

**ORDINANCE NO. 2021-01  
INTRODUCED BY: NEWELL**

**4291**

**AN ORDINANCE  
TO ENTER INTO A SANITARY SEWER AND WATERLINE  
EASEMENT WITH RIVERHAUS CHAGRIN, LLC.**

WHEREAS, Riverhaus Chagrin, LLC is developing a six (6) unit residential development in the Village of Chagrin Falls (“Project”);

WHEREAS, Riverhaus Chagrin, LLC (“Developer”) has requested that it be permitted to tie into the Village of Chagrin Falls sanitary sewer and waterline systems to provide sewer and water service to the future residents of the Project; and

WHEREAS, the Village has determined that it is necessary for the Developer to grant a Sanitary Sewer and Waterline Easement to run in favor of the Village of Chagrin Falls in order to provide for sanitary sewer and water service to the Project;

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE  
OF CHAGRIN FALLS, CUYAHOGA COUNTY, STATE OF OHIO:**

Section 1. The Mayor is authorized and directed to enter into a Sanitary Sewer and Waterline Easement with the Developer all as more fully set forth in the Sanitary Sewer and Waterline Easement attached hereto and incorporated herein as **Exhibit “A”**.

Section 2. That actions of this Council concerning and relating to the passage of this legislation were adopted in lawful meetings of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in compliance with all legal requirements, including Chapter 114 of the Codified Ordinances of the Village of Chagrin Falls.

Section 3. That in accordance with Section 113.01 of the Codified Ordinances of the Village of Chagrin Falls, public notice of this Ordinance shall be given by posting a copy thereof for not less than fifteen (15) days in the Village Hall.

SECTION 4. This this Resolution shall take effect and be in full force after the earliest period allowed by law.

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PASSED: January, 11, 2021

*Erinn W Grube*

Erinn Grube, Council President

Submitted to the Mayor for  
his approval on this

12<sup>th</sup> day of January, 2021

Approved by the Mayor

January, 12 \_\_\_\_\_, 2021

*William A. Tomko*

Mayor William Tomko

I hereby certify that Ordinance No. 2021-01 was duly enacted on the 11th day of January, 2021, by the Council of the Village of Chagrin Falls and posted in accordance with Section 113.01 of the Codified Ordinances of the Village of Chagrin Falls.

*David B. Bloom*

David Bloom, Clerk of Council

**EXHIBIT "A"**

**SANITARY SEWER AND WATERLINE EASEMENT**

KNOW ALL MEN BY THESE PRESENTS, that Riverhaus Chagrin, LLC, an Ohio Limited Liability Company, hereinafter referred to as the "**Grantor**", and owner of the real property described below as the Benefitted Land, a part of which contains the Easement Premises (as hereinafter described), in consideration of the sum Ten Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby give, grant and convey unto the Village of Chagrin Falls, Ohio, hereinafter referred to as the "**Grantee**", a non-exclusive perpetual right-of-way and easement over the Easement Premises to survey, use, operate, maintain, inspect, repair, replace, renew, alter, reconstruct and remove sanitary sewer pipes, force mains, lines, pumps, mains, manholes, meters and all appurtenances thereto (collectively the "**Sewer Facilities**"), and a non-exclusive perpetual right-of-way and easement over the Easement Premises to survey, use, operate, maintain, inspect, repair, replace, renew, alter, reconstruct and remove waterpipes, pressure mains, waterlines, pumps, and all appurtenances thereto (collectively the "**Water Facilities**") (the Sewer Facilities and Water Facilities are hereinafter collectively referred to as the "**Facilities**") which Facilities shall initially be constructed by Grantor in accordance with plans and specifications approved by Grantee, with reasonable ingress and egress using reasonable means that do not disturb Grantor's use of the Benefitted Land (hereafter defined) for six (6) homes or the use or occupancy of such homes, and to use the Facilities for the transmission, delivery and disposal of sanitary sewage, including the connection of the Sewer Facilities to any sanitary sewer lines, lift stations, mains and manholes located or to be located on the Benefitted Land or contiguous property, in order to maintain a sanitary sewer force main connection to the Grantee's sanitary sewer system located in the Village

