

VILLAGE OF SOUTH LEBANON, OHIO  
RESOLUTION NO. 2016-44

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE CONSENT  
AGREEMENT FOR THE AMENDMENT OF THE ROADWAY DECLARATION FOR  
STONELAKE AT RIVER'S BEND**

WHEREAS, Lifestyle Communities by Miller Valentine at Stonelake, LLC executed a Declaration of Easement for Ingress and Egress ("Declaration") on November 30, 2007, which is recorded in OR Volume 4592 Page 377, Warren County, Ohio Recorder's Office; and

WHEREAS, Section 10 of the Declaration states:

Declarant agrees that, as part of approval of the PUD, that the Roadway shall remain a private street. Therefore, Declarant covenants that Declarant will not seek to have such streets converted to public streets or otherwise dedicated to the Village. Upon transfer of the Roadway to the Association as part of the Common Areas of the Association, the Association shall not be permitted to seek to have such streets converted to public streets or otherwise dedicated to the Village. This restriction shall remain in effect for so long as this Declaration is in place and shall be binding upon Declarant, the Association, and their respective successors, assigns and designees[;]

WHEREAS, Section 18 of the Declaration states

No part of this Declaration may be amended or terminated without the prior written consent of the owner(s) of the Roadway and the Village[;]

WHEREAS, the Stonelake at River's Bend Homeowner's Association, Inc., executed an amendment to the Declaration ("Amendment"), a copy of which is attached hereto as Exhibit A. Section 4 of the Amendment permits the roadway as defined in the Declaration to be converted to public streets or otherwise dedicated to the Village.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the Village of South Lebanon, Ohio, at least a majority of all members elected thereto concurring:

**Section 1.** That the Mayor is authorized to execute the consent agreement attached hereto as Exhibit B, thereby consenting to the amendment of the Declaration as stated in Exhibit A.

**Section 2.** That the Council is acting in its administrative capacity in adopting this Resolution.

**Section 3.** That the recitals contained within the Whereas Clauses set forth above are incorporated by reference herein.

**Section 4.** That it is found and determined that all formal actions of the Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of Council in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Adopted this 5<sup>th</sup> day of January, ~~2016~~ <sup>2017</sup>.

Attest: Sharon Louallen James D. Smith  
Sharon Louallen, Fiscal Officer/Clerk James D. Smith, Mayor

Rules Suspended: / /2016 (if applicable) /2016	Effective Date - / /
Vote - ___ Yeas ___ Nays	
First Reading - <u>12/1</u> /2016 /2016	Effective Date - / /
Second Reading - <u>12/15</u> /2016	
Third Reading - <u>1/5</u> <del>2016</del> <sup>2017</sup>	
Vote - <u>6</u> Yeas ___ Nays	

Prepared by and approved as to form:

PAUL R. REVELSON  
VILLAGE SOLICITOR  
SOUTH LEBANON, OHIO

By:  \_\_\_\_\_

Date: 15 ~~2016~~ 2017

# Exhibit A

## THIRD AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND RESERVATION OF EASEMENTS FOR STONELAKE AT RIVER'S BEND, AND AMENDMENT TO ROADWAY DECLARATION

THIS THIRD AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND RESERVATION OF EASEMENTS FOR STONELAKE AT RIVER'S BEND, AND AMENDMENT TO ROADWAY DECLARATION ("Third Amendment") is made this 18 day of October, 2016, by the Owners of the Stonelake at River's Bend Homeowners' Association, Inc. ("Association") an Ohio non-profit corporation.

### RECITALS

- A. The properties mentioned and listed in the Legal Description attached hereto and incorporated by reference herein as Exhibit A (collectively the "Subdivision") are subject to that certain Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Stonelake at River's Bend recorded December 14th, 2007, in Official Record Volume 4592, Page 387 of the Warren County, Ohio Records (the "Declaration").
- B. The Declaration was subsequently amended by the First Amendment to Declaration, recorded April 15, 2011 at the Warren County Official Record Volume Vol. 5302, Page 608, et seq.
- C. The Declaration was subsequently amended by the Second Amendment to Declaration, recorded August 3, 2011 at the Warren County Official Record Volume Vol. 5355, Page 527, et seq.
- D. The Association, as successor to the Declarant, is also party to that certain Declaration of Easement for Ingress and Egress recorded December 14, 2007 at the Warren County Official Record Volume Vol. 4592, Page 377, et seq. (hereinafter "Roadway Declaration"), which relates to the existing roadway as described in the Legal Description attached hereto and incorporated herein by reference as Exhibit B (the "Existing Roadway").

