

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
AND RESERVATION OF EASEMENTS
FOR
THE FOUNTAINS AT EDGEWOOD**

Declarant, McKinley-Edgewood Development Company LLC, an Ohio limited liability company, is the owner of certain real estate in Plain Township, Stark County, Ohio, described in Exhibit A, attached hereto and incorporated herein (hereinafter referred to as “Property”).

Declarant hereby declares that the Property shall be held, sold and conveyed subject to the covenants, conditions, restrictions and reservation of easements herein, which are for the purpose of protecting the value and desirability of and which shall run with the Property submitted hereunder or which may subsequently be added, and shall be binding on all parties having any right, title or interest in the Property, its successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

1.1. Additional Land. “Additional Land” means the property described in Exhibit B a portion or all of which may be made subject to this Declaration pursuant to Article XII.

1.2. Allocated Interests. “Allocated Interests” means the Common Expense Liability and votes in the Association as set forth in Article III.

1.3. Architectural Review Committee. “Architectural Review Committee” or “Committee” shall mean a committee established by Declarant for the purpose of approving all design and/or construction items in accordance with Article IX or the Design Guidelines attached hereto.

1.4. Assessments. “Assessments” means those charges upon the Lots established by Article VII of this Declaration.

1.5. Master Association. “Master Association” means The Fountains at Edgewood Master Homeowners Association, Inc., an Ohio nonprofit corporation, its successors and assigns. Except as the context otherwise requires “Association” shall mean the Board of Trustees acting on behalf of the Association.

1.6. Board. “Board” shall mean the Board of Trustees of the Association.

1.7. Builder. “Builder” means any person or entity (including the Declarant) who acquires a Lot for the purpose of improving that Lot and erecting a Dwelling Unit thereon for resale to an Owner.

1.8. Common Elements. “Common Elements” shall mean any real estate owned or leased by the Association other than a Lot, including easements in favor of the Association.

1.9. Common Expense Liability. “Common Expense Liability” means the liability for Common Expenses allocated to each Lot pursuant to Article III of this Declaration

1.10. Common Expenses. “Common Expenses” means expenditures made by, or financial liabilities of, the Association, together with any allocations to reserves.

1.11. Declarant. “Declarant” means McKinley-Edgewood Development Company LLC, an Ohio limited liability company.

1.12. Declaration. “Declaration” means this Declaration of Covenants, Conditions, Restrictions and Reservations of Easements for The Fountains at Edgewood, including any amendments hereto.

1.13. Development. “Development” shall mean the Property and any/all land subsequently added hereto.

1.14. Development Rights. “Development Rights” means the rights reserved by the Declarant pursuant to Article XII.

1.15. Dwelling Unit. “Dwelling Unit” means a building situated on the Property designed and intended for use and occupancy as a single-family residence.

1.16. Lot. “Lot” means the physical portion of the Property designated for separate ownership or occupancy, the boundaries of which are described pursuant to Article II, Section 2.1.

1.17. Member. “Member” means any person or entity entitled to membership in the Association as provided in Article VI.

1.18. Occupant. “Occupant” means any person in possession of a Lot or Dwelling Unit whether or not such possession is lawful and shall include but not be limited to, an Owner’s family members, guests, invitees, tenants and lessees.

1.19. Owner. “Owner” means the Declarant or other person or entity who owns a Lot, but does not include a person or entity having an interest in a Lot solely as security for an obligation.

1.20. Plats. “Plats” means the record plat for The Fountains at Edgewood No. 2, recorded in Instrument Number 201904080011949 of the Stark County Records, and any subsequently recorded plat for the Additional Land made subject to this Declaration, if and as applicable.

1.21. Property. “Property” or “Properties” means the real estate described in Exhibit “A” attached hereto and any other property which may be subject to the terms of this Declaration, together with any improvements made thereon.

1.22. Special Declarant Rights. “Special Declarant Rights” means the rights reserved by the Declarant in Article XIII.

1.23. Surface Water Management System. “Surface Water Management System” shall mean the system designed for the Property by the Declarant for storm water, soil erosion and sediment control. Such system shall include all existing watercourses, ditches, retention basins and swales located in the Property.

ARTICLE II

LOTS

2.1. Description of Lot Boundaries. The boundaries of the Lots shall be those as set forth on the Plats.

ARTICLE III

ALLOCATION OF ALLOCATED INTERESTS

3.1. Common Expense Liability. The allocation of Allocated Interests for Common Expense Liability shall be determined in accordance with the allocation of the various Assessments as set forth in Article VII, Section 7.9.

3.2. Votes in the Association. The allocation of Allocated Interests for voting purposes shall be one (1) vote per Lot.

ARTICLE IV

COMMON ELEMENTS AND EASEMENTS

4.1. Description. The Common Elements shall be any portion of, or interest in, the Property, other than a Lot, owned by the Association. The Common Elements may include, without limitation, entrance signs, fencing, mounding, boulevard entrances, ponds, clubhouse, pool, landscape islands, walking paths (including those maintained by the Stark County Park District) and open spaces.

4.2. Easements. The Lots and Common Elements shall include certain easements. These easements shall be appurtenant to and pass with the title to the Lots.

4.2.1. Enjoyment. The Property shall be subject to an easement of enjoyment in favor of the Lots and Owners. Such easement shall be limited to the purposes for which the easements are created. Nothing herein shall be construed to provide any right of access to the Lots by any persons who are not Owners thereof.

4.2.2. Drainage. The Property shall be subject to easements in favor of the Lots benefited for Surface Water Management as further defined in Article V. No Owner shall do anything within a Lot or Dwelling Unit which shall unreasonably increase the flow of surface water.

4.2.3. Utilities. The Lots shall be subject to covenants, conditions and easements of record and as shown on the Plats.

4.2.4. Plain Township and Stark County. A non-exclusive easement is granted to Plain Township and Stark County, and to all police, fire and other emergency personnel, ambulance operators, delivery, garbage and trash removal personnel, and to all similar persons,

and to the local governmental authorities, but not to the public in general, to enter upon the Common Elements and the Surface Water Management System in the performance of their duties.

4.3. Owner's Delegation Rights. Any Owner may delegate his or her easement rights and rights of enjoyment to the Common Elements to any Occupants, and any guests, invitees, tenants or lessees thereof. Any Owner who has leased his or her Lot shall be deemed to have delegated such rights. Any such delegation, however, shall be in accordance with and subject to reasonable rules, regulations and limitation as may be adopted by the Association in accordance with its Code of Regulations.

4.4. Alterations to and Maintenance of the Common Elements. All alterations, landscaping and maintenance of the Common Elements, including without limitation, the installation of any improvements, the construction of any building or structure, the planting, trimming or maintenance of any landscaping, lawn or trees, shall be made or done solely by or at the direction of the Association (or the Declarant, prior to the conveyance of the Common Elements to the Association), and no such alterations, landscaping and/or maintenance shall be permitted to be completed by any Owner or Occupant.

4.5. Authority to Borrow Funds. The Association shall have the power and authority to borrow money for the purpose of improving the Common Elements and in aid thereof, to mortgage the same, and the rights of any such mortgages shall be superior to the easement and privileges herein granted and assured.

4.6. Limitation on Common Elements and Easements. All Common Elements, easements and rights granted herein are subject to:

4.6.1. Restrictions set forth in this Declaration.

4.6.2. Any rules and regulations adopted by the Association and the right to enforce such rules and regulations.

4.6.3. The right of the Association to levy Assessments for the Common Expenses and other Assessments as set forth herein.

4.6.4. The right of the Declarant and the Association to amend the Plats and to grant further rights and easements within, upon, over, under, and across the Common Elements for the benefit of the Owners, the Association or Declarant.

4.6.5. The Common Elements cannot be mortgaged or conveyed without the consent of two-thirds (2/3) of the Owners, excluding the Declarant. During any Declarant Control Period as set forth in Article XIII, no portion of the Common Elements can be dedicated without the prior approval of the Federal Housing Administration or the Veterans Administration, if either such agency is insuring or guaranteeing the mortgage on any Lot.

4.6.6. If access to any residence is through the Common Elements, any conveyance or encumbrance of such area is subject to the Lot Owner's easement.

4.6.7. All rights granted to the Association in this Declaration.

ARTICLE V

SURFACE WATER MANAGEMENT

5.1. Surface Water Management System. The Surface Water Management System shall consist of the "Drainage Easements" and "Storm Water Management Basin Easements" as shown on the Plats. The Association shall maintain and administer the Surface Water Management System in accordance with the guidelines as may be promulgated from time to time by Plain Township or Stark County. The Association shall have primary responsibility for the maintenance of the retentions basin(s), including any pipes, concrete gutters or mechanical devices.

5.2. Surface Water Management System Easements. Each Lot shall be subject to and shall be benefited by an easement for storm sewers, drainage and surface water management as more particularly shown on the Plats. Such easement shall be non-exclusive as to the Owners and shall run to the Association. Such easement, however, shall not run to the public at large.

5.3. Access to Lots. For the purpose solely of performing the maintenance required or authorized herein, the Association, through its duly authorized agents or employees, or subcontractors, shall have the right, after reasonable notice to the Owners, to enter upon the Lot at reasonable hours on any day.

5.4. Individual Maintenance. Each Owner shall maintain that portion of the Surface Water Management System which serves only that Owner's Lot. Each Owner shall have primary responsibility for grass-cutting and vegetation control within the easements located on his or her Lot. Such responsibility shall include keeping these easements clean and unobstructed. Maintenance of the Surface Water Management System shall be in accordance with the guidelines and standards set forth by Plain Township or Stark County. If any portion of the

Surface Water Management System which serves only one (1) Lot is damaged, the Owner of that portion shall promptly cause it to be repaired.

5.5. Restriction on Use. No Owner shall use or permit any other persons to use the Surface Water Management System in any manner which would constitute a nuisance, hazard or unsanitary condition or be in violation of any local, state, or federal law ordinance, rule, regulation or statute.

5.6. Sediment and Erosion Control. In the construction of improvements on any Lot no activities or any action will be taken by a grantee of a Lot to be in violation of the NPDES permit for the allotment or a violation of the erosion and sediment control plans and any other relevant plans. A grantee of a Lot or said grantee's employees, agents, successors, or assigns, shall not permit sediment to be discharged on adjoining property, on paved surfaces, or into public storm sewer systems. Copies of all applicable plans are on file in the office of McKinley-Edgewood Development Company LLC, at 1201 South Main Street, North Canton, Ohio 44720. The Builder agrees to submit an individual Lot Notice of Intent (NOI) to the Ohio Environmental Protection Agency, General Permit Program, P.O. Box 1049, Columbus, Ohio 43266-1049.