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of Chagrin Falls, and also to use the Water Facilities for transmission and delivery of a potable water supply and connection to the Grantee's water system located in the Village of Chagrin Falls to benefit Grantor's development known as the Riverhaus Chagrin Development, located in the Village of Chagrin Falls, Cuyahoga County, Ohio, and known as Parcel Number 931-17-003 ("**Benefitted Land**"), including the right of all residents who will reside at the Benefitted Land at the Riverhaus Chagrin Development to connect to the sewer and waterlines located in the Easement Premises, upon the following described premises to wit:

Situated in the Village of Chagrin Falls, County of Cuyahoga and State of Ohio and being more fully described and depicted in **EXHIBIT "A"**, attached hereto and made a part hereof (the "**Easement Premises**").

The Grantee hereby covenants and agrees and the Grantor hereby covenants and agrees as follows:

1. Except as hereinafter set forth, Grantee shall restore, at its own expense, the Easement Premises and Benefitted Land as nearly as possible to at least the same level and condition as existed immediately prior thereto as promptly as possible upon inspection, repair, replacement, removal, operation or maintenance of the Facilities within the Easement Premises. Notwithstanding the foregoing, the Grantor, and its successors and assigns, including, but not limited to Riverhaus Chagrin Homeowners Association, Inc. ("**Association**") shall be required, upon any inspection, repair, replacement, removal, operation or maintenance to the Facilities by the Grantee within the improved private drive located on the Easement Premises to repair or replace any portion of such drive, when required, due to the performance of work by Grantee pursuant to this Easement, at the sole expense of the Grantor or as the case may be the Association or other successors and assigns of the Grantor.

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2. The Grantor reserves the right to use and enjoy the Easement Premises described in EXHIBIT "A" for all purposes, consistent with the full use and enjoyment by the Grantee of the easement rights herein granted. Grantee shall, however have the right from time to time upon reasonable advance notice to Grantor, to cut and remove all undergrowth, trees and other obstructions in the Easement Premises that in its judgment may injure, endanger or interfere with the construction, maintenance, operation, alteration, replacement, reconstruction and removal of said Facilities.

3. This easement may not be assigned by Grantee except to a successor public agency or public utility in interest or title or a public agency or public utility that assumes responsibility for operation, maintenance and repair of sanitary sewer lines and mains, or waterlines and mains, or both, and any other purported assignment of this easement or any interest therein shall be void and of no force and effect.

4. Grantor grants to Grantee and its agents, consultants, contractors and subcontractors, an easement for the purpose of ingress and egress to, from, over and across the Easement Premises described in EXHIBIT "A" for the purposes set forth in this easement and to do all things necessary in order to accomplish the purposes of the grant of easement given to the Grantee herein and such grant of easement shall include vehicular and pedestrian ingress and egress to, from, over and across the Easement Premises described in EXHIBIT "A", so long as Grantee performs all work and restores the Easement Premises as required by paragraph 1 of this easement and otherwise complies with each and every provision of this easement.

This easement shall be binding upon and shall inure to the benefit of the Grantor and Grantee, all parties acquiring an interest in the Easement Premises and such parties' respective permitted successors and assigns.

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5. Grantor shall initially be responsible for installation and connection of the Facilities to the Village of Chagrin Falls sewer and water systems in accordance with plans and specifications first approved by the Grantee. Grantor shall maintain, repair and replace the Facilities for a period of two (2) years after the Facilities have been inspected and approved, as built, by the Grantee. Thereafter, Grantee shall maintain, operate, repair, replace and remove all of the Facilities in accordance with its policies and procedures. Grantee shall comply with all laws, ordinances, permits and regulations in the exercise of its easement rights hereunder.

