

423581

DECLARATION OF RESTRICTIONS,  
COVENANTS AND EASEMENTS

DEERFIELD WOODS SUBDIVISION 3

2

THIS DECLARATION, made and entered into this 1st day of May, 1979, by NORTH EAST LAND CO., an Ohio corporation (sometimes hereinafter referred to as the "Declarant"),

*Sp 83  
Vol 2375  
Pg 30*

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain real property situated in the City of Strongsville, County of Cuyahoga and State of Ohio, which is known as being sublots 102 to 156, both inclusive, and Blocks "F", "G", "H", "I", "J" and "R" in the DEERFIELD WOODS SUBDIVISION NO. 3 of part of Original Strongsville Township Lots Nos. 40 and 41 as shown by the recorded plat in Volume 225 of Maps, Page 3 of Cuyahoga County Records (hereinafter sometimes referred to as the "Subdivision 3 Properties");

NOW, THEREFORE, Declarant does hereby certify and declare that it has established, and does establish hereby, a general plan for the improvement, development, ownership, use, maintenance and sale of the Subdivisions (as hereinafter defined), and each and every part thereof, and

the manner, provisions, conditions, easements, restrictions and covenants upon and subject to which said property and each and every Lot and Living Unit shown on any recorded plat thereof shall be used, improved, occupied, owned, maintained, sold and conveyed. Declarant hereby further declares that henceforth the Subdivision 3 Properties, and any part thereof, shall be used, improved, occupied, owned, maintained, sold and conveyed subject to the provisions, conditions, easements, restrictions and covenants set forth herein, all of which are, and each of them is, impressed and imposed upon each and every part of the Subdivision 3 Properties and shall run with the land and all of which shall apply to, be binding upon and inure to the benefit of Declarant, and any person who may hereafter become the owner of any interest in the Subdivisions or any part thereof, including, without limitation, the Subdivision 3 Properties, by reason of deriving title from, through or under the Declarant or any grantee thereof.

COVENANTS AND RESTRICTIONS FOR  
THE SUBDIVISIONS

ARTICLE I

DEFINITIONS

Section 1. The following words when used in this Declaration and the Covenants and Restrictions set forth

herein (unless the context shall prohibit) shall have the following meanings:

(a) "Association" shall mean and refer to the ✓Deerfield Woods Association, an Ohio nonprofit corporation, formed for the purposes of maintaining and administering the Common Properties in the Subdivisions, providing services of general benefit to the owners of Lots and Living Units within the Subdivisions, administering and enforcing these Covenants and Restrictions, and any other covenants and restrictions imposed on Lots or Living Units in the Subdivisions as contemplated by Section 3 of Article II hereof, and collecting and disbursing the assessments and exercising the other functions hereinafter provided for.

(b) The "Subdivisions" shall mean and refer to the property described in, and any additions made thereto in accordance with, Article II hereof.

(c) "Common Properties" shall mean and refer to (i) those areas of land designated as "Recreation Area" or "Common Property" on any recorded subdivision plat of the Subdivisions (or in any recorded deed, declaration, agreement or other instrument filed by the Developer or the Association with respect to any land located in the Subdivisions) and intended to be devoted to the common use

and enjoyment of all the owners of both Lots and Living Units and (ii) the Green Areas, but shall not mean, refer to or include any Cluster Housing Properties.

(d) "Cluster Housing Properties" shall mean and refer to those areas of land in the Subdivisions intended to be devoted to the common use and enjoyment exclusively of all or a specified portion of the Owners of Living Units whether pursuant to a Declaration of Condominium Ownership, to covenants and restrictions set forth in a deed or declaration or to another instrument or document of similar import, but Cluster Housing Properties shall not include the Common Properties or any Lot.

