

# **NATUREWALK COMMUNITY DEVELOPMENT DISTRICT**

[www.NatureWalkCDD.org](http://www.NatureWalkCDD.org)

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## **Encroachment Policy**

**Adopted August 3, 2023**

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**Mail to:  
NatureWalk CDD  
c/o Rizzetta & Company, Inc.  
3434 Colwell Ave., Suite 200  
Tampa, FL 33614**

## ATTACHMENT A

### NATUREWALK COMMUNITY DEVELOPMENT DISTRICT POLICY REGARDING ENCROACHMENTS ON DISTRICT-OWNED PROPERTY

In accordance with Chapter 190, *Florida Statutes*, and following a duly noticed public hearing and meeting, the Board of Supervisors of the NatureWalk Community Development District (“District”) adopted the following updated and revised policy related to encroachments on District-owned property. The District previously adopted substantial portions of this policy through Resolutions 2021-10 and 2022-12. This policy repeals and supersedes all prior rules and/or policies governing the same subject matter.

**SECTION 1. INTRODUCTION.** The NatureWalk Community Development District (“District”) owns certain Common Areas, Open Areas, Conservation Areas, Stormwater Retention Areas and Boardwalks (“Property”) within the District. The unauthorized construction of private improvements, including patios, fences, pools, pool decks and walls, and the unauthorized installation of landscaping improvements on District Property is prohibited. Additionally, the unauthorized use or modification of District Property to gain access to or construct such private improvements or install landscaping improvements is also prohibited. Such activities cause damage to District Property and impair the District’s ability to access and maintain such Property.

**SECTION 2. HOMEOWNER’S ASSOCIATION ARCHITECTURAL COMMITTEE REVIEW.** If a homeowner seeks approval from the Homeowner’s Association (“HOA”) Architectural Review Committee (“ARC”) to construct, install or modify an improvement (“Project”) on a lot adjacent to District Property, a copy of the request must also be provided to the District Manager. No portion of a Project may encroach on District Property. A District Supervisor shall accompany the HOA ARC when inspecting the completed Project to ensure that no portion of the Project encroaches on District Property. A homeowner will be required to remove any encroachment on District Property at their own expense. District may remove the encroachment at homeowner’s expense if homeowner fails to remove the encroachment in a timely manner.

**SECTION 3. ACCESS TO DISTRICT PROPERTY.** If a Project requires entry onto CDD property, a homeowner must obtain authorization from the District to enter District property for this purpose. Such authorization must be obtained in advance and in the form of a License Agreement.

**SECTION 4. POLICY ON UNAPPROVED PREEXISTING ENCROACHMENTS.** The District is aware that there may be encroachments on District Property that were constructed or installed prior to the Effective Date of this Policy, or that may have been wrongly approved by other entities or individuals. Such encroachments are prohibited absent written authorization from the District. The District shall evaluate such encroachments on a case-by-case basis in accordance with the Existing Improvement Encroachment Policy attached hereto as **Exhibit A**. Preexisting encroachments are prohibited absent express approval in accordance with the District’s Existing Improvement Encroachment Policy attached hereto.

**SECTION 5. REQUESTS FOR APPROVAL OF ENCROACHMENTS ON DISTRICT PROPERTY.** Homeowners or property owners that desire to construct and maintain improvements of District-

owned property and rights-of-ways may seek approval from the District for such encroachments in accordance with the Improvement Encroachment Policy attached hereto as **Exhibit B**.

**SECTION 6. POOL INSTALLATION.** If a homeowner wishes to install a pool on a lot adjacent to a Stormwater Retention Area, homeowner shall reimburse District for any necessary inspections of the stormwater retention walls prior to construction of the pool. Such construction must take into consideration, account for, and not damage any retention walls or other District improvements. Homeowner shall be responsible for any damage to any stormwater retention wall or other District improvement caused by or resulting from the installation or presence of the pool.

