

X CHICAGO TITLE INSURANCE COMPANY BOX

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**DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS
AND RESTRICTIONS**

OF

THE TOWNHOMES AT FIRST AND MAIN

HUDSON, OHIO

BEING DEVELOPED BY:

**Hudson Village Residential Company, LLC
an Ohio Limited Liability Company**

**c/o Fairmount Properties LLC
2618 North Moreland Boulevard
Cleveland, Ohio 44120**

(216) 514-8700

TRANSFER NOT NECESSARY
John A. Donofrio, Fiscal Officer

7-14-05 jm

This Instrument Prepared By:

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DECLARATION

Submitting the property known as The Townhomes at First and Main, with open spaces and other common areas, being located in the City of Hudson, Summit County, Ohio.

(This will certify that copies of this Declaration, together with Exhibits thereto, have been filed in the Office of the County Recorder, Summit County, Ohio).

Date: July 14, _____, 2005

Summit County Recorder

By: Dyann M. James

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**DECLARATION OF COVENANTS, CONDITIONS,
EASEMENTS AND RESTRICTIONS**

OF

THE TOWNHOMES AT FIRST AND MAIN

HUDSON, SUMMIT COUNTY, OHIO

("Declaration")

THIS DECLARATION made as of the 1st day of July, 2005 by HUDSON VILLAGE RESIDENTIAL COMPANY, LLC, an Ohio limited liability company (referred to herein as the "Developer").

PREAMBLE

A. The Developer is the owner of real property consisting of 0.9421 acres situated on the north side of Clinton Street in the City of Hudson, Summit County, Ohio, as legally described in Exhibit "A" attached hereto and incorporated herein (the "**Property**").

B. The Developer desires to create on the Property a planned Townhome (hereafter defined) community in accordance with the requirements of the Land Development Codes of the City of Hudson. Upon completion, the Townhome community is planned to consist of (however the Developer is under no obligation to construct) twelve (12) Townhomes to be constructed on twelve (12) individual Sublots (hereafter defined) created within the Property, publicly dedicated rights-of-way, and Common Areas (hereafter defined) to be owned and maintained by the Association (hereafter defined) for the benefit of the Owners (hereafter defined) of the Townhomes.

C. The Property consists of the construction of twelve (12) attached Townhomes to be constructed in five (5) separate buildings on twelve (12) individual Sublots, and associated Common Area, as shown on the plat entitled "Subdivision Plat of the Townhomes at First & Main", as filed as Reception No. 55187317 of Summit County Records (the "**Plat**").

D. The Developer desires to provide for: (a) the orderly development of the Property; (b) the establishment and maintenance of architectural and design controls and standards; (c) the preservation of Open Space (hereafter defined); (d) the use and maintenance of the Areas of Common Responsibility (hereinafter defined); (e) the compliance with the Land Development Codes, and rules and regulations of the City of Hudson and other governmental authorities having jurisdiction over the Property; and (f) the protection of values within the Property. The foregoing is being provided so that the residents of the Property may enjoy a quality environment for themselves and their families. For such purpose, the Developer has prepared this Declaration to define the manner in which the Property shall be governed and administered.

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E. A central association will be required to regulate, administer and govern the Property for the fulfillment of the foregoing purposes with the power to levy and collect assessments from Owners (hereafter defined) within the Property and to pay the cost and expense of operating, maintaining, repairing and replacing the Areas of Common Responsibility. The Developer will assign such functions to The Townhomes at first and Main Homeowners' Association, Inc., a corporation not-for-profit, that Developer shall cause to be created under the laws of the State of Ohio (the "Association").

NOW, THEREFORE, Developer declares that the Property shall be owned, held, transferred, sold, conveyed, used, and occupied subject to the covenants, conditions, restrictions, easements, assessments, charges and liens (collectively, the "Covenants and Restrictions") provided in this Declaration, which Covenants and Restrictions shall run with the land in perpetuity and shall be binding on and inure to the benefit of all Persons (hereafter defined) having any right, title or interest in or to any part of the Property, and their respective heirs, personal representatives, successors and assigns.

ARTICLE I.
PREAMBLE; PROPERTY SUBJECT TO THIS DECLARATION;
DEVELOPER'S RIGHT TO ADD AND DELETE LAND

Section 1.1 - Preamble

The Preamble is incorporated in and made a part of this Declaration.

Section 1.2 - Property

The Property which is and shall be owned, held, transferred, sold, used and occupied subject to this Declaration is the real property described in Exhibit "A".

Section 1.3 - Expansion and Contraction of the Property

(a) The Developer 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 additional property, the Developer shall execute and record a Subsequent Amendment to this Declaration which expressly provides that the land described therein shall become a part of the Property 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.

(b) The Developer reserves the right from time to time to delete lands from the Property (provided the lands so deleted have not been previously declared Common Areas or Open Space) and thereby to free such lands from the provisions of this Declaration. Lands not owned by Developer may be deleted from the Property only with the written consent of the title owner thereof. To delete such lands, the Developer 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.

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ARTICLE II.
EXHIBITS AND DEFINITIONS

Section 2.1 - Exhibits

The following Exhibits are attached to and made a part of this Declaration:

EXHIBIT "A": A legal description of the Property and Addresses of the Townhomes.

EXHIBIT "B": Form Certificate of Compliance (See 7.26 of this Declaration)

Section 2.2 - Definitions

For the purposes of brevity and clarity, certain words and terms used in this Declaration are defined as follows:

(a) **"Affiliate Of Developer"**. Any person who controls, is controlled by, or is under common control with the Developer. (1) A Person "controls" the Developer if the Person (a) is a general partner, officer, director, managing member or employer of the Developer, (b) directly or indirectly or acting in concert with one or more other Persons, or through one or more subsidiaries owns, controls, holds with power to vote, or holds proxies representing more than twenty percent of the voting interest in the Developer, (c) controls in any manner the election of a majority of the directors of the Developer, or (d) has contributed more than twenty percent of the capital of the Developer; (2) a Person "is controlled by" a Developer if the Developer (a) is a general partner, officer, director, or employer of the Person, (b) directly or indirectly or acting in concert with one or more other Persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing more than twenty percent of the voting interest in the Person, (c) controls in any manner the election of a majority of the directors of the Person, or (d) has contributed more than twenty percent of the capital of the Person. Control does not exist if the powers described in this subsection are held solely as security for an obligation and are not exercised.

(b) **"Areas Of Common Responsibility"**. The Areas of Common Responsibility shall mean and refer to:

- (1) maintenance, repair and replacement of the Common Areas (including Open Spaces) and all facilities and improvements constructed thereon, including all landscaping, signs and street lights therein (if any);
- (2) maintenance, repair and replacement of, and snow removal (including, but not limited to, the inducement of heat to melt snow within all or a portion of the Association Drives) from all sidewalks and Association Drives within the Property;
- (3) maintenance, repair and replacement of all storm drainage facilities that generally serves the Property to the point they are the responsibility of the City or other governmental body having jurisdiction;

(4) maintenance, repair and replacement of all lateral sanitary sewer lines from the point they connect to the house sanitary sewer line serving only one Townhome, to the point they connect to the main sewer lines which are the responsibility of the City or other governmental body having jurisdiction (each Townhome Owner is responsible for the maintenance of their house sanitary sewer line to the point it connects with the lateral maintained by the Association);

(5) maintenance, repair and replacement of all domestic water lines, natural gas lines, electric lines, telecommunications lines (including telephone, television, and internet access lines) and other such utility lines from the point of entry into each Townhome ultimately served by such utility lines to the point they become the responsibility of the providing utility company, City, or other governmental body having jurisdiction (maintenance, repair, and replacement of such utility lines within each Townhome ultimately served by such utility lines is the responsibility of the Townhome Owner);

(6) maintenance of all Originally Installed Landscaping (as herein defined) within the Property, including that within Sublots and within the Common Areas;

(7) exterior maintenance of Townhomes, as provided in Section 6.1 herein;

(8) maintenance of cluster mailboxes and associated improvements;

(9) real and personal property owned by the Association;

(10) real and personal property not owned by the Association but established by this Declaration or determined by the Board to be the responsibility of the Association;

(11) together with those areas, if any, which by contract with any commercial establishment or association, or with any local governmental authority become the responsibility of the Association. Any public rights-of-way within or adjacent to the Property, may be part of the Areas of Common Responsibility.

(c) **“Articles” or “Articles Of Incorporation”**. The Articles of Incorporation of the Association which are filed with the Secretary of State of Ohio to create the Association.

(d) **“Assessments”**. The assessments levied against all Owners of Townhomes to fund Common Expenses. The term “Assessments” is more fully defined in Section 9.1.

(e) **“Association”**. The Townhomes at First and Main Homeowners’ Association, Inc., a non-profit Ohio corporation, its successors and assigns, created to govern, operate, control and administer the Areas of Common Responsibility and to supervise and enforce this Declaration.

(f) **“Association Drive”**. Any private (non-dedicated) street, driveway, parking area, which is at any time constructed within the Property to serve vehicular traffic, whether within Common Areas, within an easement area across any Sublot, or solely within a Sublot, and which may serve a single Townhome or more than one Townhome, and including any curbs or gutters

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(a) To borrow money from time to time for the purpose of improving the Common Areas or for meeting its obligations with respect to the Areas of Common Responsibility, 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 or by a partial assignment of Assessments or by a special Assessment.

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

(c) To convey the Common Areas or a portion 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, including the successor's acknowledging that the Common Areas (including Open Spaces) shall permanently remain as such.

(d) To enter or authorize its agents to enter on or upon the Property, 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.

(e) 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.

ARTICLE VI.
RESPONSIBILITIES OF THE ASSOCIATION

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

Section 6.1 - Maintenance of Areas of Common Responsibility

The Association shall maintain the Areas of Common Responsibility 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 (including landscape maintenance) and enjoyment of such property. All work performed by the Association under this Article shall be performed in a good and workmanlike manner. The following are included among such Areas of Common Responsibility:

(a) Common Areas and Open Spaces. To maintain all improvements and landscaping situated within the Common Areas (including, but not limited to, Open Spaces, the Association Drives, the Association Sidewalks, and all utilities installed within such Common Areas) in a good and attractive condition, for the use and enjoyment of Owners. The Association shall also

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pay or reimburse Developer for any real estate taxes and assessments assessed with respect to any such Common Areas, and the Association shall accept a deed to and hold title to such areas. The obligations set forth in this subsection shall be deemed to run with and burden the party accepting any such deed and title to the Common Areas.

