

**DECLARATION BY HAMETOWN DEVELOPMENT COMPANY
OF THE RESTRICTIONS, EASEMENTS AND COVENANTS FOR
WEDGEWOOD**

WHEREAS, HAMETOWN DEVELOPMENT COMPANY, hereinafter called "Developer", is the owner of land in the Township of Copley, Summit County, Ohio, which it intends to develop into a single-family residential community; and

WHEREAS, Developer has platted a subdivision designated as "WEDGEWOOD" Phase 1 (the "Development"), creating forty-six (46) building Lots (each of which is a "Lot") as recorded in Plat Cabinet _____, Slides _____, et seq., of the Summit County Records (the "Plat"); and

WHEREAS, Developer also owns the land described on Exhibit A attached hereto (the "Additional Property") which is adjacent to the Development, and Developer desires to provide for the right to subdivide and plat the Additional Property and create additional building Lots which would be part of the Development and would be "Lots" within the meaning of and subject to all of the terms and provisions of this Declaration, including, without limitation, the provision that owners of Lots become members of the Association (as hereinafter defined), and Developer desires to provide for the right to amend this Declaration so as to effectuate the foregoing; and

WHEREAS, Developer intends to cause to be constructed certain recreational facilities on Lot Nos. 10 and 11 in the Development in accordance with the terms of this Declaration; and

WHEREAS, Developer deems it necessary for the efficient preservation of the value, aesthetic harmony, and amenities of the Development and Lots and for the maintenance and preservation of the recreational facilities and open spaces, to impose and provide restrictions, covenants, easements and limitations upon the land within the Development and to incorporate a non-profit corporation under the laws of the State of Ohio under the name of "Wedgewood Homeowners' Association" (the "Association") to own the common property and recreational facilities and to maintain, manage and operate said property.

NOW, THEREFORE, the following restrictions, limitations, covenants, easements and requirements are hereby imposed upon said Development and the Lots thereof which shall be covenants running with the land, binding upon and inuring to the benefit of the Developer and Developer's grantees, their respective successors, purchasers, heirs executors, administrators and assigns:

I. RESTRICTIONS APPLYING TO NUMBERED LOTS

1. **PURPOSE.** Each platted Lot shall be used solely and exclusively for single-family residential purposes except that: (a) the Developer may perform or cause to be performed such work and conduct such activities as are incident to the completion of the Development and to the sale or lease of Lots or residences, including but not limited to the maintaining of model houses and sales offices by the Developer. Nothing herein contained shall restrict the right of the Developer to delegate or assign its rights hereunder to an authorized builder, building company or other person, firm or entity; (b) an owner of a Lot, the Association or its agent or representative may perform or cause to be performed any maintenance, repair or remodeling work with respect to any Lot or residence; and (c) Lots 10 and 11 may be used for recreational facilities.

2. **SUBDIVISION.** No Lot shall be subdivided, nor enlarged, nor diminished in size after the plat is filed.

3. **UNIT USE.** No building or structure shall be erected, constructed, placed, situated or permitted to remain on any Lot except one single-family residence (also known as a "Dwelling Unit"), an attached garage, decorative walls, decorative fencing, architecturally compatible storage sheds and concrete or brick surface paving. Without intending to limit the foregoing, duplexes, twinplexes, basement houses, trailers, mobile homes, tents, dog houses and other houses or shelters for animals or pets are prohibited.

4. **NUISANCES.** No noise, vibration or odor, offensive or irritating to a person of normal sensibilities, shall originate or emanate from any Lot.

5. **PROHIBITED USES.** The outside storage of property (including, but not limited to, tools, lumber, wood, trash, debris, litter, junk, paper, bottles, cans and garbage cans) is prohibited. Nothing hereinafter contained, however, shall be construed to prohibit the reasonable and necessary storage on a Lot of building materials during the course of construction of a Dwelling Unit and/or garage on such Lot, or during the course of adding to or remodeling a Dwelling Unit and/or garage on a Lot.

6. **MINIMUM SIZE; HEIGHTS.** Each Dwelling Unit shall contain a minimum of one thousand seven hundred (1,700) square feet of interior living space. Each Dwelling Unit shall contain a minimum two-car garage which shall be attached to the residence. Each Dwelling Unit not having a basement will have an additional one hundred fifty (150) square feet for dedicated storage. No building, garage or other structure shall exceed the height regulations of the Township of Copley as provided in the applicable Zoning Code, as it may be amended. All residences and other

structures more than fifteen (15) feet in height shall be placed not less than eight (8) feet from each side line of a Lot,

7. **ANIMALS.** No animals are permitted except household pets. The only pets which are permitted are cats or dogs, with two of each as a maximum, and/or other non-mammalian pets (such as a canary, goldfish, tropical fish, etc.) which, by their nature, are at all times kept confined indoors.

Such cat or dog may be outdoors on the Lot of the owner thereof, provided such pet does not, by barking or otherwise, disturb the owner or occupant of any other Lot and/or Dwelling Unit. The cost of repair of any damage to property caused by a pet shall be the responsibility of the pet's owner. No cat or dog shall be kept, bred or maintained for commercial purposes nor cause or create a nuisance or disturbance.

8. **EXTERIOR MATERIALS AND MAINTENANCE.** All driveways shall be constructed of concrete, brick, or asphalt. The exterior walls of all buildings shall be of stained or painted wood siding, stucco, aluminum siding, vinyl siding, face brick or stone. All roof surfaces shall be constructed only of asphalt shingles, fiberglass shingles, wood shakes, clay tile or slate.

Without limiting the foregoing, the following are prohibited as exterior building materials or on the exterior of any building, garage, or any other structure: natural unfinished aluminum; plastic material other than that used in windows or as traditional-appearing vinyl siding and exterior trim (subject to approval of the Developer or its successor, the Association); plywood; concrete or concrete block (the same shall be permitted, however, at the foundation between the grade level and siding but not between grade level and face brick or stone). Exterior television or other types of antennae are not permitted unless authorized in writing by the Developer or its successor, the Association.

Each Dwelling Unit shall have a basement and/or crawl space. No Dwelling Unit shall be constructed that is entirely slab on grade.

The owner of each Lot shall provide reasonable exterior maintenance upon each such Lot as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, drains, catch basins, sewers, traps, driveways, walks and all other exterior improvements.

9. **ARCHITECTURAL CONTROL.** No residence, building, fence, wall, sign or other structure shall be commenced, constructed, installed, built, placed, erected or maintained upon any Lot or any area owned in common, nor shall any exterior addition, or change, or alteration be made thereto, until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same

have been submitted to and approved in writing by the Developer or its successor, the Association, or their designated representative, as to the harmony of exterior design, materials, color and location with respect to surrounding structures and topography.

The Association shall appoint an Architectural Design Control Committee, or designate a representative, on or before the date the Association succeeds to all of the rights of the Developer hereunder to assist the Association in the performance of its obligations under the prior paragraph.

Garages shall be affixed to their respective Dwelling Unit and when facing the street, garage door design shall be approved by the Developer or its successor, the Association.

10. **LEASING.** No Dwelling Unit or garage shall be leased or rented for a period of time less than six (6) consecutive months, except with the express prior written consent of the Developer or its successor, the Association.

