



KIRKHAVEN/RHAPSODY
AT
BAILEY'S ARBOR
HOMEOWNER'S
ASSOCIATION
GUIDEBOOK

EFFECTIVE AUGUST, 2011

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Welcome

Dear Homeowner,

Welcome to the Kirkhaven/Rhapsody at Bailey's Arbor Homeowners Association.

Moving onto property governed by a homeowners association can be a confusing and challenging ordeal, especially for those who have never before been involved with a homeowners association. The Homeowners Association (HOA) would like your experience here to be a positive and enjoyable one.

With the assistance of Community Development, our Property Management firm, we have created this Association Guidebook to touch upon some key areas of interest for all new homeowners. This document is not designed to replace or substitute the Association's Governing Documents. All potential homeowners were given the opportunity to read and understand the Governing Documents prior to moving into Kirkhaven/Rhapsody at Bailey's Arbor Homeowners Association, and each homeowner has the responsibility to honor the provisions of those documents.

In this Guidebook you will find a great deal of information ranging from how to go about requesting an Architectural Change Application to rules and regulations. Please review this Guidebook and become familiar with your Homeowners Association. In addition, visit the Bailey's Arbor KBA website, www.BaileysArborKBA.org for additional information about the Homeowners Association

Again, welcome to the neighborhood. We hope you will enjoy being a part of your new community.

Thank you,

The Board of Directors

Association Management

Community Development Inc., a professional Property and Community Management firm specializing in townhome and single family Homeowners Association Management, manages the Association.

The mission of Community Development is to help the Kirkhaven/Rhapsody at Bailey's Arbor Homeowners Association develop into a community, where the community itself becomes a source of pride and value to the members it serves. All questions, concerns and issues relating to the Homeowner Association issues should be directed to your Community Manager:

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Community Development, Inc.
7100 Madison Avenue West
Golden Valley, MN 55427
Office: (763) 225-6400
Direct: (763) 746-1192
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Disclosure

This Guidebook does not take the place of, or supersede, the Governing Documents (the "Governing Documents") of the Association and the Minnesota Common Interest Ownership Act (the "Act".) The Act is a comprehensive set of Minnesota statutes that governs the operation of the Association. Each homeowner was given the Governing Documents prior to closing on his or her unit. If a conflict exists among this Guidebook, the Governing Documents, and the Act, the Act shall govern. If a conflict exists between the Governing Documents and this Guidebook, the Governing Documents shall govern.

This Guidebook was prepared as a service by Community Development to the Association. Neither Community Development nor the Association guarantee that the information provided herein is not without error and/or omission. Neither Community Development Inc. nor the Association shall be held liable and/or responsible for any errors and/or omissions herein. According to federal copyright laws, unauthorized reproductions of this Guidebook without prior approval by Community Development are strictly prohibited.

Association Governing Documents

The Association operates under the guidelines of the Governing Documents as well under applicable federal, state, county, and city laws/ordinances. The Governing Documents consist of the following:

- A. Articles of Incorporation of the Association
- B. Bylaws of the Association (the "Bylaws")
- C. Declaration of Covenants (the "Declaration")
- D. Policy Resolutions of the Association
- E. Rules and Regulations (the "Rules and Regulations")

Homeowners may request hard copies or electronic copies of the Governing Documents by contacting their Property Manager. Note there is a charge for hard copies of the Governing Documents. There is no charge for electronic copies.

In accordance with the authority granted to the Association's Board of Directors (the "Board") by the Act, the Declaration and the Bylaws, the members of the Board have voted on and adopted this Guidebook, including all of the Rules and Regulations, polices, and procedures contained herein.

Governance of the Association

Annual Meetings: According to the Act and the Bylaws, an Annual Meeting of the Association's members must be held once a year. The primary purpose of the Annual Meeting is as follows:

- A. Elect members to fill vacancies on the Board;
- B. Review the previous year's financials;
- C. Review the next year's budget;
- D. Allow members the opportunity to gather information and voice their viewpoints.

You will be notified in the mail of the date, time, and location of the Annual Meeting.

Board of Directors: Vacancies on the Board will be filled by members who are elected by the membership of the Association at the Annual Meeting. The number and term of the members of the Board are established in the Bylaws. Following the Annual Meeting, the Board will meet and appoint the officers of the Association for the upcoming year. All officer positions are for one year.

The Board is responsible for establishing policies, procedures and guidelines for operating the Association. The Board may establish the Association's policies through the adoption of Rules and Regulations and through policy resolutions as allowed by the Act and the Governing Documents.

The Board is charged with the responsibility of running a non-profit corporation (the Association) and, as such, it has real power and authority. Careful consideration should be given prior to serving on the Board and respect should be granted to those who do serve.

Master Association: This Association is a member of a Master Association and as such is often referred to as a sub-association. All members of this sub-association are by definition also members of the Master Association as well. This means that as a homeowner in this Association you are also a member of the Master Association. As a member of two Associations you are bound by the Governing Documents of both Associations.

While assessments for both Associations are collected together for purposes of simplification, the Associations are in fact completely separate entities that operate separate budgets, reserves, bank accounts and have total segregation of all funds. Additionally, in the eyes of the government, they are separate corporations with completely separate Articles of Incorporation, Bylaws and Declaration of Covenants.

As a member of both Associations, you will be receive two different sets of Governing Documents, two different budgets annually and shall have the opportunity to attend two separate annual meetings annually. The document you are reading only applies to the sub-association.