Effective Date: August 3, 2023

# EXHIBIT A

## NATUREWALK COMMUNITY DEVELOPMENT DISTRICT *EXISTING IMPROVEMENT ENCROACHMENT POLICY*

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NatureWalk Community Development District's ("District") Board of Supervisors adopted a policy establishing a process and requirements related to the District's consideration and approval of the installation of certain improvements by third parties on District-owned property (the "Improvement Encroachment Policy"). The District is aware that various improvements have been constructed by private property owners encroaching on District-owned property (e.g., pavers, fences, landscaping, etc.) prior to the effective date of the Improvement Encroachment Policy or without any prior approval of a prior District's Board of Supervisors or any license, easement, or other grant of authority to utilize District owner-property ("Preexisting Encroachments"). The District's Board of Supervisors hereby adopts this Existing Improvement Encroachment Policy to address such Preexisting Improvements.

Preexisting Encroachments are prohibited absent express approval in accordance with the District's existing Improvement Encroachment Policy.

1. Any action or inaction by the District with respect to any Preexisting Encroachment on District-owned property shall not constitute a waiver or consent to such Preexisting Encroachment.
2. In consideration of conservation of District resources, any identified Preexisting Encroachment will initially be evaluated by the District's Board of Supervisors, or the District Manager if delegated such authority, to identify if such Preexisting Encroachment necessitates immediate consideration and action by the District. The District shall

prioritize Preexisting Encroachments that interfere or have the potential to interfere with the District's use of its property or improvements or that otherwise cause, or have the potential to cause, burdens on the District's maintenance of District infrastructure, property, or landscaping, or endanger public safety or property. The District's determination of whether a Preexisting Encroachment necessitates immediate consideration and action shall be made in the District's sole discretion.

3. Preexisting Encroachments identified for consideration and action shall be addressed as follows:

- a. The District Manager shall provide mailed notice ("Notice") to the subject property owner of the Preexisting Encroachment;
- b. The District Manager (or Board designee) shall reasonably seek to work with the subject property owner to allow the property owner to seek approval of the Preexisting Encroachment (as it exists, or with some modification) under the District's Improvement Encroachment Policy;
- c. The District Manager shall subsequently present such Preexisting Encroachment for consideration by the District's Board of Supervisors at a noticed meeting of the Board occurring no less than 45 days following Notice to the subject property owner;
- d. At such meeting, the District's Board may request additional information concerning such Preexisting Encroachment if necessary to evaluate approval under the District's Improvement Encroachment Policy; approve such Preexisting Encroachment pursuant to the Improvement Encroachment Policy; or deny

approval of such Preexisting Encroachment under the Improvement Encroachment Policy.

- e. In the event a Preexisting Encroachment is denied approval by the Board under the Improvement Encroachment Policy, the District Manager shall provide a mailed notice of such decision advising that such encroachment must be removed within 45 days at the property owner's expense and in coordination with the District Manager's office. Such period may be extended in writing by the District Manager for not to exceed an additional 60 days if in the District Manager's opinion there is reasonable progress towards removal of the encroachment and more time is reasonably necessary. Any further extension must be approved by the District's Board.
  - f. If a Preexisting Encroachment is not timely removed in accordance with 3.e., the District may in its discretion take unilateral action to remove such encroachment, seek compensation for expenses incurred, and otherwise pursue any available remedy as regards its rights and the subject Preexisting Encroachment.
4. The District reserves its rights and authority to revise, amend, or replace this policy as it may be determine to be necessary in its discretion.

# EXHIBIT B

## NATUREWALK COMMUNITY DEVELOPMENT DISTRICT *IMPROVEMENT ENCROACHMENT POLICY*

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The NatureWalk Community Development District (the “District”) has adopted the following policy for property owners desiring to construct and maintain improvements on District-owned property or rights-of-ways (the “Improvement Encroachment Policy”).

