

**AMENDED AND RESTATED DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FISHING CREEK FARM**

**THIS AMENDED AND RESTATED DECLARATION** (“Amended Declaration”), made on the date hereinafter set forth by the Fishing Creek Farm Homeowners Association, a Maryland corporation, hereinafter referred to as the “Association”.

**WITNESSETH:**

**WHEREAS**, “Fishing Creek Farm” is a subdivision located in Anne Arundel County, Maryland, as more particularly described in “Exhibit A” of the “Declaration of Covenants, Conditions and Restrictions – Fishing Creek Farm,” dated February 3, 1988, and recorded in the Land Records of Anne Arundel County in Libor 4600, folio 459 *et seq.* (the “Original Declaration”) and shown on the plats recorded among the Land Records of Anne Arundel County as Plat Nos. 5670 to 5278 (the “Plats”) and containing lots, open spaces, reserve areas, recreational areas, etc. as shown on the Plats (the “Property”);

**WHEREAS**, the Original Declaration created on the Property and this Amended Declaration (the Original Declaration and the Amended Declaration are hereinafter collectively referred to as the “Declaration”) continues the use of the Property as an exclusive residential community, with permanent open spaces, recreational areas, and related facilities for the benefit of said community, and specific rights, privileges, and easements of enjoyment which are shared and enjoyed by all residents of Fishing Creek Farm;

**WHEREAS**, the Amended Declaration continues the goal of insuring the attractiveness of the individual lots and community facilities within the Property and seeks to prevent any

future impairment thereof, to prevent nuisances, to preserve, protect and enhance the values and amenities of the Property and to provide for the maintenance of said recreation areas, open spaces, walkways and other community facilities;

**WHEREAS**, in order to provide for the efficient preservation, protection and enhancement of the values and amenities in Fishing Creek Farm and to insure the residents' enjoyment of the specific rights, privileges and easements in the community properties, facilities, and services, the Original Declaration empowered, and the Amended Declaration continues to empower, the Association with the powers of owning, maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

**WHEREAS**, the Association and the owners of the lots on the Property have approved herein certain amendments to the Original Declaration, and in conjunction with incorporating such amendments, is restating the Declaration and this Amended Declaration is intended to replace and supersede the Original Declaration in its entirety.

**NOW THEREFORE**, the Association and the owners of the lots in the Property hereby declare and affirm that all of the Property described above shall be held, sold, conveyed, encumbered, leased, rented, used, occupied and improved subject to the following restrictions, covenants, easements, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the Property and be binding upon the Association, all owners of lots in the Property and upon all others having any right, title or interest in the Property or any part thereof, as well as their heirs, successors and assigns, and shall inure to the benefit of the Association and the owners of the lots in the Property thereof.

**ARTICLE I**  
**DEFINITIONS**

**Section 1.** “Association” shall mean and refer to The Fishing Creek Farm Homeowners Association, Inc., its successors and assigns.

**Section 2.** “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, as defined below, but excluding those having such interest merely as security for the performance of an obligation.

**Section 3.** “Property” or “Properties” shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

**Section 4.** “Common Area” shall mean all real property (including the improvements and community facilities thereto) owned by the Association for the common use and enjoyment of the owners, and shall include all open space, recreation area and other areas dedicated on the subdivision plats of Fishing Creek Farm for common use and access. The Common Area owned by the Association is described as shown on Exhibit B to the Original Declaration.

**Section 5.** “Lot” shall mean and refer to any plot of land shown upon any recorded subdivision map of the Property with the exception of the Common Area.

**ARTICLE II**  
**PROPERTY RIGHTS**

**Section 1. Owner’s Easements of Enjoyment.** Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which any assessment against his or her Lot remains unpaid, or for any violation of the restrictive covenants contained herein or Association rules and regulations, until in compliance with same, as determined by the Board of Directors in its sole discretion;

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any governmental agency or authority for such purposes and subject to such conditions as may be agreed to by the Owners;

No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by 2/3rds of the Owners has been recorded.

