

14/07

Regal Dev.

Lori D. Jarvis Register Of Deeds  
Berrien County, Michigan

Rec \$49.00  
Reason \$4.00  
Tax Crt \$0.00

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Liber 2728 Page 2025-2038  
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**DECLARATION AND ESTABLISHMENT OF PROTECTIVE COVENANTS,  
LIMITATIONS AND EASEMENTS**

**VICTORIAN FARMS No.2**

**REGAL DEVELOPMENT NORTH L.L.C.**, a Florida Limited Liability Company (hereafter "Developers") of Largo, Florida, being the owners of Victorian Farms, being a subdivision in part of Section 17, Township 7 South, Range 17 West, Niles Township, Berrien County, Michigan, does hereby establish the conditions, limitations, protective restrictions and covenants upon which and subject to which all lots and portions of such lots shall be improved or sold and conveyed by their owner. Each and every one of these conditions, limitations, restrictions and covenants is and all are for the benefit of each owner of land in such lots, or any interest therein, and shall insure to and pass with each and every lot described above, and shall bind he respective successor in interest of the present owner thereof. These conditions, limitations, restrictions and covenants are, and each thereof is, imposed on such lots described above, all of which are to be construed as restrictive covenants running with the title to such lots and each and every parcel thereof.

1. **ARCHITECTURAL CONTROL COMMITTEE.** In order to maintain harmonious structural design, no building for the principal use of a residential dwelling may be erected on any lot unless and until the plans and specifications therefore have been approved in writing by the Victorian Farms Architectural

Control committee. There is hereby created the Victorian Farms Architectural Control Committee, which shall initially consist of the Developers, Regal Development North L.L.C., who has appointed David Regal and Margaret Regal to be the committee, and after sale of 75 percent (75%) of the lots, the Committee shall consist of three persons appointed by the Developers of their successors and assigns. The appointed Committee members shall serve until their successors are elected and qualified by a majority of the lot owners. The Committee may designate any one of its members to act on its behalf. In the event of any vacancy on the committee, if there are less than 75 percent (75%), the Developer shall appoint a replacement. If there are more than 75 percent (75%) of the lots sold, the remaining Committee members shall appoint a replacement. The committee shall have the authority to approve all plans and specifications for all structures to be erected in the subdivision. No construction of any structure shall be commenced until the Committee shall have issued its written approval. The decision of the Committee shall be entirely within its discretion.

2. **ARCHITECTURAL CONTROL**. No building or other structure shall be erected, constructed, placed, maintained, or altered on any lot, nor shall the natural topography or drainage of any lot be altered until the construction plans, plot plan and specifications for the structure or for the topographical alterations have been approved by the Architectural Control committee. The plans and specifications must show floor plan, quality of construction, materials, outside colors to be used, harmony of external design with existing structures and location with respect to lot lines, topography and finish grade elevations. Two

(2) sets of complete plans and specifications must be submitted. One (1) will be retained in the Developers' office and one will be returned to the builder. The committee's approval or disapproval as required in these covenants shall be in writing. No structure of any kind which does not comply fully with such approved plans shall be erected, constructed, placed or maintained upon any lot and no changes or deviations in or form such plans as approved shall be made without the Committee's prior written consent. Neither the Developers, the Architectural Control Committee, or any member thereof, nor any of their respective heirs, personal representatives, successors or assigns shall be liable to any one by reason of any mistake in judgment, negligence or nonfeasance arising out of or relating to the approval or disapproval or failure to approve any plans so submitted, nor shall they, or any of them, be responsible or liable for any structural defects in such plans or in any building or structure erected according to such plans or any drainage problems resulting there from. Every person and entity who submits plans to the Architectural Control Committee agrees, by submission of such plans, that he or it will not bring any action or suit against the committee or the Developers to recover any damages or to require the Committee or the Developers to take, or refrain from taking any action. Neither the submission of any complete sets of plans to the Developers' office for review by the Architectural Control Committee, nor the approval thereof by that Committee, shall be deemed to guarantee or require the actual construction of the building or structure therein described, and no adjacent lot owner may claim any reliance upon the submission and/or approval of any such plans or the buildings or structures described therein.