1. Any property owner desiring to install improvements (for example, a driveway apron with a right-of-way, pavers, etc.) on any District-owned property or rights-of-way must first submit their request to their applicable homeowners’ association within the NatureWalk development. The property owner may not construct the improvements until they have received written authorization from both their applicable homeowners’ association and the District.
2. In the request to the District, the property owner must submit: (a) an Improvement Encroachment Agreement that has been signed and notarized by the property owner (the “Agreement,” attached hereto in substantial form); (b) a check payable to the NatureWalk Community Development District in the amount of \$600.00 for processing, review, and county recording costs; and (c) a detailed description and sketch of the proposed improvements.
3. The District’s Board of Supervisors, or the District Manager if delegated such authority, shall approve the request on behalf of the District if the proposed improvements: (a) are authorized by the applicable homeowners’ association; (b) are in compliance with all governmental regulations and permits (including the Americans with Disabilities Act); (c)

do not interfere with the District's use of its property or improvements as determined in the District's sole discretion; and (d) do not cause an undue burden to the District for maintenance of District infrastructure as determined in the District's sole discretion.

4. Following provision of the forgoing information and materials and receipt of written authorization from the applicable homeowners' association and the District, the property owner may construct the improvements.
5. The forgoing provisions and attached Improvement Encroachment Agreement do not apply to landscaping (trees, shrubs, etc.) that a property owner may desire to install strictly on District-owned property. However, District approval is required to authorize the location and details of any such landscape installation, which approval shall be granted in the District's sole discretion. The property owner shall be fully responsible for the installation of the landscaping and ensuring that such installation does not damage any property or improvements of the District, or any third party's property, and, in the event of any such damage, property owner shall immediately repair the damage or compensate the District for such repairs, at the District's option. The property owner shall also be solely responsible for obtaining any local, state, or federal approvals (e.g., Walton County, Florida Department of Environmental Protection, Northwest Florida Water Management District, etc.) necessary for installation of landscaping, including as may be required within conservation areas, protected wetlands, or other regulated or protected areas. To the extent the District's involvement is required for any approval, the District will reasonably cooperate with the property owner in seeking to obtain such approval, but the property owner shall be responsible for any associated costs to the District. Installation of any approved landscape installation must be completed within 90 days of approval and the

property owner must provide the District's manager with written notice and photographs of the landscaping upon their completion. Landscaping that dies within one year of installation will be removed at property owner's expense. Unless otherwise agreed in writing, once approved landscaping is installed, it shall be considered the property of the District and may be maintained, removed, or otherwise managed as deemed appropriate in the District's sole discretion. No property owner shall seek to direct, instruct, or control how the District maintains landscaping installed by the property owner. Property owner's agreement to the forgoing shall be evidenced by property owner's execution of a copy of this policy.

Prepared by/Return to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**NATUREWALK COMMUNITY DEVELOPMENT DISTRICT  
IMPROVEMENT ENCROACHMENT AGREEMENT**

This Improvement Encroachment Agreement (the "Agreement"), is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between **NatureWalk Community Development District**, a special purpose local government established pursuant to Chapter 190, Florida Statutes, whose mailing address is 3434 Colwell Ave., Suite 200, Tampa, FL 33614, (the "District"), and \_\_\_\_\_, whose address is \_\_\_\_\_, together with their successors and assigns (the "Property Owner").

**WITNESSETH:**

WHEREAS, the District is the owner of property or public right-of-way located adjacent to Property Owner's property at \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (the "Lot"). A legal description of the Property Owner's Lot is attached as **Exhibit "A"**; and

WHEREAS, the Property Owner has requested permission from the District to install the following improvements adjacent to their Lot on District-owned property or right-of-way (the "License Area") in the following manner: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (the "Improvements"); and

WHEREAS, the District wishes to allow the Property Owner to construct the Improvements, provided the Property Owner agrees to the terms and conditions contained in this Agreement; and

WHEREAS, the Property Owner agrees that they shall, at their sole cost and expense, comply with all of the terms and conditions provided for in this Agreement.

