

**GREENWOOD VILLAGE, INC.
GREENWOOD OF SAGAMORE HILLS
SUBDIVISION
DECLARATION OF COVENANTS AND RESTRICTIONS**

THIS DECLARATION, made this 6th day of March, A.D. 1970 by GREENWOOD VILLAGE, INC. (hereinafter called "Developer") and GREENWOOD VILLAGE COMMUNITY ASSOCIATION (hereinafter called "Association");

W I T N E S S E T H:

WHEREAS, Developer is the owner of the real property described in Article II of this Declaration and desires to create thereon and other common facilities for the benefit of the said community; and

WHEREAS, Developer desires to provide for the preservation of the values and amenities in said community and for the maintenance of said parks, playgrounds, open spaces and other common facilities; and, to this end, desires to subject the real property described in Article II together with such additions as may hereafter be made thereto (as provided in Article II) to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof, and

WHEREAS, Developer has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create administering the community properties and facilities, administering and enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges hereinafter created should be delegated and assigned; and

WHEREAS, Developer has incorporated GREENWOOD VILLAGE COMMUNITY ASSOCIATION under the laws of the State of Ohio, as a non-profit corporation for the

State of Ohio, as a non-profit corporation for the purpose of exercising the functions aforesaid, and

WHEREAS, the Association joins in this deed of dedication for the purpose of accepting the duties and responsibilities imposed upon it by the protective covenants and restrictions herein contained;

NOW, THEREFORE, the Developer declares that the real property described in Article II, and such additions thereto as may hereafter be made pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (hereinafter referred to as "Covenants and Restrictions") hereinafter set forth.

ARTICLE I

DEFINITIONS

Section 1. The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

- (a) "Architectural Control Committee" shall be as defined in Article VI hereof.
- (b) "Association" shall mean and refer to the GREENWOOD VILLAGE COMMUNITY ASSOCIATION.
- (c) "Common Open Space" shall mean and refer to those areas of land shown on any recorded subdivision plat of The Properties and specifically intended to be devoted to the common use and enjoyment of the members of the Association.
- (d) "Declaration" shall mean and refer to this Declaration of Covenants and Restrictions and any supplements or amendments thereto.

- (e) “Developer” shall mean and refer to Greenwood Village, Inc., or its successors and assigns which hold title in fee simple to any part of the Properties for the purpose of development.
- (f) “Final Development Plan” shall mean and refer to the final development plan required by Section 17 of the Zoning Resolution of the Township of Sagamore Hills, Ohio.
- (g) “General Plan” shall mean and refer to the general development plan required by Section 17 of the Zoning Resolution of the Township of Sagamore Hills, Ohio.
- (h) “Living Unit” shall mean and refer to any attached single family dwelling or detached single family dwelling as currently defined in Section 17 of the Zoning Resolution of the Township of Sagamore Hills, Ohio.
- (i) “Lot shall mean and refer to any plot of land shown upon and recorded subdivision map of The Properties with the exception of Common Open Space as heretofore defined or any condominium unit shown on any recorded Condominium Declaration and drawings filed therewith.
- (j) “Member” shall mean and refer to all members of the Association.
- (k) “Multifamily Structure” shall mean and refer to any apartment buildings as they are currently defined in Section 17 of the Zoning Resolution of the Township of Sagamore Hills, Ohio.
- (l) “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, Living Unit, Multifamily Structure or condominium unit within a Multifamily Structure situated upon The Properties but, notwithstanding any applicable theory of the mortgage, shall not mean or refer to the mortgages unless and until such mortgages has acquired title pursuant to foreclosure or by deed or any proceeding in lieu of foreclosure.

(m) "Resident" shall mean and refer to one or more persons or entities having a leasehold interest in any apartment unit within a Multifamily Structure under a written lease from an Owner.

(n) "The Properties" shall mean and refer to all such existing properties, and additions thereto, as are subject to this Declaration of any Supplemental Declaration under the provisions of Article II hereof.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

AND ADDITIONS THERETO

Section 1. Existing Property. The real property which is, and shall be, held, transferred, sold, conveyed, and occupied subject to this Declaration is located in the Township of Sagamore Hills, Summit County, Ohio and is more particularly described in Exhibit A, attached hereto and made a part hereof.