- E. The Association now desires to amend the Declaration and the Roadway Declaration, in accordance with the terms and conditions set forth below.

### AMENDMENT

NOW, THEREFORE, in consideration of the mutual promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Incorporation of Recitals. The foregoing recitals and definitions are hereby incorporated into and made a part of this Third Amendment, as though restated and set forth verbatim in this Section.

2. Authority to Amend. Pursuant to Section 16.2 of the Declaration, the Owners of at least sixty-seven percent (67%) of all Lots located in the Subdivision have the authority to amend the Declaration; and pursuant to Section 16.2 of the Declaration and Section 18 of the Roadway Declaration, the Owners of at least sixty-seven percent (67%) of all Lots located in the Subdivision, with the written consent of the Village of South Lebanon, Ohio ("Village") have the authority to amend the Roadway Declaration.

3. Amendment to Declaration by Removal of Private Roadway as part of Common Area:

All references in the Declaration, Code of Regulations, and any other governing document of the Association, including, but not limited to, the definition of Common Areas found in Article 9, Section 9.1 of the Declaration, are hereby amended so as to remove the Existing Roadway also known in the Declaration as the Private Roadway (the street and land more particularly described on Exhibit B attached hereto and incorporated herein), from being included in the Common Areas or Common Elements of the Association. To the extent the Declaration, Code of Regulations, any Amendments, and any drawings of the Association contain any reference to the Existing Roadway as being part of the common areas of the Association, either express or implied, said references are hereby eliminated and/or revised as set forth above. No other changes to the Declaration, Code of Regulations, Amendments, or drawings are made hereby.

4. Amendment to Roadway Declaration. The Roadway Declaration is hereby amended as follows:

- (i) Section 10 of the Roadway Declaration is hereby eliminated and replaced with the following:

10. RESTRICTION ON DEDICATION OF ROADWAY. Declarant agrees that, as part of the approval of the PUD, the Roadway shall remain a private street. Therefore, Declarant covenants that Declarant will not seek to have such streets

converted to public streets or otherwise dedicated to the Village. Upon transfer of the Roadway the Association as part of the Common Areas of the Association, the Association shall not be permitted to seek to have such streets converted to public streets or otherwise dedicated to the Village unless the Association both amends its Declaration to do so, with the approval of sixty-seven percent (67%) of its Owners in accordance with Section 16.2 of the Declaration and obtains written consent of the Village for such action, in accordance with Section 18 of the Roadway Declaration.

- (ii) The Association hereby amends the Roadway Declaration to allow for the Existing Roadway to be converted to public streets or otherwise dedicated to the Village. To the extent the Roadway Declaration of the Association contains any other reference limiting or prohibiting the Existing Roadway from being removed as part of the common areas of the Association, either express or implied, said references are hereby eliminated and/or revised as set forth above. No other changes to the Roadway Declaration are made hereby.

**5. Certification of Homeowners' Association.** Pursuant to Article 16.2 of the Declaration, the President of the Stonelake at River's Bend Homeowners' Association, Inc. (the "Association"), by signing below, hereby certifies and attests to the fact that at least 67% of the Owners within the Subdivision have voted affirmatively to approve this Third Amendment, and that the Village of South Lebanon Ohio has provided the requisite written consent required by Section 18 of the Roadway Declaration, as reflected below.

