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Chicago, IL 60601

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DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
SANDY CREEK ESTATES HOMEOWNERS ASSOCIATION

Chicago Title Insurance Company
1795 West State Street
Geneva IL 60134

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<u>Exhibit</u>	<u>Subject Matter</u>
"A"	Land Submitted
"B"	By-Laws of Sandy Creek Estates Homeowners Association
"C"	Additional Land

OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

SANDY CREEK ESTATES HOMEOWNERS ASSOCIATION

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS (hereinafter referred to as "this Declaration" or "the Declaration") is made this 22nd day of December, 2006, by William Ryan Homes, Inc. an Illinois corporation (hereinafter referred to as "Declarant").

This Declaration includes the protective covenants for the land ("Land") described in Exhibit "A" and commonly known as Sandy Creek Estates which is being developed by Declarant pursuant to the provisions of that certain Agreement dated February 25, 2004 by and between Declarant and the City of Elgin, Illinois as the same may be amended from time to time (hereinafter referred to as the "Annexation Agreement"). The Land is comprised of lots designed for single family residential use ("Lot" or "Lots") and lots designed for open space, entry areas, and storm water management (collectively, "Association Lots"). A plat recorded March 2, 2006 as Document Number 2006K022822 in the Kane County Recorder's Office ("Plat ") defines and plats the Lots and Association Lots.

Declarant hereby declares that all of the Lots and Association Lots are hereby subjected to this Declaration and shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of the Lots and Association Lots and which shall run with the Lots and Association Lots and shall be binding on all parties having any right, title, or interest in the Lots and/or Association Lots, and on those parties' heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner of a Lot and/or Association Lot.

This Declaration does not and is not intended to create a condominium within the meaning of the Illinois Condominium Property Act and does not and is not intended to create a master association within the meaning of the Illinois Condominium Act.

This Declaration does and is intended to create a "common interest community" within the meaning of 735 ILCS 5/9-102(c).

Article I

Definitions

Section 1. "Additional Land" shall mean and refer to the real estate legally described on Exhibit "C", which is attached hereto.

Section 2. "Area of Common Responsibility" shall mean and refer to the Common Area, together with those areas, if any, which by the terms of this Declaration or the terms of the Annexation Agreement become the responsibility of the Association (as defined in Article 1, Section 4). The office of any property manager employed by or contracting with the Association, if located on the Association Lots, or any public rights-of-way within or adjacent to the

Association Lots, may be part of the Area of Common Responsibility. The Area of Common Responsibility shall include emergency access easement areas dedicated for use of public agencies.

Section 3. "Articles of Incorporation" or "Articles"

"Articles of Incorporation" or "Articles" shall mean and refer to the Articles of Incorporation of Sandy Creek Estates Homeowners Association, Inc., as filed with the Secretary of State of the Illinois.

Section 4. "Association"

"Association" shall mean and refer to Sandy Creek Estates Homeowners Association, Inc., an Illinois not-for-profit corporation, and its successors or assigns. The "Board of Directors" or "Board" shall be the elected body having its normal meaning under Illinois corporate law. The use of the term "association" or "associations" in lower case shall refer to any owners association having jurisdiction over any part of the Land.

Section 5. "Base Assessment"

"Base Assessment" shall mean and refer to assessments levied to fund Common Expenses in accordance with Article XSection 2 of this Declaration.

Section 6. "By-Laws"

"By-Laws" shall mean and refer to the By-Laws of Sandy Creek Estates Homeowners Association, Inc., attached hereto as Exhibit "B" and incorporated herein by reference, as they may be amended from time to time.

Section 7. "City"

"City" shall mean and refer to the City of Elgin, Illinois.

Section 8. "Class "B" Control Period"

"Class "B" Control Period" shall mean and refer to the period of time during which the Class "B" Member is entitled to appoint a majority of the members of the Board of Directors, as provided in Article IIISection 3, of the By-Laws.

Section 9. "Common Area"

"Common Area" shall mean the Association Lots and all improvements thereon, which will be owned by the Association for the common use and enjoyment of all Owners. Common Areas may be designated by the Board of Directors as "Restricted Use Common Areas" or as "Limited Use Common Areas" as set forth in Article XVI. In the absence of action by the Board of Directors pursuant to Article XVI, all property owned by the Association is presumed to be "Common Area."

Section 10. "Common Expenses"

"Common Expenses" shall mean and include the actual and estimated expenses incurred by the Association for the general benefit of all Lot Owners, including reasonable reserves, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the By-Laws, and the Articles of Incorporation of the Association.

Section 11. "Community-Wide Standard"

"Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing at and in the Land. Such standard may be more specifically determined by the Board of Directors and the Design Review Committee.

Section 12. "Declarant"

"Declarant" shall mean and refer to William Ryan Homes, Inc., an Illinois corporation, or its successors, successors-in-title or assigns who take title to any portion of the Lots or Association Lots for the purpose of development and/or sale.

Section 13. "Lot"

"Lot" shall mean the portions of the Land intended for development, use, and occupancy as the residential dwelling for a single family, whether developed or undeveloped. All Lots within the Land shall be restricted to single family residential use.

In the case of a parcel of vacant unsubdivided land that is added by a Supplemental Declaration, the parcel shall be deemed to contain the number and type of Lots designated for construction on such parcel on Declarant's Supplemental Declaration and deed conveying the lands to a Parcel Developer until such time as a Final Plan is approved by the City. Thereafter, the parcel shall contain the actual number of Lots approved therefor by the City. If the actual number of Lots approved by the City varies from the number of Lots designated on Declarant's Supplemental Declaration, Declarant shall file an amendment to the Supplemental Declaration setting forth the actual number of Lots as approved by the City.

Section 14. "Member"

"Member" shall mean and refer to a Person entitled to membership in the Association, as provided herein.

Section 15. "Mortgage"

"Mortgage" shall mean and refer to a mortgage, a deed of trust, a deed to secure debt, or any other form of security deed.

Section 16. "Mortgagee"

"Mortgagee" shall mean and refer to a beneficiary or holder of a Mortgage.

Section 17. "Mortgagor"

"Mortgagor" shall mean and refer to any Person who gives a Mortgage.

Section 18. "Owner"

"Owner" shall mean and refer to one (1) or more Persons who hold the record title to any Lot, including Parcel Developers, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Lot is sold under a recorded contract of sale or memorandum thereof, and the contract specifically so provides, then the purchaser (rather than the fee owner) will be considered the Owner. If a Lot is subject to a written lease with a term in excess of one (1) year and the lease specifically so provides, then upon filing a copy of the lease with the Board of Directors, the lessee (rather than the fee owner) will be considered the Owner for the purposes of exercising all membership privileges in the Association.

Section 19. "Person"

"Person" means a natural person, a corporation, a partnership, a trustee, a limited liability company, or other legal entity.

Section 20. "Land"

"Land" shall mean and refer to the land described in Exhibit "A" attached hereto, together with such additional land as is hereafter subjected and annexed to this Declaration by Supplemental Declaration as defined below.

Section 21. "Special Assessment"

"Special Assessment" shall mean and refer to assessments levied in accordance with Article X Section 4 of this Declaration.

Section 22. "Supplemental Declaration"

"Supplemental Declaration" shall mean an amendment or supplement to this Declaration recorded in the Recorder's Office of Kane County, Illinois, which subjects additional property to this Declaration or imposes, expressly or by reference, additional restrictions and obligations on the land described therein, or both.

Article II

Section 1. "Property Rights"

Every Owner shall have a right and nonexclusive easement of use, access and enjoyment in and to the Common Area, subject to any restrictions or limitations contained in this Declaration as it may be amended from time to time, including, but not limited to, Article XVI, and to any restrictions or limitations contained in any deed conveying such property to the Association and to the rules and regulations established by the Association. Any Owner may delegate his or her right of enjoyment to the members of his or her family, tenants, and social

invitees, as applicable, subject to reasonable regulation by the Board and in accordance with procedures it may adopt. An Owner who leases his or her Lot shall be deemed to have delegated all such rights to the Lot's lessee, unless otherwise specified in writing to the Secretary of the Association.

Declarant reserves the right to amend this Declaration unilaterally without prior notice and without the consent of any Person and at any time so long as: (i) it holds an unexpired option to expand the Land pursuant to Article VIII hereof, or (ii) the amendment is for the purpose of correcting scrivener's errors, or (iii) the amendment is for the purpose of removing certain portions of the Land then owned by the Declarant or its affiliates or the Association from the provisions of this Declaration to the extent the portions were originally included in error or as a result of changes in the scope of the overall development, provided such withdrawal is in accord with the Annexation Agreement.

Article III

Section 1. Membership and Voting Rights

Section 2. Membership.

Every Owner, as defined in Article I, shall be deemed to have a membership in the Association.

No Owner, whether one (1) or more Persons, shall have more than one (1) membership per Lot owned. In the event the Owner of a Lot is more than one (1) Person, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges of membership may be exercised by a Member or the Member's spouse, subject to the provisions of this Declaration and the By-Laws. The membership rights of a Lot owned by a corporation, partnership, or land trust shall be exercised by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association, subject to the provisions of this Declaration and the By-Laws.

Section 3. Voting.

The Association shall have two (2) classes of membership, Class "A" and Class "B," as follows:

(a) Class "A". Class "A" Members shall be all Owners with the exception of the Class "B" Member, if any.

Class "A" Members shall be entitled to one (1) equal vote for each Lot in which they hold the interest required for membership under Section 2 hereof; there shall be only one (1) vote per Lot.

In any situation where a Member is entitled personally to exercise the vote for his Lot and more than one (1) Person holds the interest in such Lot required for membership, the vote for such Lot shall be exercised as those Persons determine among themselves and advise the Secretary of the Association in writing prior to any meeting. In

the absence of such advice, the Lot's vote shall be suspended if more than one (1) Person seeks to exercise it.

(b) Class "B". The Class "B" Member shall be the Declarant. The rights of the Class "B" Member, including the right to approve actions taken under this Declaration and the By-Laws, are specified elsewhere in the Declaration and the By-Laws. The Class "B" Member shall be entitled to appoint a majority of the members of the Board of Directors during the Class "B" Control Period, as specified in Article III, Section 2, of the By-Laws. After termination of the Class "B" Control Period, the Class "B" Member shall have a right to disapprove actions of the Board of Directors and any committee as provided in Article III, Section 3, of the By-Laws. The Class "B" membership shall terminate and become converted to Class "A" membership upon the earlier of:

(i) two (2) years after expiration of the Class "B" Control Period pursuant to Article III of the By-Laws; or

(ii) when, in its discretion, the Declarant so determines.

Article IV

Section 1. Maintenance

Section 2. Association's Responsibility.

The Association shall operate, maintain and keep in good order and repair the Area of Common Responsibility, such maintenance to be funded as hereinafter provided. This maintenance shall include, but need not be limited to, snow removal when required from those areas within the Association Lots designated by the Board of Directors from time to time as areas which the Association shall be responsible from removing snow from and maintenance, repair, and replacement, subject to any insurance then in effect, of all entry monuments, detention ponds, landscaping and other flora, structures, and improvements situated upon the Common Areas, and such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, the Annexation Agreement or by a contract or agreement for maintenance thereof by the Association.

Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Common Areas shall be a Common Expense to be allocated among all Lots as part of the Base Assessment.

The Association may maintain property which it does not own, including, without limitation, property dedicated to the public or owned by any governmental body or not-for-profit association if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

Section 3. Owner's Responsibility.

Each Owner shall maintain his or her Lot, and all structures, improvements, parking areas, landscaped easements within the Lot, in a manner consistent with the Community-Wide Standard and all applicable covenants. If any Owner fails properly to perform his or her maintenance responsibility, the Association may perform it and assess all costs incurred by the Association against the Lot and the Owner thereof in accordance with Article X, Section 5 of this Declaration; provided, however, except when entry is required due to an emergency situation, the Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry.