Section 2. Additions to Existing Property. Additional lands may become subject to this Declaration in the following manner:

(a) The Properties as described above are a portion of a larger area of land owned by Developer. Developer may from time to time cause supplemental declarations to be filed subjecting other portions of the larger area of land to Each Owner and each Resident by the act of becoming such, shall be taken to have acknowledged and agreed (i) that The Properties described in Exhibit A hereto and such property as may be annexed pursuant to Subpart (b) hereof shall be the only property subject to this Declaration, (ii) that neither anything contained in this Declaration nor in any recorded or unrecorded plat, map, picture, drawing, brochure, or other representation of a scheme of development, shall be construed as subjecting, or requiring Developer or the Association, or any successor or assignee to either of

them, subject to this Declaration or any other declaration or agreement, any property or land now or hereafter owned by any of them other than that described herein, and (iii) that the only manner in which any additional land can be subjected to this Declaration shall be by and in accordance with the procedure set forth in Subsection (b) hereof. The fact that terms or provisions set forth in separate or additional declarations and agreements relating to property or lands other than The Properties may be similar or identical, in whole or in part, to the covenants and restrictions set forth in this Declaration shall not be construed to mean that it was the intent or purpose therein to subject any additional property or lands to this Declaration or any terms or provisions thereof.

- (b) Developer, its successors and assigns, may from time to time annex additional lands to The Properties, and thereby subject the same to this Declaration, by the execution and filing for recordation among the Records of Summit County, Ohio, an instrument expressly stating an intention so to annex and describing such additional lands to be so annexed. During that ten (10) year period commencing with the date of the recording of this Declaration, Developer, its successors and assigns, may annex additional lands to The Properties in its absolute discretion. From and after the expiration of said ten (10) year period, additional lands may be annexed to The Properties provided that each such annexation is approved by two-thirds (2/3) of the votes cast at a duly convened meeting of the members of the Association.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

IN THE ASSOCIATION

The membership of the Association shall be divided into three classes with each class entitled to the voting rights hereinafter (and in the Articles of Incorporation of the Association) set forth with respect to such classifications.

Section 1. Class I Membership. Class I Members shall consist of (i) the Owners of property which is designated on the Final Development Plan applicable thereto for Living Units (viz. single family, whether attached or detached) who shall be entitled to four votes for each Living Unit which has or may be constructed on such property pursuant to said Final Development Plan, provided, however, that in no event shall more than four votes be cast with respect to any such Living Unit, (ii) the Owners of Property which is designated on the Final Development Plan applicable thereto for Multifamily Structures who shall be entitled to one vote for each apartment unit which has or may be constructed on such property pursuant to said Final Development Plan, provided, however, that in no event shall more than one vote be cast with respect to any single apartment unit and (iii) the Owners of condominium units in Multifamily Structures who shall be entitled to one vote for each condominium unit which has been or may be constructed in such Multifamily Structure, provided, however, that in no event shall more than one vote be cast with respect to any single condominium unit. Notwithstanding the foregoing, the property shown on the Final Development Plan of which it is an Owner until it ceases to be a Class II Member with respect to such property.

Section 2. Class II Membership. The only Class II Member shall be the Developer, its successors and assigns, who shall be entitled to five votes for (i) each Living Unit which has may be constructed pursuant to the General Plan or the Final Development Plan, if such Final Development Plan has been filed for record, and (ii) each apartment and condominium unit in Multifamily Structures which have or may be constructed pursuant to the General Plan or the Final Development Plan, if such Final Development Plan has been

filed for record, so long as in each case the Developer, its successors and assigns, is the Owner of the property on which such Living Units and Multifamily Structures are or may be constructed; provided, however, that all rights of Class II membership allocable to those portions of the Property which are (a) shown on the Final Development Plan and (b) comprised within a development phase for which fee simple title to the Common Open Space incorporated therein has been transferred to the Association shall automatically terminate at the time of such transfer of title to the Association and thereafter the Developer, its successors and assigns, shall be a Class I Member with respect thereto.

Section 3. **Class III Membership.** Class III Members shall consist of all Residents of apartment and condominium units in Multifamily Structures who are occupying such apartment and condominium units under a written lease with an Owner of a Multifamily Structure and who shall receive all the benefits of the Association, but shall not be entitled to vote on any matter brought before the Members of the Association.

ARTICLE IV

PROPERTY RIGHTS IN THE COMMON OPEN SPACE

Section 1. **Members Easements of Enjoyment.** Subject to the provisions of Section 3 of this Article IV, every Member shall have a right and easement of enjoyment in the Common Open Space and such easement shall be appurtenant to and shall pass with the title to every Lot or other portion of The Properties.

Section 2. **Title to Common Properties.** The Developer may retain the legal title to the Common Open Space until fifty one percent (51%) of the total number of dwelling units constructed on The Properties as described in Exhibit A pursuant to the Final Development Plan have been occupied. At such time, the Developer shall convey fee simple title of the Common Open Space to the Association, subject to all mortgages on improvements, easements and restrictions of record, including the Covenants and Restrictions contained in

this Declaration, and to taxes and easements, both general and special, which shall be assumed by the Association.