Budgets: The Board is responsible for drafting the Association's annual budget each year. The Board has the authority to increase the assessments (commonly known as dues); however there are limits on how much it can increase the assessments from year to year without a vote of the membership. The Declaration establishes the exact percentage that the Board can increase the assessments from year to year without requiring a vote of the Membership.

The Board is also required to send each member a copy of the approved annual budget at the beginning of each year. Look for this in the mail within the first month of the year. Keep in mind that associations do not always follow a calendar year. Consult the Manager to learn the date of the Association's fiscal year-end.

Assessments: Assessments are due on monthly basis and are billed through the use of a coupon book. Although assessments are due on the first day of each month, there is a 30-day grace period before your account is considered delinquent.

Homeowners who do not pay their assessments in a timely manner place a burden on those homeowners who are in good standing. Since the Association operates on a balanced budget, the Association depends heavily upon homeowners paying their assessments on time.

When a homeowner does not pay his or her assessments, the Association has remedies that include applying late fees, sending collection letters, filing liens, and foreclosing the lien against a delinquent homeowner's unit. According to the Act and the Declaration, all past due amounts, administrative costs and attorney fees associated with the collection of delinquent accounts are the responsibility of the homeowner and part of the Association's lien against the homeowner's unit. Additionally, for those homeowners who are continually delinquent the Board has the right to accelerate their assessments and require payment for the balance in one lump sum.

Collections Policy: In the interest of maintaining the financial integrity of the Association and in accordance with the Act and the Declaration, the Association has adopted the following Collections Policy:

- A. Any homeowner account not paid in full within thirty (30) days of the date on the relevant billing statement (coupon statement) will be assessed a \$25.00 late fee and will be considered delinquent. A First Notice will be sent to the homeowner informing him or her of the delinquency.

If the account is not paid, including the late fee, within the next 30-day period, the homeowner's account will be turned over to the Association's attorney for collection.

- B. Any homeowner account not paid in full within 60 days of the date on the billing statement (coupon statement) will be turned over to the Association's attorney for collections. Attorney fees and costs associated with the delinquency collection will be added to the homeowner's account and will need to be paid in full, along with all past due assessments and late fees, in order to bring the account current.
- C. Any homeowner account not paid in full within 90 days of the date on the billing statement (coupon statement) shall face additional legal action by the Association, including, but not limited to, foreclosure of the Association's lien against the unit owned by the delinquent homeowner.

Payments received by homeowners will be applied in the following order: attorney fees, costs of collection, fines, late fees, and assessments. At the Association's discretion, payments will be applied to the oldest outstanding charge on a homeowner's account.

From time to time it may be necessary for the Association to levy a special assessment to cover an unforeseen expense of the Association. If this becomes necessary, you will be notified and will have the opportunity to vote on the assessment. If the special assessment is approved, it will be levied; if the special assessment is not approved, it will not be levied. Consult the Property Manager or the Declaration for more information on special assessments.

Reserves: As required by the Declaration, the Association maintains a reserve account for repair and replacement of exterior items that are defined in the Declaration as Association responsibility (as opposed to homeowner responsibility).

The reserves are identified on the annual budget and are collected as a component of your assessments. The purpose of the reserve account is to allow for the Association to have adequate funds saved when capital repair/replacement projects become necessary, and hopefully to avoid the need for a special assessment.

The reserve account is kept in a bank account separate from the Association's operating account. The Board may elect to invest the reserve funds in conservative investments that will ensure moderate growth and at the same time protect the principal balances.

The reserve account is used for items such as roof repairs/replacements, exterior painting, or seal-coating of driveways. The exact list of items that the reserves may be used for can be determined by reviewing the Declaration or contacting the Property Manager.

Architectural Review Committee (ARC): The ARC exists as defined by the Declaration. The ARC is a real committee with legitimate powers to approve and disapprove landscape and architectural modifications.

All alterations, changes, modifications or additions to the exterior of your unit and/or the landscaping structures must be approved in writing by the ARC, pursuant to the provisions of the Declaration and this

Guidebook. This includes, but is not limited to, the following examples, installation or changes to landscape beds, decks, patios, retaining walls and fences. Prior to performing such alterations, changes, modifications and additions, you must submit to the ARC an "Architectural and Landscape Improvement Application" and receive from the ARC written approval for your proposed changes. The Architectural and Landscape Improvement Application is made available each spring to all the homeowners via the website, www.BaileysArborKBA.org (Resources page). You may contact the Community Manager to have an Application e-mailed to you as well.

Please note that your failure to receive approval from the ARC prior to making such alterations, changes, modifications or additions is a violation of the Declaration. Violations may result in fines, administrative fees, legal fees and legal actions to correct the violations.

For homeowner's convenience, the specific information concerning the ARC in the Declaration of Covenants is included in this document, in section VII, Architectural Review Committee (ARC).

Rules and Regulations

The terms of these Rules and Regulations are defined in the Declaration of The Kirkhaven/Rhapsody at Bailey's Arbor Homeowners Association, Inc. and Bailey's Arbor Master Association and are used herein with the same meanings. Whether or not specifically included, these Rules and Regulations apply to any persons who are present on the Kirkhaven/Rhapsody Class Property at any time.

