

**MASTER DECLARATION OF  
RESTRICTIONS DOCUMENT**

**Mendenhall Village**

**Homeowners Association**

## **GENERAL USE RESTRICTIONS**

Section 1. Private Residences. The lots shall be used for private residential purposes only, and no buildings of any kind except private dwelling units together with outbuildings appurtenant to same, such as storage sheds, dog houses and play houses, shall be erected or maintained thereon; in no event shall any outbuildings or appurtenant structure be more than six feet in height or have a floor area in excess of forty square feet. For single-family homes, no such outbuilding or appurtenant structure shall be erected or maintained closer to the front street line than the rear-most wall of the principal structure on the lot; for townhouses, no such outbuilding or appurtenant structure shall be erected or maintained unless it is located within the area enclosed by the rear yard privacy fencing described herein. No prefabricated metal sheds or buildings shall be permitted on any lot. In any event, no such outbuildings shall be constructed or maintained upon the lots until compliance with the Architectural Controls contained herein has been accomplished.

Section 2. Trailers, Mobile Homes, Etc. No temporary structure, including trailers and mobile homes, shall be permitted or maintained upon any lot.

Section 3. Animals and Pets. No animals of any kind other than usual household pets shall be kept or maintained on the properties, and no horses, cows, goats, hogs, poultry, pigeons, or similar animals shall be kept upon the lots. On townhouse lots, no buildings or improvement(s) shall be erected or maintained on any lot which shall be used for the habitation or enclosure of any animal(s), excepting that household pets may be housed within the dwelling houses.

Section 4. Vegetable Gardens. On single family lots, no vegetable gardens shall be kept or maintained in side or front yard areas. On townhouse lots, no vegetable gardens shall be kept or maintained closer to the front street than a line thirteen (13) feet forward of and parallel to the rearmost wall of the principal structure on the lot.

Section 5. Television and Radio Antennas. On single family lots, no permanent or temporary installation of a television or radio receiving or transmitting antenna shall be constructed, placed, or maintained on any lot, except that same may be constructed, place and/or maintained if it is attached to the dwelling house on such lot, provided that it shall not exceed in height the peak of the roof of said dwelling house by more than ten (10) feet. On townhouse lots, no permanent or temporary installation of a television or radio receiving or transmitting antenna shall be constructed, placed, or maintained on any dwelling unit or lot.

Section 6. Trash Receptacles. Trash receptacles shall be kept in enclosed areas, hidden from view, excepting on regular collection days, when they may be placed temporarily at the curb.

Section 7. Prohibited Vehicles. No trucks, buses, travel trailers, boat trailers, boats, utility trailers or campers whatsoever, and no disabled vehicles of any description shall be kept or maintained on any street, parking bay, lot or driveway, except that any of the same may be kept within enclosed garages; excepting that pick-up trucks up to and including 3/4 ton and enclosed vans up to 10,000 lbs. G.V.W. are permitted, provided that they do not exceed a height of seven feet.

Section 8. Signs. No signs of any nature whatsoever shall be erected, placed or maintained on any lot within the premises described, except that a single real estate "For Sale" sign may be so placed and maintained.

Section 9. Fences. On single family lots, no fence shall be erected on any lot closer to the front street line than the rear face of the principal building on said lot except that fences which are dividing lines between two lots may extend along side lot lines. No fences except for privacy fences as described herein, shall be of a height of more than four (4) feet and all such fences shall be constructed only of wood. For townhouse lots, no fence shall be erected on any lot closer to the front street than a line of thirteen (13) feet forward of and parallel to the rearmost wall of the principal building on said lot and no such fencing of any kind shall extend into the pedestrian easements along any side or rear lot line as located on the recorded plan. In any event, no such fences shall be constructed or maintained upon the lots until compliance with Architectural Controls contained herein has been accomplished.

Section 10. Single Family Lot Privacy Fences. Privacy fences are defined as those types of fences which enclose only a small portion of the rear yard close to the building itself; for example, a privacy fence may closely enclose a rear patio. Such fences are permitted provided they do not exceed a height of six feet and are constructed of wood. In no event shall said privacy fences enclose an area in excess of 500 square feet nor shall any section thereof exceed 25 feet in length. In any event, no such fences shall be constructed or maintained upon the lots until compliance with Architectural Controls contained herein has been accomplished.

