consent shall not be unreasonably delayed, denied or conditioned, any member of the ARC, an officer of the Board, or the Architect, shall have the right to enter onto any Lot for the purpose of inspecting any part of the Lot, other than the interior of the Dwelling, to determine whether there exists any violation or potential violation of the ARC's or the Board's Building Plan or Revised Building Plan approval and conditions, or any violation or potential violation of these Restrictive Covenants, or of any conditions and restrictions to which any deed or other instrument of conveyance makes reference. For construction of a new Dwelling, as well as additions and exterior improvements to existing homes, the ARC, or the Board as the case may be, shall provide the Owner at least three (3) business days prior notice via email, or via telephone if email is not available for the Owner, before the inspection, unless exigent circumstances dictate that shorter notice be given.
- h. If any improvement of any nature is constructed or altered without the prior written approval of the ARC, then the Owner shall, upon written demand of the Association through the Board, cause such improvement to be removed or restored in order to comply with the Building Plans originally approved by the ARC. The Owner shall be liable for the payment of all costs of such removal or restoration, including all costs and attorneys' fees incurred by the Association and/or the ARC. Such costs shall also be the basis for an individual Owner Assessment.
- i. The Association, through its Board, is specifically empowered to enforce the architectural, construction, landscaping, and drainage provisions of this First Amended Declaration by any legal or equitable remedy, and, in the event that litigation becomes necessary, the Association shall be entitled to recover its reasonable court costs, expenses and attorneys' fees in connection therewith. All costs, expenses, and reasonable attorneys' fees of the ARC and the Board, including those incurred in connection with its enforcement or other powers, as provided herein, shall be borne by the Owner, but nothing herein shall be deemed to negate the Association's right to obtain an award of the Association's, including the ARC's, reasonable attorney's fees and costs. In the event any Owner fails to comply with the architectural, construction, landscape, and drainage provisions contained or incorporated by reference herein, or other rules and regulations promulgated by the ARC, the Board shall have the right, exercisable within its discretion, to enforce the remedies contained herein.

**6. PROJECTS REQUIRING PRIOR ARC APPROVAL.**

"New Construction" shall include each of the following:

- a. The full or partial demolition of an existing Dwelling, garage, bulkhead, fence, wall, driveway, driveway opening, or other existing significant structure whether or not the structure to be demolished will be replaced in whole or in part by another structure.



- b. Construction of a new Dwelling, garage, bulkhead, fence, wall, driveway, driveway opening, or other new or replacement structure, including also the installation of an addition to the Dwelling or to the garage, pool, outdoor shower, hot tub, spa, fences or walls of any height, fixed fire pit, fixed cooking station or any other significant fixed structure.
- c. Modification of any structure identified in Subsection b. above, if such modification involves a change in the location, footprint, height, land or structure elevation, grading, or other exterior dimensions of the then existing structure.
- d. Alterations of land elevation, grading or landscaping that could have the effect of redirecting water flow or drainage onto an adjacent property or the street;
- e. Installation of any structure within any Common Areas even if authorized by the Board.
- f. Installation of any structure within any ROW.
- g. Changes in the land area or elevation of any portion of any Lot with the ARC's goal of preventing any such change from causing storm water runoff to be discharged onto the street or neighboring property.
- h. Installation of a new, and modification of an existing, bulkhead, seawall, riprap, pier, boat landing, or mooring post(s) requires an application to the ARC to evaluate the height of those structures. It is understood that DNREC's review and approval are also necessary. The Owner shall promptly submit to the ARC copies of all plans and responses as and after submitted to DNREC, and shall promptly submit to the ARC copies of all approval documents/permits issued by DNREC. Deconstruction and construction of a new or modified bulkhead or rip rap shall not commence until the ARC has received a copy of DNREC's approval and ARC has issued its own construction approval to the Owner.

The interior renovation/remodeling of a Dwelling or the exterior repair of an existing structure would not normally be expected to constitute "New Construction." Only where the initial installation, removal or relocation of planting(s) would likely have the effect of redirecting water flow or drainage onto an adjacent property or the street should the ARC be notified in advance.

7. **FOR ALL CONSTRUCTION REQUIRING ARC APPROVAL.** The following documents, materials and items, as applicable, must be received by the ARC to be accepted for review. Incomplete applications or revisions will result in delayed consideration and may also result in additional fees.
  - a. A fully completed and Owner executed application form and payment of the required fees.
  - b. A refundable deposit in the amount of One Half of One Percent (0.5%) of the total estimated cost of construction, but not less than One Thousand Dollars (\$1,000.00) (the "Deposit") for those types of construction involving only these three types of activities: (a) the demolition of an existing Dwelling or garage, (b) an increase in the elevation of an existing Dwelling or garage, or (c) the building of a new Dwelling or garage to: (i) secure the Owner's compliance with approved Building Plans, (ii) to pay for damage to

property other than that of the Owner to include, but not limited to, common areas, roadways, and neighboring properties if the damage is shown to be caused by construction-related activities, and (iii) to reimburse the Association for attorney's fees and costs in the event that the Board determines that it is in the best interests of the Association to engage an attorney in connection with the Building Plans review process and/or Owner's/builder's compliance with any approvals/conditions relating to the Building Plans. If damages and legal fees and costs exceed the amount of the Deposit, then the Owner shall be liable for promptly paying the Association any difference above the amount of the deposit. If damages and any legal fees and costs are less than the amount of the deposit, the balance shall be reimbursed to the Owner. The Deposit shall not be considered liquidated damages in connection with Owner's obligations or potential liability hereunder. The Association shall not be obligated to pay Owner any interest on the Deposit and the Association shall have the right to co-mingle the Deposit with monies in its other accounts. The balance remaining on the Deposit shall be returned to the Owner within thirty (30) days of the later of completion of construction or the final resolution of any dispute between the Owner and the Association.

- c. Survey prepared by a professional Land Surveyor showing building setback lines, DNREC Building Restriction Line (if applicable), pre-construction/pre-fill topography and utilities. For properties adjacent to a waterway, the distance from the Mean Low Water Mark to the nearest part of the house must be provided in the application along with information indicating the source of that measurement. If the measurement was not provided as part of the sales contract to purchase the Lot, then the measurement will need to be obtained from a firm or individual recognized and licensed by the State of Delaware to obtain the measurement.
- d. Approved Soil Conservation and Erosion/Sediment Control Plan showing silt fences and approved construction entrance and an approved DelDOT entrance permit.
- e. Plans that include bulkheads, riprap, boat docks, piers, and other waterside structures require an approved DNREC permit.
- f. Site plan, including scale, site dimensions, abutting streets, all required setbacks and easements, grade elevation, and all structures, including driveways (with indicated parking spaces), culverts, and walks. Drainage and landscape grading should also be included to show water flow on the property.
- g. A complete and comprehensive plan with specifications, prepared by a registered architect, or architectural draftsman showing the nature, kind, shape, height, materials, floor, elevation, foundation and footing plans, exterior materials, roof materials, exterior color scheme, square footage, location, frontage on the Lot, and driveway. Submission of paper plans to the Architect as well as to the ARC are required. The ARC reserves the right to require that electronic copies of the plans also be provided to the Architect as well as to the ARC.
- h. Front, side and rear elevation drawings with sufficient detail and dimensions to scale (1/4" = 1') to show all exterior detail and building material, as well as grade elevation.

- i. Elevation drawings showing the height of the dwelling from the crown of the abutting road to the top of the roof or to the top of any other structure on the roof which ever top is higher, excluding chimneys.
- j. Show that the Dwelling will comprise at least 1,800 square feet of above ground heated space for a one-story house and at least 2,500 square feet of above ground heated space for a two-story house, excluding porches, decks and garages.
- k. An approximate start date and estimated completion date.
- l. The building permit from Sussex County approving the Building Plans unless Owner/Builder provides the ARC with a reasonable explanation why the Owner/Builder needs ARC review and action prior to Sussex County review and approval.