Article V

Section 1. Insurance and Casualty Losses

Section 2. Insurance.

Directors, or their duly authorized agent, shall have the authority to and shall obtain blanket all-risk casualty insurance, if reasonably available, for all insurable improvements on the Common Area. If blanket all-risk coverage is not reasonably available, then at a minimum an insurance policy providing fire and extended coverage shall be obtained. This insurance shall be in an amount sufficient to cover one hundred (100%) percent of the replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard.

The Board shall also obtain a public liability policy covering the Common Area, the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents. The public liability policy shall have at least a One Million (\$1,000,000.00) Dollar single person limit as respects bodily injury and property damage, a Three Million (\$3,000,000.00) Dollar limit per occurrence, if reasonably available, and a Five Hundred Thousand (\$500,000.00) Dollar minimum property damage limit.

Premiums for all insurance on the Common Area shall be Common Expenses of the Association and shall be included in the Base Assessment, as defined in Article I and as more particularly described in Article X, Section 2. The policy may contain a reasonable deductible, and, in the case of casualty insurance, the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost. The deductible shall be paid by the party who would be liable for the loss or repair in the absence of insurance and in the event of multiple parties shall be allocated in relation to the amount each party's loss bears to the total.

All insurance coverage obtained by the Board of Directors shall be written in the name of the Association as trustee for the respective benefited parties, as further identified in (b) below. Such insurance shall be governed by the provisions hereinafter set forth:

- (a) All policies shall be written with a company licensed to do business in Illinois which holds a Best's rating of A or better and is assigned a financial size category of XI or larger as established by A. M. Best Company, Inc., if reasonably available, or, if not available, the most nearly equivalent rating.

(b) All policies on the Common Areas shall be for the benefit of the Association, its Members, and their Mortgagees, as their interests may appear.

(c) Exclusive authority to adjust losses under policies obtained by the Association on the Association Lots shall be vested in the Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(d) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees.

(e) All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Kane County, Illinois area.

(f) The Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, the Owners, and their respective tenants, servants, agents, and guests;

(ii) a waiver by the insurer of its rights to repair and reconstruct, instead of paying cash;

(iii) a statement that no policy may be canceled, invalidated, suspended, or subject to nonrenewal on account of any one or more individual Owners;

(iv) a statement that no policy may be canceled, invalidated, suspended, or subject to nonrenewal on account of the conduct of any director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any Owner, or Mortgagee;

(v) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

(vi) that the Association will be given at least thirty (30) days' prior written notice of any cancellation, substantial modification, or non-renewal.

In addition to the other insurance required by this Section, the Board shall obtain, as a Common Expense, worker's compensation insurance, if and to the extent required by law, directors' and officers' liability coverage, if reasonably available, a fidelity bond or bonds on directors, officers, employees, and other Persons handling or responsible for the Association's

funds, if reasonably available, and flood insurance, if required. The amount of fidelity coverage shall be determined in the directors' best business judgment but, if reasonably available, may not be less than three (3) months' assessments on all Lots, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and shall require at least thirty (30) days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal.

Section 3. Individual Insurance.

By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket all-risk casualty insurance on the Lot(s) and structures constructed thereon meeting the same requirements as set forth in Section 2 of this Article V for insurance on the Common Area. Each Owner further covenants and agrees that in the event of a partial loss or damage resulting in less than total destruction of structures comprising his Lot, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article XI of this Declaration. The Owner shall pay any costs of repair or reconstruction that is not covered by insurance proceeds. In the event that the structure is totally destroyed, the Owner may decide not to rebuild or to reconstruct, in which case the Owner shall clear the Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction and thereafter the Owner shall continue to maintain the Lot in a safe, neat, and attractive condition consistent with the Community-Wide Standard.

Section 4. Damage and Destruction.

(a) Immediately after damage or destruction by fire or other casualty to all or any part of the Association Lots covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing, adjustment and negotiation of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Association Lots. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Association Lots to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

(b) In the event that it should be determined in the manner described above that the damage or destruction to the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Association Lots shall be restored to their natural state and maintained by the Association in a neat and attractive condition consistent with the Community-Wide Standard.

Section 5. Disbursement of Proceeds.

If the damage or destruction for which the proceeds of insurance policies are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such

purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction to the Common Area shall be retained by and for the benefit of the Association and placed in a capital improvements account. In the event no repair or reconstruction is made, any proceeds remaining after making such settlement as is necessary and appropriate with the affected Owner or Owners and their Mortgagee(s) as their interests may appear, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of any Mortgagee of a Lot and may be enforced by such Mortgagee.

Section 6. Repair and Reconstruction.

If the damage or destruction to the Common Area for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Owners, levy a special assessment against all Owners on the same basis as provided for Base Assessments. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

Article VI

Section 1. No Partition

Except as is permitted in the Declaration or amendments thereto, there shall be no physical partition of the Common Area or any part thereof, nor shall any Person acquiring any interest in the Association Lots or any part thereof seek any judicial partition unless the Association Lots have been removed from the provisions of this Declaration. This Article shall not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property that may or may not be subject to this Declaration.

Article VII

Section 1. Condemnation

Whenever all or any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Owners representing at least two-thirds (2/3) of the total Association vote and the Declarant, as long as the Declarant owns any property described on Exhibits "A" or "B") by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant, so long as the Declarant owns any property described in Exhibit "A" or "B" of this Declaration, and Owners representing at least seventy-five (75%) percent of the total vote of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Area to the extent lands are available therefor, in

accordance with plans approved by the Board of Directors of the Association. If such improvements are to be repaired or restored, the above provisions in Article V hereof regarding the disbursement of funds in respect to casualty damage or destruction that is to be repaired shall apply. If the taking does not involve any improvements on the Common Area, 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 of Directors of the Association shall determine.

Article VIII

Section 1. Conveyance of Association Lots.

Declarant may convey or dedicate the Association Lots to the Association, which upon conveyance or dedication to the Association shall be accepted by the Association and thereafter shall be maintained by the Association at its expense for the benefit of all its Members. Association Lots conveyed by Declarant to the Association that are to be used as parks and for open space or as nature preserves shall be designated as being for such purposes and shall be conveyed subject to the right (which may be exercised by the Board of Directors by a majority vote) to lease, sell or dedicate such lands to the City, local park district, the Kane County Forest Preserve District, or a not-for-profit conservation organization or other similar entity that shall own, operate and maintain such lands as park, open space and nature preserve purposes at such times and upon such terms and for such consideration as the Board may deem acceptable.

Section 2. Amendment.

This Article shall not be amended without the prior written consent of Declarant, so long as the Declarant owns portion of the Land.

Article IX

Section 1. Rights and Obligations of the Association

Section 2. Common Area.

The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive operation, management and control of the Common Area and all improvements thereon (including, without limitation, furnishings and equipment related thereto and common landscaped areas), and shall keep it in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions hereof and consistent with the Community-Wide Standard.

Section 3. Personal Property and Real Property for Common Use.

The Association, through action of its Board of Directors, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold, or other property interests within the Association Lots conveyed to it by the Declarant.

Section 4. Rules and Regulations.

The Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the Association Lots, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions may include reasonable monetary fines and suspension of the right to vote and the right to use any recreational facilities on the Common Areas. The Board shall, in addition, have the power to seek relief in any court for violations or to abate nuisances. Imposition of sanctions shall be as provided in the By-Laws of the Association.

The Association, through the Board, by contract or other agreement, shall have the right to enforce county ordinances or permit Kane County and the City to enforce ordinances on the Association Lots for the benefit of the Association and its Members.

Section 5. Implied Rights.

The Association may exercise any other right or privilege given to it expressly by this Declaration or the By-Laws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

Section 6. Governmental Interests.

Declarant reserves the right to dedicate sites within the Association Lots to the City for public purposes and for use as the site for fire, police, water, and sewer facilities.

Article X

Section 1. Assessments

Section 2. Creation of Assessments.

There are hereby created assessments for Association expenses as may from time to time specifically be authorized by the Board of Directors to be commenced at the time and in the manner set forth in Section 8 of this Article. There shall be two (2) types of assessments: (a) Base Assessments to fund Common Expenses for the benefit of all Members of the Association; and (b) Special Assessments as described in Section 4 below.

All assessments shall be levied on the Lots as follows: the Owner of each Lot shall pay one hundred percent (100%) of the Base Assessment or Special Assessment allocated to that Lot. Special Assessments shall be levied as provided in Section 4 below. Each Owner, by acceptance of a deed or recorded contract of sale to any portion of the Association Lots, is deemed to covenant and agree to pay these assessments.

All assessments, together with interest at a rate as established from time to time by the Board of Directors subject to limits imposed by the Illinois Usury Laws on the date the delinquency first occurs and accruing from such date, plus costs and reasonable attorney's fees, shall be a continuing lien upon the Lot against which each assessment is made until paid. Each

such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the Person who was the Owner of such Lot at the time the assessment arose, and if title to such Lot is held in trust, then each beneficiary thereof shall also be jointly and severally liable therefor. Upon transfer of title to a Lot, the grantee, by acceptance of the deed to such Lot, is deemed to assume such personal obligation for past due assessments, including interest, costs and attorneys fees, and shall be jointly and severally liable with the grantor for such portion thereof as may be due and payable at the time of conveyance, except no first Mortgagee who obtains title to a Lot pursuant to the remedies provided in the Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

The Association shall, upon demand at any time, furnish to any Owner liable for any type of assessment a certificate in writing signed by an authorized representative of the Association as designated by the Board of Directors setting forth whether such assessment has been paid as to any particular Lot (an "Assessment Letter"). An Assessment Letter shall be conclusive evidence of payment to the Association of such assessment therein stated to have been paid. The Association may require the advance payment of a processing fee equal to an amount established from time to time by the Board of Directors for the issuance of Assessment Letters.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors. Each Owner, by acceptance of a deed to a Lot, acknowledges that all Base Assessments levied hereunder are annual assessments due and payable in advance on the first day of the fiscal year, provided, the Board may permit any assessment to be paid in installments.

No Owner may waive or otherwise exempt her/himself from liability for the assessments provided for herein, including, by way of illustration and not limitation, by non-use of Common Areas by abandonment of the Lot or performing maintenance which is the Association's responsibility for such Owner's Lot. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the By-Laws, or for inconvenience or discomfort rising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

So long as the Declarant has retained and not released or relinquished its option to unilaterally subject additional property to this Declaration, in lieu of paying assessments on unsold Lots owned by Declarant, Declarant shall have the right to pay the difference between the amount of assessments levied on all Lots subject to assessment and the amount of actual expenditures required to operate the Association during the fiscal year. This right may be satisfied in the form of a cash subsidy or by "in kind" contributions of services or materials, or a combination of these.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services or materials or a combination of services and materials with Declarant or other entities for the payment of some portion of the Common Expenses.

Section 3. Computation of Base Assessment.

It shall be the duty of the Board, at least sixty (60) days before the beginning of each fiscal year, to prepare a budget covering the estimated Common Expenses of the Association during the coming year. The budget shall include a capital contribution establishing a reserve fund in accordance with a capital budget separately prepared.

The Base Assessment for the coming year shall be computed based upon the number of Lots subject to assessment under Section 7 below on January 1 of the year for which the computation of Base Assessment applies. For purposes of making this computation only, each Lot shall be counted as a full Lot. Thus, if at the time that the Base Assessment is being determined, the Association has 121 Lots, the Association shall be deemed to be comprised of a total of 121 full Lots for purposes of computing the Base Assessment. The Base Assessment shall be computed by dividing the budgeted Common Expenses and any required capital contribution included in the budget by the total number of full Lots determined as provided above.

The Board shall cause a copy of the Common Expense budget and notice of the amount of Base Assessment for the following year payable by each Lot to be delivered to each Owner at least thirty (30) days prior to the beginning of the fiscal year. Such budget and assessment shall become effective unless disapproved at a meeting of the Owners by the vote of the Owners or their alternates representing at least a majority of the total Class "A" vote in the Association, and by the Class "B" Member if such exists. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Owners as provided for special meetings in Article II, Section 4, of the By-Laws.

