

# *Brookshire Village*


*Second Amended and Restated Amendment  
to Plat Covenants  
of Brookshire Village, all Sections*

*Recorded February 14, 2018*

*And*

*Amended and Restated Code  
of By-Laws  
of Brookshire Village  
Homeowners Association, Inc.*

*Recorded October 21, 2021*

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Jennifer Hayden  
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Cross Reference: Plat Book 4, Page 143  
Plat Book 6, Pages 59-61  
Plat Book 7, Pages 64-65  
Plat Book 8, Pages 125-127  
Plat Book 10, Page 41  
Plat Book 11, Page 35-36  
Plat Book 12, Page 15  
Plat Book 14, Page 45  
Instrument No. 84-3804  
Instrument No. 9609621283  
Instrument No. 2009047413  
Instrument No. 2015043834

**SECOND AMENDED AND RESTATED AMENDMENT TO  
PLAT COVENANTS OF  
BROOKSHIRE VILLAGE, ALL SECTIONS**

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PLAT COVENANTS OF  
BROOKSHIRE VILLAGE, ALL SECTIONS**

This Second Amended and Restated Amendment to the Plat Covenants of Brookshire Village, All Sections, was made as of the date set forth below by the Brookshire Village Homeowners Association, Inc. (hereafter, the "Association").

**WITNESSETH:**

The Brookshire Village subdivision was created by the filing of various Plats with the Hamilton County Recorder. The Plat for Brookshire Village, First Section, was originally filed in Plat Book 4, page 143, and later replatted in Plat Book 6, Pages 59-61, and includes Lots 1 through 63. The Plat for Brookshire Village, Section Two, was filed in Plat Book 7, pages 64-65, and includes Lots 64-104. The Plat for Brookshire Village, Section Three, was filed in Plat Book 8, pages 125-127, and includes Lots 105 through 151. The Plat for Brookshire Village, Section Three-A, was filed in Plat Book 10, page 41, and includes Lots 152-154. The Plat for Brookshire Village, Section Three-B was originally filed in Plat Book 11, pages 35-36, and later replatted in Plat Book 12, page 15 and Plat Book 14, page 45, and includes Lots 155-217 (collectively referred to hereafter as the "Plats").

The Plats all included certain covenants and restrictions that run with the land (hereafter, "Plat Covenants").

The Plat Covenants were amended by an “Amendment to Plat Covenants, of Brookshire Village, All Sections,” which was recorded in the Office of the Recorder of Hamilton County, Indiana on August 5, 2009, as Instrument No. 2009047413 (hereafter, the “Amended Plat Covenants”).

The Amended Plat Covenants were further amended by the “Amended & Restated Amendment to Plat Covenants of Brookshire Village, All Sections,” which was recorded in the Office of the Recorder of Hamilton County, Indiana on August 19, 2015, as Instrument No. 2015043834 (hereafter, the “Amended and Restated Plat Covenants”).

Section 13.3 of the Amended & Restated Plat Covenants provides that the Covenants may be amended at any time upon approval by the Owners of a majority of the Lots comprising all Sections of Brookshire Village whose Owners are in good standing.

On February 6, 2018, the Association held a special meeting of the Association’s members, which meeting was duly called and held in accordance with the Association’s By-Laws and then reconvened on February 13, 2018.

At such special meeting, the Owners of a majority of the Lots comprising all Sections of Brookshire Village voted to approve six (6) amendments to the Amended & Restated Plat Covenants, which amendments have been incorporated into this “Second Amended and Restated Amendment to Plat Covenants of Brookshire

Village, All Sections.” Aside from the six (6) amendments that were voted on and approved at the special meeting, no other provisions of the Amended & Restated Plat Covenants were changed.

This Second Amended and Restated Amendment to Plat Covenants of Brookshire Village, All Sections, supersedes the Amended & Restated Plat Covenants.

NOW, THEREFORE, the following Second Amended and Restated Amendment to Plat Covenants of Brookshire Village, All Sections, shall govern the subdivision, such that all of the platted dwellings, Lots and lands located within Brookshire Village are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following restrictions, all of which were and are declared and agreed to be in furtherance of a plan for the improvement and sale of said dwellings, Lots and lands in Brookshire Village and constitute covenants running with the land and shall be binding upon the Owners and upon the parties having or acquiring any right, title or interest, legal or equitable, in and to the real property or any part or parts thereof subject to such restrictions, and shall inure to the benefit of all successors in title to any real estate in the development:

## ARTICLE I

### NAME

This subdivision shall be known and designated as Brookshire Village, a subdivision located in Hamilton County, Indiana.

## ARTICLE II

### DEFINITIONS

Section 2.1. "Association" shall mean and refer to Brookshire Village Homeowners Association, Inc., an Indiana not-for-profit corporation, its successors and assigns.

Section 2.2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, who by their ownership are automatically members of the Association, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 2.3. "Properties" shall mean and refer to that certain real property described in the Plats of the various Sections of Brookshire Village.

Section 2.4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of all Owners.

Section 2.5. "Lot" shall mean and refer to any plot, plots or parts of plots of land shown upon any recorded subdivision map of the Properties, with the exception

of Common Areas and any land dedicated or conveyed to a public authority, upon which a single-family dwelling has or will be constructed.

Section 2.6. "Board of Directors" shall mean and refer to the Board of Directors of the Association.

Section 2.7. "Plat" shall mean and refer to the subdivision plats of the Properties recorded in the Office of the Recorder of Hamilton County, Indiana, as the same may be hereafter amended or supplemented, and as more fully described in the recitals provisions above.

