

ORT612-1043

Henry Brown

DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS

FOR

GLENWOOD PRESERVE SUBDIVISION NO. 1,  
TWINSBURG, OHIO

BEING DEVELOPED BY:

W & M PROPERTIES, an Ohio partnership  
34555 Chagrin Boulevard  
Moreland Hills, Ohio 44022  
(216) 247-4700

Map Approved By:  
MAP DEPARTMENT

TRANSFER NOT NECESSARY

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James B. McCarthy County Auditor

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DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND  
EASEMENTS FOR GLENWOOD PRESERVE SUBDIVISION NO. 1  
TWINSBURG, OHIO

DECLARATION MADE this 17th day of January, 1994, by W & M Properties, an Ohio partnership, having an office at 34555 Chagrin Boulevard, Moreland Hills, Ohio 44022 (hereinafter "Declarant");

WHEREAS, Declarant is the owner of the land described in Exhibit "A" which is attached hereto and all rights and appurtenances thereto, hereinafter the "Property";

WHEREAS, Declarant proposes and does hereby establish on the Property a development known and designated as Glenwood Preserve Subdivision No. 1, Twinsburg, Ohio (the "Subdivision" later defined) by this Declaration;

WHEREAS, Declarant proposes to and does hereby establish for its own benefit and for the mutual benefit of all future Owners or Occupants of the Property, certain covenants, conditions, restrictions, obligations, and benefits with respect to the use, occupancy, maintenance and ownership of the Subdivision, and certain easements, rights and encumbrances in the Subdivision;

WHEREAS, Declarant desires to maintain the high value, desirability and attractiveness of the Subdivision and maintain and operate the Subdivision on the level of a first-class residential development for the benefit of the Owners in the Subdivision;

WHEREAS, Declarant desires that all future Owners, Occupants, mortgagees, other users of the Subdivision and others with an interest in the Subdivision shall at all times be entitled to and subject to the rights, easements, covenants, conditions, restrictions, obligations and benefits set forth in this Declaration with respect to the Subdivision;

NOW THEREFORE, Declarant declares the Property shall be held, used, occupied, sold, conveyed or otherwise disposed of subject to the following easements, covenants, conditions, restrictions, obligations and benefits, each of which shall run with the Property and inure to the benefit of every Owner thereof and be binding on all parties having any right, title or interest in the Property and every part thereof, and their distributees, heirs, executors, administrators, beneficiaries, successors, and assigns.

## SECTION 1

### DEFINITIONS AND EXHIBITS

1.1 Definitions: The following terms, wherever used in this Declaration, shall be deemed to have the meaning following each term:

1.1.1 "Articles": are the Articles of Incorporation of the Glenwood Preserve Homeowners' Association, Inc., an Ohio non-profit corporation, as recorded in the office of the Secretary of State of Ohio, together with any and all amendments thereto which may from time to time be similarly recorded.

1.1.2 "Assessments": are all insurance charges, maintenance charges, taxes and utility charges, (if any), together with any and all other charges, costs, expenses, fees, fines, levies and penalties to be paid to the Association by the Owners in accordance with the terms and conditions set forth in this Declaration.

1.1.3 "Association": is the Glenwood Preserve Homeowners' Association, Inc., a nonprofit corporation formed pursuant to the laws of the State of Ohio, together with its successors and assigns.

1.1.4 "Board of Trustees" or "Board": are the trustees duly elected by the Members of the Association, who sit as the Association's trustees in accordance with Chapter 1702 of the Ohio Revised Code.

1.1.5 "Class "B" Control Period": the period of time during which the Class "B" Member (the "Declarant") is entitled to exercise a majority of the voting rights pursuant to Section 6.2.2(b).

1.1.6 "Code of Regulations": are the regulations pertaining to the governing of the business and affairs of the Association, together with any and all amendments or modifications from time to time made thereto.

1.1.7 "Common Areas": is the tract of real property designated on the Plat as Block A and described on Exhibit "B" attached hereto and made a part hereof, together with easements that are designated herein or by the Declarant as Common Areas. Common Areas shall also include the Landscape Easement and the entrance to the Subdivision, including the median strip of Belmeadow Drive. Common Areas does not

mean or imply that the public at large acquires any easement of use or enjoyment therein unless the Common Area is dedicated or conveyed to the City.

1.1.8 "Common Expenses": means actual and estimated expenses of operating the Association, both for general or special purposes, including reasonable reserves, all of which may be found to be necessary and appropriate by the Board of Trustees pursuant to this Declaration, the Code and the Articles.

1.1.9 "Common Facilities": are any and all improvements, including utilities, located in the Common Areas.

1.1.10 "Declarant": is initially W & M Properties, an Ohio partnership, and the specifically designated successors and assigns of any of its rights as Declarant under this Declaration or under any supplement to this Declaration involving the Property as the same may be expanded or contracted from time to time. No person, real or corporate, shall be deemed a successor, alternate or additional Declarant for the purposes of this Declaration, unless and until such person or entity has been specifically so designated by Declarant herein, by an instrument in writing and placed of record, and shall be deemed a successor and assign of Declarant only to the particular rights or interests of Declarant under this Declaration or under a supplement to this Declaration. The Declarant is also sometimes referred to herein as the "Original Declarant".

1.1.11 "Declaration": is this Declaration of Covenants, Conditions, Restrictions and Easements for Glenwood Preserve Subdivision No. 1, Twinsburg, Ohio, together with any and all amendments and modifications thereto from time to time adopted and recorded in the Office of the Recorder, Summit County, Ohio.

1.1.12 "Design Review Committee": is the committee established and empowered pursuant to Section 8 of this Declaration for the purpose of approving all plans, including but not limited, to, house plans and specifications, site and grading plans and specifications, landscape plans, accessory building plans and fence plans or any other plans for any "Improvements" to be made to or in the Subdivision.

1.1.13 "Developer": is a Person acquiring title to a portion or all of the Property for the sole purpose of engaging in the business of improving the Property by the construction thereon of Improvements, including Residences for sale or rental and designated a Developer by the Declarant. The Declarant may also be a Developer.

1.1.14 "Documents": are the Articles, the Code, the Rules and Regulations, and this Declaration.

1.1.15 "Improvements": are any building, facility, structure or other enhancements, above or below grade, whether or not the same may be habitable, enclosed, decorative or otherwise, together with any and all landscaping material (including planted vegetation) wherever located or intended to be located in the Subdivision.

1.1.16 "Landscape Easement": shall mean and refer to that area of real property shown on the Plat and entitled "30' Landscape Easement to the Home Owners Association" over Sublots 3 (widening to more than thirty feet over a portion of Sublot 3), 4, 5 and 6 in the Subdivision, a thirty foot (30') landscape easement along the Ravenna Road frontage of Block E in the Subdivision, together with landscaping of the area within the Sanitary Sewer Pump Station Easement shown on the Plat surrounding the sanitary sewer pump station and related improvements. The Landscape Easement is for the benefit of the Association and its Members, however, title to the fee will be in the Owners of the Sublots upon which respective portions of the Landscape Easement are located. The Landscape Easement is designated herein as a Common Area. In addition, the City of T vinsburg has granted the right to install and maintain landscaping, irrigation and signage in the medium strip of Belmeadow Drive at Ravenna Road subject to Design Review Committee approval and compliance with the requirements of the City.

1.1.17 "Member": is the Declarant, all Developers and all Owners, each of whom shall be a Member of the Association, as provided in this Declaration and in the Code.

1.1.18 "Occupant": means each and every occupant (including tenants) of a Residence, together with such occupant's guests and invitees as may be permitted to use and enjoy the Common Areas pursuant to the Documents.

1.1.19 "Owner": means all of the legal owner(s) of the title to a freehold estate in a Sublot, including the Declarant or a Developer (except as otherwise provided herein), regardless of whether or not such person(s) or parties are in actual possession thereof. Any and all disputes concerning the identity of the Owner shall be resolved by an examination of the Deed Records of Summit County, Ohio, except that if a Sublot is sold under a land installment contract, the purchaser (rather than the fee owner) will be considered to be the Owner. Every Owner shall be treated for all purposes as a single Owner for each Residence held irrespective of whether such ownership is in common. Where such ownership is joint or in common, the Owners shall have voting rights in

accordance with Section 6.2.2(a) hereof. The term Owner shall exclude in all cases any party holding an interest merely as security for the performance of an obligation.

1.1.20 "Ownership Interest": means the right, title and interest of an Owner of a Residence or of a Vacant Sublot Owner.

1.1.21 "Person": means a natural individual, corporation, partnership, limited partnership, trust or other entity to which the law attributes the capacity of having rights and duties.

1.1.22 "Plat": means the plat of the Glenwood Preserve Subdivision No. 1 as recorded in Plat Cabinet I, Slide 905 to 916 of the plat Records of Summit County, Ohio, together with any and all resubdivisions, additions, amendments, modifications and revisions thereto.

1.1.23 "Property": means the lands described in Exhibit "A".

1.1.24 "Residence": is a single-family residential dwelling unit which is constructed upon a Sublot.

1.1.25 "Rules and Regulations": are the rules and regulations as may be adopted from time to time by the Board of Trustees or by the Design Review Committee and relating to the care, maintenance, operation and use of the Residences and of the Common Areas and Common Facilities and otherwise to implement or carry out the provisions and intent of this Declaration.

1.1.26 "Subdivision": is the entire tract of real property designated on the Plat as the Glenwood Preserve Subdivision No. 1, as the same may be modified by a Subsequent Amendment.

1.1.27 "Sublot": means any one of the lots sequentially numbered on the Plat (as the Plat may be modified from time to time), including the resubdivision of the Blocks designated on the Plat. Sublots consist of the lots containing Residences and Vacant Sublots.

1.1.28 "Subsequent Amendment": means an amendment to this Declaration and/or the Plat which adds additional property to that covered by this Declaration or deletes property from that which is covered by this Declaration or resubdivides a portion of the

Plat. A Subsequent Amendment may, but is not required to: (a) impose, expressly or by reference, additional restrictions and obligations on the land submitted by such Subsequent Amendment to the provisions of this Declaration; and/or (b) otherwise amend this Declaration and/or the Code.

1.1.29 "Vacant Sublot": means any portion of the Property: (a) for which a plat has been recorded designating such portion of the Property as a Sublot upon which only one single-family residence may be constructed; (b) which shall be conveyed to a person or entity other than Declarant; and (c) upon which no Residence is situated.

1.1.30 "Vacant Sublot Owner": means the record titleholder (other than the Declarant), whether one or more persons or entities of the fee simple title to any Vacant Sublot (the term "Vacant Sublot Owner" shall not mean or refer to any mortgagee of any Vacant Sublot unless and until such mortgagee has acquired title to such Vacant Sublot pursuant to foreclosure or any proceeding in lieu of foreclosure).

## 1.2 Exhibits:

1.2.1 Exhibit "A": A legal description of Glenwood Preserve Subdivision.

1.2.2 Exhibit "B": A legal description of Block A.

1.2.3 Exhibit "C": A reduced photocopy of the Plat.

## SECTION 2

### POWERS IN DEVELOPER; RESERVATION OF RIGHTS

2.1 Changes in Boundary Lines: The Declarant reserves the right to make such changes in the boundaries of Sublots and Blocks as it deems advisable, provided that no such change may be made if it would adversely affect the boundaries or the beneficial use and enjoyment of any Sublot then owned by Persons other than the Declarant without the prior written consent of such Person which consent cannot be unreasonably withheld.

2.2 Reservation of Rights to Ingress and Egress; Future Development: The Declarant reserves the right to extend any of the roadways identified in the Plat into and through any real property which the Declarant (or an affiliate of the Declarant) may now own and/or



control or have an interest in, or from time to time purchase and/or control or have an interest in. Such additional real property, at the election of the Declarant, may be included as additional phases of the Subdivision. To that end, the Declarant reserves the right to grant to Owners and Occupants of subsequent phases of the Subdivision, the unrestricted right to use the Common Areas and Common Facilities in a manner consistent with this Declaration.

### 2.3 Expansion and Contraction of the Property:

2.3.1 The Declarant reserves the right from time to time to add additional property to the Property and to subject the same to the provisions of this Declaration. To add any additional property, the Declarant shall execute and record a Subsequent Amendment to this Declaration which expressly provides that the land described therein shall become part of the lands submitted to this Declaration and shall be subject to the covenants and restrictions set forth in this Declaration, except as the same may be modified by the Subsequent Amendment.

2.3.2 The Declarant reserves the right from time to time to delete lands from the Property and thereby to free such lands from the provisions of this Declaration. Lands not owned by Declarant may be deleted from the Property only with the written consent of the title Owner thereof. To delete such lands, the Declarant shall execute and record a Subsequent Amendment to this Declaration which expressly provides that the land described therein shall no longer be a part of the Property and shall no longer be subject to the covenants and restrictions set forth in this Declaration.

2.4 Resubdivision of the Property: Subject to the limitations set forth in Section 2.1 above, the Declarant reserves the right to resubdivide portions of the Plat, including, but not limited to, the resubdivision of the Block E as designated on the Plat. Declarant further reserves the right, subject to the City's approval to create sublots from Blocks A, B, C and D.

## SECTION 3

### SUBJECT PROPERTY

3.1 Sublots: Each Sublot shown on the Plat shall be and is hereby made subject to this Declaration.

3.2 Common Areas: The Common Areas and the Blocks shown on the Plat shall be and hereby are made subject to this Declaration.

3.3 Future Conveyances: Each and every conveyance of a Sublot, Block and/or the Common Areas or any part thereof or any interest therein, shall indicate that such conveyance is made subject to the terms and conditions contained in this Declaration and that the transferee with respect to such conveyance shall be bound by the terms and conditions contained in this Declaration. Further, the terms and conditions contained in this Declaration shall be deemed to be covenants running with the land and shall be binding upon any and all persons or parties having an interest in the Subdivision, including their heirs, administrators, executives, personal representatives, successors and assigns.

## SECTION 4

### EASEMENTS

4.1 Access to Common Areas: Every Occupant shall have the right, exercisable in common with the exercise thereof by the other Occupants, to free and complete ingress and egress over duly dedicated public streets (but not over Sublots) to and from the Common Areas.

4.2 Access by Declarant: The Declarant, its agents, assignees, contractors, designees and employees shall have free and complete access to the Common Areas and any easements either recorded through a separate document for the benefit of the Subdivision and/or shown on the Plat, for the purpose of constructing, installing, replacing, maintaining and inspecting any and all Improvements and Common Facilities located or to be located thereon.

4.3 Access by Owners and Occupants of Future Development: The Declarant, its agents, employees, contractors, subcontractors and every Owner, occupant or user of any future phases as Declarant may from time to time develop and include as part of the Subdivision, shall have and is hereby granted free and complete ingress and egress, to, over, and through the Common Areas.