Notwithstanding the foregoing, however, in the event the proposed budget is disapproved or the Board fails for any reason so to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year.

Section 4. Special Assessments.

In addition to the assessments authorized in Section 2 of this Article, the Association may levy a Special Assessment or Special Assessments from time to time; provided, such assessment shall have the affirmative vote or written consent of Owners or their alternates representing at least fifty-one (51%) percent of the Class "A" vote in the Association and the affirmative vote or written consent of the Class "B" Member if such exists. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so determines.

The Association may also levy a Special Assessment against any Member to reimburse the Association for costs incurred in bringing a Member and his Lot into compliance with the provisions of the Declaration, any amendments thereto, the Articles, the By-Laws, and the Association rules, which Special Assessment may be levied upon the vote of the Board after notice to the Member and an opportunity for a hearing.

Section 5. Lien for Assessments and Other Remedies for Non-Payment.

Upon recording of a notice of lien on any Lot for which assessments have not been paid, there shall exist a perfected lien for unpaid assessments prior and superior to all other liens, except (1) all taxes, bonds, assessments, and other levies which by law would be superior thereto, and (2) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien may be enforced by suit, judgment, and foreclosure.

The Association, acting on behalf of the Owners, shall have the power to bid for the Lot at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which a Lot is owned by the Association following foreclosure: (a) No right to vote shall be exercised on its behalf; (b) no assessment shall be assessed or levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged such Lot had it not been acquired by the Association as a result of foreclosure.

The Board of Directors shall have the right, if the Owner of any Lot fails to pay assessments and any other charges due hereunder, to: (a) bring an action to collect such unpaid assessments and charges, together with interest thereon and all fees and costs of collection including attorneys fees and disbursements and court costs incurred for collection, or (b) take possession of such Owner's Lot for the benefit of the other Owners by bringing an action for possession in the manner set forth in the Forcible Entry and Detainer Act (735 ILCS 5/9-101 et. seq.), as amended and to execute leases of such Owner's Lot and apply rents derived therefrom against such unpaid assessments and other charges due hereunder including attorneys fees and disbursements and court costs incurred for bringing such action.

No remedy made available by any of the provisions of this Declaration is intended to be exclusive of any other remedy, and each and every remedy shall cumulative and shall be in addition to every other remedy given hereunder now or hereafter existing at law or in equity or by statute.

Section 6. Capital Budget and Required Capital Contributions.

The Board of Directors shall annually prepare a capital budget to take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, with respect both to amount and timing by annual assessments over the period of the budget. The required capital contribution, if any, shall be fixed by the Board and included within and distributed with the budget and assessment, as provided in Section 3 of this Article.

Section 7. Date of Commencement of Assessments.

The assessments provided for herein shall commence as to each Lot on the first day of the month following transfer of title to the Lot by Declarant. Assessments shall be due and payable in a manner and on a schedule as the Board of Directors may provide. The first annual Base

Assessment shall be adjusted according to the number of days remaining in the fiscal year at the time assessments commence on the Lot.

Section 8. Subordination of the Lien to First Mortgages.

The lien of assessments, including interest, late charges (subject to the limitations of Illinois law), and costs (including attorney's fees) provided for herein, shall be subordinate to the lien of any first Mortgage upon any Lot. The sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to judicial or nonjudicial foreclosure of a first Mortgage shall extinguish the lien of such assessments as to payments that became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from lien rights for any assessments thereafter becoming due. Where the Mortgagee holding a first Mortgage of record or other purchaser of a Lot obtains title pursuant to remedies under the Mortgage, its successors and assigns shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Lot which became due prior to the acquisition of title to such Lot by such acquirer. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Lots, including such acquirer, its successors and assigns.

Section 9. Capitalization of Association.

Upon acquisition of record title to a Lot by the first purchaser thereof, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount equal to one-sixth (1/6) of the amount of the annual Base Assessment per Lot for that year as determined by the Board. Such contribution shall not be considered advance payment of assessments and shall be in addition to, not in lieu of, assessments then or thereafter coming due. This amount shall be used to cover operating expenses and any other expenses, both capital and non-capital in nature, incurred by the Association pursuant to the terms of this Declaration and the By-Laws.

Section 10. Exempt Property.

Notwithstanding anything to the contrary herein, the following property shall be exempt from payment of Base Assessments, Neighborhood Assessments, and Special Assessments:

- (a) all Common Area, including the Association Lots; and
- (b) all property dedicated to and accepted by any governmental body or public or private utility, including, without limitation, the City, local school, park and library districts, the Kane County Forest Preserve District and other non-profit conservation and open space preservation organizations.

Article XI

Section 1. Architectural Standards

The Board of Directors shall have the authority and standing, on behalf of the Association, to enforce in courts of competent jurisdiction decisions of the committees

established in Section 2 and Section 3 of this Article XI. This Article may not be amended without the Declarant's written consent so long as the Declarant owns any land subject to this Declaration or subject to annexation to this Declaration.

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 except in strict compliance with this Article, until the requirements below have been fully met, and until the approval of the appropriate committee has been obtained.

All structures constructed on any portion of the Lot and Association Lots shall be designed by and built in accordance with the plans and specifications of a licensed architect.

Section 2. Design Review Committee.

The Design Review Committee (DRC) shall have exclusive jurisdiction over all original construction on any portion of the Lots. The DRC shall prepare and, on behalf of the Board of Directors, shall promulgate design and development guidelines and application and review procedures, herein referred to as the Design Guidelines that shall include the Monotony Controls set forth in the Design Guidelines. Copies of the Design Guidelines shall be available from the DRC for review. The Design Guidelines shall be those of the Association, and the DRC shall have sole and full authority to prepare and to amend them. It shall make copies of Design Guidelines available at a reasonable charge to cover costs of duplication and distribution to Owners, builders, and developers who seek to engage in development of or construction upon all or any portion of the Lots and such Owners, builders and developers shall conduct their operations strictly in accordance therewith.

Until one hundred (100%) percent of the Lots have been developed and conveyed to purchasers in the normal course of development and sale, the Declarant retains the right to appoint all members of the DRC, which shall consist of at least three (3), but no more than five (5), persons. There shall be no surrender of this right prior to that time except in a written instrument in recordable form executed by Declarant. Upon the expiration of such right, the Board of Directors shall appoint the members of the DRC in the same manner as provided in Section 3 of this Article for the Modifications Committee.

Section 3. Modifications Committee.

The Board of Directors may establish a Modifications Committee (MC) to consist of at least three (3) and no more than five (5) members, all of whom shall be appointed by the Board of Directors. The MC, if established, shall have exclusive jurisdiction over modifications, additions, or alterations made on or to Lots with structures and the open space, if any, appurtenant thereto.

The MC shall promulgate detailed standards and procedures governing its areas of responsibility and practice, consistent with the Design Guidelines. In addition thereto, the following shall apply. Plans and specifications showing the nature, kind, shape, color, size, materials, and location of such modifications, additions, or alterations, shall be submitted to the MC for approval as to quality of workmanship and design and as to harmony of external design

with existing structures, location in relation to surrounding structures, topography, and finish grade elevation. No permission or approval shall be required to repaint in accordance with an originally approved color scheme, or to rebuild in accordance with originally approved plans and specifications. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of his Lot, or to paint the interior of his Lot any color desired. In the event that the MC fails to approve or to disapprove such plans or to request additional information reasonably required within forty-five (45) days after submission, the plans shall be deemed approved.

Section 4. No Waiver of Future Approvals.

The approval of either the DRC or MC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of such Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

Section 5. Variance.

The DRC may authorize variances from compliance with any of the provisions of the Design Guidelines when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of this Declaration, or (c) stop the Committee from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

Article XII

Section 1. Use Restrictions

Lots shall be used only for residential, recreational, and related purposes (which may include, without limitation, offices for any property manager retained by the Association or a Neighborhood Association or business offices for the Declarant or the Association). The Association, acting through its Board of Directors, shall have standing and the power to enforce such standards.

The Association, acting through its Board of Directors, shall have authority to make regulations and restrictions governing the use of the Association Lots, in addition to those provided in this Declaration, and to enforce such regulations and restrictions. Regulations and use restrictions made by the Association through its Board of Directors shall be binding upon all Owners and occupants until and unless overruled, canceled or modified in a regular or special meeting of the Association by the vote of Owners representing a majority of the total Class "A" votes in the Association and by the Class "B" Member, so long as such membership shall exist.

Section 2. Signs.

Except for those promotional signs, flag poles, flags and banners erected by Declarant which shall be erected, maintained and removed subject to compliance with rules promulgated by Declarant to govern the erection of such signs, flag poles, flags and banners within the Association Lots and which signs, flag poles, flags and banners shall be subject to Declarant's prior review and approval, no sign of any kind shall be erected within the Association Lots by any Owner without the written consent of the Board of Directors. Notwithstanding the foregoing, Lot Owners may erect and display: (a) one "for sale" sign parallel with the street within the front yard area of Lots so long as such signs are not within the parkway strip or in areas subject to screen planting easements or on Common Area and are no larger than two feet by three feet (2'x3') on Lots owned by Owners and (b) political signs that shall not be within the parkway strip or in areas subject to screen planting easements or on Common Area and that are no larger than two feet by three feet (2'x3') for two (2) weeks prior to an election and that must be removed on the day after the election. The Board of Directors or Declarant shall have the right to erect signs as they, in their discretion, deem appropriate. Nothing herein shall be construed to permit the display of signs, flags, banners and similar items within the Association Lots which advertise or provide directional information for activities and events being conducted outside the Association Lots.

Section 3. Parking and Garages.

Vehicles shall be parked only in the garages or in the driveways within Lots. Commercial vehicles, tractors, mobile homes, recreational vehicles, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, and boat trailers shall be parked only in garages, and the doors to the garages shall not remain open during the night. No inoperable vehicles of any kind, and no passenger vehicles or other vehicles not currently licensed, shall be parked or stored on any driveway. No vehicles of any kind shall be repaired or rebuilt anywhere within a Lot other than within the garage located thereon. The DRC shall have the right to grant variances from the foregoing restrictions in cases of hardship which variance shall be granted upon such terms and conditions and for such duration as the DRC may determine to be appropriate. Variations shall not inure to the benefit of subsequent Owners of the Lot. The foregoing restrictions do not apply to the parking of construction vehicles and trailers during construction on the Association Lots so long as such vehicles and trailers are parked in accordance with the Association's construction parking regulations.

Section 4. Occupants Bound.

All provisions of the Declaration, By-Laws and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants, guests and invitees of any Lot. Every Owner shall cause all occupants of his or her Lot to comply with the Declaration, By-Laws, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations thereof and any losses or damage to the Common Areas caused by such occupants, notwithstanding the fact that such occupants of a Lot are fully liable and may be sanctioned for any violation of the Declaration, By-Laws, and rules and regulations adopted pursuant thereto.

Nothing herein shall be construed to impose any criminal liability on any Owner for actions of third parties.

Section 5. Animals and Pets.

No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any portion of the Association Lots, except that dogs, cats, or other usual and common household pets not to exceed a total of two (2) may be permitted in a Lot. However, pets which are permitted to roam free, or, in the sole judgment of the Association, endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Lots or the owner of any portion of the Association Lots or which are deemed to be vicious animals by any city, county or state animal control officers shall be removed upon request of the Board; if the owner fails to honor such request, the pet may be removed by the Board. No pets shall be kept, bred, or maintained for any commercial purpose. Dogs that are household pets shall at all times whenever they are outside a Lot be confined on a leash held by a responsible Person.

Section 6. Nuisance.

No portion of the Association Lots shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any portion of the Association Lots that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on upon any portion of the Association Lots, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any portion of the Association Lots. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Association Lots.

Section 7. Unsightly or Unkempt Conditions.