6. All notices, consents, approvals and other communications which may be or are required to be given by either Grantee or Grantor under this Agreement shall be properly given if made in writing and sent by (a) hand delivery, or (b) certified mail, return receipt requested, or (c) nationally recognized overnight delivery service for next business day delivery (such as Express Mail, Federal Express or Airborne Express), with all postage and delivery charges paid by the sender and addressed to Grantor or Grantee, as applicable, as follows. Such notices delivered (a) by hand shall be deemed received upon actual delivery, (b) by overnight delivery service shall be deemed received on the business day following the date of deposit with such overnight service, (c) by mail shall be deemed received upon the earlier of actual receipt or two (2) business days after mailing, and (d) by facsimile or telecopier shall be deemed received upon the date the sender receives verbal or electronic confirmation of such transmission, without regard to when the confirming copy is sent or delivered. Said notice addresses are as follows:

If to Grantee:

Village of Chagrin Falls  
21 West Washington Street  
Chagrin Falls, Ohio 44022  
Attn: Chief Administrative Officer  
Telecopier: (440) 247-2082  
Telephone: (440) 247-5050

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With a copy to:

Law Director for the Village of Chagrin Falls  
21 West Washington Street  
Chagrin Falls, Ohio 44022  
Telecopier: (440) 285-9423  
Telephone: (440) 285-2242  
Email: [dmarkowitz@tddl.com](mailto:dmarkowitz@tddl.com)

If to Grantor:

Riverhaus Chagrin, LLC  
26401 Emery Road, Suite 100  
Cleveland, Ohio 44128  
Attn: Alexandra Yonkov, Managing Director  
Telephone: (216) 360-8313  
Email: [alexandra@brickhauspartners.com](mailto:alexandra@brickhauspartners.com)

With a copy to:

Berns, Ockner and Greenberger, LLC  
3733 Park East Drive, Suite 200  
Beachwood, Ohio 44122  
Attn: Jordan Berns, Esq.  
Telecopier: (216) 464-4489  
Telephone: (216) 831-8838  
Email: [jberns@bernssockner.com](mailto:jberns@bernssockner.com)

Either party may change its address for notices hereunder upon not less than five (5) days notice to the other, and either party's counsel may give notice on behalf of their respective clients

7. Grantor covenants with Grantee, its successors and assigns that at and until the execution, sealing and delivery of these presents, Grantor is well seized of the Easement Premises as a good and indefeasible estate in FEE SIMPLE and has good right and authority to bargain and grant the same in manner and form as above written and that Grantor will warrant and defend the Easement premises onto the said Grantee, its successors and assigns forever, against all lawful claims and demands whatsoever except those set forth above.

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8. This Easement may be amended, modified or terminated only by an instrument executed and acknowledged by the Grantor and Grantee, or their successors and assigns, and recorded in the Recorders Office for Cuyahoga County, Ohio.

9. This Easement shall be governed and controlled by the laws of the State of Ohio.

10. The obligations of each party hereunder shall not be deemed personal to such party after such party shall no longer hold fee simple title to the property benefited or burdened by this Easement. Each party shall, however, remain responsible for obligations arising prior to the transfer of title, except that Grantor's obligation to maintain, repair and replace the Facilities for a two (2) year period after acceptance by Grantee and the obligation of Grantor, the Association and their successors and assigns to always provide for repair of the private drive in the Easement Premises shall survive any transfer of title or the term of this Agreement.

11. This Agreement shall be deemed perpetual, shall run with the respective parcels of the parties hereto and shall inure to the benefit of and be binding upon the parties hereto and their respective successors, transferees, grantees and assigns forever. Nothing in this Agreement shall be construed to make the parties partners or joint venturers or render any of said parties liable for the debts or obligations of the others.

12. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall be deemed to constitute one and the same instrument, and shall be effective upon execution of any one (1) or more of such counterparts by each of the parties hereto and delivery of one (1) or more of such counterparts to the other party.

**IN WITNESS WHEREOF**, this easement has been executed at the date noted in the respective acknowledgment section below.

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GRANTEE:

VILLAGE OF CHAGRIN FALLS

BY: \_\_\_\_\_  
Mayor William Tomko

STATE OF OHIO \_\_\_\_\_ )  
 ) ss:  
COUNTY OF \_\_\_\_\_ )

In the aforesaid state appeared before me, a Notary Public, the Village of Chagrin Falls, by William Tomko, the Mayor, this \_\_\_\_\_ day of \_\_\_\_\_, 2020 and he acknowledged that the signing of the foregoing instrument was his free act and deed and the free act and deed of said Village of Chagrin Falls.

