

ARTICLE 6

MAINTENANCE OF UNITS; INSURANCE AND CASUALTY LOSSES

By buying or occupying property in Heritage Trails, each Owner commits to maintain his or her Unit in a neat and attractive condition to enhance the overall aesthetic appeal of the community. This Article describes the Owners' responsibilities for maintenance and repair of their Units and for insuring their Units against property damage so that funds will be available for repair and restoration if needed.

6.1. Maintenance by Owners.

Except to the extent that such responsibility is assigned to the Association pursuant to Section 6.2 or Section 9.2, each Owner shall maintain such Owner's Unit, including all structures, landscaping, and other improvements comprising the Unit, in a manner consistent with the Governing Documents and the Community-Wide Standard; provided, no Owner or occupant of a Unit shall modify the exterior or landscaping on his or her Unit without prior approval pursuant to Article 5. Responsibility for maintenance shall include responsibility for repair and replacement necessary to maintain the property to a level consistent with the Community-Wide Standard.

The Association may assume maintenance responsibility for any Unit owned by a Person other than the Declarant upon the Board's determination, pursuant to Article 8, that the level and quality of maintenance then being provided is not consistent with the Community-Wide Standard. The Association may assess the cost of such maintenance against the benefited property as a Specific Assessment pursuant to Section 12.4.

6.2. Maintenance by Association.

(a) Scope of Services. The Association shall be responsible for the following maintenance on each Unit upon completion thereof as described in Section 6.2(b):

(i) maintenance of landscaping installed by the Builder as part of the initial construction on the Units and replacements thereof lying outside of any "Private Yard Area" (i.e., any area of a Unit enclosed by a fence or lying between the dwelling and any separate garage on the Unit), such maintenance to consist of: (A) mowing of grassed areas; (B) edging along sidewalks, driveways and shrub beds; (C) pruning of shrubbery; (D) mulching around trees and shrubs; (E) fertilizing and irrigating planted areas; (F) weed control and treating for disease and insects as the Board deems appropriate; (G) removal and replacement of dead or dying shrubbery and trees, and (H) periodic removal of leaves, branches, and similar lawn debris from landscaped areas, driveways, and sidewalks;

(ii) operation, maintenance, repair and replacement, as necessary, of any irrigation equipment (including, without limitation, any sprinklers, pumps, wells, water lines and time clocks, wherever located) designed to irrigate landscaping lying outside of Private Yard Areas, except that the Association shall have no responsibility for any sprinklers or other irrigation equipment installed by the Owner or occupant of any Unit after initial conveyance of the Unit by the Builder;

(iii) maintenance, repair and replacement of the surface water drainage systems, if any, including collection drains and piping, if any;

(iv) the following maintenance of structures erected or installed by a Builder as part of the original construction on the Units and replacements thereof:

(A) repair and/or replacement, as necessary, of the shingles, flashing, felt, and roof decking of roofs of dwellings and garages, including the roofs of any porches built as part of the original construction of the dwelling or replacements thereof;

(B) cleaning, repair and replacement of gutters and downspouts;

(C) maintenance, repair and replacement of the exterior façade of the dwelling on each Unit, including siding and trim, but excluding: (i) windows, window frames, doors and door frames, except for painting or staining thereof; (ii) any skylights or other glass surfaces; (iii) exterior light fixtures; (iv) window, door and porch screens; and (v) chimneys, if any.

(D) painting or staining, as applicable, of all exterior painted or stained portions of any structures on the Unit, including any garage, garage door, exterior doors, door frames, shutters, façade on the dwelling, and any fences and gates erected or installed by the Builder and replacements thereof (such fences being referred to herein as "**Builder-Installed Fences**");

(E) reglazing and recaulking of the exterior portions of all windows and doors, but only at such time as the Association or its contractor undertakes painting of all exterior painted surfaces; the Association shall have no responsibility for maintaining glazing or caulking between paintings or for air, water, or moisture leaks or damage resulting from the need to reglaze or recaulk windows and doors more frequently, which shall be the Owner's responsibility;

(F) repair and replacement, as necessary, of any Builder-Installed Fences; and

(G) maintenance, repair and replacement of retaining walls, if any, that are not attached to dwellings; and

(H) termite treatment of all exterior walls and foundations of a dwelling and garage; provided, however, that the Association shall not be liable if such treatment proves to be ineffective; and

(I) repair of the dwelling foundation or slab, but only in the event of a slab failure affecting or threatening the foundation of multiple Units within a building (all other aspects, including repair of minor cracks resulting from natural expansion and/or contraction of soil, shrinkage during the curing of concrete, and settlement of the dwelling being the responsibility of the Unit Owner).