It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her Lot. The outdoor pursuit of hobbies or other activities, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Association Lots, which activities shall include, but shall not be limited to, the repair, assembly and disassembly of motor vehicles, aircraft, watercraft, motors and other mechanical devices and equipment.

Section 8. Antennas and Satellite Discs or Dishes.

Towers, antennas, or other apparatus for the transmission or reception of television, radio, satellite or other signals shall not be installed or mounted on the outside of any Lot or building containing Lots. The foregoing, however, does not prohibit satellite dishes no larger than one (1) meter in diameter provided that such over the air reception devices are installed or mounted to the extent feasible in locations that are not visible from the street (provided this placement still permits reception of an acceptable signal.) In no event shall freestanding transmission or receiving towers that support satellite dishes larger than one (1) meter in diameter be permitted

within the Association Lots. Conventional TV reception antennas may be mounted within enclosed attics of any Lot.

Section 9. Basketball Equipment, Clotheslines, Garbage Cans, Tanks, Etc.

Basketball equipment, including one permanently mounted pole, basketball hoop and backboard may be installed in the front or rear yard of each Lot with the prior written approval of the DRC or MC if installed as a modification to the Lot. Portable units are prohibited. Such items shall be installed and maintained in accordance with the standards therefor promulgated by the DRC and MC. Nothing herein shall be construed as permitting the use of portable basketball equipment within any Lot. Swings and other play structures and equipment shall be installed only in backyards of each Lot with the prior written approval of the DRC or MC. Such items shall be installed and maintained in accordance with the standards therefor promulgated by the DRC and MC.

Section 10. Clotheslines.

The installation of clotheslines and clothes poles for the outdoor drying of clothes within any Lot is prohibited.

Section 11. Garbage.

All garbage cans, trash receptacles, and other similar items shall be screened from view of neighboring Lots and adjacent streets, or shall be kept in the garage except on trash pick-up day. All rubbish, trash, and garbage shall be regularly removed from the Association Lots and shall not be allowed to accumulate thereon.

Section 12. Subdivision of Lot.

No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the Board of Directors of the Association. Declarant, however, hereby expressly reserves the right to replat any Lot or Lots owned by Declarant. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations.

Section 13. Guns.

The discharge of firearms within the Lots and Association Lots is prohibited. The term "firearms" includes "B-B" guns, pellet guns, and any other firearms of all types, regardless of size.

Section 14. Above-Ground Pools.

The installation of an above-ground swimming pool within any Lot is prohibited. The foregoing does not apply to outdoor Jacuzzis and hot tubs included within a deck or patio and which are screened from view from neighboring Lots and installed with the prior approval of the DRC if installed as part of the initial home construction or the MC if installed thereafter.

Section 15. Storage Sheds, Greenhouses.

Storage sheds of all kinds, greenhouses and similar accessory buildings shall be installed only in backyards with the prior written approval of the DRC if installed as part of the initial construction of the Lot or the MC if installed thereafter. Such items shall be installed and maintained in accordance with the standards therefor promulgated by the DRC and MC.

Section 16. Irrigation.

No sprinkler or irrigation systems of any type which draw upon water from creeks, streams, rivers, lakes, ponds, wetlands, canals or other ground or surface waters within the Association Lots shall be installed, constructed or operated within the Land. All sprinkler and irrigation systems shall be subject to approval in accordance with Article XI of this Declaration. Private wells are prohibited on the Land.

Section 17. Temporary Structures.

Except as may be permitted by the DRC during initial construction within the Lots, no tent, utility shed, shack, trailer or other structure of a temporary nature shall be placed upon a Lot or any part of the Association Lots. Temporary Catering tents to accommodate private parties may be erected in the back yards of Lots for a maximum of 14 days, pursuant to rules and procedures adopted by the Association Board.

Section 18. Drainage and Septic Systems.

Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Person other than Declarant may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Declarant hereby reserves a perpetual easement across the Association Lots for the purpose of altering drainage and water flow; provided, such easement right shall not be exercised in such a manner as to unreasonably interfere with the use of any Lot without the affected Lot Owner's consent. Septic systems are prohibited on the Association Lots unless specifically permitted by Declarant in designated neighborhoods not served by public sewers.

Section 19. Tree Removal.

No trees shall be removed, except for diseased or dead trees and trees needing to be removed to promote the growth of other trees or for safety reasons, unless approved in accordance with Article XI of this Declaration and in compliance with the City Tree Preservation Ordinance.

Section 20. Sight Distance at Intersections.

All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

Section 21. Utility Lines.

No overhead utility lines, including lines for cable television, shall be permitted within the Association Lots, except for temporary lines as required during construction and high voltage lines if required by law or for safety purposes.

Section 22. Air Conditioning Lots.

Except as may be permitted by the Board or its designee, no window air conditioning Lots may be installed in any building on any Lot.

Section 23. Lighting and Holiday Decorations.

Except for seasonal holiday decorative lights and outdoor decorations, which may be displayed between the period beginning on Thanksgiving Day and ending on January 31 of the next year, all exterior lights must be approved in accordance with Article XI of this Declaration.

Section 24. No Artificial Vegetation and Items Requiring Pre-Installation Approval.

No artificial vegetation shall be permitted within the exterior of any portion of the Lots. All exterior sculpture, exterior fountains, free standing flagpoles (other than those erected by Declarant pursuant to Section 2 above), and yard ornaments must be approved in accordance with Article XI of this Declaration prior to installation.

Section 25. Energy Conservation Equipment.

No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed unless it is an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the appropriate committee pursuant to Article XI hereof.

Section 26. Lakes and Water Bodies.

All lakes, ponds, and streams within the Association Lots, if any, shall be aesthetic amenities only, and no other use thereof, including, without limitation, fishing, swimming, boating, playing, ice skating or use of personal flotation devices, shall be permitted in or on such lakes, ponds and streams, except to the extent that the Board shall expressly permit any usage thereof, which usage shall in all events be subject to such rules and regulations as may be adopted for such purposes. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of lakes, ponds, or streams within the Association Lots.

Section 27. Playground.

Any playground or other play areas or equipment furnished by the Association or erected within the Association Lots shall be used at the risk of the user, and the Association shall not be held liable to any Person for any claim, damage, or injury occurring thereon or related to use thereof.

Section 28. Fences.

No dog runs, animal pens, or fences of any kind shall be permitted on any Lot except as approved in accordance with Article XI of this Declaration. Chain link fencing is prohibited and proposals for the use thereof on any Lot shall not be approved. Chain link fencing may be utilized on Common parkland and Common recreational facilities. Underground electronic pet control fencing is permitted but must be approved in accordance with Article XI of this Declaration prior to installation.

Section 29. Business Use.

No trade or business may be conducted in or from any Lot, except that an Owner or occupant residing in a Lot may conduct business activities within the Lot so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Lot; (b) the business activity conforms to all zoning requirements for the Lots; (c) the business activity does not involve persons coming onto the Lots who do not reside in the Lots or door-to-door solicitation of residents of the Lots; and (d) the business activity is consistent with the residential character of the Lots and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Lots, as may be determined in the sole discretion of the Board.

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 or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefore. Notwithstanding the above, the leasing of a Lot shall not be considered a trade or business within the meaning of this section. This section shall not apply to any activity conducted by the Declarant with respect to its development and sale of the Association Lots or its use of any Lots which it owns and shall not prohibit the Association from leasing the Restricted Use Common Areas as provided in Article XVI.

Section 30. On-Site Fuel Storage.

No on-site storage of gasoline, heating or other fuels shall be permitted on any part of the Lots except that up to five (5) gallons of fuel may be stored in the garage on each Lot for emergency purposes and operation of lawn mowers and similar tools or equipment.

Section 31. Leasing.

(a) **Definition.** "Leasing", for purposes of this Declaration, is defined as regular, exclusive occupancy of a Lot by any person or persons other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to a fee, service, gratuity, or emolument.

(b) **Leasing Provisions.**

(i) **General.** Lots shall be leased only in their entirety. No transient tenants may be accommodated in a Lot. All leases shall be in writing and shall be for an initial term of no less than ninety (90) days, except with the prior written consent of the Board of Directors. Notice of any lease shall be given to the Board by the Lot Owner within ten (10) days after execution of the lease, as required by Article XIII, Section 11 of this Declaration. The Owner must make available to the lessee copies of the Declaration, By-Laws, and the rules and regulations, and the lessee shall be subject to and shall comply with all the terms thereof. The Board may adopt reasonable rules regulating leasing and subleasing.

Article XIII

Section 1. Term.

The covenants and restrictions of this Declaration shall run with and bind the Association Lots, and shall inure to the benefit of and shall be enforceable by the Association, the Owner of any Lots subject to this Declaration, their respective legal representatives, heirs, successors, and assigns and the City, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then Owners, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same (subject to Article XIV hereof), in which case this Declaration shall be modified or terminated as specified therein.

Section 2. Amendment.

The Declarant may unilaterally amend this Declaration at any time and from time to time if such amendment is (a) necessary to bring any provision hereof into compliance with any applicable governmental statutes, rule or regulation, or judicial determination; (b) necessary to enable any reputable title insurance company to issue title insurance coverage on the Lots; (c) required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Lots; (d) necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Lots; or (e) necessary to comply with Illinois law; provided, however, any such amendment shall not adversely affect the title to any Lot unless the Owner shall consent thereto in writing.

Except as provided in Article II and in the first paragraph of this Section 2 of Article XIII, this Declaration may be amended only by the affirmative vote (in person or by alternate) or written consent, or any combination thereof, of Owners representing at least sixty-seven (67%) percent of the Class "A" Members, and, until the Class "B" control period lapses, the consent of the Declarant. In addition, the approval requirements set forth in Article XIV hereof shall be met, if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes

required for action to be taken under that clause. Any amendment to be effective must be recorded in the Recorder's Office of Kane County, Illinois.

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority so to consent and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

Section 3. Indemnification.

The Association shall indemnify every officer, director, and committee member against any and all expenses, including counsel fees, reasonably incurred by or imposed upon such officer, director, or committee member in connection with any action, suit, or other Proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member. The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent, or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director, or committee member, or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

Section 4. Easements of Encroachment.

There shall be reciprocal appurtenant easements of encroachment and for maintenance of encroachments as between each Lot and such portion or portions of the Common Area adjacent thereto or as between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three (3) feet, as measured from any point on the common boundary between each Lot and the adjacent portion of the Common Area or as between said adjacent Lots, as the case may be, along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of an Owner, tenant, or the Association.

Section 5. Easements for Utilities, Etc.

There is hereby reserved unto Declarant, so long as the Declarant owns any portion of the Land, the Association, and the designees of each (which may include, without limitation, the

City, any utility or entity furnishing gas, electric, telephone, sewer, water or other utility or franchised services to residents of the Association Lots), blanket easements upon, across, over, and under all of the Common Areas including Restricted Use Common Areas, Limited Use Common Areas and, to the extent shown on any plat, over the Lots for ingress, egress, installation, replacing, repairing, and maintaining cable television systems, security, and similar systems, roads, walkways, bicycle pathways, lakes, ponds, wetlands, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephones, gas, and electricity.

Without limiting the generality of the foregoing, easements hereby reserved for the City across all Lots for ingress, egress, installation, reading, replacing, repairing, and maintaining water meter boxes.

The Board shall have, by a two-thirds (2/3) vote, the power to dedicate portions of the Common Area to the City, or to any other local, state, or federal governmental body, for governmental purposes or as contemplated by the Annexation Agreement, and to grant easements for utility purposes subject to such approval requirements as may be contained in Article XIV, Section 4 of this Declaration.

Section 6. Severability.

Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 7. Right of Entry.

The Association shall have the right, but not the obligation, to enter into any Lot for emergency, security, and safety, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter a Lot to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition upon request by the Board.

Section 8. Perpetuities.

If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 9. Litigation.