Section 3. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

- (a) the right of the Developer and of the Association, in accordance with its Articles and Regulations, to borrow money for the purpose of improving the Common Open Space and in aid thereof to mortgage all or any portion thereof; and
- (b) the right of the Association to take steps as are reasonable necessary to protect the Common Open Space against foreclosure; and
- (c) the right of the Association to suspend the enjoyment rights of any Member for any period during which any assessment remains unpaid, and the right of the Association to suspend the enjoyment rights of any Member or any person to whom rights are extended pursuant to Section 4 of this Article IV for any period not to exceed thirty (30) days for any infraction of its published rules and regulations; and
- (d) the right of the Association to charge reasonable admission and other fees for the use by guests of Members of the Common Open Space; and
- (e) the right of the Association to limit the number of guests of Members in or upon any of the Common Open Space or any buildings or facilities located thereon; and
- (f) the right of the Association to grant exclusive easements to groups of Members for the purpose of constructing improvements on portions of the Common Open Space to be used, operated and maintained by such groups pursuant to the provisions of Article VIII hereof; and
- (g) the right of the Association to convey any part or all of the real estate owned by the Association in Sagamore Hills Township, Summit County, Ohio consistent with the purposes contained in this Declaration and as provided in the Articles and

Regulations of the Association and with the consent of the Board of Trustees of Sagamore Hills; and

(h) the right of the Association to grant easements of rights of way to any public utility, public agency or governmental authority.

Section 4. Extension of Privileges. A Member's right of enjoyment in the Common Open Space and the facilities located thereon shall extend automatically to all members of his immediate family residing on any portion of The Properties. No guests shall be entitled to such right of enjoyment except as provided in rules and regulations promulgated by the Association.

ARTICLE V

COVENANTS FOR MAINTENANCE AND ASSESSMENTS

Section 1. Living Units. Each Owner shall keep all Lots owned by him, and all improvements therein or thereon, in good order and repair, including but not limited to, the seeding, watering and mowing of all lawns, the pruning and cutting of all trees and shrubbery and the painting (or other appropriate external care) of all buildings and other improvements located thereon, all in a manner and with such frequency as is consistent with good property management. If, in the opinion of the Architectural Control Committee, any Owner fails to perform the duties imposed by the preceding sentence, the Association, after approval by the two-thirds (2/3) decision of the Board of Trustees of the Association, and after fifteen (15) days written notice to such Owner to remedy the condition in question, shall have the right, through its agents and employees, to enter upon such Owner's Lot and to repair, maintain, repaint and restore such Lot or such improvement located thereon, and the cost thereof shall be binding, personal obligations of such Owner as well as a lien upon such lot.

Section 2. Contracting for Maintenance. Each Owner may satisfy his obligation under Section 1 of this Article V by agreeing that all maintenance of the Lot upon which such improvements are situated shall be performed by any company or the Association providing maintenance services for the Common Open Space and that such Owner will be assessed maintenance charges therefore by the Association in the same manner and on the same conditions as provided in Section 3 of this Article V.

Section 3. Creation of the Lien and Personal Obligation of Assessments. The Developer hereby covenants and agrees with respect to each Lot owned by it within The Properties, and each Owner of any Lot within The Properties hereby covenants and agrees, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, to pay to the Association (1) its share of the Aggregate Annual General Assessment defined in Section 4 of this Article V, computed in accordance with Section 5 of this Article V and (2) special assessments for capital improvements levied in accordance with Section 6 of this Article V, such assessments to be payable from time to time as herein provided. The annual general and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment became due.

Section 4. Aggregate Annual Assessment. The “Aggregate Annual General Assessment” shall mean and refer to the aggregate cost of maintaining, operating and improving the Common Open Space, together with its properties, services, facilities and improvements, including, without limiting the generality of the foregoing, the payment of any mortgages on its improvements, taxes and insurance thereon, the payment of any

repair, replacements and additions thereon, the payment of any repair, replacements and additions thereto, the cost of labor, equipment, materials, supplies, and accessories therefore, and the salary of employees, managers, and supervisors thereof. The general assessments levied and collected by the Association shall be used exclusively for the payment of costs described in the Section 4.

Section 5. Formula for Determining Annual Assessments.

