

**GREEN BELT THREE ASSOCIATION  
FIRST AMENDED DECLARATION OF  
COVENANTS, EASEMENTS, RESTRICTIONS,  
AND ASSESSMENT LIEN**

This is a declaration of covenants, easements, and restrictions made on or as of this 10th day of September, 2005, by Green Belt Three Association.

**BACKGROUND**

- A. The Association, consisting of all the owners of the following real estate situated in the City of Columbus, Franklin County, Ohio:

Being Lots numbered 337 through 364 of the RIVERSIDE GREEN SOUTH, SECTION No.5 Subdivision, as the same are numbered and delineated upon the recorded plat thereof, of record in Plat Book 57, Page 74, Recorder's Office, Franklin County, Ohio.

Each of these parcels of real estate is referred to herein as "a Lot," and collectively they are referred to herein as "the Lots." The term "Lot owner" shall include each owner of a fee-simple interest in a Lot.

- B. There are constructed on the Lots, five residential buildings, each of which shall be referred to herein as a "Building," and collectively as the "Buildings," each residential Building to be comprised of from four to eight individual dwellings, separated by party walls constructed on the line between the Lots.
- C. The Association desires to create a plan of restrictions, easements, and covenants with respect to the Lots to protect the interests of the public, each Lot owner, and their respective heirs, successors, and assigns.

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# COVENANTS, EASEMENTS, RESTRICTIONS, AND ASSESSMENT LIEN

The Association hereby declares that the Lots shall be held, sold, conveyed and occupied subject to the following covenants, easements, and restrictions, which are for the purpose of protecting the values and desirability of, and which shall run with, the Lots, and each part thereof, and be binding on all parties having any right, title, or interest in the Lots, and each part thereof, and their respective heirs, successors, and assigns, and shall inure to the benefit of and be enforceable by each Lot Owner and the Green Belt Three Association.

## 1. PARTY WALLS

- a. General Rules of Law to Apply.** Each wall built as part of the original construction of the Buildings on the Lots and placed on the dividing line between the Lots, and any wall replacing the same, shall constitute a party wall, and, to the extent not inconsistent with the provisions of §1, the general rules of Ohio law regarding party walls and liability for damage due to negligent or willful acts or omissions shall apply thereto.
- b. Sharing of Repair and Maintenance.** The cost of repair and maintenance of a party wall shall be borne equally by the Lot owners of the two Lots that share such party wall. Notwithstanding the foregoing, to the extent the need for repair or maintenance is caused by or results from acts or failure to act of a Lot owner, or residents or invitees of only one Lot, whether or not there was negligence or a willful act, the Lot owner of that Lot shall be solely responsible for the cost of such repair and maintenance. Disputes regarding the proper proportion of the costs of such repair and replacement to be borne by each Lot owner shall be settled by arbitration by submitting the dispute to the Green Belt Three Association.
- c. Construction and Repair.** In all construction and repair work, due precaution and care shall be taken not to damage the property of the other Lot owners.
- d. Destruction by Fire or Other Casualty.** If a party wall is destroyed or damaged by fire or other casualty, then unless the Lot owners in the Building decide in the manner provided in §4, below, not to repair the structure, then the party wall shall be repaired or replaced and the owners of the two Lots which share such party wall shall contribute equally to the cost of restoration thereof, without prejudice, however, to the right of one of the Lot owners to call for a larger contribution from the other Lot owners under the terms hereof or any rule of law regarding liability for negligent or willful acts or omissions, or to the right of the party or parties restoring the same to reimbursement from insurance.
- e. Right to Contribution Runs with Land.** The right of a Lot owner to contribution from another Lot owner under §1 shall be appurtenant to the land and shall pass to such Lot owner's successors in title.