General Provisions

- A. **Compliance.** All persons shall comply with all applicable laws, ordinances and regulations and shall save the Association and other persons harmless from all fines, penalties, costs and prosecutions for any violation thereof.
- B. **Reporting Violations.** Any homeowner who wishes to report a violation of the Rules and Regulations must do so in writing to a Board Member or the Community Manager. Writing may be via email, fax or letter. Refer to the Complaints & Enforcement section of these rules for additional information.
- C. **Residential Purposes.** Each Lot shall be used only for one single family house and ancillary uses. No Lot may be used for any commercial purpose. Exceptions to this include home occupations that are permitted by the applicable zoning ordinance; however, no Lot may be used for licensed or unlicensed residential care facilities, licensed or unlicensed day care facilities, public or private schools, or commercial agriculture, even if such uses may be permitted by applicable zoning ordinances.
- D. **Nuisance.** No noxious or offensive trade or activity shall be conducted upon any Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to any surrounding property within the Kirkhaven/Rhapsody Property or Additional Real Estate.
- E. **Quiet Enjoyment.** Homeowners may not act or carry on in any manner that potentially endangers or infringes upon another resident's "quiet enjoyment" of the resident's property.

- F. Signs. No sign of any sort may be displayed from a door or window of a Unit that is visible from the exterior of the Unit. No sign of any kind shall be displayed to the public view on any Lot, except: (a) one sign that complies with municipal ordinances advertising Lots and/or homes for sale; (b) security system signs; (c) "No Solicitation" signs, etc. Such signs shall not exceed six square feet in area.
- a. In accordance with the Bailey's Arbor Master Association Use-Restrictions, political signs for impending elections and referenda may not be displayed on any Lot or exterior of a Unit.

Trees/Shrubs

- A. Boulevard Trees. The Developer has reserved for the Kirkhaven/Rhapsody Association easements allowing the Kirkhaven/Rhapsody Association to plant, maintain and replace trees in the "Tree Easement Areas," which are hereby defined as the unpaved portion of each Lot lying within 15 feet of a street right-of-way. The Kirkhaven/Rhapsody Association shall not be obligated to plant any particular trees, but if the Developer plants any tree within any Tree Easement Area, then:
- a. ***Maintenance and Replacement***. The Owner of the Lot with the tree shall maintain the tree for as long as it lives. Maintenance shall include watering, fertilizing, trimming (branches and suckers), and any other work required to keep the tree attractive and sound.
- i. If a Boulevard tree dies or becomes diseased, the Owner shall promptly replace it. The replacement can be the same species and variety or a different one, provided it is a tree of similar size and canopy at maturity (an Architectural Review Committee Application is not required if this is the course of action). If the Owner of the Lot wishes to plant a tree of different species which has a different size and canopy at maturity, then an ARC Application is required.
- ii. The Kirkhaven/Rhapsody Association and the Developer shall have the right (but not the obligation) to replace the tree and assess (or seek reimbursement from) the Owner, if the Owner does not act promptly.
- b. ***Mulching Boulevard Trees*** (also referred to as tree rings). Mulching trees is encouraged, but not required, to maintain the health of the tree.
- i. Mulch is required for newly planted trees.
- ii. If the Owner chooses to mulch the base of the tree, the tree rings should be weed-free.
- iii. The grass around trees (without mulch at the base) should be maintained and trimmed weekly.
- c. The easements reserved in this section shall be nonexclusive, perpetual, irrevocable, assignable, easements in gross for the benefit of the Kirkhaven/Rhapsody Association and its respective successors and assigns.

B. Trees and Shrubs, other than Boulevard Trees

- a. All plant material and trees shall be maintained and trimmed as necessary.
 - b. ARC Applications are not required for the planting or replacement of trees (non-boulevard) and shrubs only. Other landscape changes may require an ARC; refer to the ARC section for additional information.
- C. Tree Preservation/Tree Removal. An ARC Application is required for the removal from any Lot any healthy tree of six inches (6") or greater in diameter.

Lawn/Landscape and Lot Maintenance

- A. Lot Kept Orderly. All patios, decks, front steps, sidewalks, driveways, landscaped areas and lawns must be kept orderly, clean and attractive. Lawn ornaments (including, but not limited to, statuettes, birdbaths, windmills and whirly-gigs) and lawn art (such as sculpture and statues) are prohibited in front yards and side yards, unless approved by the Architectural Review Committee (ARC).
- a. Refer to the ARC Section for landscape items that may require an ARC application.
- B. Lawn Maintenance. An owner shall keep his/her Lot maintained/manicured. Lawns shall be mowed and all edges trimmed on a weekly basis and turf, plant beds and tree rings kept free of weeds. All plant material and trees shall be trimmed as necessary.
- C. Personal Items. Lot Owners may not leave any personal items overnight on their driveways and/or in their front, side or back yard (if the items are visible from any street.) This includes but is not limited to, the following: trailers, play or recreational equipment (such as boats, snowmobiles, four-wheelers, jet skis, etc.), toys, gardening equipment, bikes, signs, and garbage cans. An exception to this rule is seasonal furniture, which may be kept in a yard provided it is removed immediately at the end of a season.
- D. Garbage Cans. Garbage, rubbish, trash and recycling may not be kept or stored outside except during the 12 hours preceding the scheduled "pick-up" of such garbage, rubbish, trash or recycling. All equipment used for the storage or disposal of such material must be kept in a clean and sanitary condition.
- E. Restoration of Lots. Every area on each Lot where natural vegetation has been removed but not replaced with improvements or landscaping must be completely sodded. Seeding is not an acceptable substitute for sodding. If a certificate of occupancy for a home is issued in November through April, the sod must be installed by the following July 15th. If a certificate of occupancy for a home is issued in May through October, the sod must be installed within 60 days after the issuance of the certificate of occupancy. If sod is not timely installed, then the Developer and/or the Kirkhaven/Rhapsody Association shall have the right (but not the obligation) to enter the Lot, install sod and charge the cost thereof against the Owner of the Lot or impose a fine against the Owner in an amount up to \$25 per day after the sod installation deadline through the day the sod is completely installed. Additionally, the Developer and/or the Kirkhaven/Rhapsody Association shall have the right to file and enforce a lien against the Lot for such costs or fines.