(d) the right of the Association, in accordance with the By-Laws, to adopt reasonable rules respecting the use of Common Areas and community facilities thereon and to reasonably limit the number of Owners, residents, and third parties using such Common Areas and any fees to be charged for that use;

(e) the right of the Association in accordance with its Articles of Incorporation and By-Laws, and with the consent of a majority of the Owners to borrow money for the purpose of improving the Common Areas, including the community facilities, in a manner designed to promote the enjoyment and welfare of the Owners and residents and in aid thereof to secure such indebtedness with the Association's right to collect assessments and charge fees; and

(f) the right of the Association, by and through its Board of Directors, to grant licenses, rights of way and easements for access or for the construction, reconstruction,

maintenance and repair of any utility lines or appurtenances whether public or private, to any governmental entity or agency or public utility, to the Common Area; provided, however, that no such licenses, rights of way or easements shall be unreasonably or permanently inconsistent with the rights of the Owners or residents to the use and enjoyment of the Common Areas and community facilities thereon.

**Section 2. Delegation of Use.** Any Owner may delegate, in accordance with the By-Laws, his or her right of enjoyment to the Common Area and community facilities thereon to the members of his or her family, his or her tenants, or contract purchasers who reside on the property, and guests, all such delegation subject to the Association Declaration, By-Laws, and rules and regulations.

### **ARTICLE III**

#### **MEMBERSHIP AND VOTING RIGHTS**

**Section 1.** Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

**Section 2.** The membership of the Association shall be comprised of all Owners, each of whom shall be entitled to one vote for each Lot owned. When more than one person holds title to any Lot, all such persons shall be members. The vote for such Lot shall be exercised as the Owners determine, but in no event shall more than one vote be cast with respect to any Lot.

### **ARTICLE IV**

#### **COVENANT FOR MAINTENANCE ASSESSMENTS**

**Section 1. Creation of the Lien and Personal Obligation of Assessments.** Each Owner of a Lot by acceptance of a deed granting title therefor, whether or not it shall be so

expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge against the Lot and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the Owner of the Lot at the time when the assessment was due.

**Section 2. Purpose of Assessments.** The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Property and for the improvement and maintenance of the Common Area and community facilities thereon. Such purposes shall include but not be limited to the following:

- (a) the cost of all operating expenses of the Common Areas and community facilities thereon and the services furnished to or in connection with the Common Areas and community facilities thereon, including charges by the Association for any services furnished by it; and
- (b) the cost of necessary management and administration of the Common Areas and community facilities thereon, including fees paid to any Management Agent; and
- (c) the amount of all taxes and assessments levied against the Common Areas and community facilities thereon by governmental entities; and
- (d) the cost of liability insurance on the Common Areas and community facilities thereon and the cost of such other insurance as the Association may effect with respect to the Common Areas and community facilities thereon; and

(e) the cost of utilities and other services which may be provided by the Association, whether for the Common Areas and community facilities thereon, or for the Lots, or both; and

(f) the cost of maintaining, replacing, repairing, and landscaping the Common Areas and community facilities thereon, including private roads, together with the cost of such improvements, fixtures and equipment as the Board of Directors shall determine to be necessary and proper in connection therewith; and

(g) the cost of periodic grass-cutting and mowing on Common Areas and the cost of such other grounds and landscape maintenance as the Board of Directors shall determine to be necessary and proper, all in accordance with a schedule determined by the Board of Directors; provided, however, that nothing in this subparagraph (g) shall be deemed to obligate the Association to perform any maintenance upon the Lots; and

(h) the cost of funding all reserves established by the Association, including, when appropriate, a general operating reserve and a reserve for replacements.

**Section 3. Reserves for Replacements.** The Association shall establish and maintain a reserve fund for replacements of the Common Areas and community facilities thereon by the allocation and payment no less than annually to such reserve fund of an amount to be designated from time to time by the Board of Directors. Such fund shall be deemed a common expense of the Association and may be deposited with any financial institution, the accounts of which are insured by any State or by an agency of the United States of America or may, in the discretion of the Board of Directors, be invested in certificates of deposit, investment grade securities, or the obligations of, or fully guaranteed as to principal by, the United States of America. The reserve for replacements of the Common Areas, including community facilities, may be

expended only for the purpose of affecting the replacement of, or major repairs to, the Common Areas and community facilities, including major repairs to any sidewalks, parking areas, streets, or roadways developed as a part of the Property, equipment replacement, and for start-up expenses, initial capital investments, and operating contingencies of a non-recurring nature relating to the Common Areas and community facilities thereon. The Association may establish such other reserves for such other purposes as the Board of Directors may from time to time consider to be necessary or appropriate. The proportional interest of any member in any such reserves shall be considered an appurtenance of his or her Lot and shall not be separately withdrawn, assigned or transferred or otherwise separated from the Lot to which it appertains and shall be deemed to be transferred with such Lot.