11. **SIGNS.** No exterior signs are permitted, except one not exceeding two (2) square feet in area, with no dimension thereof exceeding three (3) feet, stating the address of the Lot, which sign shall be affixed on such Lot or residence, and also which sign shall be constructed of materials compatible with other similar signs in the Development and which materials shall be only used upon the specific approval of the Developer until such time as the Association succeeds to all of the rights of the Developer hereunder, and then the Association shall have control of same. Signs, other than those installed by the Developer, shall also be subject to the applicable laws of the Township of Copley.

Notwithstanding the foregoing, the Developer and any builders or contractors designated by Developer, may place signs and advertisements for such Developer, builders, and contractors on Lots.

12. **REPLACEMENTS AND CHANGES.** No Lot shall be graded or changed without the approval of the Developer or its successor, the Association; and no building, garage, fence, wall or other structure shall be erected, placed, constructed, situated, or allowed to remain on any Lot, nor shall the exterior of any building, garage, fence, wall or other structure be added to, deleted from, changed or remodeled, except in strict accordance with plans, drawings and specifications previously approved in writing by the Developer or its successor, the Association.

13. **OBSTRUCTIONS.** No building, garage, fence, wall or other structure shall be erected, situated, placed, constructed or allowed to remain in any "easement" area, including without limitation, any Landscape Easement shown on the Plat, nor any closer than eight (8) feet from any Lot line.

14. **VEHICLES.** No commercial vehicle, truck, tractor, mobile home or trailer (either with or without wheels) or any other transportation device of any kind except as hereinafter provided shall be stored or kept within any Lot. Private automobiles may be stored in a garage or parked in a private driveway provided such garage or driveway conforms to the requirements of Section 6 when incident to the residential use of the Lot upon which such garage or driveway is situated. Boats and travel trailers when incident to the residential use of any owner of a Lot may be stored in a garage upon the Lot provided such garage conforms to the requirements of Section 6 of this Article. The Developer and its successor, the Association, shall have the right to enforce this regulation by levying fines or having the vehicles towed or by such other actions as the Developer or its successor, the Association, in their sole discretion, may deem appropriate.

15. **OCCUPANCY.** Before occupancy, each Dwelling Unit must have one (1) full story and be roofed. Temporary or permanent dwelling in garages, tents, shacks, barns, trailers, basement houses and the like is prohibited.

16. **OIL AND MINING OPERATIONS.** No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structures designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

17. **GARBAGE AND REFUSE DISPOSAL.** No owner or occupant of any Lot shall deposit or leave garbage, waste, junk or other waste materials on any Lot or on any other part of the common property or on any public street or other public property or in any lake, pond or water course nor permit any other person to deposit any of such materials on any property owned by, or in the possession of, such owner or occupant. An owner or occupant of any Lot may keep such garbage and refuse as shall necessarily accumulate from the last garbage and rubbish collection provided any such garbage is kept in sanitary containers which shall be subject to regulation by the Association, which containers and refuse, except on the day scheduled for garbage and rubbish collection, shall be kept from public view.

18. **MISCELLANEOUS.** No satellite dish over 2'0" in diameter is permitted on any Lot except with the prior written approval of the Developer or its successor, the Association. If a satellite dish is installed it shall be properly screened so as not to be seen from any adjoining Lot or from the street right-of-way. Screening shall be subject to the approval of the Developer or its successor, the Association.

Mail boxes, posts and/or post lights shall be of uniform design and shall be subject to the approval of the Developer or its successor, the Association.

No water shall be pumped or drawn from the ponds, except for maintenance purposes or other purposes related to the Development, and only with the express prior consent of the Developer or its successor, the Association. Irrigation of individual Lot lawns with water drawn from the ponds is specifically prohibited; however, pond water may be used to irrigate common areas or common property. Nothing contained herein shall prohibit the Developer from using or pumping pond water for any purpose relating to construction of residences or site work.

Non-commercial vegetable gardens are permitted provided they are situated at the rear of a Lot and do not exceed four hundred (400) square feet and are not closer to a Lot line than twenty (20) feet.

The minimum distance between a pond and any Dwelling Unit, building, or structure shall be twenty (20) feet.

There shall be no swimming, wading or boating or use of toy motor boats on the ponds. Fishing from the shore of common areas, however, is permitted but only by Lot owners and/or their guests.

The Lots described herein may be designated as Sub-Lots or "S/Ls" on the Plat.

Each owner of a Lot shall at all times maintain his/her Lot, lawn and landscaping and shall mow, weed, fertilize, prune and otherwise maintain such landscaping in a neat and orderly manner.

II. EASEMENTS GRANTED AND RESERVED,

1. Developer hereby grants and reserves the right to grant the following easements, to those entities, at the locations, and for the uses and purposes hereinafter set forth:

- (a) To utility companies for utility purposes including, without limitation, construction, installation, erection, repairing, replacing, maintenance, servicing and use of water, sanitary sewer, storm sewer, gas and other fuel, telephone, telegraph, television and other communication media, and electrical lines, cables, pipes, conduits, sewers and facilities, including, but not limited to, all necessary equipment and appurtenances thereof, such easements to be located as shown on the Plat or in other locations determined by the Developer,
- (b) There are hereby established certain easements within, upon, over, under and across certain numbered Lots, which are marked

on the Plat as "Landscape and/or Drainage Easements." Said Easements are established for the purpose of maintaining and preserving open spaces, ponds and buffer zones within the Development and providing privacy for the numbered Lots. Unless specifically noted otherwise, said Easements are considered to be part of the respective Lots on which they are located for purposes of the provisions of this Declaration.

- (c) All Lots shall be subject to an easement to the Developer or its successor, the Association, its employees, agents, subcontractors, successors and assigns, for access arising from the necessity of maintenance and repair of the Easement lawns, shrubs, trees, flowers, plants and vegetation thereon.
- (d) There are also established all other easements shown on the Plat.

2. Developer, its successors and assigns, including, but not limited to, the Association, hereby reserves the right to grant further rights and to locate further easements within, upon, over, under and across the property within the Development for the benefit of the Development and/or the Lots, and to maintain utility lines on and along the front, rear and sides of each Lot as shown on the Plat, including, without limitation, easements for the installation and use of spillage and retention ponds, access roadways to Common Property and/or the Recreational Facilities, signs, storm sewers, sanitary sewers and drainage lines.

3. Except where clearly impractical (as for example, a utility drop pole or master TV antenna, which must be constructed above ground level), all lines and other easement facilities mentioned herein shall be constructed below ground.

4. The areas of the Plat where utility lines and other easements are to be initially situated are labeled "Easements," "Landscape Easements," "Drainage Easements," or "Common Property," as appropriate.

III. COMMON PROPERTY

1. Except for numbered Lots other than Lot Nos. 10 and 11, all portions of the Plat shall be common property ("Common Property").

The Common Property also includes all the improvements constructed, erected or placed on, in, over or under utility easements, except to the extent that title thereto is conveyed or dedicated to public use or is retained by the utility company or other person constructing lines and other easement facilities within, upon, over, under and

across such Common Property, pursuant to easements granted and reserved by this Declaration and/or the Plat.

2. Except as otherwise specifically provided herein, the Common Property, if any, is owned, and at all times shall continue to be owned, as undivided property by those who are the owners of the numbered Lots, as tenants in common.

3. The ownership of a numbered Lot shall carry with it the ownership of an undivided fractional interest in the Common Property, which fractional interest shall be non-divisible and nonseverable, by partition or otherwise, from ownership of such Lot. The fractional interest appurtenant to a Lot shall be determined by dividing the number 1 by the number of Lots as defined by this Declaration, as it may be amended from time to time. The conveyance (or encumbrance) of title to a numbered Lot shall also convey (or encumber) such fractional interest in the Common Property, even if the instrument of conveyance (or encumbrance) does not mention or purport to convey (or encumber) such fractional interest.