NOW, THEREFORE, the District, for and in consideration of mutual covenants and conditions contained herein, does hereby, pursuant to the terms and conditions of this Agreement, grant to the

Property Owner a nonexclusive license for the sole purpose of installing and maintaining the Improvements, subject to the following terms and conditions.

**ARTICLE 1. INCORPORATION OF RECITALS.** The Recitals set forth are true, correct and are incorporated herein by reference.

**ARTICLE 2. LICENSE.** Subject to the terms of this Agreement, the District hereby grants to the Property Owner a non-exclusive, revocable license for the sole purpose of accessing, operating and maintaining the Improvements within the License Area. Property Owner acknowledges that this Agreement authorizes only access, operation, and maintenance of the Improvements within the License Area and does not authorize any other encroachment. No legal title, easement, or other possessory interest in the License Area shall be deemed to be construed or created or vested in the Property Owner by any provision of this Agreement.

**ARTICLE 3. TERM.** This Agreement shall become effective upon the execution by both parties and may be recorded in the public records of Walton County, Florida. This Agreement, and the License granted herein, shall automatically terminate if installation of the Improvements is not completed within 90 days of the date written above. The District in its sole discretion may extend such period in writing, which authority may be exercised by the District's manager. Notwithstanding anything else provided herein, the District, in its sole discretion, shall have the right to revoke the License and/or terminate this Agreement without cause at any time.

**ARTICLE 4. PROPERTY OWNER'S RESPONSIBILITIES.** Property Owner shall have the following responsibilities as a condition of the District's authorization of Property Owner's License rights granted herein for the installation, operation and maintenance of the Improvements in the License Area. Specifically, Property Owner shall:

A. provide the District with written notice and photographs of the Improvements upon their completion, which notice shall be directed to the District's manager.

B. be fully responsible for the installation, access, operation and maintenance of the Improvements, including the continued operation, maintenance and repair of the Improvements, in good and working condition;

C. obtain any and all applicable permits and approvals relating to the Improvements including, but not limited to, any approvals by the Property Owner's property or homeowners' association pursuant to any applicable declaration of covenants, conditions and restrictions, as well as any other necessary legal interests and approvals. The District does not represent that the District has authority to provide all necessary approvals for the installation of the Improvements;

D. ensure that the installation, operation and maintenance of the Improvements are conducted in compliance with all applicable laws, including but not limited to, building codes, set-back requirements and other applicable laws, rules, ordinances and codes;

E. ensure that the installation, operation and maintenance of the Improvements does not damage any property or improvements of the District, or any third party's property, and, in the

event of any such damage, Property Owner shall immediately repair the damage or compensate the District for such repairs to District property, at the District's option;

F. ensure that Property Owner's exercise of the privilege granted hereunder does not interfere with the District's rights to maintain its property and improvements and/or negatively impact the District's property or improvements, as determined in the District's sole discretion.

G. ensure that the District has free access to and from the its property and improvements, including allowing access over, across, under, or through the Improvements as necessary for the District to operate, maintain, and repair its property and improvements, as needed;

H. keep the License Area free from any materialmen's or mechanic's liens and claims or notices with respect to such liens and claims, which arise by reason of the Property Owner's exercise of rights under this Agreement, and Property Owner shall immediately discharge any such claim or lien;

I. ensure the Improvements shall not endanger or interfere with persons traveling upon any public streets or sidewalks within the District. In the event that there is any damage or injuries as a result of the Improvements, the Property Owner agrees to promptly pay the District for any costs incurred because of those damages and/or injuries;

J. ensure that the Improvements shall not in any way conflict with any law, statute, ordinance, or governmental rule or regulations.

