



The New Hampton Master Association

Declaration of Covenants, Conditions,
Restrictions and Easements

Protecting your Investment

DECLARATION

Submitting the property known as New Hampton, a Planned Residential Community, with open spaces and other common areas located in the City of Broadview Heights, Cuyahoga County, Ohio.

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

Date: _____, 2002

_____ County Recorder

By: _____

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NEW HAMPTON MASTER ASSOCIATION, INC.
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS, NEW HAMPTON, BROADVIEW HEIGHTS, OHIO

THIS DECLARATION, made this 7th day of January, 2002, by and between PULTE HOMES OF OHIO CORPORATION and Ohio corporation (hereinafter referred to as "DEVELOPER"), and NEW HAMPTON MASTER ASSOCIATION, INC., an Ohio not-for-profit corporation (hereinafter referred to as "ASSOCIATION").

PREAMBLE

- A. The Developer is the owner of the real property in Broadview Heights, Cuyahoga County, Ohio which is more particularly described (the "Property") as follows:

Situated in the City of Broadview Heights, County of Cuyahoga, State of Ohio and known as Sublots Numbers 1 through 73 and Blocks "A", "B", "C", "D" and "E" in the New Hampton Subdivision Phase 1 being part of Parcel "A" in the New Hampton Subdivision, Part of Original Brecksville Township Lot 68, as shown by the Plat recorded October 3, 2001 as Instrument No. 200110030054 of Cuyahoga County Records.

The Developer desires to create thereon a planned residential community with permanent open spaces, natural areas and preserves, wetland mitigation areas, water retention basins, signage, landscaping, walkways, recreational facilities and other common facilities; and to this end, desires to subject said real property to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and,

- B. The Developer has deemed it desirable for the efficient preservation of the values and amenities in said community to create an agency to which should be delegated and assigned the powers of maintaining and administering the Common Areas and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and
- C. There has been incorporated under the laws of the State of Ohio, as a non-profit corporation, NEW HAMPTON MASTER ASSOCIATION, INC., (the "Association") for the purposes of exercising the functions aforesaid; and
- D. The Association joins in the Declaration for the purpose of accepting the duties and responsibilities imposed upon it by the protective covenants and restrictions herein contained; and
- E. Developer declares that the Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "Covenants and Restrictions") hereinafter set forth, and further specified that this Declaration shall constitute covenants to run with the land and shall be binding upon Developer, and its successors and assigns and all other owners of any part of said real property, together with their grantees, successors,

heirs, executors, administrators or assigns; and

- F. The Developer intends to construct a variety of housing types on the property in defined areas which may have more restrictive levels of rules, regulations and maintenance specifications. The Developer may create its own second tier of sub-associations to develop, maintain and administer the Common Areas of individual subdivisions and condominiums (if any) and may also impose covenants and building use restrictions to supplement those contained in this Declaration pertaining to such subdivisions and condominiums. Such additional covenants and restriction shall not be less restrictive than those contained herein and, in the case of conflict, the more restrictive provisions shall control.

ARTICLE I
PREAMBLE - PROPERTY - EXPANSION OF PROPERTY

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 Paragraph A of the Preamble. A site plan of the Property is attached hereto and made a part here as Exhibit "A".

Section 1.3 - Expansion of the Property

The Developer reserves the right from time to time to add additional property to the Property (including adjacent property of the Developer) and to subject the same to the provisions of this Declaration. To add any 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. The additional property within the area described in Deed recorded on July 26, 2001, as AFN No. 200107260508 of the land records of Cuyahoga County and the additional property described in Exhibit "B" attached hereto and made a part hereof may be annexed by the Developer without the consent of Members within ten (10) years of the date this Declaration is recorded in the Cuyahoga County Records. Provided, however, if at the time of annexation of the additional property by the Developer, the Veterans Administration or the Federal Housing Administration is the guarantor, insurer, or holder of a mortgage on any Sublot within the Property for federally approved mortgage financing purposes, thereafter any annexation shall be made only if the Federal Housing Administration and/or the Veterans Administration determine that the annexation is in accordance with the general plan theretofore approved by them. The annexation to the Property of residential property and Common Areas in addition to the additional property referred to above shall require the consent of two-thirds (2/3rds) of each class of Members.