**ARTICLE E**  
**BUILDING RESTRICTIONS AND STANDARDS**

1. **PURPOSE.** The Restrictive Covenants set forth herein are designed to create a residential community having a pattern of buildings and spaces that reflect a high visual, quality of real estate value, design, landscaping, and maintenance. The controls are intended to provide a comfortable and enjoyable environment for all Owners and to enhance visual quality and desirability of the community, with the intended purpose to preserve and enhance each Owner's investment and property values. All Owners and their builders and contractors are required to abide by these restrictions and standards at all times for the duration of any project covered hereby.
2. **SINGLE-FAMILY DWELLINGS.** Only one (1) single-family house shall be erected, used or maintained on each Lot. Each Dwelling shall have at least 1,800 square feet of above ground heated space for a one-story house and at least 2,500 square feet of above ground heated space for a two-story house, excluding porches, decks and garages. Unless otherwise approved by the ARC and/or the Board, each Owner shall construct and maintain an attached garage which, regardless of the number of garage doors, has a capacity for at least two (2) automobile or truck vehicles and shall provide for parking for at least two (2) such vehicles off the roads, drives, lanes and ways. The garage may be a building separate from the single-family house so long as it is attached to the house via a covered breeze-way as specified in Article B, Section 1. Subject to the approval of DelDOT and the ARC, no Lot shall have more than two driveway openings from the street to the Dwelling. No current or future Owner of any Dwelling, existing as of the date of effectiveness of these Restrictive Covenants, that does not have a garage or that has only a one-vehicle garage shall be required to build or expand a garage in the future.
3. **DRIVEWAY AND CONSTRUCTION ENTRANCES.** No temporary or permanent driveway, driveway opening or construction entrance shall be installed or moved without the prior approval of DelDOT and prior notice to the ARC. The construction entrance must be completed prior to construction of the Dwelling.

**4. SETBACKS.**

- a. No structure, or any part thereof, including garages, porches, showers and steps shall be erected or extended within thirty (30) feet of any street, road, drive, lane or way on which it fronts, except if the structure is erected at the intersection of two (2) or more streets, roads, drives, lanes or ways, then no structure shall be erected within twenty-five (25) feet of such abutting side street, road, lane, drive or way, as the case may be.
- b. No structure, or any part thereof, including garages and porches, shall be erected or extended within fifteen (15) feet of any common side boundary line between two (2) adjoining Lots, nor shall any structure, or part thereof, including garages and porches be erected or extended within twenty-five (25) feet of any rear boundary line or buffer zone shown on the Record Plot of the Development. For lots adjoining water, no structure, or any part thereof, including garages and porches, shall be erected or extended within twenty-five (25) feet of the existing bulkhead or riprap as the case may be. Stairs and stairways shall not be included in the calculation except as required by Sussex County.
- c. Hardscape, including but not limited to, driveways, patios, walkways, etc., that lies within any setback shall be installed only at ground level and in such way as to prevent drainage to the streets and adjacent properties, and shall not impede drainage from an adjacent lot.

- 5. DWELLING HEIGHT.** The maximum height, including all roof-related structures/ornaments, of any Dwelling, including a garage, shall not exceed the lesser of: (a) 42 feet measured from the crown of the road, which point of measurement shall be taken from the precise location in the road designated by the Sussex County Building Code, or (b) the height permitted by the Sussex County Building Code from time to time.

**6. WALLS AND FENCES.**

- a. No walls of stone, brick, wood, concrete, or the like shall be constructed or permitted except for retaining walls that do not exceed eighteen (18) inches in height, and retaining walls of a greater height that are required due to the height of raised bulkheads and associated raised Lot elevations. Boundary walls are prohibited. No hedge or shrubbery, tree or trees, creating a wall-like appearance or barrier shall be constructed or planted in the Front Yard. No hedge, shrubbery, tree or trees creating a wall-like appearance or barrier shall be constructed or planted behind the backline of a Dwelling which is on either a Water Lot or a Golf Course Lot, defined as a Lot that abuts the Rehoboth Beach Country Club's golf course; except, that, in the case of a Golf Course Lot, the planting of one or more trees behind the backline of a Dwelling shall be permitted to the extent needed, in the discretion of the Lot Owner based on experience, in protecting the Dwelling and persons using the Dwelling from errant golf balls.
- b. No fence shall be constructed in the Front Yard. Except as expressly provided herein, no fence on a Lot, or hedge or shrubbery or planted on a Lot shall be constructed or permitted to have a height of more than four (4) feet. Chain link fences, regardless of cladding or color, are prohibited. Any fence, as to the portion that would extend from the backline of the Dwelling to the rear property line of a Water Lot or a Golf Course Lot, must be open in design; provided, that the height and "openness" restrictions contained herein shall be subject to applicable law where an approved pool is

involved. Notwithstanding the foregoing, any Lot Owner whose rear property line abuts the road leading from Country Club Road to the Seasons Development shall have the right to erect solid screening fencing of up to eight (8) feet in both the rear of their Lots and the sides of their Lots, but not in the Front Yard, for security purposes.

- c. The heights or elevation of any wall or fence, hedge and shrubbery shall be measured from the existing elevations of the property.
  - d. The Owner shall have the right to replace a section of fencing needing repair, and a dead or dying individual shrub with another shrub of the same species and size.
7. **EXTERIOR MATERIALS, FINISH AND COLORS.** No structure shall be erected or placed on any Lot which shall have an unfinished exterior. Cinder block or concrete block above grade are required to be parged or covered with brick or stone.
- a. **PERMITTED MATERIALS.** All materials used for construction for the siding of a house or garage, including but not limited to corner boards, trim around the windows and doors and fascia board, shall be made of stone, brick, wood, vinyl, a painted cementitious material such as Hardie plank, or solid PVC material, such as "KOMA Trim board," and such other materials approved by the Board, from time to time, on the basis of input to the Board from respected Delaware licensed and registered architects who regularly design homes and garages in and around the Delaware coastal waters and the Bay.
  - b. **PROHIBITED MATERIALS.** Plywood and aluminum are prohibited for the siding of a house, garage, pilings, accessory building, corner boards, trim around the windows and doors and fascia boards.
  - c. **PILINGS MUST BE COVERED.** The perimeter of the area created by exposed pilings which constitute the foundation of a house or structure shall be enclosed with lattice or other covering. All materials used to cover the perimeter of the area created by the exposed pilings shall be made of wood or a painted cementitious material or Hardie-plank.
  - d. **ROOFING MATERIALS.** Corrugated metal roof or lightweight shingles are prohibited. Roofing must be architectural grade asphalt shingles, composition or dimensional, heavy weight copper or standing seam metal, clay, slate or cedar shake. Gutters, if used, must be made of heavy-gauge aluminum, copper or metal.
  - e. **PROHIBITED COLORS.** Colors that are bright and garish, such as fire engine red, hot pink or neon green are prohibited for siding, shutters, roofs, garage doors and the trim of a Dwelling, including the garage. Muted colors, such as those found in Sherwin Williams's Coastal Color chart, are recommended.
8. **FUEL TANKS.** The installation and use of fuel tanks shall comply with all applicable Sussex County regulations. All Owners must use only licensed, commercial vendors/contractors to install and connect fuel tanks and similar receptacles. All fuel tanks and similar receptacles shall be buried underground and, if exempt due to prior installation, appropriately screened so that they are not visible from the street and any adjacent lot.