ARTICLE VI

OWNERS ASSOCIATION

6.1. Formation. The Declarant has caused or will cause to be chartered in accordance with Chapter 1702 of the Ohio Revised Code, a nonprofit corporation named The Fountains at Edgewood Master Homeowners Association, Inc. The purposes of the Association are to provide for the administrative governance, maintenance and upkeep of the Development and to promote the health, safety, and welfare of the Owners and Occupants of the Development.

6.2. Membership. The membership of the Association shall at all times consist exclusively of Owners of the Lots. All such Owners shall be Members. Membership shall be appurtenant to and may not be separated from such ownership.

6.3. Powers of the Association. Subject to Special Declarant Rights hereinafter set forth in Article XIII, the Association may:

6.3.1. adopt and amend a Code of Regulations for the governments of the Association, the conduct of its affairs and the management of the Property;

6.3.2. adopt rules and regulations for the use and occupation of the Common Elements and to enforce the rules and regulations and the provisions and restrictions of the Declaration as against the Owners and Occupants;

6.3.3. adopt and amend architectural and design guidelines;

6.3.4. adopt and amend budgets for revenues, expenditures and reserves and levy and collect Assessments from Owners;

6.3.5. hire and discharge managing agents and other employees, agents and independent contractors;

6.3.6. institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two (2) or more Owners on matters affecting the community;

6.3.7. make contracts and incur liabilities;

6.3.8. regulate the use, maintenance, repair and replacement of the Common Elements for which the Association has maintenance responsibility and other rights as set forth herein;

6.3.9. cause additional improvements to be made as part of the Common Elements;

6.3.10. acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property;

6.3.11. grant easements, liens, licenses and concessions through or over the Common Elements;

6.3.12. impose and receive any payments, fees or charges for the use, rental or operation of the Common Elements and for services provided to Owners;

6.3.13. impose charges for late payments of Assessments and after notice and an opportunity to be heard, levy reasonable fines for violations of the Declaration, Code of Regulations, and the rules and regulations of the Association;

6.3.14. impose reasonable charges for the preparation and recordation of amendments to the Declaration or for statements of unpaid Assessments;

6.3.15. provide for indemnification of its officers and Board of Trustees and maintain directors' and officers' liability insurance;

6.3.16. assign its right to future income, including the right to receive Common Expense Assessments, except that this power shall be limited to the purposes of repair of existing structures or improvements;

6.3.17. to borrow money from time to time for the purpose of improving the Common Elements and, with the approval of two-thirds (2/3) of each class of Members, secure said financing with a mortgage or mortgages upon all or any portion of property owned by the Association, in accordance with its Articles of Incorporation and/or Code of Regulations and subject to the provisions of this Declaration.

6.3.18. to convey the Common Elements, or any portion thereof, to a successor; provided, however, that any such conveyances shall require the vote of two-thirds (2/3) of each of the Class "A" and Class "B" Members, and provided further that such successor shall agree, in writing, to be bound by the easements, covenants, restrictions and agreements of this Declaration.

6.3.19. exercise any other powers conferred by the Declaration, Code of Regulations or Articles of Incorporation;

6.3.20. exercise all other powers that may be exercised in this state by nonprofit corporations;

6.3.21. exercise any other powers necessary and proper for the governance and operation of the Association.

6.4. Responsibilities of the Association. Subject to Special Declarant Rights hereinafter set forth in Article XIII, the Association shall:

6.4.1. maintain the Common Elements in a clean, safe, neat, healthy and workable condition, and in good repair, and shall promptly make all necessary repairs and replacements, structural and non-structural, ordinary as well as extraordinary, subject only to the provisions of this Declaration. The Association may provide equipment and supplies necessary for the maintenance (including landscape maintenance) and enjoyment of the Common Elements. All work performed by the Association under this Article shall be performed in a good and workmanlike manner.

6.4.2. pay all taxes, utilities and insurance premiums related to its ownership and operation, if applicable, of the Common Elements.

6.4.3. obtain and maintain a comprehensive policy of public liability insurance covering all of the Common Elements and insuring the Association, the Board, and the Owners, with such limits as the Board may determine (provided, however, that such coverage shall be for at least \$1,000,000 per occurrence for personal injury and property damage), covering claims for personal injury and property damage. The Association shall have the authority to and shall obtain insurance for all improvements, buildings and structures now or at any time hereafter owned by the Association, against loss or damage by fire, lightning and such other hazards as are ordinarily insured against in fire and extended loss coverage policies insured in the locale of the Development, in amounts not less than one hundred percent (100%) of the insurable value of such improvements (based upon replacement cost).

6.5. Voting Rights. Subject to Special Declarant Rights as set forth in Article XIII, Members shall be entitled to vote on matters properly before them in accordance with this Article, the Code of Regulations and the laws of the State of Ohio.

6.6. Number of Votes. The membership of the Association, and the voting rights corresponding thereto, shall be divided into two (2) classes as follows:

6.6.1. Class "A" Membership and Voting Rights. Each Owner of a Lot, with the exception of the Declarant, shall automatically be Class "A" Members of the Association. All Owners shall be Members of the Association. Class "A" Members shall be entitled to one (1) vote per Lot in which they hold the fee simple interest or interests. If only one of several Owners for a Lot is present at a meeting of the Association, that Owner is entitled to cast the vote allocated to that Lot. If more than one of the Owners is present, the vote allocated to that Lot may be cast only in accordance with the agreement of a majority in interest of the Owners. There is majority agreement if any one of the Owners casts the vote allocated to that Lot without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Lot. The Association may adopt rules regarding deadlocks. No votes allocated to any Lots owned by the Association may be cast.

6.6.2. Class "B" Membership and Voting Rights. Declarant shall automatically be the sole Class "B" Member of the Association. The Class "B" Member shall be entitled to three (3) votes for each Lot owned by it. The Class "B" Membership shall cease and be converted to Class "A" Membership upon the sale and/or transfer of the last Lot owned by Declarant in the Development.

6.7. Proxies. A vote allocated to a Lot may be cast pursuant to a proxy duly executed by an Owner. An Owner may revoke a proxy given pursuant to this section only by actual notice of revocation to the person presiding over a meeting of the Association. A proxy is void if it is not dated or purports to be revocable without notice. Except as hereinafter provided, a proxy

shall terminate one (1) year after its date, unless it specifies a shorter time. If a first mortgagee has been designated a proxy under the terms of a first mortgage covering the Lot, its presentation to the Board of a copy of the mortgage shall be notice of the proxy designation, and if the mortgage so states, of the irrevocability of that designation. Written notice to the Board or notice in a meeting of a revocation of a proxy designation shall not affect any vote or act previously taken. Each proxy shall automatically cease upon conveyance of the Lot.

Unless expressly reserved and the Association is notified of such reservation, a land contract vendee as defined in Chapter 5313 of the Revised Code, shall be deemed the proxy of a land contract vendor for purposes of this section.

6.8. Annual Meeting. A meeting of the Members of the Association must be held at least once each year.

6.9. Management Agent. The Board may employ for the Association a professional management agent or agents at a compensation established by the Board to perform such duties and services as the Board shall authorize. The Board may delegate to the managing agent or manager, subject to the Board's supervision, certain powers granted to the Board by this Declaration. The Declarant, or an affiliate of the Declarant, may be employed as a managing agent or manager. No management contract may have a term in excess of three (3) years and must permit termination by either party without cause and without termination fee on ninety (90) days or less written notice.

ARTICLE VII

ASSESSMENTS

7.1. Establishment of Assessments. There are hereby established for the benefit of the Association, its successors and assigns, as a charge on each Lot, certain Assessments for Common Expenses and other expenses. Each Owner, by acceptance of a deed, covenants and agrees to pay such Assessments.

7.2. Purpose of the Assessments. The Assessments are established for the benefit and use of the Association and shall be used in covering the costs of its Common Expenses and for other such purposes as hereinafter set forth.

7.3. Annual General Assessment. There is hereby established an "Annual General Assessment" for the purpose of funding the Common Expenses of the Association. The Common Expenses shall include among other things, (1) operation, maintenance, repair and replacement as required by this Declaration; (2) the cost of any insurance required by this

Declaration; (3) reasonable reserves for unanticipated expenses, replacements, major repairs and other contingencies; (4) administrative, accounting, legal and management fees; (5) annual capital additions and improvements and/or capital acquisitions (but not repairs or replacements) provided, however, that if the cost thereof exceeds Five Thousand and No/100 Dollars (\$5,000.00), it shall require the prior approval of the Class "B" Member and the vote of at least two-thirds (2/3) of the Class "A" Members who are voting in person or by proxy, at a meeting called for such purpose; and (6) all other costs and liabilities incurred by the Association in the exercise of its powers and duties pursuant to this Declaration.

7.4. Individual Assessment. The Association after approval by two-thirds (2/3) vote of all members of the Board shall have the right to assess an individual Lot for any of the following:

7.4.1. any costs incurred by the Association in the performance of any maintenance in accordance with Article VIII, Section 8.3.

7.4.2. any charges or fines imposed or levied in accordance with Article IX, Section 9.3.1.1.

7.4.3. any costs incurred for maintenance or repair caused through the willful or negligent act of an Owner or Occupant or their family, tenants, guests or invitees, including attorney fees, court costs and other expenses incurred.

7.4.4. any costs associated with the enforcement of this Declaration or the rules and regulations of the Association, including, but not limited to attorney's fees, witness fees and costs, and court costs.

7.5. Working Capital Fund; Initial Assessment. At the time of closing of a Lot from a Builder, the purchaser of such Lot shall be assessed the sum of Two Hundred Fifty and No/100 Dollars (\$250.00) as such purchaser's initial capital contribution to the working capital fund of the Association. This Assessment shall be used by the Association for its operating expenses. Such Assessment is not an advance payment of the Annual General Assessment, and it will not be held in any sort of trust or reserve account. Builders shall not be required to pay such Working Capital Fund Assessment. Declarant shall not be subject to or required to pay such Working Capital Fund Assessment.

7.6. Special Assessment. There is hereby established a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction, re-construction, repair or replacement of a capital improvement upon the Common Elements, including fixtures and personal property related thereto, and/or to meet any other emergency or unforeseen expenses of the Association. Except as set forth in Article X, a Special Assessment shall have the assent

of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for such purpose.

7.7. Computation and Payment of Annual General Assessment. The Annual General Assessment shall be computed and levied in accordance with the budget adopted by the Board pursuant to the Code of Regulations. This Assessment shall be effective as to each Lot on the first day of the Association's fiscal year. The initial Annual General Assessment as to each Lot shall commence on the first day of the month following the earlier of (i) its conveyance to an Owner other than a Builder; or (ii) occupation of the Dwelling Unit. The initial Annual General Assessment shall be prorated on a monthly basis to the end of the Association's fiscal year, and shall be collected at closing of the conveyance of the Lot from the Builder. So long as there has been no default in payment of the Assessment, it shall be payable in annual installments due on the first day of each fiscal year. The Board shall have the power from time to time to adopt such billing, collection and payment procedures, charges and other payment time schedules as it deems appropriate. Declarant and Builder shall not be subject to or required to pay the Annual General Assessment.