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 site plan of the Property.
- Exhibit "B" - Legal Description of Additional Property.
- Exhibit "C" - A Form Certificate of Compliance (See Section 8.27 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" means 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 (20%) 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 (20%) 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, hold with power to vote, or holds proxies representing more than twenty percent (20%) 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 (20%) of the capital of the Person. Control does not exist if the powers described in this subsection are held solely as security for any obligation and are not exercised.
- b) "AREAS OF COMMON RESPONSIBILITY". The Areas of Common Responsibility shall mean and refer to (1) the Common Areas (including Open Spaces); (2) the entrances to the Property situated off of existing and future public streets that abut the Property (the "Entrances") and landscaping, lighting, irrigation and other improvements with the Entrances; (3) storm drainage that generally serves the Property and that is not the responsibility of the City, including storm water retention/detention and management areas; (4) real and personal property owned by the Association; (5) real and personal property not owned by the Association but determined by the Board to be the responsibility of the Association; (6) landscaping of the Common Areas; (7) maintenance and repair of any structure including fencing within the Common Areas; (8) a trail system within the Common Areas of the Property (including pedestrian/bicycle paths); (9) the Preserve and (10) any play or recreation areas within Common

- Areas. Any public right-of-way, within or adjacent to the Property (including landscape areas within cul-de-sacs) and sidewalks adjacent to Common Areas, 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 New Hampton to fund Common Expenses.
 - e) "ASSOCIATION". New Hampton Master 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) "BOARD". The Board of Trustees of the Association. The Board is sometimes referred to as the "Trustees".
 - g) "CITY". The City of Broadview Heights, an Ohio municipal corporation.
 - h) "CODE". The Code of Regulations of the Association.
 - i) "COMMON AREAS". All real and personal property now or hereafter owned by the Association or otherwise held for the common use and enjoyment of the Owners or Occupants. Common Areas shall include the Entrances of the Property, any recreational facilities, storm water retention/detention and management areas, any trail system, and those areas of land intended for the common use, benefit and enjoyment of all Occupants of the Property. Any Owner may delegate, in accordance with the Code and subject to all reasonable rules, regulations, and limitations as may be adopted in accordance therewith, his or her right of enjoyment to the Common Areas to the members of his or her family, tenants and social invitees and shall be deemed to have made a delegation of all such rights to the Occupants of any leased Living Unit. The Common Areas are not for the use by the general public, but are for the common use and enjoyment of the Owners of Living Units within New Hampton. The Common Areas shall be owned by the Association at the time of the conveyance of the first Sublot described in Paragraph A of the Preamble.
 - j) "COMMON EXPENSES". The actual and estimated expenses of operating the Association, both for general or special purposes, including reasonable reserves, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the Code, and the Articles of Incorporation of the Association.
 - k) "CONSERVATION EASEMENT". The easement agreement entitled Grant of Conservation Easement between Ohio Stream Preservation, Inc., an Ohio not-for-profit corporation, and Developer which has been duly recorded in the records of the Cuyahoga County Recorder as AFN No. 200107260508 and re-recorded

for correction purposes as AFN No. 200110011127.

- l) "COUNTY". The County of Cuyahoga.
- m) "DESIGN REVIEW COMMITTEE". The committee created by this Declaration and granted original jurisdiction to review and approve or disapprove exterior and structural improvements, landscaping, additions to the Living Units and changes within the Property hereafter sometimes referred to as the Committee.
- n) "DEVELOPER". PULTE HOMES OF OHIO CORPORATION, an Ohio Corporation, and the specifically designated successors or assigns of any of their rights as Developer under this Declaration or under any supplement to this Declaration involving the Property as the same may be expanded or contracted from time to time. No person, real or corporate, shall be deemed to be a successor, alternate or additional Developer for the purposes of this Declaration unless and until such person or entity has been specifically so designated by Developer herein, by instrument in writing and placed of record, and shall be deemed a successor and assign of Developer only to the particular rights and interests of Developer under this Declaration or under a supplement to this Declaration. The Developer is sometimes referred to herein as "Original Developer".
- o) "ELIGIBLE MORTGAGE HOLDERS". Eligible Mortgage Holders shall mean banks, savings and loan associations, insurance companies and other institutional lenders, holders, insurers or guarantors of first mortgages on the Property or portions thereof.
- p) "LIVING UNIT". Shall mean and refer to any attached or detached single family dwelling or duplex or townhouse located on a Sublot, or any condominium unit shown on any recorded Condominium Declaration and Drawings filed therewith. For purposes of this Declaration, a Living Unit shall come into existence when the improvements constructed thereon are sufficiently complete to reasonably permit the habitation thereof, whether or not a certificate of occupancy has been issued for the Living Unit by the governmental authority having jurisdiction over the same, and the Living Unit has been conveyed to a person other than the Developer.
- q) "MEMBER". A person or entity entitled to membership in the Association, as provided herein.
- p) "NEW HAMPTON". New Hampton, a Class B-3 Rural, Residential District under the Planning and Zoning Code of the City, the initial phase of which is shown on the Plat. The layout, location and configuration of the Sublots and Common Areas are subject to modification and amendment from time to time.
- r) "OCCUPANT". A person in the possession of a Living Unit including, without limitation, an Owner or any guest, invitee, lessee, tenant, or family member of an

Owner occupying or otherwise using a Living Unit.