Section 11. Townhouse Privacy Fences. For townhouse lots, rear yard privacy fencing has been constructed by the Declarant to enclose a portion of the rear yard. No such privacy fencing shall be erected on any lot closer to the front street than a line thirteen (13) feet forward of and parallel to the rearmost wall of the principal building on said lot. Such privacy fencing shall be six (6) feet in height and constructed of all-weather pressure treated wood. No part of the privacy fencing of an end unit townhouse shall be constructed so that the resulting

width of the area enclosed within the fencing is more than four (4) feet greater in width than the overall width of said townhouse at its widest point. For purposes of this section, width shall be that dimension measured from side to side perpendicular to a party wall or an extension thereof. Owners shall maintain, at their sole expense, such privacy fencing and no part of such privacy fencing shall be removed by owners of the lots unless such removal is required to replacement of such fencing due to wear and tear or damage. In any event, such replacement shall be made in a timely manner with identical fencing material. Construction of additional privacy fencing to enlarge the area enclosed by said privacy fencing may be undertaken by lot owners only after compliance with the Architectural Controls contained herein has been accomplished. In no event, however, shall said enlargement encroach into a pedestrian easement as located on the Record Plan.

Section 12. Swimming Pools. No above-ground swimming pools shall be constructed or maintained on any lot. In-ground swimming pools may be constructed and maintained thereon. In any event, no such swimming pools shall be constructed or maintained upon the lots until compliance with the Architectural Controls contained herein has been accomplished.

Section 13. Clothes Line. On townhouse lots, no temporary or permanent clothes drying lines or other facility shall be installed, erected or maintained on any lot, except that such clothes drying line or facility may be installed, erected or maintained within the area enclosed by the privacy fencing described above, provided that such clothes drying lines or facility does not exceed a height of six (6) feet above ground level.

Section 14. Solar Panels. No solar panels shall be erected or maintained on the front roof of any townhouse dwelling unit. In any event, no such solar panels shall be erected or

maintained on any townhouse dwelling or lot until compliance with the Architectural Controls contained herein has been accomplished.

### **TOWNHOUSE PARTY WALL EASEMENTS**

Section 1. Easements for Party Walls or Party Fences. To the extent not inconsistent with the provision of this paragraph, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to each party wall or party fence which is built as part of the original construction of the homes upon the properties and an replacement thereof. In the event that any portion of any structure as originally constructed by the Developer, including any party wall or fence, shall protrude over an adjoining lot, such structure, party wall or fence shall not be deemed to be an encroachment upon the adjoining lot or lots and Owners shall neither maintain any action for the removal of a party wall or fence or projection, nor any action for damages. In the event there is a protrusion as described in the immediately preceding sentence, it shall be deemed that said Owners have granted perpetual easements to the adjoining Owner or Owners for continuing maintenance and use of the projection, party wall or fence.

Section 2. Replacement Party Walls and Fences. The foregoing shall also apply to any replacements at any structures, party walls or fences if same are contracted in conformance with the original structure, party wall or fence constructed by the Developer. The cost of reasonable repair maintenance of a party wall or party fence shall be shared equally by the Owners who make use of the wall or fence in proportion to such use.

## **ARCHITECTURAL CONTROL**

Section 1. Review of Plans. No building, shed, fence, wall, swimming pool or other construction shall be commenced, erected, or maintained upon any lot, nor shall any exterior addition to or change or alteration thereof, including but not limited to exterior facade color change and/or change in grade or drainage be made until the plans and specifications, with illustrations, showing the nature, kind, shape, color, height, materials, and proposed location of same, shall have been submitted to and approved in writing by the Declarant. In the event the Declarant, or its successors or assigns, fails to approve or disapprove such architectural change request within thirty (30) days after said plans and specifications have been submitted to it, approval thereof will be deemed to have been given by the Declarant.

The Declarant, its successors or assigns, in connection with the review of said plans, specifications, and illustrations, shall consider them in terms of the harmony of the proposed change, addition, construction or alteration with the structures on surrounding properties and the outlook therefrom onto the subject property; the effect it will have on the reasonable passage of light and air to the surrounding properties; the consistency and harmony of the architectural design, color height, size, shape, proposed location and materials with the subject property and with the surrounding structures; and with respect to the physical impact thereof, including but not limited to drainage on surrounding properties.