9. **SATELLITE DISHES.** Owners shall use reasonable efforts to place satellite dishes in the least conspicuous location that allows for proper reception. No more than one dish per Lot shall be permitted.
10. **OUTSIDE LIGHTING.** Exterior lighting that is not attached to any ARC approved structure shall not exceed eight (8) feet in height above ground level. Flood, landscaping lights, and lights attached to the Dwelling or to other structure, including but not limited to a flag pole or dock, must be positioned so as not to be intrusive to the neighbors. Lighting using any colors on the Lot or a dock other than a shade of white are prohibited, except for temporary periods in connection with the celebrations of Halloween (during the month of October) and Christmas (during the month of December).
11. **OUTSIDE GRILLING.** Fixed, as distinguished from roll-out, grilling stations shall be installed and used only in the rear of a Lot; provided, that fixed grilling stations that are designed to be permanently installed and used only on second floor or higher levels of enclosed and non-enclosed decks of a Dwelling may be located anywhere on such deck, including in the front of the Dwelling. A roll-out grilling station may be used in the front of a Dwelling or a garage but only while in active use; if such station is stored outside of the Dwelling, it must be located in the rear of the Dwelling so that it is not visible from the street.
12. **LOT SIZE.** No Lot shall be increased in size by filling in water it abuts, nor shall any waterway shown on the Record Plot of the Development be filled in for any other purpose.
  - a. No Lot shall be subdivided, sold, or otherwise transferred in lesser or smaller parcel than shown on the Record Plot of these lands as recorded in the Office of the Recorder of Deeds, at Georgetown, Sussex County, Delaware.
  - b. Whenever two (2) adjoining Lots are permitted by Sussex County to be merged into one Lot for the purpose of building a single-family dwelling, a survey must be obtained to ensure that placement of the dwelling is within Association and County setbacks as stated herein.
  - c. In the instance that an Owner purchases a contiguous property, the newly acquired Lot will maintain all of the original setbacks with all of the same restrictions that are imposed under this First Amended Declaration. If the Owner merges the Lot under one deed and the new property has street access to more than one roadway, the property may only have one driveway entrance to access one road.
13. **LOT ELEVATIONS.** Our Development is experiencing, and will continue to experience for the indefinite future, the adverse effects of rising sea levels and frequent flooding. Accordingly, affected Owners need flexibility to raise the elevations of their Lots which may or may not involve the installation of retaining walls and the raising of their bulkheads. Notwithstanding any provision of these Restrictive Covenants, an affected Owner shall have the right, but only to the height approved by the ARC or the Board as the case may be, to raise the elevation of their Lot and the height of their bulkhead and to install necessary retaining walls along their property lines adjacent to any lower, same or higher level Lot; provided, that such Owner shall prevent water from such Owner's Lot from draining onto the adjacent Lot(s) or the street; provided further, such Owner shall be financially responsible for

promptly remedying and repairing any standing water issues or other damage to the adjacent Lot or the street; provided further, with respect to a situation where the Board believes an Owner's Lot is causing, or has caused, undue water runoff from the Owner's Lot to the street, and, if applicable, such runoff has caused or is causing damage to the street, the Owner and the Association shall jointly consult with DelDOT to determine whether DelDOT is of the opinion (i) that certain steps need to be taken to reduce such water runoff from the Owner's Lot to the street, (ii) that such water runoff has, if any, damaged the street, and (iii) what needs to be done to repair the street if so damaged. DelDOT's recommendation(s) shall become an obligation of the Owner under these Restrictive Covenants, in which case, the Owner shall, to DelDOT's satisfaction, promptly take adequate steps to reduce water runoff from its Lot to the street and, if applicable repair the damage to the street caused by such runoff, within the time period and in the ways recommended by DelDOT, or by the Board if DelDOT has not provide a sufficiently detailed recommendation. The obligations created hereunder are intended to supplement, but not replace, DelDOT's own requirements.

14. **SOLAR PANELS/COLLECTORS.** With respect to roof mounted Solar Panels and in ground Solar Panels, they shall be designed, installed and operated in accordance with best practices of the solar panel industry as those practices may evolve from time to time. With respect to roof mounted and in ground Solar Panels, plans for such facilities shall be submitted to the ARC in advance of installation for its review and approval. In ground Solar Panels shall be installed only behind a Dwelling and must be shielded from street view as well as from adjacent Lot Owner view, all at street level.

## **ARTICLE F**

### **CONSTRUCTION REQUIREMENTS**

1. **COMMENCEMENT OF CONSTRUCTION.** Construction must commence pursuant to said approved plans within one (1) year of the date of the ARC's approval. Failure to commence substantial construction within that one (1) year period automatically voids the approval unless the Owner has applied for, and the ARC has granted an extension, all before the end of the one-year period.
2. **CONSTRUCTION DAYS AND HOURS.** All projects must be performed and completed with appropriate sensitivity to the potential visual (vehicle and other lights used upon early arrival at the work site) and noise impact on other residents within the community. Therefore, all construction and steps in preparation thereof must occur within the times set forth herein. Exterior construction shall not commence prior to 7:30 A.M. nor continue beyond 5:00 P.M. on weekdays. No exterior work of any type conducted by a contractor, as opposed to an Owner, is permitted on Saturdays, Sundays or on current or future Federal Holidays, including: New Year's Day – January 1; Martin Luther King Day – Third Monday in January, President's Day (George Washington's Birthday) – Third Monday in February; Memorial Day – Last Monday in May; Juneteenth – June 19; Independence Day – July 4; Labor Day – First Monday in September; Indigenous Peoples Day (also observed as "Columbus Day") – Second Monday in October; Veterans Day – November 11; Thanksgiving Day – Fourth Thursday in November; and Christmas Day – December 25. These hours and work days shall be posted at the site. Builders, contractors, and Owners

shall ensure that all workers are aware of, and comply with these day/hour restrictions. Interior construction activity, whether performed by the Owner or a contractor, shall be permitted on any day and at any time so long as the work does not create noise that can be heard outside of the building during days and hours when exterior contractor is not permitted.

3. **NOISE.** Construction workers shall use their best efforts at all times to reduce the level and duration of mechanical/equipment/vehicle/human-related noise to the minimum and shall not play music that can be heard in the street or at neighboring residences. All Lot Owners shall inform workers on their Lots of these requirements and make sure that those who supervise such workers are fully aware of these requirements and are personally accountable for ensuring compliance with these requirements.
4. **MAINTENANCE OF CONSTRUCTION SITES.** All construction sites or project sites must be maintained in a tidy, neat, and clean manner during the period of construction. This includes keeping the site free of loose materials, trash, overgrown vegetation, and construction debris at all times. Each owner is responsible for any costs incurred due to damage to adjoining properties or common areas for cleanup of debris from adjoining lots or common areas. Adjacent roadways are to be kept free of debris and dirt. Clean-out of concrete trucks anywhere within the community is strictly prohibited.
5. **DUMPSTERS AND PODS.** Any and all construction dumpsters, as well as any PODs, must be placed within the boundaries of the Lot and not in any ROW. Dumpsters and PODs shall not under any circumstances be placed on adjacent Lots or common areas, nor shall dumpsters or PODs impede the natural flow of storm water, interfere with vehicular traffic or cause visual obstructions on adjacent roads. Dumpsters must be emptied on a regular basis to avoid the overflow of materials or spillage onto adjacent areas. Dumpsters and PODs shall be removed promptly after **the earlier** to occur of either the expiration of the ARC's approval to install the POD, or the original justification for locating the dumpster or the POD has been eliminated.
6. **STORAGE OF MATERIALS.** All materials and equipment used in connection with construction or installation must be placed or stored within the confines of the Lot. No materials or equipment shall be placed on any other Lot or common area, except for brief periods during actual construction/installation activity and where specific written consent has been granted in advance by the Owner of the other Lot, or by the Association with respect to common area.
7. **WORKER/VENDOR PARKING.** For parking limitations, see Section 4. of Article C hereof, Parking. The Owner shall be responsible for repairing any damage caused to a ROW by employees/agents of the builder/contractor hired by the Owner. No access shall be made to construction sites through vacant Lots or through common areas except where specific written consent has been granted in advance by the Owner of the Lot or by the Board or the ARC with respect to access through any Common Area. In such case where approval to access a construction site via an adjacent Lot or Common Area is granted, any damage to such Lot or Common Area must be fully repaired by the Owner of the Lot where the construction site is located and the property returned to the original condition.