- s) "OPEN SPACES". Land that is assigned in perpetuity as private open space, including "common land" and "open spaces" required by the City's Planning and Zoning Code. Open Spaces shall be available and accessible to all residents of New Hampton.
- t) "ORIGINAL DEVELOPER". PULTE HOMES OF OHIO CORPORATION, an Ohio Corporation.
- u) "OHIO STREAM PRESERVATION, INC.". The non-profit corporation, hereafter referred to as OSP, responsible for the preservation and protection of the Preserve as defined in the Conservation Easement.
- v) "OWNER". The record Owner of fee simple title in any Sublot, or condominium unit, including the Developer (except as otherwise provided herein) with respect to any unsold Sublot or condominium unit, but Owner shall exclude in all cases any party holding an interest merely as security for the performance of an obligation. If a Sublot or condominium unit is sold under a land installment contract, the purchaser (Vendee) (rather than the fee Owner) will be considered to be the Owner. For the purpose of this Declaration, the Owner of a Sublot that is rented to others shall be as follows: For the purpose of votes and Assessments, the record Owner of the Sublot; for the purpose of use and enjoyment of common facilities and amenities which are part of the Common Areas, the Tenant residing in the Living Unit situated on the Sublot.
- w) "OWNERSHIP INTEREST". The entire right, title and interest of any Owner in all of the freehold and leasehold estates of such Owner in his Sublot or condominium unit.
- x) "PARTY WALL". Each wall which is built as part of the original construction of Living Units upon a Sublot and placed on the dividing line between Sublots.
- y) "PERSON". A natural individual, corporation, partnership, limited partnership, trust or other entity to which the law attributes the capacity of having rights and duties.
- z) "PLAT". The subdivision plat of New Hampton Phase 1 recorded as is described in Preamble A. of this Declaration.
- aa) "PRESERVE". That area defined as the "Preserve" in the Conservation Easement. OSP is charged by federal and state law to ensure the conservation and preservation of the Preserve pursuant to the terms of the Conservation Easement.
- bb) "PROPERTY". The land described in Paragraph A of the Preamble and such additions thereto as may hereafter be submitted to the Declaration pursuant to Section 1.3 and brought within the jurisdiction of the Association.

- cc) "PROPOSED LIVING UNIT". Shall mean and refer to Living Units proposed but not yet constructed or units under construction as shown on preliminary plans submitted by the Developer and any subsequent plans approved by the Broadview Heights Planning Commission.
- dd) "RULES". Rules and regulations promulgated by the Board or the Design Review Committee that govern the operation and use of the Sublots, Living Units, Areas of Common Responsibility, Common Areas, and any other property owned by the Association.
- ee) "SITE PLAN". The preliminary site plan of the Property dated April, 2001 prepared by Donald G. Bohning and Associates, Inc. and Cawrse and Associates, Inc. which currently shows a total of 585 Sublots and Living Units, approximately 101 acres of open space, and approximately 4.2 acres for recreational facilities. The same may be supplemented, modified and amended from time to time. The Site Plans shows Phase 1 of the Property described in Paragraph A of the Preamble and such additions thereto as may be submitted to the Declaration pursuant to Section 1.3 hereof.
- ff) "SPECIAL DEVELOPER RIGHTS" means those rights reserved for the benefit of the Developer as provided for in this Declaration and the Code, and shall include, without limitation, the following rights: (1) to expand the Property in accordance with Section 1.3 of this Declaration; (2) to maintain sales offices, management offices, customer services offices, and signs advertising the Property; (3) to use easements, including easements detailed in the Conservation Easement, through the Common Areas for the purpose of making improvements within the Property; and (4) to appoint or remove any Board members or officers of the Association during the period that the Developer has the right to elect or designate members of the Board.
- gg) "SUB-ASSOCIATION". Any residential or condominium property owners association formed (or to be formed) to oversee and administer the development and maintenance of portions of the Property, and each such Sub-Association shall enforce and administer a separate declaration of covenants, conditions and restrictions and code of regulations or bylaws, as the case may be, to be recorded in the Cuyahoga County records. A Sub-Association may be used if Owners of Living Units within the Property have common interests other than those common to all Members of the Association, such as a common theme, entry feature, development name, and/or common areas and facilities which are not available for use by all Members of the Association. A Sub-Association shall have the right to levy assessments against all Living Units within the portion of the Property subjected to the Sub-Association to defray the costs of providing services to the Owners of Living Units within the Sub-Association which services would not otherwise be available to them.
- hh) "SUBLOT". A platted single-family lot upon which a Living Unit has been or may be constructed. The term Sublot does not include a platted Common Area.