### ARTICLE III

#### COMMON AREAS; OBLIGATIONS OF THE ASSOCIATION

The Association, subject to the rights of the Owners, shall be responsible for the management and control, for the exclusive benefit of the Owners, of the Common Area and all improvements thereon, and shall keep the same in good, clean, attractive and sanitary condition, order and repair in compliance with the standards of sound property management, and for the maintenance and repair as further set forth in this Declaration.

### ARTICLE IV

#### ACCESS RIGHTS OF THE ASSOCIATION

The Association shall have and is hereby granted an easement for access to all Lots for ingress and egress as reasonably required by its officers, directors,

employees, and their agents and independent contractors, in order to perform its obligations and duties as set forth in this Declaration.

## ARTICLE V

### PROPERTY RIGHTS

Section 5.1. Owners' Easements of Enjoyment. Every Owner shall have a right of easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to every Owner's lot. Any recreational facilities now or hereafter provided in such Common Areas shall be subject to the following provisions:

- (a) The right of the Association to charge reasonable admission and other fees for the use of any common property situated upon the Common Areas.
- (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 Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.
- (c) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed by the Owners. No such dedication or transfer shall be effective unless an instrument, signed by two-thirds (2/3) of the Owners agreeing to such dedication or transfer, has been



recorded, and the written approval of all mortgagees of the Properties is obtained.

- (d) The right of the Association to limit the number of guests of Owners.
- (e) The right of the Association, through its Board of Directors, to determine the time and manner of use of any common properties owned by the Association.

Section 5.2. Delegation of Use. Any Owner may delegate his right of enjoyment to the Common Areas and facilities to the Owner's family, tenants, or contract purchasers who reside on the property.

## ARTICLE VI

### ASSOCIATION, MEMBERSHIP AND VOTING RIGHTS

Section 6.1. Membership. 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.

Section 6.2. Voting Rights. Members of the Association shall be all Owners and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members of the Association. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Section 6.3. Board of Directors. The Owners shall elect a Board of Directors of the Association as prescribed by the Association's By-Laws. The Board of Directors shall manage the affairs of the Association.

Section 6.4. Professional Management. No contract or agreement for professional management of the Association nor any other contract with the Association shall be for a term in excess of three (3) years. Any such agreement or contract shall provide for termination by either party with or without cause without any termination fee by written notice of ninety (90) days or less.

## ARTICLE VII

### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 7.1. Creation of the Lien and Personal Obligation of Assessments.

Each Owner of any Lot by acceptance of a deed therefore, 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 and operating deficits; such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, late fees, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, late fees, costs, and

reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

Section 7.2. Purpose of Assessment. The assessments levied by the Association shall be used exclusively to promote the health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Areas and other purposes as specifically provided herein.

Section 7.3. Amount of Annual Assessments. Annual Assessments shall be determined annually by the Board of Directors as reasonably necessary to sustain the annual expenses. All officers handling funds of the Association shall be appropriately bonded. If the Board proposes an increase in the Annual Assessments of larger than 20% over the prior year's Annual Assessments, such increase must be approved by a majority of the votes of the Owners who are voting in person or by proxy at a meeting duly called for this purpose.

Section 7.4. Special Assessments for Capital Improvements and Operating Deficits. 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 any capital improvement which the Association may from time to time incur, provided that any such assessment shall have the assent of a majority of the votes of the Owners who are voting in person or by proxy at a meeting duly called for this purpose.

Section 7.5. Notice and Quorum for Any Action Authorized Under Sections 7.3 and 7.4. Written notice for any meeting called for the purpose of taking any action authorized under Sections 7.3 and 7.4 shall be sent to all Owners not less than ten (10) days nor more than thirty (30) days in advance of the meeting. At all meetings of the Owners, the presence of twenty percent (20%) of the Owners, in person and by proxy, shall be necessary and sufficient to constitute a quorum for the transaction of business.

Section 7.6. Uniform Rate of Assessment. Both annual and special assessments for Common Area expenses, Common Area capital improvements and operating deficits must be fixed at a uniform rate for all Lots.

Section 7.7. Due Dates. The Board of Directors shall fix any increase in the amount of the annual assessment at least thirty (30) days in advance of the effective date of such increase. Written notice of special assessments and such other assessment notices as the Board of Directors shall deem appropriate shall be sent to every Owner subject thereto. The due dates for all assessments shall be established by the Board of Directors.

Section 7.8. Effect of Nonpayment of Assessments; Remedies of the Association. No Owner may exempt himself or herself from paying Annual or Special Assessments or any other expense lawfully agreed upon, by waiver of the use or enjoyment of the Common Areas, or by abandonment of the Lot belonging to such

Owner. Each Owner is personally liable for the payment of all applicable Assessments. Where the Owner constitutes more than one person, the liability of such persons shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Assessments when due, the lien for such assessment on the Owner's Lot may be foreclosed by the Board for and on behalf of the Association as provided by law. Upon the failure of an Owner to make payments of any Assessments within thirty (30) days after such are due, the Board, in its discretion, may:

- (i) Impose a late charge, which will be considered an addition to the assessment, in an amount to be determined by the Board;
- (ii) Suspend such Owner's right to use the Common Areas within Brookshire Village; and
- (iii) Suspend such Owner's right to vote if the Owner is more than six (6) months delinquent.

The Board may, at its option, bring a suit to recover a money judgment for any unpaid Assessments without foreclosing or waiving the lien securing the same. In connection with any effort to collect or in any action to recover an Assessment, regardless of whether litigation is initiated, the Board, for and on behalf of the Association, shall be entitled to recover from the Owner of the Lot, not only the delinquent Assessments, but also all late charges imposed, all court costs, all costs of

collection, charges, fees and expenses incurred by the Association with respect to such collection effort or action, including but not limited to charges, costs, fees or other expenses incurred by the Association to a managing agent (if any) for administering, monitoring or processing delinquent Owners' accounts, and reasonable attorney's fees. The Association need not accept any tender or a partial payment of an Assessment, or any installment of an Assessment, and all costs, expenses, charges and attorney fees attributable thereto, and any acceptance of any such tender shall not be deemed to be a waiver of the Association's right to demand and receive full payments thereafter. In addition, the Board shall have the power to adopt by Board resolution additional rules and regulations or delinquency procedures.