8. **BATHROOM FACILITIES.** If bathroom facilities do not exist or are not available for use on the site, the builder or contractor must provide a portable toilet for workers. Portable toilets must be placed within the confines of the building site so as to minimize the impact on adjacent occupied homes, but shall not be placed in common areas or on adjacent vacant Lots. The door to such facility shall open toward the back of the Lot.
9. **PROHIBITION OF USE OF COMMUNITY CATCH BASINS AND WATERWAYS.** Use of the community catch basins, ponds, wetlands, or adjacent waterways for any purposes, in connection with construction or installation is strictly prohibited, including extraction of water from the ponds, wetlands or waterways or disposal of anything into or adjacent to catch basins, ponds, wetlands, or adjacent waterways.
10. **CONSTRUCTION-RELATED SIGNS.** Builders and contractors must abide by the Association's restrictions for the number, design, height, placement and duration of signs on Lots. Builders/general contractors, but not subcontractors of builder/general contractors, may display one sign on the Lot during the period of construction or installation, so long as (a) the design, color, materials, and dimensions of the sign are usual and customary for that builder/contractor; (b) the sign is not placed on the Lot earlier than two (2) weeks prior to the commencement of active work on the Lot and is removed immediately upon completion of the work; (c) the top most portion of the builder/general contractor's sign does not exceed three (3) feet in height measured from ground level; and (d) the sign is not placed in the Lot's ROW. Signs for subcontractor who are working on a Lot for a builder/general contractor shall not be permitted. A contractor who is performing only "one-off" work at a Lot, including but not limited to, roofing, siding, plumbing or electrical work, may temporarily erect a sign that meets these standards so long as the sign is taken down at the end of each work day. The Association reserves the right to enter the Lot, remove and discard any sign that has not been timely removed, with no obligation on the part of the Association to return the sign(s), or reimburse the builder/general contractor/contractor for the sign(s); provided, that the Owner has given its prior consent which consent shall not be unreasonably delayed, denied or conditioned.
11. **DRAINAGE SWALES AND EROSION AND SEDIMENT CONTROLS.** All drainage swales and associated storm water management facilities, and erosion and sediment controls, must be maintained in a functioning manner, as originally engineered by the storm water management plan, during the period of construction. Sod and landscaping must be installed so that it does not restrict the flow of storm water from the adjacent roads and Lots. The flow of storm water shall not be impeded during construction by placement of construction materials, fill dirt, debris, vehicles, or any other objects. Any damage to drainage swales or other storm water management structures on the Lot or any adjacent Lot must be repaired to return the swales to the original condition, including restoration of vegetation through seeding or the installation of sod or stone. The Owner of the Lot causing the damage is responsible for the payment for repair. The ARC has the right to oversee the repair and, if repairs are not completed within thirty (30) days of the occurrence of the damage, the Association shall have the right to arrange for the repair on the Lot and bill the Owner for such repair which shall become an obligation of the Owner; provided that entry onto an

Owner's Lot shall be subject to prior notice and such Owner's prior consent which consent shall not be unreasonably delayed, denied or conditioned. Silt fences, when required, must remain in place and in a functioning condition throughout the construction period, until such time as the disturbed areas are stabilized by the installation of sod, landscaping, or other vegetation or appropriate materials. Silt fences that are damaged or knocked down during the construction period must be immediately repaired. Builders/general contractors/contractors shall remove all construction-related mud and debris from the roads by the end of every work day.

- 12. COMPLETION OF CONSTRUCTION.** All construction work must be completed in a timely manner, so as not to create a nuisance or inconvenience to other residents of the community. Every effort should be made by the Owner and its builder/contractor to complete construction within one year of the date of issuance of the later of: ARC approval or County approval. Completion of construction includes installation or restoration of appropriate landscaping on the property. If construction work cannot be completed by the completion deadline due to weather or other unforeseen circumstances, the Owner shall notify the ARC in writing as soon as such circumstance is discovered, but no later than thirty (30) days prior to the completion deadline, and provide the reason(s) for the delay and a revised completion date. If the ARC is not so notified in a timely fashion, the Board shall have the option to impose its own completion deadline and any other requirement reasonably ensuring that the approved construction is completed as soon as possible.
- 13. DAMAGES.** Each Owner shall be responsible for any and all costs incurred for damage to adjoining properties as well as for costs associated with the demolition, construction, cleanup, debris, or storm water management disturbances. Each Owner shall be responsible for the repair cost of damage to roadways resulting from any demolition, construction or landscaping work performed on a Lot. All repairs of roads shall be made in accordance with the requirements of DelDOT, and by a qualified contractor. The Association's involvement in any matter giving rise to a claim for damages by one Owner against another Owner or Owners shall not be a condition to the aggrieved Owner taking legal action against the other Owner or Owners. The Board, on behalf of the Association, shall be free to commence such legal action, but shall have no obligation to commence such legal action or become a party to such legal action.
- 14. LANDSCAPING.** Each Owner must submit a landscaping plan, but only if and as part of the ARC application for Building Permit process for a new Dwelling or for an elevation of a Lot, showing the approximate location of planting areas, the potential heights of plantings that will grow taller than four (4) feet, grass lawn, and any proposed retaining walls with heights, fences with heights, raised planting areas, or other landscaping features. All improved Lots within the Development must have appropriate and adequate landscaping installed, to include as a minimum installation, a lawn (of grass, stone, mulch and/or plantings), as well as typical foundation plantings at the front, side and back of the Dwelling. For new home construction, landscaping must be installed within one (1) month after completion and in accordance with the approved landscaping plan. An extension may be granted by the ARC or the Board upon request if weather conditions make installation

impossible. Until landscaping is installed, the Owner must ensure compliance with all standards for weed and grass height.

15. **MECHANICAL EQUIPMENT.** All mechanical equipment must be installed within the building footprint of the Lot so as not to extend into the building setback areas. Air conditioning compressors, generators, and pool/spa equipment may not be located beyond the front line of the Dwelling toward the street and must be screened from view of the street and adjacent Lots through installation of plant material or other screening approved by the ARC.

16. **COMPLIANCE WITH BUILDING AND CONSTRUCTION REQUIREMENTS.**

All construction work must comply with all applicable state, county, and other applicable building and construction codes and other requirements, all of which are hereby incorporated by reference. Each Owner shall be responsible for obtaining all required permits and approvals for construction prior to any construction starting. Each Owner is responsible for the compliance of their builders and contractors with all applicable Restrictive Covenants and building requirements, and are subject to stop work orders or fines as a result of non-compliance, as specified herein.

**ARTICLE G**  
**USE OF WATERWAYS**

1. **STORM WATER SYSTEM.** All neighboring ponds are managed by the Rehoboth Beach Country Club. The catch basins located along West Side Drive and White Oak Road, as well as underground storm water piping relating thereto are owned by DelDOT. Accordingly, maintenance of the two drainage ditches on Common Areas is the responsibility of DelDOT, not the Association.
2. **WATERFRONT MAINTENANCE.** The Association, as well as each Owner of a waterfront Lot, from the date the Association or such Lot Owner acquires his or her Lot, shall be solely responsible for the maintenance, repair and replacement of riprap, bulkhead and shoreline stabilization structures on or adjacent to their Water Lot.
3. **LIABILITY.** Nothing contained herein shall impose upon the Association, its successors or assigns, any liability for property damage and/or personal injury occurring to any person whomsoever, by reason of the use, whether permitted or not permitted, of the ways, development easements, common areas, ditches, ponds, wetlands, or waterways (collectively, the "Ways"). All persons using such Ways shall do so at their own risk and without liability on the part of the Association, its successors or assigns.

