

Tax Map & Parcel Nos.:

134-11.00-14.00,
262.00 through 299.00 (inclusive),
301.00 through 309.00 (inclusive),
311.00 through 318.00 (inclusive),
320.00 through 366.00 (inclusive),
368.00 through 377.00 (inclusive),
379.00 through 396.00 (inclusive),
398.00 through 422.00 (inclusive),
424.00 through 431.00 (inclusive),
433.00 through 449.00 (inclusive),
451.00 through 460.00 (inclusive),
462.00 through 466.00 (inclusive),
468.00 through 514.00 (inclusive),
516.00 through 523.00 (inclusive),
525.00 through 535.00 (inclusive),
537.00 through 543.00 (inclusive),
and 768.00 through 779.00 (inclusive)

Prepared by & Return to:

Steen, Waehler & Schrider-Fox, LLC

92 Atlantic Avenue, Unit B

P.O. Box 1398

Ocean View, DE 19970

MRSF

**FIRST AMENDMENT TO THE
AMENDED & REPLACED
DECLARATION OF COVENANTS, RESTRICTIONS AND CONDITIONS
FOR
BLACKWATER VILLAGE**

WHEREAS, the Blackwater Village residential community located along Vines Creek Road (also known as State Route 26) in Baltimore Hundred, Sussex County, Delaware, and all lot owners therein are bound by an Amended & Replaced Declaration of Covenants, Restrictions and Conditions for Blackwater Village of record at the Office of the Recorder of Deeds, in and for Sussex County, Delaware, in Deed Book 4805, Page 281, et seq. (hereinafter referred to as the "Declaration"); and

WHEREAS, all lot owners in the Blackwater Village residential community are members of the Blackwater Village Association, Inc. ("Association"), a Delaware non-stock corporation; and

WHEREAS, pursuant to Article VIII, Section 2 of the Declaration, the Declaration may be amended by and with the vote of at least two-thirds (2/3) of the membership present, in person or by proxy, at any regular or special of the Association, provided that notice of the proposed

amendment shall have been given to each Member at least ten (10) days in advance of such meeting.

NOW THEREFORE, the Blackwater Village Association, Inc., and at least two-thirds (2/3) of the membership present, in person or by proxy, at a special meeting of the Association, following the giving of notice to each Member, at least ten (10) days in advance of the special meeting, of the proposed amendment, do hereby amend the Amended & Replaced Declaration of Covenants, Restrictions and Conditions for Blackwater Village as follows:

(1) Revise Article III, Membership Rights and Obligations, by adding a new Section 7. Lease Restrictions. to the end thereof, which shall read as follows:

Section 7. Lease Restrictions.

It is permissible for a lot owner to lease his or her dwelling to a third party for compensation, provided the following provisions are met, as every lease agreement for every dwelling within Blackwater Village is subject to the following rules and regulation, even if the lease agreement shall fail to expressly include such provisions:

(a) The lease agreement must be in writing and shall be for an initial term of at least ninety (90) days. If, upon expiration of the initial term of ninety (90) days or more, a lease agreement shall continue thereafter on a monthly basis if and as permitted by Delaware law, such a continuation of the agreement shall be permitted hereunder;

(b) The lease agreement must be for the entire dwelling and the entire lot or lots upon which the dwelling is located;

(c) The owner shall provide a copy of all Association governing documents to the tenant, and the tenant's use of the premises shall be subject to the provisions thereof (whether or not such documents actually have been provided to the tenant);

(d) Any failure of the tenant to fully comply with the provisions of the governing documents shall constitute a material default under the lease agreement and shall be grounds for termination and eviction;

(e) As provided in Article II, Sections 4 hereof, within ten (10) days of occupancy by the tenant, the name and telephone number of the tenant must be furnished to the Association. Upon request the owner shall provide the Association with a copy of the lease agreement; and

(f) The dwelling cannot be used like a time-share or as a rooming house, multi-family dwelling, group home, motel or hotel, or otherwise for transient tenants who temporarily reside in or rent the dwelling or lot (or a portion thereof, which in and of itself is prohibited), as, again, all lease agreements shall be for the initial term of at least ninety (90) days with a possible continuation thereafter on a monthly basis if and as permitted by Delaware law (see subparagraph (a) above).

IN WITNESS WHEREOF, the Blackwater Village Association, Inc., has caused these presents to be signed and sealed by its President and attested by its Secretary on this 17TH day of JULY A.D. 2023.

BLACKWATER VILLAGE ASSOCIATION, INC.

By: _____

President

(Corporate Seal)

Attest: _____

Secretary

STATE OF DELAWARE :

ss.

COUNTY OF SUSSEX :

BE IT REMEMBERED, that on this 17TH day of JULY, A.D. 2023, personally came before me, The Subscriber, a Notary Public for the State and County aforesaid, Jason Satterfield, President of Blackwater Village Association, Inc., a corporation of the State of Delaware, party to this Indenture, known to me personally to be such, and acknowledged this Indenture to be his act and Deed, and the act and Deed of the said corporation; that the signature of the President is in his own proper handwriting; and that the act of signing, sealing, acknowledging and delivering the said Indenture was first duly authorized by the Board and membership of the said corporation.

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



Notary Public: Bettie J. Dunkin
Type or Print Name of Notary: BETTIE J. DUNKIN
Commission Expires: 4/25/26

AFFIDAVIT

THE BLACKWATER VILLAGE ASSOCIATION, INC., a Delaware non-stock corporation, by and through its Secretary, does hereby execute this Affidavit, which is made and kept in the regular course of business of the Association, as a regular practice of the Association and as a regularly maintained business record, to certify that the foregoing First Amendment to the Amended & Restated Declaration of Covenants, Restrictions and Conditions for Blackwater Village was made to Article III by adding a new Section 7. Lease Restrictions. By execution of this Affidavit, the Secretary of the Blackwater Village Association, Inc., hereby certifies that said amendment to the Declaration was approved by at least two-thirds (2/3) of the membership present, in person or by proxy, at a special meeting of the Association on July 15, 2023, following the giving of notice to each Member, at least ten (10) days in advance of said special meeting, in accordance with Article VIII, Section 2 of the Amended & Restated Declaration.

IN WITNESS WHEREOF, the Blackwater Village Association, Inc., has caused these presents to be signed and sealed by its Secretary on this 17TH day of JULY A.D. 2023.

BLACKWATER VILLAGE ASSOCIATION, INC.

(Corporate Seal)

By:

Secretary

Kathy Low Tidwell

STATE OF DELAWARE :

ss.

COUNTY OF SUSSEX :

BE IT REMEMBERED, that on this 17TH day of JULY A.D. 2023, personally came before me, The Subscriber, a Notary Public for the State and County aforesaid, KATHY LOW TIDWELL Secretary of Blackwater Village Association, Inc., a corporation of the State of Delaware, party to this Indenture, known to me personally to be such, and acknowledged this Indenture to be his/her act and Deed, and the act and Deed of the said corporation; that the signature of the Secretary is in his/her own proper handwriting; and that the act of signing, sealing, acknowledging and delivering the said Indenture was first duly authorized by the Board and membership of the said corporation.