(e) "Developer" shall mean and refer to, collectively and/or individually as the context requires, Declarant and its affiliated corporations and any of their respective successors and assigns which acquire from Declarant or any of said affiliates for purposes of development: (i) all or substantially all of the unimproved Lots located in any subdivision (or phase thereof) referred to in Article II, Section 2 hereof or added to the Subdivisions in accordance with Article II hereof or (ii) all or any substantial part of any unimproved Block or other area with respect to which rights are now or hereafter reserved in accordance with Article II, Section 1 of these Covenants and Restrictions to develop cluster housing thereon.

(f) "Green Areas" shall mean and refer to those areas of land intended to remain as open areas and buffer zones for the common use, benefit and enjoyment of all the Owners of both Lots and Living Units and which are (i) that area designated as "Block 'A'", on the recorded subdivision plat captioned "Deerfield Woods Subdivision No. 1" referred to in Section 2(a) of Article II hereof, (ii) those areas designated as "Block 'H'" and "Block 'J'" on the recorded plat captioned "Deerfield Woods Subdivision No. 3" referred to on the first page of this Declaration and (iii) any other areas of land designated as "Green Area", or reserved for substantially the same use and purposes as the aforesaid areas no matter how designated, on any other recorded subdivision plat of the Subdivisions (or in any recorded deed, declaration, agreement or other instrument filed by the Developer or the Association with respect to any land located in the Subdivisions), but shall not mean, refer to or include any Cluster Housing Properties.

(g) "Living Unit" shall mean and refer to any attached or detached building, portion of a building or condominium unit and any fee or undivided fee interest in real property appurtenant to such building, portion of a building or unit, which is situated within the Subdivisions,

is designated and intended for use and occupancy as a single-family residence, and is located in an area which is designated as a "Block", or a part thereof, on any recorded subdivision plat of the Subdivisions (or in any recorded deed, declaration, agreement or other instrument filed by the Developer or the Association with respect to any land located in the Subdivisions) and which is developed or to be developed as a site for single-family townhouses or other single-family cluster housing pursuant to the rights reserved pursuant to Article II, Section 1 of these Covenants and Restrictions.

(h) "Lot" shall mean and refer to any subplot on which a single-family residence is, or is to be, built, together with any building or buildings thereon, shown upon any recorded subdivision plat of the Subdivisions, but shall not mean, refer or to include any real property, the fee or undivided fee interest in which is appurtenant to a Living Unit, unless expressly stated otherwise in any definition contained in any other declaration, deed, agreement or other instrument filed for record by the Developer with respect to such Living Unit.

(i) "Owner" shall mean and refer to, collectively and/or individually as the context requires, any and all owner or owners of record, whether a person or an entity, of a fee or undivided fee simple title to any Lot or Living Unit situated within the Subdivisions at any time during the

term of these Covenants and Restrictions but shall not mean or refer to the Developer, or a mortgagee unless and until such mortgagee has acquired such title pursuant to foreclosure or by deed or any proceeding in lieu of foreclosure.

(j) "Member" shall mean and refer to the Developer and all those Owners who are Members of the Association as provided in Article III, Section 1, hereof.

(k) "Living Unit Owners' Association" shall mean and refer to any nonprofit corporation or association formed for the purpose of administration, regulation and maintenance of Cluster Housing Properties and Living Units whether pursuant to a Declaration of Condominium Ownership, to covenants and restrictions set forth in a deed or declaration or to another instrument or document of similar import.

(l) "City" shall mean and refer to the City of Strongsville, Ohio, a municipal corporation organized and existing under the laws of the State of Ohio. It is specifically agreed and acknowledged by all parties to these Covenants and Restrictions that the City is and shall continue to be a third party beneficiary to, and has the authority to administer and enforce, these Covenants and Restrictions as they relate to the Common Properties and facilities located thereon, and any special assessment

levied by the City with respect thereto, all as more fully set out in Article IV, Section 2 and Article V, Section 5 hereof, respectively.