Section 7.9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. Provided, however, the sale or transfer of any Lot pursuant to the foreclosure of any first mortgage on such Lot (without the necessity of joining the Association in any such foreclosure action) or any proceedings or deed in lieu thereof shall extinguish the lien of all assessments becoming due prior to the date of such sale or transfer.

Section 7.10. Service Agreements. Each Owner hereby agrees to be bound by the terms and conditions of all agreements entered into by the Association. A copy of all such agreements shall be available to each Owner. Any and all agreements may be cancelled on written notice and the term of any such agreement shall not exceed one (1) year. It shall be the duty of the Association through its Board of Directors to effect a suitable contract.

## ARTICLE VIII

### MAINTENANCE

Section 8.1. Exterior Maintenance. Maintenance, upkeep and repairs on any Lot shall be the sole responsibility of the individual Owner of the Lot. Each Owner shall provide or arrange for all exterior maintenance, upkeep and cleaning to the dwelling and any other structures upon each Lot including, but not limited to, as follows: repair and/or replacement of roofs, gutters, downspouts, exterior building surfaces, paint, wood siding, patios, glass surfaces, exterior doors and windows, and anything else on the exterior of the dwelling.

The Owners shall also provide or arrange for all maintenance to the landscaping and lawn care of each Lot including, but not limited to, the following: trimming, pruning and cutting of all trees and shrubbery, the removal of dead trees, limbs and shrubs and landscape plantings as needed. The Owner shall keep the grass properly cut and free of weeds. The Owner is also responsible for maintaining safe

sidewalks and driveways. A dusk to dawn lighting fixture on the street side of the dwelling shall be maintained in good working order and repair.

Wood enclosure fences that are erected on the property lines shall be maintained at the cost of the Owner or both adjacent Owners.

If an Owner of any Lot fails to so maintain his or her Lot or dwelling, the Association shall have the right to enter upon said Lot to correct, repair, maintain and restore the Lot, but only after the Board of Directors has sent at least two (2) written notices to the Owner. The first notice will explain the specific violation and, if possible, suggest steps to remedy the issue. The deadline set forth in the letter will depend on the specific circumstances and type of violation. On or shortly after the deadline date set forth the Board's first letter, the Board will conduct an inspection, with hopes the issue will have been rectified. If the violation persists, the Board will send a second violation letter to the owner, with a new deadline for compliance. On or shortly after the deadline set forth in the second violation letter, the Board will conduct another inspection to determine if the issue has been rectified. If the Owner still has failed to comply in a manner satisfactory to the Board, the Board shall have the right, through its agents and employees, to enter upon said lot and to repair, maintain and restore the lot and the exterior of the improvements erected thereon. Such actions taken by the Board may include hiring lawn maintenance personnel, which would include but not limited to, grass, weeds, and trees. For the exterior of



the improvements, construction personnel such as a plumber, electrician, or carpenter may be retained. In lieu of exercising the above remedies, the Board may consult with the Association's attorney concerning other remedies, including filing suit to request a court-ordered injunction against the violating Owner. All costs incurred by the Association related to such correction, repair, maintenance or restoration, including attorney's fees, shall be and constitute a Special Assessment against such Lot; payable by the Owner upon demand by the Association and collectable in the same manner as provided herein for collection of assessments.

Section 8.2. Repairs. All fixtures and equipment installed upon a Lot, commencing at a point where the utility lines, pipes, wires, conduits or systems enter the Lot, shall be maintained and kept in repair by the Owner thereof. An Owner shall do no act nor any work that will impair the structural soundness or integrity of another living unit or impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other living units or their Owners.

Section 8.3. Maintenance of Common Areas. The Association shall be responsible for the maintenance, repair and replacement of the Common Area and improvements thereon and for maintenance, repair and replacement of any signs, walls, landscaping or other improvements located on or within any sign easements.

Section 8.4. Implied Easement for Maintenance and Repairs. Since many of the homes in Brookshire Village were built very close to one of the side Lot lines of the lot upon which the home was built, it is impractical or impossible for the Owner of such Lot to repair or maintain such side of his or her home without entering the Lot of the next-door neighbor. Thus, there is hereby reserved, for the benefit of the Owner of any Lot, an implied easement for the purpose of entering and encroaching upon an adjoining Lot. Said easement is reserved for the limited purpose of performing maintenance and repair work on the home, and for the encroachment, if any, of the roofs, gutters, overhangs or other improvements resulting from the original construction of the home. The Owner of such a home shall have an implied right of access and use for the limited purposes described above. Any Owner or his or her contractors or agents entering upon a Lot under the rights granted hereunder shall be responsible for repair of any damage resulting from the use of the area of the next-door neighbor's Lot.

## ARTICLE IX

### USE RESTRICTIONS

Section 9.1. Residential Restriction. All Lots are hereby restricted to residential dwellings for residential use. All buildings or structures erected upon said Properties shall be of new construction and no buildings or structures shall be moved from other locations onto said Properties and no subsequent buildings or structures

other than single family living units, which may be joined together with a common party wall, shall be constructed. Effective as of the date of recording of this Amendment, no structures of a temporary character, trailer, tent, shack, garage, barn or other outbuilding shall be placed on any portion of said Properties at any time, either temporarily or permanently.