- (a) The annual general assessment to be charged to each Class I Member shall be an amount equal to .00025 of the Aggregate Annual General Assessment for each Living Unit, apartment unit in Multifamily Structures, or condominium unit such Member and designed for such use on the Final Development Plan, which assessment shall not exceed \$ per unit per year prior to .
- (b) The annual general assessment to be charged to the Class II Member shall be an amount equal to .00025 of the Aggregate Annual General Assessment for each Living Unit, apartment unit in Multifamily Structures, or condominium unit in Multifamily Structures which have or may be constructed on property owned by the Class II Member and designated for such use on the General Plan or the Final Development Plan, if such Development Plan has been filed for record, which assessment shall not exceed \$ per unit per year prior to .

payment of costs described in the Section 4.

Section 6. Special Assessments for Capital Improvements. In addition to the annual general assessments authorized by Section 4 of this Article V, the Association may levy a special annual assessment for a period not to exceed three (3) years from the date of such assessment for the purpose of defraying, in whole or in part, the cost in excess of \$10,000.00 for any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Open Space, including the necessary

fixtures and personal property related thereto, provided that any such special assessment shall be approved by two-thirds (2/3) of the votes cast at a duly convened meeting of the Members.

Section 7. Change in Basis of Annual General Assessments. The Association may change the basis of the annual general assessments fixed by Section 5 of this Article V prospectively for any period provided that any such change shall be approved by two-thirds (2/3) of the votes cast at a duly convened meeting of the Members.

Section 8. Date of Commencement of Assessments: Due Dates. The Annual general and special assessments provided for herein shall commence on the first day of the month designated by the Board of Trustees of the Association to be the date of commencement. The first annual assessments shall be adjusted according to the number of months remaining in the calendar year and such assessments shall thereafter be on a full calendar year basis. The Board of Trustees shall fix the amount of the annual general assessments at least thirty (30) days in advance of each annual assessment period and the due dates for such assessments shall be established by the Board of Trustees. Separate due dates may be established by the Board for partial annual assessments and special assessments as long as made thirty (30) days in advance thereof. Written notice of the annual general and special assessments shall be sent to every Owner subject thereto. The Association shall, upon demand at any time, furnish to any Owner liable for such assessments a certificate in writing signed by an officer of the Association setting forth whether said assessments have been paid. A reasonable charge, as determined by the Board of Trustees, may be made for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 9. Effect of Non-Payment of Assessments: The Personal Obligation of the Owner: The Lien; Remedies of the Association. If the general and/or special assessments

are not paid by an Owner on the date when due (being the dates specified in Section 8 of this Article V), then such assessments shall become delinquent and shall, together with such interest thereon and costs of collection thereof as hereinafter provided, thereupon become a continuing lien on all property in the hands of the then Owner, his heirs, devisees, personal representatives, successors and assigns, as the case may be. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation.

If the general and/or special assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the maximum rate provided for under Ohio Law and the Association may bring an action at law against the Owner personally obligated to pay the same or certify the amount to the County Auditor for addition to the tax duplicate of said Owner and in either case to foreclose the lien against the property, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the court together with the costs of the action.

Section 10. Subordination of the Lien to Mortgages. The lien of the general and special assessments provided for herein shall be subordinate to the lien of any first mortgage now or hereafter placed upon The Properties subject to assessment; provided, however, that such subordination shall apply only to such assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessments.

Section 11. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein: (a) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; (b) all Common Open Space as defined in Article I, Section 1, hereof; (c) all properties exempted from taxation by the laws of the State of Ohio, upon the terms and to the extent of such legal exemption.

Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said general and special assessments, charges or liens.

ARTICLE VI

ARCHITECTURAL CONTROL COMMITTEE

Section 1. Structure of Committee. The “Architectural Control Committee” shall be composed of three or more persons designated from time to time b (a) the Developer during the period of development of the entire Greenwood of Sagamore Hills Subdivision and (b) by the Association after the completion of development as aforesaid. The affirmative vote of a majority of the membership of the Architectural Control Committee shall be required in order to adopt or promulgate any rule or regulation, or to issue any permit, authorization or approval pursuant to this Article IV.

Section 2. Approval of Plans. No building shall be commenced, erected, placed, moved on to or permitted to remain on any Lot, nor shall any existing building upon any Lot be altered in any way which materially changes the exterior appearance thereof, nor shall any new use be commenced on any Lot, unless plans and specifications (including a description of any proposed new use) therefore shall have been submitted to and approved in writing by the Architectural Control Committee. Such plans and specifications shall be in such form and shall contain such information, as may be required by the Architectural Control Committee, but in any event shall include (i) a site plan of the Lot showing the

nature, exterior color scheme, kind, shape, height, materials and location of all buildings with respect to the particular Lot (including proposed front, rear and side setbacks and open spaces, if any are proposed), the location of such buildings with reference to other buildings on adjoining portions of The Properties, the landscaping for the Lot and the number and location of all parking spaces and driveways on the Lot; and (ii) a grading plan for the particular Lot.