ARTICLE II

PROPERTY SUBJECT TO COVENANTS  
AND RESTRICTIONS; ADDITIONS

Section 1. Property Subject to Covenants and Restrictions. The property comprising the Subdivisions, all of which is and shall be held, transferred, sold, conveyed and occupied subject to these Covenants and Restrictions is and shall be the Existing Property described in Section 2 of this Article and any additional real property added thereto pursuant to Section 3 of this Article; provided, however, that the Developer reserves the right, for itself or any of its successors or assigns, with respect to such areas of land as the Developer may choose in any real property added pursuant to said Section 3, to develop and/or build thereon such single-family townhouses or such other single-family cluster housing as may be permitted by law and is consistent with these Covenants and Restrictions as they apply to Living Units and Cluster Housing Properties and to impose thereon such additional, complementary or modified easements, covenants and restrictions as may be necessary or



desirable to reflect the different character of such areas and the structures built thereon and as are not materially inconsistent with the general scheme of these Covenants and Restrictions.

Section 2. Existing Property. The following properties comprise the Subdivisions, and in this Article II shall be referred to as "Existing Property":

(a) That real property situated in the City of Strongsville, County of Cuyahoga and State of Ohio and known as being sublots 1 to 53, both inclusive, and Blocks "A", "B" and "C" in the Deerfield Woods Subdivision No. 1 of part of Original Strongsville Township Lots Nos. 40 and 41 as shown by the recorded plat in Volume 224 of Maps, Page 117 of Cuyahoga County Records;

(b) That real property situated in the City of Strongsville, County of Cuyahoga, and State of Ohio and known as being sublots 54 to 101, both inclusive, and Blocks "D" and "E" in the Deerfield Woods Subdivision No. 2 of part of Original Strongsville Township Lots Nos. 40 and 41 as shown by, the recorded plat in Volume 224 of Maps, Page 132 of Cuyahoga County Records; and

(c) The Subdivision 3 Properties.

Section 3. Additions to the Subdivisions.

(a) Additional real property, located in the City of Strongsville, County of Cuyahoga and State of Ohio, may,

upon approval by the Developer prior to January 1, 1984 and thereafter by the Association in accordance with its Articles of Incorporation and/or Code of Regulations, become subject to these Covenants and Restrictions, provided that any such proposed addition is adjacent to the Existing Property (or to any property added thereto in accordance with this Article II). Property abutting or located across a street or highway from any portion of the Existing Property, or added property, or located within one hundred (100) feet from any portion of the Existing Property, or added property, shall be considered to be adjacent to it.

(b) Any such addition shall be made by filing of record a deed, agreement or other instrument in form approved by the Developer prior to January 1, 1984 and thereafter by the Association which shall extend the scheme of these Covenants and Restrictions to such additional property. Such instrument may contain such complementary additions to and modifications of these Covenants and Restrictions as may be necessary to reflect the different character, if any, of the added property and as are not inconsistent with the scheme of these Covenants and Restrictions. In no event, however, shall such instrument revoke, modify or add to the Covenants and Restrictions established by this Declaration for the Existing Property, nor shall

such instrument provide for assessment of the added property at a lower rate than that applicable hereunder to the Existing Property.

(c) Upon merger or consolidation of the Association with another association, the surviving or consolidated association may administer the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall be entered into which would effect or attempt to effect any revocation, modification or addition to the Covenants and Restrictions established by this Declaration for the Existing Property.

#### ARTICLE III

##### MEMBERS AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Members. Every Owner automatically shall be a Member of the Association for so long as he is an Owner, provided that any such person or entity who holds such interest merely as a security for the payment of money or performance of an obligation shall not be a Member. The Developer shall be a Member until it has conveyed every Lot and Living Unit owned by it to an Owner.

Section 2. Voting Rights. Membership in the Association shall be divided into Class A Members and Class B Members.

CLASS A. Class A Members shall be all Members with the exception of the Class B Members. Each Class A Member shall be entitled to one vote for each Lot or Living Unit owned by such Member. In the event a Lot or Living Unit is owned by more than one Owner, the Owners shall not be entitled to more than one vote with respect to any such Lot or Living Unit, which vote shall be exercised as they determine among themselves.