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



Notary Public:

Type or Print Name of Notary:

Commission Expires:

Bettie J. Dunkin
4/25/26

Tax Map & Parcel Nos.:

1-34 11.00 14.00; 262.00 - 299.00;
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BK: 4805 PG: 281

Prepared by & Return to:

Steen, Waehler & Schrider-Fox, LLC
 92 Atlantic Avenue, Unit B
 P.O. Box 1398
 Ocean View, DE 19970
 MRSF

RECEIVED
 Nov 29, 2017
 ASSESSMENT DIVISION
 OF SUSSEX COUNTY

**AMENDED & REPLACED
 DECLARATION OF COVENANTS, RESTRICTIONS AND CONDITIONS
 FOR
 BLACKWATER VILLAGE**

WHEREAS, the Blackwater Village residential community located along Vines Creek Road (also known as State Route 26) in Baltimore Hundred, Sussex County, Delaware, and all lot owners therein are bound by a Declaration of Covenants, Restrictions and Conditions of record at the Office of the Recorder of Deeds, in and for Sussex County, Delaware, in Deed Book 2919, Page 152, et seq. (which substituted and replaced all prior restrictive covenants imposed against the community), as subsequently amended by an amendment recorded in Deed Book 3355, Page 208, et seq.; an amendment recorded in Deed Book 3371, Page 161, et seq.; an amendment recorded in Deed Book 3990, Page 302, et seq.; and an amendment recorded in Deed Book 4078, Page 57, et seq. (hereinafter collectively referred to as the "Declaration"); and

WHEREAS, all lot owners in the Blackwater Village residential community are members of the Blackwater Village Association, Inc. ("Association"), a Delaware non-stock corporation; and

WHEREAS, the Board of Directors for the Association and more than sixty percent (60%) of the votes cast by members of the Association have determined that it is necessary and desirable to make numerous amendments to the Declaration to revise certain existing provisions, as well as to add various new provisions thereto; and

WHEREAS, due to the number of changes being made to the Declaration, the newly revised and amended Declaration is being recorded in its entirety by and through this recording; and

WHEREAS, the newly revised and amended Declaration hereby recorded shall substitute and replace, in its entirety, the Declaration recorded in the Office of the Recorder of Deeds, aforesaid, in Book 2919, Page 152, et seq., and all previous amendments thereto.

NOW THEREFORE, pursuant to the authority provided in Article VIII, Section 1(c) and Article VIII, Section 2 of the Declaration, more than sixty percent (60%) of the votes cast by members of the Association hereby revise, amend, substitute and replace the Declaration of Covenants, Restrictions and Conditions for Blackwater Village as follows:

[THIS SPACE INTENTIONALLY LEFT BLANK]

Blackwater Village Association, Inc.**DECLARATION OF COVENANTS, RESTRICTIONS AND CONDITIONS**

This indenture is made this 20th day of November, 2017 by the Blackwater Village Association, Inc., a non-stock Corporation, hereinafter referred to as the "Association" or "BVA", consisting of the property owners of Blackwater Village Filing I, Blackwater Village Filing II, and Blackwater Estates filings, which collectively are generally described in Sussex County Tax Map 1-34-11.00 and include parcels originally numbering 262.00 through 543.00 and parcels 768.00 through 779.00.

This indenture hereby supersedes and cancels all previous Covenants, Restrictions and Conditions and Amendments and, having been approved by a legal number of Blackwater Village property owners, shall be filed for record in the Office of the County Recorder. These Covenants are binding on all parties having any right, title or interest therein or in any part thereof, their heirs, successors and assigns and shall run with the land and apply to each and every lot contained in the entirety of Blackwater Village. Therefore, each and every person accepting a deed or acquiring title by operation of law to any lot in Blackwater Village shall be deemed to agree to be bound by the Covenants, Restrictions and Conditions hereinafter set forth.

ARTICLE I - COVENANTS, RESTRICTIONS AND CONDITIONS

The Association has been incorporated and organized under the laws of the State of Delaware. It operates per Certificate of Incorporation filed with the Secretary of State on May 4, 1973, and under By-Laws set forth in accordance with the Certificate of Incorporation and by Administration of the Officers and Board of Directors of the Association, as elected by the membership in accordance with the Bylaws of the Association. Title having been conveyed by the Developer, the Association has the sole power to regulate the use and maintenance of all roads, right-of-ways and common areas or facilities thereon, including the exclusive and alienable right to sell, grant and convey or dedicate same; and to exercise Utility Rights and Easement Rights reserved to itself as defined herein. It also has the power to regulate and control the structures to be erected on all lots within Blackwater Village, to which end an "Architectural Committee", appointed by the Association Board of Directors and more fully described hereinafter, shall be and is vested with the power to regulate, restrict and control all structures and any improvements erected on any lot.

ARTICLE II - BLACKWATER VILLAGE COMMON AREA

Section 1. Lot owner's easements: The Association reserves certain Utility Rights and Easement rights to itself and other parties, but subject to those and other rights of the Association set forth in this Covenant, every lot owner is granted and shall have a right and easement to use

and enjoy the Blackwater Village Common Area. If a lot owner is in default in the payment of any assessment or in breach of any Covenant, the Association can suspend such owner's right, with such suspension extending until said default has been removed or until the date such infraction, breach or default ceases or is remedied.

Section 2. Improvements: The Association shall have the right, but not the obligation, to develop or improve the Blackwater Village Common Area for the use and benefit of the residents in Blackwater Village, including the right to construct recreational facilities, plant trees, plants and shrubs, and make such other improvements as the Association may deem appropriate.

Section 3. No Public Rights: The granting of the easements and the creation of the Blackwater Village Common Area in this Article in no way shall be deemed or construed to be a dedication of such areas for the general public welfare and in no way grants to the public or the owners of any land outside of Blackwater Village the right to enter any part of the Blackwater Village Common Area.

Section 4. Delegation of Use:

(a) Any lot owner may delegate his right of enjoyment to the Blackwater Village Common Area and facilities thereon to guests and/or tenants, but the owner shall remain responsible for any violations of these Covenants, Restrictions and Conditions. In certain cases, such as organized youth activities where adult supervision is appropriate, the Board may require a member be present.

(b) Any lot owner who leases his or her lot/dwelling to a third party for compensation must, within ten (10) days of occupancy by the tenant, furnish the Association with the name and telephone number of the tenant. Upon request, the owner shall provide the Association with a copy of the lease agreement.

(c) If any tenant is in violation of any of the provisions of the governing documents, the Association may take such action as is authorized by Section 81-302(c) of the Delaware Uniform Common Interest Ownership Act ("DUCIOA"). More specifically, the Association may:

(1) Exercise directly against the tenant the following powers set forth in Section 81-301(a)(11) of DUCIOA: May suspend any privileges or services provided to owners and tenants by the association (other than those necessary for the habitability of the owner's dwelling) for non-payment of assessments; may impose charges for late payment of assessments; and, after notice and an opportunity to be heard, may levy reasonable fines for violations of the governing documents;

(2) After giving notice to the tenant and the owner and an opportunity to be heard, levy reasonable fines against the tenant for the violation;

(3) Require, as a means of collecting a fine or past due Association fee due from the tenant (and not the owner), that the tenant make payments directly to the Association in the amount of the rent up to the limit of the amount owed the Association; and

(4) Enforce any other rights against the tenant for the violation which the owner as landlord could lawfully have exercised under the lease or which the association could lawfully have exercised directly against the owner, or both.

(d) The rights referred to in the subparagraph (c) above may only be exercised if the tenant or owner fail to cure the violation within ten (10) days after the Association notifies the tenant and owner of that violation.

Section 5. Marsh area and dedicated Nature Preserve: Private docks are prohibited and no property owner shall infringe upon the marsh areas within Blackwater Village that are owned by the Association. Additionally, certain portions of the Common area bordering Blackwater Creek having been placed in the State of Delaware's Nature Preserve program, members are further restricted from engaging in such activities thereon as are prohibited under that program's guidelines and shall undertake no activity thereon which would impact the Preserve without the express written consent of both the State and the BVA Board of Directors.

ARTICLE III - MEMBERSHIP RIGHTS AND OBLIGATIONS

Section 1. Membership Definition: Every owner of a lot subject to dues/assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from the ownership of such lot.

Section 2. Voting Class: The Association shall have one class of voting membership with members being entitled to one vote for each lot upon which dues/assessments are paid. In no event shall more than one (1) vote be cast with respect to any lot. If more than one person holds an interest, absent multiple votes being cast, the single vote of any of the lot's owners shall be deemed to represent the interests of all owners of said lot.