7.8. Maximum Annual Assessment. Beginning with the recording of this Declaration and until December 31, 2019, the maximum Annual General Assessment shall be Five Hundred and No/100 Dollars (\$500.00). Beginning with Assessments levied as of January 1, 2020 and annually thereafter, the Board, without a vote of the Owners, may increase or decrease the Annual General Assessment. If the Board increases the Annual General Assessment, then, within thirty (30) days of notice of such increase, Members in good standing exercising ten percent (10%) of the voting power of the Association, may petition the Board for a special meeting of the Association to reconsider such increase. At such meeting, the Members in good standing, in person or by proxy, exercising sixty-six and two-thirds percent (66 2/3%) of voting power of the Association, may vote to reduce the increase by any amount therein proposed, but not lower than the previous year's maximum amount.

7.9. Allocation of Assessments. The Common Expense Liability of each Lot shall be its portion of the Common Expense. The Common Expense Liability and the Annual General Assessment shall be allocated equally to each Lot. The other Assessments shall be allocated as applicable to the respective Lots and as determined by the Board. Declarant and Builder shall not be subject to or required to pay any Common Expense Liability.

7.10. Payment of Assessments. As soon as practicable in each year, the Association shall send a written statement to each Owner, which sets forth the amount of the Annual General Assessment and stating the terms of the total sum due and owing. The Annual General Assessment may, however, be billed in annual, semi-annual, quarterly or monthly installments,

as the Association shall, in its sole discretion, determine and shall be due with ten (10) days of receipt.

7.11. Lien for Assessments. The Association shall have a lien for any Assessment levied against a Lot, for fines imposed against an Owner or Occupant, and for interest, costs and reasonable attorney fees.

7.11.1. Creation. The lien for Assessments is created by this Declaration and shall be a charge and a continuing lien on each Lot which shall run with the land. All persons or entities acquiring an interest in a Lot after the filing of this Declaration take such interest subject to the lien.

7.11.2. Effective Dates. The lien for the Common Expense Liability for each Lot as set forth in the Annual General Assessment shall be effective on the first day of the fiscal year of the Association. The lien for other Assessments shall be effective on the first day of the month following the notice of its levy on the Owners affected.

7.11.3. Perfection. Recording of this Declaration constitutes notice and perfection of the lien.

7.11.4. Notice of Lien. The Association may file a notice of lien with the Recorder of Stark County; however, such notice shall not be required for the Association to enforce its lien.

7.11.5. Priority of the Lien. The lien created by this Section shall be prior to all liens and encumbrances recorded subsequent to this Declaration except the lien for real estate taxes and assessments and the lien of any bona fide first mortgage filed of record.

7.11.6. Subordination and Mortgage Protection. Notwithstanding any of the provisions hereof to the contrary, the lien of any Assessment levied pursuant to this Declaration (and any late charges, interest, costs and attorney fees) shall be subordinate to, and shall in no way affect the rights of the holder of a first mortgage made in good faith for value received; provided, however, that such subordination shall apply only to Assessments, or installments thereof, which have become due and payable prior to the date of Sheriff's sale of such Lot pursuant to a foreclosure or the date of a deed in lieu of foreclosure. Such sale or transfer shall not relieve the mortgagee or the purchaser of a Lot at such sale from liability for any Assessments thereafter becoming due, or from the lien of any such subsequent Assessment. Mortgagees are not required to collect Assessments on behalf of the Association. Failure to pay Assessments shall not constitute a default under any mortgage insured by FHA/VA.

7.11.7. Extinguishment of the Lien. A lien for unpaid Assessments is extinguished unless proceedings to enforce it are instituted within five (5) years after the full amount of the Assessment becomes due. If an Owner of a Lot subject to a lien files a petition for relief under the United States Bankruptcy Code, then the period of time to enforce the Association's lien shall be tolled until thirty (30) days after the automatic stay under Section 362 of the Bankruptcy Code is lifted.

7.11.8. Estoppel Certificate. Upon request of any mortgagee or Owner and upon payment in full of all Assessments and other charges permitted by this Declaration that are due to the Association, the Association shall execute and deliver to such mortgagee or Owner an estoppel certificate. Such certificate shall be in recordable form and shall note the payment of the outstanding Assessments and charges and that the Association is estopped from the enforcement of its lien with respect to Assessment and charges becoming due and payable prior to the date of the certificate. The Association may charge a reasonable fee for the preparation of such certificate.

7.12. Delinquency and Acceleration. Any installment of an Assessment provided for by this Declaration shall become delinquent if not paid on the due date as established by this Declaration or by the Board. With respect to each installment of an Assessment not paid within five (5) days of its due date, the Board may, at its election, require the Owner to pay a reasonable late charge, costs of collection, reasonable attorney fees and interest at the rate provided in Section 1343.03 of the Ohio Revised Code (and as amended from time to time). Interest shall be calculated from the date of delinquency to the date full payment is received by the Association. If any installment of an Assessment is not paid within thirty (30) days of its due date, the Board may, at its election, declare all of the unpaid balance of the Assessment immediately due without further notice or demand to the Owner. The Association may enforce the collection of the full Assessment and all charges thereon in any manner authorized by law or this Declaration. The filing of any petition for relief pursuant to the United States Bankruptcy Code by an Owner whose Assessment has been accelerated shall operate as a restoration of the Assessment to its prior status as if it has not been accelerated.

7.13. Remedies Cumulative. A suit to recover money judgment for unpaid Assessments and charges may be maintained without foreclosing or waiving the right to enforce the lien. A foreclosure may be maintained notwithstanding the pendency of any suit to recover a money judgment.

7.14. Personal Obligations. The Assessments, including fines, if any, payable by each Owner, together with any penalty, interest, costs and reasonable attorney fees shall be the personal obligation of the Owner of the Lot at the time incurred. The Personal obligation shall not pass to any successors in title unless expressly assumed by them.

7.15. Statement of Unpaid Assessments. The Association shall upon written request of the Owner, contract purchaser, or first mortgagee, furnish a statement setting forth the amount of unpaid Assessments against the Lot. This statement must be furnished within ten (10) business days after receipt of the request and is binding on the Association, the Board and every Owner. The Association may charge a reasonable amount for this statement.

7.16. No Waiver of Liability for Common Expenses. No Owner may exempt himself or herself from liability for payment of the Common Expenses by waiver of the use or enjoyment of the Common Elements or by abandonment of the Lot against which the Assessments are made. Notwithstanding the foregoing, neither Declarant nor Builder shall be obligated to pay Common Expenses.

7.17. Loan. In the event that sufficient funds are not on hand to pay Common Expenses as and when the same become due, Declarant may loan the Association such sums as may be required to pay said Common Expenses. All such sums shall draw interest at the prime rate charged by Summit National Bank at the time said loan is made.

7.18. No Refund of Reserves. No Owner shall be entitled to any portion of the funds held for reserves, nor shall any Owner have a claim against the Association with respect thereto.

ARTICLE VIII

UPKEEP OF THE PROPERTY

8.1. Lots. Each and every Lot, its Dwelling Unit and any improvement erected thereon shall be maintained in a reasonable manner in accordance with the standard generally prevailing throughout the Properties.

8.2. Common Elements. The Association shall maintain the Common Elements.

8.3. Association's Right to Maintain. If an Owner shall fail to provide maintenance as required by this Declaration in a manner satisfactory to the Association, and such Owner has failed to comply for ten (10) days after being so notified of such failure (and after being provided an opportunity to be heard concerning such failure), the Association shall have the right, through its agents and employees, to enter upon Owner's Lot and repair, maintain and restore the Lot. In the event that such failure poses a health, safety or security risk, then no notice or hearing need be given. The cost of such maintenance and repair shall be assessed against the subject Lot in accordance with Article VII, Section 7.4. Nothing in this Section shall be construed as giving the Association any right to repair, maintain or restore any Dwelling Unit.

8.4. Access to Lots. For the purpose solely of performing the maintenance required or authorized herein, the Association, through its duly authorized agents or employees, or subcontractors, shall have the right, after reasonable notice to the Owner, to enter upon any Lot at reasonable hours on any day.

ARTICLE IX

RESTRICTIONS

9.1. Use and Occupancy. The following restrictions are applicable to the use and occupancy of the Property.

9.1.1. Use. No Dwelling Unit shall be used as a hotel, rooming house, boarding house, group home, halfway house or other type of group or communal living by persons not related by blood or marriage. A blood relative may be defined to include only the following: parents and children or stepchildren; brother and sister; half-brother and half-sister, adopted children and children of a spouse, grandparents and grandchildren, aunts, uncles, nephews and nieces; and first cousins. Notwithstanding the foregoing, this restriction on use shall not apply to persons with disabilities and it shall not be used as a means by which to discriminate on the basis of a protected class, including without limitation, race, color, religion, national origin and/or handicap.

9.1.2. Compliance with Laws. No improper, offensive or unlawful use shall be made of the Property or any part thereof. All laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction over any portion of the Property shall be observed and complied with, by and at the expense of all Owners and Occupants.

9.1.3. Harmful Discharges. There shall be no emissions of dust, sweepings, dirt, cinders, odors, gases or other substances into the atmosphere (other than normal residential chimney emissions), no production, storage or discharge of hazardous wastes on the Property or discharges of liquid, solid wastes or other harmful matter into the ground or any body of water, if such emission, production, storage or discharge may adversely affect the use or intended use of any portion of the Property or may adversely affect the health, safety or comfort of any person. No waste nor any substance or materials of any kind shall be discharged into any public sewer or the Surface Water Management System serving the Property or any part thereof in violation of any regulation of law, order, rule, regulation or requirement of any applicable government or governmental agency.

9.1.4. Noise. No person shall cause any unreasonably loud noise (except for security devices) anywhere on the Property, nor shall any person permit or engage in any activity,

practice or behavior for the purpose of causing annoyance, discomfort or disturbance to any person lawfully present on any portion of the Property.

9.1.5. Nuisances. Nuisances and noxious or offensive activities of any kind are strictly prohibited.

9.1.6. Signs. No signs of any character shall be erected, posted or displayed upon the Property, except: (i) marketing signs installed by the Declarant or any Builder, which Builder's sign shall be subject to the advance approval of the Declarant, while actively marketing the Lots for sale; (ii) street and identification signs installed by the Association or the Declarant; (iii) one (1) temporary real estate sign not to exceed six square feet (6 sq. ft) in area advertising that such Lot is on the market; and (iv) political signs in accordance with the rules and regulations established by the Association. Declarant shall install street sign posts on the Property. The Association shall be responsible for maintenance repair and replacement of said street sign posts on the Property.