**Section 4. Maximum Annual Assessment.**

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year by not more than 10% above the maximum assessment for the previous year by the Board of Directors without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 10% only by a vote of fifty-one percent (51%) of the Owners voting in person or by proxy at a meeting duly called for this purpose.

**Section 5. Special Assessments for Capital Improvements.** In addition to the annual assessments authorized above, the Association may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property



related thereto, provided that any such assessment shall have the assent of fifty-one percent (51%) of the votes of the Owners voting in person or by proxy at a meeting duly called for this purpose. The Board of Directors shall establish the date of commencement of any special assessment and one or more due dates for the payment thereof.

**Section 6. Notice and Quorum for any Action Authorized Under Sections 4 and 5.**

Written notice of any meeting called for the purpose of taking any action authorized under Section 4 or 5 shall be sent to all Owners not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of Owners or of proxies entitled to cast sixty percent (60%) of all the votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 45 days following the preceding meeting.

**Section 7. Uniform Rate of Assessment.** Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly, quarterly, biannual, or annual basis as determined by the Board of Directors.

**Section 8. Date of Commencement of Annual Assessments; Due Dates.** The annual assessments provided for herein shall commence as to all Lots on January 1 of each calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Notice of the annual assessment shall be sent to every Owner subject thereto electronically and be posted on the Association website. The due dates for the annual assessment shall be established by the Board of Directors.

**Section 9. Effect of Nonpayment of Assessments; Remedies of the Association.** Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date until paid at the maximum amount permitted by Maryland law. Additionally, if any assessment is payable in more than one (1) installment, and any installment is not paid within thirty (30) days of the due date, the Board of Directors, at its discretion, may accelerate any remaining installments which may be due for the fiscal year, making the remaining balance due, payable, and collectable immediately. The Board of Directors may also impose a late charge, pursuant to the Maryland Homeowners Association Act, as amended from time to time, as well as reasonable attorneys' fees and costs incurred by the Association. Together, these amounts shall become a continuing lien on the Lot, which shall bind such property in the hands of the then owner, the Owner's heirs, devisees, personal representatives, successors, and assigns. The Association also may bring an action at law against an Owner personally obligated to pay the same, or impose a lien against the Lot (and all improvements thereon), pursuant to the Maryland Contract Lien Act, as amended from time to time. Such lien may be enforced by the Association in the same manner and to the same extent and subject to the same procedures as in the case of a real property mortgage under the laws of Maryland under a power of sale or an assent to a decree. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his or her Lot.

**Section 10. Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage that predates the assessment lien. Sale or transfer of any Lot shall not affect the assessment lien. However, subject to Maryland law, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof that predates the assessment lien, shall extinguish the lien of such

assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. The term "mortgage" shall include a deed or deeds of trust.

## **ARTICLE V**

### **ARCHITECTURAL CONTROL**

**Section 1. Review of Committee.** No building, fence, wall or other structure, or landscaping plan, as set forth below, shall be commenced, erected or maintained within the Properties, nor shall any exterior addition to or change or alteration therein be made until the completed plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association or its assigns. Such right of review and approval may be assigned by the Board of Directors to an Architecture Committee appointed by the Board. In the event said Board, or its designated Committee, fails to respond in writing within sixty (60) days after a complete application, including the necessary plans and specifications, has been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with to the extent such design and location are consistent with this Declaration. The Board or the Committee may extend its review process for a period not to exceed an additional thirty (30) days. Design approval by the Board or the Committee shall in no way be construed as a determination with respect to the correctness of the location, structural design, suitability of water flow or drainage, location of utilities or other qualities of the item being reviewed. Any such exterior addition to or change or alteration made without application having first been made and approval obtained as provided above, shall be deemed to be in violation of this

covenant and the Board may require the Owner to restore such additions, changes or alternations to their original condition at the Owner's cost.