(b) TreeLawns. To maintain all lawn and landscaping areas within the treeLawns adjacent to or within the public right-of-way in a good and attractive condition as may be required by the City.

(c) Landscaping / Sublot Improvements. To maintain all Originally Installed Landscaping situated within any Sublot pursuant to Section 6.4 herein, to maintain Association Drives and Association Sidewalks whenever situated within any Sublot, and to maintain exterior patios adjacent to Townhomes, all in a good and attractive condition. (Taken out by 3rd amendment)

(d) Snow Removal. To remove snow from the Association Drives, driveways that run from Association Drives to individual garages, Association Sidewalks, and sidewalks with public rights-of-way within the Property. (3rd amendment added 3 inches)

(e) Perimeter Fences and Walls. To maintain, repair and replace any fences, walls or gates which may be situated within the Common Areas.

(f) Common Area Lighting. With respect to all parts (including, but not limited to, poles, standards, fixtures) of a lighting system (if any) which may be installed by or at the direction of Developer or the Association in the Common Areas, to maintain the same in good order and condition, to make all replacements and renewals necessary to so maintain the same, and to operate and to pay all costs of operating the same.

(g) Drainage System. To maintain all piping, culverts, drains, storm water detention / retention areas (if any), and other facilities now or hereafter situated upon any portion of the Property which are intended for the collection, retention, detention, transmittal or disposal of storm-water, and which are not the responsibility of the City or any other governmental authority having jurisdiction thereover, in clean and sanitary condition and in good order and repair and to make all replacements and renewals necessary to so maintain the same.

(h) Utilities.

(1) To maintain, repair and replace all lateral sanitary sewer lines from the point they connect to the house sanitary sewer line serving only one Townhome, to the point they connect to the main sewer lines which are the responsibility of the City or other governmental body having jurisdiction. Each Townhome Owner is responsible for the maintenance of their house sanitary sewer line to the point it connects with the lateral maintained by the Association.

(2) To maintain, repair, and replace those portions of water supply lines, gas supply lines, electric, telephone, television, and other telecommunications wires situated anywhere within the Property (including within a Sublot) from the point of entry into each Townhome ultimately served by such utility lines to the point they become the responsibility of the providing utility company, the City or other governmental authorities



having jurisdiction. Maintenance, repair, and replacement of such utility lines within each Townhome ultimately served by such utility lines is the responsibility of the Townhome Owner.

(i) Mailboxes. To maintain all cluster mailboxes and associated structures in a good and attractive condition.

(j) Maintenance of Non-Association Property. The Association shall maintain property which it does not own, including, without limitation, property dedicated to the public, if the Board determines that it is in the best interest of The Townhomes at First and Main for the Association to maintain the same.

(k) Gutters & Downspout Cleaning. The Association shall clean, maintain, repair and replace gutters and downspouts attached to Townhomes.

(l) Townhome Maintenance. The Association shall keep the exterior features and materials of all Townhomes in good condition and repair, including masonry, siding, trim, windows, doors, roofing, skylights, balconies, light fixtures, and all other exterior improvements. Each Owner shall be liable for the expenses of any maintenance, repair or replacement (or payment of any deductible amount required by any insurance policy) rendered necessary by his or her negligence or by that of any member of his or her family or his or her or their guests, employees, agents or lessees, to the extent that such expense is not covered by the proceeds of insurance carried by the Association.

Section 6.2 - Taxes and Assessments

(a) The Association shall pay all taxes and assessments levied against portions of the Property owned by the Association, including, without limitation, personal property taxes, general real estate taxes and special assessments certified by the applicable public authority following conveyance of such property to the Association, the same to be prorated to the date such property is created as a separate tax parcel and is submitted to this Declaration.

Section 6.3 - Utilities

The Association shall pay all charges for water, sewer, electricity, light, heat or power, telephone and other services used, rented or supplied to or 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.

Section 6.4 - Maintenance of Originally Installed Landscaping by the Association

In addition to the maintenance and repair of the Common Areas, the Association shall provide maintenance of the Originally Installed Landscaping situated on a Sublot. For the purpose solely for performing the maintenance required by this Section, the Association, through its duly authorized agents, employees and contractors, shall have the right and license to enter upon any Sublot at reasonable hours.

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Section 6.5 - Insurance and Reconstruction

(a) Insurance. The insurance which shall be carried upon the Common Areas and Townhomes shall be governed by the following provisions:

(1) Casualty Insurance for Common Areas. The Association shall carry casualty insurance on all insurable improvements comprising the Common Areas and all personal property as may be owned by the Association and for which the Association is responsible (the "Casualty Policy").

(2) Casualty Insurance for Townhomes. The Association shall carry, as part of the Casualty Policy, casualty insurance on all insurable improvements comprising the Townhome buildings, other than those improvements located within the bounds of each Townhome as set forth in Section 6.5(a)(6). The Association shall not insure any improvements within the bounds of a Townhome, nor shall the Association insure any of the contents of a Townhome. The casualty insurance to be purchased hereunder by the Association shall be in an amount not less than one hundred percent (100%) of the insurable replacement cost of such improvements, with a "Guaranteed Replacement Cost Endorsement" (excluding excavation and foundation costs and other items normally excluded from coverage), as determined by a qualified appraiser, the amount determined and the insurance to be reviewed annually and adjusted if necessary. The cost of the appraisal shall be a Common Expense. Such insurance shall include the following coverages:

- (i) loss or damage by fire and other hazards covered by the standard extended coverage endorsement;
- (ii) such policy shall include, if reasonably available, a "Construction Code Endorsement" or its equivalent, a "Demolition Cost Endorsement" or its equivalent, an "Increased Cost of Construction Endorsement" or the equivalent, a "Contingent Liability from Operation of Building Laws Endorsement", or its equivalent, and an "Agreed Amount and Inflation Guard Endorsement" or its equivalent; and
- (iii) such other risks (including flood insurance if such insurance is available) as from time to time customarily shall be covered with respect to buildings similar to the Townhome buildings in construction, location and use, including, but not limited to, debris removal, vandalism, malicious mischief, windstorm and water damage, subject to such deductible amounts as the Board shall determine, provided, however, such deductible amounts shall not exceed the lesser of Five Thousand Dollars (\$5,000) or one percent (1%) of the policy amount. except as set forth in Sections 6.1(l) and 6.5(f) herein, the deductible amounts shall be treated as a Common Expense.

The Casualty Policy shall provide that the coverage thereof shall not be terminated for non-payment of premiums without at least ten (10) days' written notice to



the Townhome Owners, the Association and to each Townhome first mortgagee. All Casualty Policies shall be purchased by the Association for the benefit of the Developer, the Association, the Owners and their respective mortgagees, as their interests may appear, and shall provide (i) for the issuance of certificates of insurance with mortgagee endorsements to the holders of mortgages on the Townhomes, if any; (ii) that the insurer waives its rights of subrogation against Owners, Occupants of Townhomes, and the Association; (iii) that the insurance will not be prejudiced by any acts or omissions of Owners that are not under the control of the Association; and (iv) the policy is primary, even if an Owner has other insurance that covers the same loss. The Casualty Policies and any endorsements thereto shall be deposited with the Association or with the Insurance Trustee (as hereinafter defined), if one is appointed, who must first acknowledge that the policies and any proceeds thereof will be held in accordance with the provisions hereof. All Casualty Policies shall provide that all proceeds payable as a result of casualty losses shall be paid to the Association as exclusive agent for each of the Owners and each holder of a mortgage or other lien on any Townhome unless the Board determines to appoint an Insurance Trustee in accordance with the provisions of this Declaration.

(3) Liability Insurance for Common Areas. The Association shall insure itself, the members of the Board, the Owners and Occupants of Townhomes against liability for personal injury, disease, illness or death and for injury to or destruction of property occurring upon, in or about, or arising from or relating to the Common Areas and the Park, including, without limitation, water damage, legal liability, hired automobile, non-owner automobile and off-premises employee coverage, such insurance to afford protection to a limit of not less than One Million Dollars (\$1,000,000) in respect to personal injury, disease, illness or death suffered by any one person, and to the limit of not less than Two Million Dollars (\$2,000,000) in respect to any one occurrence, and to the limit of not less than Five Hundred Thousand Dollars (\$500,000) in respect to damage to or destruction of property arising out of any one accident. In the event the insurance effected by the Association on behalf of the Owners and Occupants of Townhomes who are not Owners against liability for personal injury or property damage arising from or relating to the Common Areas shall, for any reason, not fully cover any such liability, the amount of any deficit shall be a Common Expense to the Owners. The Association shall also obtain directors and officers liability coverage, if reasonably available.

(4) Fidelity Bonds. To the extent available for a reasonable premium, a fidelity bond indemnifying the Association, the Board and the Owners for loss of funds resulting from fraudulent or dishonest acts of any employee of the Association or of any other person handling the funds of the Association, the Board or the Owners in such amount as the Board shall deem desirable, but in no event shall the amount of the bond be less than an amount equal to three (3) months' Assessments. The fidelity bond shall name the Association as the obligee, and the premium for such bond shall be a Common Expense. Such bond shall contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee" or similar expression. Such bond shall provide that it may not be canceled for non-payment of any



premiums or otherwise substantially modified without ten (10) days prior written notice to the Association and to all Eligible Mortgage Holders.

(5) Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association at least thirty (30) days prior to the expiration date of such policies and shall be assessed as Common Expenses.