- ii) "SUBSEQUENT AMENDMENT". An amendment to this Declaration which adds additional property to that covered by this Declaration. A Subsequent Amendment may, but is not required to: (i) impose, expressly or by reference, additional restrictions and obligations on the land submitted by such Subsequent Amendment to the provisions of this Declaration; and/or (ii) otherwise amend this Declaration and/or the Code.
- jj) "TENANT". Any person(s) having a possessory leasehold estate in a Living Unit, other than the Owner.
- kk) "WETLAND AREA". An area designated as a Wetland Area on the Plat or on the Site Plan or described in the Conservation Easement.

ARTICLE III EASEMENTS

Section 3.1 – Utility Easements

There is hereby reserved in favor of Developer and granted to the Association, its successors and assigns, a non-exclusive easement upon, across, over, through and under the Property for ingress, egress, installation, replacement, repair and maintenance of all utilities and service lines and systems including, but not limited to, water, storm and sanitary sewer, energy, drainage, gas, telephone, electricity, television, cable and communication lines and systems. By virtue of this easement, it shall be expressly permissible for the Developer and the Association and their successors and assigns, or the providing utility or service company, to install and maintain facilities and equipment on the Property provided that such facilities shall not materially impair or interfere with any Living Units and provided further that any areas disturbed by such installation and maintenance are restored to substantially the condition in which they were found. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utility service lines or facilities for such utilities may be installed or located except as approved by the Developer or the Design Review Committee or unless the same are shown on a recorded plat. There is hereby reserved in favor of the Developer and the Association the right (but not the obligation) to grant neighboring property owners easements for access purposes and easements for utility purposes so long as the granting of easements for utility purposes does not overburden the utilities serving the Property.

Section 3.2 – Easement for Ingress and Egress

There is hereby created a non-exclusive easement upon, across, over and through any sidewalks, walkways, bike paths and all-purpose trails in favor of Developer and the Association, all Owners, Occupants, and their respective guests, licensees and invitees for pedestrian and vehicular ingress and egress, as the case may be, to and from all of the various portions of the Property. Notwithstanding the foregoing, the Developer and/or the Association may limit this right of ingress and egress by a Subsequent Amendment.

Section 3.3 – Owner's Easements to Enjoyment

Developer, every Owner, an Occupant and the guest of such parties shall have a right and non-exclusive easement of use and enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to every Sublot, subject to the following provisions:

- a) the right of the Association to charge reasonable admission and other fees for the use of recreational facilities (if any) situated upon the Common Area;
- b) the right of the Association to suspend the voting rights and right to use of the recreational facilities (if any) by an Owner for any period during which any assessment against his Sublot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its Rules;
- c) the right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Board. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been signed by two-thirds (2/3rds) of the members and has been recorded with the County Recorder.

Section 3.4 – Easements for Construction, Alteration, etc.

Easements are hereby created upon portions of the Common Areas necessary in connection with the construction, alteration, rebuilding, restoration, maintenance and repair of any Living Unit or other structures and improvements within the Property or serving the Property; provided, however, that in the exercise of any rights under this easement, there shall be no unreasonable interference with the use of any Living Unit or other structure or improvement on the Property. Any Person benefiting from the foregoing easement shall indemnify and save harmless the Developer, the Association and each Owner and Occupant from and against any and all losses, damages, liabilities, claims and expenses, including reasonable attorneys' and paralegals' fees resulting from any such construction, rebuilding, alteration, restoration, maintenance and shall repair any damage caused in connection with such activities to substantially the condition that existed prior to such activities. The provisions of this easement are subject and subordinate to the Conservation Easement.

Section 3.5 – Emergency and Service Easements

There is hereby granted to the City and County an easement for access to the Common Areas, including Open Spaces, for emergency purposes or in the event of nonperformance of maintenance of improvements affecting the public interest. The City and County shall have the right, after proper notice, to make improvements and perform maintenance functions with the costs thereof levied as a lien against the Common Areas. Advance notice is not required for emergency entrance onto the Common Areas.

Section 3.6 – Drainage Rights and Authority to Transfer Drainage and other Easement Rights to City

The Developer, each Owner, the Association, the City and County shall have the non-exclusive right and easement in common to utilize the waterways, courses, storm sewers, drainage pipes and retention basins in, over and upon the Common Areas for the purposes of drainage of surface waters on the Property, said rights-of-ways and easements being hereby established for said purpose. It shall be the obligation of the Association to properly maintain, repair, operate and control such drainage system on the Common Areas unless those easement areas are accepted by the City and/or County or other governmental authority having jurisdiction by formal action of the City and/or County. No Person shall interfere with the free flow of water through any drainage ditches or storm sewers within the Property.

Section 3.7 – Easements for Community Signs

Easements are created over the Common Areas to install, maintain, repair, replace and illuminate signs that are for the general benefit of the Property or for the identification of New Hampton. The type, size and location of the signs shall be subject to the approval of the Design Review Committee and subject to the laws of the County, City and other governmental authorities having jurisdiction.