Section 3. Delegation of Authority: As prescribed in BVA Bylaws, members delegate to a duly elected Board of Directors of the Association authority to provide such services as are necessary and reasonable in the judgment of the Board to carry out the Association's obligations and business under the terms of this Covenant and Association Bylaws. These include maintaining and making improvements to Common Areas; enforcing the Covenants; operating the Blackwater Village Architectural Committee as provided for herein; providing administrative and management services and oversight; paying taxes, insurance, legal and accounting expenses; and conducting such Association-sponsored programs, social activities, meetings, etc., as are deemed appropriate.

Section 4. Suspension of Voting Rights: Any owner in default in the payment of any dues/assessment will lose such right to cast a membership vote until such time as the outstanding dues/assessment has been paid.

Section 5. Membership Records: It is the responsibility of the lot owner to provide the Association Treasurer with a current U.S. Postal Service mailing address and, if elected in accordance with Article V of the Bylaws, a valid electronic/email address to which dues/assessment notices and other member-related information should be directed within 60 days of change, as well as to provide such emergency contact detail and information on the names/numbers of individuals and/or tenants residing in Blackwater Village residences as may be required for safety and security programs.

Section 6. Sale and/or Transfer of Blackwater Village Lots and/or Property:

(a) Notice of any titling change must be provided to the Association at its address of record (31275 Mohican Drive, Dagsboro DE 19939) whenever title change to any lot, for any reason agreed to under law, occurs. In cases involving the sale of a lot for consideration, a Consent form (available from the Association Treasurer and normally included among settlement documents) must be submitted to the Association prior to sale for review to ensure all dues/assessments are current and no non-conforming conditions or other violations of Covenants exist.

(b) In cases involving the sale of a lot for consideration, upon closing, the new lot owner shall pay to the Association an initial assessment. The initial assessment is collectible at closing, in the amount of One Hundred Twenty-Five Dollars (\$125.00) per lot as of the date of this amendment. The initial assessments shall be used by the Association as working capital to insure availability of cash for expected and unexpected expenditures, to build up a reserve for capital expenses and improvements, or to acquire equipment or services deemed necessary by the Association. Initial assessments shall be paid in addition to regular assessments and shall be collectible in the same manner if unpaid. The amount of the initial assessment may be increased or decreased by the Board of Directors from time to time, as it may deem necessary and appropriate in its sole discretion.

ARTICLE IV - COVENANT FOR DUES AND ASSESSMENTS

Section 1. Creation of Lien and Personal Obligation of Dues/ Assessments:

(a) Each owner of any lot, by acceptance of a deed or other transfer documents therefore, whether or not it shall be expressly established in such deed or other transfer document, hereby covenants and agrees to pay the Association and its successors and assigns annual dues/assessments and such special or personal assessments as may be fixed. Such dues/assessments, together with such interest, costs of collection, administrative fees, late

charges, and reasonable attorney's fees, shall be a charge on the land, and shall be a continuing lien upon the property against which each such assessment is made.

(b) The foregoing also shall be the personal obligation of the person who was the owner of such property at the time when the dues /assessment fell due.

(c) No owner of a lot may waiver or otherwise escape liability for the dues/assessment provided for herein by non-use of the common area or abandonment of the lot.

Section 2. Effect of Non-payment of Assessment: If an Annual dues/assessment, Special assessment or Personal assessment is not paid within thirty (30) days from its due date, the assessment shall, from the date of delinquency, bear administrative fees and late charges, in such amounts as may be fixed by the Board of Directors from time to time, and shall bear interest at a rate of legal interest, as fixed by the Board of Directors from time to time in an amount not to exceed that rate authorized by 6 Delaware Code Section 2301, as amended.

Section 3. Purposes and Types of Assessments:

(a) **Purposes:** The dues/assessments levied by the Association shall be used in promoting the recreation, health, safety and welfare of residents; for the improvement and maintenance of the common areas and street right-of-ways located in Blackwater Village; for Association -provided services and facilities devoted to such purposes as are budgeted for by the Board of Directors; and for operating reserve funds and reserve funds for repair and replacement of the common areas and the facilities thereon as well as anticipated capital improvements to same.

(b) **Types of Assessments:** There are three basic types of assessments: Annual Dues assessments, as described in following Sections 4 & 5; Special Dues Assessments, as described in Section 6; and Personal Assessments, as described in Section 7.

Section 4. Basis for Annual Dues/Assessment: Each respective lot in Blackwater Village is subject to an annual charge or dues/assessment fixed annually by the Board of Directors of the Association and charged or assessed in equal proportions against each lot within Blackwater Village. Each annual dues/assessment shall be made for each fiscal year commencing as of August 1. Failure of the Association to levy the assessment or charge for any one year shall not affect the right of the Association to do so for any subsequent year.

Section 5. Establishment of Annual Dues/Assessment Rate: The Board of Directors of the Association, after consideration of maintenance costs and future needs of the Association, has fixed the annual dues/assessment in an amount of one hundred and twenty (\$120.00) per lot. Said annual dues/assessments shall remain so fixed until such time as sixty percent (60%) of those eligible Association members casting votes approve a request for change. Notice of such proposed vote must be submitted to members at least 30 days in advance of the date scheduled for such vote.

Section 6. Basis for Special Assessments:

(a) The Association Board of Directors may levy in any assessment year a special assessment (which shall be fixed at one uniform rate for each lot) applicable to that year only, for the purpose of defraying, in whole or in part, expenses related to unanticipated operating costs and/or unanticipated maintenance, repair or replacement of the common areas or capital improvements thereon for which budgeted funds do not exist or are not adequate. The due date for payment of any such special assessment shall be fixed in any resolution authorizing such assessment.

(b) In any assessment year, a special assessment (which shall be fixed at one uniform rate for each lot), for the purpose of defraying, in whole or in part, expenses related to new capital improvements to the common areas, may be levied if approved by at least sixty percent (60%) of those eligible Association members casting votes. Notice of the amount and purpose of the proposed special assessment, as well as the due date for payment thereof (which may include more than one due date for partial payment over one or more years) must be submitted to members at least 30 days in advance of the date scheduled for a vote.

Section 7. Basis for Personal Assessments: Such assessments may be imposed for cause on an individual lot owner basis to reimburse the Association for expenses incurred for grass cutting of individual lots; may be in the form of monetary penalties imposed to prevent or abate violations of the Covenants or other governing document; or may be imposed to recover damages resulting from any actual violation or attempted violation of the Covenants or other governing document.

Section 8. Joining and Separation of Lots: No lot shall be subdivided, or its boundary lines changed, nor shall applications for same be made except with the written consent of the Association. The provisions of this paragraph shall not prohibit the combining of two (2) or more contiguous lots into one (1) large lot, or dividing a lot in half and incorporating same into adjacent lots. Following the combining of lots into one (1) larger lot, only the exterior boundary lines of the larger lot shall be considered in the interpretation of these Covenants and other governing documents. In such cases where two (2) or more contiguous lots, or portions thereof, are joined together for the purpose of creating one (1) larger unified lot and said property has been recognized by Sussex County as one (1) parcel for which a single tax parcel number is issued, the Association shall treat the combined properties as a single lot for dues/assessment, voting and all other purposes under these Covenants and other governing documents.

Section 9. Subordination of the Lien to the First Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage on the lot, except as otherwise provided by § 81-316 of DUCIOA. Sale or transfer of any lot shall not affect the dues/assessment lien. However, sale or transfer of any lot by foreclosure of any first mortgage or any proceedings in lieu thereof shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer, except as otherwise provided by § 81-316 of

DUCIOA. No sale or transfer shall relieve such lot from liability for any dues/assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property: All properties dedicated to and accepted by a Government body, agency or authority and devoted to public use and all common areas shall be exempted from the assessments, charges and liens created herein.