4.4 Public Utility Easements: The Declarant does hereby reserve and is granted hereby easements across all Sublots for the installation, use and maintenance of all utilities as



Declarant may determine, including, but not limited to, electrical, gas, communication cables, sewer and/or water service lines, provided that such facilities shall not materially impair or interfere with any Residence and provided further that any areas disturbed by such installation and maintenance are restored to substantially the condition in which they were found. There is hereby reserved in favor of Declarant and the Association the right (but not the obligation) to grant neighboring property owners easements for utility purposes so long as the granting of such easements does not overburden the utilities serving the Subdivision.

4.5 Easements for Signage: Easements are hereby reserved over the Common Areas to install, maintain, repair and replace signs that are for the general benefit of the Property. The type, size and location of the signs shall be subject to the approval of the Design Review Committee and subject to the laws of the City of Twinsburg and other governmental authorities having jurisdiction.

4.6 Easement to Maintain Sales Offices, Models, Etc.: Notwithstanding any provisions contained in this Declaration to the contrary, so long as the construction and sale of Residences is continuing, it shall be expressly permissible for Declarant and/or a Developer authorized in writing by Declarant to maintain and carry on upon portions of the Common Areas such facilities and activities as, in the sole opinion of Declarant and/or such Developer, may be reasonably required, convenient or incidental to the construction or sale of Residences, including, but not limited to, administrative/customer services, construction offices/trailers, parking signs, identification signs, sales signs, model homes, sales and resales offices, and the Declarant, its guests, licensees and invitees shall have an easement for access to all such facilities. The right to maintain and carry on such facilities and activities shall specifically include the right to use Residences owned by a Declarant and/or such Developer, as models and/or sales offices. Declarant further reserves the right for itself and its successors, assigns, contractors, material suppliers and others performing work and furnishing materials to construct Residences and other improvements upon the Property to conduct business and/or carry on construction/site development activities during business hours that are customary in the Northeast Ohio area. This Section may not be amended or modified without the express prior written consent of the Declarant.

4.7 Maintenance Easement: There is hereby reserved for the benefit of the Association and its agents, employees, successors and assigns, an alienable, transferrable and perpetual right and easement to enter upon any Vacant Sublot and upon the unimproved portions of any Sublot containing a Residence for the purpose of mowing, removing, clearing,

cutting or pruning underbrush, weeds, stumps or other unsightly growth and removing trash and debris in order to maintain reasonable standards of health, fire, safety and appearance within the Subdivision, provided such easements shall not impose any duty or obligation upon Declarant or the Association to perform such actions; provided, further, that in the exercise of its rights hereunder, the Association shall be entitled to be reimbursed by such Owner pursuant to Section 9.2.32 hereof.

4.8 Environmental Easement: There is hereby reserved for the benefit of Declarant, the Association, and their respective agents, employees, successors and assigns, an alienable, transferrable and perpetual right (but not the obligation) and easement on, over and across all Vacant Sublots and all unbuilt portions of Sublots containing Residences for the purpose of taking any action necessary to effect compliance with environmental rules, regulations and proceedings from time to time promulgated or instituted by the Board of Trustees, the Design Review Committee or by any governmental entity, such easement to include, without limitation, the right to implement erosion control procedures and practices, the right to apply for and to comply or cause compliance with the National Pollutant Discharge Elimination Systems Permits for Stormwater Discharges for the Subdivision, the right to drain standing water, the right to dispense pesticides and the right to maintain designated "wetland" areas.

4.9 Easements to Run With the Lands: All easements and rights described hereunder, easements appurtenant to the Property (including the Residences), and the Common Areas, shall perpetually run with said lands, and at all times shall inure to the benefit of and be binding upon the Declarant, its successors and assigns, and any Owner, purchaser, mortgagee or other Person having an interest in the Property, or any part or portion thereof.

## SECTION 5

### OWNERSHIP OR OPERATION OF COMMON AREAS

5.1 Conveyances of Common Areas: Declarant reserves the right to convey Block A and other Common Areas owned or operated by Declarant to the Association or to the City of Twinsburg if authorized by the City. Any such conveyance shall have priority over all liens and encumbrances whatsoever except the easements, covenants, restrictions and provisions of this Declaration; easements, covenants, restrictions, conditions and other similar matters of record; real estate taxes and assessments which are a lien, but are not

due and payable at the time of said conveyance; and zoning and other ordinances, if any. If conveyed to the Association, the Association shall hold title to said parcels subject to the provisions of this Declaration.

5.2 Use of Common Areas: Any Owner may delegate, in accordance with the Code of the Association and subject to reasonable rules, regulations, and limitations as may be adopted in accordance therewith, his or her right of enjoyment to the Common Areas and Common Facilities to the members of his or her family, tenants, and social invitees and shall be deemed to have made a delegation of all such rights to the Occupants or tenants of any leased Residence.

## SECTION 6

### THE ASSOCIATION

6.1 Existence: The Association is an Ohio not-for-profit corporation.

6.2 Membership and Voting Rights:

6.2.1 Classes of Membership

The membership of the Association is and shall be divided into two (2) classes:

(a) Class "A" Membership. Each Owner of a Residence (including, without limitation, the Declarant or a Developer if the Declarant or a Developer is the record titleholder of a Residence) and each Vacant Sublot Owner shall automatically be a Class "A" Member of the Association. The Class "A" Membership is appurtenant to the ownership of each Residence and Vacant Sublot and shall not be separable from the ownership of any Residence or Vacant Sublot and shall be deemed to have been terminated with any voluntary or involuntary conveyance of any Residence or Vacant Sublot, whether or not such membership is expressly referred to in the instrument effecting such conveyance, at which time the new Owner or other successor in interest shall immediately and automatically become a Member of the Association with all rights and responsibilities relative thereto. No Owner, whether one or more persons, shall have more than one membership per Residence owned.

(b) Class "B" Membership. The Declarant shall automatically be the sole Class "B" Member of the Association.

#### 6.2.2 Voting Rights

(a) Class "A" Member. Class "A" Members shall be entitled to one (1) equal vote for each Residence and each Vacant Sublot in which they hold the interest required for membership under Section 6.2.1(a) hereof; there shall be only one (1) vote for each Residence and for each Vacant Sublot.

In any situation where a Member is entitled to exercise a vote and more than one (1) Person holds the interest in such Residence or Vacant Sublot required for membership, the vote for such Residence or Vacant Sublot 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 vote of the Residence or the Vacant Sublot shall be suspended if more than one (1) Person seeks to exercise it.

(b) Class "B" Member. The Class "B" Member shall be the Declarant. The Class "B" Member shall be entitled to three (3) votes for each Sublot owned by it provided that the Class B" Membership shall cease and become converted to a Class "A" Membership 180 days (but not before December 31, 1998) after the date that the total votes outstanding in the Class "A" Membership equals or exceeds the total votes outstanding in the Class "B" Membership as computed upon the basis set forth above. From and after the happening of said event, the Class "B" Member shall be deemed to be a Class "A" Member and shall be entitled to one (1) vote for each Sublot or Residence owned by it. The rights of the Class "B" Member, including the right to approve actions taken under this Declaration and the Code, are specified elsewhere in the Declaration and the Code. The Class "B" Member shall be entitled to appoint a majority of the members of the Board during the Class "B" Control Period, as specified in Article III, Section 2 of the Code. After termination of the Class "B" Control Period, the Class "B" Member shall have a right to disapprove actions of the Board and any committee as provided in Article III, Section 3, of the Code. The Class "B" membership shall terminate and become converted to Class "A" membership in accordance with this Declaration and in accordance with Article III, Section 2 of the Code.

6.3 Board and Officers of the Association: The Board of Trustees and the officers of the Association shall be elected as provided in the Code and shall exercise the powers,

discharge the duties and be vested with the rights conferred by operation of law, the Articles of Incorporation and Code, except as otherwise specifically provided.

6.4 Rights of the Association: Notwithstanding the rights and easements of enjoyment and use created in Section 4 of this Declaration, and in addition to any right the Association shall have pursuant to this Declaration or in law, the Association shall have the right:

6.4.1 To borrow money from time to time for the purpose of improving the Common Areas and Common Facilities, and may secure said financing with a mortgage or mortgages upon all or any portion of property owned by the Association in accordance with its Articles and Code and subject to the provisions of this Declaration.

6.4.2 To take such steps as are reasonably necessary to protect the Common Areas from foreclosure.

6.4.3 To convey the Common Areas or portions thereof, to a successor; provided, however, that any such conveyance shall require the vote of a majority of the Class "A" Members and the vote of the Class "B" Member, and provided further that such successor shall agree, in writing, to be bound by the easements, covenants, restrictions and spirit of this Declaration.

6.4.4 To dedicate or convey Block A to the City to be owned and maintained by the City in its natural state and/or for recreation or "open space" purposes.

6.4.5 To enter (or authorize its agents to enter) on or upon the lands comprising the Subdivision, or any part thereof, when necessary in connection with any maintenance, repair or construction for which the Association is responsible or has a right to maintain, repair or construct. Such entry shall be made with as little inconvenience to the Owner and occupants thereof as practicable and any damage caused thereby shall be repaired by the Association.

6.4.6 To grant or obtain or dedicate to public use easements and rights-of-way (i) for access and easements for the construction, extension, installation, maintenance or replacement of utility services and facilities, or (ii) to or from a public utility or governmental authority, and to or from any body or agency which has the power of eminent domain or condemnation over any portion of the Property.



## SECTION 7

## RESPONSIBILITIES OF ASSOCIATION

The Association shall have the exclusive duty to perform the following functions:

7.1 Maintenance of Common Areas and Common Facilities: The Association shall maintain the Common Areas and Common Facilities in a clean, safe, neat, healthy and workable condition, and in good repair, and shall promptly make all necessary repairs and replacements, structural and nonstructural, ordinary as well as extraordinary, subject only to the provisions of this Declaration. The Association may provide equipment and supplies necessary for the maintenance and enjoyment of such Common Areas and Common Facilities. All work performed by the Association under this Section shall be performed in a good and workmanlike manner.

7.2 Taxes and Assessments: The Association shall pay all taxes and assessments levied against the Common Areas owned by the Association, and any other property owned by the Association, including, without limitation, personal property taxes and real estate taxes and assessments.

7.3 Utilities: The Association shall pay all charges for water, electricity and other services used, rented or supplied to it in connection with any property owned and/or operated by the Association. All such utility services shall be contracted for, metered and billed by and through the Association.

7.4 Insurance: The Association shall insure itself, the members of the Board, committee members and all Owners of Residences and Vacant Sublots against liability for personal injury, disease, illness or death, and for injury to or destruction of property occurring upon, in, about, or arising from or relating to the Common Areas and Common Facilities against such risks and liabilities as the Board of Trustees shall deem necessary. All such insurance policies shall be purchased from such insurance companies, insuring such risks and liabilities and containing such limits of coverage and other terms and conditions as the Board of Trustees shall deem reasonable and appropriate.

7.5 Management: The Association shall provide the management and supervision for the operation of the Common Areas and Common Facilities. The Association shall establish and maintain such policies, programs and procedures to fully implement this

Declaration for the purposes intended and for the benefit of the Members and may, but shall not be required to:

7.5.1 Adopt Rules and Regulations;

7.5.2 Engage employees and agents; and

7.5.3 Delegate all or any portion of its authority and responsibilities to a manager, managing agent, or management company.

7.6 Enforcement: The Association shall take all actions reasonably necessary under the circumstances to enforce the covenants and restrictions set forth in Section 9 hereof.

7.7 Rules and Regulations: The Association, through the Board of Trustees, may make and enforce reasonable Rules and Regulations, 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. The Board of Trustees 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 Code.

7.8 General: The Association shall perform and carry out all other duties and acts reasonably necessary to give effect to and implement the intent of the provisions of this Declaration.

7.9 Original Declarant's Rights: During the Class "B" Control Period, the Original Declarant shall exercise all or any of the powers, rights, duties and functions of the Association, including, without limitation, the right to levy special assessments as authorized herein, the right to enter into a management contract, the right to obtain insurance, the right to perform each duty and obligation of the Association set forth herein, the right to collect assessments and disburse all funds of the Association, and the right to have a lien (and to foreclose said lien) on a Sublot for unpaid assessments in the manner and to the extent granted herein to the Association.

## SECTION 8

### DESIGN REVIEW COMMITTEE

8.1 Structure of Committee: The "Design Review Committee" (sometimes referred to as the "Committee") shall be composed of three (3) natural persons who need not be Members of the Association or Occupants. It is recommended, but not required, that one (1) member of the Design Review Committee be an architect. The persons who shall serve on the Committee shall be designated from time to time by (a) Declarant for so long as there are any Vacant Sublots and (b) the Board thereafter. The affirmative vote of two (2) members of the Design Review Committee shall be required in order to adopt or promulgate any Rule or Regulation or to issue any permit, authorization or approval pursuant to this Section.

8.2 Purpose and Powers: The purpose of the Design Review Committee shall be to approve any and all plans concerning the alteration, building, construction, demolition, enhancement, erection, improvement, placement, reconstruction and removal of any Improvement wherever located in the Subdivision including without limitation fences, pools (above or below ground), tot lots, tennis courts, landscaping (including within the Landscape Easement), etc. The Design Review Committee shall have the right, power and authority to authorize, approve, consent to, permit and adopt rules concerning the alteration, building, construction, demolition, enhancement, erection, improvement, maintenance, placement, reconstruction and removal of any and all Improvements of any kind, type or nature whatsoever, wherever located in the Subdivision, subject to the exercise of any comparable rights by applicable governmental authorities. The Design Review Committee's review will not and is not intended to determine whether or not a particular plan for Improvements complies with any federal, state or local laws or ordinances. Approval by the Design Review Committee is only to determine whether or not a particular plan complies with this Declaration.

8.3 Authority to Act: The affirmative vote of a majority of the then members of the Design Review Committee shall be required in order to adopt, issue or promulgate any approval, authorization, consent, permit or rule pursuant to this Section 8.

8.4 Submission of Plans, Specifications, Site Plans and Grading Plans: A minimum of two (2) sets of plans, specifications, site plan, and grading plan (when applicable) shall be submitted to the Design Review Committee for its written approval prior to the issuance of a building permit by the City of Twinsburg, Ohio, and prior to commencement



of any work in conjunction with the construction, maintenance, improvement, reconstruction and removal of any Improvements in the Subdivision. PROVIDED, HOWEVER, the provisions of this subsection requiring submission of plans and specifications to and obtaining approval from the Design Review Committee shall not be applicable to the Declarant nor any entity related to or affiliated with the Declarant, as designated by the Declarant as not being subject to the provisions of this subsection.

The plans and specifications shall include a foundation plan, floor plans of each level, front elevation, rear and side elevations. The specifications shall include the nature, color, kind, shape, height and materials to be used on the entire exterior of the Improvements. The site plan and grading plan shall follow the requirements as set forth in Section 9.2.2.