4. As among themselves, all the owners of numbered Lots (whether such ownership shall be vested in a single person, or in more than one person as tenants in common, or a tenancy by the entireties, or a joint tenancy, with or without rights of survivorship or divided between legal ownership and equitable ownership), shall have both joint and several personal liability concerning obligations relative to Common Property, and, to the extent now or hereinafter permitted by law, any due and unpaid obligations or assessments relative to the Common Property shall also constitute a lien against any Lot in default for payment of such obligations.

5. The Common Property, if any, is intended only for the aesthetic and recreational use of the Lot owners and shall not be used by any Lot owner for storage or to place or park recreational and/or other implements, lawn furniture, boats, trailers, vehicles, toys or similar articles.

6. Each numbered Lot (whether owned by one person or more than one person) shall have equal ownership and equal rights in the Common Property, and equal obligations relative to the Common Property. Such ownership and rights are subject to any easement rights granted or reserved by the provisions of this Declaration and/or the Plat. It is the intention of the Developer that each numbered Lot, no matter how title thereto might be held, shall be equally responsible, along with all other Lots, for full and prompt payment of all obligations and assessments relative to the Common Property.

7. Developer may retain the legal title to any part or all of the Common Property until such time as all improvements to be constructed upon said Common Property have been completed thereon, and until such time as, in the opinion of the Developer the Association is able to maintain the same. Notwithstanding any

provisions herein, the Developer hereby covenants for itself and its successors and assigns that it shall convey all of the Common Property to the Association no later than the date that is sixty (60) days from the date of the conveyance of the last Lot in the Development owned by Developer. Developer, with the prior written approval of the Township of Copley retains the right to change and adjust the boundaries, location and size of any Common Property so long as Developer is the owner of said Common Property.

8. For purposes of this Declaration, unless otherwise provided herein, Lots 10 and 11, which shall be used for the construction of the Recreational Facilities (as defined below), shall not be treated as "Lots" for purposes of allocating costs among Lot owners in accordance with this Declaration.

IV. THE WEDGEWOOD HOMEOWNERS' ASSOCIATION

1. Concurrently with the execution of this instrument, Developer has established the Association which shall be a nonprofit corporation organized under the laws of the State of Ohio, subject to the By-Laws (the "By-Laws") attached hereto as Exhibit B. The members of the Association shall include, and shall be limited to, the owners of the numbered Lots as described in this Declaration, as it may be amended. As Lots are transferred and conveyed by the Developer, each Lot owner shall become a member of the Association, entitled to participate fully therein, and each Lot owner shall become subject to all the rules, regulations, assessments, and contractual obligations of the Association which may now exist or be enacted or incurred at any time hereafter. Each Lot in the Development is entitled to one (1) vote in the Association. Each Lot owner shall pay a periodic maintenance fee assessment for the services provided by the Association and to pay the expenses of the Association. Each Lot (and the owner thereof) is responsible for its share of assessments, liability insurance premiums, maintenance charges, and any and all costs incurred by the Association.

2. The principal purposes of the Association are:

- (a) To administer and maintain any Common Property which includes all rights therein and obligations thereto, to the end that all numbered Lots shall have equal rights in any Common Property and equal obligations relative to any Common Property.
- (b) To maintain and repair certain areas within Lots which benefit Common Areas (Dwelling Units, garages, patios, structures, improvements, driveways, sidewalks and the like shall be specifically excluded), for the purposes of maintenance in good condition and repair of such areas. Such maintenance shall include, but not be limited to, planting, seeding,

re-seeding, fertilizing, mowing and cutting of common area lawns, maintaining the ponds, and maintaining the Landscape and/or Drainage Easements.

- (c) To provide insurance as deemed appropriate by the Developer and its successor, the Association, including, but not limited to, adequate general liability insurance.
- (d) To acquire additional property to be owned by the Association, such property to be kept, maintained, replaced, preserved, and disposed of as the Association shall determine.
- (e) To operate, manage and administer the Recreational Facilities (as hereinafter defined) upon completion of construction and to maintain, repair and replace such facilities.
- (f) To do and accomplish all other acts and things for the general good and welfare of the Association or the Development, including without limitation, the uses and purposes contemplated by the Articles of Incorporation and By-Laws of the Association.

The Association shall have the right to impose charges, dues and assessments against and collect the same equally from each numbered Lot, and to create a continuing fund adequate in amount to pay all obligations relative to the foregoing duties. For purposes of assessing Lot owners, the Association shall establish separate annual expense and assessment budgets and accounts for the maintenance, operation, management and replacement of Recreational Facilities provided that the cost of same shall be equally allocated among Lot owners.

3. The Developer and its successor, the Association, may hire a person or firm to act as a manager or management agent to conduct, run and manage the affairs of, and to fulfill any and/or all of the obligations, duties or responsibilities of, the Association hereunder. If the Developer or the Association elects, a separate person or firm may be engaged to manage and operate the Recreational Facilities.

4. Notwithstanding anything herein or in the By-Laws to the contrary, until all Lots shown on the Plat or development plan as amended from time to time have been transferred and improved by the construction of a Dwelling Unit thereon, and have been conveyed to unrelated third-party Lot owners unrelated to Developer, unless, by mutual agreement between the Developer and the other members of the Association it is determined otherwise, the Developer, its successors and assigns, may appoint and remove members of the Board of Trustees and other officers of the Association and may exercise all powers and responsibilities otherwise assigned by law or this Declaration to the Association, its Board of Trustees, or other officers;

provided, however, that in no event shall the Developer exercise the foregoing rights to control the Association longer than fifteen (15) years from the date this Declaration is filed for record in the Summit County Recorder's Office.

5. The Association may take any action it deems necessary to enforce compliance with the provisions of this Declaration. In the event that any restriction is violated, any expense, including reasonable attorneys fees and costs, incurred by the Association in enforcing a restriction shall be assessed against the Lot owner who has violated the same. All assessments under this Declaration shall be paid by each Lot owner within thirty (30) days after the date of the assessment and shall bear interest at the rate of twelve percent (12%) per annum from the date due until paid.

6. The Association shall have a lien upon each numbered Lot of any Lot owner in the Development for unpaid assessments and accrued interest thereon. Reasonable attorney fees and costs incurred by the Association incident to the collection of such assessment or perfection or enforcement of such lien shall be payable by the Lot owner and shall be secured by such lien. The lien is effective on the date a certificate of lien, subscribed by an officer of the Association, is filed for record with the Summit County Recorder's Officer. The Association may take such action as it deems necessary to collect assessments, including, but not limited to, the foreclosure of a lien, and may settle and compromise such claims, if deemed to be in the best interests of the Association.

7. A Lot owner who is forty-five (45) days or more delinquent in payment of any assessment under this Declaration shall: (1) be denied the right to vote as a member of the Association; (2) be ineligible to serve on any board or committee of the Association; (3) be excluded from services covered by the monthly maintenance fees; and (4) be posted as delinquent. The foregoing shall be in addition to any right or remedy to which the Association or any member, or the Developer, may be entitled to at law or in equity, pursuant to this Declaration, or otherwise.