ARTICLE V - BLACKWATER VILLAGE ARCHITECTURAL & COVENANT ENFORCEMENT COMMITTEE

Under these Covenants, the "Blackwater Village Architectural & Covenant Enforcement Committee" (sometimes referred to as the "Architectural Committee"), appointed by the Association Board of Directors and more fully described hereinafter, is vested with the power to regulate, restrict and control all structures and any improvements erected on any lot, as well as to issue notices of violations of the Covenants or any other governing document of the Association. The Board reserves to itself the authority and standing, on behalf of the Association, to enforce in courts of competent jurisdiction decisions of the Architectural Committee.

Section 1. Blackwater Village Architectural & Covenant Enforcement Committee: The Blackwater Village Architectural & Covenant Enforcement Committee shall consist of a chairperson and two (2) members of the Association in good standing, all appointed by the President of the Association and approved by the Board of Directors. A member is in good standing if he is current in his payment of all assessments, dues and other charges due and owing the Association, and who is not in violation of these Covenants or other governing document for the Association. The term of membership on the Architectural Committee shall be two (2) years and until their successors are appointed and approved. The President of the Association shall fill vacancies on the Architectural Committee and, until the vacancy is filled, the remaining members shall have full authority to act as the Architectural Committee. None of the members of the Architectural Committee shall be entitled to any compensation for services performed by them as members of the Architectural Committee.

Section 2. Review and control by Blackwater Village Architectural & Covenant Enforcement Committee: The Blackwater Village Architectural & Covenant Enforcement Committee shall have exclusive jurisdiction over all original construction, modifications, additions or alterations made on or to all existing improvements and the open space, if any, appurtenant thereto, on all property within Blackwater Village. It further is given discretion, subject to the review and approval of the Board, to impose architectural guidelines, application and review fees, and bonding requirements to ensure compliance with the Governing Documents and to cover any street clean-up or other expenses that may be incurred by the Association as a result of the construction project in question. Any such architectural guidelines, application and review fees, and bonding requirements may only be imposed after providing lot owners with notice and an opportunity to comment as described in Article VI, Section 12 hereof. The Architectural

Committee is also hereby authorized to grant reasonable variances in order to overcome practical difficulties and prevent unnecessary hardships which may arise from strict application of such guidelines or other restrictions set forth in these Covenants. The Architectural Committee shall also have the authority to issue notices of violations of the Covenants or any other governing document of the Association. Whenever a notice of violation is issued to a lot owner, a copy of said notice shall also be provided to the Board. No construction (which term shall include within its definition, staking, clearing, excavation, grading and other site work including the removal of trees) shall take place except in strict compliance with this Article, until the requirements thereof have been fully met, and until approval in writing has been obtained from the Architectural Committee.

(a) Plan submission for dwellings and other structures: No building, fence, garage, or other structure shall be erected, placed or altered on any improved or unimproved property in Blackwater Village until written documentation deemed acceptable by the Architectural Committee shall have been reviewed and approved in writing by said Committee. For new dwelling construction, a complete set of professionally prepared building plans and elevations, specifications, scale, and site configuration and dimension showing the proposed location of such building, driveways and parking areas or other details is typically deemed necessary. A second set of same or copies of the documents as approved is additionally required for retention by the Architectural Committee.

(b) Committee review and permits: To facilitate communications and expedite formal submissions review, the Architectural Committee will, at the request of the applicant, review plans at a conceptual stage prior to formal submission. As a condition of formal review, the Committee may require that a building permit for such improvement be applied for prior to its review and approval but in all cases property owners are individually responsible for compliance with all Sussex County and other applicable ordinances.

(c) Grounds for decisions: Approval or disapproval of plans, locations or specifications may be based by the Blackwater Village Architectural & Covenant Enforcement Committee upon any ground incorporated within these Covenants including purely aesthetic considerations which, in the sole discretion of the Blackwater Village Architectural & Covenant Enforcement Committee, shall be sufficient.

(d) Right of Appeal: A lot owner aggrieved by any decision of or notice of violation issued by the Architectural Committee may, in accordance with the Article VII, Section 3 of these Covenants, request an appeal of the Architectural Committee's action to the Association's Board of Directors.

Section 3. Building Construction and Improvements: The following conditions shall apply with respect to new construction, improvements to existing dwellings, ancillary structures and other items as enumerated herein:

(a) Dwelling Requirements: For proposed new dwellings, the enclosed dwelling area of a one-story dwelling shall not be less than 1,200 square feet and the enclosed dwelling area of a multi-story dwelling house shall not be less than 1,500 square feet. The term "enclosed dwelling area" includes the heated living space of the dwelling and does not include basements, garages, terraces, decks, open porches and like areas.

(b) Building Type and Use: All lots shall be used exclusively for residential purposes except as conditionally permitted under Article VI Section 13. Only one (1) detached single family dwelling may be placed, erected, altered and occupied by one given family in residence and their house guests at any given time upon any lot.

(1) No dwelling or ancillary structure may be erected on open pilings or stilts.

(2) Any dwelling previously constructed outside the Blackwater Village boundaries must be less than one (1) year old and conform to all other standards set by these Covenants in order to be transferred and set upon any lot within Blackwater Village.

(3) Modular homes are permitted, subject to Architectural Committee approval which may additionally require an installation plan indicating area to be cleared for the location of the erecting equipment.

(4) Dwellings of a type classified by the Delaware Division of Motor Vehicles as manufactured (mobile) shall not be placed in any lot in Blackwater Village.

(5) Appropriate ancillary buildings, in keeping with the architecture of the dwelling house, shall be permitted, provided that such are not used for any commercial purpose and provided the structure and use have been approved by the Architectural Committee. The total square footage of all ancillary buildings located on a lot or on a combined lot (i.e., when two or more lots are used together for one dwelling house) shall not exceed a total of 600 square feet per single lot or 900 square feet per combined lot. Any ancillary building that exists as of the effective date of this amendment shall be deemed "grandfathered" and may be continued even though such ancillary building does not conform to the requirements and provisions of this paragraph. Any such grandfathered ancillary building may be maintained and repaired as required to keep said building in sound condition, but said building may not be enlarged or extended. A grandfathered ancillary building destroyed to the extent of 90% of its assessed value, if reconstructed as permitted herein, shall comply with the provisions of this paragraph.

(6) All foundations of new construction must be pargeted (parged) upon completion of the structure.

(7) All fences must be constructed with finished/good side facing out to neighbor's lot.

(c) Temporary Structures: No structure of a temporary character shall be placed upon any lot at any time, except such temporary structures that are used for materials storage by the

contractor during the construction of the main dwelling house, as permitted under Sussex County regulations and as approved by the Architectural Committee. These latter temporary shelters may not, at any time, be used as a residence or permitted to remain on the lot after completion of construction. The design and color of structures temporarily placed on a lot by a contractor shall be subject to reasonable aesthetic control by the Architectural Committee. Under no circumstances shall tents be permitted on unimproved lots.

(d) Time of Construction: Once construction shall have been initiated on any structure, including walls, fences, residences, ancillary buildings or any other structure which has been previously approved by the Architectural Committee, construction of that particular structure, wall, fence, residence, ancillary building, or other structure, shall be completed within one (1) year of the time such construction was initiated, except that the Architectural Committee may extend the time of construction, upon written request, for additional periods under unusual circumstances. Any structure which is not substantially completed with-in one (1) year after commencement of construction and for which an extension is not granted, shall be deemed to be a nuisance. During such time as construction is occurring, all construction activity is limited to the hours between 8:00 a.m. and 6:30 p.m. on week-days and Saturdays. There is to be no construction work on Sundays and holidays. Construction, as used in this paragraph, includes any activity requiring a permit from the Architectural Committee or any county or state agency and includes work performed by outside contractors, lot owners, tenants, guests or any other person.

(e) Building Location: Dwellings and ancillary structures placed on Blackwater Village lots shall be located according to current setback provisions and zoning laws of Sussex County and any other governmental agency holding jurisdiction. Further, each lot being subject to ten (10) foot center line easements lying five (5) feet on either side of said lot lines, such easements will be kept open and readily accessible for the purposes of utility companies and others holding rights thereto. In the case of a single ownership of more than one (1) numbered lot which are contiguous, then the foregoing setback lines shall apply to the parcel owned as a whole, provided the owner or occupier makes use of the same as a whole.