K. not modify or alter any control structures, drainage pipes, drainage facilities, or other improvements of the District without the prior written approval of the District;

L. at Property Owner's sole cost and expense, shall keep the Improvements in good repair and in a neat, orderly, and safe condition;

M. repair and maintain the Improvements, when necessary or desirable, as determined solely at the discretion of the District. The Property Owner shall be solely responsible for the costs of any repair or maintenance of the Improvements; and

N. in the event the District must maintain, repair and/or replace any utility and/or drainage facilities or construct new utility and/or drainage facilities or any other improvements, the Property Owner acknowledges and agrees that the Property Owner shall be solely responsible for the replacement or repair of any Improvements damaged or affected thereby. The Property Owner acknowledges and agrees that the District is not responsible for restoring the Improvements to the condition that existed before the District conducted the foregoing activities.

**ARTICLE 5. REMOVAL AND/OR REPLACEMENT OF IMPROVEMENTS.** The privilege and permission granted herein is given to Property Owner as an accommodation and is revocable at any time. Property Owner acknowledges the legal interest of the District in the Property and agrees never to deny such interest or to interfere in any way with the District's use of the same.

Property Owner shall exercise the privilege granted herein at Property Owner's risk, and agrees that Property Owner shall never claim any damages against the District for any injuries or damages suffered on account of the exercise of such privilege, regardless of the fault or negligence of the District. Property Owner further acknowledges that, with adequate written notice, the District may remove all, or any portion of the Improvements, at Property Owner's expense, in order to repair or maintain any District-owned or -maintained facilities or improvements, and that the District is not obligated to re-install the Improvements to their original location and specification and is not responsible for any loss or damage to the Improvements, or its supporting structure as a result of such removal.

**ARTICLE 6. INDEMNIFICATION.** Property Owner hereby agrees to defend, indemnify, and hold harmless the District and its officers, agents, employees, successors, assigns, members, affiliates, or representatives from any and all liability, claims, actions, suits, liens, demands, costs, interest, expenses, damages, penalties, fines, judgments against the District, or loss or damage, whether monetary or otherwise, arising out of, wholly or in part by, or in connection with this Agreement, including litigation, mediation, arbitration, appellate, or settlement proceedings with respect thereto. Additionally, nothing in this Agreement requires Property Owner to indemnify the District for the District's percentage of fault if the District is adjudged to be more than 50% at fault for any claims against the District and Property Owner as jointly liable parties; however, Property Owner shall indemnify the District for any and all percentage of fault attributable to Property Owner for claims against the District, regardless of whether the District is adjudged to be more or less than 50% at fault. Property Owner further agrees that nothing herein shall constitute or be construed as a waiver of the District's limitations on liability contained in section 768.28, *Florida Statutes*, or other statute.

Obligations under this Section shall include the payment of all settlements, judgments, damages, liquidated damages, penalties, forfeitures, back pay awards, court costs, arbitration and/or mediation costs, litigation expenses, attorneys' fees, paralegal fees (incurred in court, out of court, on appeal, or in bankruptcy proceedings), any interest, expenses, damages, penalties, fines, or judgments against the District, all as actually incurred.

**ARTICLE 7. INSURANCE.** The Property Owner shall insure that during the construction and maintenance of the Improvements, all contractors and/or subcontractors, at their sole cost and expense, shall obtain and keep in full force and effect, a comprehensive, general liability insurance policy insuring against claims for personal injury, death or property damage occurring upon, in or about the License Area. The coverage and limits shall not be less than One Million Dollars (\$1,000,000.00), Each Occurrence, General Liability. The Property Owner shall ensure that the District is named as an additional insured within the policy prior to the commencement of any work. The Property Owner shall insure that the policy provides for at least thirty (30) days written notice from the Insurer to the District prior to termination or cancellation of the insurance policy provided for herein.

**ARTICLE 8. RISK OF USE/PROPERTY OWNER RESPONSIBILITY.** The Property Owner agrees and acknowledges that the Improvements shall be used at the sole risk and expense of the Property Owner, and that the District is expressly relieved of any responsibility for any damage or loss to the Property Owner or any other party resulting from such use.