**Section 2. Use Restrictions and Owner Responsibilities.**

1. Whenever used herein, the words "Architecture Committee," or the abbreviation "AC," shall mean and include the appropriate body acting under the provisions of Article V, Section 1 of these Covenants, Conditions and Restrictions applicable to Fishing Creek Farm.

2. This Declaration of Covenants, Conditions and Restrictions in Article V, Section 1, provides generally that no building, fence, wall or other structure, nor any exterior addition to or change or alteration therein shall be made until the same is approved by the AC. In furtherance of the purpose of such provisions, and subject to the same procedures for review and approval as therein set forth, the AC shall have the right to control absolutely the precise site and location of any building, fence, wall or other structure or other exterior improvement of any kind on any Lot. Further, no topographic or vegetative characteristics of a Lot shall be altered by addition, removal, excavation, grading or other means without the prior written approval of the AC and consistent with design and development guidelines approved by the Board.

3. All Lots shall be used exclusively for residential purposes and no more than one family (including its household employees and transient guests) shall occupy any such Lot. Family child care homes and certain no-impact home-based businesses, as defined by the Maryland Homeowners Association Act, are not permitted to operate on Lots. Pursuant to this Act, however, these prohibitions may be eliminated, and such uses may be approved, by a simple majority of the total eligible voters of the Association under the voting procedures contained in Association By-Laws.

a. A portion of a dwelling used for office purposes shall be considered a residential use provided the person using the office space lives in the dwelling as Owner or resident and that such use does not generate commercial or business activity to and from the premises, as may be determined by the Board of Directors of the Association.

b. No accessory building can be constructed on any Lot prior to the construction of the main building.

c. No portion of a dwelling or accessory building can be rented or leased except as part of the entire Lot.

d. No dwelling may be rented or leased more than three (3) times within a calendar year and any such individual rental or lease may not be for a period of less than one week.

e. No fence or other similar structure shall be permitted in any front yard, and fences shall be precluded entirely in (i) Lots with riparian rights, and (ii) any Lots that are contiguous to any Fishing Creek Farm Common Area which is on the water, as noted on the subdivision plats of Fishing Creek Farm. "Fence" shall include any freestanding structure composed of wood, composite wood, wire, plastic, PVC, aluminum, wrought iron, or other material, including trees, plantings, a trellis or similar structure, designed or configured to provide a visual barrier within or around any Lot. The location, type, color, height, and texture of all fences shall be subject to the review and approval of the AC. This section shall not preclude a fence required by law to surround a built-in swimming pool provided approval is obtained from the AC and the fence surrounds the immediate area and not the entire yard. No chain link or wire fence shall be permitted in any Lot.

f. The “limits of disturbance” indicated on the final subdivision plats of Fishing Creek Farm subdivision are binding on the Association and all Lot Owners and their respective agents. The “limits of disturbance” are further discussed in Article VII thereof.

4. Each Owner of a Lot covenants and agrees to keep his or her Lot, and all improvements therein or thereon, in good order and repair and free of debris, including but not limited to, the mowing of all lawns, the pruning and cutting of all trees and shrubbery, and the painting (or other appropriate external repair and maintenance care) of all residential dwellings and other improvements, all in a manner and with such frequency as is consistent with good property management and described in any applicable rules and regulations adopted by the Board of Directors. Should any Owner fail to maintain the appearance of a Lot in accordance with the aforesaid criteria and as determined solely by the Board of Directors of the Association, the Association is hereby and herewith granted the right and privilege to enter upon such Lot for the purpose of maintaining the suitable appearance of any improved or unimproved Lot, the cost of which is to be borne by the Owner thereof pursuant to the same procedures and conditions set forth within Article VI, Section 1 of this Declaration of Covenants, Conditions and Restrictions.