9.1.7. No Trade or Business. No trade or business of any kind may be conducted in or from any Lot or Dwelling Unit except that an Owner or Occupant of a Lot or Dwelling Unit may conduct such business activity within the Lot or Dwelling Unit so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from the exterior of the Lot or Dwelling Unit; (b) the business activity conforms to all zoning requirements for the Property; (c) the business activity does not involve persons coming on to the Lot who do not reside in the Property; and (d) the business activity is consistent with the residential character of the Property.

The terms "business" and "trade" as used in this provision shall be construed to have their ordinary generally accepted meanings and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether (i) such activity is engaged in full-time or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required thereof. The term "trade" or "business" for purposes of this restriction shall not include the construction, operation and maintenance of any model home or homes and sales offices by any Builder during reasonable hours.

9.1.8. Trash. Except in connection with construction activities, no burning of any trash and no accumulation or storage of litter, refuse, bulk materials, building materials or trash of any other kind shall be permitted on any Lot. Trash containers (except during construction) must be protected from animals and shall not be permitted to remain in public view except on days of trash collection. No incinerator shall be kept or maintained upon any Lot.

9.1.9. Parking; Vehicle Repairs. Except in connection with construction activities, trucks, trailers, campers, recreational vehicles, boats and other large vehicles may be parked on the Property only if in garages. No junk or derelict vehicle or other vehicle on which current registration plates are not displayed shall be kept upon any portion of the Property. Vehicle repairs and storage of vehicles are permitted on the Property only if in garages. Recreational vehicles and boats may be parked in the driveways for a period not to exceed twenty-four (24) hours for the purpose of cleaning, loading or unloading.

9.1.10. Animals. The maintenance, keeping, boarding or raising of animals of any kind, regardless of number, is prohibited on any Lot except that the keeping of guide animals and up to three (3) orderly domestic pets (e.g., dogs, cats or caged birds), is permitted, subject to the rules and regulations adopted by the Board. Such pets are not to be kept or maintained for commercial purposes or for breeding. No external compound cages, kennels or hutches shall be permitted.

Any pet causing or creating a nuisance or unreasonable disturbance or noise may be permanently removed from the Property upon ten (10) days written notice from the Board. Pets shall not be permitted on the Common Elements unless accompanied by someone who can control the pet and unless carried or leashed. Any Owner or Occupant who keeps or maintains any pet on any portion of the Property shall be deemed to have indemnified and agreed to hold the Association harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such pet within the Property. All pets which may leave the Dwelling Unit or Lot must be inoculated as required by law. Notwithstanding anything to the contrary hereinabove, only dogs that are of a "non-vicious" breed shall be permitted to be kept on the Property and said dogs shall not be allowed to remain outside so as to create a nuisance with respect to their barking or howling.

9.1.11. Open Fires. Open burning is not permitted on the Property, except that outdoor fireplaces, grills, and chimneys may be used if equipped with fire screens to prevent the discharge of embers or ashes.

9.2. Architectural Restrictions. The following architectural restrictions shall be applicable to the Lots.

9.2.1. Plan Approval. No structure shall be placed, erected or installed upon any Lot, no construction (which term shall include within its definition staking, clearing, excavation, grading, and other site work), no exterior alteration or modification of existing improvements, and no plantings or removal of plants, trees, or shrubs shall take place until the requirements of this section have been fully met. Prior to any construction, the Owner or Builder shall first submit to the Declarant (which for the terms of this section shall include the Committee, as

Declarant's designee) a complete set of building plans for the proposed construction, in duplicate, showing (a) through (k) below. The Declarant shall approve, reject or modify such plans in a writing sent to the Owner or Builder in question not more than thirty (30) days after the plans are submitted to the Declarant. The thirty (30) day period shall commence upon execution of a written notice by the Declarant acknowledging receipt of plans and specifications and all information required therewith. The Declarant shall review the plans as to aesthetics, proposed materials, design and harmony of external structures with existing structures and as to location in relation to surrounding structures, topography and finish grade elevation. The Declarant shall not unreasonably withhold approval of any plans that conform in every way with the Declaration and with the general character of the development on neighboring Lots within the Property. If the Declarant fails to approve, reject, or modify the plans within the thirty (30) day period, the Declarant's approval shall be deemed to have been denied, and further submission of such plans shall be needed before the improvements described in such plans may be constructed or installed. However, in no event shall any improvements be constructed or installed which violate any terms of this Declaration. Neither the Declarant, the Committee, nor any member thereof, or any of their respective heirs, representatives, successors and/or assigns, shall be liable to anyone submitting plans for approval by reason of mistakes in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve any plans. Every person and/or entity who submits plans to the Declarant and/or the Committee agrees, by submission of such plans, that he/she/it will not bring any action or suit against the Declarant or the Committee, at law or in equity, to recover any damages and each individual and/or entity hereby releases the Declarant or the Committee, as the case may be, from any future liability or damages associated therewith. If an Owner does not receive approval of its submitted plans, Declarant reserves and shall have the right to repurchase the Lot at the same price and on the same terms from which the original Owner bought the Lot from Declarant.

(a) Existing and proposed land contours and grades: Declarant reserves the right to establish grades and slopes on the Lots and Common Elements and to fix the grade at which any Dwelling Unit shall be constructed or placed, so that grade conforms to the general plan for grade and slope of Lots comprising the Property.

(b) All buildings, including Dwelling Units, and other improved areas and the locations thereof on the Lot.

(c) All landscaping, including existing and proposed tree locations and planting areas (and specie thereof), and ornamentation.

(d) Plans for all floors, cross-sections and elevations, including projections and wing walls.

- (e) Exterior lighting plans.
- (f) Walls, fencing and screening.
- (g) Patios, decks, pools and porches.
- (h) Parking areas.
- (i) Complete exterior color scheme & color samples.
- (j) Samples of all major materials to be used.
- (k) Such other information, data and drawings as may be reasonable requested by the Declarant and/or the Committee.

Each Owner, or his representative, will submit simultaneously with the plans for approval, a compliance deposit in the amount of Two Thousand Five Hundred and 00/100 Dollars (\$2,500.00), and a completed copy of the "Application for Review" checklist, indicating compliance or non-compliance with the building restrictions as listed, and shall furnish reasons for non-compliance on a separate page. This is intended to reduce delays and expedite approval. The Declarant and/or the Committee shall retain the full amount of the compliance deposit until completion of construction of the Dwelling Unit, in full conformity with the approved plans.

9.2.1.1. Declarant's Plan Approval Period. Declarant's right of plan approval shall exist for as long as Declarant owns any Lot in the Development. Declarant's right of plan approval shall include any alterations to existing Lots or Dwelling Units and/or items requiring prior approval by this Declaration. In any items or matters that are discretionary, the Declarant's decision shall be conclusive upon all parties.

9.2.1.2. Design Guidelines. The Declarant shall prepare and, on behalf of itself and the Association, shall promulgate design and development guidelines governing construction within the Properties, which shall include application and review procedures to be followed in submitting and application for approval hereunder ("Design Guidelines"). The Design Guidelines shall be those of the Association, and the Declarant and/or the Association shall have sole and full authority to modify and to amend them from time to time without the consent of any owner. The Declarant and/or the Association shall make the Design Guidelines available to Builders and Owners who seek to engage in

construction upon all or any portion of the Property. A copy of the current Design Guidelines is attached as Exhibit C.

9.2.1.3. Declarant's Control of New Construction. Declarant shall have exclusive control of new construction within the Properties. No provision of this Declaration or the Design Guidelines, as the same relates to new construction, may be modified without Declarant's consent.

9.2.1.4. Association's Right of Plan Approval. After Declarant's right of plan approval has expired, the Association shall be responsible for plan approval. The Declarant may assign its right of plan approval, or any portion thereof, to the Association.

9.2.1.5. No Liability. Each Owner and Builder is responsible to ensure that all construction or any modifications are in compliance with the restrictions and approved plans. If the Declarant or the Trustees have acted in good faith on the basis of such information possessed by them, neither the Declarant, the Board nor any Trustee shall be liable to the Association or to any Owner for any damage, loss or prejudice suffered or claimed due to: (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective; or (b) the construction or performance of any work whether or not pursuant to approved plans, drawings, and specifications.

9.2.2. Dwelling Type. No building shall be erected, altered, placed or be permitted to remain on any Lot other than one (1) single-family dwelling with an attached garage for at least two (2) cars. No manufactured home, industrialized unit, or mobile home of any kind shall be placed, erected, located, or maintained on any Lot. A manufactured home is defined as a building unit or assembly of closed construction that is fabricated in an off-site facility. An industrialized unit is defined as a building unit or assembly of closed construction fabricated in an off-site facility, that is substantially self-sufficient as a unit or as part of a greater structure, and that requires transportation to the site of intended use. An industrial unit includes units installed on a Lot as independent units, as part of a group of units, or incorporated with standard construction methods to form a completed structural entity. A mobile home is defined as a building unit or assembly of closed construction that is fabricated at an off-site facility, is built on a permanent chassis, and is transportable in one or more sections. Panelized wall systems and engineered structural components shall be allowed.

9.2.3. Dwelling Floor Areas. The living area of the Dwelling Unit exclusive of porches, decks, attics, basements, areas not heated year round and garages shall be no less than the areas set forth in the Design Guidelines.

9.2.4. Roof Requirements. The roof and gables of each Dwelling Unit shall be in accordance with the Design Guidelines.

9.2.5. Set Back, Minimum Elevation and Yard Requirements. All Dwelling Units shall be located in accordance with the building set back lines, minimum basement elevation and yard requirements as shown on the Plat and as required by applicable codes, ordinances and zoning regulations. The Owner or Builder shall be responsible for compliance with these standards. Declarant shall not be responsible for any failure to comply with these standards.

9.2.6. Front Yards and Driveways. Front yards shall be landscaped within ninety (90) days after the earlier of closing or after the home is occupied, weather permitting. All driveways shall be paved with concrete, asphalt, brick or paving stone within ninety (90) days after the earlier of closing or after the home is occupied, weather permitting. Driveways shall be not wider than twenty-two feet (22') from the front setback line to the street, unless approved in writing by the Declarant or the Association.

9.2.7. Corner Lots. The Declarant and/or the Association shall have sole discretion as to which street a Dwelling Unit on a corner lot will front on.

9.2.8. Construction Materials. No Dwelling Units shall be constructed of concrete block, cinder block or other similar materials unless the exterior of the Dwelling Unit is covered with brick and/or siding. No underground Dwelling Units shall be permitted.

9.2.9. Exterior Siding. Any wooden sheeting materials must have prior approval.

9.2.10. Front Storage. No front porch shall be used for the storage of any items except normal porch furniture. No front yard shall be used for storage of any kind of items. This restriction shall not apply to building materials and/or equipment stored on the Lot during construction of the Dwelling Unit.