3. **LAND USE.**

- a. **BUILDING TYPE.** No structure shall be erected, altered, placed or permitted to remain on any lot other than one single-family dwelling having not less than 1,100 square foot living area, exclusive of open porches, breezeways and garages.
- b. **HOME OCCUPATIONS.** No lot or lots shall be used for any purpose other than as a single-family residence, and no industry, trade or other commercial activity shall be permitted, except garage sales as authorized and approved and permitted under the applicable zoning ordinance, if all applicable provisions of such zoning ordinance have been complied with.
- c. **UNLAWFUL USE.** No lot or dwelling shall be used in any unlawful manner or in any manner which might be a nuisance, annoyance inconvenience or damaging to other lot owners and occupants or neighboring property, including, without limiting the generality of the foregoing, noise by the use of any musical instruments, amplifiers or other equipment or machines or loud persons.

- 4. **GARAGES.** All dwellings must have a full sized attached garage which is capable of storing at least two (2) automobiles by not to exceed space for three (3) automobiles.
- 5. **BUILDING LOCATION.** Building locations shall be as specified in the applicable provisions of the township zoning ordinance and if such ordinance

shall not be in effect, then the building locations shall provide for not less than forty (40) foot front and rear yards and ten (10) foot side yards. Provided, however, no building, driveway or underground utilities shall be located in a sewage disposal isolation zone. For the purposes of this covenant and for purposes of determination under the applicable zoning ordinance, eaves, steps and open porches shall not be considered as a part of the building; provided, however, that this shall not be constructed so as to permit any portion of a building on a lot to be located nearer than eight (8) feet from any other lot.

6. **SIDEWALKS.** No sidewalks or paths shall be constructed that are parallel with and adjacent to the abutting street.
7. **NUISANCES.** No noxious or offensive odors or activity shall be carried on or permitted upon any lot, nor shall anything be done thereon which may become an annoyance or nuisance in the neighborhood that will or might disturb the peace, quiet, comfort or serenity of the occupants of adjoining or surrounding property. No weeds, underbrush or other unsightly growths shall be permitted to grow or remain upon any lot, and no refuse, debris or unsightly objects shall be allowed to be placed or suffered to remain thereon.
8. **PROHIBITED STRUCTURES.** No trailer, mobile home as hereinafter defined, basement, tent, shack, garage, barn, out-building or any structure of a temporary character shall be moved onto, assembled or constructed on any lot any used at any time as a residence, either temporarily or permanently. A mobile home is defined as a structure transportable in one or more sections which is built on a chassis and designed to be used as a dwelling with or without permanent foundation.

9. **MODULAR HOMES.** In no event, under any circumstances, shall there be placed on any lot or occupied any modular or manufactured homes.
10. **POOLS.** Above-ground and in-ground swimming pools shall be permitted, shall be located in the rear only, and shall be properly fenced as required by applicable ordinances or laws. Each pool shall be properly maintained and if any above-ground pool is allowed to deteriorate, become unsightly or its use is discontinued, then it shall be entirely removed from the lot and the ground restored to its original condition.
11. **DETACHED BUILDINGS.** The construction and placement of any detached storage, or pet shelter structures, pool house or hot tub, to be used for the storage of lawn tools, toys, swimming pool or hot tub apparatus or any other personal property or for the shelter of pets, must be of a quality construction and appearance, similar to the dwelling, and must be maintained in a attractive and neat appearance and blend with the established home and be submitted to the Architectural Control Committee for approval before beginning construction. The Architectural Control Committee shall have the authority to require the owner to install and maintain protective screening around these structures. Approval for the construction of the structure must be obtained from the Architectural Control Committee, in advance, as provided for in paragraph 1 hereof. Only one detached storage structure shall be permitted on each lot and shall have outside dimensions of no more than eight (8) feet by ten (10) feet and shall not be used for the storage of any vehicles.

- 12. **DRIVEWAYS.** No dirt, stone, gravel or cinder driveways shall be permitted. All driveways are to be a minimum of twelve (12) feet wide and must be constructed of asphalt, paving brick or concrete. If constructed of asphalt, the depth of the asphalt shall be at least three (3) inches thick. If constructed of concrete, the driveway shall be at least four(4) inches thick. Circular drives in front of homes, if any, may be a minimum of eight (8) feet wide.
- 13. **SIGNS.** No sign of any kind shall be displayed on any lot except one sign of not more than five (5) square feet advertising the property for sale or rent, or a sign of any dimension used by a builder to advertise the property during the construction and sales period. There is reserved to the Developers, their successors and assigns, the right to construct signs as they desire in order to foster the promotions and effect sales of lots or structures in said development.
- 14. **LIVESTOCK AND POULTRY.** No animals, livestock, fowl or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other common household pets may be kept; provided that they are not kept, bred or maintained for any commercial purpose and are not permitted to run at large or to become a neighborhood nuisance or hazard in any manner.
- 15. **GARBAGE AND REFUSE DISPOSAL.** Trash, garbage or other waste shall not be kept except in enclosed sanitary containers. All incinerators, garbage cans, barrels and other equipment for the storage or disposal of such materials shall be either located inside permanent structures or shall be the "concealed type" and kept underground and no ashes or other rubbish, trash or debris shall be left in public view on said premises. Trash, garbage or other waste to be picked up from any dwelling shall be kept in an enclose container. There shall

be no open burning of any kind on any lot, except during the period of the construction of the residential dwelling.