**ARTICLE H**  
**EASEMENTS**

1. **EASEMENT GRANTS.** The following easements are hereby granted and/or reserved over, across and through the property set forth on the Recorded Plot for the development.
  - a. Easements over, on and below ground of all applicable Lots, including ROWs and the Common Areas for the installation and maintenance of utilities have been, continue to be, and are granted as shown on the Recorded Plot of the Property, including, but not limited to, water lines, sanitary sewer pipes, sewer lines, storm drainage culverts, sprinkler pipes, electrical wires, TV cables, telephone cables, Internet cables, irrigation lines and street lights (collectively, the “Underground Utility Facilities”). Within these easement areas, no structure, planting or other material (other than grass or stones) which may interfere with the installation and maintenance of Underground Utility Facilities, shall be placed or permitted to remain unless such structure, planting or other material was installed by the Association or was otherwise permitted or approved by DeIDOT. The Association and its successors and assigns (or such other entity as is indicated on the Plot of the Property) have been, continue to be, and are hereby granted access to all easements within which such Underground Utility Facilities are located for the purpose of operation, maintenance or replacement thereof.
  - b. Easements for the installation and maintenance of Storm Water Management Systems are granted to the Association, its successors or assigns. Within these easement areas, no structure, planting or other material (other than grass or stones) which may interfere with the installation and maintenance of, or which may obstruct or retard the flow of water through drainage channels, shall be placed or permitted to remain, unless such structure, planting or other material was installed by Association or DeIDOT. The Association and its successors and assigns shall have access to all such drainage easements for the purpose of operation and maintenance thereof. The Association shall have the right, but not the obligation, to contract for the maintenance of the Storm Water Management System with an established water management or water control district.
  - c. The Common Areas have been, continue to be, and are hereby declared to be subject to a perpetual, non-exclusive easement in favor of the Association, Board members, officers, employees and agents of the Association, and of any management entity duly contracted by the Association in order that such officers, employees, agents or management entity may carry out their duties. Neither the Association’s ownership of the Common Areas nor the non- commercial, recreational character or use of the Common Areas shall be changed; provided, that any such change may only be effectuated in the context of a proceeding to duly amend these Restrictive Covenants pursuant to Article M or Article O, and only if at least sixty-seven percent (67%) of all Lots agree to adopt such specific change; provided further, that the Plus 50% Threshold shall apply to all other aspects of any amendment to these Restrictive Covenants.
  - d. An easement has been, continues to be, and is hereby granted to Lot Owners over, across and through all of West Side Drive and White Oak Road and the Common Areas. This easement is subject to all rules and regulations promulgated by the Association, DeIDOT and the State of Delaware, from time to time. Any such Owner may delegate the easement rights to the members of his family, tenants or contract purchasers (and the

members of the family of any tenant or contract purchaser) who reside on such property or to such other persons as may be permitted in writing by the Association.

2. **EXTENT OF OWNERS' EASEMENTS.** The rights and easements of enjoyment created hereby shall be subject to the following:
  - a. The right of the Association, acting through its Board, to properly maintain the Common Areas;
  - b. The right of the Association, acting through its Membership, to grant and reserve easements and rights-of-way through, under, over and across the Common Areas, for the installation, maintenance and inspection of lines and appurtenances for public water and sewer, drainage, electricity, telephone, cable wires, Internet wires and other utilities; and
  - c. The right of the Association, acting through its Membership, to adopt rules, regulations and policies governing the use of the Common Areas.

## **ARTICLE I** **ENFORCEMENT**

1. **ENSURING COMPLIANCE WITH THESE RESTRICTIVE COVENANTS.** The Association, acting solely through the Board, as well as any Owner with respect to the Owner's Lot, shall have the right to enforce these Restrictive Covenants by declaring violations, assessing fines, penalties and interest, imposing remedial remedies, and initiating any proceeding at law or in equity against any person or persons violating, or attempting to violate, any provision of this Second Amended Declaration or any of the Restrictive Covenants contained herein, to restrain such violation, to require specific performance and/or to recover damages, and to proceed against any Lot to enforce any lien created by this Second Amended Declaration. The Association, acting solely through its Board, shall have the right, notwithstanding any law to the contrary, to enter any Lot (but not any Dwelling) to enforce these Restrictive Covenants, including to remedy or cause to be remedied, at the Owner's sole cost and expense, any violation that is not otherwise timely cured by the Owner; provided, that such entry upon such Lot shall be subject to the Owner's prior consent which shall not be unreasonably delayed, denied or conditioned. The expense of enforcement by the Association shall be chargeable to the Owner of the Lot, in violation, including the costs of reasonable attorney's fees, court costs and any other cost incurred in any action brought by or on behalf of the Association. In the event any legal action is taken by or behalf of the Association, all fees approved by the court of competent jurisdiction shall constitute a lien on the Lot, collectible in the same manner as assessments hereunder.
2. **FAILURE TO ENFORCE.** Failure of the Association or the Board, or any Owner, or their respective legal representatives, heirs, successors and assigns, to enforce any of the Restrictive Covenants contained in this First Amended Declaration shall in no event be considered a waiver of any violation or of the right to enforce these Restrictive Covenants thereafter.
3. **EFFECTIVE PERIOD.** All the restrictions, conditions, covenants, and agreements contained in this First Amended Declaration shall be effective upon recording in the Office

of the Recorder of Deeds in and for Sussex County, Delaware, continuing in force and without further notice unless and until further amended in accordance with Article M or Article O of this Second Amended Declaration.

**ARTICLE J**  
**FINES, PENALTIES, AND REMEDIES**

1. **ASSOCIATION RESPONSIBILITY.** The Association, acting solely through its Board, has the authority to ensure compliance with these Restrictive Covenants, declare violations and impose and enforce fines, penalties, interest and other remedies. In exercising its authority under these Restrictive Covenants, the Board shall take into consideration that these Restrictive Covenants are comprehensive and newly enacted. Accordingly, after the Board becomes aware of a potential violation, but before it issues an official violation notice to an Owner, the Board shall appoint at least one member of the Board to speak in person or by telephone with anyone who may have personal knowledge of the facts, as well as with the Owner about the potential violation. Those communications are intended to be informal. After becoming comfortable that the Board member has enough facts to make a recommendation to the Board, such Board member shall convey the information to the Board along with the Board member's recommendation for further action if any. Except in the case of egregious violation(s) by an Owner, the Board shall exercise "light handed" enforcement for at least the first twenty-four (24) months after the effectiveness of these Restrictive Covenants during which period the actions and experiences of the Association's Members and the Board can be better assessed. In the event of any violation, the Board shall notify the Owner of the nature of the violation and give the Owner ten (10) days to cure the violation unless a shorter period to cure is specified in these Restrictive Covenants for a particular type of violation. All notices will be provided in writing and both mailed via registered or certified mail whichever is required by law; if neither is required by law, the Board may select registered or certified mail whichever is the least expensive for the Association) to the Lot Owner's street mailing address on file with the Association as well as transmitted electronically to the email address on file with the Association for the Lot Owner. At each Annual Meeting of the Membership, the Board shall give a report describing the enforcement actions taken, including fines if any, without identifying the persons or street addresses involved.
  