CLASS B. The Class B Member or Members shall be the Developer. Each Class B Member shall be entitled to four votes for each Lot or Living Unit owned by it.

Section 3. Articles and Regulations of Association.

The Articles of Incorporation and Code of Regulations of the Association may contain any provisions, not in conflict with these Covenants and Restrictions, as are permitted to be set forth in such Articles and Regulations by the Non-Profit Corporation Law of Ohio as from time to time in effect.

ARTICLE IV

COMMON PROPERTIES

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Section 3 of this Article IV, every Member or, in the stead of said Member, any tenant or lessee thereof or any purchaser therefrom, who has entered

into a written contract or lease with said Member with respect to the lease or purchase of said Member's Lot or Living Unit and who is in residence upon said Lot or Living Unit, shall have for himself, his immediate household and guests a right and easement of enjoyment in and to the Common Properties, and such easement shall be appurtenant to and shall pass with the title to every Lot and Living Unit.

Section 2. Title to Common Properties; Duty to Maintain. The Developer shall retain the legal title to the Common Properties until such time as it has completed any improvements thereon and until such time as, in the opinion of the Developer, the Association is able to maintain the same, but notwithstanding any other provision herein, the Developer hereby covenants for itself and its successors and assigns that it shall convey the Common Properties to the Association not later than December 31, 1983.

The Developer shall have the duty to maintain all Common Properties and facilities located thereon until such time as all material improvements to be made thereto by the Developer are completed and paid for in full and the responsibility to maintain the same has been transferred to the Association. Thereafter, it shall be the duty of the Association to maintain all Common Properties. Maintenance shall include, but not be limited to, painting, repairing,

replacing and maintaining all appurtenances, exterior and interior building surfaces, trees, shrubs, grass areas, driveways, walls and all other improvements located in and/or on the Common Properties. The City as a third party beneficiary, may, although under no obligation or duty to do so, compel the Developer or the Association, as the case may be, to fulfill the duty to maintain the Common Properties set forth in this Section 2. Notwithstanding anything in these Covenants and Restrictions to the contrary, said duty to maintain the Common Properties and the authority to enforce the same granted by this Section 2 shall not be amended or otherwise modified without the prior written consent of the City.

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

(a) The right of the Developer, and of the Association in accordance with its Articles of Incorporation and Code of Regulations, to borrow money for the purpose of improving the Common Properties and in aid thereof to mortgage said properties. In the event of a default upon any such mortgage, the lender shall have a right, after taking possession of such properties, to charge admission and other fees as a condition to continued enjoyment by the Members

and, if necessary, to open the enjoyment of such properties to a wider public until the mortgage debt is satisfied, whereupon the possession of such properties shall be returned to the Association and all rights of the Members hereunder shall be fully restored; and

(b) The right of the Association to take such steps as are reasonably necessary to protect the Common Properties against foreclosure; and

(c) The right of the Association, in accordance with its Articles of Incorporation and Code of Regulations, to adopt uniform rules and regulations governing the use of the Common Properties, and to suspend the enjoyment rights of any Member or tenant or lessee thereof and his household and guests for nonpayment of an assessment, during any period which such assessment remains in default, or for any infraction of such rules and regulations; and

(d) The right of the Association to charge reasonable admission fees and other fees for the use of the Common Properties; and

(e) The right of the Association to issue annual permits to non-Members for the use of all or a part of the Common Properties, at such time and upon such terms as may be determined from time to time at a meeting of the Members by the affirmative vote of Members entitled to exercise two-thirds (2/3) of the voting power of the Association; and

(f) The right of the Association to dedicate or transfer all or any part of the Common Properties to any municipality or any public agency, authority or utility, for such purposes and subject to such conditions as may be determined at a meeting of the Members by the affirmative vote of Members entitled to exercise two-thirds (2/3) of the voting power of the Association.