Section 9.2. Vehicles. There shall be no parking of any vehicles in the street for more than a period of twenty-four (24) hours at a time, and no trailers, boats, trucks (excluding sport utility vehicles and pick-up trucks), contractor vehicles or repair equipment shall be parked on the street overnight, unless approved by the Board of Directors. No Owners or other residents shall repair or restore any vehicle of any kind within the Properties, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility. No junk or derelict vehicle or other vehicle on which current registration plates are not displayed shall be kept on the Properties. Any vehicle in violation of the above shall be subject to being towed at the expense and risk of the Owner thereof.

Section 9.3. Conveyances. Each Lot shall be conveyed as a separately designated and legally described freehold estate subject to the terms, conditions and provisions hereof.

Section 9.4. Business Activities and Home Occupations. No industry, business, manufacturing, mercantile, storing, trade, or any commercial activity,

educational or otherwise, designed for profit, altruism or otherwise, shall be conducted, practiced or permitted on the Properties; provided, however, that an Owner may maintain an office or home business in the home if: (1) such office or business generates no significant number of visits or unreasonable parking usage (both as determined by the Board of Directors) by clients, customers or other persons related to the business; (2) no equipment or other items related to the business are stored, parked or otherwise kept outside such Owner's home; (3) there are no employees or independent contractors within the home other than the Owner or other resident; (4) such Owner has obtained approvals for such use as may be required by the appropriate local and state governmental agencies; (5) the Owner complies with all provisions of the applicable ordinances, including the "home occupations ordinance"; and (6) all other provisions herein are complied with.

Section 9.5. Animals. The City of Carmel ordinances shall apply in that no animals such as livestock or other farm animals of any kind shall be raised, bred or kept on any Lot or property in Brookshire Village, except that dogs, cats or other household pets may be kept in reasonable numbers provided that they are not kept, bred or maintained for any commercial purposes and that they do not create a nuisance. In accordance with the Carmel City ordinances, all pets are to be kept on leashes or otherwise contained and no pet can run at large. All "messes" made by pets are to be removed by the Owner immediately. The appropriate governmental

authorities shall have an easement across the Properties to enforce the local animal control laws and ordinances. Contrary to a Carmel City ordinance allowing the raising of hens, chickens or roosters, the raising or keeping of hens, chickens, roosters, or other such fowl or poultry, is not allowed on any property in Brookshire Village.

Section 9.6. Advertising Signs and other Prohibited Activities. No advertising signs (except one of not more than five square feet "for rent" or "for sale" sign per lot,) billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on said Properties, nor shall said Properties be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any living unit or any resident thereof. Any signs erected temporarily at entrances or other locations, (i.e. realtor, contractor, etc.) shall be removed by that person when completed.

Section 9.7. Storage. All equipment and storage piles shall be kept screened by adequate planting or fencing so as to completely conceal them from view of neighboring living units and streets. All clotheslines shall be confined to patio area. All garbage, rubbish and trash shall be kept in the trash receptacle (unless exception approved by trash vendor) and the trash receptacle shall be kept in the garage until pickup date.

Section 9.8. Setbacks. Each Owner shall comply with the setback requirements as shown on the Plat for each applicable Section of Brookshire Village.

Section 9.9. Discriminatory Actions. No actions shall at any time be taken by the Association or its Board of Directors which in any manner would discriminate against any Owner or Owners in favor of the other Owners.

Section 9.10. [deleted]

Section 9.11. Swimming Pools, Spas and Hot Tubs. No in-ground pool or in-ground or above ground spa or hot tub may be erected or installed on an Owner's Property without first obtaining the written consent of the Architectural Control Committee of the Association. The pool, hot tub or spa must be installed in a back or side yard that is completely enclosed by a privacy fence of such height and composition that the pool, spa or hot tub and their occupants are not at all visible from the nearby streets, sidewalks or the first floor levels of neighboring or adjoining residences. Plans of the pool, spa or hot tub must be submitted in advance to, and approved by the Committee, showing the size, kind, shape, height, depth, materials, colors and exact location on the property where it will be installed or erected. Further, it must be demonstrated that all required permits have been obtained approving the installation by the appropriate authorities from the City of Carmel and/or Hamilton County. No above ground swimming pools are permitted except for small shallow portable pools used for infants or toddlers.

Section 9.12. Satellite Dishes and Exterior TV and Radio Antennas. Satellite dishes for the reception of TV or internet signals which are circular or oval in shape and no greater than one (1) meter in diameter, such as those sold by Direct TV or Dish Network, are permitted if installed in a location where the dish is not readily visible by persons in the nearby public streets or sidewalks, or from the first floor levels of adjoining or nearby residences. If the satellite dish installer certifies that a TV and/or internet signal cannot be received by the satellite dish from a location anywhere on the Owner's property that is not visible to the public or from the first floor levels of adjoining or nearby residences then the Architectural Control Committee of the Association must be notified in order to assist and supervise the installation of the satellite dish at a location where a signal can be obtained but it is as minimally visible to the public or neighbors as possible. Radio or ham radio tower antennas are not permitted, nor are external or roof mounted TV aerial antennas. Satellite dishes or TV or radio antennas installed in violation of this covenant are subject to being removed or relocated at the Owner's expense. Satellite dishes or antennas installed at the time this covenant addition first becomes effective are grandfathered and not subject to these restrictions.