Section 3. Grounds for Disapproval. The Architectural Control Committee shall have the right to disapprove any plans and specifications submitted hereunder because of any of the following:

- (a) Failure of such plans or specifications to comply with any of these Covenants and Restrictions;
- (b) Failure to include information in such plans and specifications as may have been reasonably requested;
- (c) Objections to the design or appearance of any proposed landscaping;
- (d) Incompatibility of any proposed building or use with existing buildings or uses upon other Lots in the vicinity;
- (e) Objection to the location of any proposed building upon any Lot or with reference to other Lots in the vicinity;
- (f) Objection to the grading plan for any Lot;
- (g) Objection to the color scheme, finish, proportions, style of architecture, height, bulk or appropriateness of any proposed building;
- (h) Any other matter which, in the judgment of the Architectural Control Committee, would render the proposed building, buildings or uses inharmonious with the general plan of improvement of The Properties, or with buildings or uses located upon other Lots in the vicinity.

In any case where the Architectural Control Committee shall disapprove any plans and specifications submitted hereunder, or shall approve the same only as modified or upon specified conditions, such disapproval or qualified approval shall be accompanied by a statement of the grounds upon which such action was based. In any such case the Architectural Control Committee shall, if requested, make reasonable efforts to assist and advise the applicant in order that an acceptable proposal can be prepared and submitted for approval.

Section 4. Promulgation of Rules by Architectural Control Committee. The Architectural Control Committee may promulgate rules governing the form and content of plans to be submitted for approval or requiring specific improvements on Lots, including, without limitation, exterior lighting and landscaping, and may issue statements of policy with respect to approval or disapproval of the architectural styles or details, or other matters, which may be presented for approval. Such rules and such statements of policy may be amended or revoked by the Architectural Control Committee at any time, and no inclusion in, omission from or amendment of any such rule or statement shall be deemed to bind the Architectural Control Committee to approve or disapprove any feature or matter subject to approval, or to waive the exercise of the Architectural Control Committee's discretion as to any such matter, but no change of policy shall effect the finality of any approval granted prior to such change. In the event that the Architectural Control Committee fails to approve or disapprove any plans and specifications as herein provided within fifteen (15) days after submission thereof, the same shall be deemed to have been approved, as submitted, and no further action shall be required.

Section 5. Violation of Article VI. If any buildings shall be altered, erected, placed or maintained upon any Lot, or any new use commenced on any Lot, otherwise than in accordance with plans and specifications approved by the Architectural Control Committee

pursuant to the provisions of this Article VI, such alteration, erection maintenance or use shall be deemed to have been undertaken in violation of Article VI and without the approval required herein, and upon written notice from the Architectural Control Committee, any such building so altered, erected, placed or maintained upon any Lot in violation hereof shall be removed or realtered, and any such use shall be terminated, so as to extinguish such violation.

If fifteen (15) days after the notice of such a violation the Owner of the Lot upon which such violation exists shall not have taken reasonable steps toward the removal or termination of the same, the Developer or the Association shall have the right, through its agents and employees, to enter upon such Lot and to take steps as may be necessary to extinguish such violation and the cost thereof shall be a binding, personal obligation of such Owner as well as a lien (enforceable in the same manner s a mortgage) upon the Lot in question.

Section 6. Right to Inspect for Compliance: Any agent of the Developer, the Association or the Architectural Control Committee may at any reasonable time or times enter upon and inspect any Lot and any improvements thereon for the purpose of ascertaining whether the maintenance of such Lot and the maintenance, construction, or alteration of buildings thereon in compliance with the provisions hereof, and neither the Developer, the Association nor the Architectural Control Committee nor any such agent shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

ARTICLE VII

GENERAL COVENANTS AND RESTRICTIONS

Section 1. Required Approvals. No lot or other parcel of land shown on the attached plat or any subsequent plat as Common Open Space (and which is an area on which no

residential dwelling units are permitted) may be divided, subdivided, built on, altered or modified except as provided on such plat, or hereafter provided in Section 17 of the Zoning Regulation of the Township of Sagamore Hills, Ohio, or any amendment thereto, or except as provided in Article VIII hereof.

Section 2. Change of Use. No building or structure shown on the attached plat or any subsequent plat or subsequently approved by the Architectural Control Committee shall be used for a purpose other than that for which the building or structure was originally designed, without the approval of the Architectural Control Committee.

Section 3. Trailers, Outbuildings, etc. Prohibited. No temporary building, trailer, garage or any other similar structure shall be used, temporarily, or permanently, as a residence on any Lot or any other part of The Properties at any time.