Section 3.8 – Easement to Maintain Sales Offices, Models, etc.

Notwithstanding any provisions contained in this Declaration to the contrary, so long as construction and sale of Living Units by the Developer or an Affiliate of the Developer is continuing within the Property, it shall be expressly permissible for the Developer to maintain and carry on upon portions of the Common Areas and/or Sublots such facilities and activities as, in the sole opinion of the Developer, may be reasonably required, convenient, or incidental to the construction or sale of Living Units, within the Property, including, but not limited to, administrative/customer services, trailers for sales/construction office purposes, parking areas, parking signs, identification signs, model units, and sales and resales offices, and the Developer, its guests, licensees and invitees shall have an easement for access to all such facilities. The right to maintain and carry on such facilities and activities shall specifically include the right of the Developer to use Living Units as models and construction and sales offices. Developer further reserves the right for itself and its successors, assigns, contractors, materials suppliers and others performing work and furnishing materials to construct Living Units and other improvements upon the Property to conduct business and carry on construction/site development activities during business hours that are customary within the City. This Section may not be amended or modified without the express written consent of the Developer.

Section 3.9 – Maintenance Easement

There is hereby reserved for the benefit of the Association and its agents, employees, successors and assigns an alienable, transferable, and perpetual right (but not the obligation) and easement to enter upon any Sublot for the purpose of mowing,

removing, clearing, cutting or pruning underbrush, weeds, stumps, or other unsightly growth and removing trash and debris in order to maintain reasonable standards of health, fire safety, and appearance with the Property, provided that such right and easement shall not impose any duty or obligation upon Developer or the Association to perform any such actions; and provided, further, that in exercise of its rights hereunder the Association shall be entitled to be reimbursed by such Owner pursuant to Article VII hereof.

Section 3.10 – Environmental Easement

There is hereby reserved for the benefit of Developer, the Association, and their respective agents, employees, successors, and assigns, an alienable, transferable, and perpetual right and easement on, over, and across the Common Areas and the vacant portion of a Sublot for the purpose of taking any action necessary to effect compliance with the environmental rules, regulations, and procedures from time to time promulgated or instituted by the Board, the Design Review Committee, or by any governmental entity, such easement to include, without limitation, the right to implement erosion control procedures and practices, the right to drain standing water, and the right to dispense pesticides and the right to maintain Wetland Areas. The provisions of this easement are subject and subordinate to the Conservation Easement.

Section 3.11 – Scope of Easements and Dedication of Roadways and Utilities

As the improvements to be located within the Property for the easement rights granted or reserved under Sections 3.1 and 3.2 are definable within the specific area, the Developer or the Association (with the Developer's prior written consent so long as Developer is a Class "B" Member) shall have the right (but not the obligation) to: (a) limit such easements to specific areas and purposes, and record a document or documents releasing the balance of the lands from the burden of such easements; and/or (b) record a plat or other document or documents setting forth the specific areas subjected to such easements; and/or (c) dedicate to public or private use specific areas (and the improvements contained therein) within the Property to meet the requirements of the County, City, and other public authorities having jurisdiction over the same. The Developer or the Association may exercise any of such rights without the necessity of obtaining the consent or approval of Owners and other Persons for whose benefit the easement rights are granted or reserved.

Section 3.12 – Easements To Run With the Lands

All easements and rights described herein are easements appurtenant to the Property (including the Living Units) and the Common Areas, shall run with said lands, perpetually and at all times inure to the benefit of and be binding upon the Developer, its successors and assigns, and any Owner, Tenant, Occupant, purchaser, mortgagee, the City, the County or other Person having an interest in the Property, or any part or portion thereof.

ARTICLE IV
PRESERVE

The Preserve shall remain in its present physical condition subject to natural changes. Any activity on or use of the Preserve which is inconsistent with the provisions of the Conservation Easement, is expressly prohibited. OSP shall have the right to carry out all duties and rights granted to OSP by the Conservation Easement, including the right to take all enforcement actions against parties violating the terms and conditions of the Conservation Easement. In the event of a conflict between any provision of this Declaration regarding the Preserve and the provisions of the Conservation Easement, the provisions of the Conservation Easement shall control.

ARTICLE V
OWNERSHIP AND OPERATION OF COMMON AREAS

Section 5.1 – Conveyances of Common Areas

Developer shall convey the Common Areas to the Association free and clear of any liens and encumbrances. Such conveyance shall have priority over all liens and encumbrances whatsoever except the easements, covenants, restrictions and provisions of this Declaration; easements, covenants, restrictions, conditions and other similar matters of record; real estate taxes and assessments which are a lien, but are not due and payable at the time of said conveyance; and zoning and other ordinances, if any. The Association shall hold title to said parcels subject to the provisions of this Declaration.