## ARTICLE X

### ARCHITECTURAL CONTROL

Section 10.1. Approval of Buildings, Fences, Etc. No building, improvement, fence, wall or other structure (excluding such structures incorporated in the construction of a new dwelling) shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change (including any change in color) or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, colors, 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 an Architectural Control Committee ("Committee") composed of three (3) or more representatives appointed as hereinafter described. Such written application shall be in the manner and form prescribed from time to time by the Committee and, in the case of construction or placement of any improvement, shall be accompanied by two (2) complete sets of plans and specifications for the proposed improvement. Such plans shall include plot plans showing the location of all improvements existing upon the Lot and the location of the improvement proposed to be constructed or placed upon the Lot, each properly and clearly designated. Such plans and specifications shall set forth the color and composition of all exterior materials proposed to be used and any proposed landscaping, together with any other material or information which the



Committee may reasonably require. In the event the designated committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

Section 10.2. Architectural Control Committee. The members of the Architectural Control Committee shall be appointed by the Board of Directors. Such members may thereafter be removed by the Board of Directors and the Board shall have the right to appoint new members of the committee from time to time. The members of the Board of Directors may serve as members of the committee. The Committee shall approve or disapprove, in writing and within thirty (30) days, each request made to it. Any disapproval shall list the specific reasons for disapproval. The Committee shall maintain a record of requests submitted, noting the date received, name and address of the Owner, a project summary, and the date approved or denied and by whom. The Committee shall retain a copy of all requests for its files. The failure of the committee to respond within thirty (30) days after receipt of a request by it shall be deemed to be an approval. After an Owner receives an approval from the Architectural Control Committee, the Owner shall have up to six (6) months to commence the approved work. After six (6) months, if the work has not commenced, the approval shall be deemed to be withdrawn, and the Owner must

EXHIBIT A

Architectural Rules of Brookshire Village

The Architectural Committee and the Board of Directors have agreed to require that any mailbox post or mailbox being repaired, painted, or replaced be constructed of a wood post painted black and a black metal box. Any streetlamp post or fixture being repaired, painted or replaced is to be black in color.

The Architectural Committee and the Board of Directors have agreed to require any new fence or full fence replacement be constructed of wood in a shadow box design. Height and color of fencing shall be at the discretion of the Architectural Committee.

The Architectural Committee and the Board of Directors have agreed to clarify the definition of a "structure" as that word is used in the last sentence of Section 9.1 of the Second Amended & Restated Amendment to the Plat Covenants. "Structure" shall not apply to, and shall not be deemed to prohibit, items such as pergolas, sports equipment, and recreational equipment. Erection or installation of any such kind of improvement will be permitted so long as the Owner submits an application to the Architectural committee and the Committee approves it in writing. The Architectural Committee shall review each application on a case by case basis, taking into consideration those factors the Committee deems appropriate.

Brookshire Village Homeowners Association, Inc.

By Dixiana Packard  
Dixiana Packard, President

By Pauline F. Scholer  
Pauline Scholer, Secretary

STATE OF INDIANA )

COUNTY OF Hamilton )

Before me a Notary Public in and for said County and State, personally appeared Dixiana Packard, and Pauline Scholer, the President and Secretary, respectively, of Brookshire Village Homeowners Association, Inc., who acknowledged execution of the foregoing Amendments to Plat Covenants of Brookshire Village, for and on behalf of Brookshire Village Homeowners Association, Inc., and who, having been duly sworn, stated that the representations contained herein are true.



submit a new written request to the Architectural Control Committee to that it can be reconsidered.

Section 10.3. Power of Disapproval. In its sole discretion, the Committee may refuse to approve any application for a requested change made to it when:

(a) The plans, specifications, drawings or other materials submitted are inadequate or incomplete, or show the requested change to be in violation of any of the terms of these covenants;

(b) The design or color scheme of a requested change is not in harmony with the general surroundings of the Lot or with the adjacent homes or related improvements; or

(c) The requested change, in the opinion of the Committee, would not preserve or enhance the value and desirability of the Properties or would otherwise be contrary to the interests, welfare or rights of the Association or any other Owner.

Section 10.4. Rules and Regulations. The Committee, from time to time, and with the concurrence of the Board of Directors, may promulgate, amend or modify additional rules and regulations, architectural guidelines, fence criteria, or building policies or procedures as it may deem necessary or desirable to guide Owners as to the requirements of the Committee for the submission and approval of requested changes.

## ARTICLE XI

### EASEMENTS

Section 11.1. Construction Easement. Each Lot subject to this Declaration and the Property included in the Common Areas shall be subject to an easement for encroachments created by construction, settling and overhangs, as designed and constructed by a Contractor. A valid easement for said encroachments and for the maintenance of the same, so long as it stands, shall and does exist. In the event any attached homes are in need of repair, the Owners of the living units so affected agree that minor encroachments of parts of the adjacent living units or Common Areas due to the repair shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

Section 11.2. Drainage, Utility and Sewer Easements. As noted on the Plats, there have been reserved portions of the Lots as Drainage, Utility and Sewer Easements.

The Association further reserves unto itself an easement and right of way in and to the Common Areas and an easement of ingress and egress through so much of the remainder of the Properties as is reasonably necessary or appropriate, to perform such actions as are required or are reasonably necessary or appropriate for the purpose of establishing and maintaining proper surface water drainage throughout the Properties including the construction, repair and maintenance of retention and

detention ponds or lakes in accordance with the requirements of all governmental agencies having jurisdiction. Provided, however, the reservation of this easement and terms and provisions contained herein shall not be construed so as to impose upon the Association any higher or different duty or obligation than is imposed by applicable law.

Section 11.3. Blanket Easement. There is hereby created a blanket easement upon, across, over and under all of said Property for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewers, gas, telephones and electricity. By virtue of this easement, it shall be expressly permissible for the providing of electrical and/or telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of said living units. An easement is further granted to all police, fire protection, ambulance workers and all similar persons to enter upon the streets and Common Areas in the performance of their duties. Further, an easement is hereby granted to the Association, its officers, agents, employees, and to any service company selected by the Association to enter in or to cross over the Common Area to perform the duties of maintenance and/or repair of the Common Area provided for herein.