5. Whenever the Board of Directors, or their duly authorized agents, officers and employees are permitted by these covenants or other applicable By-Laws, or Rules or Regulations of the Association to correct, repair, clean, preserve, clear out or take any action whatever on any Lot, the performance of same or the taking of any such action shall not be deemed a trespass or considered to be a violation of any law whatsoever or to constitute a wrongful act of any kind.

6. No noxious or offensive activity shall be permitted on the Property, nor shall anything be done thereon which would cause embarrassment, discomfort, annoyance or a

nuisance to other Owners or residents or to the subdivision generally. There shall not be maintained on a Lot any plants or animals or device or thing of any kind the normal activities or existence of which is in any way noxious, offensive, dangerous, unsightly, unpleasant or of a nature that would diminish or destroy the enjoyment of the Property by the Owners or residents thereof.

7. No animals, livestock or poultry of any kind shall be kept or maintained within a Lot except that not more than two (2) dogs, cats or other household animals may be kept or maintained on a Lot, provided they are not kept or maintained for a commercial purpose, and provided further that all animals must be secured by leash or lead or carried, or under the control of a responsible person and obedient to that person's command at any time they are permitted outside of a dwelling or enclosed area used for their maintenance and confinement. The Owner of the Lot where the animal is kept shall be responsible for immediate clean up and removal of any droppings or waste which may be left by the animals, on Common Areas or the Lots of other Owners.

8. No signs of any nature shall be erected or maintained on any Lot, except:

- a. Signs required by legal proceedings or signs permitted by law.
- b. Residential identification signs, having a combined total face area of not more than two (2) square feet and subject to written approval by the AC as to location, size, color, material and content.
- c. Community or street identification signs which may be located on Lots.

d. Signs erected by realtors, builders, and contractors on Lots in the community provided said signs are approved by the AC, pursuant to written design standards approved by the Board.

9. No structure of any temporary character and no tent, trailer, mobile home, shack, shed or other outbuilding or accessory structure, except as provided herein, shall be placed or permitted to remain on any Lot or Common Area at any time, except that temporary construction shelters may be erected and maintained during and used exclusively for construction of any approved work or improvement and such temporary shelters shall not in any event be used for living quarters and shall be removed from the Property promptly upon completion of the approved work or improvement. Certain outbuildings, sheds, or other accessory structures may be permitted only subject to standards and guidelines approved by the Board of Directors.

10. No boats, boat trailers, campers, recreational vehicles, commercial vehicles, trucks in excess of 8,000 lbs. curb weight based on manufacturer specifications, horse trailers or utility trailers and similar vehicles may be maintained on a Lot or Common Area unless kept within a garage. The Board in its discretion may grant an exception for a specific vehicle for good cause shown, provided that any such exception shall be in writing.

11. No automobile or vehicle of any kind and no boat, or trailer of any kind shall be constructed, restored or repaired upon any Lot in such a manner that said construction, restoration or repair is visible from the road or neighboring Lots.

12. Each dwelling shall contain an appropriately screened or fenced service yard or yards enclosing all above ground garbage and trash containers, incinerators, fuel tanks, mechanical swimming pool equipment, utility meters, air conditioning equipment, clotheslines and other similar outdoor maintenance, storage and service facilities in order to conceal them



from view from the road and neighboring Lots. Garbage and trash containers and fuel tanks may be located outside service yards but only if located underground. The placement of all of the aforesaid items, whether located above or below ground, shall require the approval of the AC.

13. The maintenance of accumulated waste plant material on a Lot is prohibited except as part of an established compost pile which, subject to Anne Arundel County law, shall be maintained in such a manner as not to be visible from the road and neighboring Lots and not closer than fifty (50) feet from the neighboring residence or an established outdoor living area of an existing or future residence.

14. Only one dwelling shall be located on a Lot and it shall include a two (2) car enclosed garage (either attached or detached), which garage shall have a minimum floor area of four hundred forty (440) square feet, with a minimum dimension of 20 feet by 22 feet. Lots 102 and 107 only may have a garage of 20 feet by 20 feet (minimum size). Any additional on-site parking area, designed principally for the occupants of the dwelling, shall be appropriately screened from public view.