For the purposes of this Declaration, Declarant shall have the sole rights to determine which lot lines and/or street lines shall be “front” or “side” lines.

Section 2. Assignment of Architectural Control Function; Appeal. Declarant may assign the powers and rights reserved hereunder at Section 1 of this Article II to the Board of Directors of Mendenhall Village Single Hones Association.

Requests for architectural change which have been rejected hereunder may be appealed by the applicant in writing; upon the receipt of same. Declarant or its assignee shall schedule a special meeting with the applicant, which meeting shall be held within two (2) weeks after receipt of notice; the decision upon review shall be communicated in writing to the applicant within thirty (30) days after the review meeting; failure of the Declarant or its assigns to give written notice of such decision within said thirty (30) days shall be construed as a rescission of the initial rejection.

Section 3. Ad Hoc Committee. Prior to the appointment of the Board of Directors, the Declarant may appoint an Ad Hoc Architectural Control Committee to assist the Declarant in architectural control matters. Said Ad Hoc Architectural Control Committee will automatically be dissolved upon assignment as hereinabove provided to the initial Board of Directors.

## **MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION**

Section 1. Membership. All persons or entities who are record owners of a fee or undivided fee interest in each lot shall automatically become a “member”, as defined below, of Mendenhall Village Homeowners Association (the “Association”) immediately upon the creation of his or its fee or undivided fee interest, including but not limited to the acceptance and recording of a deed for such lot. “Member”, as used herein, shall mean all owners, as a unit, of any lot, to the end that there shall be one member per lot.



Section 2. Voting Rights. The Association shall have one class of membership, Class A Members shall be all members of the Association. Class A Members shall be entitled to one vote for each lot.

### **COVENANT FOR MAINTENANCE ASSESSMENTS**

Section 1. Creation of the Lien and Personal Obligation of Assessments. All Lots owned by Class A members shall be subject to an annual assessment for the purposes of the Association. By virtue of the creation of a Class A membership as hereinabove described, Class A members shall be deemed to have covenanted to be personally liable for the payment of such assessments for their respective lots, together with such interest thereon and costs of collection thereof as hereinafter provided, which assessments, interest and costs shall be a charge on the land and shall be a continuing lien upon the lot against which each such assessment is made.

Section 2. Purpose of Assessments. Assessments levied by the Association shall be used for the purpose of maintaining the private open space parcels owned by the Association, including but not limited to, the payment of taxes and insurance thereon in addition to the cost of maintaining the parking bays, grass areas and landscaping, and for those other purposes expressed in its Certificate of Incorporation.

Section 3. Right to Fix Annual Assessments. The Association may, from time to time, set such annual assessments as it deems necessary to carry out the duties and obligations of the Association, as set forth hereinabove, and as they may change from time to time; provided, however, that any change in said assessment must be approved by a two-thirds ( $\frac{2}{3}$ ) majority of the Class A members present at a meeting duly called for this purpose, written notice of which

shall have been sent to all members at least thirty (30) days in advance of the time set for said meeting, which said notice shall set forth the purpose of the meeting. The annual assessment shall be at the same rate for each and every lot, and must be in the aggregate sufficient to maintain the property owned by the Association, including grass cutting, normal landscaping maintenance, and payment of insurance premiums and taxes thereon; assessments may include such additional sums as may be deemed necessary by the Association to establish reserves for maintenance and to meet the financial needs of the Association not relating to maintenance (as provided above) of its properties.

Section 4. Commencement Date of Annual Assessments. Omitted

Section 5. Assessment - Early Payment Discount. A discount will be allowed to any Association member whose annual assessment is received by the treasurer of the Association prior to the thirtieth day of June of the year in which that assessment is due, which said discount shall be twenty percent of the gross assessment.

Section 6. Effect of Non-Payment of Assessment; the Personal Obligation of the Owner; the Lien; Remedies of Association. Assessments which are not paid before July 1 of the assessment period shall be deemed to be delinquent and, together with interest thereon at the rate of twelve percent (12%) per annum from the due date until paid and costs of collection thereof including reasonable attorney's fees, thereupon shall become a continuing lien on the lot assessed which shall bind such lot in the hands of the then owner, his heirs, devisees, personal representatives, successors and assigns. The Association may bring an action at law against the Member personally obligated to pay any delinquent assessment or may bring an action in a court of competent jurisdiction to foreclose the lien thereof against the property, and there shall be added to the amount of such assessment interest and costs as aforesaid.