No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of seventy-five (75%) percent of the Lot Owners. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the

imposition and collection of assessments as provided in Article X hereof, including the filing of forcible entry and detainer actions, (c) proceedings involving challenges to the real estate taxes, or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is made by the Declarant or is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

Section 10. Notice of Sales and Leases.

Any Owner, other than the Declarant, who sells or leases his or her Lot shall provide written notice to the authorized representative of the Association as designated from time to time by the Board of Directors within ten (10) days after entering into an agreement for lease or closing on the sale of a Lot. Such notice shall include the names of the purchaser or lessee and all occupants of the Lot, their mailing addresses, if other than the Lot address. This Section shall not be deemed to give the Association or any person a right of first refusal or any other such right with respect to any Lot.

Section 11. Enforcement.

Subject to the requirements of Article III, Section 22 of the By-Laws, the Association, acting through the Board of Directors, and any aggrieved Lot Owner, shall have the right to enforce the terms of this Declaration, the By-Laws, the rules and regulations of the Association or any decision of the Association made pursuant to the foregoing, subject to the requirements of Article III, Section 22 of the By-Laws. The City is hereby granted the right, but has no obligation, to enforce the covenants, conditions, and restrictions contained in this Declaration.

Article XIV

Section 1. Mortgage Provisions

The following provisions are for the benefit of holders of first Mortgages on Lots. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

Section 2. Notices of Action.

An institutional holder, insurer, or guarantor of a first Mortgage who provides written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the Lot number, therefore becoming an "eligible holder"), will be entitled to timely written notice of:

- (a) any condemnation loss or any casualty loss which affects a material portion of the Association Lots or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such eligible holder;
- (b) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however,

notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by an Owner of a Lot of any obligation under the Declaration or By-Laws of the Association which is not cured within sixty (60) days:

(c) any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

(d) any proposed action which would require the consent of a specified percentage of eligible holders.

Section 3. Amendments to Documents.

(a) The consent of Owners representing at least sixty-seven (67%) percent of the Class "A" votes and of the Declarant, so long as it owns any land subject to this Declaration, and the approval of the eligible holders of first Mortgages on sixty-seven (67%) percent of the Lots subject to a Mortgage held by an eligible holder, shall be required to terminate the Association for reasons other than substantial destruction or condemnation. Any election to terminate the Association after substantial destruction or a substantial taking in condemnation shall require the approval of the Owners as specified above and the eligible holders of first Mortgages on fifty-one (51%) percent of the Lots subject to Mortgages held by such eligible holders.

(b) Any restoration or repair of the Association Lots after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with this Declaration and the original plans and specifications unless the approval is obtained of the eligible holders of first Mortgages on Lots to which at least fifty-one (51%) percent of the Lots subject to Mortgages held by such eligible holders are allocated.

(c) Except as provided in Article XVII below, the consent of Owners representing at least sixty-seven (67%) percent of the Class "A" votes and the approval of eligible holders of first Mortgages on fifty-one (51%) percent of the Lots subject to a Mortgage held by an eligible holder, shall be required materially to amend any provisions of the Declaration, By-Laws, or Articles of Incorporation of the Association, or to add any material provisions thereto, which establish, provide for, govern, or regulate any of the following:

- (i) voting;
- (ii) assessments, assessment liens, or subordination of such
liens;
- (iii) reserves for maintenance, repair, and replacement of the
Common Area;
- (iv) insurance or fidelity bonds; (v) rights to use the Common
Area;

(v) responsibility for maintenance and repair of the Association Lots;

(vi) expansion or contraction of the Association Lots or the addition, annexation, or withdrawal of Association Lots to or from the Association (other than by Declarant as provided in Article II and Article VIII of this Declaration);

(vii) boundaries of any Lot;

(viii) leasing of Lots;

(ix) imposition of any right of first refusal or similar restriction of the right of any Owner to sell, transfer, or otherwise convey his or her Lot;

(x) establishment of self-management by the Association where professional management has been required by an eligible holder; or

(xi) any provisions included in the Declaration, By-Laws, or Articles of Incorporation which are for the express benefit of holders, guarantors, or insurers of first Mortgages on Lots.

(d) no amendment, made pursuant to this Article XIV, may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

Section 4. Special FHLMC Provision.

So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least two-thirds (2/3) of the first Mortgagees or Owners representing at least two-thirds (2/3) of the total Association vote entitled to be cast thereon consent, the Association shall not:

(a) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer all or any portion of the real property comprising the Common Area which the Association owns, directly or indirectly, except as provided in Article XVI, (the granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Area, and transactions involving portions of the Common Area conveyed to the Association subject to the right to sell, lease or dedicate such portions of the Common Area as provided in this Declaration and leases pursuant to Article XVI hereof, shall not be deemed transfers within the meaning of this subsection);

(b) change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner of a Lot (A decision, including contracts, by the Board or provisions of any declaration subsequently recorded on any portion of the Association Lots regarding assessments for Neighborhoods or other

similar areas shall not be subject to this provision where such decision or subsequent declaration is otherwise authorized by this Declaration.);

(c) by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Lots and of the Common Area (The issuance and amendment of architectural standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision.);

(d) fail to maintain insurance, as required by this Declaration; or

(e) use hazard insurance proceeds for any Common Area losses for other than the repair, replacement, or reconstruction of such property.

First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

Section 5. No Priority.

No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

Section 6. Notice to Association.

Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

Section 7. Amendment by Board.

Should the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Article to be recorded to reflect such changes.

Section 8. Applicability of Article XIV.

Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, By-Laws, or Illinois law for any of the acts set out in this Article.

Section 9. Failure of Mortgagee to Respond.

Any Mortgagee who receives notice of and a written request from the Board to respond or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, with a return receipt requested.

Article XV

Section 1. Declarant's Rights

Any or all of the special rights and obligations of the Declarant may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Recorder's Office of Kane County, Illinois. Nothing in this Declaration shall be construed to require Declarant or any successor to develop any of the land described in Exhibit "B" in any manner whatsoever.

Notwithstanding any provisions contained in the Declaration to the contrary and for so long as construction and initial sale of Lots shall continue, it shall be expressly permissible for Declarant to authorize, establish, maintain and carry on upon portions of the Common Area and within Lots such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction and sale of Lots, including, but not limited to, business offices, model homes, model home parking areas, sales offices and promotional signs, flag poles, flags and banners. A right of access is hereby reserved over the Common Areas for such purposes. The right to maintain and carry on such facilities and activities shall encompass and include any clubhouse, community or recreation center located within the Association Lots, Lots owned by Declarant which contain structures which are operated and maintained as model homes which are open for public inspection and viewing. All model homes shall be operated and maintained in accordance with regulations established by Declarant.

So long as Declarant continues to have rights under this paragraph, no Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Association Lots without Declarant's review and written consent thereto, and any attempted recordation without compliance herewith shall result in such declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the Declarant.

This Article may not be amended without the express written consent of the Declarant; provided, however, the rights contained in this Article shall terminate upon the earlier of (a) twenty (20) years from the date this Declaration is recorded, or (b) upon recording by Declarant of a written statement that all sales activity has ceased.

Article XVI

Section 1. Restricted and Limited Use Common Areas

The Board of Directors shall have the right to designate some or all of the Common Areas upon which recreation facilities, such as tennis courts, swimming pools, a community building, and related parking areas as "Restricted Use Common Areas" which may be used only by such Persons as affirmatively agree to pay such fees and additional charges for such privilege of use (the "Users"). The Board of Directors shall also have the right to designate certain Common Areas which are not Restricted Use Common Areas as "Limited Use Common Areas" which Owners or occupants of Apartment Lots if any Apartment Lots are developed on the Property may only use on the condition that they affirmatively agree to pay the fees set by the Board of Directors for the privilege of such use. The designation of a portion of a Common Area as a Restricted Use Common Area or a Limited Use Common Area may occur at any time.

Users may, in the discretion of the Board, include Persons other than Owners and occupants of Lots within the Association Lots; provided, such Persons shall be required to pay fees and charges which shall be no less than those charged Owners and occupants of Lots, and who shall have no greater use rights than those extended to Owners and occupants of Lots. Nothing herein shall preclude the Association from requiring such Persons to pay fees and charges greater than those charged Owners and occupants of Lots and granting such Persons lesser or more restrictive use rights than those extended to Owners and occupants of Lots.

The fees and charges established by the Board for use of, or the rental payments charged by the Association pursuant to a lease of the Restricted Use Common Areas shall be reported in the annual budget for the Association as "income" may used as determined by the Board. Nothing herein shall preclude the Association from setting fees and charges and from setting rents for the Restricted Use Common Areas in excess of the amounts required to operate, maintain, insure and pay real estate taxes on the Restricted Use Common Areas.

Nothing herein shall prohibit the Board of Directors, by majority vote from exercising the right to dedicate, lease or sell those parts of common areas used as parks, open space areas and nature areas conveyed to the Association subject to the right to dedicate, lease or sell such portions of the Common Area to the City, the local Park District, the Kane County Forest Preserve District, non-for-profit conservation organization or similar entity dedicated to owning, operating and preserving parks, open space and nature preserves for the benefit of the public.

Notwithstanding the provisions of Article XIV, Section 4 hereof, the Board of Directors, acting on behalf of the Association, may, by majority vote, with the approval of two-thirds of the Class A Owners and of the Class B Member if it still exists, sell or lease all of the Restricted Use Common Areas or any portion thereof to a private club composed of such Owners or to a commercial operator, or to the City or any other governmental body or not-for-profit corporation, on such terms and conditions as may be agreed to by the Board. If the Board agrees to lease Restricted Use Common Areas, the lessee shall have the right to permit members of the public to become Users of the Restricted Use Common Areas.

There is hereby reserved for all Users of Restricted Use Common Areas an easement over the Common Areas of the Association for direct ingress and egress to and from such Restricted Use Common Areas, subject to such rules and regulations as are established by the Board of Directors.

The Board shall have the right at any time, subject to the terms of any existing lease, and with a two-thirds vote of the Class A Members and of the Class B Member if it still exists, to declare by majority vote that use of all or any portion of the Restricted Use Common Areas or the Limited Use Common Areas shall no longer be restricted as provided herein, and thereafter such facilities shall be deemed Common Area for the use of all Owners and all costs associated therewith shall be deemed Common Expenses.

Article XVII

ANNEXING ADDITIONAL PROPERTY

Section 1. Additional Parcel. The Declarant and its successors and assigns, hereby reserves the right and option, at any time and from time to time, within seven (7) years from the date of the recording of this Declaration in the office of the Recorder of Deeds of Kane County, Illinois, to add-on and annex to the Land, all or any portion of the property legally described on Exhibit "C" attached hereto and incorporated herein by reference ("Future Development Parcel"), by recording an amendment or amendments to this Declaration executed by the Declarant (every such instrument being hereinafter referred to as "Supplemental Declaration") which shall set forth the legal description of the additional parcel or parcels ("Additional Parcel") within the Future Development Parcel to be annexed to the Land. Upon the recording of every such Amendment to Declaration, the Additional Parcel shall be deemed submitted and governed in all respects by the provisions of this Declaration and shall thereupon become part of the Land. No portion or portions of the Future Development Parcel shall be subject to any of the provisions of this Declaration unless and until an Supplemental Declaration is recorded annexing such portion or portions to the property as aforesaid. The Owners shall have no rights whatsoever in or to any portion of the Future Development Parcel, unless and until an Supplemental Declaration is recorded annexing such portion to the Land as aforesaid. Upon the expiration of said seven (7) year period, no portion of the Future Development Parcel which has not theretofore been made part of or annexed to the Property shall thereafter be annexed to the Land. No portion of the Future Development Parcel must be added to the Land. Portions of the Future Development Parcel may be added to the Land at different times within such seven (7) year period. Except as may be required by applicable laws and ordinances, there shall be no limitations (i) on the order in which portions of the Future Development Parcel may be added to the Land, (ii) fixing the boundaries of these portions, or (iii) on the location of improvements which may be made on the Future Development Parcel.