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

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EXHIBIT "A"

**POLARIS ENGINEERING & SURVEYING INC. – 34600 CHARON ROAD – WILLOUGHBY HILLS - OHIO**

LEGAL DESCRIPTION  
EASEMENT OVER PART OF  
PARCEL 931-17-003

SITUATED IN THE CITY OF CHAGRIN FALLS, COUNTY OF CUYAHOGA, AND STATE OF OHIO, AND FURTHER KNOWN AS BEING PART OF LOT 1B, CHAMPION TRACT, ORIGINAL RUSSELL TOWNSHIP, BEING TOWNSHIP NUMBER 7 IN THE 9TH RANGE OF TOWNSHIPS IN THE CONNECTICUT WESTERN RESERVE;

BEGINNING AT THE AT THE WESTERNMOST CORNER OF LAND CONVEYED TO JOSEPH H. AND LINDA H. MILLER TR. BY AFN: 200412071018 (P.P.N.: 931-19-001), SAID POINT ALSO BEING IN THE NORTHEAST LINE OF CLEVELAND STREET (60 FEET WIDE);

THENCE NORTH  $51^{\circ}15'54''$  WEST, ALONG THE NORTHEASTERLY LINE OF SAID CLEVELAND STREET, 21.43 FEET TO THE PRINCIPLE PLACE OF BEGINNING;

**COURSE 1:** THENCE NORTH  $51^{\circ}15'54''$  WEST, CONTINUING ALONG THE NORTHEASTERLY LINE OF SAID CLEVELAND STREET, 32.44 FEET TO A POINT THEREIN;

**COURSE 2:** THENCE NORTH  $38^{\circ}44'06''$  EAST, 20.08 FEET TO A POINT;

**COURSE 3:** THENCE NORTH  $65^{\circ}14'18''$  EAST, 241.12 FEET TO A POINT;

**COURSE 4:** THENCE SOUTH  $36^{\circ}10'12''$  EAST, 8.67 FEET TO A POINT;

**COURSE 5:** THENCE SOUTH  $57^{\circ}16'38''$  WEST, 112.36 FEET TO A POINT;

**COURSE 6:** THENCE SOUTH  $62^{\circ}37'28''$  WEST, 118.03 FEET TO A POINT;

**COURSE 7:** THENCE SOUTH  $38^{\circ}44'06''$  WEST, 19.16 FEET TO THE NORTHEASTERLY LINE OF SAID CLEVELAND STREET AND THE PRINCIPAL PLACE OF BEGINNING, SUBJECT TO ALL LEGAL HIGHWAYS AND EASEMENTS OF RECORD. CALCULATED AND DESCRIBED **NOVEMBER** 2020 BY RICHARD A. THOMPSON JR., OHIO REGISTERED PROFESSIONAL LAND SURVEYOR #7388 OF POLARIS ENGINEERING AND SURVEYING INC. BEARINGS REFER TO THE OHIO STATE COORDINATE SYSTEM OF 1983 (NORTH ZONE) BASED ON THE ODOT CORS/VRS SYSTEM NAD83(2011) DATUM.