**8.5 Review and Decision:** The Design Review Committee shall review the plans and specifications, and site and grading plans submitted to it for the purpose of determining whether or not the same comply with all of the terms and conditions contained in this Declaration and shall render its decision within fifteen (15) days after the date on which the plans and specifications are received by the Design Review Committee. If the plans and specifications are approved, the Design Review Committee shall clearly type or stamp the date of the approval and the words "APPROVED BY DRC" on each separate sheet contained in the plans and specifications. If the plans and specifications are disapproved, the Design Review Committee shall clearly type or stamp the date of such disapproval and the words "DISAPPROVED BY DRC" on each separate sheet contained in the plans and specifications. Additionally, each and every such sheet so stamped or marked shall bear the signature of the Chairman of the Design Review Committee immediately beneath the words "APPROVED BY DRC" or "DISAPPROVED BY DRC", as the case may be. One (1) complete set of such approved or disapproved plans and specifications shall be retained by the Design Review Committee and one (1) complete set of such approved or disapproved plans and specifications shall be returned to the party submitting the same. A review fee of \$25 must be paid with each submission of any plan or document. The fee may be modified by the Board of Trustees.

**8.6 Grounds for Disapproval:** In any case where the Design Review Committee shall either disapprove or conditionally approve any plans and specifications submitted hereunder, then and in such event, such disapproval or conditional approval shall be accompanied by a written statement clearly indicating the grounds upon which such disapproval or conditional approval is based. Further, the Design Review Committee shall, if requested and if possible, make reasonable efforts to assist and advise the party

submitting such plans and specifications, or his representative, for the purpose of amending the same so as to obtain the future approval of the Design Review Committee.

The Design Review Committee's review is not to be relied upon with respect to a particular Improvements quality, structural integrity, or compliance with any federal, state or local laws, regulations or ordinances.

The Design Review Committee shall have the right to disapprove any plans and specifications submitted hereunder for any of the reasons set forth below:

8.6.1 Noncompliance with Declaration: Failure of such plans and/or specifications and/or site and grading plans to comply with the requirements set forth in this Declaration.

8.6.2 Insufficient Information: Failure to include sufficient information on such plans and/or specifications and/or grading plans as may be reasonably necessary for the purpose of determining whether or not the same comply with the requirements set forth in this Declaration.

8.6.3 Incompatibility of Design: Incompatibility of design or appearance of any proposed Improvement with respect to the other Improvements then located in the Subdivision or previously approved for construction in the Subdivision.

8.6.4 Incompatibility of Use: Incompatibility of use of any proposed Improvement with respect to the other Improvements then located in the Subdivision or previously approved for construction in the Subdivision.

8.6.5 Improper Location: Improper location of any proposed Improvement with respect to any front, rear, or side yard setbacks as shown on the Plat or otherwise required by the appropriate governmental authorities.

8.6.6 Improper Grading: The proposed grading of any Sublot in such a manner as may cause or create a drainage problem on adjacent property or would result in an unreasonable difference in elevation with respect to adjacent property.

8.7 Appeal: Should the Design Review Committee disapprove any plans and specifications submitted hereunder, then and in such event, the party submitting the same shall have the right to appeal that decision to the Board of Trustees. Such appeal must

be submitted to the Board of Trustees, in writing, within thirty (30) days after the date of the decision of the Design Review Committee. The Board of Trustees shall within thirty (30) days after the date of receipt of the written request for appeal, review the plans and specifications, together with the grounds for disapproval or conditional approval by the Design Review Committee, and issue its written opinion to the party requesting such appeal. It shall require a majority of the then members of the Board of Trustees to reverse a decision of the Design Review Committee, either in whole or in part. Should the action by the Board of Trustees result in the approval of the plans and specifications, either in and of itself or in conjunction with a prior partial or qualified approval by the Design Review Committee, then and in such event, such plans and specifications shall be deemed to have been approved by the Design Review Committee.

8.8 Violations and Remedies: Should any Improvement be altered, built, constructed, demolished, enhanced, erected, improved, placed or maintained upon, reconstructed or removed from or upon any Sublot or any part of the Subdivision, or should the use thereof be modified in any way from the use originally approved by the Design Review Committee without first obtaining the prior written approval of the Design Review Committee as provided in this Section 8, such act shall be deemed to be a violation of this Section 8 and this Declaration. Any party violating this Section 8 shall, immediately upon the receipt of written notice of such violation from the Design Review Committee, cease and desist from the commission of any such act and immediately commence to take such steps as will alleviate or remedy any such condition of default and shall continue with all due diligence thereafter until the satisfactory completion of same. Should the party committing such act in contravention of this Section 8 fail to immediately take such remedial action as aforesaid, then and in such event, the Association shall have the right, but not the obligation, in addition to any and all other rights or remedies available to it at law or in equity, each of which remedies shall be deemed to be nonexclusive, to do any of the following:

8.8.1 Abate Violation: Without liability to the Owner of the Sublot, cause its agents and employees to enter upon the Sublot, the Residence, Common Areas and/or Common Facilities for the purpose of summarily abating any such use and/or removing any such building or structure.

8.8.2 Seek Injunction: Apply to a court having jurisdiction over the Subdivision for the purpose of obtaining an injunction directing the violating party to abate any such use and/or removing any such building or structure wherever located in the Subdivision.

8.8.3 Seek Reimbursement. Seek full and complete reimbursement from any party committing any of the aforesaid acts in contravention of this Section 8, of any costs, damages and expenses (including without limitation court costs, attorneys' and paralegals' fees, litigation costs, and costs to collect such sum) incurred by the Association with respect to its exercise of any of its rights for the purpose of remedying any such condition of default.

8.8.4 Treat as Assessment: Should the party committing any acts in contravention of this Section 8 be an Occupant and should such Occupant fail to immediately pay the full amount of all costs, damages, and expenses referred to in Section 8.8.3 above, the Association shall be entitled to treat such amount as an Assessment against the Sublot of which such Occupant is or was the Owner, a member of the Owner's family or a guest or invitee of such Owner.

8.9 Costs and Expenses: The Association shall provide the necessary funding for the purpose of paying any and all cost and expenses of the Design Review Committee; provided, however, that this provision shall in no way be deemed to impair the right of the Association to the immediate reimbursement for certain costs and expenses pursuant to Section 8.8.3 above, as well as the right to declare the same an Assessment as referred to in Section 8.8.4 above. The Design Review Committee shall have no right to incur any expenses without the prior written approval of the Board of Trustees. No member of the Design Review Committee shall receive any salary or fee for serving as such without the prior written approval of the Board of Trustees.

8.10 Liability of Members of the Design Review Committee: No Member of the Committee shall be liable to the Association, any Member or any Person for his acts or omissions or failure to act.

8.11 Waiver by Declarant of Design Review Committee Approvals: The Declarant reserves the right in its sole discretion, on a case by case basis, to waive the requirements of this Section 8 with respect to the construction by Developers of new Residences and other related Improvements. The Declarant may exercise this right of waiver if the Declarant, in its sole discretion, believes that Developers are otherwise complying with the requirements of this Declaration and if the architectural controls are adequately being imposed by the City of Twinsburg in connection with the issuance of building permits by the City.

## SECTION 9

### COVENANTS AND RESTRICTIONS

9.1 Prior Approval of Plans and Specifications Required: No person shall commence the alteration, building, construction, demolition, enhancement, erection, improvement, reconstruction or removal of any Improvement or permit any Improvement to be placed or maintained upon any part of the Subdivision or permit the use of any Improvement or Sublot to be altered or modified in any way without the prior written approval of the Design Review Committee as set forth in Section 8 above. The Design Review Committee shall have no authority whatsoever to approve any plans or specifications showing the location of any Improvement which would violate the zoning ordinances of the City of Twinsburg, Ohio. However, the Design Review Committee's approval of any plans, specifications, site plans and/or grading plan is not to be construed as a certification or representation that the same are in fact in compliance with any Federal, State or local laws, ordinances or regulations.

9.2 Building and Use Restrictions: Except as the Design Review Committee may otherwise specifically permit in writing, the following building and use restrictions shall apply with respect to the alteration, building, construction, demolition, enhancement, erection, improvement, reconstruction or removal of any Improvements or the placing or maintaining of any Improvements upon any Sublot.

9.2.1 Use: Each Sublot shall be used for single-family residential dwelling unit purposes in conformity with the terms and conditions contained in this Declaration. No more than one family shall occupy a Residence.

9.2.2 Residence Location: The proposed location of any Residence or other Improvements upon any Sublot shall be clearly depicted with a site plan and shall further depict the location of such Residence or other Improvement with reference to other Residences or other Improvements on adjoining Sublots, actual or proposed (if known). The site plan shall also include a grading plan and drainage plan for the Sublot(s) affected, including existing and future grades, finished floor elevations of proposed and adjacent grades, finished floor elevations of proposed and adjacent Residences and Improvements, easements, right-of-ways, lot dimensions and bearings, north arrows, building setbacks, front, side and rear yard setbacks, driveways, walks, decks and patios. The grading plan and the plan for the Residence shall be drawn by an Ohio State Registered Architect or Engineer.



9.2.3 Residence Size Requirements: Each Residence constructed upon a Sublot and having only one (1) story shall contain not less than one thousand six hundred (1,600) square feet of finished living space utilizable by the occupants thereof for living space and exclusive of any attics, basements, breezeways, garages, porches, patios or enclosed areas not heated nor intended for year-around living. Each Residence constructed upon a Sublot and having more than one (1) story, shall contain not less than one thousand seven hundred (1,700) square feet of finished living space utilizable by the occupants thereof for living space and exclusive of any attics, basements, breezeways, garages, porches, patios or enclosed areas not heated nor intended for year-around living.

Cape Cod type designs shall be computed as a two (2) story house. The area of any Residence shall be computed on the outside foundation of the first floor and the exterior dimensions of the second floor. In the case of a Cape Cod design, the second floor area shall be computed from the outside dimension of the knee walls. In the case of open ceilings to the second floor, the upper open space may not be computed as second floor footage.

9.2.4 Driveway: All driveways shall be composed of brick, or concrete of not less than four (4) inches in all area. All aprons must be concrete of not less than six (6) inches and must be separated from sidewalks and curbs with proper expansion joints. All driveway curb cuts must be saw cut and done in such a manner so as not to damage the roadway and any related improvements such as but not limited to the curb drain tile.

9.2.5 Garages: All Residences shall have attached two-car garages. No detached garages will be allowed on any Sublot.

9.2.6 Roofing Materials: Permitted roofing materials are asphalt shingle, wood shake shingles, slate shingles, tile shingles, clay shingles, architectural grade composition shingles, Timberline Class A or GAF or equal dimensional roofing shingles and having a weight not less than 235 pounds per 100 square feet installed. Flat porch roofs must have either a rubber or a composition built-up roofing.

9.2.7 Siding: Any material(s) used for exterior siding on a Residence including their style, size, color, material and installation, must be approved by the Design Review Committee.

9.2.8 Foundation Materials: Any and all areas of exposed foundation must be covered or veneered with decorative brick or stone, except in the case of a residence with

a "walkout" basement or in the case where a residence is built on a Sublot that has a sloping topography whereupon all block, cement or other basement/foundation structure must be covered by a veneer of brick, stone, wood or siding (vinyl or aluminum) or any combination thereof. In any such case, there must be at least three courses of brick or stone (a minimum of 8") covering any exposed basement/foundation.

9.2.9 Plantings and Landscaping: Each Owner shall have his Sublot landscaped within six (6) months after taking possession of his Residence, with a minimum of a lawn and two (2) shade trees in the front yard. The species of trees that are permitted are: Red Maple, Norway Maple, Sugar Maple, Sycamore Maple, Red Oak, Thornless Honey Locust, London Plane Tree, Amur Cork Tree and Sweet Gum, Ruby Red Horsechestnut, European Hornbeam, Hornbeam, American hop Hornbeam, Chinese Hackberry, Hackberry, Maidenhair Tree and European Linden. In addition, each Owner shall comply with the street tree requirements of the City of Twinsburg.

9.2.10 Utilities: No Sublot in the Subdivision nor any Improvement, building, edifice or other structure located therein shall be serviced by overhead cables including without limitation, electric cable, and communication cables and wires, and every Sublot, Improvement, building, edifice or other structure in the Subdivision, in keeping with the general plan for the development of the Subdivision, shall be restricted to and serviced by underground utilities and such facilities located on the surface appurtenant thereto convenient for the operation and maintenance of said underground utility and/or cables. In the event of a disruption in service or street light cable failure, or during the course of construction of any Improvement, temporary service connections may be made, using above ground or overhead conductors, wires or cables.

9.2.11 Fences: The size, materials and location of any and all fences must be approved by the Design Review Committee.

9.2.12 Mailboxes: All mailboxes must be mounted on wood posts as required by the City of Twinsburg.

9.2.13 Signs: Except for one real estate sign (for sale or rent) or one "house sale" or "garage sale" sign or similar type sign of a size being no more than six (6) square feet, or signs used by the Declarant or authorized by the Declarant to advertise the Property during the construction and sales periods for Sublots, no other signs, billboards or other advertising device shall be built, placed, or permitted to remain on a Sublot. All signs shall comply with the requirements of the City of Twinsburg.

9.2.14 Trade or Business: Except for model homes used to sell newly constructed homes in the Subdivision and/or custom built homes and/or the sale of existing previously occupied homes in the Subdivision, no Sublot shall be used in whole or in part for any trade or business or in any way or for any other purpose which may endanger the health of any persons or unreasonably disturb the quiet possession of any holder of adjoining land. Any such business activity shall comply with all zoning requirements of the City of Twinsburg. Furthermore, the Board of Trustees may adopt Rules which intensify, relax or amend the prohibitions of this Subsection. Nothing in this Subsection shall preclude the leasing of a Residence by the Declarant, a Developer or an Owner.

9.2.15 Pets, Livestock, Animals, Etc.: No animals or fowl, other than a reasonable number of commonly recognized domestic pets, shall be maintained on any Sublot and then only if they are kept thereon solely as household pets and not for commercial purposes. Upon the request of any Owner, the Board of Trustees shall determine, in its sole discretion, whether for the purposes of this paragraph a particular animal or fowl shall be considered to be a domestic house pet, a nuisance or whether the number of animals or fowl on any Sublot is reasonable. Any pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the Sublot upon 3 days written notice from the Board of Trustees. The Board of Trustees action will be final and nonappealable.

9.2.16 Satellite Dishes and Antennae: No satellite dish, antenna or other transmitter, receiver, or communications device shall be erected upon any building, structure or Sublot unless its design and location have been previously approved by the Design Review Committee, and in any event, the same must be screened from adjoining Sublots.

9.2.17 Maintenance and Repair: No unsightly growth such as weeds, underbrush or the like shall be permitted to grow or remain upon any Sublot and no refuse piles, compost piles, or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon (grass shall be maintained at not more than 1 1/2" high). The naturally wooded portions of a Sublot may remain, provided that they are aesthetically maintained as determined by the Design Review Committee.