2. **OWNER RESPONSIBILITY.** Each Owner by accepting title to a Lot shall be deemed to accept these Restrictive Covenants and comply with the standards, requirements, restrictions, conditions, obligations and charges herein. Each Owner shall be held strictly liable for the actions of family members, guests, tenants and guests of tenants. The fines, penalties, and remedies set forth herein are intended to (a) curtail Owner(s) from committing, or allowing the commitment of violations, (b) preventing repeat occurrences by such Owner(s) and others, and (c) fully and timely remedy damages caused by the violation(s).
  
3. **OWNER'S OPPORTUNITY TO CURE TO AVOID FINES AND PENALTIES.**
  - a. **TEN DAYS TO CURE.** In the event of any violation, the Association, through the Board or designated Property Management Company, as the case may be, shall notify the

Owner of the nature of the violation and give the Owner ten (10) days to cure the violation to avoid any fine or penalty, unless a shorter period to cure is specified in these Restrictive Covenants for particular types of violations or unless the Board notifies the Owner that it has been given a longer period to cure per subsection 3. b. hereof.

- b. **OWNER'S PLAN FOR CURE.** In the event a violation cannot be cured within the ten (10) day period, the Owner must notify the Board in writing within five (5) days of receipt of the violation notice and provide an explanation of the violation as well as a plan and time frame for full correction. The Board shall respond to the Owner within five (5) days to notify whether or not the alternative plan and date for correction is acceptable.
4. **FINES AND PENALTIES.** Any Owner who fails to cure a violation of these Restrictive Covenants shall be subject to one or more fines against the Owner's Lot as set forth, and such fine(s) shall constitute one or more assessments against the Lot.
- a. **FINES FOR RESTRICTIVE COVENANT VIOLATIONS.** Any Owner who violates, or allows to be violated, any of these Restrictive Covenants shall be subject to fine(s) assessed by and corrective actions imposed by the Board and only by the Board which fine(s) shall constitute one or more assessments against the Lot. The assessment for each violation is hereby established to curtail Owners and their guests as well as Tenants and their guests from committing and repeating violations. After each notice, the Owner shall be given ten (10) days to correct to avoid further assessments. The fines shall be as follows:
- (i) First notice of violation – written notification with a ten (10) day period to correct
  - (ii) Second notice of violation – up to \$100.00 per month violation assessment
  - (iii) Third notice of violation – up to additional \$300.00 per month violation assessment
  - (iv) Fourth notice of violation – up to additional \$600.00 per month violation assessment

If, after the fourth notice of the violation, such violation continues, the Owner shall be fined an \$1,000.00 per month in addition to whatever fine(s) have been assessed, including during the pendency of any lawsuit and until any and all outstanding, including prior violations, assessments have been paid in full, plus interest and legal fees and costs.

If a violation is not cured within ten (10) days of notice, or completed in the alternative time frame agreed to by the Board, such violation shall be deemed a second offense, and be subject to the fine for a second offense. In the event the same violation continues to occur, and the Association provides notice of the violation, the Owner shall be liable for a third fine; and in the event the violation continues to occur, the Owner shall be liable for a fourth fine. In declaring a violation, and in setting the amount of a fine for a particular type of violation for a particular Owner in the circumstances then presented, the Board shall exercise its discretion in good faith, with fairness and consistency, ever mindful of the overarching goal of this First Amended Declaration which is to deter violations by the Owner and the membership overall.

Any Owner who receives a notice of violation shall have ten (10) days from receipt of the notice of violation to request a hearing before the Board. In the event that the Board timely receives such notice, it shall schedule a hearing at a time and place mutually convenient to the Owner and the Board, and the Owner may present any defense or argument as to why he/she should not be charged with a violation or otherwise sanctioned.

Notwithstanding any provision herein to the contrary, if (a) the parking of a vehicle, boat, jet skis, snowmobile and other mechanized recreational property, or trailer whether or not associated with such (each a "Unit") or (b) the failure to return a trash or recycling receptacle or bin (collectively, a "Bin") in a timely manner constitutes a violation of these Restrictive Covenants, any fine that may be imposed for such violations shall be assessed effective as of the second calendar day after the day of electronic or telephone notice to the Owner unless the Unit or Bin, as the case may be, has been removed by midnight of that second calendar day; provided, no fine shall be issued unless and until the Owner has been sent two previous notices of violation of these Restrictive Covenants relating to the failure to return a Bin.

Each Owner shall be responsible to comply fully and in a timely manner with these Restrictive Covenants in all respects. If an Owner violates any provision herein, and does not correct after final notice is provided, in addition to the fines and penalties assessed, plus legal fees/costs and interest, the Owner shall be deemed to have lost his/her right to vote at Annual and Special Meetings of the Membership until such time as the Owner has paid in full all fines and penalties assessed plus legal fees/costs and interest, and has corrected the violation(s), the Association shall be entitled to take, but is not obligated to take, all legal action necessary (i) to collect the same together with interest at the maximum legal rate of interest allowable from the due date thereof, plus reasonable attorney's fees and court costs and (ii) to cure the violation(s) at Owner's sole expense.

In addition, should any Owner fail to maintain the appearance of a Lot as required herein, subject to the two-days prior written notice to the Owner and the consent of the Owner which consent shall not be unreasonably delayed, denied or conditioned, the Board shall have the right and privilege, acting through its agents or employees, to enter upon such Lot, without being considered a trespasser, for the purpose of maintaining the appearance thereof in accordance herewith, and the cost of such maintenance shall be borne by the Owner of such Lot, and the Owner shall pay such cost within thirty (30) days of notice thereof. Upon failure to pay such costs, the Board shall be entitled to take all legal action necessary (i) to collect the same together with interest at the legal rate of interest allowable from the due date thereof, plus reasonable attorney's fees and court costs and (ii) to cure the violation(s) at Owner's sole expense.

- b. TIME FRAME FOR PAYMENT.** All fines, penalties, assessments, legal fees/costs and interest as authorized by this Article J shall be due and payable to the Association no later than ten (10) days of Owner's receipt of written notice of the amount(s) due.



- c. **RECORDKEEPING.** The Board and the ARC shall maintain adequate written or electronic records of the actions taken under this Article J, including but not limited to the street number of the Lot(s) and the name(s) of the Owner(s) involved, the specific violation(s) cited, the fine(s) assessed, copies of all notices given and date(s) sent, copies of responses received, copies of any appeals, and final disposition. The Board and the ARC shall use reasonable efforts to preserve and make available, for the benefit of the Association, any photos or videos that the Association or the ARC may have in its possession now or in the future and that may be pertinent to any actions taken under this Article J.
- d. **PRIMACY OF DELAWARE LAW.** To the extent that the Board's authority to impose one or more fines on an Owner or on any other person under these Restrictive Covenants in connection with the same, underlying, initial violation, may be limited by applicable Delaware law, the intent of these Restrictive Covenants is that the Board enforce them only in accordance with such laws as they may change from time to time.

**ARTICLE K**  
**ORGANIZATION AND OPERATION OF THE HOMEOWNER'S ASSOCIATION**

1. **MEMBERSHIP.** Every Owner of a Lot shall be a Member of the Association, including the ten (10) Lots created in 1975 at Book 9, Pages 32 and 33 of the Record Plot. The inclusion of the aforementioned ten (10) Lots is hereby agreed to and accepted, and their Owners' involvement in the Association hereby ratified. Membership shall be appurtenant to and shall not be separated from the ownership of any Lot which is subject to assessment. The Association shall have one class of voting membership. Members shall be entitled to one (1) vote for each Lot, and if more than one (1) person holds an interest in any Lot, all such persons shall be Members of the Association, and the vote of each Lot shall be exercised as the Owners themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. Whenever two (2) or more Lots are merged into one (1), the effect of the merger shall be to count the combined Lots as one (1) vote.
2. **ASSOCIATION RESPONSIBILITY.** The Association is responsible for maintaining the Common Areas for the general good of the community, for doing any other things and perform any labor necessary or desirable in the judgment of the Board to maintain the Development in good repair and condition, for landscaping any property in the Development not owned by private parties, and for enforcing these Restrictive Covenants in the Board's discretion.
3. **MANAGEMENT COMPANY.** So long as the action can be paid for with Association funds available to the Board under the pertinent Annual Budget most recently approved by the Association's Members, the Board of Directors shall have the authority, but not the obligation, to hire only on a month-to-month basis a professional management company to carry out of whatever operational functions of the Association that the Board shall assign. Any Board decision to engage such a company on any other basis shall be subject to the prior approval of the Membership.