Section 2. Additional Common Areas. Upon recording of every amendment to the Declaration as provided in this Article XVII, additional Common Areas shall be added to the Property, which Common Areas shall be the obligation of the Association to repair, maintain and replace as set forth in this Declaration.

Section 3. Amendments to Declaration Adding Additional Property. Every Amendment to Declaration shall include the legal description of the portion or portions of the parcel which shall add to the legal description of the Parcel that portion or portions of the Future Development Parcel annexed to the Property.

Section 4. Existing Mortgages. Upon recording of every Amendment to Declaration, the lien of every mortgage encumbering an existing Lot shall automatically be deemed to be adjusted and amended to encumber such Lot as set forth in such Amendment to Declaration.

Section 5. Binding Effect. Every Owner and every mortgagee, grantee, heir, administrator, executor, legal representative, successor and assign of such Owner, by such person's or entity's acceptance of any deed or mortgage or other interest in or with respect to any Lot, shall be deemed to have expressly agreed and consented to (i) each and all of the provisions of this Article 12; (ii) the recording of every Amendment to Declaration, and (iii) all of the provisions of every Amendment to Declaration which may hereafter be recorded in accordance with the provisions of this Article XVII.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the date first above written.

SIGNATURE PAGE NEXT PAGE

William Ryan Homes, Inc.,
an Illinois corporation

By: [Signature]
Robert L. Tobiason
Vice President

By: [Signature]
Kevin R. Davis
CFO, Treasurer

STATE OF ILLINOIS)
) ss.
COUNTY OF Kane)

I, Stephanie A. Wall, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Robert L. Tobiason, personally known to me as the Vice President of William Ryan Homes, Inc., an Illinois corporation, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the same instrument on behalf of said corporation pursuant to authority duly given, as his free and voluntary act and as the free and voluntary act and deed of said corporation for the uses and purposes therein set forth.

GIVEN under my hand and seal this 20 day of December, 2006.

My commission expires: 7.6.10

Notary Public Stephanie A. Wall



I, Stephanie A. Wall, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Kevin R. Davis, personally known to me as the CFO, Treasurer of William Ryan Homes, Inc., an Illinois corporation, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the same instrument on behalf of said corporation pursuant to authority duly given, as his free and voluntary act and as the free and voluntary act and deed of said corporation for the uses and purposes therein set forth.

GIVEN under my hand and seal this 20 day of December, 2006.

My commission expires: 7.6.10

Notary Public Stephanie A. Wall

This Declaration of
Covenants, Conditions and Restrictions for
Sandy Creek Estates Homeowners
Association has been prepared by:
Richard H. Levy
Schain, Burney, Ross & Citron
222 North LaSalle
Suite 1910
Chicago, IL 60601-1086

After recording return to:
Richard H. Levy
Schain, Burney, Ross & Citron
222 North LaSalle
Suite 1910
Chicago, IL 60601-1086



Exhibit "A"

Land Submitted to Declaration

LOTS 1 THROUGH 17, INCLUSIVE, LOTS 23 AND 24, LOTS 30 AND LOTS 53 THROUGH 72, INCLUSIVE, OF FOY PROPERTY BY PLAT OF SUBDIVISION RECORDED MARCH 2, 2006 AS DOCUMENT 2006K022822 BEING A PART OF THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 41 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE CITY OF ELGIN, KANE COUNTY, ILLINOIS.

Exhibit A-1

Exhibit "B"

BY-LAWS

OF

SANDY CREEK ESTATES HOMEOWNERS ASSOCIATION, INC.

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BY-LAWS
OF
SANDY CREEK ESTATES HOMEOWNERS ASSOCIATION, INC.

Section 2. Name, Principal Office, and Definitions

Section 3. Name.

The name of the Association shall be Sandy Creek Estates Homeowners Association, Inc. (hereinafter sometimes referred to as the "Association").

Section 4. Principal Office.

The principal office of the Association in the State of Illinois shall be located in Kane County. The Association may have such other offices, either within or outside the State of Illinois, as the Board of Directors may determine or as the affairs of the Association may require.

Section 5. Definitions.

The words used in these By-Laws shall have the same meaning as set forth in that certain Declaration of Covenants, Conditions, and Restrictions for Sandy Creek Estates Homeowners Association (said Declaration, as amended, renewed, or extended from time to time, is hereinafter sometimes referred to as the "Declaration"), unless the context shall prohibit.

Section 6. Association: Membership, Meetings, Quorum, Voting, Proxies

Section 7. Membership.

The Association shall have two (2) classes of membership, Class "A" and Class "B", as more fully set forth in the Declaration, the terms of which pertaining to membership are specifically incorporated herein by reference.

Exhibit B-1

Section 8. Place of Meetings.

Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board of Directors either within the Land or as convenient thereto as possible and practical.

Section 9. Annual Meetings.

The first meeting of the Association, whether a regular or special meeting, shall be held within one (1) year from the date of incorporation of the Association. Meetings shall be of the Lot Owners or their alternates. Subsequent regular annual meetings shall be set by the Board on a date and at a time set by the Board of Directors.

Section 10. Special Meetings.

The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association if so directed by resolution of a majority of a quorum of the Board of Directors or upon a petition signed by Lot Owners representing at least ten (10%) percent of the total votes of the Association. The notice of any special meeting shall state the date, time, and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

Section 11. Notice of Meetings.

Written or printed notice stating the place, day, and hour of any meeting of the Lot Owners shall be delivered, either personally or by mail, to each Lot Owner entitled to vote at such meeting, not less than ten (10) nor more than thirty (30) days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting.

Exhibit B-2

Notice of the meeting to elect the initial board of directors shall be given at least twenty-one (21) days in advance of the date set for such meeting.

In the case of a special meeting or when required by statute or these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Lot Owner at his address as it appears on the records of the Association, with postage thereon prepaid.

Section 12. Waiver of Notice.

Waiver of notice of a meeting of the Lot Owners shall be deemed the equivalent of proper notice. Any Lot Owner may, in writing, waive notice of any meeting of the Lot Owners, before such meeting. Attendance at a meeting by a Lot Owner or alternate shall be deemed waiver by such Lot Owner of notice of the time, date, and place thereof, unless such Lot Owner specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed waiver of notice of all business transacted thereat unless objection to the calling or convening of the meeting, of which proper notice was not given, is raised before the business is put to a vote.

Section 13. Adjournment of Meetings.

If any meeting of the Association cannot be held because a quorum is not present, a majority of the Lot Owners who are present at such meeting, either in person or by alternate, may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted. If

Exhibit B-3

a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Lot Owners in the manner prescribed for regular meetings.

The Lot Owners present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Lot Owners to leave less than a quorum, provided that Lot Owners or their alternates representing at least twenty-five (25%) percent of the total votes of the Association remain in attendance, and provided further that any action taken is approved by at least a majority of the Members required to constitute a quorum.

Section 14. Voting.

The voting rights of the Members shall be as set forth in the Declaration, and such voting rights provisions are specifically incorporated herein.

Section 15. Proxies.

Lot Owners may not vote by Proxy but only in person or through their designated alternates.

Section 16. Majority.

As used in these By-Laws, the term "majority" shall mean those votes, owners, or other group as the context may indicate totaling more than fifty (50%) percent of the total number.

Section 17. Quorum.

Except as otherwise provided in these By-Laws or in the Declaration, the presence in person or by alternate of the Lot Owners representing a majority of the total vote of the

Association shall constitute a quorum at all meetings of the Association. Any provision in the Declaration concerning quorums is specifically incorporated herein.

Section 18. Conduct of Meetings.

The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring at the meeting.

Section 19. Action Without a Meeting.

Any action required by law to be taken at a meeting of the Lot Owners, or any action which may be taken at a meeting of the Lot Owners, may be taken without a meeting if written consent setting forth the action so taken is signed by all of the Lot Owners entitled to vote with respect to the subject matter thereof, and any such consent shall have the same force and effect as a unanimous vote of the Lot Owners.

Article XVII

Section 1. Board of Directors: Number, Powers, Meetings

Composition and Selection.

Section 2. Governing Body: Composition.

The affairs of the Association shall be governed by a Board of Directors, each of whom shall have one (1) vote. Except with respect to directors appointed by the Declarant, the Directors shall be Members or spouses of such Members; provided, however, no person and his or her spouse may serve on the Board at the same time. In the case of an Owner which is a corporation or partnership, the person designated in writing to the secretary of the Association as the representative of such corporation or partnership shall be eligible to serve as a director.

Exhibit B-5

Section 3. Directors During Class "B" Control.

The Class "B" Directors shall be selected by the Class "B" Member acting in its sole discretion and shall serve at the pleasure of the Class "B" Member for a period of one year after the first to occur of the following:

(a) not later than sixty (60) days after seventy-five (75%) percent of the total number of the Lots that may be developed in Sandy Creek Estates (being the lands described on Exhibit A to the Declaration) have certificates of occupancy issued thereon and have been conveyed to Persons other than the Declarant or builders holding title solely for purposes of development and sale;

(b) ten (10) years after the recording of the Declaration; or

(c) when, in its discretion, the Class "B" Member so determines.

Section 4. Right to Disapprove Certain Actions.

This Section 4 may not be amended without the express, written consent of the Class "B" Member as long as the Class "B" membership exists.

So long as the Class "B" membership exists, the Class "B" Member shall have a right to disapprove actions of the Board and the Modifications Committee, which limit or restrict any of the rights of the Class "B" Member or which impose financial burdens or restrictions solely upon the Class "B" Member or its property ("a limiting or restrictive action"), as is more fully provided in this Section. This right shall be exercisable only by the Class "B" Member, its successors, and assigns who specifically take this power in a recorded instrument. The right to disapprove shall be as follows:

No limiting or restrictive action authorized by the Board of Directors or Modifications Committee shall become effective, nor shall any such action be implemented until and unless:

Exhibit B-6

(a) The Class "B" Member shall have been given written notice of all meetings and proposed actions approved at meetings of the Board or any committee thereof by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, as it may change from time to time, which notice complies as to the Board of Directors meetings with Article XVII, Section 9, Section 10, and Section 11, of these By-Laws and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth in reasonable particularity the agenda to be followed at said meeting; and

(b) The Class "B" Member shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program to be implemented by the Board, any committee thereof, or the Association. The Class "B" Member, its representatives or agents shall make its concerns, thoughts, and suggestions known to the members of the subject committee and/or the Board. The Class "B" Member shall have and is hereby granted a right to disapprove any limiting or restrictive action authorized by the Board of Directors or any committee thereof and to be taken by the Board, such committee, the Association, or any individual member of the Association, if Board, committee, or Association approval is necessary for such action. This right may be exercised by the Class "B" Member, its representatives, or agents at any time within ten (10) days following the meeting or notification of such meeting if such notification was received by the Class "B" member after the date of the meeting held pursuant to the terms and provisions hereof. This right to disapprove may be used to block proposed actions but

Exhibit B-7

shall not extend to the requiring of any action or counteraction on behalf of any committee, or the Board or the Association.

Section 5. Number of Directors.

The number of directors in the Association shall be not less than three (3) nor more than seven (7), as provided in Section 7 below. The initial Board shall consist of three (3) members as identified in the Articles of Incorporation.

Section 6. Nomination of Directors.

Except with respect to directors selected by the Class "B" Member, nominations for election to the Board of Directors shall be made in accordance with the procedure set forth herein or such other procedure that may be adopted by the Board of Directors. Nominations shall also be permitted from the floor. All candidates shall have a reasonable opportunity to communicate their qualifications to the Lot Owners and to solicit votes. The foregoing voting procedure is intended to insure that after expiration of the Class B Control Period all Lot Owners vote on all Board vacancies, except when in accordance with Section 8.

Section 7. Election and Term of Office.