15. Each dwelling shall contain not less than two thousand (2000) square feet of “enclosed dwelling area.” A two-story residence shall contain at least two thousand five hundred (2500) square feet of enclosed dwelling area. The term “enclosed dwelling area” shall not include garages, guest houses, boat sheds, terraces, decks, open porches and like areas but shall include screened porches, if the roof of any such porch forms an integral part of the roof line of the principal dwelling structure. This square footage requirement shall not apply to Lot 28 and the existing house located thereon.

16. All improvements shall be constructed in accordance with applicable building lines, setback and height provisions set forth in the Zoning Code for Anne Arundel County, Maryland,

except where more stringent requirements are imposed by the recorded subdivision plat, the deed of conveyance for a particular Lot or the AC.

17. Erection of exterior antennae of any type shall be subject to prior review and written approval of the AC. A satellite reception dish or antenna shall be prohibited, except as permitted by federal, state and local laws.

18. The exterior of all dwellings and other structures on a Lot must be completed within twenty-four (24) months following the date of approval by the Board of Directors. Construction, once commenced, shall be continuous without delay, except where such completion is impossible or would result in great hardship to the Owner or the builder due to strikes, fire, national emergency or natural calamities. No dwelling can be temporarily or permanently occupied until the exterior thereof has been fully completed. During the construction period, the Owner of the Lot shall require the builder to maintain the Lot in a reasonably clean and uncluttered condition and to take necessary action to control any erosion of or from disturbed site areas. Cessation of work on any structure once started, and prior to completion, for a period of sixty (60) days shall be prima facie evidence of an attempt to abandon the same in its partially completed state, and the same shall be deemed to be both a public and private nuisance. The Board of Directors shall have the right to grant a written extension, upon request, of any time period or deadline required under this Section.

19. Should any dwelling or structure on a Lot be destroyed in whole or in part, it must be reconstructed or the debris therefrom removed from the Lot and the Lot restored to a neat and sightly condition within six (6) months, or the same shall be deemed to be both a public and private nuisance.

20. No Lot shall be re-subdivided or its boundaries changed without the prior written consent of the Association. In no case, however, shall a re-subdivision of a Lot between two Owners result in a diminution of the number of Lots subject to assessments or charges under this Declaration. The assessments and charges otherwise due from such subdivided or divided Lot shall be fully due and owing from each of the resultant Owners, as one assessment for each dwelling.

21. The Association, or its duly authorized agents, officers and employees shall have the right at any time without any liability to the Owner for trespass or otherwise, to enter onto or upon Lots for the purpose of maintaining, removing, restoring or otherwise enforcing without any limitation all of the restrictions set forth in this Declaration. No such action will be taken until the Owner of the Lot involved is first given written notice and an opportunity to take corrective action within a reasonable time to be specified in such notice. Any costs incurred by the Association directly attributable to taking necessary corrective actions shall be the sole personal responsibility of the Owner and shall also become a lien against the Lot until satisfied.

22. No powered or trailed vehicle shall be parked or stored overnight or longer on any street within the Property.

23. The driveways serving Lots 1, 10, 29 and 97 shall originate (derive public road access) from Hidden River View Road.

24. The minimum front yard setback (building restriction line) shall be at least fifty (50) feet from Cherry Tree Lane for Lots 98, 99, 100 and 101.

25. The Architecture Committee may from time to time recommend Board approval of (a) Design and Development Guidelines, describing design parameters and approved materials for construction and maintenance of all residential structures, including dwellings and driveways;

and (b) Application and Review Procedures, regarding the form and content of plans and specifications to be submitted for approval, as well as the process for review and approval. These Guidelines and Procedures, once approved by the Board of Directors, shall be published as rules and regulations of the Association, and incorporated by reference into this Declaration.

26. Swimming pools are permitted only if constructed below ground level and then only after the pool and all appurtenant structures are approved by the AC. Upon request, the Board of Directors may waive this provision for low lying Lots where such in ground construction is not feasible and the proposed construction is appropriately landscaped to screen such pool structure.

27. No grass clippings, organic debris, trash or other refuse may be disposed of by dumping in or on any Common Area or wetlands area.

28. No fill material may be used to create the required “lowest floor elevation” necessary to comply with Federal Hurricane Tide Elevation building requirements.