4. **CONTACT INFORMATION.** For effective and cost-conscious communications and notice, each Member of the Association shall provide to the Association, or its designated Property Management Company as the case may be, and keep current, the names of each Owner of the Lot, as well as the individual, street mailing addresses, landline phone numbers (if any), cellphone numbers, and email addresses (if they have one or if their representative for Association matters has one) for all persons holding an ownership interest in a Lot. The Association shall provide each Owner with its current P.O. Box address, email address and phone number(s) for contacting the Association. Changes in any contact information shall be promptly reported by one party to the other, but no later than thirty (30) days of the change(s).
  
5. **COMMUNICATIONS.** All notices, demands, bills, statements or other communications under this Second Amended Declaration and the Governing Documents for the Association, and Annual Dues Notices/Invoices, shall be in writing and shall be deemed to have been duly given by any one of the following methods:
  - a. If to an Owner, delivered personally.
  - b. If to an Owner, sent by e-mail, facsimile or other method of electronic transmission to the Owner at the e-mail/electronic address or facsimile number which the Owner shall have designated in writing to the Association or to its designated Property Management Company, as the case may be.
  - c. If to an Owner, sent by first-class mail, postage prepaid, at the mailing address which the Owner shall have designated in writing to the Association or to its designated Property Management Company, as the case may be. If no such address is designated, then to the address of the Owner as provided by the Tax Assessment Office of Sussex County, Delaware shall be used.
  - d. If to the Association or to designated Property Management Company, by email, facsimile or other method of electronic transmission to the Association or its designated Property Management Company as the case may be, using the electronic contact information which has been designated from time to time by the Association or its designated Property Management Company, as the case may be.
  - e. The ownership of each Lot shall maintain a current mailing address and an active email address for at least one Owner of such Lot or for the representative of such Owner who is authorized to receive on behalf of the Owner communications from the Association, which the Association may use to communicate officially and unofficially about any and all matters relevant to the Owner's Lot, the Association and its business.
  - f. Notwithstanding the foregoing, each Owner shall notify the Association whether he/she wishes, at no additional cost to him/her, to receive the Association's communications via regular mail (in the case of paper copies), via email, or via both means of delivery. In order to save the Association's limited funds, Owners are urged, but not required, to specify email delivery only.

**ARTICLE L**  
**ASSESSMENTS**

1. **PURPOSE OF ASSESSMENTS.** Assessments levied by the Association shall be for the purpose of maintaining the Association in good standing with the State of Delaware, filing the Association's tax returns and paying the costs and expenses required to operate the Association, to enforce these Restrictive Covenants, and generally to preserve and enhance the quiet enjoyment of the Owners and their guests while present in the Development and the values of the properties in the Development. To this end, the Association's funds shall be used for the acquisition of services devoted to improvement and maintenance of Common Areas (including the shore lines), street lighting, liability insurance, professional management services (but only to the extent approved by the Membership), and operating reserves to provide for future replacement and enhancement of any infrastructure.
2. **ANNUAL DUES ASSESSMENTS.** All persons owning a Lot, by acceptance of their deeds, shall pay a pro-rata share of the funds necessary for the performance of the Association's functions. Assessments shall be made annually. The amount may be established and changed by a majority vote of the Owners at either the Annual Meeting of the Membership or at a Special Meeting of the Membership duly called by the Board for that purpose. Annual Assessments shall be due and payable by September 30 of each year.
3. **SPECIAL ASSESSMENTS.** In addition to the annual dues assessment authorized herein, the Association may levy a "Special" Assessment (which shall be fixed as one uniform rate for each Lot, applicable to that year only). Such Special Assessment shall be subject to approval by the majority vote of all Lots in the Development whether or not represented in person or by proxy at either the Annual Meeting of the Membership or at a Special Meeting of the Membership duly called by the Board for that purpose.
4. **EMERGENCY SPECIAL ASSESSMENTS.** Notwithstanding any provision in the Association's Bylaws to the contrary, the Board may levy an emergency special Assessment when, in the sole determination of the Board, there is actual or potential danger or damage to persons or property in the Development ("Emergency Special Assessment"); provided that the Board shall have first used up to Ten Thousand Dollars (\$10,000.00) from the Association's Savings Reserve Account to address the circumstance giving rise to the Emergency Special Assessment; provided further, the amount of such Emergency Special Assessment shall not exceed Two Hundred Dollars (\$200.00) per Lot; and provided further, that only one Emergency Special Assessment shall be permitted in any Association fiscal year. Such Emergency Special Assessments may be utilized to pay for goods and services associated with preventative, protective or remedial construction, reconstruction, improvements, repairs, or replacements. Events justifying Emergency Special Assessments include, but are not limited to, hurricanes, floods, wind storms and fires. Emergency Special Assessments shall be collectible from Members in such manner as the Board shall determine.
5. **NON-PAYMENT OF ASSESSMENTS.** If any assessment, annual or otherwise, is not paid by the date when due, then such assessment shall be deemed delinquent and shall accrue interest at the maximum legal rate set by Delaware statute and a fine of fifty dollars (\$50.00)

for each month that the assessment remains in arrears shall be assessed. The Assessment, together with interest, fees, and any fines imposed as set forth herein, and the costs of collection thereof, including reasonable attorneys' fees, shall be a continuing lien against the property of the Owner against whom the Assessment is made, and shall also be the continuing personal obligation of each Owner. Any successor in title to any Owner shall be held to constructive notice of any outstanding Assessments as shown in the records of the Association and shall have the right to review such records to determine the existence of any delinquency in the payment of Assessments by the Owner to which the Lot is subject.

- a. **LIENS.** The Association shall have the authority to record a Notice of Lien in the Office of the Recorder of Deeds, in and for Sussex County, Delaware, against all Lots owned by any delinquent Owner.
- b. **ACTION TO FORECLOSE A LIEN.** The Association, acting through its Board, may but shall not be required to bring an action to foreclose the Lien against any delinquent Lot(s), in the manner in which mortgages on real property are foreclosed, and/or a suit on the personal obligation of the Owner(s) of the Lot(s). There shall be added to the amount of such Assessment the costs of such action, including reasonable attorneys' fees, and in the event a judgment is obtained, such judgment shall include interest at the Delaware Legal Rate on the Assessment and reasonable attorneys' fees incurred by the Association, together with the costs of the action. Regardless of the date of recordation of any Notice of Lien, the effective date thereof shall relate back, and it shall take priority, as of the due date for such Assessment.
- c. **SUSPENSION OF VOTING PRIVILEGES.** If any Assessment or any installment thereof shall not be paid within thirty (30) days following the due date, the Association shall declare the entire Assessment for that fiscal year immediately due and payable. The defaulting Owner's membership voting privileges shall be suspended for the period of default.