- F. Fences. Fences are prohibited on or adjacent to Lots, except for “invisible fences”™ or similar non-visible electric pet enclosures, fences around swimming pools as required by law and fences that are Master Common Elements of the Master Association.
- G. Erosion Control. Developer is responsible for temporary erosion control on each Lot until the closing sale of the Lot to the homebuyer. Thereafter the Owner of the Lot is responsible for temporary erosion control as well as permanent erosion control. Temporary erosion control measures (such as downspout extenders, mulch, silt fences, straw bales and erosion stabilization grasses and ground covers) shall not be removed until permanent erosion control measures (such as sod and landscaping) are installed. If temporary erosion control measures are removed before permanent erosion control measures are installed, then the Developer and/or the Kirkhaven/Rhapsody Association shall have the right (but not the obligation) to enter the Lot, restore the temporary erosion control measures or install permanent erosion control measures and charge the cost thereof against the Owner of the Lot or impose a fine against the Owner in an amount up to \$25 per day of violation; and the Developer and/or the Kirkhaven/Rhapsody Association shall have the right to file and enforce a lien against the Lot for such costs or fines.
- H. Master Declaration Restrictions. In addition to the above restrictions, all Lots are subject to the restrictions set forth in the Master Declaration.

Special Covenants Affecting Certain Lots

- A. Public Sidewalks. The Developer intends to construct concrete sidewalks and bituminous trails along certain streets in the Kirkhaven/Rhapsody Property. The sidewalks and trails will be within the rights-of-way of the public streets and will be owned by the City. The Master Association will maintain the public sidewalks and trails within or adjacent to Master Common Elements and mow and maintain the areas between the streets and walk. The Owner of any Lot adjacent to a public sidewalk or trail will maintain the public sidewalk and mow and maintain the area between the sidewalk or trail and street. The Kirkhaven/Rhapsody Association has the right to provide this maintenance and assess the Owner if the Owner is delinquent in such maintenance.
- B. Drainage and Utility Easement Areas. The City requires that all platted Lots include drainage and utility easements for the City’s benefit as shown on the plat for Bailey’s Arbor. Each Owner shall mow and maintain the landscape improvements located within the drainage and utility easement areas on such Owner’s Lot. The Kirkhaven/Rhapsody Association has the right to provide this mowing and maintenance and assess the Owner if the Owner is delinquent in such mowing or maintenance.

Building & Structure Specifications

- A. Height. No dwelling shall be erected, altered or placed on a Lot or permitted to remain there other than one single-family house not to exceed two stories in height, as measured from grade. If the house includes a walk-out or look-out basement, the basement shall not be counted as a story.
- B. Garages. Each house shall have an attached and fully enclosed garage to accommodate at least three cars, but no carports or detached garages. However, from the street in front of the house, it must appear that there is a garage space for no more than three cars.

- C. Storage Structures. One accessory structure is allowed on an Assessable Lot that is part of the Kirkhaven/Rhapsody Class Property but only in the rear yards of such Assessable Lots and only if it is 150 square feet or less in area and does not exceed 15 feet in any horizontal or vertical dimension. Accessory structures must be designed in a manner that is consistent with the residential dwelling located on the same Assessable Lot; it must be constructed using materials that are consistent with such residential dwelling; it must be of a color that matches such residential dwelling and must be screened from street view. Refer to Pet Regulations regarding dog (or other pet) outdoor houses.
- D. Other Permanent Structures. An ARC application is required for any permanent items on or in the Lot, including, but not limited to, lawn ornaments, play structures, basketball hoops, sport courts, and swimming pools.
- a. Swimming Pools: The Lot Owner must follow all City Ordinances with respect to swimming pools.
 - b. Refer to the ARC Section for additional information regarding structures that may require an ARC application.
- E. Completion. Each house or other structure constructed or placed on a Lot shall be completely finished on the exterior within 9 months after commencement of construction.
- F. Setbacks. All buildings must be setback from all Lot lines in compliance with City Ordinances, as modified by any applicable planned unit development special-use permit.
- G. Prohibited Dwellings. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time (either temporarily or permanently) as a dwelling.
- H. Repair and Maintenance of Lot and Home Exterior. The Owner of each Lot is responsible for repair and maintenance of the Lot and the Home exterior at all times. The standard for maintenance and repair shall be the level of maintenance and repair actually prevailing at Owner-occupied Homes in the Kirkhaven/Rhapsody Property. The standard for maintenance and repair and the evaluation of the Lot and the Home exterior against that standard shall be determined by the ARC in its reasonable judgment.
- a. If any Lot or Home exterior fails to achieve the standard, then the Kirkhaven/Rhapsody Association may, after giving the Owner a 30-day notice to resolve and giving the Owner the opportunity to be heard by the Board, enter the lot, correct the violation and charge the cost to the Owner of the Lot or impose a fine in an amount up to \$25 per day of the violation; and the Kirkhaven/Rhapsody Association shall have the right to file and enforce a lien against the Lot for such costs or fines.
 - b. An ARC is required when changing the exterior color, style or materials of any structure on the Lot. Refer to the ARC Section for additional information.
 - c. Exterior color, style or materials must be consistent with prevailing Homes in the Kirkhaven/Rhapsody class of property.