(changed in 3rd amendment)(6) Townhome Owner Insurance. Each Owner may, at his or her own expense, obtain insurance covering the improvements, betterments and contents of his or her Townhome, the foregoing including, but not limited to, interior non-loadbearing partitions, floor and wall coverings, furniture, fixtures and plaster, plasterboard (drywall), cabinetry, sinks, dishwashers, disposals, toilets and other plumbing fixtures, lights and other electrical fixtures, and other improvements and betterments in the Townhome, and any personal property which such Owner stores elsewhere on the Property, and each Owner may, at his or her own expense, obtain public liability insurance for personal injuries or damage arising out of the use and occupancy of his or her Townhome, but such casualty insurance shall provide that it shall be without contribution as against the Casualty Policy purchased by the Association or shall be written by the carrier of such Casualty Policy and shall contain the same waiver of subrogation as that referred to in subsection 6.5(a)(2) above.

(7) Rating of Insurance Company. All policies for insurance of the Association shall be written with a company licensed to do business in Ohio and holding a rating of B/VI or better in the Financial Category as established by A. M. Best Company, Inc. if reasonably available, or, if not available, the most nearly equivalent rating.

(b) Insurance Trustee. If the amount of the loss exceeds Fifty Thousand Dollars (\$50,000), the Board shall designate and appoint an insurance trustee who shall be a bank in the Cleveland, Ohio area having trust powers and total assets of more than One Billion Dollars (\$1,000,000,000). (Such trustee shall be herein referred to as the "Insurance Trustee".) The Insurance Trustee shall not be liable for payment of premiums nor for the renewal of the policies, nor for the sufficiency of coverage, nor for the form or contents of the policies, nor for the failure to collect any insurance proceeds. The sole duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein, and for the benefit of the Association, the Owners, and their respective mortgagees. The Insurance Trustee may rely upon a certificate of the Association certifying as to whether or not the damaged property is to be reconstructed or repaired which such certificate shall be delivered, upon request of the Insurance Trustee as soon as practicable.

(c) Responsibility for Reconstruction or Repair.

(1) If any portion of the Common Areas or Townhomes shall be damaged by perils covered by the Casualty Policy, the Association shall cause such damaged portion to be promptly reconstructed or repaired to the extent of the funds made available to the Association (or the Insurance Trustee if one has been appointed), as hereinafter provided,



and any such reconstruction or repair shall be substantially in accordance with the original construction.

(2) Each Owner shall be responsible for the repair of his or her Townhome after a casualty that is not covered by the Association's Casualty Policy.

(d) Procedure for Reconstruction or Repair.

(1) Immediately after a casualty causing damage to any portion of the Common Areas or Townhomes, the Association shall obtain reliable and detailed estimates of the cost to place the damaged property in condition as good as the condition of the property before the casualty. Such costs may include professional fees of public adjuster firms and others and premiums for such bonds as the Board deems necessary.

(2) If the proceeds of the Casualty Policy are not sufficient to defray the estimated costs of reconstruction and repair by the Association (including the aforesaid fees and premiums, if any,) one or more special assessments shall be made against all Townhome Owners in sufficient amounts to provide funds for the payment of such costs, and the proceeds of such special assessments shall be deposited with the Association or the Insurance Trustee, as the case may be.

(3) The proceeds of the Casualty Policy and the sums deposited from collections of special assessments against Owners on account of such casualty, shall constitute a construction fund which shall be disbursed to the Association or the Insurance Trustee, as the case may be, and be applied to the payment of the cost of reconstruction and repair of the portion of Property that is covered by the Association's Casualty Insurance policy from time to time as the work progresses, but not more frequently than once in any calendar month. The Association or the Insurance Trustee, as the case may be, shall make such payments upon receipt of a certificate, dated not more than fifteen (15) days prior to such request, signed by the architect or contractor in charge of the work, who shall be selected by the Association, setting forth (a) that the sum then requested is justly due to contractors, subcontractors, materialmen, architects, or other persons who have rendered services or furnished materials in connection with the work, giving a brief description of the services and materials, and that the sum requested does not exceed the value of the services and materials described in the certificate, (b) that except for the amount stated in such certificates to be due as aforesaid less any prescribed holdback of funds, and for work subsequently performed, there is no outstanding indebtedness known to the person signing such certificate after due inquiry which might become the basis of a vendor's, mechanic's, materialmen's or similar lien arising from such work, and (c) that the cost as estimated by the person signing such certificate of the work remaining to be done subsequent to the date of such certificate does not exceed the amount of the construction fund remaining in the hands of the Association or the Insurance Trustee, as the case may be, after the payment of the sum so requested. It shall be presumed that the first monies disbursed in payment of such costs of reconstruction and repair shall be from insurance proceeds; and if there is a balance in any construction fund after payment of all costs of the reconstruction and repair for which the fund is established (the "Excess Balance"), the Excess Balance shall be distributed to the



Owners of the damaged Townhomes (in such case). The distribution of the Excess Balance shall be in the shares that the estimated costs of reconstruction and repair for each damaged Townhome bears to the total of these costs for all damaged Townhomes. If there is a mortgage upon a Townhome, the distribution of the Excess Balance shall be paid to the Owner thereof and the mortgagee thereof jointly, and they may use the proceeds as they may determined.

(4) The Insurance Trustee (if any) may rely upon a certificate of the Association certifying as to whether or not the damaged property is to be reconstructed or repaired. The Association, upon request of the Insurance Trustee, shall deliver such certificate as soon as practical.

(5) If the estimated cost of reconstruction and repair is less than the total of the annual assessments for Common Expenses made during the calendar year preceding that in which the casualty occurred, then, notwithstanding the appointment of any Insurance Trustee as herein provided, the construction fund may be disbursed upon the order of the Board; provided, however, that at the request of a mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such proceeds shall be disbursed by the order of the Board; in the manner provided for disbursement in subsection (3) above.

(6) Each Owner shall be deemed to have delegated to the Board his or her right to adjust with insurance companies all losses under the Casualty Policy.

(e) Minor Repairs.

(1) Notwithstanding the foregoing provisions of this Article, if the aggregate amount of the estimated costs of repairing any damage to the Common Areas or Townhomes is less than Fifty Thousand Dollars (\$50,000), the instrument (or draft) by means of which any insurance proceeds are paid shall be delivered to the Association and the damage shall be repaired in accordance with subsection 6.5(e)(2) below.

(2) Such insurance proceeds shall be used by the Association to defray the cost of repairing the damage to the portions of the Common Areas or Townhomes that are covered by the Casualty Policy. If the cost of such repairs is less than the amount of such insurance proceeds, the Excess Balance shall be distributed to the Owners of the damaged Townhomes in accordance with subsection 6.5(d)(3) above. The distribution shall be in the shares that the estimated costs of reconstruction and repair for each damaged Townhome bears to the total of these costs for all damaged Townhomes. If there is a mortgage upon a Townhome, the distribution of the Excess Balance shall be paid to the Owner thereof and the mortgagee thereof jointly and they may use the proceeds as they may determine. If the cost of such repairs exceeds the amount of such insurance proceeds, such excess may be provided either by means of a Common Assessment levied by the Board against all Owners or by means of an appropriation from the contingency fund or such other fund as may be established for the purpose of providing for the maintenance, repair and replacement of the Common Areas and Townhomes, as the Board may determine.



(f) Negligence of an Owner. Each Owner shall be liable for the expenses of any maintenance, repair or replacement (or payment of any deductible amount required by any insurance policy) rendered necessary by his or her negligence or by that of any member of his or her family or his or her or their guests, employees, agents or lessees, to the extent that such expense is not covered by the proceeds of insurance carried by the Association. An Owner shall pay the amount of any increase in insurance premiums occasioned by his or her use, misuse, occupancy or abandonment of his or her Townhome or its appurtenances or of the Common Areas.

Section 6.6 - Management

The Association shall provide the management and supervision for the operation of the Areas of Common Responsibility. 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:

(a) Adopt Rules;

(b) Engage employees and agents, including without limitation, security personnel, attorneys, accountants and consultants, maintenance firms and contractors;

(c) Delegate all or any portion of its authority and responsibilities to a manager, managing agent, or management company. Such delegation may be evidenced by a management contract which shall provide for the duties to be performed by the managing agent and for the payment to the managing agent of a reasonable compensation. Upon the expiration of each management agreement, the Association may renew said management agreement or enter into a different agreement with the same or a different managing agent, provided that no management agreement or renewal thereof shall be for a period longer than three (3) years, and provided, further, that the Board may designate a different managing agent with whom the Association shall enter into an agreement after the end of the then existing management agreement; and

(d) The management agreement may be with an entity owned by or associated with Original Developer or owned by, associated with, controlled or employed by any partner, shareholder, officer, director, agent or employee of Original Developer, and may be for a period of time not to exceed three (3) years, in Original Developer's sole discretion. The compensation payable to the Original Developer or its affiliate shall be comparable to compensation paid to unrelated management companies located in the Northeast Ohio area for similar types of developments.

Section 6.7 - Upgrading

The Association may continuously attempt to make reasonable upgrades to the Areas of Common Responsibility for the good and welfare of all of its Members. In so doing the Association is authorized to expend reasonable sums of money for such purpose and intent, subject to the provisions of this Declaration and reasonable monetary considerations.

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Section 6.8 - Enforcement

The Association shall take all actions reasonably necessary under the circumstances to enforce the covenants and restrictions set forth in Article VII hereof.

Section 6.9 - Rules and Regulations

The Association, through the Board, may make and enforce reasonable rules and regulations governing the Areas of Common Responsibility, 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 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 of the Association. An Owner shall be subject to the foregoing sanctions in the event of a violation by such Owner, his family, guests, Tenants or by his co-Owners or the family, guests or Tenants of such co-Owners. Furthermore, the Association, through the Board, may, by contract or other agreement, enforce City ordinances or permit the City or other governmental authorities having jurisdiction to enforce ordinances on the Property for the benefit of the Association and its Members.

Section 6.10 - 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.

Section 6.11 - Original Developer's Rights

During the Class "B" Control Period, the Original Developer 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 under Original Developer's blanket policy (if any), the right to perform each duty and obligation of the Association set forth herein, the right to collect assessments and disburse all funds of the Association, and the right to have a lien (and to foreclose said lien) on a Townhome for unpaid assessments in the manner and to the extent granted to the Association as herein provided.

ARTICLE VII.
COVENANTS AND RESTRICTIONS

The intent of this Declaration is to cause the Property to be well kept and maintained. Therefore, the covenants and restrictions provided in this Article shall be applicable to the Owners, Land Contract Vendees, Lessees, Tenants and Occupants of the Property. The following Covenants and Restrictions shall be broadly construed and interpreted in furtherance of this intent. The Association, acting through its Board, shall have standing and the power to enforce such standards.