(1) Exceptions to Setback Restrictions: Terraces, walls, fences, hedges, swimming pools and similar low, unroofed and un-screened construction may be erected outside the setback lines described in Section 3 (e) hereof, provided that such construction shall not interfere with the exposure or view or reasonable privacy of adjoining or facing lots (as shall be determined by the Architectural Committee); is in compliance with the prevailing zoning regulations; and has been approved by the Architectural Committee.

(2) Variances: Variances from any setback requiring approval from the Sussex County Board of Adjustment also require concurrent approval by the Architectural Committee, which reserves the right to deny such variances notwithstanding approval by Sussex County.

(f) Clearing, grading and excavation of lots: Clearing, grading and excavation of any lot within Blackwater Village, whether in anticipation of construction, the drilling of a well or in preparation for installation of a septic system, or post-construction, shall not be initiated without the prior written approval of the Blackwater Village Architectural Committee. Upon completion of clearing, grading and/or excavation, all lots shall be cleared of obnoxious vegetation, debris and underbrush with all cleared areas restored to a character consistent with that of other Blackwater Village lots.

(g) Removal of trees: To the extent reasonably practical, the clearing of mature, healthy trees on lots shall be limited to those areas required to accommodate the residence to be constructed thereon and its normal and customary accessories, open front yard areas and those limited areas required to permit utility services and driveways.

(1) Clearing and/or new construction: Prior to commencement of any new construction or clearing of a lot, all trees to be removed must be clearly marked to expedite review.

(2) On lots having existing dwelling, no trees measuring six (6) inches in diameter at a point two (2) feet above ground level which are located more than ten (10) feet away from the residence or structure constructed on the lot shall be removed without the prior written approval of the Architectural Committee.

(3) Stumps: All stumps must be removed by grinding or cut flush to grade so that no portion of the stump is generally visible from any Association roadway.

(4) Trees adjacent to entrance: No trees adjacent to the entrance of Blackwater Village (Hiawatha Boulevard) are to be removed without specific written permission of the Association.

(h) Drainage:

(1) Prior to any construction of driveways, parking pad or grading which crosses street right-of-ways, the lot owner shall contact DELDOT regarding size, placement and installation of drainage pipe at the entrance to the driveway and submit written evidence of same to the Architectural Committee. Should grading, construction, size, placement or accumulation of residue impede the free flow and drainage of water across right-of-ways or easements bordering their property, the Association may require the lot owner/s to correct said situation at owner's expense.

(2) The installation of permanent curbs and driveway drains should be made with the advice of the Chairman of the Architectural Committee. In no case shall a gutter or ditch be filled in, or a driveway drain be installed, in such a manner as to interfere with the proper flow of surface water. Any such unauthorized installations shall be removed by the offending property owner at the request of the Architectural Committee. Upon failure to comply with such a request,

the Board of Directors shall have the improper condition remedied and the cost of such operation shall be assessed to the offending property owner.

(i) Water and Sewage: All water wells and sewage disposal systems placed upon any lot shall comply with the codes, requirements and regulations of any state, county or other governmental agency holding such jurisdiction. No sewage, waste water, trash, garbage or debris shall be emptied, discharged or permitted to drain into any body of water in or adjacent to the subdivision. No permanent outside toilets or privies shall be permitted on any lot. All permanent toilet facilities must be located within the residence or garage and shall be of a modern flush type and connected with a proper septic tank system.

(j) Screening of Unsightly Objects: Garbage or trash receptacles, fuel tanks or similar storage receptacles, electric and gas meters, air conditioning equipment and other unsightly objects must be placed or stored in order to screen them from view from the road and should generally be no closer to a street than the front of the dwelling. Garbage or trash receptacles may be placed by the side of the road no more than 24 hours prior to the scheduled time for garbage collection and shall be returned to their regular, approved storage locations within the 24 hour period following the scheduled time for garbage collection.

(k) External Lighting: No external lighting which is of such character, intensity or location as to interfere with the use, enjoyment and privacy of any lot or owner in the near vicinity shall be installed or utilized on any property within Blackwater Village. No neon or flashing lights shall be permitted. All external lighting shall be approved by the Architectural Committee as appropriate in size, location, color and intensity. Appropriate street lights shall be the sole responsibility of BVA.

(l) Swimming Pools: Swimming pools, whether in-ground or above ground, permanent or temporary, shall be sited and fenced or constructed in a manner the Architectural Committee deems necessary to address privacy and safety considerations. All pools, outside hot tubs or Jacuzzis shall be appropriately screened from the view of adjacent lots and streets with a five (5) foot high wood or plastic fence. Such fences should be of such construction so as to reasonably block the view of the pool, outside hot tub, or Jacuzzi, from the neighboring lots..

(m) Landscaping:

(1) Grass and/or groundcover: All cleared areas should be cleared of unsightly vegetation and in the case of new home construction, either seeded, sodded or planted with appropriate ground cover no later than the first Fall or Spring period following completion of construction.

(2) Trees and shrubs: The Architectural Committee may require the planting of trees or shrubs in cases where same have been removed without prior approval. Landscaping shall be consistent with good conservation practices.

ARTICLE VI - USE COVENANTS AND RESTRICTIONS

Section 1. Entry on a Property:

(a) To determine compliance: The Blackwater Village Architectural & Covenant Enforcement Committee, any of its representatives, and/or the Village Superintendent (if appointed in accordance with the Bylaws) shall have the right to enter any improved lot or unimproved lot within Blackwater Village for the purpose of determining compliance with these Covenants, any other governing document, or decisions of the Blackwater Village Architectural Committee, pending or completed, which affect that property. Entrance upon any lot within Blackwater Village by the Blackwater Village Architectural & Covenant Enforcement Committee, any of its representatives, or the Village Superintendent (if appointed), for such purposes shall not be deemed to be a trespass.

(b) To effect remedial action: The Association shall further have the right, and hereby reserves an easement for itself and duly appointed agents to enter upon any lot within Blackwater Village, whether improved or unimproved, for the purpose of constructing and maintaining erosion prevention devices; implementing effective insect, rodent, reptile and woods fire control; and mowing, removing, clearing, cutting or pruning underbrush, weeds or other unsightly growth.

(c) Creation of lien: If paid by the Association, the cost of any such authorized work, as described in subparagraph (b) above or elsewhere in these Covenants, shall be deemed to be a Personal Assessment to remedy said conditions giving rise to the lien thereof.

Section 2. Street Addressing: All dwellings in Blackwater Village shall be identified with a house address number assigned by the U.S. Postal Service with such number displayed in such a manner as to conform to generally accepted standards set forth by local law and safety enforcement agencies. Individual mail boxes shall be placed along roadways according to regulations of the U. S. Postal Service.

Section 3. Parking, Standing and Storage of Vehicles:

(a) Personal vehicles, boats, trailers, campers and RVs.

(1) Subject to the following restrictions set forth in subparagraph (b) below, personal vehicles may be parked on a regular basis in driveways, garages, Architectural Committee-approved parking pads or areas, and the non-paved portion (shoulder) of any Blackwater Village street right-of-way.

(2) Subject to the following restrictions set forth in subparagraph (b) below, boats, trailers, campers and recreational vehicles may be parked on a regular basis in driveways, garages and Architectural Committee-approved parking pads or parking areas. Such vehicles may also be parked or stored on the unpaved portion (shoulder) of any Blackwater Village street right-of-way, but only when such parking or storage is not on a regular and habitual basis.

(3) The regular or habitual violation of the regulations set forth in this subparagraph (a) or in subparagraph (b) below shall be deemed a nuisance and a violation of the use covenants and restrictions of this indenture.