- I. Dumpsters: Dumpsters, as required during the construction, repair or maintenance of interior or exterior areas of a home, are allowed as long as the project is going on. Dumpsters should be covered, and should be removed promptly after the construction project is complete.
- J. Antennas & Satellite Dishes.
 - a. **General Rule**. No exterior antenna, aerial tower, wire, line, cable, dish or other device for transmitting or receiving radio, television, microwave, laser or other electro-magnetic signals ("antenna") shall be on any Lot without the written permission of the ARC.
 - b. The ARC shall deny permission if it determines, in its sole discretion, that the antenna would be offensive to the sight (taking into account the visibility of the antenna during all seasons of the year) from present and future Lots nearby. Any structure intended to shield an exterior antenna from sight shall be subject to review by the ARC.
 - c. **Applicable Federal Law**. An antennae may be installed within the Unit by an Owner, following receipt of approval from the ARC, as permitted by applicable federal law, as follows:
 - i. one dish antennae one meter or less in diameter for the purpose of receiving direct broadcast satellite service or to receive/transmit fixed wireless signals, or
 - ii. an antennae one meter or less in diameter/diagonal measurement designed to receive video programming or to receive/transmit fixed wireless signals other than satellite, or
 - iii. any antennae for receiving local television broadcast signals.
 - d. **Additional Satellite Requirements**.
 - i. The Board requires that the antennae and wires be installed so as to minimize their visibility from the front of the Unit and otherwise camouflage their appearance, unless such requirements would (i) unreasonably delay installation, (ii) unreasonably increase the cost of installation, maintenance or use of the antennae, or (iii) preclude reception of an acceptable quality signal. Any antennae installation shall be subject to all governmental laws, codes and ordinances.
 - ii. Any damage to the exterior of the unit and subsequent costs to repair shall be the responsibility of the owner.
 - iii. All cable wire must be completely hidden from view. Screws/bolts used to secure the dish/antennae to the unit shall be treated with a water resistant product, such as silicone, caulk or tar.
 - iv. If you move you must remove the Satellite and repair all damage caused by the mounting of the satellite.
 - v. The satellite must be installed by an individual who is licensed and certified in low voltage installations.
- K. Outdoor cooking. Outdoor cooking on decks and patios may be limited by local ordinance, order of the fire marshal or other authorities having jurisdiction.

- L. Driveways. All driveways and parking areas constructed on any Lot shall be paved with asphalt, brick, concrete or bituminous surface and shall be no wider than the side of the garage which faces in the same direction as the front of the house.

Pet Regulations

- A. Breeding/Commercial Purposes. No animal may be bred, kept or maintained for business or commercial purposes, anywhere on the Kirkhaven/Rhapsody Property. The word "animal" shall be construed in its broadest sense and shall include all living creatures except humans.
- B. Pet Owners' Liabile. Pet Owners agree to indemnify, defend and hold harmless the Management Company, the Association, the Associations Officers, directors, and other members, against any loss or liability of any kind or character arising from having an animal.
- C. Type and Quantity. Owners and their families and guests may keep ordinary household pets, such as dogs and cats that do not pose an unreasonable threat to the safety of others.
 - a. Under no circumstances may more than a total of three (3) dogs and cats may be kept in any Lot; provided, however, that for a reasonable period of time following the date a pet gives birth, the pet's offspring may be kept within the Lot.
 - b. Uncommon or exotic animals may be kept only with the prior consent of the Kirkhaven/Rhapsody Board, which may be withheld by the Kirkhaven/Rhapsody Board in its sole discretion. The Kirkhaven/Rhapsody Board shall have the exclusive authority to prohibit, or to allow and regulate, by Rules and Regulations, the keeping of animals on the Property.
- D. Nuisance Rules. Owners of pets shall be responsible for caring for their pets in a way so as to keep the pets from becoming a nuisance to other Owners and Occupants. The Kirkhaven/Rhapsody Board shall have the right to order an Owner to immediately remove from the Owner's Lot any animal for the following conditions provided, however, that prior to ordering such removal, the Board shall give written notice to the Owner of the Assessable Lot where the animal resides of such offensive behavior and such Owner shall have thirty (30) days to correct such offensive behavior:
 - a. Any animal that it reasonably deems to be dangerous to other Owners and Occupants;
 - b. Any animal that repeatedly barks in an uncontrolled manner, repeatedly wanders from the Lot where it lives, or otherwise behaves in a manner that is reasonably offensive to surrounding Owners or occupants.
- E. Additional Rules.
 - a. Owners shall be responsible for cleaning up after their pets. Failure to promptly clean up after a pet will subject the Lot of the pet's Owner to a special assessment for the cost of such cleanup.
 - b. When a dog is on its owner's Lot, it must be under physical, electronic or verbal control. When a dog is elsewhere, it must be on a leash not more than six feet long.

- c. Each Pet Owner shall be financially responsible for any personal injury or property damage caused by his pet.
- d. Damage caused by any pet to any part of the Lot and/or Property shall be the full responsibility of the Lot Owner of the pet, and that the Owner shall promptly pay all costs involved in restoring such damaged portion of the Property to the condition it was in before such damage occurred including the cost of replacing any landscaping. Any damage caused by cleaning, chemicals or other such materials used in the attempt to remedy said damage shall be the full responsibility of the owner of the pet and said owner shall pay the full cost of removal and replacement of such damaged items.
- e. Exterior pet kennels, runs or pens are prohibited, unless its use is necessary for law enforcement. Such necessity requires written documentation which must be presented and authorized by the Board of Directors.
- f. Breeding of animals is prohibited.
- g. Pet Owners are responsible to follow all City Pet Ordinances.