The Association, acting through the Board, shall have authority to make and to enforce standards and restrictions governing the use of the Property in addition to those contained herein, and to impose reasonable user fees for use of Common Area facilities. Such regulations and use

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restrictions shall be binding upon all Owners, Land Contract Vendees, Lessees, Tenants and Occupants.

Section 7.1 - Covenant of Good Maintenance; Fire Suppression Sprinkler System

(changed in 3rd amendment) Each Owner and Occupant shall have the duty to maintain the interior of his or her Townhome in good condition and repair and shall keep the exterior and interior of such Townhome and the adjacent Common Areas free from debris, rubbish, rubble and other conditions created by such Owners or Occupants or their guests; and

(b) In addition, it is a requirement of the City that each of the Townhomes to be constructed on Sublots 5, 6, 7 and 8 has an individual fire suppression sprinkler system ("System") of the type prescribed by the City. Each Owner of said Townhomes shall have the obligation to maintain the System in good operating condition and shall be responsible for the repair and replacement of the System (collectively, the "Repairs"). Furthermore, the Owner of a Townhome on each of the other Sublots ("Optional Owner") shall have the option (but not the obligation) to have the System installed in the Optional Owner's Townhome. If the Optional Owner exercises such option, the Optional Owner shall be obligated to make the Repairs as required above. If an Owner, including an Optional Owner, fails to make the Repairs the Association shall give such Owner notice to perform the Repairs, and if such Owner fails to make the Repairs within ten (10) days after such notice, the Association shall make the Repairs and assess such Owner for the cost thereof. Such costs shall be deemed an Assessment under this Declaration and shall be subject to Costs of Collection under Section 11.3 hereof. If an Owner and the Association fail to make the Repairs, the City will have the right (but not the obligation) to make the Repairs and exercise the rights granted to the City by Section 10.7 of this Declaration. **(3rd amendment added annual proof of inspection)**

Section 7.2 - Trailers

No temporary buildings, trailer, recreation vehicle, garage, tent, shack, barn, or any similar structure shall be used, temporarily or permanently, as a residence on any part of the Property at any time.

Section 7.3 - Fences, Walls and Hedges; Mail Boxes

No fences, walls, or landscaping of any kind shall be erected, begun or permitted to remain upon any portion of the Property unless originally constructed by Developer. All mail boxes shall be as provided by the Developer or the Association.

Section 7.4 - Nuisance

(3rd amendment added "illegal")

No noxious or any activity constituting an unreasonable source of discomfort or annoyance shall be carried on upon any portion of the Property (including the Townhomes situated thereon), nor shall anything be done thereon that may be or become a nuisance or annoyance to other Owners. The Board shall have absolute power to determine what is "reasonable" and what is "unreasonable" under this Section.

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Section 7.5 - Animals

No animals, livestock, or poultry of any kind shall be raised, bred or kept on any portion of the Property (including the Townhomes situated thereon) without the approval of the Board, except that dogs, cats, birds, fish and other customary household pets approved by the Board may be kept, subject to Rules adopted by the Board, provided that they are not kept, bred or maintained for any commercial purpose and provided, further, that any such pet causing or creating a nuisance or unreasonable disturbance or annoyance shall be permanently removed from the Property upon three days' written notice from the Board. Dogs shall at all times whenever they are outside a Townhome be confined on a leash held by a responsible person. Each Owner shall immediately clean up after his or her dog. No more than two (2) cats, dogs, or combination thereof shall be kept in any one Townhome. The Rules may further limit the number of pets which may be kept in any one Townhome. The Board shall have absolute power to prohibit a pet from being kept on the Property or within a Townhome if the Board finds a violation of this Section.

Section 7.6 - Signs

No sign or other advertising device of any nature shall be placed upon any portion of the Property except for "For Sale" signs (which are permitted if in compliance with all City ordinances and regulations) and other signs and advertising devices installed by or at the direction of the Design Review Committee, or which the Design Review Committee approves as to color, location, nature, size and similar characteristics. Notwithstanding the foregoing, the restrictions of this Section 7.6 shall not apply to Developer.

Section 7.7 - Storage of Material and Trash Handling

No lumber, metals, bulk material, refuse or trash shall be burned, whether in indoor incinerators or otherwise, kept, stored or allowed to accumulate on any portion of the Property, except normal residential accumulation pending pick-up and except building materials during the course of construction or reconstruction of any approved building or structure. If trash or other refuse is to be disposed of by being picked up and carried away on a regular recurring basis, containers may be placed in the open on any day that a pick-up is to be made, thereby providing access to persons making such pick-up. At all other times such containers shall be stored in such manner that they cannot be seen from adjacent and surrounding property. No dumping of rubbish shall be permitted on any portion of the Property. Anything herein to the contrary notwithstanding, the Association or the Board may adopt a Rule or Rules which permit burning, incineration or storage of refuse or trash if the same becomes reasonably necessary for the safety, health or welfare of the Occupants, and is permitted by law. **(3rd amendment added no earlier than 6...)*

Section 7.8 - Commercial or Professional Uses

Except as expressly permitted in this Declaration, or by Rules adopted in accordance with this Declaration, no industry, business, trade or full-time occupation or profession of any kind, commercial, educational, or otherwise, designated for profit, altruism, exploration or otherwise, shall be conducted, maintained or permitted on any part of the Property; provided, however, an Occupant may use a portion of his or her Townhome for his office or studio, so long as the

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activities therein shall not interfere with the quiet enjoyment or comfort of any other Occupant and that such use does not result in the Townhome becoming principally an office, school or studio as distinct from a Townhome. Furthermore, no trade or business may be conducted in or from any Townhome without the written approval of the Board (or Covenants Committee referred to in the Code) first obtained. Such approval shall be granted so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Townhome; (b) the business activity conforms to all City zoning requirements for the Property; (c) the business activity does not involve employees who do not reside in the Property; (d) the business activity does not involve persons coming onto the Property who do not reside in the Property except by appointment only; (e) the business activity does not involve door-to-door solicitation of Occupants of the Property; and (f) the business activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Property, as may be determined in the sole discretion of the Board (or a Covenants Committee). The Board may adopt Rules which intensify, relax or amend the prohibitions of this Article. Nothing in this Section shall preclude the leasing of a Townhome by the Developer or an Owner; the right of the Developer or the Board (or a firm or agent employed by the Developer or Board) to approve commercial activities such as charity events, temporary food and beverage operations, the right of the Developer to maintain brokerage offices for sales of Sublots and for new sales of Townhomes within the Property, and resales of Townhomes and the right of the Developer to utilize a Townhome for model home and/or for office purposes.

Section 7.9 - Storage of Vehicles and Machinery; No Parking on Association Drives

No truck (except a two-axle truck with no more than four tires), camper, camper trailer, recreation vehicle, boat, boat trailer, all terrain vehicle, airplane, snowmobile, commercial vehicle, mobile home, tractor, bus, farm equipment, off-road vehicles or other vehicle of any kind, licensed or unlicensed, shall be stored on any driveway or other area in or upon the Property, except in the confines of garages. No machinery of any kind shall be placed or operated upon any portion of the Property except such machinery which is customarily required for the maintenance of the Property, related improvements, lawns and landscaping. Furthermore, there shall be no parking of motor vehicles on the Association Drives other than as allowed pursuant to Section 3.5 herein, except that the Developer and/or the Board may designate certain on-street parking areas for temporary use by visitors or guests subject to reasonable rules and regulations, and subject to applicable laws.

Section 7.10 - Firearms; Preservation of Wildlife

Firearms, ammunition and explosives of every kind shall not be discharged nor shall any traps or snares be set, nor shall any hunting or poisoning of wildlife of any kind be permitted in or upon the Property, except for rodent control, and the control of such other animals as constitute a nuisance or cause damage to the Property, or except with the prior written approval of the Board.



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Section 7.11 - Control of Trucks, Commercial Vehicles

No tractor trailers, commercial tractors, commercial vehicles, road machinery or excavating equipment shall be permitted to remain on any portion of the Property for any period of time whatsoever, except while making deliveries or performing services thereon and except as necessary for the construction, reconstruction or repair of buildings or structures on the Property.

Section 7.12 - Traffic Regulations

All vehicular traffic on the Association Drives shall be subject to the provisions of the laws of the State of Ohio and the City concerning operation of motor vehicles on public streets. The Association is hereby authorized to promulgate, administer, and enforce reasonable rules and regulations governing vehicular and pedestrian traffic on the Association Drives, including reasonable safety measures and speed limits. The Association shall be entitled to enforce the same by establishing such enforcement procedures as it deems appropriate, including levying fines for the violation thereof. In the event of a conflict between such provisions of the laws of the State of Ohio or the City, and such rules and regulations promulgated by the Association, the more restrictive rules and regulations shall govern. Only drivers licensed to operate motor vehicles by the State of Ohio or by any other state in the United States may operate any type of motor vehicle within the Property. All vehicles of any kind and nature which are operated on the Association Drives shall be operated in a careful, prudent, safe, and quiet manner.

Section 7.13 - Poles, Wires and Antennae

Subject to applicable easement rights, no facilities, including poles and wires, for the transmission of electricity, telephone messages, ham radio messages and the like shall be placed or maintained above the surface of the ground in any portion of the Property without the prior approval of the Design Review Committee. This provision shall not apply for temporary facilities for the construction or repair of any building or other structure. A Digital or Direct Satellite System ("DSS System"), one meter (approximately 39 inches) or less in circumference, may be attached to a Townhome in conformance with FCC regulations so long as the prior approval of the location of the DSS System is given by the Design Review Committee, provided, however, the criteria used to approve the location of such DSS System shall not cause the Owner unreasonable delay in installation; cause the Owner to incur unreasonable installation, maintenance or usage costs; nor shall the criteria cause unreasonable interference with a broadcast signal.