## **2. MAINTENANCE AND REPAIR**

Each Lot owner will keep that Lot owner's Lot, the exterior, and the improvements thereon in a good state of repair and maintenance; will maintain the lawn and surrounding areas on the owner's Lot in neat and clean condition; keep the grass cut; use decorative stone or shallow ground cover to maintain any areas which have exposed bare ground without grass; regularly maintain and repair parking areas as necessary; maintain and repair sidewalks; and keep the Lot, including the back yard, free of trash, rubbish, weeds, and items that would detract from the appearance of the Lots, as a whole. Proper maintenance and repairs are subject to the discretion and action of the directors.

If any Lot owner believes that another Lot owner is not maintaining and repairing his Lot and the improvements thereon, in accordance with the foregoing standards, that Lot owner shall document and submit the alleged violation(s) to the Association and its Board of Directors for consideration. If the Association finds the alleged violation(s) to be in noncompliance with this *Declaration*, the Board of Directors shall take action in accordance with the provisions of §11(a) and (b). Any disputes that may arise between Lot owners regarding the foregoing standards of maintenance, repair, and improvements of Lots shall be settled by arbitration by the Association. All decisions rendered in the arbitration process shall be binding and final.

## **3. INSURANCE**

Each Lot owner shall obtain and at all times maintain insurance for the improvements on that owner's Lot against loss or damage by fire, lightning, and such other hazards as are ordinarily insured against in fire and extended coverage policies issued on residential dwellings in the Columbus, Ohio, area, and in amounts at all times sufficient to prevent the Lot owner from becoming a co-insurer under the terms of any applicable co-insurance clause or provision, and not less than the actual replacement cost of such structure, exclusive of the cost of foundations, footings, and excavations, as determined from time to time by the insurer. This insurance:

- a. Shall be obtained from an insurance company authorized to write such insurance in the State of Ohio which has a financial rating of Class VI, or better, or if Class V, has a general policy holder's rating of at least A, as determined by the then latest edition of *Best's Insurance Reports*, or its successor guide;
- b. Unless otherwise determined by the Board, shall contain a waiver of subrogation of rights by the carrier as to the Green Belt Three Association, its officers and directors, and all Lot owners.

## **4. DAMAGE OR DESTRUCTION**

In the event the improvements on a Lot shall suffer damage or destruction, the insurance proceeds payable by reason thereof, subject to the prior rights of any first mortgagee, shall be utilized to pay the cost of repair, restoration, or reconstruction, and, if the proceeds available from such insurance are insufficient to pay such cost, the repair, restoration, or reconstruction shall be made, in any event, and the deficiency paid by the Lot owner of the Lot on which such

improvements were damaged or destroyed. Should such Lot owner fail or refuse after reasonable notice to pay such deficiency or undertake such repair, restoration, or reconstruction, the majority of the other Lot owners in that Building may undertake the same, and the cost thereof, together with interest at the highest rate then permitted by law, shall forthwith be due and owing by the Lot owner failing to undertake such work or pay the cost thereof.

## **5. USES**

No Lot shall be used other than for residential purposes. All of the following are subject to the discretion and approval of the directors. In addition:

- a.** No saloon or other place for the manufacture or sale of spirituous liquors, whether malt, vinous, or distilled, shall be maintained on any Lot.
- b.** No noxious or offensive activity shall be carried on upon any Lot, nor may any Lot be used in any way or for any purpose that may endanger the health or unreasonably disturb the occupants of the dwelling on the other Lots.
- c.** No business activities of any kind whatever shall be conducted on the Lot, provided, however, the foregoing shall not apply to the business activities, or the construction and maintenance of Buildings.
- d.** No dwelling thereon shall be rented or used for transient or hotel purposes which is defined as: (1) rental for any period less than 30 days, or (2) rental under which occupants are provided customary hotel services, such as room service for food and beverages, maid service, the furnishing of laundry and linen, busboy service, and like services.
- e.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats, or other household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purpose. They are not to cause a nuisance or disturbance to others, and they are not permitted to run loose. All pets should be licensed according to applicable laws.
- f.** No boat, truck with more than four wheels, commercial vehicle (more than 1-1/2 tons gross vehicle weight), trailer, camper, inoperative vehicle, or similar vehicle shall be stored, temporarily or permanently, on any Lot. All vehicles parked in the common parking areas and on property owned or leased by individual Lot owners shall have a valid license and registration. In addition, the vehicle must be properly maintained and in operable condition according to the Ohio Bureau of Motor Vehicles regulations and any other regulations within the State of Ohio. Any vehicle in violation of this section, may be towed at the discretion of the Board, upon 24-hour written notice.