ARTICLE V

COVENANT FOR MAINTENANCE EASEMENTS

Section 1. Creation of Liens and Personal Obligations of Assessments. Upon the conveyance of each Lot or Living Unit from the Developer to an Owner and upon all subsequent conveyances of said Lot or Living Unit, the Owner and any and all subsequent Owners of said Lot or Living Unit, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree (jointly and severally, where such Lot or Living Unit is owned by more than Owner) to pay to the Association, and each such Lot or Living Unit shall be subject to a lien, as hereinafter provided, in favor of the Association securing the payment of: (1) an annual assessment levied in accordance herewith for the purposes of operating, maintaining, constructing, repairing



and replacing the recreational and landscaped areas and facilities on the Common Properties, providing services to Members in accordance with these Covenants and Restrictions, performing any of the other functions and responsibilities of the Association and administering the affairs of the Association; and (2) special assessments levied in accordance herewith for improvements or other capital expenditures, including the acquisition of additional property for use as Common Properties, for emergency, operating, maintenance or repair costs, and for other costs and expenses not anticipated in determining the applicable annual assessment. Each such assessment shall be in the same amount for each Lot or Living Unit; provided, however, that, if a Lot or Living Unit is conveyed by the Developer to the Owner (hereinafter the "Initial Conveyance") after the date on which an annual assessment is due and payable, the amount of such annual assessment to be paid by such Owner shall be prorated by multiplying the total amount of such annual assessment by a fraction, the numerator of which is the number of days remaining in the year of Initial Conveyance and the denominator of which is 365 unless said annual assessment is levied for a period of less than one year, in which case the denominator shall be the total number of days in the period for which the assessment is levied. All annual and special

assessments, together with any interest thereon and cost of collection thereof as hereinafter provided, shall be both the personal obligation of the Owner of the Lot or Living Unit on which it is levied and a lien upon such Lot or Living Unit, and upon the ownership interest of such Owner from and after the date on which due and payable. No Owner may waive or otherwise escape liability for the assessments provided for herein or the lien securing payment of the same by non-use of the Common Properties or abandonment of the Lot or Living Unit of such Owner.

Section 2. Annual Assessments. When the main building of the recreational facilities on the Common Properties has been completed by the Developer, the Board of Trustees of the Association shall levy the annual assessments for the balance of that year and for the next succeeding year. Each year thereafter, the annual assessment for the following year shall be levied annually by the Board of Trustees of the Association, prior to the date of the annual meeting of the Members, in such amount as in its discretion shall be reasonably necessary to meet expenses anticipated during the ensuing year and to accumulate reasonable reserves for future operating and capital expenditures. At said annual meeting of the Members, the amount of the annual assessment for the following year as levied by

the Board of Trustees of the Association may be increased or decreased by the affirmative vote of Members entitled to exercise a majority of the voting power of the Association. In no event, however, shall the annual assessment for years beginning prior to January 1, 1981, exceed One Hundred and Twenty Dollars per Lot or Living Unit per year unless approved by the affirmative vote of members entitled to exercise a majority of the voting power of the Association, and, in addition, by the affirmative vote of the majority of all votes cast exclusive of the votes cast by the Developer.

Section 3. Special Assessments. The Association may levy a special assessment applicable to a specified number of years; provided, however, that any such assessment shall be approved by the affirmative vote of Members entitled to exercise two-thirds (2/3) of the voting power of the Association. Members shall be given written notice thirty (30) days in advance of the date of the meeting at which such vote shall be taken stating that a special assessment for a stated purpose or purposes will be considered and discussed at such meeting. Any special assessment may, if stated in the resolution authorizing such assessment, be payable in installments over a period of years but in no event shall any such installment be due later than December 1, 2028.

Section 4. Due Dates of Assessments: Defaults.

The annual assessment for the balance of the year in which the main building of the recreational facilities on the Common Properties is completed shall be due and payable ten (10) days after the same is levied with respect to any Lot or Living Unit conveyed by the Developer on or prior to such due date. Each annual assessment thereafter shall be due and payable on January 1 of the year for which it is levied. The due date of any special assessment or installment thereof shall be fixed in the resolution of the Association authorizing such assessment, and written notice of such special assessment or installment thereof shall be given to each Owner subject thereto thirty (30) days in advance of such due date.