Section 5.2 – Use of Common Areas

Any Owner may delegate, in accordance with the Code of the Association and subject to Rules, as may be adopted in accordance therewith, his or her right of enjoyment to the Common Areas to the members of his or her family, tenants, and social invitees and shall be deemed to have made a delegation of all such rights to the Occupants or Tenants of any leased Living Unit.

ARTICLE VI
THE ASSOCIATION

Section 6.1 – Existence

The Association is an Ohio not-for-profit corporation. The Association shall not be dissolved nor shall the Association dispose of Open Space without first offering to dedicate the same to the City.

Section 6.2 – Membership and Voting Rights

a) Classes of Membership

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

1. Class "A" Membership. Each Owner of a Sublot or Living Unit, with the exception of the Developer, shall automatically be a Class "A" Member of the Association. Class A members shall be entitled to one vote for each Sublot in which they hold the fee simple interest or interests. All Owners shall be Members of the Association.
2. Class "B" Membership. The Developer shall automatically be the sole Class "B" Member of the Association.

b) Voting Rights

1. Class "A" Member. Class "A" Members shall be entitled to one (1) equal vote for each Sublot in which they hold the interest required for membership under Section 6.2(a)(1) hereof. There shall be only one (1) vote for each Sublot. In any situation where a Class "A" Member is entitled to exercise a vote and more than one (1) Person holds the interest in such Sublot required for membership, the vote for such Sublot shall be exercised as those Persons determine among themselves and advise the Secretary of the Association in writing prior to any meeting. In the absence of such advice, the vote of the Sublot shall be suspended if more than one (1) Person seeks to exercise it. In the case of a Sublot owned or held in the name of a corporation, partnership, limited partnership, limited liability company, trust or other entity, a certificate signed by such Owner shall be filed with the Secretary of the Association naming the person authorized to cast a vote for such Sublot, which certificate shall be conclusive until a subsequent certificate is filed with the Secretary of the Association. If such certificate is not on file, the vote of such entity shall not be considered, nor shall the presence of a person purporting to act on behalf of such entity at a meeting be considered in determining whether the quorum requirement for such meeting has been met. When a fiduciary or other legal representative of an Owner has furnished to the association proof of such person's authority, such person may vote as though he or she were the Owner.
2. Class "B" Member. The Class "B" member shall be the Developer and shall be entitled to three (3) votes for each Sublot owned. The Class "B" membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier: (i) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or (ii) ten (10) years from the date of the filing of this Declaration.

For purposes of determining the number of votes allowed under this Section with respect to land of the Properties which has not yet been subdivided into Sublots, the total number of Sublots shall be the total number of Sublots within the Property and the additional property as shown on the Site Plan.

Section 6.3 – Board and Officers of the Association

The Trustees of the Board and the Officers of the Association shall be elected as provided in the Code and shall exercise the powers, discharge the duties and be vested with the rights conferred by operation of law, the Articles and Code, except as otherwise specifically provided.

Section 6.4 – Rights of the Association

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

- a) To borrow money from time to time for the purpose of improving the Common Areas, and, with the assent of two-thirds (2/3rds) of each class of members, 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.
- 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 two-thirds (2/3rds) of each of the Class "A" and Class "B" Members, and provided further that such successor shall agree, in writing to be bound by the easements, covenants, restrictions and agreements of this Declaration.
- 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 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; provided, however, that no such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer be signed by two-thirds (2/3rds) of the Members has been recorded.

ARTICLE VII
RESPONSIBILITIES OF THE ASSOCIATION

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

Section 7.1 – 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 Common Areas. All work performed by the Association under this Article shall be performed in a good and workmanlike manner.

Section 7.2 – Taxes and Assessments; Stewardship Fees

The Association shall pay all taxes and assessments levied against portions of the Property owned by the Association, including annual stewardship fees levied by OSP.

Section 7.3 – Utilities

The Association shall pay all charges for water, sewer, electricity, light 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 7.4 – Exterior Maintenance of Living Units

Each Owner is responsible for the exterior maintenance, repair and replacement (including maintenance of landscaping) of such Owner's Living Unit and the Sublot upon which such Living Unit is situated. If an Owner fails to perform such maintenance, repair or replacement obligations, in a manner satisfactory to the Board, the Association, after approval by two-thirds (2/3rds) of the members of the Board, shall have the right to make any such repair or replacement and the cost of such repair and replacement shall be added to and become part of the Assessment for which such Living Unit is subject. For the purpose solely for performing any rights granted to the Association by this Section, the Association, through its duly authorized agents, employees and contractors, shall have the right and license, after reasonable notice to an Owner, to enter upon any Sublot at reasonable hours.