29. Discharge of firearms is prohibited within the Property.

30. No Owner of a Lot with riparian rights may erect a private pier serving such Lot. All waterfront access for boating, fishing and related activities shall be by the use of “common access” piers and related facilities owned and operated by the Association within the Common Area and for the benefit of the Owners and residents.

31. Each Lot shall be improved with an entrance driveway built to Anne Arundel County standards.

## **ARTICLE VI**

### **EXTERIOR MAINTENANCE**

**Section 1. Assessment of Cost.** In the event the Board of Directors or the AC shall determine that exterior maintenance of any Lot shall become necessary the cost of such exterior

maintenance shall be assessed against the Lot upon which such maintenance is done and shall be added to and become part of the annual assessment or charge to which such Lot is subject under Article IV hereof and, as part of such annual assessment or charge, it shall be a lien and obligation of the Owner and shall become due and payable in all respects as provided in Article IV hereof. Provided that the Board of Directors of the Association, when establishing the annual assessment against each Lot hereof, may add thereto the estimated cost of the exterior maintenance for the year but shall, thereafter, make such adjustment with the Owner as is necessary to reflect the actual cost thereof. Provided further, however, that the assessments or charges provided for hereunder shall not be considered for computation purposes as part of the maximum annual assessments under said Article IV.

**Section 2. Access at Reasonable Hours.** For the purpose solely of performing the exterior maintenance authorized by this Article, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Lot at reasonable hours on any day except Sunday.

**Section 3. Easement for Access by the Association.** The Association shall have an irrevocable right and an easement to enter upon any Lot for the purpose of providing such grounds and landscape maintenance upon the Lot as may be deemed necessary and proper to maintain the aesthetic appearance and safety of the community. Except in cases involving manifest danger to public safety or to other property, the Board of Directors of the Association shall make reasonable effort to give notice to the owner of any Lot to be entered for the purpose of such maintenance. No entry by the Association for the purposes specified in this Declaration shall be considered a trespass.

**Section 4. Free Movement of Breezes Within the Common Areas.** In order to (a) preserve the views of land and water obtainable on and from Lots and the Common Areas, (b) promote the free movement of breezes, (c) prevent harboring places for flies and other insects, and (d) remove or eradicate invasive species, the Board of Directors reserves the right, but not the obligation, to trim any trees or shrubbery within the Common Areas that may, in its opinion, destroy or interfere with such views, the free movement of breezes, provide harboring places for flies or other insects, or enable the growth of invasive species.

## **ARTICLE VII**

### **ENVIRONMENTAL PROTECTION**

The “final plats of subdivision” of the Fishing Creek Farm subdivision contain specific, graphic depictions of the lines for buffer areas established to protect tidal wetlands and non-tidal wetlands. These plats also contain specific limits on the maximum allowable area of disturbance to each of the Lots in Fishing Creek Farm. The final recorded subdivision plats of Fishing Creek Farm are included within the terms of this Declaration by reference as if fully set forth herein, and the building and development restrictions set forth on the said plats are intended to be observed and enforced in the same manner and by the same parties as if contained in this Declaration. The buffer areas established for tidal and non-tidal wetlands are not to be cleared or disturbed in any way, and are intended to remain in their state of natural vegetation in order to provide continued preservation of existing wildlife habitat. No trees shall be removed from such buffer areas unless diseased or damaged by lightning or other natural occurrences. The maximum area of disturbance specified for each Lot is intended to create a maximum building envelope for each lot which will govern the maximum amount of such Lot which may be cleared, graded and/or occupied with structures (principal structures and accessory structures,

including pools, patios and other improvements). None of the restrictions noted on the final subdivision plats or in this Declaration shall be construed to restrict the planting of additional trees, shrubs, flowers or other vegetation on the Lot, including any portion of such lot within a specified buffer area.

The open space Common Areas depicted on Plats Three and Four of “Fishing Creek Farm” adjacent to Fishing Creek Open Space Parcels “H” and “I” are limited to passive recreational uses. Accordingly, the use of vehicles within these open space areas is prohibited. The area of each Lot outside the “maximum disturbed area” envelope is to be left undisturbed. No marina or boat docking uses are permitted on either of these open space parcels. These restrictions shall not preclude a fishing or crabbing pier into the waters of Fishing Creek for use by the Owners and residents of the Association.