**ARTICLE M**  
**FUTURE AMENDMENT OF THIS SECOND AMENDED DECLARATION**

The Restrictive Covenants created and established in this Second Amended Declaration shall continue in force until July 1, 2025, and shall, as then in force be continued automatically and without further notice from that time for a period of five (5) years, and thereafter for successive periods of five (5) years without limitation, unless, within the six months prior to the first day of July, 2025, or within the six months prior to the expiration of any successive five-year period after July 1, 2025, a written agreement executed by the then record owners of more than one-half of all Lots (the "Plus 50% Threshold") that are subject to these Restrictive Covenants be signed, with a verification of such agreement placed on record in the Office of the Recorder of Deeds, in and for Sussex County, by the terms of which agreement any of these Restrictive Covenants are changed, modified, or extinguished, in whole or in part, as to all or any part of the property subject thereto, in the manner and to the extent therein provided. In the event that any such written agreement of change, modification or extinguishment be duly executed and recorded, these Restrictive Covenants shall continue in force for successive periods as outlined above, unless and until further changed, modified, or extinguished in the manner herein provided, may be waived,

abandoned, and extinguished. In the event that any such written agreement of change or modification be duly executed and recorded, the conditions, restrictions, covenants, liens, and charges as therein thereby modified, shall continue in force for successive periods as outlined above, unless and until further changed, modified, or extinguished in the manner herein provided. As a result of the effectiveness of the First Amended Declaration, and after this Article M and the 2020 Restrictive Covenants which went into effect on June 6, 2020, each Lot, regardless of square footage, shall be counted with equal weight under the Plus 50% Threshold unlike the "counting" arrangement under the 1964 Deed which required that, when being counted under the Plus 50% Threshold, Lots of greater square footage are to be given more weight than are given to Lots of smaller, relative size. The Association, the County of Sussex, all Owners, and all other governmental and nongovernmental persons and organizations shall accept and rely upon as legally binding on all other Owners of a Lot, the signature of one Owner of such Lot whose name is set forth on the most recent deed on record in the Office of the Recorder of Deeds, in and for the Sussex County, to the effect that such Owner is duly authorized to enter into the agreement and to otherwise legally bind all other Owners of such Lot for purposes of amending this First Amended Declaration.

**ARTICLE N**  
**GRANDFATHER CLAUSE**

This Second Amended Declaration does not to modify the grandfathering provisions set forth in Article N of Restrictive Covenants contained in the First Amended Declaration. Accordingly, only those nonconforming, Dwellings, structures, and improvements existing and as located on a Lot as of June 6, 2020, which is the date that the First Amended Declaration was filed with the Office of Recorder of Deeds, in and for the County of Sussex, are "grandfathered" as of and after the June 6, 2020, effective date of the First Amended Declaration with respect to such Dwellings, structures and improvements on each Lot; provided, that said existing nonconforming Dwellings, structures, and improvements may be replaced or repaired but only to match the location, footprint, height and other external aspects of the Dwelling, structure or improvement that existed prior to the recordation of this First Amended Declaration, if such grandfathered Dwelling, structure or improvement is involuntarily damaged or destroyed after the recordation of this Second Amended Declaration; further provided, that the replacement or repair occurs within six (6) months of the event, or within such longer period of time approved in advance by the Board or the ARC as the case may be, of the dwelling, structure or improvements first being damaged or destroyed; provided further, that this grandfathering right shall not apply to those Dwellings, structures, and improvements that were erected in violation of the 1964 Restrictive Covenants or the 2020 Restrictive Covenants if the Dwelling, structure or improvement that was nonconforming when constructed/installed would no longer be nonconforming under these Restrictive Covenants. Any plantings of hedges, shrubbery and trees existing and as located on a Lot as of May 9, 2022, shall be grandfathered as of and after May 9, 2022, and shall have the same replacement and repair rights as provided above a Dwelling, structure or improvement. Neither these Restrictive Covenants, nor the grandfather rights granted hereunder, shall be used by an Owner to defend against the State of Delaware, Sussex County or any other Owner in any effort by the State, the County or such Owner to enforce the laws of the State, the County or these Restrictive Covenants, whether or not retroactively.

**ARTICLE O**  
**SEVERABILITY**

If any of these Restrictive Covenants is invalidated by judgment or Court Order, the remaining provisions herein shall, to the maximum extent allowable, continue in full force and effect. Notwithstanding the five (5) year "open window" limitation contained in Article M of this Second Amended Declaration, in the event of such judgment or Court Order, the Membership shall have the right, subject to a majority vote of all Lots, to amend these Restrictive Covenants during the period between January 1 to and including June 30 of the first full calendar year after such judgment or Court Order. Irrespective of whether and when the Membership avails itself of this right, the five (5) year "open window" limitation, which is tied to the calendar year 2025 and subsequent years as set forth in Article M hereof, shall continue in full force and effect.

**ARTICLE P**  
**CONFLICTS WITH OTHER DOCUMENTS**

If, and to the extent that, any of the original provisions of the Deed, the provisions of the Association's Articles of Incorporation as they may be amended from time to time, or the provisions of the Association's Bylaws as they may be amended from time to time, are or become inconsistent or otherwise conflict with any of these Restrictive Covenants, as they may be amended from time to time, these Restrictive Covenants shall control and be followed. Neither this Second Amended Declaration nor any provision contained herein (i) is intended to supersede or modify, or (ii) shall supersede or modify, or (iii) be construed or used to supersede or modify, any of any lender's/lienholder's rights and benefits or any obligations of an Owner under any existing financial arrangement between such lender/lienholder and such Owner.

**ARTICLE Q**  
**MEDIATION**

Notwithstanding any term or condition contained in these Restrictive Covenants to the contrary, if any dispute arises between the Association or any of its Board members, officers, employees or volunteers and an Owner or such dispute shall be resolved first by a mediation effort before a single mediator selected by the parties, with each party bearing their own costs and expenses if any, and if such mediation is not successful, any trial in Sussex County must be a non-jury trial, unless the monetary damages exceed ten thousand dollars (\$10,000) in which case either party may call for a jury trial, with the unsuccessful party or parties paying attorney's fees.

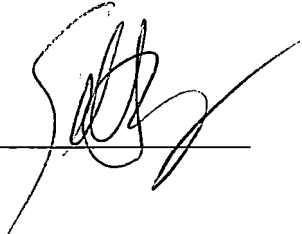
**ARTICLE R**  
**EFFECTIVENESS**

All the restrictions, conditions, covenants, agreements and charges contained in this Second Amended Declaration shall be effective upon recording in the Office of the Recorder of Deeds in and for Sussex County, Delaware, and continue in full force and effect and without further notice unless and until further amended in accordance with Article M of this Second Amended Declaration.

ATTEST:

REHOBOTH BEACH YACHT & COUNTRY  
CLUB HOMES ASSOCIATION

\_\_\_\_\_  
(corp seal)



BY: Jeffrey Wilson (SEAL)  
Title: President

STATE OF Delaware :  
COUNTY OF New Castle :

BE IT REMEMBERED, that on this 14<sup>th</sup> day of June, A.D., 2022 personally came before me, the Subscriber, a Notary Public for the State and County aforesaid, Jeffrey S. Wilson, President of REHOBOTH BEACH YACHT & COUNTRY CLUB HOMES ASSOCIATION, an incorporated Homeowner's Association of the State of Delaware party to this indenture, known to me and personally to be such, and acknowledged this Indenture to be his act and deed and the act and deed of said Homeowner's Association; that the signature of the President is in his own proper handwriting; and that his act of sealing, executing, acknowledging and delivering said Indenture was duly authorized by the record owners of more than one-half of all of the Lots contained within the REHOBOTH BEACH YACHT & COUNTRY CLUB HOMES ASSOCIATION, as certified by the Affidavit and Certification attached hereto as Exhibit B and incorporated by reference.

GIVEN under my Hand and Seal of Office, the day and year aforesaid.

  
\_\_\_\_\_  
NOTARY PUBLIC

**Seth L. Thompson**  
**Attorney**  
Admitted to the Delaware Bar 12-9-05  
Bar ID #004769  
Uniform Law on Notarial Acts  
Pursuant to 29 Del C Sec. 4323(a)(3)