Parking Regulations

- A. Allowed Vehicles. Operational automobiles and non-commercial trucks may only be kept, stored or parked on paved driveways, on paved parking areas, or in enclosed garages.
- B. Trailers, Campers, RVs, etc.
 - a. Trailers are prohibited from being parked in the street. Trailers include, but are not limited to, the following: boats, snowmobiles, personal water craft, RV's and utility trailers. Trailers must be kept inside the Lot Owner's garage.
 - b. No trailers, boats, buses, motor homes, campers, snowmobiles or other types of recreational vehicles (including, but not limited to, all-terrain vehicles, bicycles, jet skis, canoes, boats or other watercraft), commercial trucks, or equipment (lawn mowers and lawn tractors, over-the-road tractors) may be parked or stored on any Lot for more than forty-eight (48) consecutive hours unless:
 - i. The vehicle, trailer or equipment is parked within a garage located on such Lot; or
 - ii. The Master Board grants the owner of the vehicle, trailer or equipment a permit to park it on an Assessable Lot for a limited period of time not to exceed fourteen (14) days in any twelve (12) month period.
- C. Master Common Property. No vehicles, trailers or equipment may be parked on any Master Common Element except the Master Board may designate portions of the Master Common Elements as parking spaces for Owners and Owners' tenants, guests and invitees.
- D. Non-Operable Vehicles. Non-operable vehicles are prohibited from driveways, parking stalls and the street at all times.
- E. Landscape & Parking. Owners are not allowed to drive and/or park vehicles and/or trailers on their landscaping. Landscaping includes, but it not limited to turf and landscape beds.

- F. City Ordinances. Lot owners shall follow all City Ordinances with respect to parking (general and winter ordinances).

Rental/Leasing

- A. Leases. Any lease between an Owner and a tenant: (i) shall be in writing; (ii) shall provide that the terms of the lease are subject in all respects to the provisions of this Kirkhaven/Rhapsody Declaration and to the provisions of the Articles of Incorporation, By-Laws and Rules and Regulations of the Kirkhaven/Rhapsody Association; and (iii) shall provide that failure by the tenant to comply with the terms of such documents shall be a default under the lease.
- B. Provide Governing Documents. The Owner is responsible for providing his tenant with a complete set of the Governing Documents.
- C. Alternate Mailing Address. The Owner shall notify the Association of his alternate mailing address.
- D. Owner Responsible. The Owner shall be responsible for any and all assessments related to the Lot and Property in accordance with the Governing Documents.

Complaints and Enforcement

- A. Report Violations. Any homeowner who wishes to report a violation of the Rules and Regulations must do so in writing to a Board Member or the Community Manager. Writing may be via email, fax or letter.
- B. Open Board Meetings. At all meetings of the Board of Directors, holders of interest in the Association may, by written notice, place matters on the agenda for consideration by the Board. Any such written notice, in order to be effective, must be delivered to the President or Secretary of the Association at least three (3) business days prior to the date of the meeting of the Board.
- C. Waiver. Any holder of an interest in the Association may apply to the Board of Directors for a temporary waiver of one or more of the foregoing rules and regulations. Such temporary waiver may be granted by the Board for good cause, if, in the Board's judgment, such temporary waiver will not interfere with the rights of other persons.
- D. Changes to Rules and Regulations. The Board of Directors shall make such other Rules and Regulations from time to time as it deems appropriate. No such additional or modified Rules and Regulations shall take effect until thirty (30) days after it is communicated in writing to holders of an interest. Any Rules and Regulations adopted by the Board may be repealed or otherwise superseded by a vote of the majority of the holders of an interest at a special meeting duly called for that purpose.
- E. Violations. A violation of the Rules and Regulations in this Guidebook will result in the following actions:
 - a. ***First Violation Notice:*** A violation notice will be sent to the Owner. The notice will provide the time period within which the violation must be resolved in order to avoid further actions. If the Owner disputes the violation, he or she will be given the option to do so in writing to the Board.

- b. **Second Violation Notice:** If, after the first violation notice, the violation is not remedied within the time period set forth in the first violation notice, a second violation notice will be sent to the Owner. If the violation has not been remedied within the time period stated in this notice, the Association may levy a fine of \$25 per day against the offending Owner and that Owner's Unit, subject to the offending Owner's right to a hearing as set forth in the next section.
 - c. If an Owner has been found to be in violation of the same regulation twice within a six (6) month period, the ensuing violation will be construed as a second violation and a fine of \$25 per day may be levied against the Owner until the violation has been corrected.
- F. Fines. Such fines or charges shall be within limits prescribed by the Association in writing and shall be communicated to all Owners prior to being effective. Prior to the imposition of any fine or charge, notice and an opportunity to be heard shall be afforded to the Owner alleged to have violated a Rule or provision of the Governing Documents. The Association and other persons may have additional rights or remedies for violation of the provisions of the Governing Documents, as provided in those documents and/or by applicable law, which are in addition to the fines or charge referred to in this paragraph.
- a. Fines levied by the Association will be added to the offending Owner's account balance. If the fine is not paid within 30 days of the date of the first violation, the Association will attempt to collect the fine in accordance with the Association's Collections Policy. The Association will pursue collection of the fine in the same manner as collection of delinquent assessments. This may include, but not be limited to, the following actions: late charges, administrative charges, attorney charges, liens, and lien foreclosure.
- G. Violation Hearing: An Owner who has received a violation notice and chooses to dispute the violation may do so. The Owner must make a written request to the Board disputing the violation and requesting a hearing in front of the Board. The request for a hearing must be sent to the Property Manager via e-mail, fax, or mail. The request for hearing must be received by the deadline set forth in the violation notice received by the Owner. The hearing will be scheduled at a fair and reasonable time by the Board.
- a. In the case of assessment of any fines for violations of the Governing Documents or the Rules and Regulations, the Board shall, upon written request of the offending Owner, grant to the offending Owner a hearing. The hearing may be held before the Board. The offending Owner shall be given written notice of the nature of the violation and the right to a hearing, and at least 10 days within which to request a hearing. The hearing shall be scheduled by the Board and held within 30 days of receipt of the hearing request by the Board and with at least 10 days prior written notice to the offending Owner. If the offending owner fails to request, or to appear at, the hearing, then the right to a hearing shall be deemed waived and the Board may take such action as it deems appropriate. Hearings shall be conducted in a fair and equitable manner. The decision of the Board, and the rules for the conduct of hearings established by the Board, shall be final and binding on all parties. The Board's decision shall be delivered in writing to the offending Owner within