(b) **The following restrictions apply to all parking, standing and storage of vehicles:**

(1) An unimproved lot which does not have a dwelling erected on it cannot be used for the parking, standing or storage of vehicles, boats, boat trailers, campers, recreational vehicles, and/or utility trailers.

(2) No vehicle, boat, trailer, camper or recreational vehicle whose length exceeds 24 feet may be regularly and habitually parked or stored on a private lot or along the side of the roadway adjacent thereto unless in a garage.

(3) No portion of any parked vehicle, boat, trailer, campers and recreational vehicles may extend on or above the paved portion of any roadway.

(4) The Architectural Committee may require screening be installed if the conditions so warrant when property owners apply for a permit for a parking pad or parking area intended for storage of a boat, trailer, camper or recreational vehicles.

(5) The Architectural Committee may restrict vehicle parking at or near intersections or along street sections where lines of sight are not clear and such parking might interfere with driver visibility.

(6) No vehicles, boats, trailers, campers or recreational vehicles may be parked on streets bordering any BVA common area except on a short-term basis with the written permission of the Architectural Committee.

(7) All doors of garages visible from the public streets shall normally be closed, except when such are required to be open for the purposes of ingress and egress.

(8) Parking on any street or shoulder thereof shall be at the vehicle owner's own risk. The Association shall not be liable or in any way responsible for any vehicle damage caused by activities such as, but not limited to, the plowing of streets as a result of inclement weather, cleaning of streets, and/or the maintenance or repair of streets.

(c) **Towing authority.** The Board of Directors may tow or otherwise require the removal of any boat, boat trailer, camper, recreational vehicle and/or utility trailer stored or maintained in violation of this Declaration.

Section 4. Commercial Vehicles: No commercial type vehicles, trucks, trailers or vehicular equipment shall be habitually or regularly parked on any lot or street right-of-way in Blackwater Village. For the purposes of this covenant, a 3/4 ton or smaller vehicle, commonly known as a pick-up truck, or any other body style mounted to a 3/4 ton or smaller chassis with a gross

vehicle weight not in excess of 10,001 pounds, shall not be deemed to be a commercial vehicle or truck. The regular or habitual violation of the regulations set forth in this paragraph shall be deemed a nuisance and a violation of the use, covenants and restrictions of this indenture.

Section 5. Signs:

(a) Temporary signs or displayed advertising: Unless approved for display by the Architectural Committee, no temporary signs or displayed advertising shall be erected or maintained on any lot or Common Area or placed in any window or attached to any improvement on any lot or Common Area by anyone except as may be required by legal proceedings. Temporary construction signs or signs advertising the sales of lots or homes are permitted if they do not exceed a maximum of four (4) square feet and are located behind the front property line of the lot in question. Such signs shall be removed within one week following exterior completion of work or sale of the lot in question. The Association shall have the power to require modification or removal of such signs if deemed not in keeping with the area and subdivision decor. No political signs shall be permitted on Common Areas.

(b) Permanent signs, of a size that may be affixed to a mailbox or permanent post and that are used to identify an individual with professional designation, i.e., John Smith, CPA, or Susan Jones, DDS, may be erected and displayed permanently subject to Board approval. No signs which otherwise identify a type of business, trade or service practiced on or off-premises will be permitted.

(c) Entrance signs and street signs in Blackwater Village shall not be removed by any of the lot owners even though these signs may encroach upon individual lots.

Section 6. Condition of Property: It shall be the responsibility of each property owner and tenant to prevent the development of any unclean, unsightly or unkempt conditions of buildings or grounds on such property which shall tend to substantially decrease the beauty or value of the neighborhood as a whole or the specific area. Example: all mold, fungus, algae and other unsightly conditions must be removed from the home's siding, shutters, roofing, foundations, decks, sheds and other visible areas on a yearly basis. Gutters must be kept clean of leaves, dirt and any other visible accumulations of debris.

(a) Grasscutting: Consistent with community standards, grass on lawns and cleared lots in Blackwater Village is generally maintained to a height of 2-4". At such point the height of same exceeds 8", the Association reserves the right to have such grass cut by a duly appointed agent. For reasons of timeliness, the provisions of Article VII, Section 3 requiring prior owner notification are waived. The cost of any such authorized work will be deemed to be a Personal Assessment to remedy said conditions, and if not paid, will give rise to a lien thereof. After grass is cut, the grass clippings must not be left on the roadway.

(b) Outdoor clothes drying will be permitted only in the area located in the rear of the dwelling and in the case of corner lots must be in the area at least thirty (30) feet from the street lines.

(c) Return to sightly condition: Any dwelling or outbuilding which has been destroyed in whole or part by fire, windstorm or for any other cause or act of God or has been allowed to deteriorate past the point of acceptable community standard must be rebuilt or all debris removed and the lot and same returned to a sightly condition with reasonable promptness, provided, however, that in no event shall such debris remain longer than 60 days.

Section 7. Antennas/satellite dishes: A lot owner may make written application to the Association for permission to install a television antenna, satellite dish, radio receiver or sender or other similar device and such permission shall not be unreasonably withheld.

Section 8. Motor Bikes, All Terrain Vehicles, etc: With the exception of mopeds which shall be operated solely upon the streets within Blackwater Village for direct ingress and egress purposes only, no off-street bikes, golf carts that do not meet the criteria of low speed vehicles (as such are defined by Delaware law), all terrain vehicles or any other motorized vehicle prohibited by law from being operated on state roadways shall be operated on the Blackwater Village Common Area, lots, streets and/or right-of-ways.

Section 9. Refuse and Rubbish: Rubbish, garbage or other waste shall be kept and disposed of in a sanitary manner. No trash, refuse or junk shall be permitted to remain exposed upon the premises and visible from public roads or adjoining or nearby premises. No dumping of trash, garbage, sewage, sawdust or any unsightly or offensive materials (except in receptacles placed for such purpose) shall be permitted or placed upon the BVA Common Area unless temporary and incidental to improvement projects undertaken by the Association.

Section 10. Zoning. All properties in Blackwater Village shall be used in compliance with the Comprehensive Zoning Ordinance of Sussex County, Delaware and Amendments thereto.

Section 11. Rules and Regulations: The Board of Directors is granted and shall have the power to promulgate Rules and Regulations from time to time governing the use of and activity upon the Common areas as designated in Article II of the Covenants, with such rules and regulations taking effect 30 days after having been communicated to members.

Section 12. Nuisances: The Association may adopt rules and regulations with respect to grass cutting, noise control, sanitary practice, maintenance of exteriors, and to prohibit any practices or uses of lot and buildings thereon which may create or cause the creation of a nuisance and such regulations shall be binding upon and be complied with by the owners or users of the lots. Before adopting any such rules or regulations, the Board shall notify all lot owners of its intention to adopt the proposed rule or regulation and shall provide the lot owners a date on which the Board will convene a meeting to receive comments on said proposed rule or

regulation. Any rule or regulation adopted by the Board shall become effective only after publication of the new rule or regulation and the effective date thereof to all lot owners.

(a) **Noise:** The playing of music, operation of tools, barking of dogs, etc. will be deemed a nuisance when said activity producing such noise recurs at least three or more separate times in a 30-day period and is objectionable to contiguous neighbors when heard from within their home or is clearly and objectionably audible to residents in yards from a distance of at least 300 feet.

(b) **Animals:** Only common household pet animals shall be permitted within Blackwater Village. All dogs must be secured by a leash or lead any time they are permitted outside a residence or enclosed area. Enclosed area means a completely contained and securely fenced area or the interior of any closed house, garage or shed. When outside such areas, all pet droppings must be collected and disposed of in a sanitary manner; when inside such area, waste must similarly be collected in such a timely manner that no odors or unsanitary conditions develop to the offense of neighbors. After giving a lot owner written notice of a complaint and reasonable opportunity to remedy the situation, the Board of Directors may order the removal from Blackwater Village of any pet which the Board determines, in its sole discretion, has become a nuisance or a danger; contributes to an unsanitary condition; or if the pet enclosure is unsightly or odorous. The Board further reserves the right to place a limit on the number of any pets under care in a single dwelling in the event the Board determines such a limitation may help to alleviate the pet-related noise, odor or sanitation issues associated with the dwelling in question.