9.2.11. Radio and Television Antennas. With the exception of home satellite dishes of one meter (1m) or less in diameter, no exterior antennas, aerials, satellite dishes, or other apparatus for the reception or transmission of television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon any portion of the Properties, including any Dwelling Unit, without the prior written approval as provided in Section 9.2.1, and in accordance with the Design Guidelines. Nothing herein shall be construed so as to be in conflict with current Federal Communications Commission's rules and regulations for antennas.

9.2.12. Air Conditioning and Heat Pump Equipment. Air-conditioning and heating equipment should be located and screened in such a manner so as to provide minimum visual impact from other Lots.

9.2.13. Awnings. No metal or plastic awnings for windows, doors or patios may be erected or used.

9.2.14. Exterior Carpeting. No exterior carpeting shall be permitted if it is visible from the street or any neighboring Lot.

9.2.15. Fences. No fence or any sort may be erected unless the same is in accordance with the Design Guidelines and until prior approval in accordance with Section 9.2 of the Declaration has been obtained. The Declarant reserves the right to prohibit all fences or types of fences on certain Lots. Chain link fences and stockade fences shall not be permitted. Invisible pet fences are permitted and preferred.

9.2.16. Other Structures. No structure of a temporary character, trailer, shed, or shack shall be permitted on any Lot. Additionally, barns, storage sheds or other outbuildings are not permitted, except that outbuildings associated with pools may be permitted provided: (i) the Owner has obtained prior approval in accordance with Section 9.2; (ii) the outbuilding is located in the rear yard of a Lot; (iii) such structures do not exceed one hundred twenty square feet (120 ft²) in size or ten feet (10 ft) in height; and (v) the outbuilding is constructed with shingles and siding to match the Dwelling Unit. Construction trailers and/or temporary storage sheds shall be permitted only during construction.

9.2.17. Pools and Spas. Pools, hot-tubs and spas must have prior approval in accordance with Section 9.2. In-ground swimming pools shall be permitted. With the exception of portable children's pools not exceeding forty-eight inches (48") in diameter, no above ground swimming pools shall be permitted. All hot tubs and spas must be in-ground or if above ground incorporated into a deck with enclosed sides. All hot tubs and spas must be screened with a privacy fence in accordance with the Design Guidelines.

9.2.18. Play Equipment and Basketball Hoops. All play equipment and basketball hoops must comply with the Design Guidelines.

9.2.19. Clothes Drying. No outdoor clothes drying apparatus of any sort shall be permitted.

9.2.20. Mailboxes. All mailboxes shall be contained within Cluster Box Units, as required by the United States Postal Service. Declarant shall determine the design, style and

color of the Cluster Box Units. Installation of the Cluster Box Units shall be undertaken by Declarant, at its sole cost and expense. Mailboxes, once installed, shall be maintained by the Association. Location of the Cluster Box Units shall be determined by the United States Postal Service, working in conjunction with Declarant.

9.2.21. Start and Completion of Construction. Construction of a Dwelling Unit shall commence within twenty-four (24) months after an Owner takes title to his or her Lot. In the event construction has not commenced within the first twenty-four (24) months, Declarant reserves the right to re-purchase the Lot from the Owner, at the same price and on the same terms from which the Owner acquired the Lot from Declarant. Construction of a Dwelling Unit on any Lot shall be completed within one (1) year from the date construction is started. Landscaping shall be completed no later than six (6) months after completion of construction of a Dwelling Unit.

9.2.22. Lot Maintenance. All Lots must be kept mowed and free of debris and clutter. Lots that are purchases, but upon which construction has not commenced, must be mowed not less than once every thirty (30) days during the growing season. During construction, each Owner and Builder shall be responsible for keeping the streets and adjacent Lots clean and free of debris. The Declarant shall have the right to assess any Owner or Builder for the cost of mowing or clean up in the event that the Owner or Builder fails to do so.

9.2.23. Site Lighting. Site lighting which interferes with the comfort, privacy or general welfare of an adjacent Lot or Owner is prohibited.

9.2.24. Subdivision of Lots. No Lot shall be subdivided or divided unless or until the plat showing such proposed subdivision or division shall have been submitted to the Declarant, Committee and/or the Association, and the written consent of the approving party has been obtained.

9.3. Remedies for Breach of Covenants and Restrictions. The violation of any covenant or restriction contained in this Declaration or violation of any rule or regulation duly adopted by the Board shall give the Board the authority to enforce the covenants, restrictions, rules and regulations in accordance with this Section.

9.3.1. Actions. The Board may take any or all of the following actions:

9.3.1.1. levy a fine against the Owner or Occupant which shall also be an Individual Assessment under Section 7.4.

9.3.1.2. enter upon a Lot or portion thereof upon which or, as to which, such violation or breach exists and to summarily abate and remove at the expense of the Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions of this Declaration, and the Board, or its agents shall not be thereby deemed guilty in any manner of trespass or wrongful act.

9.3.1.3. institute appropriate legal proceedings to enjoin, abate or remedy the continuance of any breach.

9.3.1.4. undertake such dispute resolution methods such as mediation and arbitration, except that this provision shall not be construed as any requirement to do so as a condition precedent to legal proceedings.

9.3.2. Notice and Opportunity to be Heard. Prior to any action, the Board shall give the Owner and/or Occupant reasonable notice of the violation and an opportunity to be heard. Such notice and opportunity shall not be required in emergency situations or for repeated or continuing violations.

9.3.3. Individual Actions. Each Owner is empowered to enforce the covenants by appropriate legal proceedings or alternative dispute resolution methods.

ARTICLE X

INSURANCE AND CASUALTY LOSSES

10.1. Insurance. The Board or its duly authorized agent shall have the authority to and shall obtain such insurance as it may deem necessary to protect the Common Elements, the Owners, the Association and the Board.

10.2. Repair and Restoration. If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the Owners, levy a Special Assessment against all Owners. Additional Special Assessments may be levied at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the cost of repair, such excess shall be deposited to the benefit of the Association.

ARTICLE XI

CONDEMNATION

11.1. Whenever all or any part of the Common Elements shall be taken (or conveyed in lieu of and under threat of condemnation by the Board, acting on its behalf or on the written direction of all Owners of Lots subject to the taking, if any) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof and to participate in the proceedings incident thereto, unless otherwise prohibited by law. The award made for such taking shall be payable to the Association, as trustee for all Owners, to be disbursed as hereinafter provided.

11.2. If the taking involves a portion of the Common Elements on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant and at least seventy-five percent (75%) of the Owners shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Elements, to the extent lands are available therefore, in accordance with plans approved by the Board. If such improvements are to be repaired or restored, the above provisions in Article X hereof regarding the disbursements of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Elements, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

ARTICLE XII

DEVELOPMENT RIGHTS

12.1. Submission of Additional Land. The Declarant reserves the right to submit all or any portion of the Additional Land to the terms of this Declaration without consent of the Owners for a period of seven (7) years beginning with the date of recording of the Declaration. The submission shall be accomplished by the filing of a Supplemental Declaration identifying the Additional Land, the Lots and the Common Elements. During any Declarant Control Period, annexation of Additional Land shall require the prior approval of the Federal Housing Administration or the Veterans Administration, if either such agency is insuring or guaranteeing the mortgage on any Lot.

12.2. Notice to the Board. The Declarant shall notify the Board of the filing of any Supplemental Declaration, but any such Supplemental Declaration shall not otherwise be affected or invalidated by Declarant's failure to notify the Board.

12.3. Easements Reserved. The Declarant reserves for itself, its successors and assigns and any Builder, the following easements:

12.3.1. Easements for drainage and all utilities as shown on the Plats. Declarant reserves unto itself, its successors and/or assigns, the right to relocate utility easements in accordance with the requirements of Stark County, Plain Township, or as otherwise necessary for the orderly development of the Property.

12.3.2. Easements for ingress, egress, drainage and all utilities over the Common Elements provided that such easements do not unreasonably interfere with any Owner's rights of enjoyment.

12.3.3. Easements or rights of way for the construction, maintenance, extension and operation of all public or private utility facilities in or upon all highways and streets, now and existing or hereafter established, upon which any portion of the Development may now or hereafter front or abut. The Owners of any and all Lots within the Development agree to and do hereby consent to and affirm all such agreements that may be entered into between Declarant and public or private utility companies, entities or authorities.

12.3.4. An easement over the Common Elements as may be reasonably necessary for the purpose of discharging its obligations or exercising any rights under the Declaration.

12.3.5. An easement for ingress, egress, drainage and all utilities over the Common Elements and in favor of the Additional Property and the right to convey that easements to others in the event that the Additional Property is not submitted to this Declaration.

12.3.6. An easement over and across Open Space C, as may be reasonably necessary to allow Declarant to install, maintain and/or improvement any and all fountains and/or water features associated with the pond located thereon.

12.3.7. An easement upon Lot 45, as may be reasonably necessary to allow Declarant to install, maintain and/or replace electrical service facilities for the fountains servicing the pond(s) in the Development.

12.3.8. An easement upon Lot 39, as may be reasonably necessary to allow Declarant to install, maintain and/or replace a masonry pillar for the purpose of identifying the Development.

12.3.9. An easement over and across a portion of the Development to Stark County Park District, an Ohio political subdivision, for the purpose of establishing walking trails in, through and upon the Development. The proposed location of the Stark Parks Trail is within Open Space D of the Development.

12.4. Assignment of Development Rights. The Declarant reserves the right to assign any or all of its Development Rights to any person or entity for the purpose of further development and improvement of the Property. No assignment shall be effective unless in a writing filed with the Recorder of Stark County, Ohio.

12.5. Transfer of Development Rights by Foreclosure. Unless otherwise provided in any mortgage securing the Property held by Declarant, in the case of foreclosure of such mortgage, deed in lieu of foreclosure, judicial sale, tax sale, sale under the U.S. Bankruptcy Code or receivership proceedings, of any portion of the Property held by the Declarant subject to the Development Rights herein reserved (including the Special Declarant Rights), a person acquiring title to such property, but only upon his request, succeeds to all such Development Rights. The judgment or instrument conveying title must provide for the transfer of such rights. Upon foreclosure sale, deed in lieu of foreclosure, judicial sale, tax sale, sale under the U.S. Bankruptcy Code or receivership proceeding, the Declarant ceases to have any of the rights herein reserved. A successor to the Development Rights held by a transferee who acquired such rights pursuant to this Section, may declare by a recorded instrument the intention to hold such rights solely for transfer to another person. Thereafter, until transferring such Development Rights to any person acquiring title to the Property subject to the Development Rights, or until recording an instrument permitting exercise of such rights, that successor may not exercise any of those rights, and any attempted exercise is void. So long as a successor Declarant may not exercise any Development Rights under this section, such Declarant is not subject to any liability as a Declarant.

ARTICLE XIII

SPECIAL DECLARANT RIGHTS

13.1. Use for Sale Purposes. Declarant reserves for itself, its successors and assigns, and any Builder the right to maintain sales offices and models on the Lots.