Notwithstanding any other provision contained herein:

(a) Within sixty (60) days after the time Class "A" Members, other than the Declarant or a builder holding title solely for purposes of development and sale, own twenty-five (25%) percent of the Lots or whenever the Class "B" Member earlier determines, the Association shall call a special meeting at which Lot Owners representing the Class "A" members shall elect one (1) of the four (4) directors, who shall be an at-large director. The remaining three (3) directors shall be appointees of the Class "B" Member. The director elected by the Lot Owners shall not be subject to removal by the

Exhibit B-8

Class "B" Member acting alone and shall be elected for a term of two (2) years or until the happening of the event described in Article XVIISection 7(b) below, whichever is shorter. If such director's term expires prior to the happening of the event described in Article XVIISection 7(b) below, a successor shall be elected for a like term.

(b) Within sixty (60) days after the time Class "A" Members, other than the Declarant or a builder holding title solely for purposes of development and sale, own fifty (50%) percent of the Lots, or whenever the Class "B" Member earlier determines, the Board shall be increased to five (5) directors. The Association shall call a special meeting at which Lot Owners representing the Class "A" Members shall elect two (2) of the five (5) directors, who shall serve as at-large directors. The remaining three (3) directors shall be appointees of the Class "B" Member. The directors elected by the Lot Owners shall not be subject to removal by the Class "B" Member acting alone and shall be elected for a term of two (2) years or until the happening of the event described in Article XVIISection 7(c) below, whichever is shorter. If such directors' terms expire prior to the happening of the event described in Article XVIISection 7(c) below, successors shall be elected for a like term.

(c) Within sixty (60) days after termination of the Class "B" Control Period, the Association shall call a special meeting at which Lot Owners representing the Class "A" Members shall elect three (3) of the five (5) directors, who shall serve as at-large directors. The remaining two (2) directors shall be appointees of the Class "B" Member. The directors elected by the Lot Owners shall not be subject to removal by the Class "B" Member acting alone and shall serve until the first annual meeting following the termination of the Class "B" Control Period. If such annual meeting occurs within

Exhibit B-9

thirty (30) days after termination of the Class "B" Control Period, this subsection shall not apply and directors shall be elected in accordance with Article XVII Section 7(d) below.

(d) At the first annual meeting of the membership after the termination of the Class "B" Control Period, seven (7) directors shall be elected by the Lot Owners representing both Class "A" and Class "B" members. Such directors shall be at-large directors. Four (4) directors shall be elected to serve a term of two (2) years and three (3) directors shall be elected to serve a term of one (1) year. At the expiration of the initial term of office of each member of the Board of Directors elected at the first annual meeting after termination of the Class "B" Control Period, a successor shall be elected to serve for a term of two (2) years.

Each Lot Owner shall be entitled to cast one (1) vote with respect to each vacancy to be filled from each slate. All Lot Owners shall be entitled to vote on both slates. There shall be no cumulative voting. The directors elected by the Lot Owners shall hold office until their respective successors have been elected by the Association. Directors may be elected to serve any number of consecutive terms.

Section 8. Removal of Directors and Vacancies.

Any director elected by the Lot Owners may be removed, with or without cause, by the vote of Lot Owners holding a majority of the votes entitled to be cast for the election of such director. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. A director who was elected at large solely by the votes of Lot Owners other than the Declarant may be removed from office prior to the expiration of his or her term only by the votes of a majority of Lot Owners other than the Declarant. Upon removal of a director, a

successor shall then and there be elected by the Lot Owners entitled to elect the director so removed to fill the vacancy for the remainder of the term of such director.

Any director appointed by the Class "B" Member shall serve at the discretion of the Class "B" Member and shall serve no longer than the first annual meeting after termination of the Class "B" Control Period.

Any director elected by the Lot Owners who has three (3) consecutive unexcused absences from Board meetings or who is delinquent in the payment of any assessment or other charge due the Association for more than thirty (30) days may be removed by a majority of the directors present at a regular or special meeting at which a quorum is present, and a successor may be appointed by the Board to fill the vacancy for the remainder of the term. In the event of the death, disability, or resignation of a director, a vacancy may be declared by the Board, and it may appoint a successor. Any director appointed by the Board shall be selected from the Voting Group represented by the director who vacated the position and shall serve for the remainder of the term of such director.

Meetings.

Section 9. Organizational Meetings.

The first meeting of the Board of Directors following each annual meeting of the membership shall be held within ten (10) days thereafter at such time and place as shall be fixed by the Board.

Section 10. Regular Meetings.

Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the directors, but at least four (4) such meetings shall be held during each fiscal year with at least one (1) per quarter. Notice of the time and place

of the meeting shall be communicated to directors not less than four (4) days prior to the meeting; provided, however, notice of a meeting need not be given to any director who has signed a waiver of notice or a written consent to holding of the meeting.

Section 11. Special Meetings.

Special meetings of the Board of Directors shall be held when called by written notice signed by the President of the Association or by any three (3) directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each director by one of the following methods: (a) by personal delivery; (b) written notice by first class mail, postage prepaid; (c) by telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (d) by telegram, charges prepaid. All such notices shall be given at the director's telephone number or sent to the director's address as shown on the records of the Association. Notices sent by first class mail shall be deposited into a Loted States mailbox at least four (4) days before the time set for the meeting. Notices given by personal delivery, telephone, or telegraph shall be delivered, telephoned, or given to the telegraph company at least seventy-two (72) hours before the time set for the meeting.

Section 12. Waiver of Notice.

The transactions of any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the Purpose of the meeting. Notice

Exhibit B-12

of a meeting shall also be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

Section 13. Quorum of Board of Directors.

At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not present, a majority of the directors who are present at such meeting may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the date the original meeting was called. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

Section 14. Compensation.

No director shall receive any compensation from the Association for acting as such unless approved by Lot Owners representing a majority of the total vote of the Association at a regular or special meeting of the Association; provided any director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other directors.

Section 15. Conduct of Meetings.

The President shall preside over all meetings of the Board of Directors, and the Secretary shall keep a minute book of meetings of the Board of Directors, recording therein all resolutions adopted by the Board of Directors and all transactions and proceedings occurring at such meetings.

Section 16. Open Meetings.

All formal meetings of the Board shall be open to all Lot Owners except for the portion of any meeting held:

(a) to discuss litigation when an action against or on behalf of the Association has been filed and is pending in a court of administrative tribunal, or when the board of the Association finds that such an action is probable or imminent; or

(b) to consider information regarding appointment, employment or dismissal of an employee; or

(c) to discuss violations of rules and regulations of the Association or unpaid common expenses owed to the Association.

Lot Owners who are not also Directors may not participate in any discussion or deliberation unless permission to speak is requested on behalf of that Lot Owner by a Director. In such case, the President may limit the time any Lot Owner may speak. The foregoing does not apply to working sessions of the Board at which no binding votes are to be taken.

Section 17. Action Without a Formal Meeting.

Any action that may be taken at a formal meeting of the Board of Directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote. A response sent by electronic means, including, but not limited to fax and email, constitutes a signature.

Powers and Duties.

Exhibit B-14

Section 18. Powers and Duties.

The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the Association's affairs and, as provided by law, may do all acts and things as are not by the Declaration, Articles, or these By-Laws directed to be done and exercised exclusively by the Lot Owners or the membership generally.

The Board of Directors shall delegate to one of its members the authority to act on behalf of the Board of Directors on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Board of Directors.

In addition to the duties imposed by these By-Laws or by any resolution of the Association that may hereafter be adopted or by the provisions of the Declaration, the Board of Directors shall have the power to and shall be responsible for the following, in way of explanation, but not limitation:

(a) preparation and adoption, subject to Article X, Sections 2 and 3 of the Declaration, of annual budgets in which there shall be established the contribution of each Owner to the Common Expenses and Capital Reserve and distribution of a copy of the proposed budgets to each Lot Owner at least thirty (30) days prior to the meeting at which the proposed annual budget is to be adopted;

(b) making assessments to defray the Common Expenses and fund a Capital Reserve, establishing the means and methods of collecting such assessments, and establishing the period of the installment payments of the annual assessment; provided, unless otherwise determined by the Board of Directors, the annual assessment for each Lot's proportionate share of the Common Expenses and Capital Reserve funding shall be

Exhibit B-15

payable in equal monthly installments, each such installment to be due and payable in advance on the first day of each month for said month;

(c) providing for the operation, care, upkeep, and maintenance of all of the Area of Common Responsibility;

(d) designating, hiring, and dismissing the personnel necessary for the maintenance, operation, repair, and replacement of the Association, its property, and the Area of Common Responsibility and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;

(e) collecting the assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to administer the Association; provided, any reserve fund may be deposited, in the directors' best business judgment, in depositories other than banks;

(f) making and amending rules and regulations;

(g) opening of bank accounts on behalf of the Association and designating the signatories required;

(h) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Area in accordance with the other provisions of the Declaration and these By-Laws and after damage or destruction by fire or other casualty;

(i) enforcing by legal means the provisions of the Declaration, these By-Laws, and the rules and regulations adopted by it and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association;

Exhibit B-16

(j) obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof;

(k) paying the cost of all services rendered to the Association or its Members and not chargeable directly to specific Owners;

(l) keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair expenses and any other expenses incurred;

(m) setting a reasonable fee for copying and then providing within thirty (30) days of receiving the request therefor from any Owner of a Lot for delivery to a prospective purchaser of such Owner's Lot plus any first Mortgagee, and the holders, insurers, and guarantors of a first Mortgage on any Lot:

(i) a current copy of the Declaration,

(ii) the Articles of Incorporation,

(iii) the By-Laws and rules and regulations governing the Lot,

(iv) a statement of any liens, including a statement of the account of the Lot setting forth the amounts of unpaid assessments and other charges due and owing;

(v) a statement of any capital expenditures anticipated by the association, within the current or succeeding 2 fiscal years;

(vi) a statement of the status and amount of any reserve for replacement fund and any portion of such fund earmarked for any special project by the board of directors;

Exhibit B-17

(vii) a copy of the statement of financial condition of the Association for the last fiscal year for which such statement is available;

(viii) a statement of the status of any pending suits or judgments in which the Association is a party;

(ix) a statement setting forth what insurance coverage is provided for all Lot owners by the Association; and

(x) a statement that any improvements or alterations made to the Lot, or any part of the common areas assigned thereto, by the prior Lot owner are in good faith believed to be in compliance with the Declaration of the Association.

(n) permitting utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Properties.

(o) designating portions of the Common Areas as Restricted Use Common Areas and designating portions of the Common Areas which are not Restricted Use Common Areas as Limited Use Common Areas and setting the fees for the use of Limited Use Common Areas.

(p) mailing to each owner written notice no less than ten (10) days and no more than thirty (30) days prior to any meeting of the Board concerning the adoption of the proposed annual budget or any increase in the budget, or establishment of an assessment.

Section 19. Management Agent.

(a) The Board of Directors may employ for the Association a professional management agent or agents at a compensation established by the Board of Directors to

Exhibit B-18

perform such duties and services as the Board of Directors shall authorize. The Board of Directors may delegate to the managing agent or manager, subject to the Board's supervision, all of the powers granted to the Board of Directors by these By-Laws, other than the powers set forth in subparagraphs (a), (b), (f), (g), (i) and (o) of Section 18 of this Article. The Declarant, or an affiliate of the Declarant, may be employed as managing agent or manager.

(b) No management contract may have a term in excess of two (2) years and must permit termination by either party without cause and without termination fee on sixty (60) days' or less written notice.

Section 20. Accounts and Reports.