Section 4. Fences, Walls, Hedges, etc. No fence, wall tree, hedge or shrub planting shall be maintained in such manner as to obstruct sight lines for vehicular traffic; nor shall any fence or wall of any kind be erected, begun, or permitted to remain upon any portion of a Lot unless approved by the Architectural Control Committee.

Section 5. Protective Screening Areas. Where protective screening areas, screen planting, fences or walls are shown on the attached plat or any subsequent plat, the same shall be maintained by the Association for the protection of an adjacent Lot. No building or structure, except such planting, fence or wall be placed or permitted to remain in such area. No vehicular access shall be permitted over such area except for the purpose of installation and maintenance of screening, utilities and drainage facilities, if any.

Section 6. Poles, Wires, Antennas, etc. No facilities, including poles, and wires, for the transmission of electricity, telephone messages and the like shall be placed or maintained above the surface of the ground on any Lot. No external or outside antennas of any kind shall be maintained.

Easement for the Installation and maintenance of underground utilities, supply and transmission lines, and drainage facilities are reserved to the Developer through all areas shown on the attached plat or any subsequent plat, whether within the boundaries of residential lots or in common areas. Such easements shall include the right of ingress and egress, provided that any damage resulting from installation, maintenance or repair of an underground utility, supply or transmission line, or drainage facility shall be promptly repaired and replaced at the expense of the corporation or authority which directed the entry.

Section 7. Trimming, Pruning or Removing Plantings. Developer and the Association shall have the right to enter upon Any Lot and trim, prune, or remove at the expense of owner, any hedge or other planting which in the opinion of Developer or the Association, by reason of its location upon the Lot or the height to which it is permitted to grow, is unreasonably detrimental to the adjoining property, obscures the view of street traffic, is unattractive in appearance, or if such action would be in the best interests of proper property management, provided, however, that the Owner shall be given fifteen (15) days prior written notice of such action.

The Association shall further have the right, upon like notice and conditions, to care for vacant or unimproved Lots, and to remove grass, weeds and rubbish there from and to do any and all things necessary or desirable in the opinion of the Architectural Control Committee to keep such property in neat and good order, all at the cost and expense of the Owner, such cost and expense to be paid to the Association upon demand and if not paid within ten days thereof then to become a lien upon the Lot affected, equal in priority to the lien provided for in Article V, Paragraph 9 hereof.

Section 8. Protection of Trees and Plants. No living plant or tree lying outside the approved building, driveway and parking areas, shall be removed from any Lot without the express written authorization of the Architectural Control Committee, which, in its

discretion, may adopt and promulgate rules and regulations regarding the preservation of trees and other natural resources and wildlife upon The Properties. If it shall deem it appropriate, the Association may mark certain trees, regardless of size, as not removable without authorization. In carrying out the provisions of this Section 8, the Association, the Developer and the Architectural Control Committee and the respective agents of each may come upon any Lot during reasonable hours for the purpose of inspecting or marking trees or in relation to the enforcement and administration of any rules and regulations adopted and promulgated pursuant to the provisions thereof. Neither the Association, the Developer nor the Architectural Control Committee, nor their respective agents shall be deemed to have committed a trespass or wrongful act by reason of any such entry or inspection.

Section 9. Slope Controls. Within any slope control area shown on the attached plat or any subsequent plat, no structure, planting, or other materials shall be placed or permitted to remain, nor shall any activity be undertaken, which may damage or interfere with established slope ratios, create erosion or sliding problems, or change the direction of flow or drainage channels, or obstruct or retard the flow of water through drainage channels. The slope control areas of each Lot or other parcel of The Properties and all improvements in them shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

Section 10. Nuisances. No noxious or offensive activity shall be carried on upon any portion of a Lot, nor shall anything be done thereon that may be or become a nuisance or annoyance to the neighborhood. Exterior lighting shall be in accordance with rules and regulations of the Architectural Control Committee.

Section 11. Control of Domestic Animals. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except where indicated on the attached plat or

subsequent plat. Dogs, cats and other household pets may be kept provided they are not raised, bred or kept for any commercial purpose, and do not violate any rules or regulations regarding the maintenance of pets which the Architectural Control Committee may promulgate.

Section 12. Signs. No sign or other advertising devise of any nature shall be placed upon any Lot except as provided herein. The Developer or the Architectural Control Committee, may, in its discretion, adopt and promulgate rules and regulations relating to signs which may be employed. Signs and other advertising devices may be erected and maintained upon any portion of The Properties zoned for commercial uses if approved by the Developer or Architectural Control Committee as to color, location, nature, size and other characteristics or such signs or devices.