Said assessments or charges shall be subordinate in lien to the lien of any mortgage or mortgages on the property which is subject to such charges regardless of when said mortgage or mortgages were created or when such charges accrued; provided, that such subordination shall apply only to charges that shall have become payable prior to the passing of title under foreclosure of such mortgage or mortgages and the transferee shall not be liable for payment of any assessment accruing prior to said foreclosure, but nothing herein shall be held to affect the rights herein given to enforce the collection of such charges accruing after sale under foreclosure of such mortgage or mortgages; and provided further, that such charges accruing after sale shall also be subordinate in lien to the lien of any further mortgage or mortgages which are placed on property subject to such charges, with the intent that no such charges shall at any time be prior in lien of any mortgage or mortgages whatsoever on such property.

Section 7. Assessment Lien Docket. The Association shall keep an Assessment Lien Docket at the registered office of Mendenhall Village Homeowners Association, a Delaware corporation. Immediately upon assessment's becoming delinquent as hereinabove provided, the Treasurer of the Association shall cause an entry thereof to be made in the Docket, which entry shall disclose the date the entry is made, the names of the owners of the subject lot as shown in the Association's records, the number of the lot, the amount of the delinquent assessment, the due date and the assessment period of the delinquent assessment.

Upon written inquiry of any lot owner or any attorney-at-law who certified to the Association that he represents either an owner of a Lot or of a purchaser thereof, the Treasurer, upon receipt of \$1.00 as service charge, shall certify to the inquiring owner or attorney-at-law as to the assessment status of the lot which is the subject of the inquiry, stating:

- (a) whether the current assessment is paid; and/or

(b) if there are any delinquent assessments, all of the information entered in the Lien Docket with respect to the lot which is the subject of the inquiry, together with the per diem interest thereon, to be computed on each delinquent assessment from its respective due date to the date of receipt by the Association of payment thereof in full.

The certificate of the Association shall be binding on the Association. In the event a certificate postage paid and addressed to the inquiring party at its mailing address provided by him is not deposited in the United States mails by the Association within five (5) business days after receipt of written inquiry and service charge, all assessments affecting the lot which is the subject of the inquiry shall be deemed to have been paid in full within the discount period.

Upon receipt by the Association, of payment of any delinquent assessment, with interest and costs, if applicable, as hereinabove provided, the Treasurer shall enter in the Docket the date and amount of the payment received, together with the notation "Paid in Full."

### **CHANGES IN THE DECLARATION**

These covenants and restrictions may be changed, altered, modified, or extinguished in whole or in part, at any time, by an instrument in writing signed by the record owners of two-thirds ( $\frac{2}{3}$ ) of the Lots , which shall be recorded in the Office of the Recorder of Deeds, New Castle County, State of Delaware, excepting, however, that the Declarant, so long as it is the owner of any of said lots shall have the absolute right to amend this Declaration without the joinder of any other owners by executing and recording an amendment in the Office aforesaid, if such amendment is:

(c) required by Federal, State, County or local law, ordinance, rule or regulation; or

(d) required by any mortgagee of improved lots and dwelling houses in the premises; or

(e) required by any title insurance company issuing title insurance to owners and/or mortgagees of same; or

(f) required by the Federal Housing Administration, Department of Housing and Urban Development, Veterans Administration, Farmers Home Administration, Delaware State Housing Authority, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, GNMA or by any like public or private institution acquiring, guaranteeing, or insuring mortgages or providing any type of financial assistance, with respect to dwelling units in the premises.

## **ENFORCEMENT**

Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter or a waiver to enforce the other restrictions contained herein. Action of enforcement may be brought by any owner of any land which is the subject of this Declaration; Declarant reserves the right to assign its power to enforce to Mendenhall Village Single Homes Association by appropriate instrument in writing, recorded in the Office of the Recorder of Deeds, in and for New Castle County, Delaware.

## **NOTICES**

Any notice required to be sent to any member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

## **SEVERABILITY**

Invalidation of any one of these covenants or restrictions or portion thereon by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.