Section 7.14 - Exterior Appearance, and Lights for Exteriors of Residences

The exterior of any building or structure in the Property shall not be altered, modified, changed or redecorated in such a way as to change the appearance or decor of the structure, nor shall any of the landscaping appurtenant to such building or structure be materially changed without the express written authorization of the Design Review Committee. The provisions of this paragraph are subject to the provisions of Article VIII of this Declaration. For the purpose of providing security, each Owner shall keep the bulb(s) in all exterior lights originally attached to the exterior of his or her Townhome in good working order. This lighting is in addition to the lighting (if any) referred to in Section 6.1(f) hereof.

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Section 7.15 - Grading

No Person shall change the grade on any portion of the Property without first obtaining the consent of the Design Review Committee.

Section 7.16 - Storm Drainage

No Person shall interfere with the free flow of water through any drainage system or storm sewers within the Property. The City or other governmental authority having jurisdiction shall have the right to enter upon the Common Areas of the Property to repair and maintain all storm, drainage, courses, structures and appurtenances for the purpose of relieving any flooding condition or threatened flooding condition which might be harmful to other property within the City. This Section supplements Section 3.9 hereof.

Section 7.17 - Resubdivision of Sublots

No Sublot shall be subdivided or its boundary lines changed except with the proper written approval of the Board or except as expressly authorized herein. Developer, however, hereby expressly reserves the right to replat any Sublot owned by Developer. Any such division, boundary line change, or replatting shall not be in violation of applicable City regulations.

Section 7.18 - Compliance with City Codes

Each Owner shall comply with City and other governmental requirements. It is agreed that a violation of any such requirements or any restriction, condition, covenant or restriction imposed now or hereafter by the provisions of this Declaration is a nuisance per se that can be abated by the Association or such governmental authority.

Section 7.19 - Use of the Name "The Townhomes at First and Main"

No Person shall use the name "The Townhomes at First and Main" or any derivative thereof in any printed or promotional material without the prior written consent of Developer. However, Owners may use the name "The Townhomes at First and Main" in printed and promotional material where such word is used solely to specify that particular property is located within The Townhomes at First and Main.

Section 7.20 - Sale, Leasing or Other Alienation of Townhomes

(a) Owner's Right of Transfer. The Association shall have no right of first refusal with respect to the purchase or lease of a Townhome, and an Owner shall be able to transfer his Townhome freely by sale, gift, devise, lease or otherwise without restriction except as provided in subsection (b) below.

(b) Owner's Right to Lease Townhome. An Owner shall have the right to lease all (but not less than all) of his Townhome upon such terms and conditions as the Owner may deem advisable, except that no Townhome shall be leased or subleased for transient or hotel purposes. Any lease or sublease of a Townhome for a period of less than six (6) months shall be deemed to be a lease or sublease for transient or hotel purposes. Any lease or sublease of a Townhome

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shall be in writing and shall provide: (1) that the lease or sublease shall be subject to the terms of this Declaration, the Code and Rules and that any failure of a lessee to comply with the terms of this Declaration, the Code and Rules shall be in default under the lease or sublease; (2) that the Association shall have the right to require the Owner to deposit with the Association such amount as the Association shall consider appropriate as security to provide funds for repairs and to assure compliance with this Declaration, the Code and Rules. The limitations with respect to the leasing of Townhomes shall not apply to the Developer or a first mortgagee of a Townhome.

(c) Names of Owners and Occupants of Townhomes . To enable the Association to maintain accurate records of the names, addresses and phone numbers of Owners and other Occupants of Townhomes, each Owner agrees to notify the Association in writing, within five (5) days before such Owner's Townhome will be transferred or leased to another person. In addition, each Owner agrees to provide to a purchaser or lessee of such Owner's Townhome a copy of this Declaration, the Code, the Rules and other relevant documents.

Section 7.21 - Swimming Pool Restrictions

No swimming pools are permitted on the Property.

Section 7.22 - Party Walls

(a) Each wall which is built as part of the original construction of a Townhome upon the Property and placed on the dividing line between two Townhome Sublots shall constitute a Party Wall. The Association shall maintain the exterior portion of all Party Walls, and shall insure all Party Walls under the Casualty Policy. Owners sharing a Party Wall shall be responsible for all interior maintenance, repair, and replacement of such Party Wall which is not provided by the Association or under the coverage provided by the Casualty Policy.

(b) Each Owner sharing a Party Wall shall have the full right to use the Party Wall for the support of beams and structural materials or in any other lawful manner not prohibited hereby; provided, however, that such use shall not injure, impair the strength of, or endanger the wall, foundation or other portion of the Townhome of the other Owner, and shall not impair or endanger the Party Wall benefits and supports to which the adjoining Townhome is entitled.

(c) Neither Owner of a Townhome sharing a Party Wall may extend the length or increase the height of the Party Wall.

(d) Except as exterior maintenance shall be provided by the Association, the cost of reasonable repair and maintenance of a Party Wall shall be shared equally by the Owners who make use of the Party Wall.

(e) Notwithstanding any other provision of this subsection, an Owner who by his or her negligent or willful act causes the Party Wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

(f) The right of any Owner to contribution from any other Owner under this subsection shall be appurtenant to the land and shall pass to such Owners successors in title.



(g) In the event of any dispute arising concerning a Party Wall, or under the provisions of this Section, such dispute shall be submitted to arbitration pursuant to Section 16.9 of this Declaration.

Section 7.23 - Waiver of Subrogation

Each Person as a condition of accepting title and/or possession of a Townhome 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.

Section 7.24 - Violation of this Article

(a) 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 Developer (as long as the Developer is a Class "B" Member of the Association) or the Board and/or the Design Review Committee and/or the Covenants 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.

(b) 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 Developer and/or the Association shall have the right, through their respective agents and employees, to enter upon the land where the violation exists and to summarily terminate, remove or extinguish the violation. In addition to the foregoing, the Developer 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 Article. The rights and remedies of the Association and Developer contained in this Article 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 entitled, "Hearing Procedure", a Person in violation of this Article VII shall be obligated to the Association and/or Developer 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 9.4, become a continuing lien upon the portion of the Property owned or occupied by such

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Person(s) and a personal obligation of the Person(s) violating this Article. 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.

Section 7.25 - Restrictions of Other Documents

Nothing contained in these Restrictions shall preclude the imposition of more stringent restrictions imposed elsewhere in this Declaration, restrictions imposed on Sublots within subdivisions, restrictions imposed in deeds conveying the Property or portions thereof and restrictions imposed by the Design Review Committee so long as such restrictions are not inconsistent with restrictions imposed by the this Declaration, created by the Association or adopted by the Board.

Section 7.26 - Certificate of Compliance with Restrictions in Connection with Resales of Townhomes

Upon an Owner's reconveyance of his/her/their Townhome or an interest therein, such Owner (i.e. seller) shall request the Association to issue a Certificate of Compliance stating that the Association has no record of a violation of this Article and stating the unpaid Assessments and amount of monthly (or quarterly) Assessments attributable to such Townhome. A Certificate of Compliance may be relied upon by all persons for all purposes. Neither the Board, nor such officer or agent shall have any liability to the seller, buyer or mortgagee of a Townhome or to others if the Certificate of Compliance issued hereunder is not correct. The Association may require the advance payment of a reasonable processing fee for the issuance of the Certificate of Compliance. The Certificate shall be substantially in the form of Exhibit "B".

ARTICLE VIII.
DESIGN REVIEW COMMITTEE

Section 8.1 - Power of Committee

There is hereby created a Design Review Committee (the "**Committee**") for the purpose of architectural and engineering control to secure and maintain an attractive, harmonious residential community. The Developer shall function as and grant all approvals provided for herein until the Developer conveys the last Sublot the Developer owns in the Property, except that the Developer may elect to delegate and assign such duties and responsibilities to the Committee prior to that time. The Committee appointed by the Developer shall serve at the pleasure of the Developer and need not be made up of members of the Association. After control of the Property has been transferred over to the Association, the Committee shall be composed of no less than three (3) individuals appointed by the Board of Directors to serve at the Board's pleasure. A vote of the majority of members of the Committee shall be required to constitute the decision of the Committee.

Section 8.2 - Operation of Committee

No Townhome shall be altered, modified or changed in any way which changes exterior or the appearance thereof, nor shall any Townhome be rebuilt, nor shall any grading or landscaping for a Sublot be changed unless an application, plans and specifications for the

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proposed alteration, modification or change shall have been submitted to and approved in writing by the Committee. The rights of the Committee set forth in this subsection are in addition to the rights of the Committee as set forth elsewhere in this Declaration. The provisions of this subsection requiring submission of plans and specifications to and obtaining approval from the Committee shall not be applicable to the Developer, nor any entity related to or affiliated with the Developer or designated by the Developer as being subject to the provisions of this subsection.

Section 8.3 - Inspection

The Design Review Committee may inspect work being performed with its permission to assure compliance with this Declaration and applicable regulations. The presence of a member of the Design Review Committee, or an agent thereof, on any Sublot, shall not be deemed a trespass so long as the presence is in furtherance of said member's duties as a member of the Design Review Committee. The Design Review Committee shall have access to a Townhome at reasonable times and upon reasonable notice to the Owner of such Townhome.

Section 8.4 - Violations and Remedies

Should any Townhome be altered, constructed, or related improvements be reconstructed or removed from or upon any Sublot, or should the use thereof be modified in any way from the use originally constructed or installed without first obtaining the prior written approval of the Developer or Design Review Committee as provided in this Article VIII, such act shall be deemed to be a violation of this Article VIII and this Declaration. Any party violating this Article VIII shall, immediately upon the receipt of written notice of such violation from the Developer or 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 Article VIII 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:

(a) **Abate Violation:** Without liability to the Owner of the Sublot, cause its agents and employees to enter upon the Sublot and/or the Townhomes for the purpose of summarily abating any such use and/or removing any such building or structure or other improvement.

(b) **Seek Injunction:** Apply to a court having jurisdiction over the Property 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 on the Property.

(c) **Seek Reimbursement.** Seek full and complete reimbursement from any party committing any of the aforesaid acts in contravention of this Article VIII, 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.



(d) Treat as Assessment: Should the party committing any acts in contravention of this Article VIII be an Occupant and should such Occupant fail to immediately pay the full amount of all costs, damages, and expenses referred to in 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.