8. If the Board of Trustees of the Association, after giving reasonable notice to the owner of the Lot involved and reasonable opportunity for such owner to be heard, determines by the affirmative vote of three-fourths (3/4) of the authorized number of Trustees that a breach of any protective covenant has occurred and that it is necessary in order to prevent the deterioration of neighborhood property values that the Association correct such breach, then after giving such owner notice of such determination by certified mail, the Association, through its duly authorized agents or employees, may enter upon the Lot or Dwelling Unit and correct such breach of covenant by reasonable means. The cost of such correction of a breach of covenant shall be assessed against the Lot, upon which such corrective work is done, and shall become a lien upon such Lot, and the obligation of the owner thereof, and shall be immediately due and payable.

10. Notwithstanding anything herein to the contrary, the obligation attributable to a particular Lot to pay periodic maintenance fees, assessments, charges, and dues to the Association shall not arise until such date as said Lot has been transferred and conveyed by Developer to a third-party Lot owner unrelated to the Developer.

V. ADDITIONAL PROPERTY AND RECREATIONAL FACILITIES OR AMENITIES

1. The Developer hereby expressly reserves unto itself, its successors and assigns, the right and option to subdivide and plat all or portions of the Additional Property from time to time in the future so as to create additional building Lots which shall be "Lots" within the meaning of and subject to all the terms of this Declaration, and to amend this Declaration in such respects as Developer may deem advisable in order to effectuate the following, including, without limitation, the right to amend this Declaration so as:

- (i) To include the building Lots created from the Additional Property or portions thereof as "Lots" within the meaning of this Declaration; and
- (ii) To include the owners of the building Lots created from the Additional Property or portions thereof as members of the Association.

2. Developer covenants and agrees to cause to be constructed on Lots 10 and 11 recreational facilities as generally described on Exhibit C attached hereto ("Recreational Facilities"). The construction of the Recreational Facilities shall commence not later than March 15, 1999 and be completed not later than August 15, 2000, subject only to force majeure.

3. The Recreational Facilities will be transferred to the Association in accordance with the provisions of Article III, Section 7 hereof, together with any construction guaranties or warranties inuring to the benefit of Developer with respect to the Recreational Facilities. The management and on-going cost of maintenance of the Recreational Facilities shall be done in accordance with the Common Property maintenance provisions of this Declaration.

4. Notwithstanding anything herein to the contrary, the consent of the owners of Lots shall not be required for the Developer to add property to the Development or to cause the Recreational Facilities to be constructed or completed. Each Lot owner by acceptance of a deed to a Lot hereby irrevocably appoints Developer his/her attorney-in-fact, coupled with an interest, and authorizes, directs and empowers such attorney, at the option of the attorney, to execute, acknowledge

and record for and in the name of such Lot owner an amendment or amendments of this Declaration for such purposes.

VI. GENERAL PROVISIONS

1. As used herein, the word "person" includes a natural person, as well as any other legal entity, including, but not limited to, a corporation, partnership, trustee, executor, executrix, administrator or administratrix of a decedent's estate, or a guardian duly appointed by a court of competent jurisdiction. As used herein, the word "Developer" means Hametown Development Company, its successors or assigns. As used herein, the words "obligations relative to the Common Property" means the obligations to pay for all costs, fees, charges, taxes, assessments, liens and other expenses pertaining to any Common Property, its maintenance, upkeep, preservation and replacement.

2. The "Plat" is described in the preamble hereto.

3. This Declaration, and all parts thereof, and the aforementioned Articles of Incorporation and By-Laws of the Association, when adopted and filed or recorded, shall constitute covenants running with the land, inuring to the benefit of and binding on all Lots and other property shown on the Plat, all owners thereof, and the Developer and its successor, the Association. The Developer, Lot owners, and the Association and its and their heirs, executors, administrators, assigns, and successors shall have the right to enforce the provisions of this Declaration, or any part thereof, or such By-Laws, at law or in equity.

4. This Declaration, and any provisions thereof, except provisions regarding Developer rights, may be amended by the owners of eighty percent (80%) or more of the Lots, provided that any such amendment is reduced to a writing, executed by such owners, witnessed and acknowledged with the formalities of a deed of conveyance of real property and recorded with the Summit County Recorder; provided, however, that notwithstanding anything herein to the contrary, the Developer shall have the right to amend this Declaration for the purposes described in Section V of this Declaration in accordance with the terms and provisions set forth therein, and provided further that notwithstanding anything herein to the contrary, the Developer shall have the right to amend this Declaration in order to correct minor errors or make technical corrections.

5. Any interpretation of the application of the provisions of this Declaration shall be at the sole discretion of the Developer until the time the Association succeeds to all of the rights of the Developer hereunder.

6. No use shall be made of any property in the Development inconsistent with The Zoning Code of the Township of Copley, and no zoning height, area, rear or side yard requirement shall be violated. To the extent that the provisions of this Declaration or the By-Laws of the Association are inconsistent with said Zoning Code, the more restrictive of the regulations shall govern.

7. A ditch maintenance fund for the Development has been established pursuant to Section 6131.63 and Chapter 6137 of the Ohio Revised Code, and the Lots and Common Property will be assessed for said maintenance fees in accordance with said provisions of the Ohio Revised Code.

8. In its capacity as a current owner of a parcel of land within the Development and desiring to submit said parcel to the terms and provisions of this Declaration, U.S. Home Corporation does hereby approve, consent to, assent to and adopt all the terms and provisions of this Declaration by signing this Declaration below.

The undersigned owners of the land embraced by this Declaration does hereby assent to and adopt all the terms and provisions of this Declaration.

U.S. HOME CORPORATION

Darrell E. Richmond

(Signature of Witness)

DARRELL E. RICHMOND

(Print Name)

By James J. Magliaro

Its DIVISION PRESIDENT

Charlena S. Warfle

(Signature of Witness)

CHARLENA S. WARFLE

(Print Name)

STATE OF OHIO)

) SS:

SUMMIT COUNTY)

Before me, a Notary Public in and for said County and State, appeared the above-named U.S. Home Corporation, by James J. Magliaro, its Division President, who acknowledged that he did sign the foregoing instrument and that the same was his free act and deed and the free act and deed of U.S. Home Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Akron, Ohio, this 9th day of November, 1995.

Charlena S. Warfle

NOTARY PUBLIC

CHARLENA S. WARFLE, Notary Public

STATE OF OHIO

My Commission Expires Feb. 2, 2000

[123932]



1533 Commerce Drive / Stow (Akron), OH 44224-1711

(216) 686-1898 Fax (216) 686-9666

WEDGEWOOD REMAINDER
"EXHIBIT A"

October 25, 1995

Situated in the Township of Copley, County of Summit, State of Ohio and being part of original Lot 11, and being further bounded and described as follows;

Beginning at a stone found at the northeast corner of Lot 11;

Thence along the east line of Lot 11, S 00°51'26" W, a distance of 998.56 feet to a railroad spike set;

Thence leaving said lot line, N 88°53'56" W, passing over a 5/8" capped rebar set at 40.00 feet, a total distance of 632.59 feet to a point. Said point being witnessed by a 1" iron pipe found S 00°40'20" W, a distance of 0.53 feet;

Thence S 00°40'20" W, a distance of 280.00 feet to a 5/8" capped rebar set at the True Place of Beginning for the parcel intended to be described herein;

Thence S 00°40'20" W, a distance of 412.00 feet to a 3/4" iron pipe found, said pipe being witnessed by an additional 3/4" iron pipe found N 85°02'52" W, a distance of 0.07 feet;