16. **COMPLETION DATE.** The construction of any dwelling must begin within two (2) years from the date of sale and shall be completed within six (6) months thereafter and if not so completed within six (6) months, then completely removed. The side, front and rear yards of each lot shall be planted with grass seed, sod or ground cover, unless otherwise approved by the Architectural Control Committee, within one hundred twenty (120) days after the structure is completed, or the structure is occupied as a home, whichever is earlier. No home in complete as to exterior shall be occupied nor shall the same be used for a temporary or permanent residence. Any other structure begun must be fully completed within a period of one (1) year from date of commencement or thereafter completed removed.

17. **DEVELOPER'S OPTION TO REPURCHASE.** In the event that a residential dwelling meeting the requirements of these restrictions is not commenced within two (2) years from the date the lot is conveyed by the Developers to the purchasers thereof and/or is not completed within six (6) months thereafter unless such period is extended by written instrument fully executed by the Developers, the Developers thereafter shall have the right, during the ensuing twelve (12) month period commencing on the first day of the applicable thirteenth or nineteenth month from the date of such conveyance, to repurchase such lot from the current owner of such lot, free and clear of all liens and encumbrances except current property taxes which shall be prorated to the date of closing, at the same price at which the Developers sold such lot to the

original purchaser there of, without payment of interest of any other charges, upon the Developers serving written notice upon the current owner of such lot of the Developers' intention to exercise their options and effect such repurchase, not withstand whether the current owner of such lot was also the original purchaser thereof. The closing of such repurchase shall take place at the Developers' office not later than thirty (30) days from the date of the giving of such written notice to the current owner of such lot, who shall take such actions and shall execute such documents, including a warranty deed to such lot, as the attorneys for the Developers shall deem reasonably necessary to convey good title to such lot to the Developers, free and clear of all liens and encumbrances as aforesaid.

18. **FUEL STORAGE TANKS.** No fuel oil, oil or fuel storage tanks or storage tanks of any kind are permitted.
19. **LOT DIVISION.** There shall be no subdivision or sale of any portion of a lot.
20. **RECREATIONAL AND COMMERCIAL VEHICLES.** Mobile homes, trailers, home-built motor homes, buses and commercial trailers, shall not be parked on any lot or street for longer than twenty-four (24) hours and shall not be occupied as a dwelling at any time.
21. **UTILITIES AND ANTENNAS.** All public utility services, either in the roads or on any lots including but not limited to electric, gas, telephone and cable television, shall be located underground and not visible. No outside above-ground television, AM, FM, or short wave radio antennas of any type,

including television reception dish antennas (earth stations) over forty (40) feet in height from the ground, shall be erected or maintained on any lots or structures in this subdivision. All antennas of any kind, including dish antennas, permitted hereunder shall be located in the rear yard of a lot and the use of guy wires or above ground wires or lines is prohibited. All street or lot lighting shall be situated on posts with no wires or lines visible.

22. **SEPTIC SYSTEMS.** A sanitary septic system shall be installed at the lot owner's expense for each dwelling erected in the subdivision. Such septic system shall be a type and construction as approved in writing by the appropriate regulatory agency as required in Berrien County, Michigan. No other sanitary provision or device for sewage disposal shall be installed or permitted to remain in this subdivision, except a municipal sewage collection system. In the sewage disposal isolation zone, there shall not be placed any permanent structure, including but not limited to, no buildings, driveways, or underground utilities. No residential building may be erected on any lot until the owner or proposed owner has completed an application in proper form for septic tank approval, filed such with the Berrien County Health Department or its successor, and such application has been approved and septic tank permit has issued as to such lot. Notwithstanding any other provision to the contrary, the following restrictions shall apply to the subdivision:

1. No lot shall be used for other than single-family residential use.

*Keith R. Priest, RS.  
July 17, 2006*

2. Permits for installation of on-site sewage systems shall be obtained from the Berrien County Health Department prior to constructions.
3. All individual water wells shall penetrate a satiable clay protective over-burden and be properly grouted. In addition, water wells shall meet all other requirements of Act 368, PA 1978, Part 127 and all applicable rules.