ARTICLE IX.
ASSESSMENTS

Section 9.1 - 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 Areas of Common Responsibility, including, without limitation:

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

(b) All amounts incurred in collecting Assessments, including all legal and accounting fees;

(c) Reserves for uncollectible Assessments, unanticipated expenses, replacements, major repairs and contingencies;

(d) Annual capital additions, capital improvements, and/or capital acquisitions (not including repairs or replacements for which the Association is responsible hereunder) having a total cost in excess of Five Thousand Dollars (\$5,000), however, in each case, the prior approval of the Class "B" Member and the vote of at least a majority of the Class "A" Members shall be required to approve the imposition of assessments for such capital additions, improvements, and/or acquisitions. In case of an emergency requiring prompt action to avoid further loss, the Board shall have the discretion to expend whatever is necessary to mitigate such loss.

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

Section 9.2 - Responsibility for Payment of Assessments

(a) All Owners of Townhomes shall be responsible for paying Assessments levied against such Townhomes. The Developer or the Board shall prepare or cause the preparation of an annual operating budget for the Association and shall fix the amount of the Assessments, which shall be equal between Townhomes and shall equal to the amount of such annual budget divided by the number of Townhomes subject to Assessment. Written notice of the Assessments shall be sent to the Owner of each Townhome. Payment of Assessments may be required by the Developer or Board on a monthly, quarterly, semi-annual or annual basis. The Developer shall pay Assessments only on Townhomes which are completed and which Developer maintains as model Townhomes.

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(b) During the Class "B" Control Period, the Developer shall determine the Assessments to be paid by the Owners, and the Developer shall pay all Common Expenses which are not covered by the annual Assessments payable by Owners of Townhomes as set forth above. This obligation may be satisfied in the form of a cash subsidy or by "in kind" contributions of services or materials, or a combination of both. The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services or materials or a combination of services and materials with Developer or other entities for the payment of some portion of the Common Expenses during the Class "B" Control Period. An Eligible Mortgage Holder acquiring title to all or any portion of the Property as a result of: (A) a foreclosure sale; or (B) a deed in lieu of foreclosure, shall not be responsible for the Developer's obligation for payment of the Common Expenses which are not covered by the annual Assessments payable by Owners of Townhomes during the Class "B" Control Period. After the Class "B" Control Period, the amount of Assessments attributable to Townhomes shall be established by the Board as of January 1 of each year, and each Owner of a Townhome shall pay an equal amount of such Assessments.

Section 9.3 - No Exemption for Non-Use of Facilities; No Refund of Reserves

A Member not otherwise exempt from the Assessments may not exempt himself from liability for Assessments levied against him by waiver of the use of the Common Areas that are owned and/or operated by the Association. Furthermore, no Member shall be entitled to any portion of the funds held for reserves; nor shall any Owner have a claim against the Association with respect thereto.

Section 9.4 - Creation of Lien and Personal Obligation

Each Owner hereby covenants and agrees by acceptance of the deed to a Townhome whether or not it shall be so expressed in any such deed or other conveyance, to pay to the Association all Assessments levied against such Owner in accordance with this Declaration on or before the due date for any such Assessment. In the event that the Assessment is not paid by the tenth (10th) day of the month, then such Assessment shall be "delinquent" and the Assessment, together with the Costs of Collection, as hereinafter defined in Section 11.3 hereof shall, upon "Perfection" as provided in Section 10.1, become a continuing lien upon the interest of such Person in his Townhome and shall bind such Owner, his heirs, devisees, personal representatives, successors and assigns. A co-Owner of a Townhome shall be personally liable, jointly and severally, with all other co-Owners for all Assessments made by the Association with respect to said Townhome.

Section 9.5 - 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 Section 10.3, but any

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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.

Section 9.6 - 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 Board of Directors 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 shall be included in the Certificate of Compliance with Restrictions referred to in Section 7.26 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 Article X.

Section 9.7 - Additional Assessments

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 Townhomes. Each such Owner shall pay an equal share of each such Additional Assessment as if the Additional Assessment were part of the original Assessment.

ARTICLE X.
LIENS

Section 10.1 - 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 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 or Developer 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:

- (a) The name of the delinquent Owner.

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- (b) A description of the Ownership Interest of the delinquent Owner.
- (c) The entire amount claimed for the delinquency and/or violation, including interest thereon and Costs of Collection (defined in Section 11.3).
- (d) A statement referring to the provisions of this Declaration authorizing the Certificate of Lien.

Section 10.2 - 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.

Section 10.3 - Priority

A lien perfected under this Article X shall take priority over any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments and liens of first mortgagees against Townhomes. A lien perfected pursuant to this Article 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. In any such foreclosure action, the affected Owner shall be required to pay reasonable rental for such Ownership Interest during the pendency of such action and the plaintiff in such action shall be entitled to the appointment of a receiver to collect the same. 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.

Section 10.4 - Dispute as to Assessment

The Developer 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 16.9 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.

Section 10.5 - 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.



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Section 10.6 - Personal Obligations

The obligations created pursuant to this Article X 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.

Section 10.7 - City's Right to Collect Assessments and Perfect a Lien

The City shall have the right to proceed against the Association for reimbursement of costs expended by the City for the failure by the Association to maintain the Areas of Common Responsibility, including Open Spaces, pursuant to Section 6.1 of this Declaration and for the failure of the Association to reimburse the City for costs expended by the City for effecting Repairs to the System pursuant to Section 7.1(b) of this Declaration; in either of which events the Association shall collect Assessments from its Members to reimburse the City for such costs. If the Association fails to so collect Assessments from its Members and remit such Assessments to the City, the City shall have the right to proceed against the Association to collect said Assessments. In addition, the City shall have the rights accorded to the Association to collect costs expended by the City pursuant to Article XVII of this Declaration directly against the Members of the Association, including the right to file a lien against the Sublot(s) of such Member(s). The City shall also be entitled to exercise the remedies given the Association in Article XI of this Declaration. This provision, insofar as it applies to the Areas of Common Responsibility, is pursuant to Section 1207.05(K) of the City's Zoning, Development and Site Plan Standards.

ARTICLE XI.
REMEDIES OF THE ASSOCIATION

Section 11.1 - Denial of Voting Rights

If any Owner fails to pay an Assessment when due, such Owner and the Occupants of any and all Townhomes of such Owner shall not be entitled to vote on Association matters until said Assessment is paid in full.

Section 11.2 - Specific Remedies

The violation of any Rule, or the breach of any restriction, covenant or provision contained in this Declaration or in the Code, shall give the Association and the Original Developer the right, in addition to all other rights set forth herein and provided by law, (a) to enter upon the Townhome or Sublot or portion thereof upon which, or as to which, such violation or breach exists, and summarily abate and remove, at the expense of the Owner or Developer of the Ownership Interest where the violation or breach exists, any structure, thing, or condition that may exist thereon, which is contrary to the intent and meaning of this Declaration, the Code, or the Rules, and the Association, or its designated agent shall not thereby be deemed guilty in any manner of trespass; (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach; (c) to commence and prosecute an action for specific performance or an action to recover any damages which may have been sustained by the Association or any of its Members as well as an action for punitive damages if warranted; and/or (d) to collect costs of suit and reasonable attorneys' and paralegals' fees incurred in connection

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with the exercise by the Association of any remedies hereunder, the same to be deemed "Costs of Collection" under Section 11.3 hereof.

Section 11.3 - Cost of Collection

If any Owner fails to pay any Assessment when due or upon delinquency in the payment of any sums or cost due under this Declaration, the Association may pursue any or all of the following remedies, which remedies shall be in addition to any other remedy available in this Declaration, or at law or in equity:

(a) Sue and collect from such Owner the amount due and payable, together with interest thereon as provided in this Declaration and Costs of Collection (hereafter defined).

(b) In addition to the amount referred to in (a) above, the Association may assess against such Owner, an administrative fee, not to exceed fifteen percent (15%) of the amount of the delinquency or One Hundred Dollars (\$100.00), whichever amount is greater, said amount to be determined by the Board provided, however, in no event shall said amount exceed the highest interest rate chargeable to individuals under applicable law. Said administrative fee shall be in addition to interest and the expenses of collection incurred by the Association, such as attorneys' fees, paralegals' fees, court costs and filing fees. The actual expenses of collection and the administrative fee shall hereinafter be referred to as "Cost of Collection".

(c) Foreclose a lien filed in accordance with Article X of this Declaration in the same manner as provided by the laws of the State of Ohio for the foreclosure of real estate mortgages.

Section 11.4 - Binding Effect

The remedies provided in this Article XI against a Delinquent Owner or Developer may also be pursued against the heirs, executors, administrators, successors and assigns and grantees of such Owner or Developer, except as specifically provided in Section 9.5 of this Declaration.

ARTICLE XII.
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 Article 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.

ARTICLE XIII.
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:

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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 Developer (so long as the Developer 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.

ARTICLE XIV.
MORTGAGEES' RIGHTS

The following provisions are for the benefit of holders, insurers, or guarantors of first mortgages on Townhomes and Sublots. To the extent applicable, necessary, or proper, the provisions of this Article shall apply to both this Declaration and to the Code. Where indicated, these provisions apply only to Eligible Mortgage Holders; provided, however, that voting percentages set forth herein are subject to and controlled by higher percentage requirements, if any, set forth elsewhere in this Declaration for specific actions.

Section 14.1 - Notices of Action

An Eligible Mortgage Holder who provides written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the address of the Sublot), will be entitled to timely written notice of:

- (a) any proposed termination of the Association;
- (b) any condemnation or casualty loss which affects a material portion of the Property or which affects any Townhome on which there is a first mortgage held, insured, or guaranteed by an Eligible Mortgage Holder;
- (c) any delinquency in the payment of assessments or other charges owed by an Owner subject to the mortgage of such Eligible Mortgage Holder, insurer, or guarantor, where such delinquency has continued for a period of sixty (60) days;
- (d) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; or
- (e) any proposed action which would require the consent of eligible holders, as required in Sections 14.2 and 14.3 of this Article.