Thence, N 88°53'52" W, a distance of 2012.74 feet to a 5/8" capped rebar set, a 3/4" pipe lies N 88°53'52" W, 15.50 feet;

Thence, N 00°50'06" E, a distance of 660.00 feet to a 5/8" capped rebar set;

Thence, N 88°53'52" W, a distance of 16.50 feet to a 5/8" rebar set on the west line of the east half of Lot 11;

Thence, along said west line, N 00°50'06" E, a distance of 1025.06 feet to a stone found at the northwest corner thereof;

Thence, along the north line of said Lot 11, S 89°00'59" E, a distance of 1509.24 feet to a 5/8" capped rebar set therein;

Thence, S 00°44'28" W, a distance of 396.54 feet to a 5/8" capped rebar set;

Thence, S 22°28'19" E, a distance of 47.63 feet to a 5/8" capped rebar set;

Thence, S 29°14'55" E, a distance of 92.56 feet to a 5/8" capped rebar set;

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Thence, S 40°39'17" E, a distance of 68.11 feet to a 5/8" capped rebar set;

Thence, S 58°37'47" E, a distance of 119.72 feet to a 5/8" capped rebar set;

Thence, S 79°53'00" E, a distance of 15.38 feet to a 5/8" capped rebar set;

Thence, S 15°02'28" W, a distance of 200.44 feet to a 5/8" capped rebar set;

Thence, southeasterly 2.93 feet along the arc of a curve deflecting to the left and having a radius of 503.00 feet, a delta of 0°20'00", and a chord which bears S 75°07'23" E, 2.93 feet to a point;

Thence, southeasterly 43.30 feet along the arc of a curve deflecting to the right and having a radius of 25.00 feet, a delta of 99°14'20" and a chord which bears S 25°40'22" E, 38.09 feet to a 5/8" capped rebar set;

Thence, southwesterly 100.50 feet along the arc of a curve deflecting to the right and having a radius of 437.75 feet, a delta of 13°09'12", and a chord which bears S 30°31'25" W, 100.27 feet to a 5/8" capped rebar set;

Thence, S 52°53'59" E, a distance of 50.00 feet to a 5/8" capped rebar set;

Thence, northeasterly 6.82 feet along the arc of a curve deflecting to the left and having a radius of 487.75 feet, a delta of 1°36'08", and a chord which bears N 36°17'56" E, 13.64 feet to a 5/8" capped rebar set;

Thence, S 63°13'50" E, a distance of 128.74 feet to a 5/8" capped rebar set;

Thence, S 32°11'46" E, a distance of 301.83 feet to a 5/8" capped rebar set;

Thence, S 89°19'40" E, a distance of 40.00 feet to the True Place of Beginning and containing 67.645 acres, more or less, but subject to all legal highways, easements, and restrictions, if any, as surveyed by Robert J. Warner, P.S., Number 6931 for Environmental Design Group, Inc. in March 1995.

EXHIBIT B

WEDGEWOOD HOMEOWNERS' ASSOCIATION BY-LAWS

The following By-Laws are adopted pursuant to a certain "Declaration by Hametown Development Company of the Restrictions, Easements and Covenants for Wedgewood" (the "Declaration") in order to provide for the government of Wedgewood Homeowners' Association (the "Association") in the manner provided for in the Declaration and these By-Laws. All present or future Lot Owners, occupants, tenants or their employees, or any other person who might use the facilities of the Wedgewood Subdivision (the "Development") in any manner, shall be subject to the covenants, provisions, and regulations contained in the Declaration and these By-Laws and shall be subject to any restrictions, conditions, rules or regulations subsequently adopted by the Association or the Board of Trustees of the Association. The mere acquisition or rental of any of the Lots described in the Declaration, or the mere act of occupancy of any of the Dwelling Units, will constitute acceptance and ratification of the Declaration and these By-Laws and any rules and regulations adopted pursuant thereto.

ARTICLE I THE ASSOCIATION

Section 1. Name and Nature of Association. The name of this Association shall be WEDGEWOOD HOMEOWNERS' ASSOCIATION, an Ohio nonprofit corporation, and its purpose shall be the purposes set forth in the Declaration.

Section 2. Membership. Each Lot Owner, including Hametown Development Company (which together with its successors and assigns is hereinafter called "Developer") upon acquisition of title to a Lot, shall automatically become a member of the WEDGEWOOD HOMEOWNERS' ASSOCIATION. Such membership shall terminate upon the sale or other disposition by such member of his Lot, at which time the new Owner of such Lot shall automatically become a member of the Association.

Section 3. Voting Rights. Each Lot Owner shall be entitled to one vote for each Lot owned in fee simple, and a proportionate part of a vote for ownership of an undivided fee simple interest in a Lot. This voting power can be exercised by the Lot Owner or Owners, his or her heirs, assigns, devisees or personal representatives.

Section 4. Meetings of Members.

(a) Annual Meeting. There shall be an annual meeting of the Association held in Summit County, Ohio, within the first twenty-one (21) days of February of each year or at such place and time determined by the Board of Trustees, hereinafter referred to as the "Board" then in office. At the annual meeting, the Lot Owners shall elect the necessary member or members to the Board for the year ensuing. At the annual meeting, only matters concerning the welfare of the Development may be discussed and referred to the Board for proper action. Prior to the annual meeting, members will be notified of the agenda for the annual meeting. At the annual meeting, the President, Secretary, and Treasurer of the Association shall submit reports in writing for the year just ending, which reports shall be read to the Lot Owners. The annual meeting shall be presided over and conducted by the President, or in his absence, the Vice President.

(b) Special Meetings. Special meetings may be called by the President or Vice President or by Lot Owners constituting at least twenty-five percent (25%) of the voting power, by written notice mailed to each Lot Owner at least five (5) days before the time and place for such meeting as shown in such notice. Notice of such meeting may be waived in writing by those entitled to notice. Special meetings shall be presided over and conducted by the President, or in his absence, the Vice President. No business other than that specified in the call shall be considered at any special meeting.

(c) Quorum; Adjournment. To constitute a quorum at the annual or any special meeting, at least fifty percent (50%) of the voting power must be present in person or by proxy at such meeting. The members of the Association entitled to exercise a majority of the voting power represented at a meeting of members, whether or not a quorum is present, may adjourn such meeting from time to time. If any meeting is adjourned, notice of such adjournment need not be given if the time and place to which such meeting is adjourned are fixed and announced at such meeting.

(d) Proxy. Members may vote or act in person or by proxy. The person appointed as proxy need not be a member of the Association. Designation by a member or members of a proxy to vote or act on his or their behalf shall be made in writing and filed with the Secretary of the Association at or before the meeting and shall be revocable at any time.

(e) Actions Without a Meeting. All actions, except removal of a Board member, which may be taken at a meeting of the Association, may be taken without

a meeting with the unanimous consent in writing of all of the members of the Association. Such writing, signed by each member of the Association, shall be filed with the minutes and proceedings of the Association.

ARTICLE II

BOARD OF TRUSTEES

Section 1. Number and Qualification. The Board of Trustees shall consist of five (5) persons, all of whom, except as otherwise provided, must be Lot Owners and occupants of a Dwelling Unit or the spouse (who must be an occupant) of a Lot Owner. The Developer shall have the rights outlined in Section 1 of Article VII of these By-Laws and Section 4 of Article IV of the Declaration to appoint and remove members of the Board. No candidate appointed by Developer need be a Lot Owner or occupant of a Dwelling Unit.