In the event the Initial Conveyance of a Lot or Living Unit takes place after any assessments in effect have become due and payable pursuant to the foregoing, the amount of any such assessment, prorated in accordance herewith, shall be due and payable upon the conveyance of said Lot or Living Unit.

If an annual or special assessment or installment of a special assessment is not paid within sixty (60) days after the due date, it shall be deemed to be in default, and such delinquent assessment or installment shall bear interest from the due date at the rate of Eight Percent (8%) per

annum or at such other rate as may be set by the Board of Trustees after January 1, 1981. The Association shall have the right but not the obligation, after such sixty (60) days, to file a notice of lien with respect thereto, stating the amount due, signed by the President and Secretary of the Association, and duly acknowledged and witnessed, in the office of the Recorder of Cuyahoga County, Ohio. In addition, the Association may after such sixty (60) days bring an action against the Owner liable for the payment of any such assessment for collection thereof and all interest thereon and/or an action to foreclose the lien securing such payment and shall be entitled to collect from such Owner in connection with any such action all costs incurred, including, without limitation, reasonable attorneys' fees, which costs shall be deemed added to such assessment and secured by the lien applicable with respect thereto.

Section 5. Special Assessments by City.

Notwithstanding anything to the contrary contained herein, in the event the City duly levies any special assessment against the Common Properties pursuant to an ordinance adopted by proper legislative action, such assessment shall be deemed an expense of the Association and the Association shall collect the amount or amounts necessary to pay such assessment (or installment thereof) when due by increasing

an annual assessment levied in accordance with this Article V prior to the due date of such assessment (or installment thereof), or by imposing a special assessment by its Board of Trustees, in the same amount for each Lot or Living Unit. To the extent they do not conflict with the immediately preceding sentence, all other provisions of this Article V pertaining to an annual or special assessment, as the case may be, shall apply with respect to any increase to an annual assessment or any special assessment levied pursuant to this Section 5. Nothing in this Section 5 shall be construed as a waiver of or limitation on the right of the Association to contest the obligation to pay all or part of any special assessment levied by the City.

Section 6. Statement of Unpaid Assessments.

Statements in respect to existence and amount of unpaid liens and assessments on any Lot or Living Unit shall be provided by the Association to any prospective purchaser or mortgagee of said Lot or Living Unit upon request.

Section 7. Exempt Property. The following property shall be exempted from the assessments and liens created herein:

- (a) All properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use;

(b) The Common Properties and the Cluster Housing Properties (except with respect to any assessment levied or lien imposed on any undivided fee interest therein concomitant with the assessment of or imposition of a lien on any Living Unit) as defined in Article I, Section 1 hereof; and

(c) All properties exempted from taxation by the laws of the State of Ohio, upon the terms and to the extent of such legal exemption.

Notwithstanding any other provision herein, no Lot or Living Unit devoted to dwelling use shall be exempted from said assessments or liens.

#### ARTICLE VI

##### PROTECTIVE COVENANTS

Section 1. Land Use. Each Lot or Living Unit shall be used only for private, single-family, residential purposes, and only one single-family residence, with garage attached, shall be constructed or erected on any Lot. A single "out-building" as defined in Section 5 of this Article VI may be built or maintained on any Lot only in accordance with the provisions of said Section 5. No building or other structure shall be erected, constructed, placed or suffered to remain upon or within the Green Areas except for

fences, signposts and other such items which are intended to enhance the common use and enjoyment of such areas, which do not significantly compromise the nature of such areas as open areas and buffer zones, and for which any necessary approval has been obtained in accordance with Section 2 of this Article VI.