9.2.18 Vehicles: Except as provided below, no boat, trailer, airplane, junk car, vehicles with flat tires, unlicensed vehicle, vehicle with expired license plates, or recreational vehicle shall be parked on any part of a Sublot, except that a boat, truck, trailer or recreational vehicle may be parked on the driveway of a Residence for a limited purpose of loading or unloading the same but in no event may the same be parked thereon



for a period longer than 72 hours. However, a boat, truck, trailer, unlicensed vehicle and/or recreational vehicle may be parked inside the garage of any Residence.

No temporary buildings, trailers, garage or any similar structure shall be used, temporarily or permanently, as a Residence on any part of a Sublot at any time.

No tractor trailers, commercial tractors, commercial vehicles, road machinery or excavating equipment shall be permitted to remain on any portion of the Subdivision or on the public right-of-way adjoining any portion of the Subdivision and/or Sublot for any period of time whatsoever except while making deliveries or performing services thereon and/or during the period of time required to construct any Residence or other Improvement(s) in the Subdivision.

9.2.19 Nuisance: No obnoxious or offensive activities shall be carried on or maintained on any Sublot nor shall anything be done thereon which may be or become a nuisance or annoyance to the occupants of other Residences. No spirituous, vinous or fermented liquors shall be manufactured and/or sold either at wholesale or retail upon any portion of the Subdivision or a Sublot.

9.2.20 Easements: Easements for installation and maintenance of landscaping, utilities (including, but not limited to, gas, electric, sewer, water, and communication lines, cables and equipment) and drainage facilities including but not necessarily limited to the Landscape Easement are reserved as shown on the Plat. Any area designed for the natural flow of surface water shall at all times be kept free from any obstruction and any Improvement made on or under any such easement shall be made at the risk of the Owner of the Sublot upon which such Improvements are made.

9.2.21 Prohibition Against Further Subdividing: No Sublot or other portion of the Subdivision shall be further divided, except by the Declarant and its designated successors and/or assigns, nor shall any portion less than the whole Sublot be rented, leased or conveyed. No outbuilding, including garage, shall be built on any parcel prior to the erection of the principal residence thereon, nor used as a residence. Changes in a boundary between adjacent Sublots may be made with the approval of the Board of Trustees and the City of Twinsburg.

9.2.22 Fences: No fence, solid or living, exceeding the height of four (4) feet may be erected or placed, or permitted on any Sublot unless approved by the Design Review Committee. Fences may exceed four (4) feet only if approved by the Design Review

Committee and if it is satisfied as to both the decorative and aesthetic values and finds it necessary to the safety and well-being of the resident(s). A chain link fence may be installed on a Sublot for purposes of enclosing a dog run or a swimming pool.

9.2.23 Clothes Lines: No outdoor clothes drying shall be permitted where it is visible by any person not physically present on the Sublot.

9.2.24 Trees: Trees with a trunk diameter of 3 inches or greater may not be removed from any Sublot or Landscape Easement Area after the transfer of such Sublot by the Declarant to an Owner, unless the trees are diseased or dead. Provided, however, any tree, regardless of size, may be removed for purposes of improving the Sublot and for the purposes of providing for a recreational area on the Sublot. The intention of this restriction is to leave as much of the forested land undisturbed as is feasible. In the event of a violation of this paragraph, the Owner shall reimburse the Association for all costs and expenses incurred in replacing the tree(s) that were removed.

9.2.25 Exterior Appearance and Maintenance: The exterior appearance of any Residence or other structure in the Subdivision shall not be altered, modified, changed or redecorated in any way as to change the appearance or decor of the structure, nor shall any of the landscaping appurtenant to such Residence or such other structure be materially changed without the express written authorization of the Design Review Committee. Furthermore, the Owner of each Sublot or Residence shall provide reasonable exterior maintenance upon each such Sublot or Residence as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, and provide reasonable landscape maintenance of trees, shrubs and grass; and provide reasonable maintenance of drains, catch basins, sewers, traps, driveways, walks and all other exterior improvements.

9.2.26 Grading: No Person shall change the grade on any portion of the Property without first obtaining the consent of the Design Review Committee and any permits or other approvals required by the City of Twinsburg.

9.2.27 Garbage and Refuse Disposal: No Owner or Occupant of any Sublot or Residence shall deposit or leave garbage, waste, putrid substances, junk or other waste materials on any Sublot, Residence or on any other part of the 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 Sublot or Residence 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.

As used in this Section, "waste material" shall mean any material which has been discarded or abandoned or any material no longer in use; and without limiting the generality of the foregoing, shall include junk, waste boxes, cartons, plastic or wood scraps or shavings, waste paper and paper products and other combustible materials or substances no longer in use, or if unused, those discarded or abandoned; metal or ceramic scraps or pieces of all types, glass or other non-combustible materials or substances no longer in use, or if unused, those discarded or abandoned; and machinery, appliances or equipment or parts thereof no longer in use, or if unused, those discarded or abandoned.

As used in this Section, "junk" shall mean abandoned, inoperable, partially dismantled or wrecked vehicles of any kind, whether motor vehicle, automobile, motorcycle, emergency vehicle, school bus, bicycle, commercial, tractor, agricultural tractor, house trailer, truck, bus, trailer, semitrailer, pole trailer, railroad train, railroad car, street car or trackless trolley, aircraft, lighter-than-air-craft, watercraft or any other form of device for the transportation of persons or property; and without limiting the generality of the foregoing, with respect to any automobile or other transportation device of any kind the operation of which requires issuance of a license by the United States Government or any agency thereof or by the State of Ohio or any agency or political subdivision thereof, any such automobile or other transportation device shall be deemed to be junk unless a current valid license has been issued for the operation of such automobile or other transportation device and (if required by law) is displayed upon such automobile or other transportation device.

9.2.28 Drainage Ditches: No Person shall interfere with the free flow of water through any drainage ditches or storm sewers within the Property. The City of Twinsburg or other governmental authority having jurisdiction shall have the right to enter upon the Common Areas to repair and maintain all storm drainage courses, ditches, including, without limitation, the lake within the Property for the purpose of relieving any flooding condition or threatened flooding condition which might be harmful to the Property or other property within the City.

9.2.29 Lakes and Wetlands: No piers or docks shall be constructed on any portion of lakes, streams or ponds (if any), nor attached to the shoreline or banks thereof. 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 the lake within the Property. Furthermore, nothing shall be done which disturbs or potentially disturbs any designated "wetlands" within the Property (including Sublots) in any manner unless approved by the Design Review Committee and unless permits are obtained from the governmental authorities having jurisdiction over "wetlands". No dredging or filling shall be undertaken on any property adjacent to any water body without the prior written consent of the Board of Trustees.

9.2.30 Use of the Name "Glenwood Preserve": No Person shall use the words "Glenwood Preserve" or any derivative thereof in any printed or promotional material without the prior written consent of Declarant. However, Owners may use the name "Glenwood Preserve" in printed and promotional material where such words are used solely to specify that that particular property is located within the Subdivision.

9.2.31 Waiver of Subrogation: Each Person as a condition of accepting title and/or possession of a Residence and/or Sublot and the Association agree for themselves, and their respective successors, heirs, executors, administrators, personal representatives, assigns, and lessees, provided said agreement does not invalidate or prejudice any policy of insurance, that in the event that any building, structure or improvement within the Property or the fixtures or personal property of anyone located therein or thereon are damaged or destroyed by fire or other casualty that is covered by insurance, the rights, if any, of any of them against the other, or against the employees, agents, licensees or invitees of any of them with respect to such damage or destruction and with respect to any loss resulting therefrom are hereby waived.

9.2.32 Violation of This Section: If any Person required to comply with the foregoing Covenants and Restrictions is in violation of any one of same, including, but not by way of limitation, design review criteria or standards established by the Design Review Committee, the Declarant (as long as the Declarant is a Class "B" Member of the Association) or the Board of Trustees and/or the Design Review Committee shall have the right to give written notice to such Person to terminate, remove or extinguish such violation. Such notice shall expressly set forth the facts constituting such violation.

Except in the case of an emergency situation, the violating party shall have fifteen (15) days after written notice of the violation to take reasonable action to cause the removal, alleviation or termination of same. In the case of an emergency situation, or in the case of the failure of the violating party to comply with the provisions hereof after notice, the Declarant and/or the Association shall have the right, through their respective

agents and employees, to enter upon the portion of the Subdivision where the violation exists and to summarily terminate, remove or extinguish the violation. In addition to the foregoing, the Declarant and/or the Association shall have the right to obtain an injunction from any court having jurisdiction for the cessation of such violation or attempted violation of this Section. The rights and remedies of the Association and Declarant contained in this Section shall be nonexclusive and in addition to any other right or remedy available at law or in equity, including a claim or action for specific performance and/or money damages (including punitive damages), and attorneys' and paralegals' fees. Furthermore, the failure or neglect to enforce any term, covenant, condition, restriction, right or procedure herein shall in no event and under no circumstances be construed, deemed or held to be a waiver with respect to any subsequent breach or violation thereof. Subject to the provisions of the Section of the Code of Regulations entitled, "Hearing Procedure", a Person in violation of this Section 9 shall be obligated to the Association and/or Declarant for money damages and for the full amount of all costs and expenses, including attorneys' and paralegals' fees, incurred to remedy any such violation. If said amounts are not paid within ten (10) calendar days following said notification, then said amount shall be deemed "delinquent", and shall, upon perfection as provided in Section 10, become a continuing lien upon the portion of the Property owned or occupied by such Person(s) and a personal obligation of the Person(s) violating this Section. In addition, the Owner of any portion of the Property shall be liable jointly and severally for any obligations of any occupant of such Owner's property.

9.2.33 Certificate of Compliance with Restrictions: Upon the conveyance of a Residence or an interest therein, the grantor shall have the right to request the Association to issue a Certificate of Compliance stating that it has no record of a violation of this Section. A Certificate of Compliance may be relied upon by all persons for all purposes. Neither the Board of Trustees, nor such officer or agent shall have any liability to the grantor, grantee or mortgagee of a Residence or to others if the Certificate of Compliance issued hereunder is not correct. The Association may require the advance payment of a processing fee not to exceed Thirty-Five Dollars (\$35.00) for the issuance of the Certificate of Compliance. The processing fee may be modified from time to time by the Board.



## SECTION 10

## ASSESSMENTS

10.1 Definition of Assessments: As used in this Declaration, Assessments shall mean all of the costs and expenses incurred by the Association in the exercise of its obligations with respect to the Common Areas and Common Facilities:

10.1.1 All expenditures required to fulfill the responsibilities of the Association, including, but not limited to, expenditures relating to maintenance fees;

10.1.2 All amounts incurred in collecting Assessments, including all legal and accounting fees;

10.1.3 Reserves for uncollectible Assessments, unanticipated expenses, replacements, major repairs and contingencies;

10.1.4 Annual capital additions and improvements and/or capital acquisitions (but not repairs or replacements) having a total cost in excess of Five Thousand Dollars (\$5,000.00), without in each case the prior approval of the Class "B" Member and the vote of at least a majority of the Class "A" Members. In case of an emergency requiring prompt action to avoid further loss, the Board of Trustees shall have the discretion to expend whatever is necessary to mitigate such loss.

10.1.5 Such other costs, charges and expenses which the Association determines to be necessary and appropriate within the meaning and spirit of this Declaration.

10.2 Payment of Assessments:

10.2.1 Sublot Owners' Obligation: Except as otherwise specifically provided in this Declaration, Assessments shall be levied equally upon each and every Residence and every Vacant Sublot and the amount so levied against each Residence or Vacant Sublot shall become the financial obligation of the Owner of said Residence or Vacant Sublot. Should the Owner of any specific Residence or Vacant Sublot include more than one person or party, all such persons or parties shall be jointly and severally liable for the payment of said Assessment. Each and every Owner of a Residence or Vacant Sublot hereby covenants and agrees, by the act of accepting an instrument conveying any ownership interest in a Residence or Vacant Sublot, to pay to the Association, on or

before the due date for payment thereof, all Assessments levied or assessed against the Residence or Vacant Sublot in accordance with the terms and conditions of this Declaration, regardless of whether or not this obligation shall be specifically expressed in any such instrument of conveyance.

10.2.2 Notification of Assessment Amount: The Association shall have the obligation to provide the Owner of each and every Residence or Vacant Sublot with written notice as to the amount of the Assessment in effect with respect to said Residence or Vacant Sublot at the time the Owner notifies the Association that such Owner has acquired an ownership interest in said Residence or Vacant Sublot. Said written notice shall set forth the amount of the periodic installment of assessments and the dates on which the same are due and payable. Assessments shall be paid no more frequently than monthly and no less frequently than annually, as determined by the Board of Trustees. Thereafter, the Association shall be obligated to provide written notice of the periodic installment of Assessments only when the amount or payment date thereof changes. All such notices shall be effective as of the date set forth therein and may be delivered to the Owner personally, sent to the address of the Residence or Vacant Sublot via ordinary U.S. mail, or conspicuously posted at the Residence or Vacant Sublot. The Owner shall have the duty and obligation to pay the full amount of the periodic installment of Assessments on each and every calendar month anniversary date of the due date of said installment as set forth in the most recent notice given by the Association as provided in this Section 10.2.2. In no event, however, shall the annual Assessment for years beginning prior to January 1, 1998 exceed Fifty Dollars (\$50.00) per Residence or Vacant Sublot.

10.2.3 Default and Remedies: An Owner shall be deemed to be in default with respect to the payment of an Assessment if the full amount of any periodic installment thereof shall not be paid within one (1) month after the same is due and payable. The Association, acting by and through its Board of Trustees, shall have the right to employ and utilize any and all remedies available to it, at law or in equity, for the purpose of enforcing the payment of said Assessments. The delinquent Owner shall reimburse the Association, immediately upon demand, for any and all charges, costs, damages, expenses, and fees (including the Association's legal and paralegal fees, court costs, expert witness fees and collection agency fees, if any) incurred by the Association in attempting to enforce payment of the Assessments (hereinafter collectively referred to as the "Collection Costs"). The amount of any installments of Assessments in default, together with Collection Costs, shall bear interest from the date when due up to the date of payment, computed on a daily basis, at a rate two (2) percentage points above the "Base Lending Rate" charged by National City Bank, Cleveland, Ohio (or its successor), but in no event

less than 12% per annum. Should the full amount of any periodic installment or Assessment and/or collection costs not be paid within one (1) month after the same is due, the Association, acting by and through its Board of Trustees, shall have the right to declare all installments of Assessments otherwise due during the next twelve (12) months immediately due and payable and, further, have the right to file a lien against the Sublot as hereinafter provided. Notification of such declaration shall be given in accordance with any of the methods prescribed in Section 10.2.2 above for the giving of notification as the changes in the amount of the periodic installment of Assessments.