Section 13. Storage of Materials; Trash Handling. No lumber, metals, bulk materials, refuse or trash shall be burned, whether in indoor incinerations or otherwise (excluding the burning of wood in a fireplace), kept, stored, or allowed to accumulate on any Lot, except building materials during the course of construction of any approved building. If trash or other refuse is to be disposed of by being picked up and carried away on a regular basis, contained may be placed in the open, on any day that a pick-up is to be made, at such place on the Lot so as to provide access to persons making such pick-up. At all other times such containers shall be stored in such manner so that they cannot be seen from adjacent and surrounding property. The Architectural Control Committee in its discretion, may adopt and promulgate reasonable rules and regulations relating to the size, shape, color and type of containers permitted and the manner of storage of the same on The Properties.

Section 14. Pipelines and Drilling. No water pipe, gas pipe, sewer pipe or drainage pipe shall be installed or maintained on any Lot above the surface of the ground, except hoses and movable pipes used for irrigation purposes. No Lot shall be used for the purpose

of boring, mining, quarrying, exploring for or removing oil or other hydrocarbons, minerals, gravel or earth without the prior written consent of the Association or the Developer.

Section 15. Home Industries or Professions Prohibited. No profession or home industry or religions or educational enterprises shall be conducted in or on any part of a Lot in a residential area or in any improvement on The Properties without the specific written approval of the Architectural Control Committee.

Section 16. Air Conditioning Units. In any Multifamily Structure in which central air-conditioning service is available, no individual air-conditioning units shall be permitted.

Section 17. Drying Clothes. No clothing, laundry or wash shall be aired or dried upon any portion of a Lot in an area exposed to view from any other Lot. Drying areas will be permitted only in locations approved by the Architectural Control Committee and only when protected from view by screening or fencing approved by the Architectural Control Committee.

Section 18. Manufacture or Sale of Liquor. No spirituous, vinous or fermented liquors shall be manufactured or sold either at wholesale or retail upon any Lot, except as permitted in certain Multifamily Structures of Commercial Areas pursuant to the Zoning Regulation of the Township of Sagamore Hills, Ohio.

Section 19. Storage of Vehicles and Machinery. No automobile or vehicle of any kind, licensed or unlicensed, shall be stored on any public right-of-way, driveway or anywhere else in or upon any Lot, except in the confine of the garages provided therefore. No machinery of any kind shall be placed or operated upon any lot except such machinery which is customarily required for the maintenance of private residences, and such machinery shall be stored out of sight of adjoining Lots, provided that this provision shall not apply during the construction, reconstruction or repair of any buildings on any Lot.

Section 20. Preservation of Wildlife; Firearms, Traps, etc. Prohibited. Firearms of any kind shall not be discharged, nor shall any traps or snares be set, nor shall any hunting or poisoning of wildlife of any kind be permitted in or on The Properties.

Section 21. Control of Trucks, Commercial Vehicles and Motorcycles. No trucks, commercial vehicles, road machinery, no excavating equipment shall be suffered to remain on any Lot or on the public right-of-way adjoining said Lots for any period of time whatsoever except while making deliveries or performing services thereon. No motorcycle or motorbicycle, or similar vehicle shall be stored in or on any Lot or driven on any public right-of-way in The Properties.

Section 22. Model Homes. All else herein notwithstanding, with written approval of Architectural Control Committee, any Lot may be used for a model home or for a real estate office during the Development Period.

Section 23. Waterfront Lots. On Lots or other parcels of The Properties adjacent to a lake and designated “waterfront” on the attached plat or any subsequent plat:

- (a) No vehicle shall be stored within twenty feet of the water boundary thereof, nor shall any boat canal be dug or excavated therein, without the approval of the Architectural Control Committee.
- (b) No bulk heading, barge, docks, piling, float or other marine structure shall be erected adjacent thereto or thereupon, except as shown on the attached plat or subsequent plat, without the approval of the Architectural Control Committee.
- (c) No power boat (whether powered by an inboard or outboard motor), and no boat of a length greater than 18 feet, shall be launched into, or used there from in, the waters having a common boundary therewith, and no boat shall be moored so as to obstruct navigation in such waters.

(d) No refuse of any kind shall be disposed of there from or placed there from in the adjacent waters.