Section 13. Business Use and Home-based Occupations: To the extent that certain commercial business or trade activity are neither offensive, noxious or otherwise inconsistent with the residential nature of Blackwater Village, such home occupations or professions may be conditionally approved by the Board of Directors. Each situation and request for approval will be reviewed individually, but in general, the trade, service or profession must be conducted solely by dwelling residents; said business will be operated only during normal 8.a.m. to 6 p.m. hours on weekdays and Saturdays; customer traffic will be limited to the number of private passenger vehicles that can be accommodated in the property's driveway and no street parking will occur; and that the nature and character of all traffic, lighting and/or noise generated by customers and vendors will not diminish the right of neighbors to full use and enjoyment of their property. Further, no signage except as permitted will be displayed; all products or materials used in the conduct of the business will be stored on premises out of view from the street and neighbors. Said home-based businesses must obtain all necessary approvals from Sussex County, the State of Delaware and any other agency which may exercise regulatory authority and may additionally be required to provide and maintain such additional liability and related insurance coverages as the Board deems appropriate.

Section 14. Open Fires: The use of cooking fires such as barbeque grills; fire pits; campfires; chimenea and patio (tiki) torches is allowed year-round in Blackwater Village subject to DNREC

rules and regulation. The burning of trash, leaves, fallen branches, or limbs or shrubbery trim from a residence is prohibited at all times. No open, uncovered recreational fire shall be left unattended and any outdoor burning that unduly exposes neighboring residents to fire hazard (excessive sparking) or excessive smoke and odor shall be discontinued upon request by the Architectural Committee or Village Superintendent. Open fires are prohibited in the Blackwater Village Common Area excepting Board-sanctioned and supervised activity.

Section 15. Obstruction at intersections: No fence, hedge, tree or shrub planting shall be permitted or placed on any lot which obstructs sight of moving vehicles at the intersection of roads and roadways

ARTICLE VII - ENFORCEMENT

Section 1. Enforcement Rights:

(a) Actions in law or in equity: In the event any lot owner or occupant of a lot shall violate, or attempt to violate, any of the Covenants, while the same remain in force and effect, then, and in any such event, it shall be lawful for the Association's Board of Directors to bring any proceeding or take any action, either in law or in equity, against such violator of any of the Covenants, as may be applicable to prevent or abate the violation thereof or to recover damages resulting from any such violation or attempted violation thereof. The words, "any action", as utilized in this paragraph specifically include the right to enter upon the land upon or to which such violation or breach exists and summarily to abate and remove, at the expense of the owner thereof, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and anyone so doing shall not thereby be deemed guilty of any manner of trespass for such entry, abatement or removal.

(b) Monetary Fines: The Association, by and through its Board of Directors, Architectural Committee and/or Village Superintendent, as applicable, shall have the right to levy monetary fines for any violation of these Covenants or other governing document, including any duly adopted rules and regulations. Monetary fines shall be imposed pursuant to a fining schedule established by the Board. Before adopting or amending a fining schedule, the proposed fining schedule shall be submitted by the Board to all lot owners for their input and comment thereon. Any fining schedule adopted by the Board shall become effective only after publication of the fining schedule and the effective date thereof to all lot owners. Prior to imposing a monetary fine against a lot owner, the Board, Architectural Committee or Village Superintendent, as applicable, will notify the lot owner of the violation and provide the lot owner with an opportunity to be heard before the Board in accordance with Article VII, Section 3 of these Covenants. All monetary fines imposed and costs incurred, including reasonable attorneys' fees, pursuant to this restriction may be collected in the same manner as assessments and shall constitute a lien against the owner's lot. At any time, the Association may pursue other enforcement remedies, either in addition to or in lieu of imposing a monetary fine.

(c) **Vehicle Towing Authority:** The Association, by and through its Board of Directors, shall have the right to tow vehicles that are parked or maintained in violation of these Covenants or other governing document, including any duly adopted rules and regulations. The costs associated with any towing implemented by the Association shall be assessed against the violating lot owner, may be collected in the same manner as assessments, and shall constitute a lien against the lot in question.

(d) **Failure to enforce:** Failure by the Association to enforce any Covenant or restriction herein contained shall not be construed or deemed a waiver of the right to do so thereafter.

Section 2. Enforcement Costs: All cost of enforcement of this Covenant, Association Bylaws, and any Rules and Regulations, including reasonable attorney fees, shall be paid by the lot owner who is in violation. Non-payment of the costs of enforcement shall constitute a lien upon the property of the violating lot owner.

Section 3. Notification and Right of Appeal

(a) **Notice:** The Board of Directors or its delegate (which may be, in some instances, the Architectural Committee or Village Superintendent) shall serve the alleged violator with written notice describing (i) the nature of the alleged violation; (ii) the proposed remedy; (iii) a period of not less than fifteen (15) days within which the alleged violator may present a written request to the Board of Directors or its delegate for a hearing; and (iv) a statement detailing actions that may follow if the violation is not remedied. If a timely challenge is not made, the sanction stated in the notice shall be imposed.

(b) **Right to Hearing:** If a hearing is requested in a timely manner, the hearing shall be held before the Board of Directors, or a committee thereof, affording the lot owner a reasonable opportunity to be heard. Prior to the effectiveness of any sanction imposed hereunder, proof of property notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the Association Officer, Director or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed. The Board of Directors may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the thirty (30) day period, or such longer period as may be deemed acceptable to the Board. Such suspension shall not constitute a waiver of the right to impose sanctions as a result of future violations of the same or other provisions and rules by any party.

ARTICLE VIII - GENERAL PROVISIONS

Section 1. Amendments

(a) By the Association: The Association may unilaterally record amendments in the Recorder's Office to effect technical deletions, additions and revisions to this Covenant, which correct, clarify or further the intent of this Covenant, but which do not alter the substantive rights of the owners as a condition precedent to their approval of this Covenant.

(b) As proposed by Owners: In the event any party owning a freehold interest in any lot located in Blackwater Village desires to propose unto the Association any waiver, abandonment, termination, modification, change, amendment, elimination, or addition of, in or to these Covenants or any of them, such complaint or proposal, as the case may be, must first be reduced to writing and signed by the proposer, before it may be considered by the Association.

Section 2. Term and Amendment: The Covenants and restrictions of these Covenants shall run with and bind the land, for a period of fifty (50) years from the recordation of these Covenants after which the term of these Covenants shall be automatically extended for successive periods of ten (10) years, unless an approved instrument terminating these Covenants is recorded. These Covenants may be amended or terminated at any time by either (i) the vote of at least two-thirds (2/3) of the membership present, in person or by proxy, at any regular or special meeting of the Association, provided that notice of the proposed amendment shall have been given to each Member at least ten (10) days in advance of such meeting, or (ii) pursuant to the written consent of two-thirds (2/3) of all of the Members eligible to vote. Any amendment or termination of these Covenants, to be effective, must be executed by the President of the Association and be attested by the Secretary of the Association; have attached to it the sworn affidavit of the Secretary of the Association stating that the amendment was approved by the requisite number of votes of the members of the Association; and be recorded in the Sussex County Recorder's Office.

Section 3. Association's Rights: Any or all of the special rights and obligations of the Association may be transferred to other parties, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided, further, no such transfer shall be effective unless it is pursuant to a written instrument signed by the Association and duly recorded. So long as the Association continues to have rights under this paragraph, no party shall record any declaration of covenants, conditions and restrictions or similar instrument affecting any portion of Blackwater Village, without Association review and written consent thereto, and any attempted recordation without compliance herewith shall result in such declaration of covenants, conditions and restrictions, or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the Association.