## **6. ARCHITECTURAL AND CONSTRUCTION CONTROL; EXTERIOR APPEARANCE**

No Building, fence, wall, or other structure shall be commenced, erected, or maintained upon the Lots, other than the type and style originally constructed by the developer or its designee; nor shall any exterior addition to or change or alteration therein be made until the written plans and specifications showing the nature, kind, shape, height, materials, color and location have been approved in writing by the Green Belt Three Association, which approval shall depend upon the harmony of external design and location in relation to surrounding structures and topography. All of the following are subject to the discretion and approval of the directors:

- a.** Only one single family attached dwelling may be erected or maintained on any Lot. It is understood and agreed by the Association for itself and each owner of a Lot hereafter, that no Lot, by itself, is of sufficient size and configuration that, by reason of present zoning and building regulations, or by reason of good land use planning, it would support a free standing single family structure, and the Association and each Lot owner by acceptance of a deed to a Lot, agrees that the limitation of use of the Lots for one single family attached dwelling per Lot is reasonable and does not and will not constitute an unreasonable limitation on use of the Lots.
- b.** No structure, other than a dwelling, patio fencing, and such other improvements as may originally have been constructed by the Developer, its successors and assigns, shall be permitted on the Lots except with the consent of the Green Belt Three Association.
- c.** Any Building or structure erected upon the Lot or Lots shall be of new construction and no Building or structure shall be moved from another location onto a Lot or the Lots.
- d.** No Building constructed on the Lots shall be more than 2 stories high.
- e.** Nothing shall be permitted to be displayed on the outside of the Building unit and/or from the inside of windows or within a patio area that has a deleterious effect upon the other Lots. No awnings in fronts of Units or Buildings; awnings in back must match the exterior rear siding or trim.
- f.** No sign or billboard of any kind shall be erected or maintained on any Lot, except: one sign of not more than 4 square feet advertising the Lot for rent or sale.
- g.** Parking areas shall be maintained on an annual basis, including but not limited to resealing, and shall not display any striping and /or address signage of any kind.
- h.** All equipment, garbage cans, woodpiles, and any other items stored outside, shall be kept screened by adequate planting or fencing so as to conceal them from view of the other Lots and public view. All rubbish, trash, and garbage shall be regularly removed from each Lot and shall not be allowed to accumulate thereon. Abandoned or unused toys should be removed from the fronts of Units.

- i. No exterior television or radio antennas of any sort shall be placed, allowed, or maintained upon any portion of the improvements to be located upon a Lot without the consent of the owner of the other Lots upon which such Building is located, and the consent of the Green Belt Three Association. Satellite dishes and/or electronic transmission equipment must comply with the following guidelines: can be no larger than 24 inches in diameter; must be concealed from the view of the other Lot owners; and, must be located within the backyard but not on the Building structure.
- j. Sheds are to be no larger than 8 feet x 12 feet and no higher than 9 feet at any one point. Sheds can be made of wood, metal, vinyl/acrylic, or composite material. Color must be a natural or neutral wood color or correspond with the color of the exterior metal siding of the Unit. Sheds of any type must be located in the backyard.
- k. Height of fence panels must not exceed 6 feet. All fences must be made of wood, vinyl/acrylic, or composite material. Color must be a natural wood or neutral color. No fences of any type can be constructed or put up in the fronts of Units or Buildings, including any continuous landscaping that might resemble a fence along Lot lines or sidewalks. Any ranch-style or split-rail style fences, metal fences or enclosures, and/or chain link, chicken wire, or barbed wire fencing are prohibited.
- l. Patios are to extend no further than 16 feet from the back of the Unit and must be made of brick, wood, stone, concrete, or any acceptable building material designed exclusively for patios.
- m. Patio decks are to extend no further than 16 feet from the back of the Unit and must be made of wood, vinyl/acrylic or composite material. Height of flooring of deck can be no greater than the threshold of the back door. Color must be a natural or neutral wood color.
- n. Most children's play equipment is appropriate in the backyard; because swing sets generally come in only one height (which is higher than the privacy fence), they are acceptable if maintained properly.