#### 10.2.4 Liens:

(a) Perfection of Lien: If any Owner or a Developer shall fail to pay an Assessment or Additional Assessment levied in accordance with this Declaration (such Owner or Developer hereinafter referred to as the "Delinquent Owner") when due and such Assessment or Additional Assessment is delinquent, or if an Owner or a Developer shall violate any rule or breach any restriction, covenant or provision contained in this Declaration or in the Code, the Board may authorize the perfection of a lien on the Ownership Interest of the Delinquent and/or violating Owner by filing for record with the Recorder of Summit County, a Certificate of Lien. The Certificate of Lien shall be in recordable form and shall include the following:

- (1) The name of the Delinquent Owner.
- (2) A description of the Ownership Interest of the Delinquent Owner.
- (3) The entire amount claimed for the delinquency and/or violation, including interest thereon and costs of collection (defined in Section 10.2.3).
- (4) A statement referring to the provisions of this Declaration authorizing the Certificate of Lien.

(b) Duration of Lien: Said lien shall remain valid for a period of five (5) years from the date of filing of said Certificate of Lien, unless sooner released or satisfied in the same manner provided by law for the release or satisfaction of mortgages on real property, or discharged by the final judgment or order of a court in action to discharge such lien. A lien may be renewed by the subsequent filing of a certificate of lien prior to the expiration of the five (5) year period referred to above.



(c) Priority: A lien perfected under this Section shall take priority over any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments and liens of bona fide mortgagees which have been heretofore filed for record. A lien perfected pursuant to this Section may be foreclosed in the same manner as a mortgage on real property in an action brought by the Association after authorization from the Board. Any funds received at the judicial sale of the delinquent Owner or Developer's Ownership Interest in excess of mortgage liens, court costs and the taxes and assessment liens shall be paid over to the Association to the extent of its lien.

(d) Dispute as to Assessment: The Declarant or any Owner or Developer who believes that an Assessment levied by the Association against him for which a Certificate of Lien has been filed by the Association has been improperly determined, may bring an action under the Arbitration Provisions contained in Section 14.10 of this Declaration for the discharge of all or any portion of such lien; but the lien shall continue until the actual amount of the lien so determined is paid in full or otherwise be fully discharged.

(e) No Waiver Implied: The creation of a lien upon an Ownership Interest owned by a delinquent Owner shall not waive, preclude or prejudice the Association for pursuing any and all other remedies granted to it elsewhere in this Declaration, whether at law or in equity.

(f) Personal Obligations: The obligations created pursuant to this Section shall be and remain the personal obligations of the delinquent Owner until fully paid, discharged or abated and shall be binding on the heirs, personal representatives, successors and assigns of such delinquent Owner.

10.3 Non-Liability of Foreclosure Sale Purchaser for Past Due Assessments: Where the mortgagee of a first mortgage of record acquires an Ownership Interest as a result of foreclosure of the mortgage or an acceptance of a deed in lieu of foreclosure, such mortgagee, its successors and assigns, shall not be liable for the Assessments levied against the Owner of such Ownership Interest prior to the acquisition of the Ownership Interest. The Owner or Owners of an Ownership Interest prior to the judicial sale thereof shall be and remain personally liable, jointly and severally, for the Assessments accruing against the judicially sold Ownership Interest prior to the date of the judicial sale as provided in this Section, but any unpaid part of the Assessments shall be assessed and levied against all of the Owners, including the Owner of the Ownership Interest

foreclosed, his successors or assigns, at the time of the first Assessment next following the acquisition of title by such mortgagee, its successors and assigns.

10.4 Liability for Assessments on Voluntary Conveyance: Upon the voluntary conveyance of an Ownership Interest the grantee of the Ownership Interest shall be jointly and severally liable with the grantor for all unpaid Assessments levied pursuant to this Declaration against the grantor of his Ownership Interest prior to the time of the grantor's conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such prospective grantee, upon written request delivered to the Association, shall be entitled to a statement from the Trustees of the Board or an officer of the Association setting forth the amount of all unpaid Assessments due the Association with respect to the Ownership Interest to be conveyed and such grantee shall not be liable for, nor shall the Ownership Interest conveyed be subject to a lien, for any unpaid Assessments which become due prior to the date of the making of such request if the same are not set forth in such statement. The statement referred to herein may be included in the Certificate of Compliance with Restrictions referred to in Section 9.2.33 of this Declaration. The Association may require the advance payment of a processing fee for the issuance of the Certificate of Compliance. A devise of an Ownership Interest or the distribution of said Ownership Interest pursuant to the Statute of Descent and Distribution shall be deemed to be a voluntary conveyance. An unpaid Assessment shall not be deemed a charge or lien against the Ownership Interest until perfected as such pursuant to this Section.

10.5 Additional Assessments: From and after the period specified in Section 10.2.2, if the Assessments shall for any reason prove to be insufficient to cover the actual expenses incurred by the Association, the Association shall, at such time as it deems it necessary and proper, levy an additional assessment (the "Additional Assessment") against the Owners of Residences and the Vacant Sublot Owners. Each such Owner shall pay a share of each such Additional Assessment determined in accordance with Section 10.2 hereof as if the Additional Assessment were part of the original Assessment.

10.6 Exempt Property: Notwithstanding anything to the contrary herein, the Common Areas shall be exempt from payment of Assessments or Additional Assessments.

## SECTION 11

## NO PARTITION

Except as is permitted in this Declaration or in any amendments thereto, there shall be no physical partition of the Common Areas or any part thereof, nor shall any person acquiring any interest in the Property or any part thereof seek any such judicial partition. This Section shall not be construed to prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

## SECTION 12

## CONDEMNATION

Whenever all or any part of the Common Areas shall be taken (or conveyed in lieu of and under threat of condemnation) by any authority having the power of condemnation or eminent domain, the Association shall give each Owner 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 Areas on which Improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant (so long as the Declarant is a Class "B" Member), and at least seventy-five percent (75%) of the Class "A" Members of the Association shall otherwise agree, the Association shall restore or replace such Improvements so taken on the remaining land included in the Common Areas to the extent lands are available therefor, in accordance with plans prepared by the Design Review Committee and approved by the Board. If the taking does not involve any Improvements on the Common Areas, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine in its sole and absolute discretion.

## SECTION 13

## AMENDMENTS

Except as expressly provided to the contrary in this Declaration, this Declaration may be amended as follows:

13.1 For so long as the Declarant or a successor designated by the Declarant is the Owner of a fee simple interest in the Property, the Original Declarant shall be entitled from time to time to amend or modify any of the provisions of this Declaration or to waive any of the provisions, either generally or with respect to particular real property, if in its judgment, the development or lack of development of the Property requires such modification or waiver, or if in its sole judgment the purposes of the general plan of development of the Residences and Vacant Sublots will be better served by such modification or waiver, provided no such amendment, modification or waiver shall materially and adversely affect the value of existing Residences or Vacant Sublots or shall prevent a Residence or Vacant Sublot from being used by the Owner in the same manner that said Residence or Vacant Sublot was used prior to the adoption of said amendment, modification or waiver. To modify the Declaration in accordance with this paragraph, Original Declarant shall file a supplement to this Declaration setting forth the Amendment. Each such Owner, by accepting a deed to his Residence or other real property, hereby appoints Original Declarant his attorney-in-fact, coupled with an interest, to execute on his behalf any such amendments. Each amendment shall be effective when signed by the Original Declarant and filed for record with the Recorder of Summit County.

13.2 This Declaration may also be amended by Original Declarant or the Association at any time and from time to time for the purpose of: (a) complying with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veteran's Administration, or any other governmental agency or any other public, quasi-public entity, or private insurance company which performs (or may in the future perform) functions similar to those currently performed by such entities; or (b) inducing any of such agencies or entities to make, purchase, sell, insure, or guarantee first mortgages; or (c) correcting clerical or typographical or obvious factual errors in this Declaration or any Exhibit hereto or any supplement or amendment hereto; or (d) complying with the underwriting requirements of insurance companies providing casualty insurance, liability insurance or other insurance coverages for the Association; or (e) bringing any provision hereof into compliance or

conformity with the provisions of any applicable governmental statute, rule or regulation or any judicial determination; or (f) correcting obvious factual errors or inconsistencies between this Declaration and other documents governing the Subdivision, the correction of which would not materially impair the interest of any Owner or mortgage holder; or (g) enabling a title insurance company to issue title insurance coverage with respect to the Property or any portion thereof. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to Declarant and/or to the Board to vote in favor of, make, or consent to a Subsequent Amendment on behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting any portion of the Property and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of the power to the Original Declarant to vote in favor of, make and record a Subsequent Amendment. To effect said amendment, Original Declarant shall file a supplement to the Declaration setting forth the Subsequent Amendment which shall be signed by Original Declarant and shall be effective upon the filing of the Subsequent Amendment with the Summit County Recorder.

13.3 Original Declarant shall have the right to amend this Declaration at any time and from time to time in accordance with or in implementation of any of the rights granted to or reserved by Original Declarant in this Declaration.

13.4 Except as expressly provided in this Declaration, and after expiration of the period set forth in (a) of this Section, any provision of this Declaration may be amended or repealed following a meeting of the Members held for such purpose, by the affirmative vote of the Class "B" Member and the vote of at least a majority of the voting power of the Class "A" Members unless a greater percentage of vote is required pursuant to this Declaration or in accordance with the statutes of the State of Ohio; provided, however, that any amendment which would terminate or materially affect the easements set forth in Section 4 of this Declaration shall not be amended (except as expressly provided to the contrary in this Declaration) unless all persons whose rights are terminated or materially affected shall affirmatively consent in writing to such amendment; provided further, that any amendment affecting the rights of Declarant in this Declaration shall not be effective without the prior written consent of Declarant. Written notice shall be given each Member at least ten (10) days in advance of the date of the meeting held for the purpose of amending this Declaration, which notice shall expressly state the modification to be considered at such meeting. Each amendment shall be effective when signed by the President and one other officer of the Association, signed by the Declarant if the



amendment affects the rights of the Declarant and filed for record with the Summit County Recorder.

## SECTION 14

### GENERAL PROVISIONS

14.1 Covenants to Run With the Property; Binding Effect: All of the easements, covenants and restrictions which are imposed upon, granted and/or reserved in this Declaration constitute easements, covenants and restrictions running with the Property and are binding upon every subsequent transferee of all or any portion thereof, including, without limitation, grantees, Owners or Occupants.

Each grantee accepting a deed or tenant accepting a lease (whether oral or written) which conveys any interest in any portion of the Property that is submitted to all or any portion of this Declaration, whether or not the same incorporates or refers to this Declaration, covenants for himself, his heirs, personal representatives, successors and assigns to observe, perform and be bound by all provisions of this Declaration and to incorporate said Declaration by reference in any deed, lease or other agreement of all or any portion of his interest in any real property subject hereto.

14.2 Duration: Unless sooner terminated as hereinafter provided, the easements, covenants and restrictions of this Declaration shall continue for a term of fifty (50) years from the date this Declaration is recorded, after which time, said covenants and restrictions shall automatically be extended for successive periods of ten (10) years each unless terminated by an instrument signed by Members entitled to exercise not less than seventy-five percent (75%) of the Class "A" Members and by the Class "B" Member.

14.3 Notices: Any notices required to be given to any Person under the provisions of this Declaration shall be deemed to have been given when personally delivered to such Person's Residence or mailed, postage prepaid, to the last known address of such Person or principal place of business if a corporation, provided, however, that a notice of "delinquency" of any payment due hereunder, shall be made by delivery to such Residence or principal place of business if a corporation, or by certified or registered mail, return receipt requested, or by telegram. The effective date of such a notice shall be the date said notice is personally delivered, or postmarked, or the date the telegraph company receives the message, as the case may be.

Notices to the Declarant shall be deemed given only when received and must be either hand delivered or mailed by certified or registered mail, postage prepaid, to Declarant, c/o Developers Diversified, 34555 Chagrin Boulevard, Moreland Hills, Ohio 44022 (Attention: General Counsel).

14.4 Construction of the Provisions of this Declaration: The Declarant, the Association or the Design Review Committee, where specifically authorized herein to act, shall have the right to construe and interpret the provisions of this Declaration and in the absence of an adjudication by arbitrator(s) or a court of competent jurisdiction to the contrary, its construction or interpretation shall be final and binding as to all Persons or property which benefit or which are bound by the provisions hereof. Any conflict between any construction or interpretation of the Declarant, the Association or the Design Review Committee and that of any Person or entity entitled to enforce the provisions hereof shall be resolved in favor of the construction or interpretation by the Declarant, the Association or the Design Review Committee, as the case may be.

The Association and the Design Review Committee to the extent specifically provided herein may adopt and promulgate Rules and Regulations regarding the administration, interpretation and enforcement of the provisions of this Declaration. In so adopting Rules and Regulations and in making any finding, determination, ruling or order, or in carrying out any directive contained herein relating to the issuance of permits, authorizations, approvals, Rules or Regulations, the Association and the Design Review Committee, as the case may be, shall take into consideration the best interests of the Declarant(s), Owners, tenants and Occupants to the end that the Subdivision shall be preserved and maintained as a high quality residential community.

14.5 Reservations by Original Declarant - Exempt Property:

14.5.1 Original Declarant reserves the right and easement for itself and owners of nearby lands to whom Original Declarant, in Original Declarant's sole discretion, may grant the same right and easement, to tie into, use, repair, maintain and replace without charge any and all common lines, pipes, utilities, conduits, ducts, wires, cables, private roads and rights-of-way in, on, or over the Property (as the Property may be expanded by a Subsequent Amendment) or any part thereof that will not materially interfere with the use or operation of a building or structure or other Improvement thereon, in connection with the development and/or operation of real property. Any damage to buildings or other Improvements and real estate (including landscaping, if any) caused thereby shall be

promptly repaired and restored to its prior condition by the party to whom such right and easement had been granted.

14.5.2 Original Declarant hereby reserves the right to grant to or enter into any easements or covenants for the installation, maintenance, service or operation of any and all common lines, pipes, utilities, conduits, ducts, wires, cables, private roads and rights-of-way in, on, or over the Property (as the Property may be expanded), or any part thereof that will not materially interfere with the use or operation of a building, structure or other improvement thereon. Any damage caused thereby shall be promptly repaired and the land shall be restored to its prior condition.

14.5.3 Original Declarant reserves the right to enter into covenants and easements with any utility or public authority which Original Declarant believes, in its sole discretion, to be in the best interests of the development of the Property (as the Property may be expanded).

14.5.4 Original Declarant reserves the right to perform or cause to be performed such work as is incident to the completion of the development and improvement of the Property (as the Property may be expanded by a Subsequent Amendment), owned or controlled by the Original Declarant, notwithstanding any covenant, easement, restriction or provision of this Declaration or its exhibits, which may be to the contrary.

14.5.5 Original Declarant reserves the right to impose, reserve or enter into additional covenants, easements and restrictions with grantees of Residences and Vacant Sublots as long as such additional easements, covenants and restrictions are not in conflict with the rights, duties and obligations of Owners as set forth in this Declaration.