The Association may undertake additional exterior maintenance, repair or replacements on Units not otherwise required hereunder, but shall have no obligation to do so or, once undertaken, to continue to perform such maintenance in the future.

The Association shall not be responsible for any improvements or modifications added or made to any Unit by or on behalf of the Owner or occupant after the conveyance of the Unit to the first Owner following completion of the initial improvements thereon except as otherwise approved by the Association in writing. Approval of any modification or addition may be expressly conditioned upon the Owner assuming responsibility for maintenance, repair, and replacement of the same.

The Board shall determine the schedule upon which the Association shall provide routine periodic maintenance, such as painting, on Units for which the Association's responsibilities have commenced

hereunder. Each Owner acknowledges that cracking and staining of exterior surfaces is a common occurrence and that the Association shall have no obligation to clean, repair, or repaint such surfaces outside of its regular maintenance schedule.

Except as otherwise provided in this paragraph, all costs which the Association incurs in performing its responsibilities under this Section 6.2(a) shall be allocated equally among only those Units as to which the Association's responsibilities have commenced under Section 6.2(b) and levied as a Specific Assessment under Section 12.4. To the extent that any maintenance, repair or replacement which is the Association's responsibility hereunder is necessitated by damage or excessive wear and tear resulting from the conduct or activities of the owners or occupants of a Unit, their guests, invitees, or pets, the Association shall have the right to assess the costs which it incurs for such maintenance, repair or replacement against the Unit and the Owner thereof as a Specific Assessment pursuant to Article 12 hereof. The Association's responsibility for repairs, replacement, and debris removal necessitated by casualty events shall be limited to the extent of available insurance proceeds.

(b) Commencement of Association's Responsibilities. The Association's responsibilities under subsection (a) of this Section shall commence, as to each block of Units improved or intended to be improved with structures comprising a single building of two or more attached dwellings (a "Townhome Block"), at such time as the first Unit in such Townhome Block: (i) has been improved with a dwelling for which a certificate of occupancy has been issued and all landscaping and related improvements on the Unit have been completed in accordance with the plans approved pursuant to Chapter 5 of the Residential Declaration; and (ii) the Unit has either been conveyed by the Builder or actually occupied for residential purposes. Until such time, the Builder shall be responsible for all maintenance on the Units within the Townhome Block.

6.3. Maintenance and Repair of Party Walls and Similar Structures.

(a) Original Construction. Each wall, fence, driveway, or similar structure built as part of the original construction on Units which serves and/or separates any two or more adjoining Units, and any replacement thereof, shall be considered a party structure. If any necessary maintenance, repair or replacement of a party structure affects both sides of the structure, it shall be the joint responsibility of the Owners of the Units served or separated by the party structure and any such Owner may perform the necessary maintenance or repair and, within 30 days after receipt of written evidence of the total cost incurred, the other Owner(s) shall reimburse the Owner who has incurred such cost for an equal share of the reasonable cost he or she has incurred in performing such maintenance or repair.

Notwithstanding the above or anything to the contrary in this Declaration, if maintenance or repairs to a party structure are necessitated by the conduct of the Owners, occupants or guests of only one of the Units that share such party structure, then the Owner of such Unit shall be responsible for the necessary maintenance or repairs.

The right to and the obligation of contribution for party walls and similar structures between Owners, as provided in this section, shall be appurtenant to the land and shall pass to such Owner's successor-in-title.

To the extent not inconsistent with the provisions of this section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to any party structure. Any dispute concerning a party structure shall be subject to the provisions of Article 19.