## **7. EASEMENT FOR ENCROACHMENTS**

Each Lot shall be subject to an easement for encroachments created by construction, settling, and overhangs, as designed or constructed by the developer. A valid easement for said encroachments for the maintenance of same, so long as it stands, shall and does exist. In the event a structure on a Lot is partially or totally destroyed, and then rebuilt, the owners of the properties so affected agree that minor encroachments of parts of the adjacent structures shall be permitted, and that a valid easement for said encroachment and the maintenance thereof, shall exist.

## **8. EASEMENTS FOR UTILITIES AND SERVICES**

There is hereby created upon, across, over, and under each Lot easements for ingress, egress, installation, replacing, repairing, maintaining all utilities, including but not limited to water,

sewers, gas, telephones, and electricity, master television antenna system, and cable or satellite television. By virtue of this easement, it shall be expressly permissible for the providing utility company to erect and maintain the necessary poles and other necessary equipment on said property and to affix and maintain wires, circuits and conduits on, above, across, and under the roofs and exterior walls of structures, and it shall be expressly permissible for the providing utility company, and each Lot owner, to forcibly enter the residence on any Lot in any emergency endangering life or property. An easement is further granted to all police, fire protection, ambulance, mailmen and deliverymen, and all similar persons to enter upon the drives and walkways in the performance of their duties. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Lots except as initially programmed and approved by the owners of Lots of which lines are proposed. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, each Lot owner by acceptance of a deed to a Lot agrees to execute such document.

## 9. OPEN SPACE

- a. **Conveyance to Association.** The developer has conveyed to the Green Belt Three Association, certain open space areas in the vicinity of the Lots as shown on the plat for Riverside Green South Section 5. Such areas owned by the Association shall be the “Open Space” referred to herein.
- b. **Maintenance of Open Space.** The Green Belt Three Association shall maintain the Open Space in a manner deemed appropriate by the directors of the Association, for the use of owners of the Lots.
- c. **Authority of the Association.** The Association shall have the power to borrow funds, pledge assets, maintain reserves, enter into contracts, charge fees for the use of the Open Space, convey the Open Space to the City of Columbus for parks purposes, suspend the rights of owners of Lots to use the Open Space, and take such other action as the directors deem appropriate in dealing with the Open Space.

## 10. ASSESSMENTS

- a. **Establishment of Assessment.** For the purpose of providing funds for maintenance and improvement of the Open Space and other expenses and costs incurred by the Association, the directors of the Association shall determine assessments as provided in the *Articles of Incorporation* and the *Code of Regulations*. The annual assessment chargeable to each Lot shall be equal to the result obtained when the total estimated budget for the calendar year is divided by 28. Assessments shall be collected on a regular basis during each calendar year according to the schedule established by the Board of Directors and the Treasurer. Installments of assessments that are delinquent for 30 days or more, shall be subject to a late charge of \$5.00, every thirty (30) days from the previous payment due date. Late fees and penalties shall be assessed using the same thirty (30) day schedule.