13.2. Signs and Marketing. The Declarant reserves the right for itself and any Builder to post signs and displays in the Property to promote sales of Lots, and to conduct general sales activities, in a manner as will not unreasonably disturb the rights of Owners.

13.3. Control of the Association.

13.3.1. Appointment of Trustees and Officers. The Declarant reserves the right to appoint and remove the members of the Board and the Officers of the Association during the Declarant Control Period which commence upon the recording of this Declaration and shall terminate no later than the earlier of:

13.3.1.1. sixty (60) days after the conveyance of seventy-five percent (75%) of the Lots (including Lots to be included on the Additional Land) to Owners other than Declarant or any Builder;

13.3.1.2. seven (7) years after recording of this Declaration.

13.3.2. Transition from Declarant Control. During the period of existence of Class "B" Membership, the Declarant may, but shall not be obligated to, exercise all or any of the powers, rights, duties and functions of the Association; including, without limitation, the right to levy and collect Assessments as authorized herein (including special Assessments), the right to enter into any management contract, the right to obtain insurance under Declarant's blanket policy (if any), the right to perform each duty and obligation of the Association set forth herein, the right to collect Assessments and disburse all funds of the Association, the right to have a lien (and to foreclose said lien) on a Dwelling Unit for unpaid Assessments in the manner and to the extent granted to the Association as provided herein. Notwithstanding any other provision in this Declaration or the Code of Regulations to the contrary, Declarant, in Declarant's sole discretion, may turn control of the Association to the Class "A" Members (hereinafter defined as the "Turnover Date" here and in the Code of Regulations) at any time prior to the expiration of the Class "B" Membership as set forth in Section 6.6 above. Further, notwithstanding any other provision in this Declaration or the Code of Regulations to the contrary, Declarant, in Declarant's sole discretion, may retain control of the Association and not turn over control, administration and/or governance of the same to Class "A" Members until expiration of the Class "B" Membership as set forth in Section 6.6 above.

13.4. Declarant's Personal Property. The Declarant and any Builder reserve the right to retain all personal property and equipment used in sales, management, construction and maintenance of the premises that has not been represented as property of the Association. The Declarant and Builder reserve the right to remove, within one (1) year after the sale of the last Lot, from the Property any and all goods and improvements used in development, marketing and construction, whether or not they have become fixtures.

13.5. Right to Amend Documents. Notwithstanding anything above to the contrary, this Declaration may be amended at any time without the vote or approval of any Owners, including

those Owners who have executed and delivered Consents attached to this Declaration, by a written instrument executed by the Declarant for the purpose of eliminating or correcting any typographical or other inadvertent error herein; eliminating or resolving any ambiguity herein; making nominal changes; clarifying Declarant's original intent; making any change necessary or desirable to meet the requirements of any institutional lender, the Veteran's Administration, the Federal Housing Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or any other agency which may insure or purchase loans on a Lot. No such amendment, however, shall materially affect any Owner's interest in the Association or the Common Elements. Each Owner and his mortgagees, by acceptance of a deed to a Lot or a mortgage encumbering such Lot, shall be deemed to have consented to and approved of the provisions of this paragraph and the amendment of this Declaration by Declarant as provided in the immediately preceding sentence. All such Owners and their mortgagees, upon request of Declarant, shall execute and deliver from time to time all such instruments and perform all such acts as may be deemed by a Declarant to be necessary or proper to effectuate the provisions of this paragraph.

ARTICLE XIV

DURATION, AMENDMENT AND TERMINATION

14.1. Duration and Enforceability. This Declaration, and its provisions, shall be covenants running with the land and shall bind the Property and shall (regardless of whether any such beneficiary owns an interest in any Lot) inure to the benefit of and be enforceable by Declarant, the Association, and each Owner, Occupant and their legal representatives, heirs, devisees, successors and assigns and shall continue in full force and effect for twenty (20) years from the date on which this Declaration is recorded. Thereafter this Declaration shall be automatically renewed for successive ten-year periods unless amended or terminated as provided in this Article. It is understood and agreed that all of the foregoing are part of a common and general plan for the Development and the protection of all present and future owners of any part of the Development. Failure of the Declarant to enforce any of the restrictions contained herein shall in no event be construed to be in any manner a waiver of, acquiescence in, or consent to a further or succeeding violation of the Restrictions contained herein. However, the failure, refusal or neglect of the Declarant, its successors and/or assigns, to enforce this Declaration or to prevent violations hereof shall in no event make the Declarant, its successors and/or assigns, liable for such failure, refusal or neglect. If the event the Declarant and/or the Association takes any action, legally or otherwise, to enforce any provision of this Declaration, the Owner(s) against whom the action is taken shall be assessed for and be responsible to pay the Declarant and/or the Association, as the case may be, any and all costs and expenses (including, but not limited to, discover, court costs and/or reasonable attorney's fees) incurred by the Declarant and/or the Association, related to the action.

14.2. Amendment. Except as provided in Section 13.5, prior to the end of the Declarant Control Period, any provision of this Declaration may be amended in whole or in part by a recorded instrument executed by Declarant, approved by the Owners of at least two-thirds (2/3) of all Lots, and the prior approval of the Federal Housing Administration or the Veterans Administration, if either such agency is insuring or guaranteeing the mortgage on any Lot.

14.2.1. Except as provided in this Section 13.5, after the end of the Declarant Control Period, any provision of this Declaration may be amended in whole or in part by a recorded instrument approved by the Owners of at least two-thirds (2/3) of all Lots.

14.2.2. All Amendments shall be executed by the Declarant, and any Builder, if required, and shall be executed by the President and Secretary of the Association. Such Amendment shall certify that the proper notices were sent and that the requisite vote was obtained. Amendments need not be signed by the Owners nor the Federal Housing Administration or the Veterans Administration.

14.3. Termination. This Declaration and the regime created thereby may be terminated only in accordance with this Section.

14.3.1. Consent Required. This Declaration may be terminated only upon consent of eighty percent (80%) of the Owners, and if during the Declarant Control Period, by consent the Declarant and the prior approval of the Federal Housing Administration or the Veterans Administration, if either such agency is insuring or guaranteeing the mortgage on any Lot.

14.3.2. Agreement to Terminate. No termination shall be effective unless an agreement to terminate is filed for record with the Stark County Recorder. This agreement shall be executed in the same manner as an amendment as provided above. The agreement shall provide for disposition of the Common Elements, disposition of Association funds and other resolutions and provisions necessary to terminate the regime and wind up the affairs of the Association.

ARTICLE XV

MISCELLANEOUS

15.1. No Reverter. No covenant, condition, restriction or reservation of easement contained in this Declaration is intended to create, or shall be construed as creating, a condition subsequent or a possibility of reverter.

15.2. Notices. Any notice required or permitted to be given to an Owner or resident by the Board pursuant to the provisions of this Declaration shall be deemed given when mailed by United States mail, postage prepaid, addressed to such person's last address as it appears on the records of the Association.

15.3. Construction. The Board shall have the right to construe the provisions of this Declaration, and, in the absence of an adjudication by a court of competent jurisdiction to the contrary, such construction shall be final and binding as to all persons and entities benefited or bound by the provisions of this Declaration.

15.4. Invalidity. The determination by a court of competent jurisdiction that any provision of this Declaration is invalid for any reason shall not affect the validity of any other provision hereof.

15.5. Headings. The headings of the Articles and Sections are for conveyance only and shall not affect the meaning or construction of the contents of this Declaration.

15.6. Gender. Throughout this Declaration, the masculine gender shall be deemed to include the feminine and neuter, and the singular, the plural and vice versa.

15.7. Conflict. In the event of a conflict between a restriction, covenant, condition, easement or obligation herein and those of any instrument of the Association which may be recorded subsequent to this Declaration, the more restrictive restriction, covenant, condition, easement or other obligation shall control.

15.8. Disclosures. Declarant discloses to prospective Owners and/or Occupants that a portion of the Additional Land may be used for the development of multi-family, senior-targeted apartments.

15.9. Constructive Notice. Every person who now or hereafter owns or acquires any rights, title or estate in any portion of the Development is and shall be conclusively deemed to have consented and agreed to every covenant, condition and restriction contained herein, whether or not a reference to these Restrictions is contained in the instrument by which such person acquired an interest in the Development.

15.10. Mutuality. All restrictions, conditions and covenants contained herein are made for the direct mutual and reciprocal benefit of the Declarant, the Association, the Owners and their respective heirs, executors, successors and/or assigns. The restrictions contained herein shall create mutual equitable servitudes upon each Lot, in favor of other real property in the Development. The restrictions contained herein shall create reciprocal rights and obligations

and privity of contract and estate between the respective Owners of all such property. The restrictions contained herein shall operate as covenants running with the land, for the benefit of the Development and the Owners of Lots therein.

IN WITNESS WHEREOF, McKinley-Edgewood Development Company LLC,
has caused this Declaration to be signed by a Manager of McKinley Holdings, LLC, its Sole
Member, this 11th day of October, 2019.

**McKinley-Edgewood Development Company
LLC, an Ohio limited liability company**

By: McKinley Holdings, LLC, an Ohio
limited liability company

By: 
Robert J. DeHoff, Manager

STATE OF OHIO)
) ss:
COUNTY OF STARK)

The foregoing instrument was acknowledged before me, this 11th day of October, 2019, by Robert J. DeHoff, Manager of McKinley Holdings, LLC, the sole Member of **McKinley-Edgewood Development Company LLC**, an Ohio limited liability company, on behalf of the company.



JAMIE R. MINOR
Attorney at Law
Notary Public, State of Ohio
My Commission Has No Expiration Date
Under Section 147.03

Jamie R. Minor

Notary Public, State of Ohio

This Instrument Prepared By:
Winkhart & Minor, LLC
Attorneys at Law
825 South Main Street
North Canton, Ohio 44720

EXHIBIT A
Lots to be Submitted

Situated in the Township of Plain, County of Stark and State of Ohio:

Known as and being Lot Numbers 39 through 54 in The Fountains at Edgewood No. 2, as established by the Plat recorded April 8, 2019 in Instrument Number 201904080011949 of the Stark County Records.