[This portion intentionally left blank]  
[Signature Page to follow immediately after]



Exhibit A  
Legal Description  
Of Property

Situated in the Village of South Lebanon, Hamilton Township, Warren County, Ohio, Virginia Military Survey No. 1547 and being all of Lots numbered 1 through 60, 61 O/S, 62 O/S, 63 O/S, 64 O/S, 65 ~~GA~~ and Open Space ~~Lot~~ as shown in the Record Plat for Stone Lake recorded in Plat Book 78, Pages 38 and 39, Warren County, Ohio records. *J. W. R.*

<u>Lot Number</u>	<u>Parcel Number</u>	<u>Lot Number</u>	<u>Parcel Number</u>
1	12-01-477-008	33	12-01-477-040
2	12-01-477-009	34	12-01-477-041
3	12-01-477-010	35	12-01-477-042
4	12-01-477-011	36	12-01-477-043
5	12-01-477-012	37	12-01-477-044
6	12-01-477-013	38	12-01-477-045
7	12-01-477-014	39	12-01-477-046
8	12-01-477-015	40	12-01-477-047
9	12-01-477-016	41	12-01-477-048
10	12-01-477-017	42	12-01-477-049
11	12-01-477-018	43	12-01-477-050
12	12-01-477-019	44	12-01-477-051
13	12-01-477-020	45	12-01-477-052
14	12-01-477-021	46	12-01-477-053
15	12-01-477-022	47	12-01-477-054
16	12-01-477-023	48	12-01-477-055
17	12-01-477-024	49	12-01-477-056
18	12-01-477-025	50	12-01-477-057
19	12-01-477-026	51	12-01-477-058
20	12-01-477-027	52	12-01-477-059
21	12-01-477-028	53	12-01-477-060
22	12-01-477-029	54	12-01-477-061
23	12-01-477-030	55	12-01-477-062
24	12-01-477-031	56	12-01-477-063
25	12-01-477-032	57	12-01-477-064
26	12-01-477-033	58	12-01-477-065
27	12-01-477-034	59	12-01-477-066
28	12-01-477-035	60	12-01-477-067
29	12-01-477-036	61 O/S	12-01-477-068
30	12-01-477-037	62 O/S	12-01-477-069
31	12-01-477-038	63 O/S	12-01-477-070
32	12-01-477-039	64 O/S	12-01-477-071
		65 <del>GA</del> O/S	12-01-477-072

(BF)  
FOR ALL



EXHIBIT B

Legal Description of the Property

Situate in the Village of South Lebanon, Hamilton Township, Warren County, Ohio, Virginia Military Survey No. 1547 and being all of Lot 65 an Open Space Lot, as shown on the Record Plat for Stone Lake recorded in Plat Book 78, Pages 46 48, Warren County, Ohio records.

Open Space Lot

Lot 65

12-01-477-072 *JK*  
Easement Only




Exhibit B

WRITTEN CONSENT AND ACKNOWLEDGEMENT


STATE OF OHIO                    )  
  ) ss.  
COUNTY OF WARREN            )

The Village of South Lebanon, Ohio, an Ohio municipal corporation, hereby acknowledges the terms of the above Third Amendment and hereby provides written consent, pursuant to Section 18 of the Roadway Declaration of Easement for Ingress and Egress recorded December 14, 2007 at the Warren County Official Record Volume Vol. 4592, Page 377, et seq., to the Stonelake at River's Bend Homeowners' Association, Inc. to the amendment of the Declaration. By consenting to the Third Amendment, the Village does not warrant that it approves or otherwise authorizes the dedication or conversion of the streets contained in the attached legal description to public streets. The Village of South Lebanon, Ohio hereby acknowledges and certifies that the person signing below is an officer of the Village authorized to take this action, and that the Village of South Lebanon, Ohio has taken and passed all requisite and necessary votes for the approval of this action.

**VILLAGE OF  
SOUTH LEBANON, OHIO**  
An Ohio municipal corporation

  
By: JAMES D SMITH  
Its: MAYOR  
Date: 1-5-17

**BE IT REMEMBERED**, that the foregoing instrument was signed and acknowledged before me, a notary public in and for said state, this 5 day of November, 2016, by Nicole Armstrong the Fiscal Officer of the Village of South Lebanon, Ohio, on behalf of the municipal corporation.

  
Notary Public, State of Ohio  
My Commission Expires 11-22-21  
My Commission Expires  
Recorded in Warren County