Section 2. Architectural Control. No building or other structure, including, without limitation, any structure used for the receipt or transmission of radio or television signals except a television antenna of the type customarily used in residential areas in the immediate vicinity, shall be erected, constructed, reconstructed, placed, altered or suffered to remain upon property within the Subdivisions except by the Developer, unless and until the plans and specifications showing the size, height, type and materials of construction thereof and the location of the same shall have been submitted to and approved in writing as to the harmony of the external design and the location in relation to surrounding structures and topography by the Developer while the Developer is a Member and thereafter by the Association.

Section 3. Easements. The Developer has created and granted on the recorded plat of the Subdivision 3 Properties easements for installation and maintenance of electric, gas and communication facilities to the companies



named thereon and easements for sewer, drainage, swale, slope, retention, driveways, walk-ways and other easements to the City to the extent shown on said plat. The Developer reserves the right to create and grant similar easements on the plats to be recorded on any resubdivision of the Existing Property or on any additional real property as defined in Article II, Section 3 of these Covenants and Restrictions.

No structures, planting or other material shall be placed or permitted to remain within such easement areas which may damage or interfere with the installation and maintenance of such utilities or which may change the direction of flow of drainage channels or which may obstruct or retard the flow of water through drainage channels. The easement area of each Lot or Living Unit and all improvements in it shall be maintained continuously by the owner of the Lot or Living Unit or a Living Unit Owners' Association, as the case may be, except for those improvements therein for which a public authority or utility is responsible. The holder of any such easement shall have the right to enter upon and across each Lot or Living Unit (but not any dwelling or other building permitted by these Covenants and Restrictions) at any place that is required in order to make any installation, to carry out any maintenance or to perform any other such function or operation in accordance with such easements.

Section 4. Building Setback Restriction; Tree Lawn Limitation. No portion of any Lot nearer to any street than the building lines shown on the recorded plats of the Subdivisions (or, in the event no such building lines are shown with respect to a Lot, then no portion of such Lot nearer to any street than the front yard, and where appropriate, the side yard, setback lines, if any, established in accordance with the applicable zoning and/or planning ordinances of the City) shall be used for any purpose other than that of a lawn; nothing herein contained, however, shall be construed as preventing the use of such portion of said premises for walks and drives, the planting of trees or shrubbery, or the growing of flowers or ornamental plants for the purpose of beautifying said premises. No trees or shrubbery shall be planted in the tree lawn without the written approval of the Association.

Section 5. Out-building; Temporary Structures.  
In addition to the one single-family residence with garage attached, as permitted by Section 1 of this Article VI with respect to a Lot, not more than one out-building (i.e., a building detached from the principal dwelling for use, subject to the restrictions set forth herein, for purposes ancillary to the single-family dwelling other than as a garage) shall be built or maintained on each Lot. No out-building shall be built or maintained on any Lot prior to

the erection of the principal dwelling house thereon. Any such out-building shall be situated at the rear of the dwelling. No basement, garage or out-building shall at any time be used as a residence temporarily or permanently, nor shall any residence whatsoever of a temporary character be permitted.

Section 6. Nuisance, Signs, Trade or Business, Liquor, Pets. No nuisance, advertising sign, billboard or other advertising device shall be built, placed, permitted or suffered to remain upon any Lot or Living Unit, nor shall any such Lot or Living Unit be used in whole or in part to conduct or engage in any trade, commerce, business, occupation or profession (irrespective of whether for commercial, religious, educational, charitable or other purposes) or in any way or for any purpose which may endanger the health or unreasonably disturb the quiet of any holder of adjoining land. No spirituous, vinous or fermented liquors shall be manufactured or sold either at wholesale or retail upon any Lot or Living Unit. Domestic pets may be kept upon any Lot or Living Unit in such manner and such type as one ordinary family usually keeps for its private use in a residential community, but such pets shall not be permitted to become a nuisance.

Section 7. Exterior Maintenance. The Owner of each Lot or Living Unit, or a Living Unit Owners' Association, whichever is appropriate, shall provide reasonable exterior maintenance upon said Lot or Living Unit as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, driveways, walks and other exterior improvements.