If an Eligible Mortgage holder fails to submit a response to any written proposal for an amendment under this Article XIV within thirty (30) days after it receives proper notice of the proposal, the implied approval of such Eligible Mortgage Holder to the proposal shall be deemed



assumed, provided, the notice was delivered by certified or registered mail, with a "return receipt" requested.

Section 14.2 - Other Provisions for First Lien Holders

To the extent possible under Ohio law:

(a) Any restoration or repair of the Property following a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with this Declaration and the original plans and specifications unless the approval of the Eligible Mortgage Holders on Townhomes to which at least fifty-one percent (51%) of the votes of Townhomes and the Eligible Mortgage Holders of first mortgages of the Class "A" and the Class "B" Members, subject to mortgages held by such Eligible Mortgage Holders, are allocated, is obtained to act otherwise.

(b) Any election to terminate the Association after substantial destruction or a substantial taking in condemnation shall require the approval of the Eligible Mortgage Holders on Townhomes of at least fifty-one percent (51%) of the votes of Townhomes and the Eligible Mortgage Holders of first mortgages of the Class "A" Members and the Class "B" Member, subject to mortgages held by such Eligible Mortgage Holders, are allocated.

Section 14.3 - Amendments to Documents

The following provisions do not apply to amendments to the constituent documents or termination of the Association made as a result of destruction, damage, or condemnation pursuant to Section 14.2(a) and (b) of this Article:

(a) The consent of at least sixty-seven percent (67%) of the Class "A" Members and the consent of the Class "B" Member and the approval of the Eligible Mortgage Holders to which at least sixty-seven percent (67%) of the votes of Townhomes subject to a mortgage appertain, shall be required to terminate the Association.

(b) The vote of at least sixty-seven percent (67%) of the Class "A" Members and the consent of the Class "B" Member and the approval of Eligible Mortgage Holders to which at least fifty-one percent (51%) of the votes of Townhomes subject to mortgages appertain, shall be required to materially amend any provisions of the Declaration, Code, or Articles of Incorporation of the Association, or to add any material provisions thereto, which establish, provide for, govern, or regulate any of the following:

- (1) voting rights;
- (2) Assessments, Additional Assessments, assessment liens, or priority assessment liens;
- (3) reserves for maintenance, repair, and replacement of the Common Areas;
- (4) responsibility for maintenance and repair;

- (5) insurance or fidelity bonds;
- (6) rights to use of the Common Areas;
- (7) leasing of Townhomes;
- (8) imposition of any right of first refusal or similar restriction of the right of any Owner to sell, transfer, or otherwise convey his or her Townhome (this provision is subject and subordinate to any provision in an agreement for the sale by the Developer of a Townhome.);
- (9) establishment of self-management by the Association where professional management has been required by an Eligible Mortgage Holder;
- (10) restoration or repair of the Property (after hazard damage or partial condemnation) in a manner other than that specified in this Declaration;
- (11) any action to terminate the legal status of the Property after substantial destruction or condemnation occurs;
- (12) expansion or contraction of the Property, or the addition, annexation, or withdrawal of the Property other than as provided in Section 1.3 of this Declaration; or
- (13) any provisions included in this Declaration, Code, or Articles of Incorporation which are for the express benefit of Eligible Mortgage Holders on Townhomes.

Section 14.4 - Special Federal Home Loan Mortgage Corporation Provisions

So long as required by the Federal Home Loan Mortgage Corporation, the following provisions shall apply to this Declaration:

(a) Unless two-thirds (2/3) of the first mortgagees or Owners give their consent, the Association shall not: (1) by act or omission seek to abandon, become a partition, subdivide, encumber, sell or transfer any portion of the Property owned by the Association (the granting of easements for public utilities or for public purposes or the dedication to public use of utilities or roads consistent with the intended use of the property shall not be deemed a transfer); (2) change the method of determining the obligations, Assessments, dues or other charges which may be levied against an Owner; (3) fail to maintain fire and extended coverage insurance as required by this Declaration; or (4) use hazard insurance proceeds for any Common Area losses for other than repair, replacement or reconstruction of such properties.

(b) The provisions of this Section shall not be construed to reduce the percentage vote that must be obtained from mortgagees or Owners or a larger percentage vote as otherwise required for any of the actions contained in this Article.

(c) First mortgagees may, jointly or singularly, pay taxes or other charges which are in default or which may or have become a charge against the Common Area and may pay overdue premiums of casualty insurance policies or secure new casualty insurance coverage



upon the lapse of a policy, for the Common Areas and first mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

ARTICLE XV.
TRANSFER OF SPECIAL DEVELOPER RIGHTS

Section 15.1 - Instrument Transferring Special Developer Rights

A Developer may transfer Special Developer Rights created or reserved in this Declaration or in the Code by an instrument evidencing the transfer recorded in the land records of the County in which the Property is located. The instrument is not effective unless executed by both the transferor and transferee.

Section 15.2 - Liability of Transfer of Special Developer Rights

Upon transfer of any Special Developer Right, the liability of a transferor Developer is as follows:

(a) A transferor is not relieved of any obligation or liability arising before the transfer and remains liable for warranty obligations imposed upon the transferor Developer. Lack of privity (direct contractual relationship) does not deprive the Association or any Owner of standing to bring an action to enforce any obligation of the transferor.

(b) If the successor to any Special Developer Right is an Affiliate of a Developer, the transferor is jointly and severally liable with the successor for any obligation or liability of the successor which related to the Property.

(c) If a transferor retains any Special Developer Rights, but transfers other Special Developer Rights to a successor who is not an Affiliate of the Developer, the transferor is also liable for any obligations and liabilities relating to the retained Special Developer Rights imposed on a Developer by the Declaration or Code arising after the transfer.

(d) A transferor has no liability for any act or omission, or any breach of contractual or warranty obligation arising from the exercise of a Special Developer Right by a successor Developer who is not an Affiliate of the transferor.

Section 15.3 - Acquisition of Special Developer Rights

Unless otherwise provided in a mortgage held by a first mortgagee, in case of foreclosure of a mortgage (or deed in lieu of foreclosure), tax sale, judicial sale, or sale under the Bankruptcy Code or receivership proceedings, of any Townhomes owned by a Developer in the Property, a person acquiring title to all the Townhomes being foreclosed (or deed in lieu of foreclosure) or sold, but only upon his request, succeeds to all Special Developer Rights related to such Townhomes, or only to any rights reserved in the Declaration and/or Code to maintain models, sales offices, customer service offices and signs. The judgment or instrument conveying title shall provide for transfer of only the Special Developer Rights requested.



Section 15.4 - Termination of Special Developer Rights

Upon foreclosure (or deed in lieu of foreclosure), tax sale or judicial sale of Townhomes in a Property owned by a Developer; (1) the Developer ceases to have any Special Developer Rights, and (2) right of a Developer to elect or designate Board Members pursuant to the Code terminates unless the judgment or instrument conveying title provides for transfer of all Special Developer Rights held by that Developer to a successor Developer.

Section 15.5 - Liabilities of A Transferee of Special Developer Rights

The liabilities and obligations of persons who succeed to Special Developer Rights are as follows:

(a) A successor to any Special Developer Right who is an Affiliate of a Developer is subject to all obligations and liabilities imposed on the transferor by the Declaration and Code.

(b) A successor to any Special Developer Right, other than a successor described in paragraphs (3) or (4) of this subsection, who is not an Affiliate of a Developer, is subject to all obligations and liabilities imposed by the Declaration and Code: (i) on a Developer which relate to such Developer's exercise or non-exercise of Special Developer Rights; or (ii) on the transferor, other than: (A) misrepresentations by any previous Developer; (B) warranty obligations on improvements made by any previous Developer, or made before this Declaration is recorded; (C) breach of any fiduciary obligation by any previous Developer or appointees to the Board of Directors; or (D) any liability or obligation imposed on the transferor as a result of the transferor's acts or omissions after the transfer.

(c) A successor to only a Special Developer Right reserved in the Declaration and/or Code to maintain models, sales offices, customer service offices and signs, if such successor is not an Affiliate of a Developer, may not exercise any other Special Developer Right, and is not subject to any liability or obligation as a Developer.

(d) A successor to all Special Developer Rights held by the transferor who is not an Affiliate of that Developer and who succeeded to those rights pursuant to a deed in lieu of foreclosure or a judgment or instrument conveying title to Townhomes under Subsection (B), may declare the intention in a recorded instrument to hold those rights solely for transfer to another person. Thereafter, until transferring all Special Developer Rights to any person acquiring title to any Townhome owned by the successor, or until recording an instrument permitting exercise of all those rights, that successor may not exercise any of those rights other than any right held by the transferor to control the Board of Directors in accordance with the provisions of this Declaration or the Code for the duration of the period that a Developer has the right to elect or designate Board Members, and any attempted exercise of those rights is void. So long as a successor Developer may not exercise Special Developer Rights under this Subsection, such successor Developer is not subject to any liability or obligation as a Developer.



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Section 15.6 - Limitation on Liability of Transferee of Special Developer Rights

Nothing in this Article subjects any successor to a Special Developer Right to any claims against or other obligations of a transferor Developer, other than claims and obligations arising under this Declaration or the Code.

ARTICLE XVI.
GENERAL PROVISIONS

Section 16.1 - Covenants Run With the Property; Binding Effect

(a) 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, Tenants, Owners and Occupants.

(b) 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.

(c) 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.

Section 16.2 - Duration

Unless sooner terminated as hereinafter provided, the 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. No restriction or condition herein shall be materially altered or terminated unless such alteration or termination is consistent with the controlling regulations of the City and other applicable governmental bodies.

Section 16.3 - Notices

(a) 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 Townhome or mailed, postage prepaid, to the last known address of such Person or principal

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place of business if a corporation, provided, however, that a notice of "delinquency" of any payment due hereunder shall be made by personal delivery to such Townhome 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.

(b) Notices to the Developer shall be deemed given only when received and must be either hand delivered or mailed by certified or registered mail, postage prepaid, to Developer, c/o Fairmount Properties, LLC (Attention: Adam Fishman), 2618 North Moreland Boulevard, Cleveland, Ohio 44120, with a copy to Robert A. Fuerst, Esquire, Kahn Kleinman LPA, 1301 East Ninth Street, Suite 2600, Cleveland, Ohio 44114.