10 days following the hearing, if not delivered to the offending Owner at the hearing. Any fines to be imposed by the Association may, at the Board's discretion, be retroactive to the date of the violation or offense. If the Board elects to dismiss the violation or offense, the matter will be closed immediately with no fine levied. However if the Board elects to confirm the violation or offense, then all fines associated with the violation shall be paid in full immediately following the hearing or within the time frame set forth in a notice to the Owner.

Architectural Review Committee (ARC)

- A. **ARC Members.** For so long as Developer owns any Lots, the ARC shall consist of three individuals appointed by the Developer. Thereafter, the ARC shall consist of three individuals appointed by the Kirkhaven/Rhapsody Board.
- B. **Examples**
- a. Work Requiring ARC Approval. Before anyone performs any of the following work on any Lot, the plans and specifications for the work must be reviewed and approved in writing by the ARC. Examples include, **but are not limited to:**
- i. Clearing of one or more healthy trees six inches (6") or greater in diameter from the Lot;
 - ii. Replacing a boulevard tree with a different species which has a different size and canopy at maturity
 - iii. Re-grading the Lot;
 - iv. Constructing, erecting or installing any permanent external structure on the Lot, including (without limitation) the following structures: any house, garage, shed or other building; any porch, deck or balcony; any fence, wall or gate; any mailbox, newspaper box, or light post, any exterior antenna or satellite; any gutters or storm/screen doors; any retaining wall, terrace or other landscaping or garden structure; any outdoor kitchen or permanent fire pit; any patio, driveway or parking area; tennis, basketball or sport court; hot tubs, saunas, and swimming pool (whether above ground or below ground); or
 - v. Changing the exterior color, style or materials of any structure on the Lot.
- b. Work Not Requiring ARC Application. The following types of work do not require ARC approval:
- i. *Regular* maintenance of the Lot or any structure not involving color, style or material changes;
 - ii. Planting trees (non-boulevard as well as replacing a boulevard tree with one that has a similar size and canopy at maturity), shrubs and other plants;

- iii. "Hardscape" landscaping changes if the only changes involve minor (not greater than 1" higher than grade) edging; and,
- iv. Changing the interior of any structure.

- C. **Application:** The Architectural and Landscape Improvement Application is made available each spring to all the homeowners via the website, www.BaileysArborKBA.org (Resources page). You may contact the Community Manager to have an Application e-mailed to you as well.
- D. **Review of Plans and Specifications.** At least 30 days before work on a Lot is to commence, the Owner of the Lot shall submit to the ARC one complete set of plans and specifications (including, without limitation, full site plans, grading and drainage plans, building elevations, roof pitches, exterior colors and materials). Within 30 days after receipt of plans and specifications, the ARC shall approve or disapprove them in writing. The ARC's approval of plans and specifications shall not constitute any representation, warranty or assurance that they comply with applicable municipal codes and ordinances. The ARC may disapprove plans and specifications only for one or more of the following reasons:
- a. Noncompliance with this Kirkhaven/Rhapsody Declaration, municipal ordinances or other governmental regulations;
 - b. Failure of the proposed work to be compatible with the Lot, in terms of topography, soils and existing vegetation;
 - c. Failure of the proposed work to be compatible with most of the houses (in the case of a house) or most of the comparable structures (in the case of structures other than houses) in that Neighborhood built or to be built, in terms of style, general appearance, size, height and width, and other characteristics; and/or
 - d. Failure of the plans and specifications to show all information necessary to evaluate the foregoing characteristics.
- E. The Developer makes no guarantees, assurances or representations concerning the style, general appearance, size, height and width, quality of construction, price range or other characteristics of homes in different portions of the Kirkhaven/Rhapsody Property or on individual Lots. Also, the Developer reserves the right to sell Lots to other homebuilders.
- F. **Response and Retention.** The ARC's determinations concerning the plans and specifications shall be conclusive. If the ARC disapproves the plans and specifications, it shall state in writing the reason for such disapproval and the deficiencies which must be cured to obtain approval. The ARC shall retain, for a period of three years, all plans and specifications submitted to it and a record of all actions taken with regard to them.
- G. **Remedies Against Owners.** If any work is commenced without the ARC's written approval of the plans and specifications, or if any work is completed not in accordance with approved plans and specifications, the Kirkhaven/Rhapsody Association or any Owner may bring an action to enjoin further work and to compel the owner to conform the work with plans and specifications approved by the ARC. Any such action must be commenced and a notice of Lis Pendens must be filed within 90 days after the date on which the certificate of occupancy is issued by the

appropriate municipal authority, in the case of the initial construction of a house, or within 90 days after the date of completion, in the case of any other work.