Section 2. Election of Board Members; Vacancies. Board members shall be elected at each annual meeting of the Association or at a special meeting called for such purpose. At a meeting of members of the Association at which Board members are to be elected, only persons nominated as candidates shall be eligible for election as Board members and the candidates receiving the greatest number of votes shall be elected. Prior to the vote, each candidate shall stand before the members of the Association and give a short statement on any qualifications or experience in serving in a similar position, goals the candidate may have for the Association, and any other information the candidate would like to share such that the members of the Association become more familiar with each candidate. Each member may vote for as many candidates as there are vacancies in the Board, however caused. In the event of the occurrence of any vacancy or vacancies in the Board, the vacancy created thereby shall be filled by a special election held of the total membership to elect a member to fill the unexpired term of any vacancy; provided, however, that a vacancy in the position filled by appointment by the Developer shall be filled by Developer.

Section 3. Term of Office; Resignation. Each Board member shall hold office for three (3) years and until his successor is elected, or until his earlier resignation, removal from office, or death. Any Board member may resign at any time by oral statement to that effect made at a meeting of the Board or in a writing to that effect delivered to the Secretary of the Association, such resignation to take effect immediately or at such other time as the Board member may specify. Members of the Board shall serve without compensation. Notwithstanding the above, at the first annual meeting of the members of the Association, the term of office of the five (5)

Board members elected shall be as follows: Two (2) Board members shall be elected for a term of one (1) year; two (2) Board Members shall be elected for a term of two (2) years; and one (1) Board member shall be elected for a term of three (3) years. Thereafter, all Board members elected shall serve three (3) year terms.

Section 4. Powers and Duties of the Board. The Board shall have the duty to exercise the powers of the Association, except as otherwise provided in these By-Laws or in the Declaration, and shall have such powers as shall be delegated to it by the Association.

Section 5. Organizational Meeting. Immediately after each annual meeting of members of the Association, the newly-elected Board members and those Board members whose terms hold over shall hold an organizational meeting for the purpose of electing officers and transacting any other business. Notice of such meeting need not be given.

Section 6. Regular Meetings. Regular meetings of the Board may be held at such times and places as shall be determined by a majority of the Board, but at least four (4) such meetings shall be held during each fiscal year.

Section 7. Special Meetings. Special meetings of the Board may be held at any time upon call by the President or by any three (3) Board members. Notice of the time and place of each such meeting shall be given to each Board member, either by personal delivery or by mail, telegram or telephone, at least two (2) days before the meeting, which notice need not specify the purposes of the meeting; provided, however, that attendance of any Board member at any such meeting without protesting, prior to or at the commencement of the meeting, the lack of proper notice, shall be deemed to be a waiver by him of notice of such meeting, and such notice may be waived in writing, either before or after the holding of such meeting, by any Board member, which writing shall be filed with or entered upon the records of the meeting. Unless otherwise indicated in the notice thereof, any business may be transacted at any organizational, regular or special meeting.

Section 8. Actions Without a Meeting. All actions, except removal of officers, which may be taken at a meeting of the Board, may be taken without a meeting with the unanimous consent in writing of all of the members of the Board. Such writing, signed by each member of the Board, shall be filed with the minutes and proceedings of the Board.

Section 9. Quorum; Adjournment. A quorum of the Board shall consist of a majority of the Board members then in office; provided that a majority of the Board

members present at a meeting duly held, whether or not a quorum is present, may adjourn such meeting from time to time. If any meeting is adjourned, notice of such adjournment need not be given if the time and place to which such meeting is adjourned are fixed and announced at such meeting. At each meeting of the Board at which a quorum is present, all questions and business shall be determined by a majority vote of those present, except as may be otherwise expressly provided in the Declaration or in these By-Laws.

Section 10. Powers and Duties. Except as otherwise provided by law, the Declaration or these By-Laws, all power and authority of the Association shall be exercised by the Board. In carrying out the purpose of the Association and subject to the limitations prescribed by law, the Declaration or these By-Laws, the Board, for and on behalf of the Association, may:

- A. Purchase or otherwise acquire, lease as lessee, hold, or use, property of any description or any interest therein;
- B. Make contracts;
- C. Effect insurance;
- D. Borrow money, and issue, sell, and pledge notes, bonds, and other evidences of indebtedness of the Association;
- E. Levy and collect assessments against Lot Owners;
- F. Employ a manager, management agent, or management company to perform such duties and services as the Board may authorize;
- G. Employ lawyers, accountants, engineers and others to perform such legal, accounting, engineering and other services as the Board may authorize;
- H. Enforce the covenants, conditions, easements and restrictions set forth in the Declaration; and
- I. Do all things permitted by law and exercise all power and authority within the purposes stated in these By-Laws or the Declaration or incidental thereto.

Section 11. Removal. At any regular or special meeting of members of the Association duly called, at which a quorum shall be present, any one or more of the Board members, except the Board member(s) (if any) appointed by Developer as provided in Section 1 of this Article II, may be removed with or without cause by vote of the members of the Association entitled to exercise at least seventy five percent (75%) of the voting power of the Association, and a successor or successors to such Board member or members so removed shall then and there be elected to fill the vacancy or vacancies thus created. Any Board member whose removal has been proposed by the members of the Association shall be given an opportunity to be heard at such meeting.

Section 12. Bonding. The Board may require that all agents, officers and employees of the Association handling or responsible for Association funds shall furnish adequate fidelity bonds. The premiums on bonds shall be paid by the Association.

Section 13. Management Agent. The Board, in its discretion, pursuant to Section 3 of Article IV of the Declaration, may employ a manager, management agent, or management company to perform such duties and services as the Board may authorize.

Section 14. Sharing Facilities. The Association shall have the authority to enter into an agreement with adjacent or nearby property owners to lease, jointly operate or otherwise share the use and expense of ponds, lakes or certain facilities owned by or under the control of such property owners or owned by or under the control of this Association, including, but not limited to, any recreation areas or facilities, and to impose charges, dues and assessments against and collect the same equally from the Lot Owners.

ARTICLE III **OFFICERS**

Section 1. Election and Designation of Officers. The first meeting of the Board in each year shall be held after the annual meeting of the Association. At said meeting the Board shall elect officers and appoint employees as it shall determine. The Board may also appoint an executive committee or special committees. The officers elected by the Board shall be the officers of the Association and shall include a President, Vice President, Secretary, and Treasurer, all of whom shall be Board members. The Board may also appoint an Assistant Secretary and/or an Assistant

Treasurer and such other officers as in its judgment may be necessary, which other officers shall be members of the Association.

Section 2. Term of Office; Removal; Vacancies. The officers of the Association shall be elected for a term of one (1) year by the Board and shall serve until their successors are elected and qualified. Any officer or employee elected or appointed by the Board may be removed at any time with or without cause upon a vote of a majority of the whole Board. Any vacancy in any office may be filled by the Board.

Section 3. Duties of Officers. The President shall be the chief executive officer of the Association and shall conduct all meetings of the Association and the Board. The Vice President shall perform the duties of the President whenever the President is unable to act and shall perform such other duties as may be determined by the Board. The Secretary shall keep the minutes of meetings of the Association and the Board and shall give notices of meetings of the Association and the Board as required by law, the Declaration or these By-Laws. The minutes of each board meeting shall be distributed at each successive board meeting to all members of the Board for approval. The Treasurer shall handle the financial affairs of the Association, including deposits of funds, shall write and sign checks for the legitimate expenses of the Association as authorized by the Board, and prepare and maintain detailed financial records.