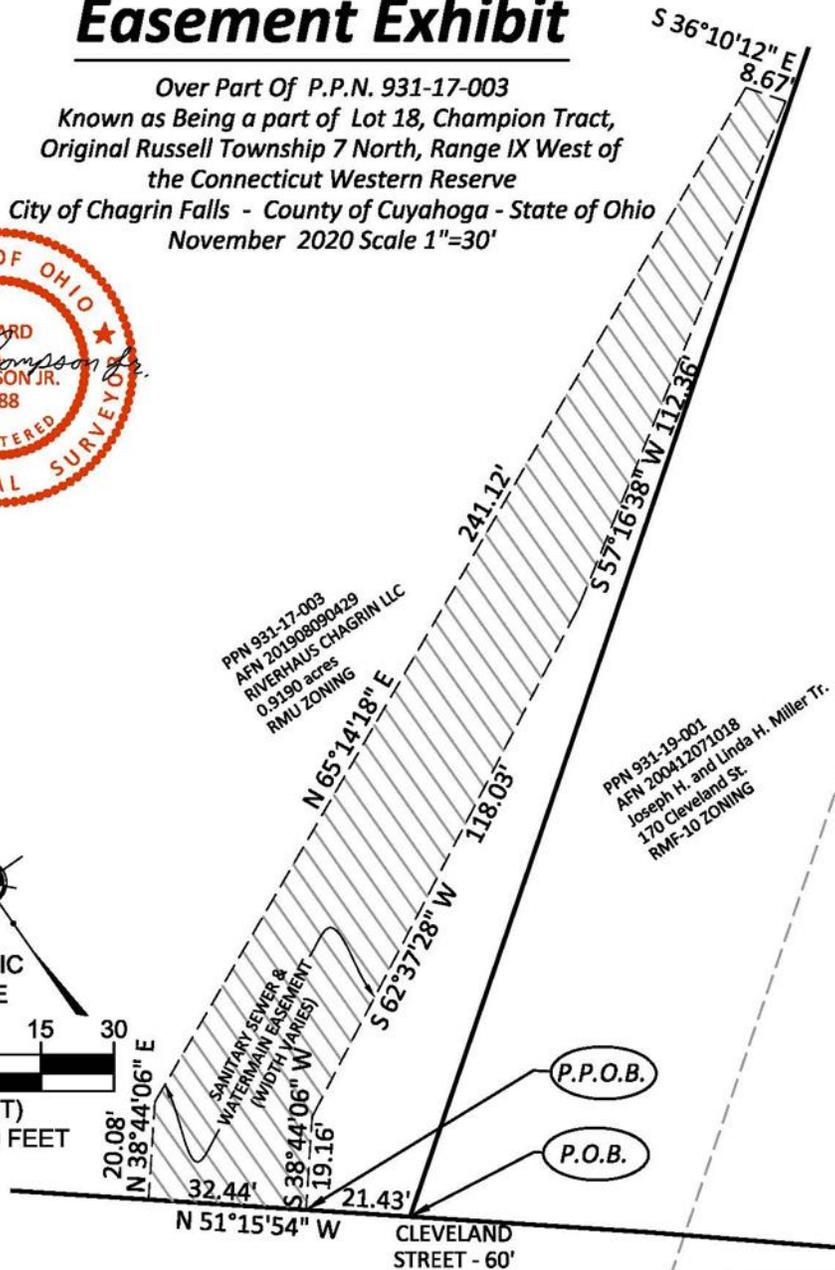
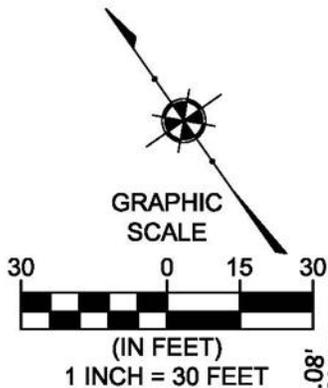
*Richard A. Thompson Jr.*

RICHARD A. THOMPSON JR., OHIO REGISTERED PROFESSIONAL LAND SURVEYOR #7388 – 11/05/20

S:\2017 PROJECTS\17286- BRICKHAUS - CLEVELAND STREET - CHAGRIN FALLS DEVELOPMENT (DRK)\2-PROJECT SURVEYING INFO\4-LEGAL DESCRIPTIONS\AN AND WAT EASEMENT LEGAL DESCRIPTION (11.05.20).DOC

# Easement Exhibit

Over Part Of P.P.N. 931-17-003  
 Known as Being a part of Lot 18, Champion Tract,  
 Original Russell Township 7 North, Range IX West of  
 the Connecticut Western Reserve  
 City of Chagrin Falls - County of Cuyahoga - State of Ohio  
 November 2020 Scale 1"=30'



DATE: 11/04/20  
 SCALE: HOR. 1"=30'  
 VERT. 1"=50'  
 FOLDER: Engineering  
 FILENAME: Easement Exh.  
 TAB: 01 - Exhibit

**POLARIS ENGINEERING and SURVEYING, INC.**  
 34600 CHARDON ROAD - SUITE D  
 WILLOUGHBY HILLS, OHIO 44094  
 (440) 944-4433 (440) 944-3722 (Fax)  
 www.polaris-es.com

CONTRACT No.	
17286	
SHEET	OF
01	01