14.5.6 Each reservation, right and easement specified or permitted pursuant to this Subsection shall include the right of ingress and egress for the full utilization and enjoyment of the rights reserved and/or granted herein. The word "common" as used in this Subsection shall mean any and all lines, pipes, utilities, conduits, ducts, wires, cables, private roads and rights-of-way intended for the use of or used by more than one Owner. Any easements or rights referred to in this Subsection, whether granted by Original Declarant prior to the filing of this Declaration or subsequent thereto, shall at all times have priority over the provisions of this Declaration and any lien created under this Declaration.

14.5.7 So long as Declarant is a Class "B" Member, no Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Property 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.

14.5.8 So long as Declarant continues to have rights under this Declaration, all sales, promotional, and advertising materials, and all forms for deeds, contracts for sale and other closing documents for the Subdivision and sale of Vacant Sublots by any Developer, or the sale or lease of a Residence by any Developer, shall be subject to the written approval of Declarant, which approval shall not be unreasonably withheld. Declarant shall deliver notice to any Developer of Declarant's approval or disapproval of all such materials and documents within thirty (30) days of receipt of such materials and documents and, if disapproved, the specific reasons therefore or changes required to obtain such approval. If Declarant fails to so notify any Developer within such thirty (30) day period, Declarant shall be deemed to have waived any objections to such materials and documents and to have approved the foregoing. Upon disapproval, the foregoing procedure shall be repeated until approval is obtained or deemed to be obtained or the request to use such materials or documents is withdrawn or abandoned.

14.6 Enforcement: Enforcement of the terms and conditions contained in this Declaration may be by any proceeding at law or in equity against any person or persons violating or attempting to violate any term or condition herein contained. Such enforcement may seek to restrain any such violation and/or may seek to recover costs and damages (including without limitation, attorney's fees, court costs, expert fees, and collection costs) as a consequence thereof. The failure of the Association (or any other party permitted by this Declaration to enforce the terms and conditions hereof) shall in no manner or event be deemed to constitute a waiver of the right to do so in the event of a continuing violation or successive occurrences of a violation or violations.

14.7 Interest Rates: After this Declaration shall have been recorded for five (5) years or more, the Board shall have right to change any interest rate or late payment charge referred to herein by majority vote, but in no event shall said interest rate or late payment charge exceed the highest interest rate chargeable to individuals under applicable law.

14.8 Assignability by Original Declarant: The Original Declarant, and its successors, shall have the right from time to time to assign all or any part of its rights as a Declarant under this Declaration (but not the rights expressly conferred upon the Original Declarant), provided that the deed or other writing selected by Original Declarant, in Original Declarant's sole discretion, shall expressly state that the rights of a Declarant shall be assigned. Any such assignment may provide that said assignee shall have the rights of a Declarant (other than those rights reserved by the Original Declarant in any such assignment) set forth in this Declaration with respect to the Residence and/or real property owned by such designee.

14.9 Severability: Invalidation of any one of the easements, covenants, restrictions or provisions contained herein shall in no way affect any other provision which shall remain in full force and effect.

14.10 Arbitration: Unless otherwise provided in this Declaration, any controversy, dispute or claim arising out of or relating to this Declaration or the breach thereof shall be settled by arbitration in Cleveland, Ohio in accordance with the Commercial Rules of the American Arbitration Association and the judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction hereof. The right of arbitration is not available to an Owner to correct an Assessment or to contest a lien against a Sublot.

14.11 Litigation: No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by the vote of seventy-five percent (75%) of the Class "A" Members. 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 Section 10 hereof, (c) proceedings involving challenges to real estate taxation, 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.

14.12 Binding Effect: All of the terms and conditions contained in this Declaration are and shall be deemed to be covenants running with the land and shall be binding upon each and every subsequent transferee of any legal or equitable interest in the Common Areas, Common Facilities, and/or Sublots to the full extent as set forth herein. Each part or portion thereof, whether freehold, leasehold, or otherwise (whether oral or written)



specifically acquires such interest subject to the terms and conditions set forth in this Declaration, whether or not such instrument of conveyance contains those terms and conditions or refers to this Declaration. Every Owner hereby covenants for him or herself and his or her heirs, administrators, executors, personal representatives, successors, and assigns to observe, perform, and be bound by all of the terms and conditions set forth in this Declaration and to incorporate the same by reference to this Declaration and its volume and page of recording in any instrument or document conveying any interest in the Subdivision or portion thereof.

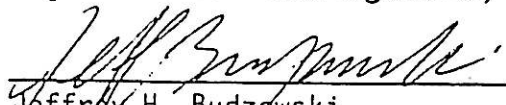
14.13 Governing Law and Severability: This Declaration is intended to be performed in accordance with, and only to the extent permitted by all applicable laws, ordinances, rules and regulations to the State of Ohio. If any term or provision of this Declaration, or the application thereof to any person or circumstance, shall for any reason and to any extent, be invalid or unenforceable, the remainder of this Declaration, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be effected thereby, but rather shall be enforced to the fullest extent permitted by law.

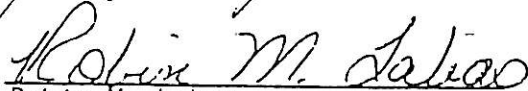
14.14 Construction of Terms: The Section headings contained herein are for convenience only and do not construe, define, or limit the contents of such Sections. The use herein of the singular number shall be deemed to mean the plural, and vice versa, and the masculine gender shall be deemed to mean the feminine or neuter, and vice versa, wherever the sense of this Declaration so requires.

14.15 Rule Against Perpetuities: If any of the options, privileges, covenants or rights created by this Declaration shall be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common-law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the death of the survivor of the now living descendants of William J. Clinton, President of the United States of America, and Albert Gore, Vice President of the United States of America.

WITNESSES:

(Names of witnesses must either be typed or printed below their signatures)

  
Jeffrey H. Budzowski

  
Robin M. Labas

DECLARANT:

W & M PROPERTIES, an Ohio  
partnership

By: 

General Partner

STATE OF OHIO

)

) SS:

COUNTY OF CUYAHOGA

)

The undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that W & M PROPERTIES, an Ohio partnership, by John R. McGill, a General Partner, personally known to me to be the same persons whose names are subscribed to the foregoing instrument in such capacities, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as the free and voluntary act of said partnership, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 17th day of January, 1993.

Elizabeth A. Berry  
Notary Public

ELIZABETH A. BERRY  
Notary Public, State of Ohio, Cuyahoga Cty.  
My Commission Expires Mar. 8, 1996

This Instrument Prepared By:

Richard A. Rosner, Attorney at Law  
Kahn, Kleinman, Yanowitz & Arnson Co., L.P.A.  
Suite 2600, The Tower At Erieview  
1301 East Ninth Street  
Cleveland, Ohio 44114-1824  
(216) 696-3311

EXHIBIT A

Situated in the City of Twinsburg, County of Summit, State of Ohio and being known as Sublots Nos. 1 through 84, inclusive, and Blocks A, B, C, D, and E in Glenwood Preserve Subdivision No. 1, being all of Original Twinsburg Township Lot No. 18 and parts of Original Twinsburg Township Lot Nos. 17 and 20, Tract No. 1, as shown by plat recorded in Plat Cabinet I, Slide Nos. 905-916, be the same more or less, but subject to all legal highways.

EXHIBIT B

Situated in the City of Twinsburg, County of Summit, State of Ohio and being known as Block A in Glenwood Preserve Subdivision No. 1, being all of Original Twinsburg Township Lot No. 18 and parts of Original Twinsburg Township Lot Nos. 17 and 20, Tract No. 1, as shown by plat recorded in Plat Cabinet I, Slide Nos. 905-916, be the same more or less, but subject to all legal highways.

LIBHX

PLANNED-DEVELOPMENT, N.Y.

RECORDING OF PLAT  
The following is a true and correct copy of the original plat as recorded in the office of the County Clerk of Summit County, Ohio, on the 14th day of June, 1992, at 11:20 AM.

FILED  
JUN 14 1992  
SUMMIT COUNTY, OHIO

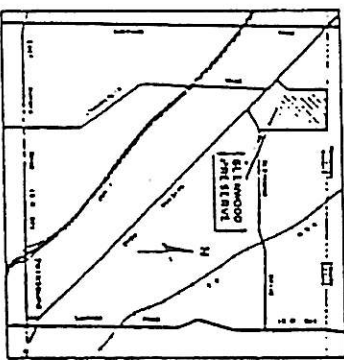
RECORDING OF PLAT  
The following is a true and correct copy of the original plat as recorded in the office of the County Clerk of Summit County, Ohio, on the 14th day of June, 1992, at 11:20 AM.

# GLENWOOD PRESERVE SUBDIVISION No. 1

BEING ALL OF ORIGINAL TWINSBURG TOWNSHIP LOT NO. 18 AND PARTS OF ORIGINAL  
TWINSBURG TOWNSHIP LOT NO'S. 17 AND 20, TRACT NO. 1, NORTH  
CITY OF TWINSBURG SUMMIT COUNTY, OHIO

JUNE, 1992

TOTAL AREA - 154.7688 ACRES AREA IN LOTS - 33.6952 ACRES AREA IN BLOCKS - 109.8627 ACRES AREA IN STREETS - 11.2209 ACRES



VICINITY MAP

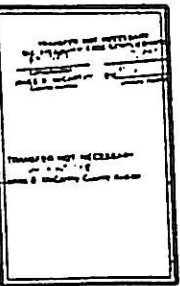
RECORDED  
DOCUMENT  
012118  
JUN 14 1992  
SUMMIT COUNTY, OHIO



RETURN TO  
WESS & ASSOCIATES, P.C.  
10000 W. 100th Ave.  
Suite 100  
Broomfield, CO 80020

STATE OF OHIO  
COUNTY OF SUMMIT  
I, Clerk of Courts, do hereby certify that the foregoing is a true and correct copy of the original plat as recorded in the office of the County Clerk of Summit County, Ohio, on the 14th day of June, 1992, at 11:20 AM.

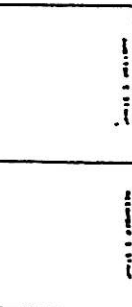
012118  
JUN 14 1992  
SUMMIT COUNTY, OHIO



APPROVED:  
FOR THE TOWN OF TWINSBURG, OHIO  
FOR THE CITY OF TWINSBURG, OHIO  
FOR THE COUNTY OF SUMMIT, OHIO

FOR THE CITY OF TWINSBURG, OHIO

COUNTY OF SUMMIT  
RECORDED  
DOCUMENT  
012118  
JUN 14 1992  
SUMMIT COUNTY, OHIO



NO P2301-10111

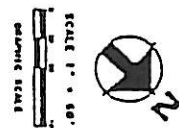




## KEY MAP

RAVINE	ROAD	WIDTH VARIES
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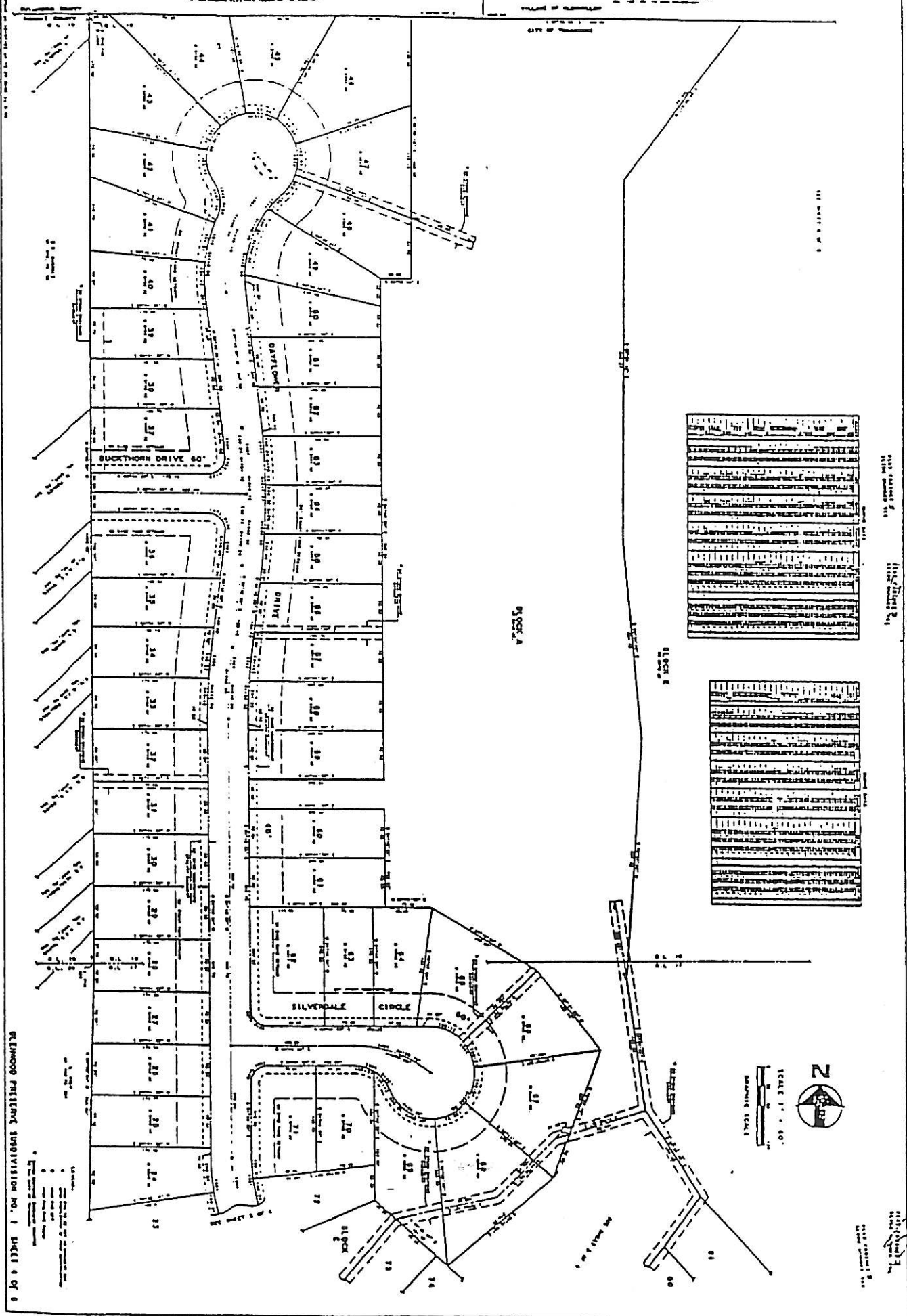
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1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100



SCALE 1" = 50'