Section 7.5 – Insurance and Reconstruction

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

1. Casualty Insurance. 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. Such insurance shall be written in the name of, and the proceeds thereof shall be payable to the Association.

2. Liability Insurance. The Association shall insure itself, the members of the Board, the Owners and Occupants of Living Units 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, 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 Three Million Dollars (\$3,000,000) in respect to personal injury, disease, illness or death suffered by any one person, and to the limit of not less than Three Million Dollars (\$3,000,000) in respect to any one occurrence, and to the limit of not less than Three Million Dollars (\$3,000,000) in respect to damage to or destruction of property arising out of any one accident. All liability insurance shall contain cross-liability endorsements to cover liabilities of the Owners as a group to an Owner. In the event the insurance effected by the Association on behalf of the Owners and Occupants of Living Units 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 (trustee) and officers liability coverage, if reasonably available.
3. Fidelity Bonds. 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 cancelled 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.
4. Flood Insurance. The Association shall carry flood insurance on all insurable improvements comprising the Common Areas located within a flood plain and floodway, as defined by currently effective federal law or regulation.
5. Premiums. Premiums upon insurance policies purchased by the

Association shall be assessed as Common Expenses.

6. Unit Owner Casualty and Liability Insurance. Each Owner shall, at his or her own expense, obtain: (A) casualty insurance covering his or her Living Unit; (B) casualty insurance covering the contents of his or her Living Unit and (C) public liability insurance for personal injuries or damage arising out of the use and occupancy of his Living Unit and Sublot.
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/V 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.
8. Annual Review of Policies. All policies for insurance shall be reviewed annually by the Board to determine whether the coverage contained in the policies is sufficient to make any and all necessary repairs or replacement of the property which may have been damaged or destroyed.

Section 7.6 – Management

The Association will 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, and shall perform and carry out all other duties and acts reasonably necessary to give effect to and 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. No management agreement or renewal thereof shall be for a period longer than one (1) year (subject to the right of either party to terminate the management contract without cause and without payment of a termination fee, upon ninety (90) days written notice to the other party).;
- d) The management agreement may be for a period of time not to exceed one (1) year (subject to the right of either party to terminate the management contract without cause and without payment of a termination fee, upon ninety (90) days written notice to the other party), in Developer's sole discretion.

Section 7.7 – Enforcement

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

Section 7.8 – Rules and Regulations

The Association, through the Board, may make and enforce Rules governing the Areas of Common Responsibility, which Rules 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. Impositions 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.

Section 7.9 – 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 Living Unit for unpaid assessments in the manner and to the extent granted to the Association as herein provided.

**ARTICLE VIII
COVENANTS AND RESTRICTIONS**

The intent of this Declaration is to cause the Property to be kept and maintained as a high quality development. 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, or any Owner, shall have standing and the power to enforce such standards and to make and to enforce standards and restrictions governing the use of the Property in addition to those contained herein. Such regulations and use restrictions shall be binding upon all Owners, Land Contract Vendees, Lessees, Tenants and Occupants.

Section 8.1 – Sheds

No shed, tent, shack, barn or any similar structure of any kind shall be permitted on any Sublot.

Section 8.2 – Fences, Walls and Hedges

Fences, walls, trees, hedges, and shrub plantings shall be maintained in a sightly and attractive manner, and shall not obstruct the right-of-way sight lines for vehicular traffic. Fences and walls of any kind shall not be erected, begun or permitted to remain upon any portion of the Property unless approved by the Design Review Committee or unless originally constructed by Developer.

Section 8.3 –Animals

No animals, livestock, reptiles or poultry of any kind shall be raised, bred or kept on any portion of the Property (including the Living Units situated thereon) without the approval of the Board, except that dogs, cats, birds and other customary household pets 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 (3) days written notice from the Board. Dogs shall at all times whenever they are outside a Living Unit be confined on a leash held by a responsible person.

Section 8.4 – Signs

No sign or other advertising device of any nature shall be placed upon on any portion of the Property except for signs and advertising devices installed by or at the direction of the Design Review Committee, or which the Design Review Committee approves. "For Rent" signs are prohibited. "For Sale" signs are permitted with the prior written approval of the Design Review Committee as to type, size and location of such signs. Notwithstanding the foregoing, the restrictions of this Section 8.5 shall not apply to Developer. Furthermore, all signage must comply with City requirements.

Section 8.5 – Mailboxes

Only those types of mailboxes, as installed by the Developer, will be permitted. No additions to the original mailboxes will be permitted. Separate mailboxes for newspapers are prohibited. All replacements of mailboxes shall be uniform in appearance to the size, type, color and location of the mailboxes installed by the Developer and shall be approved by the Design Review Committee.