- b. Establishment of Lien.** All sums, including penalties and fines, assessed to any Lot owner, together with interest, and all costs and expenses of collection, including reasonable attorney fees, shall be a continuing lien on such Lot in favor of the Association. The lien shall be perfected by filing a Certificate of Lien with the Recorder. The lien shall contain a description of the property, the name of record owner(s), and the amount of any unpaid portion of an assessment(s) and signed by the President of the Green Belt Three Association.
- c. Special Assessment Lien.** Each Lot owner shall comply, or cause compliance, with all covenants, requirements, and obligations contained herein, including, without limitation, the obligations with regard to the party wall contained in §1, hereof; the repair and maintenance obligations contained in §2, hereof; the obligation to maintain insurance in §3, hereof; the obligation to repair all damage or destruction contained in §4, hereof; the obligation to uses of the Lot contained in §5, hereof; the obligation to allow no improvements to be constructed upon the premises unless in accordance with the provisions of §6, hereof; and the obligation to comply with all requirements in §7, §8, and elsewhere herein, and with all rules and regulations promulgated by the Association. Upon the failure of such Lot owner to comply with such covenants, requirements, and obligations, the Green Belt Three Association, in addition to any other enforcement rights it may have hereunder, may, upon action to cause compliance including, without limitation, repair, maintenance, and reconstruction activities; the obtaining of insurance required to be maintained by the Lot owner; and the removal of improvements or any other action required to cause compliance with the covenants, requirements, and obligations contained herein. All costs incurred by the Association, including reasonable attorney fees, in causing such compliance along with interest thereon at the higher of 10% per annum or the highest legal rate of interest, shall be immediately due and payable from the Lot owner to the Green Belt Three Association, and the Association shall be entitled to a valid lien as security for the payment of such costs incurred, which lien shall be effective from the date that the Association certifies the lien to the Franklin County Recorder. The lien described in this subsection “b” shall be deemed subject and subordinate to any first mortgage lien filed prior to the certification of the Association’s lien to the Franklin County Recorder, or prior to the date that the Association obtains a certificate of judgment against such Lot owner, whichever is the first to occur.
- d. Foreclosure.** The lien for sums assessed pursuant hereto may be enforced by judicial foreclosure by the Association in the same manner in which mortgages on real property may be foreclosed in Ohio. The Lot owner shall be required to pay all costs and expenses of the foreclosure, including reasonable attorney fees. All such costs and expenses shall be secured by the lien being foreclosed. The Lot owner shall pay the Association any assessments against the Lot which shall become due during the period of foreclosure, and the same shall be secured by the lien and shall include all accounts due until the date the owner’s title is divested by foreclosure. The Association shall have the right and power to bid at the foreclosure, or other legal sale, to acquire the Lot foreclosed, and thereafter lease, rent, encumber, convey, use or otherwise deal with the same as the owner thereof.



- e. **Subordination of Lien to Mortgages.** The lien of the assessments provided for herein, shall be subordinate to any lien of a first mortgage which is given to or held by a bank, savings and loan association, FNMA, GNMA, insurance company, mortgage company or other institutional lenders. This will also include those mortgages insured by FHA or VA. The sale or transfer of a Lot pursuant to foreclosure to a first mortgage holder, shall extinguish the lien as to assessments which were due prior to the date of confirmation of sale. Otherwise, no sale or transfer shall remove the Lot from liability for assessments which thereafter become due from the lien. The Association shall, upon written request, report to any first mortgagee of a Lot, any assessments remaining unpaid for a period longer than 30 days after the same shall become due, and shall give the first mortgagee a period of 30 days in which to cure such delinquency before instituting foreclosure proceedings against the Lot; provided that such first mortgagee has furnished a written notice to the Association of the existence of the mortgage, which notice shall designate the Lot encumbered by the proper legal description and address to which notice is given. Any first mortgage holder may, but is not required to pay, the amounts secured by the lien.

## 11. GENERAL PROVISIONS

- a. **Enforcement.** Each Lot owner, and the Green Belt Three Association shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, and charges now or hereafter imposed by the provisions of this *Declaration*. Failure by any such benefitted party to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Association shall fine Lot owners in violation at least 10% of the current annual assessment base per violation, which will be assessed every 30 days until compliance is met. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use or abandonment of the Lot.
- b. **Procedures for Imposing Fines and Penalties.** Prior to imposing a charge for enforcement of any restriction, covenant, reservation or condition imposed by the provisions of this *Declaration*, the Association shall provide the Lot owner with a written notice that includes the following:
  - 1. A description of the property and violation,
  - 2. The amount of the proposed charge or penalty,
  - 3. A statement that the owner has a right to a hearing, before the Board members to contest the proposed charge or penalty,
  - 4. A statement which sets forth the procedures for requesting a hearing,
  - 5. A reasonable date by which the Lot owner must cure the violation to avoid a charge or penalty.