RECEIVED  
FBI - NEW YORK  
JAN 10 1964

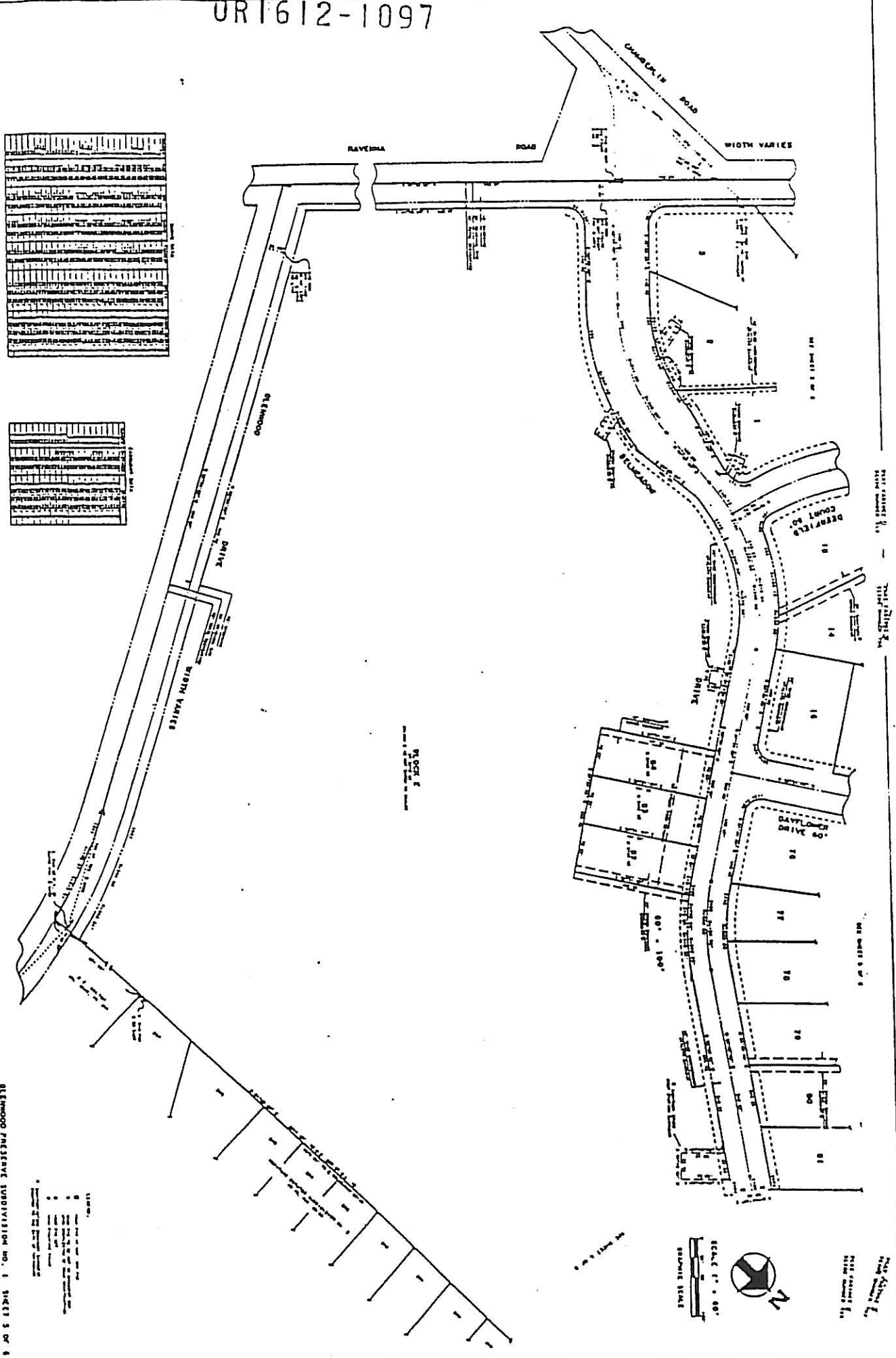
21. Aug. 1914  
 22. Aug. 1914  
 23. Aug. 1914



1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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STEWART PRESERVE SUBDIVISION NO. 1 SHEET 3 OF 4



STEWART PRESERVE SUBDIVISION NO. 1 SHEET 3 OF 4

UR 1612-1098

PLANNED  
Hwy

PLANNED  
Hwy

DELMEDDOR  
DRIVE 60'



SCALE 1" = 80'  
SEE SHEET 1098.1

PLANNED  
Hwy

PLANNED  
Hwy

PLANNED  
Hwy

PLANNED  
Hwy

DELMEDDOR PRESENT SUBDIVISION NO. 1 SHEET 1098.1



SUBMISSION OF SUBLOT 9 TO DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND EASEMENTS FOR  
GLENWOOD PRESERVE SUBDIVISION NO. 1, TWINSBURG,  
OHIO AND TO THE CODE OF REGULATIONS OF GLENWOOD  
PRESERVE HOMEOWNERS' ASSOCIATION, INC.

WHEREAS, the undersigned, THE W. BISHOP COMPANY, INC., an Ohio corporation, is the Owner of Sublot No. 9 ("Sublot 9") in Glenwood Preserve Subdivision No. 1, Twinsburg, Ohio (the "Subdivision");

WHEREAS, on November 30, 1993 Sublot 9 was conveyed to the undersigned by W & M Properties, the owner/developer of the Subdivision, by deed recorded in Volume O.R. 1535, Page 713 of Summit County Records;

WHEREAS, W & M Properties is submitting all of the sublots and other lands comprising the Subdivision to the Declaration of Covenants, Conditions, Restrictions and Easements for Glenwood Preserve Subdivision No. 1, Twinsburg, Ohio (the "Declaration") to which this document is attached and to the Code of Regulations of Glenwood Preserve Homeowners' Association, Inc. (the "Code");

WHEREAS, Sublot 9 was conveyed by W & M Properties to the undersigned prior to the filing by W & M Properties of the Declaration and Code; and

WHEREAS, the purpose of this document is for the submission by the undersigned of Sublot 9 to the Declaration and Code.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00), and for other good and valuable consideration, the receipt of which is hereby acknowledged, the undersigned, being the Owner of Sublot 9, hereby submits Sublot 9 to the Declaration and Code, Sublot 9 being described as follows:

Situated in the City of Twinsburg, County of Summit, State of Ohio and being known as Sublot No. 9 in Glenwood Preserve Subdivision No. 1, being all of Original Twinsburg Township Lot No. 18 and parts of Original Twinsburg Township Lot Nos. 17 and 20, Tract No. 1, as shown by plat recorded in Plat Cabinet I, Slide Nos. 905-916, be the same more or less, but subject to all legal highways.

*Henry Brown*

SUBSEQUENT AMENDMENT NO. 1 TO DECLARATION OF  
COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS  
FOR GLENWOOD PRESERVE, SUBDIVISION NO. 1, TWINSBURG, OHIO  
WITH RESPECT TO THE RESUBDIVISION OF  
BLOCK E INTO GLENWOOD PRESERVE  
SUBDIVISION NO. 2A

THIS SUBSEQUENT AMENDMENT NO. 1 made as of the 5th day of October, 1995 by MORELAND HILLS DEVELOPMENT COMPANY, an Ohio corporation (the "Successor Declarant").

PREAMBLE

A. On or about August 30, 1993, W & M PROPERTIES, an Ohio partnership (the "Original Declarant") caused the Subdivision Plat for Glenwood Preserve Subdivision No. 1, Twinsburg, Ohio (the "Plat") to be recorded with the Summit County Recorder in Plat Cabinet I, Slides 905-916 of Summit County Records.

B. On February 15, 1994, Original Declarant caused a document entitled "Declaration of Covenants, Conditions, Restrictions and Easements for Glenwood Preserve Subdivision No. 1, Twinsburg, Ohio" (the "Declaration") to be filed for record in O.R. 1612-1043 of Summit County Records. Unless otherwise defined herein, the terms capitalized herein shall have the same meaning as defined in the Declaration.

C. The real property that was submitted to the Declaration referred to therein as the "Property" consisted of 154.7688 acres of land and was described in Exhibit "A" of the Declaration and was the Property shown on the Plat.

D. Section 2.4 of the Declaration reserved unto the Declarant the right to resubdivide portions of the Plat, including, but not limited to, the resubdivision of Block E, as shown on the Plat.

E. On June 3, 1994 the Original Declarant conveyed to the Successor Declarant a portion of the Property, including Block E, by deed recorded in OR 1688, Page 879 of Summit County Records and by deed re-recorded to amend the legal description recorded on September 16, 1994 in OR 1761, Page 999 of Summit County Records.

F. By document entitled "Assignment of Declarant Rights" recorded on October 12, 1995 as Summit County Recorder's Instrument No. 101797,

Original Declarant assigned to Successor Declarant its rights as "Declarant" and "Original Declarant" under the Declaration, said Assignment being made pursuant to Section 14.8 of the Declaration.

G. The Successor Declarant desires to file this Subsequent Amendment No. 1 for the purpose of specifically referring to the resubdivision of Block E on the Plat into Glenwood Preserve Subdivision No. 2A ("Subdivision No. 2A") and to submit the Sublots situated therein to the provisions of the Declaration. A legal description of Subdivision No. 2A is attached hereto and made a part hereof as Exhibit "A".

NOW, THEREFORE, Declarant hereby declares the following by this Subsequent Amendment No. 1:

1. The Preamble is incorporated in and is made a part of this Subsequent Amendment No. 1.

2. Subdivision No. 2A is subjected to the covenants and restrictions of the Declaration in accordance with Section 2.4 and Section 3 of the Declaration.

3. The definition of "Common Areas" set forth in Section 1.1.7 of the Declaration is supplemented to provide that said term includes Block G (1.3008 acres) and Block F (6.7552 acres) as shown on the Plat of Subdivision No. 2A, a legal description of Block G and Block F is attached hereto and made a part hereof as Exhibit "B".

4. Section 1.1.16 of the Declaration entitled "Landscape Easement" is amended to include "30' landscape easement to the Homeowners' Association" over Sublots Nos. 98 through 107 along Ravenna Road and Sublot Nos. 108, 109 and 113 through 119 along Glenwood Drive in Subdivision No. 2A. This Section is further supplemented to provide that the City of Twinsburg has granted to the Association the right to install and maintain landscaping and related improvements in the cul-de-sacs for Primrose Circle, Springwood Circle and Brookhill Circle, subject to Design Review Committee approval and the compliance with the requirements of the City of Twinsburg.

5. The term "Subdivision" as defined in Section 1.1.26 of the Declaration is supplemented to include Subdivision No. 2A.

6. Section 2.4 of the Declaration entitled "Resubdivision of the Property" is supplemented to provide that the Successor Declarant reserves the right to resubdivide portions of the Plat including, but not limited to, the resubdivision of Block H, as shown

on the Plat. Successor Declarant further reserves the right, subject to the approval of the City of Twinsburg, to create sublots from Blocks G and F.

7. Section 5.1 of the Declaration entitled "Conveyances of Common Areas" is supplemented to provide that the Successor Declarant reserves the right to convey Blocks G (1.3008 acres) and Block F (6.7552 acres) in Subdivision No. 2A and other Common Areas owned or operated by Successor Declarant to the Association or to the City of Twinsburg, if authorized by the City.

8. Section 6.4.4 of the Declaration is supplemented to provide that the Association shall have the right to dedicate or convey Block G (1.3008 acres) and/or Block F (6.7552 acres) in Subdivision No. 2A to the City to be owned and maintained by the City in its natural state and/or for recreation or "open space" purposes.

9. Except as previously amended, and except as amended herein, all covenants, conditions, easements and restrictions of the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, ~~W&M Properties, an Ohio partnership,~~ <sup>Moreland Hills Development Company, an Ohio Corporation</sup> has signed this Subsequent Amendment No. 1 this 5th day of October, 1995.

WITNESSES:

(names of witnesses must either be typed or printed below their signature)

Elizabeth A. Berry  
Print Name Elizabeth A. Berry

Peggy L. Jenkins  
Print Name Peggy L. Jenkins

SUCCESSOR DECLARANT:

MORELAND HILLS DEVELOPMENT COMPANY, an Ohio corporation

By:

Bert L. Wolstein, President

STATE OF OHIO )  
 ) SS:  
 COUNTY OF CUYAHOGA )

BEFORE ME, a notary public, in and for said county and state, personally appeared the above-named MORELAND HILLS DEVELOPMENT COMPANY, an Ohio corporation, by Bert L. Wolstein, its President, who acknowledged that he did sign the foregoing instrument and that the same is his free act and deed individually and as such officer, and the free act and deed of said Corporation, for the uses and purposes therein set forth.

IN TESTIMONY WHEREOF, I have set my hand and notarial seal this 5th day of October, 1995.

*Elizabeth A. Berry*  
 NOTARY PUBLIC ELIZABETH A. BERRY  
 Notary Public, State of Ohio, Cuya..Cty.  
 My Commission Expires Mar. 8, 1998

This Instrument Prepared by:

Richard A. Rosner, Esq.  
 Kahn, Kleinman, Yanowitz & Arnson Co., L.P.A.  
 1301 East Ninth Street  
 Tower at Erieview, Suite 2600  
 Cleveland, Ohio 44114-1824  
 (216) 696-3311



EXHIBIT "A"

Situated in the City of Twinsburg, County of Summit, State of Ohio, and being known as Sublots Nos. 85 through 189, inclusive, and Blocks G, F, and H in Glenwood Preserve Subdivision No. 2, being a re-subdivision of Block E in the Glenwood Preserve Subdivision No. 1, recorded in Plat Cabinet "I", Slide 778-789 of Summit County Records, also being a part of original Twinsburg Township Lot Nos. 17 and 18, Tract No. 1, North, said Glenwood Preserve Subdivision No. 2A, being recorded in Plat Cabinet L, Slides 319-328 of Summit County Records, be the same more or less, but subject to all legal highways.

EXHIBIT "B"

Situated in the City of Twinsburg, County of Summit, State of Ohio, and being known as Blocks G and F in Glenwood Preserve Subdivision No. 2, being a re-subdivision of Block E in the Glenwood Preserve Subdivision No. 1, recorded in Plat Cabinet "I", Slide 778-789 of Summit County Records, also being a part of original Twinsburg Township Lot Nos. 17 and 18, Tract No. 1, North, said Glenwood Preserve Subdivision No. 2A, being recorded in Plat Cabinet L, Slides 319-328 of Summit County Records, be the same more or less, but subject to all legal highways.

*Henry Brown*

SUBSEQUENT AMENDMENT NO. 2 TO DECLARATION OF  
COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS  
FOR GLENWOOD PRESERVE, SUBDIVISION NO. 1, TWINSBURG, OHIO  
WITH RESPECT TO THE RESUBDIVISION OF  
BLOCK E IN GLENWOOD PRESERVE SUBDIVISION NO. 1 AND  
BLOCK H IN GLENWOOD PRESERVE SUBDIVISION NO. 2A  
INTO GLENWOOD PRESERVE SUBDIVISION NO. 2B

THIS SUBSEQUENT AMENDMENT NO. 2 made as of the 23rd day of May, 1997 by MORELAND HILLS DEVELOPMENT COMPANY, an Ohio corporation (the "Successor Declarant").

PREAMBLE

A. On or about August 30, 1993, W & M PROPERTIES, an Ohio partnership (the "Original Declarant") caused the Subdivision Plat for Glenwood Preserve Subdivision No. 1, Twinsburg, Ohio (the "Plat") to be recorded with the Summit County Recorder in Plat Cabinet I, Slides 905-916 of Summit County Records.