Notwithstanding anything to the contrary contained in this paragraph, no sewer, water lines, electrical lines, or other utilities may be installed or relocated on said Property except as initially programmed and approved by the Association's Board of

Directors. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by separate recorded document, the Board shall have the right to grant such easement on said Property without conflicting with the terms thereof. The easements provided for in this Article shall in no way affect any other recorded easement on said premises.

Section 11.4. Underground Electrical Services.

- (a) Underground single phase electric service shall be available to living units on the aforesaid Lots and to any recreational facilities to be constructed on the Common Area, and the metering equipment shall be located on the exterior surface of the wall at a point to be designated by the utility company. The utility company furnishing the service shall have an easement as designated on the Plat thereof.
- (b) For so long as such underground service is maintained, the electric service to each living unit and any recreational facilities shall be uniform and exclusively of the type known as single Phase 120/140 volt, 3 wire, 60 cycle alternating current.
- (c) Easements for the underground service may be crossed by driveways and walkways provided a Builder makes prior arrangements with the utility company furnishing electric service. Such easements for the underground service shall be kept clear of all other improvements, including but not

limited to buildings, patios, or other pavings, other than crossing walkways or driveways, and neither the Association nor any utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees, or servants to shrubbery, trees, flowers or other improvements of the Owner located on the land covered by said easements.

Section 11.5. Easement of Signs. The Association reserves unto itself the right and easement to erect and maintain signs, walls, landscaping and the like within the Common Area or upon any sign easements shown on the Plats.

## ARTICLE XII

### INSURANCE

Section 12.1. Casualty Insurance. The Association shall purchase such casualty insurance policy or policies as the Board of Directors shall deem appropriate.

Section 12.2. Liability Insurance. The Association shall also purchase public liability insurance in such amount or amounts as the Board of Directors shall deem appropriate from time to time. Such comprehensive public liability insurance policy shall cover the Association, its Board of Directors, any committee or organ of the Association or Board of Directors, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to the Association.



The Association shall also obtain any other insurance required by law to be maintained, including but not limited to workmen's compensation insurance, and such other insurance as the Board of Directors shall from time to time deem necessary, advisable or appropriate. Such insurance shall inure to the benefit of each Owner, the Association, its Board of Directors, and any managing agent acting on behalf of the Association. Premiums for all such insurance shall be common expenses. Each Owner shall be deemed to have delegated to the Board of Directors his right to adjust with the insurance companies all losses under policies purchased by the Association.

### ARTICLE XIII

#### GENERAL PROVISIONS

Section 13.1. Right of Enforcement. In the event of a violation, or threatened violation, of any of the covenants, conditions and restrictions herein enumerated, the Association, the persons in ownership from time to time of the Lots and all parties claiming under them shall have the right to enforce the covenants, conditions and restrictions contained herein, and pursue any and all remedies, at law or in equity, available under applicable Indiana law, with or without proving any actual damages, including the right to secure injunctive relief or secure removal by due process of any structure not in compliance with the covenants, conditions and restrictions contained herein, and shall be entitled to recover reasonable attorneys' fees and the costs and

expenses incurred as a result thereof. Failure by the Association or by an Owner 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's Board of Directors shall have the right to adopt covenant enforcement procedures and to amend them from time to time.

Section 13.2. 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.

Section 13.3. Amendment. Notwithstanding any provision in the original Plat Covenants to the contrary, these Covenants may be amended at any time upon approval by the Owners of a majority of the Lots comprising all Sections of Brookshire Village whose Owners are in good standing. For purpose of this provision, "good standing" shall mean Owners who are no more than thirty (30) days delinquent on the payment of installments of their Annual Assessments or Special Assessments as determined by the Board at the time of the aforesaid approval. Such approval may be obtained:

- (a) at a meeting of the members of the Association duly called and held in accordance with the provisions of the Association's By-Laws; and/or

(b) pursuant to any other procedure recognized under Indiana law, including those recognized under the Indiana Nonprofit Corporations Act of 1991, as amended,  
or in any combination thereof.

The President and Secretary of the Association shall execute the amendment, certifying that the Owners of a majority of the Lots comprising all Sections of Brookshire Village who are in good standing have approved such amendment. Thereafter, the amendment shall be filed with the Hamilton County Recorder.

Section 13.4. Mortgagee Rights. Any lender or lenders holding a first mortgage or first mortgages upon any Lot or Lots may, jointly or singly, pay any real estate taxes or other taxes or charges which are in default and which may or have become a charge or lien against any Common Area or any property owned by the Association and such lender or lenders may pay any overdue premiums on any hazard, casualty, liability or other insurance policies or secure new insurance coverage on the lapse of any policies for any such Common Area or other property owned by the Association or covering any property for which the Association has an obligation to maintain insurance coverage. Any such lender or lenders making payments in accordance with this section shall be entitled to immediate reimbursement therefore from the Association along with any costs incurred, including reasonable attorneys' fees.

Section 13.5. Notice to Mortgagees. The Association, upon request, shall provide written notification to any lender holding a first mortgage upon any Lot specifying the defaults of the Owner of such Lot, if any, in the performance of such Owner's obligations under this Declaration, the Articles of Incorporation of the Association, its By-Laws or any other applicable documents which default has not been cured within sixty (60) days.

Section 13.6. Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions thereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

Section 13.7. Controlling Document. If there is any conflict between the provisions of this Amendment and the original Plat Covenants or any Plat of a part of the Properties, the terms and provisions of this Amendment shall be controlling. If there is any conflict between the provisions of this Amendment and the By-Laws of the Association, the terms and provisions of this Amendment shall be controlling. Conflict, as used herein, shall mean a situation where the application of the language in one document contradicts the language in another document. Conflict does not occur where language in one document is simply more restrictive than language in another document.