*Amuth R. Smith, R.S.  
July 17, 2006*

**23. BETH, CRAIG, DARAH, ELIZABETH, JANICE, JOSEPH STREETS**

**DAVE LANE**

Beth, Craig, Darah, Elizabeth, Janice, Joseph streets and Dave Lane are dedicated by the platt and have a sixty-six (66) foot wide right-of-way for access to and from the lots. There is reserved, within the right-of-way, an easement for the installation of public utilities.

- 24. FIRES.** No fire shall be permitted to burn upon any street or roadway in this subdivision; the burning of trash, garbage or waste is absolutely prohibited; the burning of leaves, branches or other normal debris which originates on the lot is permitted within the lot, but not on any street or roadway.

- 25. MAINTENANCE AND MOWING.** Maintenance and mowing of US 31 business route (Walton Road) Right of Way, abutting lots 56 through 71 inclusive, shall be the responsibility of the lot owners of those respective lots.

- 26. AMENDMENT OF COVENANTS.** It is expressly provided that the Developers, their successors or assigns, shall have the exclusive right without the consent of the lot owners, for a period of fifteen (15) years from the date of

recording these restrictions to amend any or all of the restrictions or covenants herein contained, except those set out in paragraph 22 and 28, which are irrevocable and not subject to amendment. Such amendment shall be evidenced by the recording of a written amendment signed by the Developers only and recorded in the office of the Register of Deeds of Berrien County, Michigan, and shall become effective for all lots upon such recording. This shall include the right to waive any part of the restrictions or conditions as to any particular lot. After fifteen (15) years from the date of recording of these restrictions, these restrictions may be amended at any time by the recording of such amendment executed by the owners of the fee title of not less than seventy-five (75%) of the lots so restricted.

**27. DURATION OF COVENANT.** These covenants and restrictions as stated herein or as may be amended, are to run with the land and shall be binding on all parties and all persons claiming under them.

**28. SEPARABILITY AND DELAY OF COVENANTS.** In validation of any one of the covenants or restrictions by judgment of a court of competent jurisdiction shall in no way affect any of the other covenants or restrictions and all other provisions of these restrictions shall remain in full force and effect. The failure to promptly enforce any of these restrictions shall not bar their enforcement.

**29. ENFORCEMENT OF COVENANTS.** The right to enforce these provisions by injunction, together with the right to cause the removal by due process of law of any structure maintained in violation hereof, is hereby vested in each owner of a lot in Victorian Farms Subdivision and/or the homeowners association.

**These covenants and restrictions may all be enforced by a civil action for damages and by any other appropriate remedy at law or in equity. If any person or persons shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person or persons vested with the title to any of the lots, or the Developers, to proceed either in law or in equity, against such person or persons violating or attempting to violate any such covenants, and to enjoin them from so doing, to recover damages for such violation and to seek all other appropriate relief. In the event that the lot owner or the Developers should employ counsel to enforce any of the foregoing covenants and restrictions, all costs incurred in such enforcement, including reasonable attorneys' fees, shall be paid by the owner of such lot or lots against whom such enforcement action is brought, if they are found to be in violation. A lien upon such lot or lots to secure such lot owner's payment of all such costs may be created and recorded in favor of the party enforcing such provisions.**

Regal Development North, L.L.C.  
2141 Ridge Road S.W., Lot 28  
Largo, Florida 33778  
5021 W. Bluff View Drive  
Berrien Springs, MI 49103

David Regal

Regal Development North L.L.C.  
David Regal, Managing Member

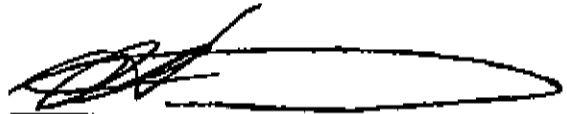
**Drafted by:**  
Regal Development North L.L.C.  
5021 Bluff View Drive  
Berrien Springs, MI 49103

David Regal

Regal Development North L.L.C.  
David Regal, Managing Member

STATE OF MICHIGAN )  
COUNTY OF BERRIEN )

On this 17<sup>th</sup> day of July, 2006, before me, a notary public,  
personally appeared David Regal, Managing Member of Regal Development North L.L.C.  
who has acknowledged the foregoing instrument as his voluntary act and deed.



R.L. Harner  
Notary Public, Berrien County

Acting in Berrien County, Michigan  
My Commission Expires:  
30 January 2012