B. On February 15, 1994, Original Declarant caused a document entitled "Declaration of Covenants, Conditions, Restrictions and Easements for Glenwood Preserve Subdivision No. 1, Twinsburg, Ohio" (the "Declaration") to be filed for record in O.R. 1612-1043 of Summit County Records. Unless otherwise defined herein, the terms capitalized herein shall have the same meaning as defined in the Declaration.

C. The real property that was submitted to the Declaration referred to therein as the "Property" consisted of 154.7688 acres of land and was described in Exhibit "A" of the Declaration and was the Property shown on the Plat.

D. Section 2.4 of the Declaration reserved unto the Declarant the right to resubdivide portions of the Plat, including, but not limited to, the resubdivision of Block E, as shown on the Plat.

E. On June 3, 1994 the Original Declarant conveyed to the Successor Declarant a portion of the Property, including Block E, by deed recorded in OR 1688, Page 879 of Summit County Records and by deed re-recorded to amend the legal description recorded on September 16, 1994 in OR 1761, Page 999 of Summit County Records.

F. By document entitled "Assignment of Declarant Rights" recorded on October 12, 1995 in O.R. 2028, Page 813 of Summit County Records, Original Declarant assigned to Successor Declarant its rights as "Declarant" and "Original Declarant" under the Declaration, said Assignment being made pursuant to Section 14.8 of the Declaration.

G. On October 12, 1995, Successor Declarant caused document entitled Subsequent Amendment No. 1 to Declaration of Covenants, Conditions, Easements and Restrictions for Glenwood Preserve, Subdivision No. 1, Twinsburg, Ohio with Respect to the Resubdivision of Block E into Glenwood Preserve Subdivision No. 2A ("Subdivision No. 2A") to be filed for record in O.R. 2028, Page 817 of Summit County Records, and thereby submitted Preserve Subdivision No. 2A to the Declaration.

H. The Successor Declarant desires to file this Subsequent Amendment No. 2 for the purpose of specifically referring to the resubdivision of Block E on the Plat and to the resubdivision of Block H of Subdivision No. 2A into Sublots 190 through 269 in Glenwood Preserve Subdivision No. 2B ("Subdivision No. 2B") and to submit the Sublots situated in Subdivision No. 2B to the provisions of the Declaration. A legal description of Subdivision No. 2B is attached hereto and made a part hereof as Exhibit "A".

NOW, THEREFORE, Declarant hereby declares the following by this Subsequent Amendment No. 2:

1. The Preamble is incorporated in and is made a part of this Subsequent Amendment No. 2.

2. Subdivision No. 2B is subjected to the covenants and restrictions of the Declaration in accordance with Section 2.4 and Section 3 of the Declaration.

3. Section 1.1.16 of the Declaration entitled "Landscape Easement" is supplemented to provide that the City of Twinsburg has granted to the Association (or the Association reserves) the right to install and maintain landscaping and related improvements in the cul-de-sacs for Deeplake Circle and Landsdale Circle, subject to both Design Review Committee approval and compliance with the requirements of the City of Twinsburg.

4. The term "Subdivision" as defined in Section 1.1.26 of the Declaration is supplemented to include Subdivision No. 2B.

5. Except as previously amended, and except as amended herein, all covenants, conditions, easements and restrictions of the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, Moreland Hills Development Company, an Ohio corporation, has signed this Subsequent Amendment No. 2 this 23rd day of May, 1997.

WITNESSES:

(names of witnesses must either be typed or printed below their signature)

SUCCESSOR DECLARANT:

MORELAND HILLS DEVELOPMENT COMPANY, an Ohio corporation

Elizabeth A. Berry  
Print Name ELIZABETH A. BERRY

By:

Bert L. Wolstein  
Bert L. Wolstein, President

Peggy L. Jenkins  
Print Name Peggy L. Jenkins

STATE OF OHIO )  
 ) SS:  
COUNTY OF CUYAHOGA )

BEFORE ME, a notary public, in and for said county and state, personally appeared the above-named MORELAND HILLS DEVELOPMENT COMPANY, an Ohio corporation, by Bert L. Wolstein, its President, who acknowledged that he did sign the foregoing instrument and that the same is his free act and deed individually and as such officer, and the free act and deed of said Corporation, for the uses and purposes therein set forth.

IN TESTIMONY WHEREOF, I have set my hand and notarial seal this 23rd day of May, 1997.

Elizabeth A. Berry  
NOTARY PUBLIC

This Instrument Prepared by:

Richard A. Rosner, Esq.  
Kahn, Kleinman, Yanowitz & Arnson Co., L.P.A.  
1301 East Ninth Street  
Tower at Erieview, Suite 2600  
Cleveland, Ohio 44114-1824  
(216) 696-3311

ELIZABETH A. BERRY  
Notary Public, State of Ohio, Cuyahoga County  
My Commission Expires Mar. 8, 1998

EXHIBIT A

LEGAL GLENWOOD PRESERVES SUBDIVISION # 2B

SITUATED IN THE CITY OF TWINSBURG, COUNTY OF SUMMIT AND STATE OF OHIO AND KNOWN AS BEING SUBLOT(S) 190-269 OF THE GLENWOOD PRESERVE SUBDIVISION NO. 2B, AS RECORDED IN PLAT CABINET "N", SLIDES 362 THROUGH 367, BEING A RE-SUBDIVISION OF BLOCK H IN THE GLENWOOD PRESERVE SUBDIVISION NO. 2A, RECORDED IN PLAT CABINET "L", SLIDES 319 - 328, BEING A RE-SUBDIVISION OF BLOCK E IN THE GLENWOOD PRESERVE SUBDIVISION NO. 1, RECORDED IN PLAT CABINET I, SLIDES 778 THROUGH 789 AND RE-RECORDED IN PLAT CABINET "I", SLIDES 905 THROUGH 916 OF THE SUMMIT COUNTY RECORDS, ALSO BEING PART OF ORIGINAL TWINSBURG TOWNSHIP LOT NOS. 17 AND 18, TRACT 1, NORTH, BE THE SAME MORE OR LESS, BUT SUBJECT TO ALL LEGAL HIGHWAYS.



600 HARRY BRAD

SUBSEQUENT AMENDMENT NO. 3 TO DECLARATION OF  
COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS  
FOR GLENWOOD PRESERVE, SUBDIVISION NO. 1, TWINSBURG, OHIO  
SUPPLEMENTING AND MODIFYING CERTAIN OF THE COVENANTS  
AND RESTRICTIONS CONTAINED THEREIN

THIS SUBSEQUENT AMENDMENT NO. 3 made as of the 26<sup>th</sup> day of November, 1997 by MORELAND HILLS DEVELOPMENT COMPANY, an Ohio corporation (the "Successor Declarant").

PREAMBLE

A. On or about August 30, 1993, W & M PROPERTIES, an Ohio partnership (the "Original Declarant") caused the Subdivision Plat for Glenwood Preserve Subdivision No. 1, Twinsburg, Ohio (the "Plat") to be recorded with the Summit County Recorder in Plat Cabinet I, Slides 905-916 of Summit County Records.

B. On February 15, 1994, Original Declarant caused a document entitled "Declaration of Covenants, Conditions, Restrictions and Easements for Glenwood Preserve Subdivision No. 1, Twinsburg, Ohio" (the "Declaration") to be filed for record in O.R. 1612-1043 of Summit County Records. Unless otherwise defined herein, the terms capitalized herein shall have the same meaning as defined in the Declaration.

C. The real property that was submitted to the Declaration referred to therein as the "Property" consisted of 154.7688 acres of land and was described in Exhibit "A" of the Declaration and was the Property shown on the Plat.

D. On June 3, 1994 the Original Declarant conveyed to the Successor Declarant a portion of the Property, including Block E, by deed recorded in OR 1688, Page 879 of Summit County Records and by deed re-recorded to amend the legal description recorded on September 16, 1994 in OR 1761, Page 999 of Summit County Records.

E. By document entitled "Assignment of Declarant Rights" recorded on October 12, 1995 in O.R. 2028, Page 813 of Summit County Records, Original Declarant assigned to Successor Declarant its rights as "Declarant" and "Original Declarant" under the Declaration, said Assignment being made pursuant to Section 14.8 of the Declaration.



James B. McCarthy

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GUARANTEE

97-002904A

TRANSFER NOT NECESSARY  
12-05-97  
James B. McCarthy County Auditor

F. On October 12, 1995, Successor Declarant caused document entitled Subsequent Amendment No. 1 to Declaration of Covenants, Conditions, Easements and Restrictions for Glenwood Preserve, Subdivision No. 1, Twinsburg, Ohio with Respect to the Resubdivision of Block E into Glenwood Preserve Subdivision No. 2A ("Subdivision No. 2A") to be filed for record in O.R. 2028, Page 817 of Summit County Records, and thereby submitted Preserve Subdivision No. 2A to the Declaration.

G. On May 28, 1997, Successor Declarant caused document entitled Subsequent Amendment No. 2 to Declaration of Covenants, Conditions, Easements and Restrictions for Glenwood Preserve, Subdivision No. 1, Twinsburg, Ohio with Respect to the Resubdivision of Block E in Glenwood Preserve Subdivision No. 1 and Block H in Glenwood Preserve Subdivision No. 2A into Glenwood Preserve Subdivision No. 2B to be filed for record as Summit County Recorder's Instrument No. 54022283 and thereby submitted Glenwood Preserve Subdivision No. 2B to the Declaration.

H. The Declarant reserved the right under Section 13.1 of the Declaration to amend or modify any of the provisions of the Declaration if, in its judgment, the development of the Property requires such modification; or if, in its judgment, the purposes of the general plan of development will be better served by the modification; provided no such amendment or modification shall materially and adversely affect the value of existing Residences or Vacant Sublots or shall prevent a Residence or Vacant Sublot from being used by the Owner in the same manner that said Residence or Vacant Sublot was used prior to adoption of said amendment.

I. The Successor Declarant desires to file this Subsequent Amendment No. 3 for the purpose of amending and modifying certain provisions of Section 9 of the Declaration entitled "Covenants and Restrictions".

NOW, THEREFORE, Successor Declarant hereby declares the following by this Subsequent Amendment No. 3:

1. The Preamble is incorporated in and is made a part of this Subsequent Amendment No. 3.

2. Section 9.2.16 is supplemented as follows:

"In accordance with the current requirements of the Federal Telecommunications Act of 1996, an Owner may install a satellite dish (not to exceed one meter [i.e., approximately 39 inches] in diameter) or television

antenna on his Sublot or Residence, so long as such installation conforms in all respects to the design, construction, installation, location, maintenance, and any other reasonable criteria established by the Design Review Committee. The Design Review Committee shall determine whether or not the Owner meets such criteria. The criteria shall not cause the Owner to incur unreasonable installation, maintenance, or usage costs, nor shall the criteria cause unreasonable interference with a broadcast signal. Notwithstanding the foregoing, if an Owner elects to so install a satellite dish, it is encouraged that the Owner install a Digital or Direct Satellite System ('DDS System'), eighteen inches (18") or less in circumference, so long as the DDS System is screened from the street and from adjoining Sublots, and so long as the prior approval of the location of the DDS System is given by the Design Review Committee. It is common knowledge that the installation of satellite dishes or antennae detract from the aesthetics of Glenwood Preserve. Therefore, as products are developed that diminish the intrusiveness of satellite dishes or antennae, or that provide for less intrusive alternatives to the satellite dishes or antennae currently utilized (collectively, "New Products"), and such New Products provide equal or improved reception, to the extent permitted by law, the Design Review Committee or the Board shall have the right to require Owners to remove their then satellite dishes or antennae and substitute in lieu thereof a New Product; provided that such substitution does not require an Owner to incur unreasonable installation, maintenance, or usage costs."

3. Section 9.2.22 entitled "Fences" is amended to prohibit chain link or cyclone fences for any purpose whatsoever.
4. Section 9 is modified to provide no above ground swimming pools shall be installed or placed on a Sublot.
5. Section 9 is modified to provide that no tool sheds or other unattached structure, other than a garage attached to a Residence, shall be installed or placed on a Sublot.
6. This Subsequent Amendment No. 3 shall not prohibit any chain link fence, above ground swimming pools or storage sheds that were installed or placed on a Sublot with the prior approval of the Design Review Committee in accordance with the requirements of the Declaration prior to the filing of this Amendment; however, any replacement of any of the foregoing shall be subject to this Amendment.

IN WITNESS WHEREOF, Moreland Hills Development Company, an Ohio corporation, has signed this Subsequent Amendment No. 3 this 26<sup>th</sup> day of November, 1997.

WITNESSES:

(names of witnesses must either be typed or printed below their signature)

Peggy L. Jenkins  
Print Name Peggy L. Jenkins

Patricia D. Price  
Print Name Patricia D. Price

SUCCESSOR DECLARANT:

MORELAND HILLS DEVELOPMENT COMPANY, an Ohio corporation

By: Bert L. Wolstein, its  
President

STATE OF OHIO )  
 ) SS:  
COUNTY OF CUYAHOGA )

BEFORE ME, a notary public, in and for said county and state, personally appeared the above-named MORELAND HILLS DEVELOPMENT COMPANY, an Ohio corporation, by Bert L. Wolstein, its President, who acknowledged that he did sign the foregoing instrument and that the same is his free act and deed individually and as such officer, and the free act and deed of said Corporation, for the uses and purposes therein set forth.

IN TESTIMONY WHEREOF, I have set my hand and notarial seal this 26<sup>th</sup> day of November, 1997.

Peggy L. Jenkins  
NOTARY PUBLIC

This Instrument Prepared by:

Richard A. Rosner, Esq.  
Kahn, Kleinman, Yanowitz & Arnson Co., L.P.A.  
1301 East Ninth Street  
Tower at Erieview, Suite 2600  
Cleveland, Ohio 44114-1824  
(216) 696-3311

PEGGY L. JENKINS, Notary Public  
State of Ohio  
My Commission Expires Nov. 9, 1999



# ACKNOWLEDGMENT

The undersigned, being representatives of Owners/Occupiers of Residences at Glenwood Preserve Subdivisions, Twinsburg, Ohio ("Glenwood Preserve") hereby acknowledge that this Amendment No. 3 was requested by the Owners of Residences at Glenwood Preserve and hereby request Moreland Hills Development Company, the Successor Declarant, to execute and record the same.

Date: November 6, 1997

*Greg Tumulty*  
GREG TUMULTY

Date: Nov 6, 1997

*R. T. McClintock*  
ROBERT McCLINTOCK

Date: Nov 6, 1997

*Carl J. Gedeon*  
CARL GEDEON

## COUNTY OF SUMMIT

No. 5070

CERTIFICATE OF PARTNERSHIP

FILED 73 1986  
Recorded - Vol 30 Pg. 281

CR. James B. McCarthy  
JAMES B. MCCARTHY  
AUDITOR

County of Summit

Date 12-5-97 By Dep. MP



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