ARTICLE XIV  
RENTAL RESTRICTIONS

Section 14.1. General Prohibition of Leased Lots (“Rental Ban”). The Association’s members recognize that an owner-occupant is both psychologically and financially invested in a home to a greater extent than a renter, and thus owner occupants maintain their property better than renters generally. The Association’s members wish to ensure that the residents within Brookshire Village share the same proprietary interest in and respect of the Lots and the subdivision, and to encourage residents to not only maintain property values but also to improve them by recognizing that owner occupants have more incentive to do so compared to non-owner occupants. Thus, there shall be no leasing or rental of any Lot except as otherwise provided in this Article XIV. For purposes of this Article XIV, “rent”, “lease” are deemed to have the same meaning and are used interchangeably.

Section 14.2. Effective Date of the Rental Ban on Existing Rentals. Within fifteen (15) days after the date on which this Article XIV is filed in the Office of the Recorder of Hamilton County (the “Recording Date”), the Board of Directors shall provide written notice to all Owners setting forth the Recording Date. The Rental Ban of Section 14.1 shall not apply to the Owner of any Lot in Brookshire Village who, as of the Recording Date, is renting or leasing to a non-owner occupant, so long as the Owner-landlord mails or otherwise delivers to the Board (at the address shown

in the notice of the Recording Date), within sixty (60) days after the Recording Date, a copy of each executed lease of such Owner-landlord's Unit (or Units) which is in effect as of the Recording Date. Those Dwelling Units will be referred to as "Grandfathered Lots". Such lease copies may have the rental amount deleted along with personal identifying information such as social security numbers. The Owners of Grandfathered Units shall not be subject to the provisions of Section 14.1, but shall be subject to the remaining provisions of this Article XIV. However, when the legal owner of record of any Grandfathered Lot sells, transfers or conveys such Lot to another Owner after the date of recording of this provision, or if the legal Owner ceases to rent the Grandfathered Lot and it becomes Owner occupied, or if it becomes vacant for a period of twelve (12) months or more, such Lot shall immediately become subject to all of the provisions of this Article XIV, including Section 14.2.

Section 14.3. Hardship Exceptions and Waiver. Notwithstanding Section 14.1 above, if an Owner wishes to lease a Lot, the Owner must submit a written request to the Board of Directors. The request must establish, to the Board's satisfaction, that the rental ban would cause undue hardship due to the Owner's existing circumstances. A majority of the entire Board of Directors must approve or deny, in writing, the Owner's request. The Owner must comply with all other requirements imposed under this Article XIV pertaining to rental property and any further

conditions or limitations imposed at the Board's discretion. Such decision shall be at the sole discretion of the Board and in no event is the Board obligated to grant such a request.

Section 14.4. General Lease Conditions.

- a. All leases, including renewals, shall be in writing, and no lease shall be entered into for an initial term of less than one (1) year without the prior written approval of the Board of Directors.
- b. A copy of each executed lease by an Owner which identifies the tenant (but which may have the rental amount and other personal identifying information such as social security numbers deleted) shall be provided to the Association Board by the Owner within thirty (30) days after execution.
- c. No portion of any lot other than the entire Lot shall be leased for any period.
- d. No subletting shall be permitted.
- e. All leases shall be made expressly subject and subordinate in all respects to the terms of these Amended and Restated Plat Covenants, the By-Laws, Articles of Incorporation, and any rules and regulations promulgated by the Board of Directors, as amended, to the same extent as if the tenant were an Owner and a member of the Association.
- f. The Owner shall supply copies of such legal documents to the tenants prior to the effective date of the lease.
- g. All leases shall provide for direct action by the Association and/or any Owner against the tenant with or without joinder of the Owner of such Lot. If such provision is not in the lease, it will be deemed to be in such lease.
- h. The Owner cannot be delinquent in the payment of any assessment or other charges to the Association. If at any time an Owner becomes delinquent, the board shall have the right to revoke said Owner's right to lease the Owner's Lot, even if during the term of the lease.

- i. The Board of Directors shall have the power to promulgate such additional rules and regulations as, in its discretion, may be necessary or appropriate concerning leasing.
- j. All Owners who do not reside in the Lot shall provide the Board of Directors with the name and contact information of the tenant(s) and any other residents living in the home.
- k. All leases must be restricted to single family occupancy.
- l. All leases must limit the number of vehicles the occupants can have or park on the property to no more than two (2) without written exception granted by the Board of Directors.
- m. It is ultimately the responsibility of the Owner, not the tenant or other occupant, to maintain the dwelling and Lot pursuant to Section 8.1 above.
- n. The tenant, and all other occupants or guests of the tenant and/or a Lot, shall comply with the "Crime Free Condition" as set forth in Section 14.8 below.

Section 14.5. Owner is Still Liable. No lease shall provide, or be interpreted or construed to provide, for a release of the Owner from his or her responsibility to the Association and the other Owners for compliance with the provisions of these Amended & Restated Plat Covenants, the Articles of Incorporation, the By-Laws, and any rules and regulations promulgated by the Board of Directors, or from the Owner's liability to the Association for payments of assessments or any other charges.

Section 14.6. Violations. Any lease or attempted lease of a Lot in violation of the provisions of this Article XIV shall be voidable at the election of the



Association's Board of Directors or any other Owner, except that neither party to such lease may assert this provision of this Article XIV to avoid its obligations thereunder. In the event of a violation, the Board of Directors, on behalf of the Association, or any Owner, shall have the right to exercise any and all available remedies at law or equity in the same manner and with the same rights as for any other violations of the Plat Covenants and By-Laws.