Section 8. Storage and Parking Vehicles. No commercial vehicle, truck, trailer, mobile home, house recreational vehicle or trailer (either with or without wheels) shall be stored or kept within the Subdivisions. Private automobiles shall be stored in the garage attached to the residence or parked on paved driveway. No boat shall be stored on any Cluster Housing Properties, Lot or Living Unit except in a garage attached to a Lot or Living Unit.

Section 9. Garbage and Refuse Disposal. No portion of the Common Properties or of any Cluster Housing Properties, no Lot and no Living Unit shall be used or maintained as a dumping ground for rubbish, trash, garbage or any other discarded or waste material. Garbage and waste material may not be kept outside any Living Unit or any structure on any Lot except in a sanitary, clean and covered container.

Section 10. Laundry. No clothesline or clothespole or other device or mechanism for the hanging of clothes shall be maintained on any Lot or Living Unit unless the same is screened from street view and from the view of persons on neighboring Lots or Living Units.

Section 11. Mowing. The Owner of each Lot or Living Unit shall mow or cause to be mowed all grass or other vegetation thereon, except decorative landscaping, ground cover and garden plants, to a height not exceeding four inches. The Association and the appropriate Living Unit Owners' Association shall perform such duties with respect to the Common Properties and Cluster Housing Properties, respectively.

Section 12. Development Activities. Any provision of this Article VI to the contrary notwithstanding, the Developer, or any Owner duly authorized by the Developer, may, with respect to the Subdivisions or any part thereof, to the extent permitted by applicable zoning ordinances:

- (i) engage in any and all activities normally incident to property development and construction;
- (ii) maintain thereon or on or in any Lot or Living Unit, one or more sales offices or model homes and conduct therefrom sales of Lots or Living Units and general business activities related thereto;
- (iii) place such sign or signs thereon or on any Lot or Living Unit as shall facilitate the sale of Lots and Living Units.

Section 13. Street Signs. In the event and to the extent that the City permits the use of street signs which do not conform to the standard street sign on the condition that the Association bear the responsibility for the maintenance, repair and replacement of such signs, and the Developer, prior to January 1, 1984, or thereafter the Association, decides to install and use any such non-conforming street signs in order to enhance the appearance of the Subdivisions, or any part thereof, then the Association shall have the authority to agree to maintain, repair and replace such signs.

ARTICLE VII

DURATION; AMENDMENT

Each provision of these Covenants and Restrictions shall be a separate covenant, and the holding of any such provision invalid for any cause shall not affect the validity of any other. Each provision shall be a covenant running with the land and shall be enforceable at the suit of the Developer, the Association, or their respective successors and assigns, or any other Owner or lawful occupant of any Lot or Living Unit, subject hereto, or of any other person holding a property interest in the Subdivisions, or any part thereof, who is damaged or prejudiced by breach of such

provision, or, to the extent expressly provided for herein, of the City. Any person entitled hereunder to file an action to enforce these Covenants and Restrictions shall be entitled to recover reasonable attorneys' fees, to the extent permitted by law, in connection with such action. Failure to enforce any provision shall not constitute a waiver of or any acquiescence or consent to any concurrent or subsequent violation of any such provisions. Said provisions shall remain in force until January 1, 2029 unless, within the year immediately preceding such date, they are extended as written or as changed by consent thereto in writing signed, witnessed and acknowledged as then required by the laws of Ohio for the conveyance of real estate, by ~~the owners of sixty-five percent (65%) or more of all the~~ Lots and Living Units subject to such provisions, excluding all mortgagees and lien-holders and purchasers under executory contracts; provided, however, that the Developer hereby reserves the exclusive right at any time and from time to time until January 1, 1984 to modify, change, alter, add to or rescind any provision set forth herein by executing an instrument in writing which sets forth any such modification, change, alteration, addition or rescission, or any combination of such actions, and by filing of record said instrument in the Cuyahoga County Records; provided further,