**ARTICLE 9. AMENDMENT.** This Agreement may only be amended in writing by both parties.

**ARTICLE 10. LICENSE AGREEMENT TO RUN WITH THE LAND.** Upon execution, this Agreement shall be recorded in the Official Records in and for Walton County, Florida. This Agreement shall be and constitute covenants running with title to the Lot and shall be binding upon the Lot and Licensee's heirs, successor, transferees, legal representatives, and/or assigns.

**ARTICLE 11. ENTIRE AGREEMENT.** This Agreement represents the entire Agreement between the parties hereto, with respect to the subject matter contained herein, and supersedes all prior negotiations, understandings, representations or agreements, either written or oral.

**ARTICLE 12. DISTRICT RESERVATION OF RIGHTS.**

A. Nothing contained herein shall constitute a waiver by the District of its right to use the License Area.

B. The rights granted to Property Owner herein regarding the use of the License Area shall not conflict or interfere with the District's right to maintain, repair and/or replace any roadway utility, drainage facilities, or other District-owner or -maintained improvements within the License Area or the Lot.

**ARTICLE 13. NOTICE.** All notes, communications and consents required or permitted by this Agreement shall be in writing and transmitted by registered or certified mail, return receipt requested, with Notice deemed to be given upon receipt, and sent to their addresses shown above.

**ARTICLE 14. SEVERABILITY.** If any one or more of the provisions of this Agreement should be held contrary to law or public policy, or should for any reason whatsoever be held invalid or unenforceable by a court of competent jurisdiction, then such provision or provisions shall be null and void and shall be deemed separate from the remaining provisions of this Agreement, which remaining provisions shall continue in full force and effect if the rights and obligations of the parties contained herein are not materially prejudiced and the intentions of the parties continue to be in existence.

**ARTICLE 15. EVENTS OF DEFAULT.** The Property Owner shall be in default under this Agreement if they default in the performance of or compliance with any of their respective obligations pursuant to the terms or provisions of this Agreement.

**ARTICLE 16. EFFECT OF DEFAULT BY PROPERTY OWNER.** If at any time an event of default shall occur and shall continue for a period of thirty (30) days after the District gives written notice of the event of default to the Property Owner, the District may terminate this Agreement and require the Property Owner to restore the License Area to its original condition prior to installation of the Improvements, at the Property Owner's sole cost and expense. If the Property Owner fails to restore the License Area to its original condition within the foregoing time period, the District may, but is not obligated, to restore the License Area to its original condition, and the Property Owner shall reimburse the District for the restoration costs.

**ARTICLE 17. ENFORCEABILITY OF AGREEMENT.** In the event that either the District or the Property Owner is required to enforce this Agreement by court proceedings or otherwise, then the prevailing party shall be entitled to recover all fees and costs incurred, including reasonable attorneys' fees and costs for trial, alternative dispute resolution, or appellate proceedings. This Agreement shall be governed by Florida law with venue in Walton County, Florida.

**ARTICLE 18. SOVEREIGN IMMUNITY.** Nothing in this Agreement shall be deemed as a waiver of immunity or limits of liability of the District beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature in section 768.28, *Florida Statutes*, or other statute, and nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the doctrine of sovereign immunity or by operation of law.

**ARTICLE 19. COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be an original; however, all such counterparts together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**WITNESSES:**

**PROPERTY OWNER**

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ and \_\_\_\_\_, who are both personally known to me or has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed/Typed Name of Notary

Commission No. \_\_\_\_\_

Commission Expires \_\_\_\_\_

**WITNESSES:**

**NATUREWALK COMMUNITY  
DEVELOPMENT DISTRICT**

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

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

Name: \_\_\_\_\_

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

District Manager

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, as District Manager of the NatureWalk Community Development District. He/She is personally known to me or has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed/Typed Name of Notary

Commission No. \_\_\_\_\_

Commission Expires \_\_\_\_\_