- H. **Remedies Against ARC.** If the ARC and/or the members of the ARC shall fail to discharge their respective obligations under this Article IV, then any Owner may appeal to the Board within sixty (60) days after the ARC has failed to discharge its obligations. If the appeal to the Board is unsuccessful, the Owner may bring an action to compel the discharge of said obligations. Any such action must be commenced within 90 days after the date on which the certificate of occupancy is issued by the appropriate municipal authority, in the case of the initial construction of a house, or within 90 days after the date of completion, in the case of any other work. Such an action shall be the exclusive remedy of any Owner for failure of the ARC and/or its members to discharge such obligations. Under no circumstances shall the Developer, the ARC or members of the ARC be liable to any person for damages (direct, consequential or otherwise).

Common Areas

- A. **Right to Use Kirkhaven/Rhapsody Common Areas.** Every Owner shall have a nonexclusive right and easement of enjoyment in and to the Kirkhaven/Rhapsody Common Areas, including the right of access to and use of the improvements thereon, but only while the Owner is current in paying annual and special assessments owed to the Kirkhaven/Rhapsody Association. At this time the Developer has not proposed any Kirkhaven/Rhapsody Common Areas, but reserves the right to add them with future annexations. Said right and easement shall be appurtenant to and shall pass with the title to each Lot, even if not mentioned in an instrument of conveyance. Each Owner's right to use the Kirkhaven/Rhapsody Common Areas shall be subject to uniform rules and regulations adopted by the Kirkhaven/Rhapsody Board. Usage of each Kirkhaven/Rhapsody Common Area shall be limited to those activities which, in the judgment of the Kirkhaven/Rhapsody Board, shall not be a nuisance or an annoyance to the neighboring Lots.
- B. **Improvements on Kirkhaven/Rhapsody Common Areas.** Only the Kirkhaven/Rhapsody Association shall have the right to install any improvements or plantings in the Kirkhaven/Rhapsody Common Areas. Upon the installation of any improvements and plantings in the Kirkhaven/Rhapsody Common Areas, the improvements and plantings shall become the property of the Kirkhaven/Rhapsody Association. The Kirkhaven/Rhapsody Association shall be responsible for the maintenance, repair and replacement of all improvements and plantings in the Kirkhaven/Rhapsody Common Areas. The Kirkhaven/Rhapsody Association may, in its discretion, choose to remove and not replace any improvements and plantings in the Kirkhaven/Rhapsody Common Areas. Any improvements to Kirkhaven/Rhapsody Common Areas shall comply with the current planned unit development agreement for the Kirkhaven/Rhapsody Property approved by the City. The Kirkhaven/Rhapsody Association shall obtain any and all City permits that may be required to modify or build such improvements.
- C. **Actions Affecting Kirkhaven/Rhapsody Common Areas.** The Kirkhaven/Rhapsody Common Areas shall not be abandoned, partitioned, subdivided, mortgaged, encumbered, leased, sold, transferred or dedicated for public use, except by the recording of an instrument executed by the Owners owning at least two-thirds of the Lots and by the Developer so long as it owns any Lots. However, the Kirkhaven/Rhapsody Board may grant easements over limited portions of the

Common Area for underground public utilities and other limited purposes that do not interfere with the use of the Common Area by the Kirkhaven/Rhapsody Association and the Lot Owners.

- D. **Master Common Elements.** The Master Common Elements are governed by Sections 5.1, 5.2, 9.1, 9.2 and 9.3 of the Master Declaration.
- E. **Costs of the Master Common Elements.** The costs of the Master Common Elements are “Master Common Expenses” as defined in the Master Declaration. Each Owner is responsible for paying 1/845 of the Master Common Expenses due with respect to their Lots, which fraction may change as the Bailey’s Arbor PUD is developed. The Kirkhaven/Rhapsody Association is invoiced for its share of the Master Common Expenses, but each Owner is ultimately responsible for paying his/her portion or portions. The Master Association has the power to use to collect Master Common Expenses and to place a lien on each delinquent Lot to secure payment of Master Common Expenses. The foregoing is a brief summary of Section 6 of the Master Declaration, which may be amended pursuant to Section 13.3 of the Master Declaration.

Association Insurance

The Association maintains the insurances as required by the state of Minnesota and by the Association's Declaration of Covenants. Those insurances are:

- A. **Directors and Officers Insurance:** D & O insurance as it is called for short, is required by the state. This insurance protects all Directors, Officers, Committee Members and other volunteers of the Association from any personal liability in connection with their service to the Association.
- B. **General Liability Insurance:** This insurance is also required by the state. It insures the Association against a liability claim. For example, the Association is required to hire lawn mowers to mow the turf. If a lawn mower were to hit a rock and cause it to be thrown through the air and accidentally hit someone injuring them the Association as well as the lawn company may be sued. In this case, the liability insurance would protect the Association.
- C. **Property Insurance:** This insurance is required by Declaration of Covenants. The property policy covers all property owned by the Association.

The Association does not provide any Property or Liability insurance coverage on the Units. You are responsible to fully insure your entire structure and personal property. Please contact your insurance agent directly to set up the appropriate insurance coverage.

If you have any questions about the Association's insurance coverage please contact the Community Manager.