The following management standards of performance will be followed unless the Board by resolution specifically determines otherwise. The board of the Association shall maintain and make available for examination and copying at convenient hours of weekdays the following records:

(a) accrual accounting, as defined by generally accepted accounting principles, shall be employed;

(b) accounting and controls should conform to generally accepted accounting principles;

(c) cash accounts of the Association shall not be commingled with any other accounts;

(d) no remuneration shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the

Exhibit B-19

Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; any thing of value received shall benefit the Association;

(c) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors;

(f) commencing at the end of the month in which the first Lot is sold and closed, financial reports shall be prepared for the Association at least quarterly containing:

(i) an income statement reflecting all income and expense activity for the preceding period on an accrual basis;

(ii) a statement reflecting all cash receipts and disbursements for the preceding period;

(iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;

(iv) a balance sheet as of the last day of the preceding period;
and

(v) a delinquency report listing all Owners who are delinquent in paying the monthly installments of assessments at the time of the report and describing the status of any action to collect such installments which remain delinquent (A monthly installment of the assessment shall be considered to be delinquent on the fifteenth (15th) day of each month unless otherwise determined by the Board of Directors);

Exhibit B-20

(g) an annual report consisting of at least the following shall be available to all Members within one hundred twenty (120) days after the close of the fiscal year: (1) a balance sheet; (2) an operating (income) statement; (3) a statement of changes in financial position for the fiscal year, and (4) an itemized accounting of the common expenses for the preceding year actually incurred or paid, together with a tabulation of the amounts collected pursuant to the budget or assessment, and showing the net excess or deficit of income over expenditures plus reserves. The annual report referred to above shall be prepared on an audited or reviewed basis, as determined by the Board, by an independent public accountant; provided, upon written request of any holder, guarantor or insurer of any first Mortgage on a Lot, the Association shall provide an audited financial statement. During the Class "B" Control Period, the annual report shall include certified financial statements; and

(h) the Association shall maintain copies of all minutes of meetings of the Members and the Board, for at least seven (7) years; ballots, if any, for any election of directors or other matters voted upon by the Lot Owners, for at least one (1) year; copies of all contracts, leases and other agreements entered into by the Association; and such other records as are available for inspection by members of a not-for-profit corporation pursuant to Section 107.75 of the Illinois General Not-for-Profit Corporation Act of 1986.

(i) copies of the recorded declaration, other Association instruments, other duly recorded covenants and by-laws and any amendments, articles of incorporation of the Association, annual reports, and any rules and regulations adopted by the Association or its board.

Exhibit B-21

(j) detailed and accurate records in chronological order of the receipts and expenditures affecting the common areas, specifying and itemizing the maintenance and repair expenses of the common areas and any other expenses incurred, and copies of all contracts, leases or other agreements entered into by the Association.

(k) with respect to Lots owned by a land trust, if a trustee designates in writing a person to cast votes on behalf of the Lot owner, the designation shall remain in effect until a subsequent document is filed with the Association.

A request for any record listed in this Section 20 shall be made in writing to the board of the Association and such request must be addressed no later than thirty (30) days after being made. A reasonable fee may be charged by the Association for the cost of copying any document requested. If the board fails to respond within thirty (30) days of such request, the Lot owner may seek appropriate relief including an award of attorneys' fees and costs.

Section 21. Borrowing.

The Board of Directors shall have the power to borrow money for the purpose of maintenance, repair or restoration of the Area of Common Responsibility without the approval of the Lot Owners of the Association. The Board shall also have the power to borrow money for other purposes; provided, the Board shall obtain Lot Owner approval in the same manner provided in Article X, Section 4, of the Declaration for special assessments in the event that the proposed borrowing is for the purpose of modifying, improving, or adding amenities and the total amount of such borrowing exceeds or would exceed five (5%) percent of the budgeted gross expenses of the Association for that fiscal year. Notwithstanding anything to the contrary contained in the Declaration, these By-Laws, or the Articles of Incorporation, during the Class "B" Control Period, no Mortgage lien shall be placed on any portion of the Common Area

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without the affirmative vote or written consent, or any combination thereof, of Lot Owners representing at least fifty-one (51%) percent of the Members other than the Declarant and the Declarant's nominees.

Section 22. Rights of the Association.

(a) With respect to the Area of Common Responsibility, and in accordance with the Articles of Incorporation and the Declaration, the Association shall have the right to contract with any person for the performance of various duties and functions. Without limiting the foregoing, this right shall entitle the Association to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, or other associations, both within and without the Properties. Such agreements shall require the consent of two-thirds (2/3) of all directors of the Association.

(b) The Association, acting alone or in conjunction with other owners associations, shall have the right, upon the vote of a majority of the Board of Directors, to make available special services to the Lot Owners on a fee basis, such as, but not limited to, shuttle bus service or similar transportation services.

(c) The Association shall not be bound, either directly or indirectly, by any contract, lease, or other agreement (including any management contract) executed during the period of Declarant control of the Board of Directors unless such contract, lease or other agreement contains a right of termination exercisable by either party without penalty at any time, with or without cause, upon not more than ninety (90) days notice to the other party.

Section 23. Enforcement.

The Board shall have the power to impose reasonable fines, which shall constitute a lien upon the property of the violating Owner, and to suspend an Owner's right to vote or to use the Common Area or any restricted use area or limited use area for violation of any duty imposed under the Declaration, these By-Laws, or any rules and regulations duly adopted hereunder; provided, however, nothing herein shall authorize the Association or the Board of Directors to limit ingress and egress to or from a Lot until the Association has obtained an order granting it possession in an action brought under the Illinois Forcible Entry and Detainer Act or to suspend an Owner's right to vote due to nonpayment of assessments. In the event that any occupant of a Lot violates the Declaration, By-Laws, or a rule or regulation and a fine is imposed, the fine shall first be assessed against the occupant; provided, however, if the fine is not paid by the occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Association. The failure of the Board to enforce any provision of the Declaration, By-Laws, or any rule or regulation shall not be deemed a waiver of the right of the Board to do so thereafter.

(a) Notice. Prior to imposition of any sanction hereunder, the Board or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a period of not less than ten (10) days within which the alleged violator may present a written request to the Covenants Committee, if any, or Board of Directors for a hearing; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within ten (10) days of the notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed.

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(b) Hearing. If a hearing is requested in a timely manner, the hearing shall be held in executive session affording the Owner a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, Director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed. The Board of Directors or the Covenants Committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the ten (10) day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

(c) Appeal. Following a hearing before the Covenants Committee, the violator shall have the right to appeal the decision to the Board of Directors. To perfect this right, a written notice of appeal must be received by the manager, President, or Secretary of the Association within thirty (30) days after the hearing date.

(d) Additional Enforcement Rights. Notwithstanding anything to the contrary herein contained, the Association, acting through the Board of Directors, may elect to enforce any provision of the Declaration, these By-Laws, or the rules and regulations of the Association by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedure set forth above; provided, judicial

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proceedings shall be instituted before any construction on a Lot may be altered or demolished by the Association. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred.

Article XVIII

Section 1. Officers

Section 2. Officers.

The officers of the Association shall be a President, Vice President, Secretary, and Treasurer, to be elected from among the members of the Board. The Board of Directors may appoint from among the member of the Board such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed from time to time by the Board of Directors. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary.

Section 3. Election, Term of Office, and Vacancies.

The officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board of Directors following each annual meeting of the Lot Owners, as herein set forth in Article XVII. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

Section 4. Removal.

Any officer may be removed from office by the Board of Directors whenever in its judgment the best interests of the Association will be served thereby.

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Section 5. Powers and Duties.

The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may from time to time specifically be conferred or imposed by the Board of Directors. The President shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

Section 6. Resignation.

Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 7. Agreements, Contracts, Deeds, Leases, Checks, Etc.

All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two (2) officers or by such other person or persons as may be designated by resolution of the Board of Directors.

Article XIX

Section 1. Committees

Section 2. General.

Committees are hereby authorized to perform such tasks and to serve for such periods as may be designated by a resolution adopted by a majority of the Directors present at a meeting at which a quorum is present. Each committee shall operate in accordance with the terms of the

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resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors.

Section 3. Covenants Committee.

In addition to any other committees which may be established by the Board pursuant to Section 2 of this Article, the Board of Directors may appoint a Covenants Committee consisting of at least three (3) and no more than five (5) members. No member of the Modifications Committee may be appointed to the covenants committee. Acting in accordance with the provisions of the Declaration, these By-Laws, and resolutions the Board may adopt, the Covenants Committee, if established, shall be the hearing tribunal of the Association and shall conduct all hearings held pursuant to Article XVII Section 23 of these By-Laws.

Article XX

Section 1. Miscellaneous

Section 2. Fiscal Year.

The fiscal year of the Association shall be set by resolution of the Board of Directors. In the absence of such a resolution, the fiscal year shall be the calendar year.

Section 3. Parliamentary Rules.

Except as may be modified by Board resolution, Robert's Rules of Order (current edition) shall govern the conduct of Association proceedings when not in conflict with Illinois law, the Articles of Incorporation, the Declaration, or these By-Laws.

Section 4. Conflicts.

If there are conflicts between the provisions of applicable Federal law, Illinois law, the Articles of Incorporation, the Declaration, and these By-Laws, the provisions of applicable

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Federal law, Illinois law, the Declaration, the Articles of Incorporation, and the By-Laws (in that order) shall prevail.

Section 5. Books and Records.

(a) **Inspection by Members and Mortgagees.** The Declaration, By-Laws, Articles of Incorporation, and any amendments to the foregoing, the rules and regulations of the Association, the membership register, books of account (including annual reports and financial statements), and minutes of meetings of the Members, the Board, and committees shall be made available for inspection and copying by any holder, insurer or guarantor of first Mortgages on Lots, Member of the Association, or their duly appointed representatives at any reasonable time and for a purpose reasonably related to his or her interest in a Lot at the office of the Association or at such other place within the Properties as the Board shall prescribe.

(b) **Rules for Inspection.** The Board shall establish reasonable rules with respect to:

- (i) notice to be given to the custodian of the records;
- (ii) hours and days of the week when such an inspection may be made; and
- (iii) payment of the cost of reproducing copies of documents requested.

(c) **Inspection by Directors.** Every Director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by

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a Director includes the right to make extracts and a copy of relevant documents at the expense of the Association.

Section 6. Notices.

Unless otherwise provided in these By-Laws, all notices, demands, bills, statements, or other communications under these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by Loted States Mail, first class postage prepaid:

(a) if to a Member or Lot Owner, at the address which the Member or Lot Owner has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Lot of such Member or Lot Owner; or

(b) if to the Association, the Board of Directors, or the managing agent, at the principal office of the Association or the managing agent, if any, or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

Section 7. Amendment.

Prior to the conveyance of the first Lot, Declarant may unilaterally amend these By-Laws. After such conveyance, the Declarant may unilaterally amend these By-Laws at any time and from time to time if such amendment is (a) necessary to bring any provision hereof into compliance with any applicable governmental statutes, rule or regulation, or judicial determination; (b) necessary to enable any reputable title insurance company to issue title insurance coverage on the Lots; (c) required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Lots; or (d) necessary to enable any governmental agency or

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Exhibit "C"

Additional Land

LOTS 73 THROUGH 98, INCLUSIVE, OF FOY PROPERTY BY PLAT OF SUBDIVISION RECORDED MARCH 2, 2006 AS DOCUMENT 2006K022822 BEING A PART OF THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 41 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE CITY OF ELGIN, KANE COUNTY, ILLINOIS.

LOTS 18 THROUGH 22, INCLUSIVE AND LOTS 99 THROUGH 121, INCLUSIVE, OF FOY PROPERTY BY PLAT OF SUBDIVISION RECORDED MARCH 2, 2006 AS DOCUMENT 2006K022822 BEING A PART OF THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 41 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE CITY OF ELGIN, KANE COUNTY, ILLINOIS.

LOTS 25 THROUGH 29, INCLUSIVE, LOTS 31 THROUGH 52, INCLUSIVE, AND PARCELS 1 THROUGH 12, INCLUSIVE OF FOY PROPERTY BY PLAT OF SUBDIVISION RECORDED MARCH 2, 2006 AS DOCUMENT 2006K022822 BEING A PART OF THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 41 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE CITY OF ELGIN, KANE COUNTY, ILLINOIS.

P.I.N.: 06-07-400-007 AND 0618-200-012, UNDERLYING PROPERTY

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