EXHIBIT B**Additional Land**

Situated in the Township of Plain, County of Stark, State of Ohio and known as being part of the Northwest Quarter and part of the Southwest Quarter of Section 10 (T-11, R-8), also known as being part of the lands now or formerly owned by McKinley-Edgewood Development Company LLC, as recorded in Instrument #201406230023296 of the Stark County records and more fully described as follows:

Beginning at a County monument (PLA047) found at the northeasterly corner of said Southwest Quarter of Section 10 said point being the True Place of Beginning for the Parcel of land herein described in the following fifteen (15) courses;

1. Thence S 00°54'52" W, along a westerly line of lands now or formerly owned by Longacre Hills LLC., as recorded in Instrument No. 200504290027306 of the Stark County Records, a distance of 817.36 feet to a 5/8" rebar found;
2. Thence N 88°23'03" W, along a northerly line of Stonehedge Development No. 4 as recorded in P.B. 66, P. 93-94 of the Stark County Records, a distance of 862.03 feet to a point (witnessed by a 1/2" capped rebar (Cooper) found 0.27' W);
3. Thence N 01°36'57" E, along a new line of division, a distance of 261.43 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;
4. Thence, along a new line of division, along the arc of a curve curving to the left, having a central angle of 00°16'28", a radius of 475.00 feet, a tangent of 1.14 feet, a chord bearing of N 72°53'15" W, a chord of 2.27 feet, an arc length of 2.27 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;
5. Thence N 01°36'57" E, along a new line of division, a distance of 234.71 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;
6. Thence N 90°00'00" W, along a new line of division, a distance of 570.53 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;
7. Thence N 55°37'39" E, along a southerly line of lands now or formerly owned by The Solomon Foundation as recorded in Instrument No. 201705220021486 of the Stark County Records, a distance of 166.08 feet to a 5/8" capped rebar (GBC Design, Inc.) found;

8. Thence N 00°38'42" E, along an easterly line of said The Solomon Foundation lands, a distance of 828.35 feet to a 5/8" capped rebar (GBC Design, Inc.) found;
9. Thence N 88°22'46" W, along a northerly line of said The Solomon Foundation lands, a distance of 69.39 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;
10. Thence N 01°37'14" E, along a new line of division, a distance of 226.16 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;
11. Thence, along a new line of division, along the arc of a curve curving to the left, having a central angle of 00°22'09", a radius of 1975.00 feet, a tangent of 6.36 feet, a chord bearing of N 87°23'58" E, a chord of 12.72 feet, an arc length of 12.72 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;
12. Thence N 02°24'58" W, along a new line of division, a distance of 50.00 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;
13. Thence N 01°37'14" E, along a new line of division, a distance of 165.02 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;
14. Thence S 88°22'46" E, along the southerly line of lands now or formerly owned by Geitgey Complexes INC., as recorded in O.R. 508, P. 969 of the Stark County Records, a distance of 1346.88 feet to a point (witnessed by a 1" pipe bent 0.39'W);
15. Thence S 00°38'42" W, along the westerly line of Wellington Hills No. 3, as recorded in P.B. 66, P. 35 of the Stark County Records, a distance of 1031.22 feet to the True Place of Beginning, and containing 50.7870 Acres of land (31.2534 Acres in Northwest Quarter Section 10, 19.5336 Acres in Southwest Quarter Section 10), more or less, as determined in November, 2018 by Louis J. Giffels, Registered Surveyor No. 7790, with GBC Design, Inc., but subject to all legal highways and any restrictions, reservations, or easements of record.

*The Basis of Bearing for this legal description is the Ohio State Plane Coordinate System, North Zone (NAD83-1986).

EXHIBIT C

DESIGN GUIDELINES THE FOUNTAINS AT EDGEWOOD

The following standards have been developed and promulgated by the Declarant in accordance with Article IX, Section 9.2.1.2 of the Declaration and are applicable to all new construction and all modifications or improvements. These Design Guidelines are not part of the Declaration and can be amended by the Declarant or the Association without a vote of the Owners. Pursuant to Article IX, Section 9.2.1.1 of the Declaration, Declarant shall retain all architectural plan review and approval as set forth therein.

GENERAL GUIDELINES APPLICABLE TO ALL LOTS

House Placement and Yard Grading. Dwelling Units shall conform to existing grade and drainage patterns. Builders shall be responsible to regrade the Lot to conform the drainage plan approved for the subdivision.

The following guidelines shall be used in determining placement with respect to style and elevations:

- a. There must be a minimum of two (2) different homes separating like models on the same side of the street. Optional items, such as full porches and pediment front foyers, may be used to establish the differences.

Dwelling Type. No building shall be erected, altered, placed or be permitted to remain on any Lot other than one (1) single-family dwelling and a garage for at least two (2) cars. A single-family dwelling shall meet the following requirements:

- a. A one-story dwelling structure, the living area being the first-floor space only, constructed with a basement, having a space between the first-floor ceiling and the roof of inadequate heights to permit its use as a dwelling place.
- b. A story and a half or "Cape Cod" dwelling structure, the living area of which is on two levels connected by a stairway and constructed with a basement. The upper level is constructed within the gable portion of the roof. Window penetrations are made by use of dormers.
- c. A two-story dwelling structure, the living area of which is on two (2) levels connected by a stairway, constructed with a basement.

Dwelling Unit Size. The living area of any Dwelling Unit shall not be less than the square footage hereinafter set forth. "Living Area" shall not include garages, attics, basements, breezeways, patios or any enclosed areas not heated for year-round living. The area of any Dwelling Unit shall be computed on the outside foundation of the first floor and the exterior dimensions of the second floor. In the case of a "Cape Cod" design, the second floor area shall be computed from the outside dimensions of the knee walls. In the case of open ceilings to the second floor, the upper open space may be computed as second floor footage.

- a. A one-story dwelling must be at least two thousand square feet (2,000 ft²).
- b. A one and a half story dwelling must be at least two thousand four hundred square feet (2,400 ft²), with not less than one thousand six hundred square feet (1,600 ft²) in the first floor living area.
- c. A two-story dwelling must be at least two thousand four hundred square feet (2,400 ft²).

Square footage for other types of dwellings (if permitted) shall be determined by the Declarant upon plan review. Declarant reserves the right to make minor variances if, in its sole opinion, the intent of the section is maintained.

Dwelling Unit Construction. No manufactured home, industrialized unit, or mobile home of any kind shall be placed, erected, located, or maintained on any Lot. A manufactured home is defined as a building unit or assembly of closed construction that is fabricated in an off-site facility. An industrialized unit is defined as a building unit or assembly of closed construction fabricated in an off-site facility, that is substantially self-sufficient as a unit or as part of a greater structure, and that requires transportation to the site of intended use. An industrial unit includes units installed on a Lot as independent units, as part of a group of units, or incorporated with standard construction methods to form a completed structural entity. A mobile home is defined as a building unit or assembly of closed construction that is fabricated at an off-site facility, is built on a permanent chassis, and is transportable in one or more sections. Panelized wall systems and engineered structural components shall be allowed.

Building Materials. All materials used (i.e. roofs, walls, etc.) shall be compatible with each other and blend together with a common tone. Accent colors are acceptable if used carefully to add detail and highlight architectural features. The following materials are acceptable:

- a. Wood Siding: four (4) and eight (8) inch clapboard, rough or smooth finish; channel rustic boards, v-joint tongue and groove boards, vertical board and batten; wood

shingles; all with semi-transparent stains are recommended. Paint is allowed, but does require more maintenance than stain and is not considered as desirable as stain.

- b. Vinyl or Aluminum Siding: Vinyl siding is preferred. Aluminum siding is not permitted without prior written approval of the Declarant or the Committee.
- c. Brick: Natural sand molded brick is preferred. "Manufactured" sand mold and textured brick may also be used. Color ranges should be subtle with no dark brown, speckled or glazed brick permitted, unless otherwise approved by the Declarant or the Committee. Brick detail in chimneys, sills, entry steps and foundations are encouraged. Exposed single-depth of brick or stone at building corners is not permitted.
- d. Stone: Cultured stone in a natural horizontal bed is preferred. Rubble and roughly squared stone is felt to be aesthetically more pleasing because of its natural quality than square cut dimensional or ashlar stone. Native Ohio limestone in gray or buff is recommended over more exotic stone.
- e. Stucco: Natural, hand-finished or sand textured finishes are preferred; scratches, splashes and artificial textures are discouraged. Stucco colors must blend with other colors. White stucco is discouraged.
- f. Other Materials: Use of other man-made materials is permitted if they are painted to blend with other natural materials. The use of wrought iron and other decorative ornamentation must be approved by the Declarant and/or the Committee.

Facades. All sides of a Dwelling Unit should be finished with the same materials or with compatible materials that blend with one another. Termination of masonry front façade materials shall be at inside building corners and at second floor roof overhangs. Where front façade masonry turns an outside corner to the side of the Dwelling Unit, masonry must continue to the next break in the building façade, rear corner of side wall, or terminate to a carefully designed detail of architectural element (faux column, window bay, etc.) as approved by the Declarant or Committee.

Roof. The roof and gables of each Dwelling Unit shall be no less than 6/12 pitch. Porch, rear extension and patio roofs may be 3.5/12 pitch. All shingles shall be of a uniform color. No vents shall be placed on the "front" half (50%) of the roof area, regardless of roof slope or shape. Flashing and vents shall be painted the same color as the roof.

Garages. A minimum two (2) car garage is required. Garages must be no less than four hundred square feet (400 ft²) (interior dimensions). Detached garages of any size are not permitted.

Sloped Lots. Dwelling Units should fit into sloped Lots as much as possible. Stepped plan arrangements are encouraged to minimize cut and fill in these areas.

Yards, Driveways and Walks. Front yards shall be grass and landscaped as soon after completion of the Dwelling Unit as is practical under weather conditions. Rear Yards shall be defined as that portion of the Lot which is behind the rear elevation of the Dwelling Unit extended to each Lot line. All driveways shall be paved with asphalt, concrete, paver bricks or paving stone. Gravel, limestone or dirt driveways are prohibited. The Lot owners or their assigns shall, within three (3) months, weather permitting, of occupancy of their residences, construct on the frontage of said Lot a sidewalk which shall be four feet (4') wide, four inches (4") deep, constructed of a concrete (six stack limestone mix) and meet the specifications of Stark County and shall span the width of the Lot and connect with the sidewalk constructed on adjoining Lots on each side of the premises. Where required, a handicap curb ramp with required truncated domes shall be installed. Notwithstanding the foregoing, on vacant Lots, an Owner must install his/her sidewalk not later than the time at which the sidewalks on any/all adjacent Lots have been installed.

Foundations. No exposed concrete block foundation, including split face concrete block shall be permitted. Accordingly, a brick or cultured/natural stone band is required on all elevations. On walkout basements, the brick band shall be installed from ground level to the first floor, floor joists. A poured concrete foundation with a brick exterior pattern is acceptable. On walkout basements, the brick band shall be installed from ground level to the first floor, floor joints.

Color Schemes. All Dwelling Units shall be in conformance with the original color scheme as promulgated by the Declarant. The following guidelines shall be followed with determining color schemes with respect to location.

- a. In any group of five (5) dwellings on the same side of a street, at least three (3) siding colors must be used. Never use the same color on two (2) consecutive dwellings.
- b. On any cross-street intersection, at least two (2) siding colors must be used.
- c. Dwellings directly across the street from one another should have different siding colors.

No more than two (2) main wall colors and two (2) main materials on any Dwelling Unit or other structure shall be permitted, unless approved in writing by the Declarant and/or the Committee. Repainting of an existing Dwelling Unit with a color other than one previously approved shall require approval of the Developer and/or the Committee.