Section 16.4 - Enforcement-Waiver

Enforcement of the Easements, Covenants and Restrictions may be by any proceeding at law or in equity against any Person or Persons violating or attempting to violate any Easement, Covenant or Restriction, either to restrain violation or to recover damages and against the Person or Ownership Interest, or to enforce any lien perfected pursuant to this Declaration. The failure by the Association or any one permitted by this Declaration to enforce any Easement, Covenant or Restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 16.5 - Construction of the Provisions of this Declaration

(a) The Developer, 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 Developer, 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 Developer, the Association or the Design Review Committee, as the case may be.

(b) The Association and the Design Review Committee to the extent specifically provided herein may adopt and promulgate Rules regarding the administration, interpretation and enforcement of the provisions of this Declaration. In so adopting Rules 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 Developer(s), Owners, Tenants and Occupants to the end that the Property shall be preserved and maintained as a high quality, residential community.

Section 16.6 - Reservations by Original Developer - Exempt Property

(a) Original Developer reserves the right and easement for itself and Owners of nearby lands to whom Original Developer, in Original Developer's sole discretion, may grant the same right and easement, to tie into, use, repair, maintain and replace without charge any and all

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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, 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.

(b) Original Developer 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.

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

(d) Original Developer 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 Developer, notwithstanding any covenant, easement, restriction or provision of this Declaration or its exhibits, which may be to the contrary.

(e) Original Developer reserves the right to impose, reserve or enter into additional covenants, easements and restrictions with grantees of Townhomes and 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.

(f) Each reservation, right and easement specified or permitted pursuant to this Article 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 paragraph 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 Article, whether granted by Original Developer 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.

(g) So long as Developer 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 Developer'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 Developer.

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Section 16.7 - Assignability by Original Developer

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

Section 16.8 - 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.

Section 16.9 - 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 Cuyahoga or Summit County, 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. Depositions may be taken and other discovery obtained during such arbitration proceedings to the same extent as authorized in civil judicial proceedings for compensatory damages and the arbitrator(s) shall have no authority to award punitive, exemplary or similar type damages. The prevailing party in the arbitration proceeding shall be entitled to recover its expenses, including the costs of the arbitration proceeding, and reasonable attorney's fees.

Section 16.10 - Gender

The use of the masculine gender herein or in the Bylaws shall be deemed to include the feminine and the neuter genders, as the case may be, and the use of the singular shall be deemed to include the plural, whenever the context so requires.

Section 16.11 - Validity of Mortgages

No violation of any Easement, Covenant or Restriction of this Declaration shall defeat or render invalid the lien of any mortgage made in good faith and for value upon any portion of the Property; provided, however, that any mortgagee in actual possession, or any purchaser at any mortgagees' foreclosure sale shall be bound by and subject to this Declaration as fully as any other Owner of any portion of the Property.

Section 16.12 - Amendment of Declaration

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

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(a) For so long as the Developer or a successor designated by the Developer is the Owner of a fee simple interest in the Property, the Original Developer 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 judgment the purposes of the general plan of development of the Townhomes 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 Townhomes or shall prevent a Townhome from being used by the Owner in the same manner that said Townhome was used prior to the adoption of said amendment, modification or waiver. To modify the Declaration in accordance with this paragraph, Original Developer shall file a supplement to this Declaration setting forth the Amendment, which supplement need not be but shall, at Original Developer's request, be executed by the Association and all Owners of real property within the Property. Each such Owner, by accepting a deed to his Townhome or other real property, hereby appoints Original Developer 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 Developer and filed for record with the Recorder of Summit County.

(b) This Declaration may also be amended by Original Developer or the Association at any time and from time to time for the purpose of: (1) 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 (2) inducing any of such agencies or entities to make, purchase, sell, insure, or guarantee first mortgages; or (3) correcting clerical or typographical or obvious factual errors in this Declaration or any Exhibit hereto or any supplement or amendment hereto; or (4) complying with the underwriting requirements of insurance companies providing casualty insurance, liability insurance or other insurance coverages for the Association; or (5) bringing any provision hereof into compliance or conformity with the provisions of any applicable governmental statute, rule or regulation or any judicial determination; or (6) correcting obvious factual errors within this Declaration and other documents governing the Property and correcting any inconsistencies between this Declaration and other documents governing the Property, the correction of which would not materially impair the interest of any Owner or Eligible Mortgage Holder; or (7) enabling a title insurance company to issue title insurance coverage with respect to the Property or any portion thereof; or (8) complying with the requirements of the Federal Emergency Management Agency, the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, and the Ohio Environmental Protection Agency. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to Developer 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 Developer to vote in favor of, make and record a Subsequent Amendment. To effect said amendment, Original Developer shall file a supplement to the Declaration setting

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forth the Subsequent Amendment which shall be signed by Original Developer and shall be effective upon the filing of the Subsequent Amendment with the Summit County Recorder.

(c) Original Developer 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 Developer in this Declaration.

(d) Except as expressly provided in this Declaration, and after expiration of the period set forth in (a) of this Article, 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 Article III 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 Developer in this Declaration shall not be effective without the prior written consent of Developer; and provided further, no amendment may increase the financial burden of an Owner without the prior written consent of such Owner. 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 Developer if the amendment affects the rights of the Developer and filed for record with the Summit County Recorder.

(e) The provisions set forth in Article 17 of this Declaration (and the provision referred to therein) may not be amended without the written approval of the City.

Section 16.13 - Interest Rates

After this Declaration shall have been recorded for five (5) years or more, the Board shall have the 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.

Section 16.14 - Headings

The heading of each Article and of each paragraph in this Declaration is inserted only as a matter of convenience and for reference and in no way defines, limits or describes the scope or intent of this Declaration or in any way affects this Declaration.

Section 16.15 - 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)

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years after the death of the survivor of the now living descendants of George W. Bush, President of the United States of America, and Richard Cheney, Vice President of the United States of America.

ARTICLE XVII.
REQUIREMENTS OF THE CITY

Section 17.1 - Section 1208.13 of the City's Subdivision, Design & Improvement/Dedication Standards

The following provisions of this Declaration are required by Section 1208.13 entitled "Homeowners Associations" of the City's Subdivision, Design & Improvement/Dedication Standards:

(a) The Association shall be established before any Sublots are sold (see Section 5.1 of this Declaration).

(b) Membership in the Association is mandatory for each homebuyer and any successor buyer (see Section 5.2(a)(1) of this Declaration).

(c) Open Space restrictions shall be permanent, not just for a period of years (see Section 5.4(c) of this Declaration).

(d) The Association shall be responsible for liability insurance (see Section 6.5(a)(3) of this Declaration); local taxes (see Section 6.2 of this Declaration); and maintenance of Common Areas and Open Spaces (see Section 6.1(a) of this Declaration). (The Common Areas will not contain recreational facilities.)

(e) Owners are responsible for the payment of Assessments (see Section 9.2(a) of this Declaration); and the Assessments levied by the Association can become a lien on a Sublot (see Section 9.4 and Article X of this Declaration).

(f) The Association shall be able to adjust the Assessments to meet the changed needs and demands (see Section 9.7 of this Declaration).

Section 17.2 - Approval for Amendment of Sections 7.1(b), 10.7 and 17.1 of this Declaration

The provisions of Section 17.1, including the provisions of this Declaration referred to therein, and the provisions of Section 7.1(b) (City's right to effect the Repairs of the System) and Section 10.7 of this Declaration (City's Right to Collect Assessments and Perfect a Lien) shall not be amended without such amendment being approved by the City acting by and through its City Manager.

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EXHIBIT "A"

**LEGAL DESCRIPTION OF THE PROPERTY
AND ADDRESSES OF TOWNHOMES**

Situated in the City of Hudson, County of Summit and the State of Ohio and being part of Original Hudson Township Lot No. 55, Township 4 North, Range 10 West and further known as being all of Sublots Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and all of Block "A" (Common Area) as shown on the Subdivision Plat of The Townhomes at First and Main as recorded in Reception No. 55187317 of Plats, in the Summit County Recorder's Office, being a replat of Sublot 15 in The Downtown Development Project Phase II as recorded in Reception No. 55063194 of Plats, in the Summit County Recorder's Office, be the same, more or less, but subject to all legal highways.

<u>Sublot No.</u>	<u>Address</u>
1	43 Clinton Street
2	41 Clinton Street
3	39 Clinton Street
4	35 Clinton Street
5	37 Clinton Street
6	33 Clinton Street
7	27 Clinton Street
8	29 Clinton Street
9	31 Clinton Street
10	25 Clinton Street
11	23 Clinton Street
12	21 Clinton Street

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EXHIBIT "B"

**CERTIFICATE OF COMPLIANCE AND STATUS OF ASSESSMENTS
WITH RESPECT TO THE RESALE OF A TOWNHOME
AT THE TOWNHOMES AT FIRST AND MAIN
HUDSON, OHIO**

The Townhomes at First and Main Homeowners' Association, Inc., a non-profit Ohio corporation (the "**Association**"), created to govern, operate, control and administer the "Areas of Common Responsibility" for The Townhomes at First and Main, Hudson, Ohio (The "**Townhomes**") and to supervise and enforce the Declaration of Covenants, Conditions, Easements and Restrictions for The Townhomes (the "**Declaration**") hereby certifies as follows:

1. The Association has received notice of a proposed sale of the Townhome located on Sublot No. _____, located at _____, Hudson, Ohio.
2. The proposed purchaser(s) of the Townhome is (are) _____.
3. The owner(s) of the Townhome (is) (are) _____.
4. The Association has no record of a violation of the Covenants and Restrictions contained in the Declaration except _____
(if none, write "None").
5. The current annual assessment attributable to the Townhome is \$ _____.
6. The assessments are payable at the rate of \$ _____ per (month) (quarter); said assessments being payable through _____ 200__.
7. A fee is payable to the Association upon the issuance of this Certificate in accordance with the terms of the Declaration.

This Certificate of Compliance is being issued pursuant to Section 7.26 of the Declaration.

THE TOWNHOMES AT FIRST AND MAIN
HOMEOWNERS' ASSOCIATION, INC.

By: _____

Date: _____, 200__



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