Section 4. Delegation of Authority and Duties. The Board is authorized to delegate the authority and duties of any officer to any other officer, to a management agent, or to a management company, or to any one or more of them, and generally to control the action of the officers and management agent or management company and to require the performance of duties in addition to those mentioned herein. The execution of a management agreement with a management agent or management company which authorizes or requires the management agent or management company to perform certain duties shall be deemed to be a delegation and authorization to such management agent or management company of such duties and of all power and authority necessary to carry out such duties.

ARTICLE IV **MAINTENANCE AND IMPROVEMENTS**

Section 1. Common Expenses. The Association, for the benefit of all the Lot Owners, shall pay all Common Expenses arising with respect to, or in connection

with, the Development, which Common Expenses may include, without limitation, the following:

- A. Utility Services. Utility Service for any part of the Common Property (as defined in the Declaration).
- B. Liability Insurance. Premiums upon a policy or policies insuring the Association, the members of the Board, all Lot Owners, their families and other persons residing with them, their invitees, guests, any manager, management agent or management company or tenants, against liability incident to the ownership and/or use of any Common Property or other property, as provided in the Declaration, the limits of which policy shall be reviewed annually.
- C. Wages and Fees for Services. The wages and/or fees for services of any person or firm to the Association, including, without limitation, the services of a person or firm to act as a manager or management agent for the Association, the services of any person or persons required for the maintenance or operation of the Development, and legal and/or accounting and/or engineering services necessary or proper in the operation of the Development or the enforcement of the Declaration and these By-Laws and for the organization, operation and enforcement of the rights of the Association.
- D. Care of Common Property. The cost of landscaping, gardening, cleaning, maintenance, decorating, care, upkeep, and maintenance of any ponds, and repair, maintenance and replacement of any portions of the Development for which the Association is responsible pursuant to the terms of the Declaration.
- E. Additional Expenses. The cost of any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance or assessments which the Association is required to secure or pay for pursuant to the terms of the Declaration and these By-Laws or which the Board deems necessary or proper for the maintenance and operation of the Development or for the enforcement of the Declaration or these By-Laws.
- F. Discharge of Mechanics' Liens. Any amount necessary to discharge any mechanic's lien or other encumbrance which may in the opinion of the Association constitute a lien against the Common Property or any part

thereof and which arose by virtue of an authorization or direction by the Board.

- G. Use of Recreational Facilities. The expenses associated with the Recreational Facilities.
- H. Miscellaneous. Any and all other costs and expenses designated as Common Expenses in the Declaration or these By-Laws or incurred by the Association to carry out its duties, obligations or undertakings under the Declaration or these By-Laws.
- I. Capital Additions and Improvements. The Association's powers hereinabove enumerated shall be limited in that the Association shall have no authority to acquire and pay for as Common Expenses any capital additions and improvements having an annual total cost in excess of Ten Thousand and no/100 Dollars (\$10,000.00), nor shall the Association authorize any structural alterations, capital additions to, or capital improvements requiring an expenditure in excess of Ten Thousand and no/100 Dollars (\$10,000.00) without in each case the prior approval of the members of the Association entitled to exercise a majority of the voting power of the Association. The aforementioned dollar limit may be amended by a majority vote the Association.
- J. Other Insurance. Premiums upon any managers' and/or officers' liability insurance, and upon such other insurance as the Board deems proper.

ARTICLE V GENERAL POWERS OF THE ASSOCIATION

Section 1. Rules and Regulations. The Association, by vote of the members entitled to exercise a majority of the voting power of the Association, may adopt such reasonable rules and regulations and from time to time amend the same, supplementing the rules and regulations set forth in the Declaration and these By-Laws as it may deem advisable for the maintenance, conservation, and beautification of the Development, and for the health, comfort, safety and general welfare of the Lot Owners and occupants of the Development. Written notice of such rules and regulations shall be given to all Lot Owners and occupants, and the Development shall at all times be maintained subject to such rules and regulations. In the event such supplemental rules and regulations shall conflict with any provisions of the Declaration

or of these By-Laws, the provisions of the Declaration and of these By-Laws shall govern.

Section 2. No Active Business to be Conducted for Profit. Nothing herein contained shall be construed to give the Association authority to conduct an active business for profit on behalf of all the Lot Owners or any of them.

Section 3. Delegation of Duties. Nothing herein contained shall be construed so as to preclude the Association, through its Board and officers, from delegating in accordance with the Declaration, to persons, firms or corporations, including any manager or management agent, such duties and responsibilities of the Association as the Board shall from time to time specify, and providing for reasonable compensation for the performance of such duties and responsibilities.

Section 4. Inconsistencies. In the event of any conflict or inconsistency between the provisions of the Declaration and the Articles of Incorporation or these By-Laws of the Association, the terms and provisions of the Declaration shall prevail and the Lot Owners and all persons claiming under them covenant to vote in favor of such amendments in the Articles of Incorporation or these By-Laws as will remove such conflicts or inconsistencies.

ARTICLE VI

DETERMINATION AND PAYMENT OF ASSESSMENTS

Section 1. Obligation of Lot Owners to Pay Assessments. It shall be the duty of every Lot Owner to pay his proportionate share of the expenses of administration, maintenance and repair of the Common Property and of the other expenses provided for herein and the assessments provided for herein and in the Declaration. Payment thereof shall be in such amounts and at such times as may be determined by the Board of the Association, as hereinafter provided.

Section 2. Preparation of Estimated Budget. Each year on or before December 1st, the Association shall estimate the total amount necessary to pay all the Common Expenses for the next calendar year, together with a reasonable amount considered by the Association to be necessary for a reserve for contingencies and replacements, and shall on or before December 31st notify each Lot Owner in writing as to the amount of such estimate, with reasonable itemization thereof. Said "estimated cash requirement" shall be assessed the Lot Owners. On or before January 1st of the ensuing year, each Lot Owner shall be obligated to pay to the Association the assessment made pursuant to this paragraph. On or before the date of the annual

meeting of each calendar year, the Association shall furnish to all Lot Owners an itemized accounting of the Common Expenses for the preceding calendar year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the estimates provided, and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited to the next installments due from Lot Owners under the current year's estimate, until exhausted, and any net shortage shall be added to the installments due in the succeeding six (6) months after the rendering of the accounting. If necessary to avoid the assessment of a governmental tax upon the Association, any excess shall be refunded to the Lot Owners as soon as the excess is determined to exist. The Association is not to be a profit-making entity.

Section 3. Reserve for Contingencies and Replacements. The Association may build up and maintain a reasonable reserve for contingencies and replacements. Extraordinary expenditures not originally included in the annual estimate which may be necessary for the year shall be charged first against such reserve. If said "estimated cash requirement" proves inadequate for any reason, including non-payment of any Lot Owner's assessment, the Association shall prepare an estimate of the additional cash requirements then necessary, or necessary for the balance of the year, which additional amount of each requirement shall be assessed to the Lot Owners. The Association shall serve notice of such further assessment on all Lot Owners by a statement in writing giving the amount and reasons there for, and such further assessment shall become payable with the next regular monthly payment which is due more than ten (10) days after the delivery or mailing of such notice of further assessments. All Lot Owners shall be obligated to pay the adjusted monthly amount.

Section 4. Budget for First Year. When the first Board elected hereunder takes office, the Association shall determine the "estimated cash requirement," as hereinabove defined, for the period commencing thirty (30) days after said election and ending on December 31st of the calendar year in which said election occurs. Assessments shall be levied against and paid by Lot Owners during-said period as provided in Section 2 of this Article VI.