Repetition. Owners should select building sites and plans so to attempt not to construct repetitious designs within close proximity. Furthermore, careful consideration must be given to roof lines of adjacent Dwelling Units. Any early discussion before design is encouraged if Owners have any questions about approval regarding repetition.

Underground and Log Homes. Underground and log structures are prohibited.

Retaining Walls. Retaining walls in cut situations are permitted and shall be constructed per these Design Guidelines.

Porches, Appendages and Additions. No porches, appendages, or additions shall be permitted unless they are of a size, style, color and type compatible with the original design of the house and shall match the house material and coloring exactly. Porches, appendages or additions must be integrated into the design of the house. Compatibility shall be at the discretion of the Declarant and/or the Association.

Decks and Patios. Decks and patios shall not be permitted in the front yard unless approved by the Declarant and/or the Committee.

Front Storage. No front porch shall be used for the storage of any item except normal porch furniture. No front yard shall be used for the storage of any item of any kind.

Awnings. No metal or plastic awnings for windows, doors, decks or patios may be erected or used. Canvas awnings may be used subject to prior approval of size, color, location and manner of installation for the particular Lot in question.

Exterior Carpeting. No exterior carpeting may be used if it is visible from any neighboring Lot or the street.

Railings. All deck and balcony railings shall be wood or other material as approved by the Committee and stained the same color as the deck or balcony.

Solar Panels. No solar panels shall be permitted.

Windows. Windows should be carefully selected and proportioned to enhance walls in which they are placed. Windows are required on all major walls including walls facing side yards.

Chimneys. Brick or stone masonry exterior construction is required. Exposed pre-fab fireplace flues, vinyl-sided chases and bump out chimneys are prohibited on all elevations. All fireplaces shall have a masonry foundation. A through the wall vent is permitted on the rear elevation only.

Water Discharge. Storm water must be disposed in accordance with the drainage plan for the subdivision and city regulations. Sump drain and downspouts must discharge to an approved swale on the rear of the Lot or the sump drain line provided. Curb cuts and or discharge to the street of right-of-way or curb are prohibited. Plans showing sump drain lines are available from the Declarant.

Skylights. Skylights may be used on a back roof facing the rear of a Lot. Other locations may be approved for a contemporary design house depending upon the design and the particulars of the Lot.

Entrance Structures. No additional driveway entrance structures shall be permitted.

Swimming Pools, Spas and Hot Tubs. In-ground swimming pools, hot tubs and spas shall be permitted provided that such pool, hot tub or spa is located in the rear yard and at least ten feet (10') from any property line. Privacy fencing or other such adequate screening as approved by the Declarant and/or Association is required. All swimming pools must be approved by the Declarant and/or Association as to style and location. Portable children's pools not exceeding forty-eight inches (48") in diameter shall be permitted.

Play Equipment. Play apparatus or structures shall be located in the rear yard and not located within any side or rear setback lines. Such structures shall be of wood or other material as approved by the Declarant and/or Association with natural coloring or may be painted or stained brown or gray. Structures that include colored items of equipment, such as a slide or swing set seats are permitted, so long as all such equipment is the same color. If a play structure has a roof, it shall be of one color and may be made of fabric, plastic, wood, or shingled preferably, but not exclusively, in the same color as the roof of the dwelling. The entirety of the play structure must be kept in good repair. All play equipment on any one Lot shall be the same color.

Basketball Hoops. No basketball hoop or goal may be placed on any Lot, regardless of location, until its specifications and location have been approved in accordance with these guidelines. Portable basketball goals also require approval.

- a. **Specifications.** In general, any commercially available goal will be acceptable. Goals with home-made backboards or posts will not be acceptable. Backboards must be clear or painted white. The post should be painted in subdued colors so as to blend in with the surroundings as much as possible. All goals must be maintained. Any backboard or goal that becomes broken or damaged, must be repaired, replaced or removed. Any lighting for the goal must be directed away from any neighboring dwelling or patio or deck areas.
- b. **Location.** No basketball goals shall be permitted in the front of any Lot or Dwelling Unit. No goal may be attached to any Dwelling Unit or garage. No goal may be placed forward of the rear elevation line of any Dwelling Unit. On corner Lots, goals must be located behind the rear elevation line of the Dwelling Unit and at least fifteen feet (15') back from the setback line on the "side" yard adjacent to the street. All goals must be located at least ten feet (10') back from any property line. A portable basketball goal may be located on a driveway for the period of its current use. No portable goals will be permitted to be used in driveways of corner Lots. Any portable goal must be put away after use. Any portable goal left out overnight shall be considered in violation of these guidelines.
- c. **Use.** Use shall be limited to reasonable play hours depending upon seasons. No use will be permitted after 9:00 pm, or earlier than 9:00 am. The Board shall have the right to set different hours in the event that use creates an unreasonable disturbance.

Pool Outbuildings. Pool Outbuildings, including pumphouses, storage sheds and storage buildings may be permitted provided the same comply with Section 9.1.16. No more than one (1) outbuilding shall be permitted per Lot. No structure may be located within ten feet (10') of any Lot line. All such structures shall conform to the zoning requirements of Plain Township.

Air Conditioning and Heat Pump Equipment. Air conditioning and heat pump equipment shall be located in side yards or rear yards. To the extent reasonably possible, such equipment shall be screened from view with landscaping in a manner appropriate for each particular Lot.

Fencing. Depending on the style, fences can provide security as well as an overall aesthetic element to any home. Permanent walls, hedges and fences should be used to define spaces such as private gardens, patios, pools, etc., rather than to delineate lot lines. Fences and walls should be architectural extensions of the Dwelling Unit, constructed using the same or similar materials or colors as the Dwelling Unit or that complement the Unit's architecture. Security fencing is permitted in the rear and side yards provided it doesn't exceed five feet (5') in height. Privacy fencing is permitted around a patio or deck or immediately adjacent to a Dwelling Unit but may

not extend further than 20'-0" into the rear yard and should not exceed six feet (6') in height. Appropriate fences should be constructed using materials approved by the Committee. Standard chain link or other metal fences are prohibited, as are stockade fences. Invisible fencing for pets is encouraged. The Declarant and the Association reserve the right to restrict fencing in areas where its presence would adversely impact the aesthetics of the community.

Radio and Television Antennas. These guidelines are to be interpreted so as to balance the right of the individual owners to receive acceptable quality broadcast signals in accordance with F.C.C. regulations with the right and duty of the Association to preserve, protect and enhance the value of the properties within the subdivision.

- a. **Prohibited Apparatus.** All exterior antennas are prohibited except for a satellite dish that is designed to receive direct broadcast satellite service, including direct-to-home satellite services, that is one (1) meter or less in diameter.
- b. **Permitted Locations.** A permitted satellite dish must be located in the rear yard or on the rear of the Dwelling Unit in such a manner so as not to be visible by a person of normal height standing at the edge of the street directly in front of the Dwelling Unit. Other locations are permitted if placement under these guidelines precludes reception of an acceptable quality signal. In such case, the Owner and the Declarant or the Association shall attempt to find a location with the least visual impact upon the surrounding properties. An "acceptable quality signal" is one that is intended for reception in the viewing area and is consistent with the quality of signals received by others in the immediate vicinity. No location shall be permitted if installation creates a line of sight problems for drivers in the vicinity. The Declarant or the Association may prohibit a location that imposes a legitimate safety concern.
- c. **Other Requirements.** The Declarant or the Association may require that the satellite dish be painted in a fashion that will not interfere with reception so that it blends into the background against which it is mounted or that the satellite dish be screened so as to reduce the visual impact. Any such requirements must be reasonable in light of the cost of the equipment or services and the visual impact of the satellite dish. The Declarant or the Association may impose restrictions on methods of installation that create legitimate safety concerns. For example, permitted methods of installation may include reasonable height restrictions and adequate bolting.

- d. **Continued Maintenance.** Each Owner shall maintain any satellite dish in a reasonable manner so as not become unsightly. Each Owner shall remove any satellite dish upon cessation of its use.

Wooded Lots. The rear yard on wooded Lots must remain as much as possible in its natural state. Clearing for decks and patios, however, may be permitted.

Landscaping. Landscaping and normal lawn are required around all houses. A minimum of three (3) trees, at least 1-1/2" trunk diameter, per Living Unit are required on non-wooded Lots, in addition to trees provided by Declarant along streets. Proposed trees and tree locations must be shown on an Owner's plans.

Street Trees. Street trees shall be provided by the Declarant along the street right of way. The street trees shall not be moved except by the Declarant. Each Owner is expressly prohibited from moving street trees from the tree lawn area to other areas on the Lot or removing them altogether. The Declarant shall warranty the street trees for a period of one (1) year commencing on the date of installation; provided, however, that such warranty shall not cover damage caused by the acts of an Owner. After one (1) year a damaged or dead street tree shall be replaced by and at the Lot Owner(s) expense.

Lot Maintenance. All Lots must be kept mowed and free of debris and clutter. No unsightly growth shall be permitted to grow or remain upon any Lot and no refuse or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. During any construction, each Owner and Builder shall be responsible for keeping the streets and adjacent Lots clean and free of debris. No fill material shall be dumped on any Lot except within five (5) days of commencement of construction. The Association shall have the right to assess any owner for the costs of mowing or clean up in the event that the owner fails to do so.

Lot Grading. The Builder and Owners shall be responsible to regrade the Lot in accordance with the grading plan as approved by Plain Township. Any deviations from such plan must be pre-approved by the Township and Declarant.

Mailboxes. All mailboxes shall be contained within Cluster Box Units, as required by the United States Postal Service. Declarant shall determine the design, style and color of the Cluster Box Units. Installation of the Cluster Box Units shall be undertaken by Declarant, at its sole cost and expense. Mailboxes, once installed, shall be maintained by the Association. Location of the Cluster Box Units shall be determined by the United States Postal Service, working in conjunction with the Declarant.

House Numbers. House numbers must be placed on the front elevation of a Dwelling Unit.

Street Lights. Declarant shall provide streetlights. The cost of operation and maintenance of the lights shall be shared equally by Owners and such costs shall be assessed as provided in Article VII, Assessments, or as otherwise provided for by Plain Township and/or Stark County.

Discretion. Any discretion to be exercised in the review of plans shall be that of the Declarant and/or the Association.

Variances. The Declarant or the Association may grant variances from these guidelines if such variance will not be of substantial detriment to adjacent Lots and will not materially impair these guidelines and the overall best interest of the Development. Construction for an improvement requiring a variance shall not commence until written approval is granted by the Declarant.

Right to Modify Guidelines. The Declarant reserves the right to modify these guidelines, provided however, that no such modification shall be made that will materially and adversely affect the overall character of the properties as a first-class development.

Emergency Phone. All Builders are required to keep on record with the Declarant, a 24-hour emergency phone number.