ARTICLE VIII

RESTRICTED USE OF CERTAIN OF

THE COMMON OPEN SPACE

Section 1. Application for Exclusive Easement. Notwithstanding any other provision herein which might be construed to the contrary, a non-profit corporation formed as a neighborhood community association (hereinafter called the “Applicant”) may make written application to the Association for an exclusive easement over certain areas of the Common Open Space for the purpose of improving such areas with swimming pools, tennis courts, playgrounds and such other recreational facilities as may be approved by the Association (hereinafter collectively referred to as “Facilities”) and operating, maintaining, repairing and replacing such Facilities for the benefit of members of the Applicant and shall, together with such application, submit (a) the Articles and Code of Regulations of the non-profit corporation, (b) easement for execution by the Association in favor of the Applicant, (c) the plans and specifications for all the improvements to be made within the Common Open Space, (d) the contract or contracts for the construction of all the improvements, (e) a performance bond guaranteeing completion of all the improvements or other evidence satisfactory to the Association of the ability of the Applicant to pay for such improvements and (f) a policy of public liability insurance and a policy of fire and extended coverage insurance in amounts and with companies satisfactory to the Association, which policies shall name the Association as an insured.

Section 2. Grounds for Disapproval. And such applicant shall be considered by the Association, taking into consideration the size, location and character of the property over

which the easement is sought, and the Association shall disapprove such application in the following cases:

- (a) inconsistency between or objection to the Articles, Regulations, purpose or rules and regulations of the Applicant, and the Articles, Regulations, purpose or rules and regulations of the Association.
- (b) failure of all members of the Applicant to be Members in good standing in the Association;
- (c) objection to the contractor selected by the Applicant to perform the construction for any proposed improvements;
- (e) failure of the Applicant to provide a performance bond or other evidence satisfactory to the Association for the purpose of guaranteeing the completion of any proposed improvements;
- (f) failure of the Applicant to provide the aforementioned policies of public liability and fire and extended coverage insurance;
- (g) objection to the exterior design, appearance or location of any proposed improvements;
- (h) incompatibility of any proposed improvement or use with existing buildings, improvements or uses upon other Lots in the vicinity;
- (i) any other matter which, in the judgment of the Association, would render the proposed buildings or uses unharmonious with the general plan of improvement of The Properties, or with buildings or uses located on other lots in the vicinity.

Section 3. Cost of Maintenance. All costs of maintaining, operating and improving the property subject to the exclusive easement shall be borne solely by the members of the Applicant.

Section 4. Termination of Easement. In the event the Applicant fails to maintain any improvements established on the property subject to the easement in a manner whichk in the judgment of the Association, is satisfactory, the Applicant shall have thirty (30) days after written notice to cure such unsatisfactory condition, or such longer period as is reasonably necessary, provided that within said thirty (30) day period the Applicant shall have proceeded with reasonably diligence and in good faith to cure the unsatisfactory condition within the time as herein above described, the exclusive easement shall automatically terminate and title to any and all improvements located thereon shall revert to the Association.

GENERAL PROVISIONS

Section 1. Duration of Article VII Covenants and Restrictions. The Covenants and Restrictions in Article VII of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of fifty (50) years from this date this Declaration is recorded.

Section 2. Duration of Article IV Covenants and Restrictions. The Covenants and Restrictions in Article IV of this Declaration providing for the Common Open Space shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns forever and any other use of the Common Open Space except as provided for in Article IV hereof is absolutely prohibited.

Section 3. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as member or Owner on the records of the Association at the time of such mailing.

Section 4. Enforcement. Enforcement of the Covenants and Restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by the covenants in this Declaration; and failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 5. Construction of the Provisions of This Declaration. The Association, the Developer or the Architectural Control Committee where specifically authorized herein to act, shall have the right to construe and interpret the provisions of this Declaration, and in the absence of an adjudication by a court of competent jurisdiction to the contrary, its construction or interpretation shall be final and binding as to all persons or property benefits or bound by the provisions hereof. Any conflict between construction or interpretation of the Association, the Developer or the Architectural Control Committee and that of any other person or entity entitled to enforce the provisions hereof shall be resolved in favor of the construction or interpretation of the Association, the Developer or the Architectural Control Committee as the case may be.

The Association, the Developer and the Architectural Control Committee to the extent specifically provided herein, may adopt and promulgate reasonable rules and regulations regarding the administration, interpretation and enforcement of the provisions of this Declaration. In so adopting and promulgate such rules and regulations, and in making any findings, determination, ruling or order or in carrying out any directive contained herein relating to the issuance of permits, authorizations, approvals, rules or regulations, the Association, the Developer and the Architectural Control Committee shall take into consideration the best interest of the Owners and Residents and The Properties, to the end that the Properties shall be preserved and maintained as a high quality community.

In granting any permit, authorization, or approval, as herein provided, the Association, the Developer and the Architectural Control Committee may impose any conditions or limitations thereon as they shall deem advisable under the circumstances in each case in light of the considerations set forth in the immediately preceding paragraph hereof.