Section 5. Failure to Prepare Annual Budget. The failure or delay of the Association to prepare or deliver to any Lot Owner the annual or adjusted estimate shall not constitute a waiver or release in any manner of such Lot Owner's obligation to pay the maintenance costs and any reserves, as herein provided, whenever the same shall be determined. In the absence of any annual estimate or adjusted estimate, the Lot Owner shall continue to pay the monthly maintenance charge at the

existing monthly rate established for the previous period until the first maintenance payment which is due more than ten (10) days after such new annual or adjusted estimate shall have been mailed or delivered.

Section 6. Books and Records of Association. The Association shall keep current copies of the Declaration, these By-Laws, and any rules and regulations for the Development, and complete and correct books and records of account, and the same shall be open for inspection by any Lot Owner or any representative of a Lot Owner duly authorized in writing, at such reasonable time or times during normal business hours as may be requested by the Lot Owner. Upon ten (10) days' notice to the Board and upon payment of a reasonable fee, any Lot Owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such Lot Owner.

Section 7. Status of Funds Collected by Association. All funds collected hereunder shall be held and expended solely for the purposes designated herein, and (except for such special assessments as may be levied hereunder against less than all of the Lot Owners, and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the use, benefit and account of all the Lot Owners.

Section 8. Annual Audit. The books of the Association shall be audited once a year by the Board and such audit shall be completed prior to each annual meeting. If requested by two (2) members of the Board, such audit shall be made by a certified public accountant. In addition, and at any time requested by the Lot Owners possessing in the aggregate fifty percent (50%) or more of the voting power in the Association, the Board shall cause an additional audit to be made.

Section 9. Remedies for Failure to Pay Assessments. If a Lot Owner is in default in the payment of any of the aforesaid charges or assessments for thirty (30) days, the Association may bring suit to enforce collection thereof, or may file a lien or foreclose any lien there for as provided in the Declaration, and there shall be added to the amount due the cost of said suit, together with costs, interest at the rate of twelve percent (12%) per annum, and reasonable attorneys' fees. To the extent permitted by the Declaration, any decision or any statute or law now or hereafter effective, the amount of any delinquent and unpaid charges or assessments, and interest, costs and fees as above provided shall be and become a lien or charge against the Lot involved when payable and may be foreclosed by an action brought in the name of the Association as in the case of foreclosure of liens against real estate, as provided in the Declaration. The members of the Board and their successors in office, acting on behalf of consenting Lot Owners, shall have the power

to bid on the interest so foreclosed at the foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Any encumbrancer may from time to time request in writing a written statement from the Board setting forth the unpaid Common Expenses with respect to the Lot covered by his encumbrance and unless the request shall be complied with within fifteen (15) days, all unpaid Common Expenses which become due prior to the date of the making of such request shall be subordinate to the lien of such encumbrance. Any encumbrancer holding a lien on a Lot may pay any unpaid Common Expenses payable with respect to such Lot and, upon such payment, such encumbrancer shall have a lien on such Lot for the amounts paid at the same rank as the lien of his encumbrance.

ARTICLE VII **GENERAL PROVISIONS**

Section 1. Developer's Rights. The Developer shall have the rights and powers provided in Section 4 of Article IV of the Declaration.

Section 2. Non-Waiver of Covenants. No covenants, restrictions, conditions, obligations or provisions contained in the Declaration or these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 3. Severability. The invalidity of any covenant, restriction, condition, limitation or any other provision of these By-Laws, or of any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of these By-Laws.

Section 4. Agreements Binding. All agreements and determinations lawfully made by the Association in accordance with the procedures established in the Declaration and these By-Laws shall be deemed to be binding on all Lot Owners, their successors, heirs and assigns.

ARTICLE VIII **BOARD OF TRUSTEES - RULES AND REGULATIONS**

The Board may adopt rules and regulations not in conflict with the Declaration or these By-Laws or those rules and regulations adopted by the members pursuant to Section 1 of Article V of these By-Laws, by a vote of a majority of the Board members. Anytime the Declaration or these By-Laws provide that the Association or

its members may adopt rules and regulations, the Board shall also have the power to pass rules and regulations. Such rules and regulations may be amended from time to time by a majority vote of the Board members or by a vote of more than fifty percent (50%) of the voting power of the Association at the annual meeting of the same.

ARTICLE IX **INDEMNIFICATION OF BOARD MEMBERS AND OFFICERS**

The Association shall indemnify every person who is or has been a Trustee, Board Member, officer, agent, or employee of the Association and those persons' respective heirs, legal representatives, successors and assigns, against expenses, including attorneys' fees, and judgments, decrees, fines, penalties and amounts paid in settlement actually and reasonably incurred in connection with any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, and whether in an action or proceeding by or in the right of the Association, or otherwise, in which such person was or is a party or is threatened to be made a party by reason of the fact that person was a Trustee, Board Member, officer, employee or agent of the Association, or is or was serving in such capacity at the request of the Association, provided that person (a) acted in good faith and in a manner that person believed to be in or not opposed to the best interests of the Association, and (b) in any matter the subject of a criminal action or proceeding, had no reasonable cause to believe the questioned conduct was not lawful, but provided that in the case of any threatened, pending, or completed action or suit by or in the right of the Association to procure a judgment in its favor against any such person by reason of that person serving in such capacity, no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of a duty to the Association unless and only to the extent that the court in which such action was brought shall determine upon application that in view of all the circumstances of the case that person is fairly and reasonably entitled to indemnity for such expenses as the court shall deem proper.

Unless ordered by a court, the determination of indemnification, pursuant to the foregoing criteria, shall be (a) by a majority vote of a quorum of the Board of the Association who were not and are not parties to or threatened with any such action, suit, or proceeding, or (b) if such a quorum is not obtainable, or if a majority of a quorum of disinterested Board members so direct, in a written opinion by independent legal counsel other than an attorney, or a firm having associated with it an attorney, who has been retained by or who has performed services for the Association or any

person to be indemnified within the past five years, or (c) by the Lot Owners, or (d) by the court in which such action, suit or proceeding was brought.

Any such indemnification shall not be deemed exclusive of any other rights to which such person may be entitled under law, any agreement, or any insurance purchased by the Association, or by vote of Lot Owners, or otherwise.

ARTICLE X NOTICES AND DEMANDS

Any notice by the Board to a Lot Owner shall be deemed to be given, and any demand upon him shall be deemed by him to have been duly made, if delivered in writing to him personally, or if mailed by certified or registered letter in any post office, addressed to him at the Lot owned by such Lot Owner, and any notice by a Lot Owner to the Board shall be deemed to be duly given and any demand upon the Board shall be deemed to have been duly made, if in writing, and delivered to any two (2) members of the Board or to the President of the Association, either personally or by certified or registered mail, addressed to such Board members or officer at his Unit.

ARTICLE XI DEFINITIONS

The Definitions contained in the Declaration are hereby incorporated by reference and apply to these By-Laws as if fully rewritten herein

ARTICLE XII AMENDMENT

These By-Laws may be amended in the same manner and under the same circumstances and for the same reasons as the Declaration may be amended as provided in the Declaration.

EXHIBIT C

Recreation facilities are generally described as follows:

Clubhouse of approximately 1,500 sq. ft.
Swimming pool, approximately 25 meters in size
Two tennis courts
Wading pool
Parking