Section 4. Exclusive Use of the name "Blackwater Village": The Association is the sole and exclusive owner of, and shall have the sole and exclusive right to use, the name "Blackwater

Village" within, on or about and with respect to the property within Blackwater Village. No party shall use the name "Blackwater Village" in connection with any business, neighborhood or organization, nor shall the name "Blackwater Village" be placed on or incorporated in any sign or other visible medium without the prior written consent of the Association, which consent may be withheld by the Association in its sole discretion.

Section 5. Severability: Invalidity of any one of these Covenants or restrictions by judgment or court order shall not affect any other provisions which shall remain in full force and effect.

Section 6 Interpretation: The definitions and text contained in this Article are substantive and not solely illustrative or precatory. The provisions of this Article shall be given full force and effect and shall govern the construction of the Covenant. In the event of a conflict or inconsistency between the provisions of this Indenture and provisions of any applicable Federal, State or County statute, ordinance or regulation, the terms and provisions of the latter shall govern.

Section 7: Nonliability of Association: Nothing contained herein or in any instrument in writing to which a copy hereof may be attached shall be construed in any manner so as to impose on the Association, its successors or assigns, any liability whatsoever for property damage and/or personal injury occurring to any person or persons whomsoever, for or by reason of the use of any of the roadways or other common areas in Blackwater Village and any and all persons using the same shall do so at their own risk and without any liability whatsoever on the part of the Association or its successors, as the case may be.

ARTICLE IX - DEFINITIONS

Section 1: "ASSOCIATION", or "BVA", is defined as Blackwater Village Association, Inc., a Delaware non-stock Corporation, its successors and assigns.

Section 2: "BOARD OF DIRECTORS" is defined as the Board of Directors of the Association elected by the membership of the Association as provided in the Association's By-Laws.

Section 3: "COUNTY RECORDER" is defined as the Sussex County Recorder of Deeds Office at Georgetown, Delaware.

Section 4: "DEVELOPER" is defined as the original owners of Blackwater Village lands.

Section 5: "ASSOCIATION'S UTILITY RIGHTS" is defined as the exclusive and assignable rights, powers, easements and privileges hereby reserved by the Association or designated public utility to go on, over, under and upon every portion of the Blackwater Village Common Area to erect, lay, implant, construct, maintain, extend use and repair electric, television and telephone poles, wires, cables and conduits, drainage ways, sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, water, sewer,

drainage and other public and private conveniences and utilities. These rights include the right to cut any trees, bushes or shrubbery, and the right to make any gradings of the soil or take any similar action reasonably necessary to provide and extend economical and safe installation and maintain reasonable standards of health, safety and appearance. The Association's Utility Rights shall also include the exclusive and alienable right to sell, grant and convey or dedicate roadways and other means of vehicular and pedestrian ingress and egress through-out Blackwater Village. The Association's Utility Rights are and shall be in addition to all other easements reserved herein and upon any subdivision plat or other easement agreement.

Section 6: "COVENANT" is defined as the within articles of the entire Covenants, Restrictions and Conditions and any amendments thereto which have been properly effected.

Section 7: "BLACKWATER VILLAGE" is defined as that certain real property described in Sussex County Tax Maps 1-34-11 including parcels numbering 262.00 through 543.00 and 768.00 through 779.00, sometimes referred to herein as "the Property", and any additions which are annexed thereto.

Section 8: "BLACKWATER VILLAGE COMMON AREA" is defined as all real property conveyed to the Association for the common use and enjoyment of all owners.

Section 9: "OWNER" is defined as the owner of record at the County Recorder's Office of any lot or lots in Blackwater Village.

Section 10: "LOT" is defined as any lot depicted on any subdivision plat recorded in the County Recorder's Office which effects a sub-division of any land within Blackwater Village including any lot upon which a single family detached residence can be constructed. The definition of "lot" does not include any area depicted as common area, easements, etc.

Section 11: "GOVERNING DOCUMENT" includes these Covenants, the Certificate of Incorporation and Bylaws for the Association, architectural guidelines imposed by the Architectural Committee, rules and regulations imposed by the Board of Directors, and any other Association document regulating or affecting lot ownership in Blackwater Village.

Section 12: "HABITUALLY OR REGULARLY" and/or "REGULAR AND HABITUAL" and/or "REGULARLY AND HABITUALLY" shall mean parking, standing or storing a vehicle, truck, trailer or vehicular equipment alongside a public street or on a private lot more than ten (10) times within a thirty (30) day period, whether or not the parking, standing or storage in question occurs on consecutive days.

IN WITNESS WHEREOF, the Blackwater Village Association, Inc., has caused these presents to be signed and sealed by its President and attested by its Secretary on this 20th day of November A.D. 2017.

BLACKWATER VILLAGE ASSOCIATION, INC.

By:

President

GARY L. HORNBACHER

(Corporate Seal)

Attest:

Secretary

MARY E. ENGLER

STATE OF Delaware :

ss.

COUNTY OF Sussex :

BE IT REMEMBERED, that on this 20th, day of November, A.D. 2017, personally came before me, The Subscriber, a Notary Public for the State and County aforesaid, GARY L. HORNBACHER, President of Blackwater Village Association, Inc., a corporation of the State of Delaware, party to this Indenture, known to me personally to be such, and acknowledged this Indenture to be his/her act and Deed, and the act and Deed of the said corporation; that the signature of the President is in his/her own proper handwriting; and that the act of signing, sealing, acknowledging and delivering the said Indenture was first duly authorized by the Board and membership of the said corporation.

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

WENDY ELLIS HERMAN
NOTARY PUBLIC
STATE OF DELAWARE
COMMISSION EXPIRES MAY 20, 2019

Notary Public: Wendy Ellis Herman
Type or Print Name of Notary: _____
Commission Expires: _____

AFFIDAVIT

THE BLACKWATER VILLAGE ASSOCIATION, INC., a Delaware non-stock corporation, by and through its Secretary, does hereby execute this Affidavit, which is made and kept in the regular course of business of the Association, as a regular practice of the Association and as a regularly maintained business record, to certify that numerous amendments to the Declaration of Covenants, Restrictions and Conditions for Blackwater Village ("Declaration") were made to revise certain existing provisions, as well as to add various new provisions thereto, and that, due to the number of changes being made to the Declaration, the newly revised and amended Declaration is being recorded in its entirety by and through the recording to which this Affidavit is attached. By execution of this Affidavit, the Secretary of the Blackwater Village Association, Inc., hereby certifies that said amendments to the Declaration were approved by more than sixty percent (60%) of the votes cast by members of the Association, which represents the requisite number of votes of the members of the Association according to Article VIII, Section 2 of the Declaration.

IN WITNESS WHEREOF, the Blackwater Village Association, Inc., has caused these presents to be signed and sealed by its Secretary on this 20th day of November A.D. 2017.

BLACKWATER VILLAGE ASSOCIATION, INC.

(Corporate Seal)

By:

Mary E. Engler
Secretary MARY E. ENGLER

STATE OF Delaware :

:

COUNTY OF Sussex :

BE IT REMEMBERED, that on this 20th day of November, A.D. 2017, personally came before me, The Subscriber, a Notary Public for the State and County aforesaid, Mary E. Engler, Secretary of Blackwater Village Association, Inc., a corporation of the State of Delaware, party to this Indenture, known to me personally to be such, and acknowledged this Indenture to be his/her act and Deed, and the act and Deed of the said corporation; that the signature of the Secretary is in his/her own proper handwriting; and that the act of signing, sealing, acknowledging and delivering the said Indenture was first duly authorized by the Board and membership of the said corporation.

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

WENDY ELLIS HERMAN
NOTARY PUBLIC
STATE OF DELAWARE

COMMISSION EXPIRES MAY 20, 2019

Notary Public: Wendy Ellis Herman
Type or Print Name of Notary:

Commission Expires: Recorder of Deeds
Scott Bailey
Nov 29, 2017 10:28A
Sussex County
Doc. Surcharge Paid