Reserve Parcel “B” on Plat Five of “Fishing Creek Farm” is within the required buffer areas protecting the shoreline and tidal wetlands, and is to remain undisturbed.

The “Recreational Area B” shown on Plat Nine of “Fishing Creek Farm” is to be used for passive recreational uses only, and not developed for active recreational uses or facilities. It is the intent that this Recreational Area be preserved and protected in its natural state to the extent possible and practical while still providing the improvements and facilities necessary for the common use of the property by the members. Such facilities shall include walking trails and pathways, observation decks and areas and other facilities providing pedestrian (non-vehicular) access to such areas. Recreation Area “A” shown on Plat 8 of Fishing Creek Farm shall be used and developed by the Association as the site of a community pier. Any such development shall be subject to all use and development restrictions herein, all County, State and Federal

regulations then in effect, including those regulations applicable to community-pier special exceptions contained in the Zoning Regulations of Anne Arundel County.

## **ARTICLE VIII**

### **GENERAL PROVISIONS**

**Section 1. Enforcement.** The Association or any Lot Owner shall have the right to enforce by any proceeding at law or in equity, including administrative remedies, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, the subdivision plats and other recorded documentation governing the development of the Fishing Creek Farm subdivision. These covenants, conditions and restrictions and the final plats of the Fishing Creek Farm subdivision contain numerous and extensive provisions and restrictions required under the State and County “Critical Areas” statutes. Failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

In addition to the means for enforcement provided elsewhere herein, the Board of Directors shall have the power to impose sanctions against an Owner, in its sole discretion, subject to notice and other due process requirements, as provided in applicable rules and regulations. Sanctions may include the levying of fines, suspensions, or other remedies allowed under applicable laws and this Declaration against the Owner, subject to compliance with all due process requirements under the Maryland Homeowners Association Act and the Association documents, including Association rules and regulations. Such fines shall be collectable as any other assessment against the Lot of the Owner, including with the filing of a lien upon the Lot of the Owner committing or responsible for such violation, provided that the requirements of Maryland law are fulfilled. Such fines shall also become the binding personal obligation of the



Owner of the Lot that is the source of the violation, or has committed the violation, or is responsible for such violation. Sanctions may also include (a) the suspension of an Owner's voting rights in the Association, and/or (b) the suspension of an Owner's right to use certain Common Areas, as well as the right of his or her residents, guests, and invitees for such use.

**Section 2. Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

**Section 3. Amendment.** This Declaration may be amended by the approval of at least fifty-one percent (51%) of all the Lot Owners. Any amendment to the Declaration shall be recorded.

**Section 4. Annexation.** Additional property may be annexed to the Properties with the consent of two-thirds (2/3) of all the Lot Owners.

**Section 5. Notices.** All notices, demands, statements or other communications called for under this Declaration shall be in writing and shall be deemed to have been duly given if delivered by any of the following means:

- (a) By hand delivery;
- (b) By overnight mail, through a recognized commercial delivery service providing traceable service in accordance with that delivery service's procedures;
- (c) By first-class mail five (5) days after the mailing was sent;
- (d) By registered or certified mail, return receipt requested and postage prepaid, when signed for by the designated recipient; or
- (e) By electronic transmission to an Owner or Owners when sent, pursuant to the Maryland Homeowners Association Act.

Notices shall be sent to Owners at the address of each Owner's Lot address as it appears on the tax records of Anne Arundel County unless an Owner has provided the Association in writing with a different mailing address or an email address. If a Lot is owned by more than one person, each such person who designates a single address in writing to the Association shall be entitled to receive all notices hereunder. Notices to the Association should be sent to 1222 Cherry Tree Lane, Annapolis, Maryland 21403, unless the Association has designated a different address.

IN WITNESS WHEREOF, the Association has executed this Amended and Restated Declaration under seal this \_\_\_\_ day of \_\_\_\_\_, 2022.

**ATTEST:**

BY: \_\_\_\_\_  
\_\_\_\_\_