To request a hearing, the Lot owner shall provide written notice to the Board of Directors no later than 10 days after receiving notice of the violation. If the Lot owner fails to request a hearing in a timely manner, the Board of Directors may waive the right to a hearing and immediately impose a charge for damages or enforcing the assessment. If the Lot owner does provide a timely request for a hearing, the Board

must provide written notice to the Lot owner, at least 7 days before the hearing notifying the owner of the date, time and location of the hearing.

The Lot owners, through the Board of Directors, may allow a reasonable time to cure a violation before imposing a charge or assessment. Within 30 days following a hearing at which the Board imposes a charge or assessment, the Association shall deliver a written notice of the charge or assessment to the Lot owner. Any written notice shall be made to the Lot owner by personal delivery, certified mail, return receipt requested or by regular mail.

The Board of Directors may:

1. Impose interest and late charges for late payment of assessments, and/or penalties;
  2. Impose returned check charges; and
  3. Impose reasonable penalties for violations of this *Declaration*, the governing rules of the Association.
- c. Joint and Several Obligations.** Each and every obligation of a Lot owner hereunder shall be the joint and several obligation of each owner of a fee-simple interest in that Lot, and any demand, notice or other communication or action given or taken hereunder or pursuant hereto to or by one of such joint owners, shall be deemed given, taken, or received by all such joint owners.
- d. Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.
- e. Alternative Dispute Resolution.** Any action, which may be asserted by a proceeding at law or in equity, by the Association or as between Lot owners, shall be presented for dispute resolution through mediation and/or arbitration, by both parties prior to asserting any legal action. Both parties must assert due diligence and provide a good faith effort to resolve the matter in mediation or arbitration proceedings. Only in the event that a resolution cannot be reached through this manner, may any party of interest assert legal action. The parties shall divide equally the costs of mediation and/or arbitration.
- f. Reimbursements.** The Association shall reimburse any director, officer, agent or employee of the Association, for out of pocket expenses such as, but not limited to, meals, transportation, parking, copying or mailing on behalf of the Association. In the event an officer, director, agent or employee of the Association must take time away from employment to attend to a matter related to the Association, a per diem rate of \$50.00 will be paid to that individual for the time spent on business related to the Association only.

- g. Amendment.** The covenants and restrictions of this *Declaration* shall run with and bind the land, for a term of 25 years from September 5, 1980, after which time they shall be automatically extended for successive periods of 10 years, unless specified otherwise by agreement of the owners of 66% of the Lot owners present, who are entitled to vote, in person, by proxy, or by absentee ballot, at a duly called and noticed meeting. This *Declaration* may be amended by a duly executed and recorded instrument signed by the Association President and Secretary.

\* \* \* \* \*

IN WITNESS WHEREOF, the Association herein, Green Belt Three Association has caused this instrument to be executed on its behalf as of this \_\_\_\_\_th day of \_\_\_\_\_, 2005.

Green Belt Three Association,

By: \_\_\_\_\_  
Robert Luce, President

Print: \_\_\_\_\_

By: \_\_\_\_\_  
Karen Weldon, Secretary

Print: \_\_\_\_\_

STATE OF OHIO  
COUNTY OF FRANKLIN, SS:

Before me, the subscriber, a notary public in and for said county, personally appeared \_\_\_\_\_, who acknowledged the signing of the foregoing instrument to be his/her/their free act and deed on behalf of Green Belt Three Association for the uses and purposes set forth therein.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed my official seal on this \_\_\_\_\_th day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Notary Public Signature

This instrument was prepared by Charles T. Williams Law Offices, 555 South Front Street, Suite 320, Columbus, Ohio 43215.