Section 14.7. Institutional Mortgagees. The provisions set forth in this Article XIV shall not apply to any institutional mortgagee of any Lot which comes into possession of the Lot due to any remedies provided by law or in equity or in such mortgage or as a result of a foreclosure sale or other judicial sale or as a result of any proceeding, arrangement, or deed in lieu of foreclosure. However, when a Lot is sold or conveyed by such an institutional mortgagee to a subsequent purchaser, that subsequent purchaser shall be bound by the provisions of this Article XIV.

Section 14.8. Crime Free Condition. No Tenant (which term in this Section shall include any member of the Tenant's household or a guest or other person under the Tenant's control) shall engage in criminal activity, including drug-related criminal activity, within any portion of Brookshire Village, including any home or Lot. "Drug-related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with the intent to manufacture, sell, distribute, or use of a controlled substance (as defined in Section 102 of the Controlled Substance Act,

21 U.S.C. 802). No Tenant shall engage in any act intended to facilitate criminal activity, including drug-related criminal activity, within any portion of Brookshire Village, including any home or Lot. No Tenant shall permit any home or Lot to be used for, or to facilitate, criminal activity, including drug-related criminal activity, regardless of whether the individual engaging in such activity is a member of the Tenant's household or a guest. No Tenant shall engage in the unlawful manufacturing, selling, using, storing, keeping, or giving of a controlled substance, as defined in Ind. Code 35-48, at any location, whether on or near the Owner's Lot, the Brookshire Village property or otherwise. No Tenant shall engage in any illegal activity, including prostitution as defined in Ind. Code 35-45-4-2, criminal street gang activity as defined in Ind. Code 35-45-9-1, threatening or intimidating as prohibited by Ind. Code 35-45-2-1, battery as prohibited by Ind. Code 35-42-2-1, including but not limited to the unlawful discharge of firearms, within any portion of Brookshire Village, or any other activity that otherwise jeopardizes the health, safety and welfare of any other Brookshire Village resident or involving imminent or actual serious property damage. Violation of any of the above shall constitute grounds for the Association to seek equitable relief against the applicable Owner and Tenant for the immediate termination of the lease and the vacation of the premises by the Tenant.

Section 14.9. Family Occupancy. For purposes of this Article XIV, any occupancy of a Lot by the immediate family member(s) of an Owner (parents, children, spouse, or siblings), shall not be considered a lease or rental, even if the Owner is not an occupant of the Lot. However, when the occupancy by immediate family ceases, the Owner and the Lot shall be subject to all provisions of this Article XIV. However, when immediate family member(s) occupy the home, that will not exempt them or the Owner from complying with all of the other covenants and restrictions set forth in these Plat Covenants. Violations will be addressed by the Board in the same way that the Board addresses problems with Owner occupants.

Section 14.10. Burden of Proof. Anything to the contrary herein notwithstanding, if at any time a Lot is not occupied by one of the Owners thereof, there shall be a presumption that the Lot is being leased and subject to the provisions of this Article XIV and the Owners shall have the burden of proving to the satisfaction of the Board of Directors that the occupancy is not in violation of the terms of this Article XIV, including but not limited to the delivery to the Board of Directors of a written statement of the nature and circumstances of the occupancy and any written document or memorandum that is the legal basis for the occupancy. For purposes of this Article XIV and this Section 14.10, any occupancy (including occupancy pursuant to a rent to buy contract or similar arrangement or pursuant to any option to purchase) by anyone other than an Owner shall be deemed to be a

lease, rental or other similar arrangement, unless the Owner delivers to the Board of Directors a written purchase contract, conditional sales contract or similar contract whereby the occupant is unconditionally and presently legally obligated to purchase the Lot.

Certification. The undersigned officers of Brookshire Village Homeowners Association, Inc. hereby certify that all requirements for and conditions precedent to the foregoing have been fulfilled, and that the attached proxies and ballots are true and accurate copies of the originals that are part of the records of Brookshire Village Homeowners Association, Inc.

In witness whereof, Brookshire Village Homeowners Association, Inc. has caused this document to be executed by two of its officers.

[signature page follows]

Brookshire Village Homeowners Association, Inc

By Dixiana Packard  
Dixiana Packard, President

By Pauline F. Scholer  
Pauline F. Scholer, Secretary

STATE OF INDIANA )  
 ) SS:  
COUNTY OF HAMILTON )

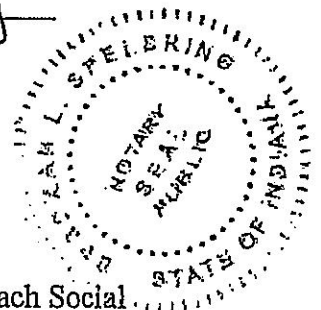
Before me, a notary public in and for said County and State, this day personally appeared Dixiana Packard and Pauline F. Scholer, the President and Secretary of Brookshire Village Homeowners Association, Inc., respectively, and acknowledged the execution of the foregoing Second Amended and Restated Amendment to Plat Covenants of Brookshire Village, All Sections, for and on behalf of Brookshire Village Homeowners Association, Inc.

WITNESS my hand and Notary Seal this 14<sup>th</sup> day of February, 2018.



Deborah L. Spelbring  
Notary Public, signature

Deborah L. Spelbring  
Printed



My commission expires: 2-21-2026

County of Residence: Hamilton

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law." P. Thomas Murray, Jr., Esq.

This instrument prepared by, and should be returned to, P. Thomas Murray, Jr., EADS MURRAY & PUGH, P.C., Attorneys at Law, 9515 E. 59<sup>th</sup> St., Suite B, Indianapolis, IN 46216. (317) 536-2565.