Section 8.6 – 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 Living Unit for his office or studio as permitted by City zoning requirements, so long as the activities therein shall not interfere with the quiet enjoyment or comfort of any other Occupant and that such use does not result in the Living Unit becoming principally an

office, school or studio as distinct from a Living Unit.

Section 8.7 – Storage of Vehicles and Machinery

No truck (except for 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, van, 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, or parking areas approved by the Design Review Committee. 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. Notwithstanding the foregoing, the Developer may maintain a construction/office/sales trailer(s) on the Common Areas and on Sublots owned by the Developer so long as the construction and sales by the Developer of the Living Units is continuing.

Section 8.8 – 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.

Section 8.9 – Control of Trucks, Commercial Vehicles

No tractor trailers, commercial tractors, commercial vehicles, road machinery, excavating equipment shall be permitted to remain on any portion of the Property or on the public right-of-way adjoining 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 8.10 – Poles, Wires, Antennae and DDS Satellite System

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 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 (1) meter or less in diameter, may be attached to a Living Unit.

Section 8.11 – Swimming Pool Restrictions

No above ground swimming pools are permitted on the Property. Wading pools, no more than two (2) feet in height, installed temporarily during the summer months, are

permitted in the rear of the Sublot. In ground pools are permitted with the approval of the Design Review Committee.

Section 8.12 – Landscaping

Each Owner shall be responsible for the landscaping of his or her Sublot and shall complete all landscaping described herein within six (6) months after the Unit Owner takes title to the Owner's Living Unit (weather permitting). Each Owner shall maintain such landscaping.

Section 8.13 – Grading

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

Section 8.14 – Resubdivision of Sublots

No Sublot shall be split, divided or subdivided for sale, resale, gift, transfer or otherwise after acquisition from the Developer. Developer, however, hereby expressly reserves the right to replat any Sublot owned by the Developer. Any such division, boundary, line change or replatting shall not be in violation of applicable City regulations.

Section 8.15 - 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 8.16 – Use of the Name "New Hampton"

No person shall use the word "New Hampton", or any derivative thereof in any printed or promotional materials without the prior written consent of Developer. However, Owners may use the name "New Hampton" in printed and promotional material where such work is used solely to specify that particular property is located within New Hampton.

Section 8.17 – Sale, Leasing or Other Alienation Living

An Owner shall have the right to lease all (but not less than all) of his Living Unit upon such terms and conditions as the Owner may deem advisable, except that no Living Unit shall be leased or subleased for transient or hotel purposes (i.e., for a period of less than six (6) months)

Section 8.18 – Waiver of Subrogation

Each Person as a condition of accepting title and/or possession of a Living Unit

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 8.19 – Violation of This Article

If any Person required to comply with the foregoing Covenants and Restrictions is in violation of any one of same, including, but not by the 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 by 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, extinguish such violation. Such notice shall expressly set forth the facts constituting such violation.

Except in the case of an emergency situation, the violating party shall have fifteen (15) days after written notice of the violation to take reasonable action to cause the removal, alleviation or termination of same. In the case of an emergency situation, or in the case of the failure of the violating party to comply with the provisions hereof after notice, the 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 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 8.20 – 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 created by this Association or adopted by the Board. The City is a third party beneficiary of these covenants and restrictions; provided, however, if the City zoning, building or other requirements of ordinances and general law are more restrictive than these covenants and restrictions, the City requirements shall prevail.

Section 8.21 – Party Walls

- a) General rules of law apply. To the extent not inconsistent with this subsection, the general rules of law regarding Party Walls and liability for property damaged due to negligence or willful acts or omissions shall apply thereto.
- b) Sharing of repair and maintenance. The cost of reasonable repair and maintenance of a Party Wall shall be shared by the Owners who make use of the Party Wall in proportion to such use.
- c) Destruction by Fire or Other Casualty. If a Party Wall is destroyed or damaged by fire or other casualty, any Owner who has used the Party Wall may restore it and if other Owner thereafter makes use of the Party Wall such other Owner shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owner to call for a larger contribution from the other Owner under any rule of law regarding liability for negligent or willful acts or omissions.
- d) Weatherproofing. 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.
- e) Right of Contribution Runs with Land. 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.
- f) Arbitration. In the event of any dispute arising concerning a Party Wall, or under any provisions of this subsection, the dispute shall be submitted to arbitration in accordance with Section 17.8 hereof.

Section 8.22 – Certificate of Compliance with Restrictions

Upon an Owner's reconveyance of his/her/their Living Unit or an interest therein, such Owner (i.e., seller) shall have the right to request the Association to issue a Certificate of Compliance stating the Association has no record of a violation of this

Article and stating the unpaid Assessments and amount of monthly (quarterly) Assessments attributable to such Living Unit. A Certificate of Compliance may be relied upon by all persons for all purposes. Neither the Board, no such officer or agent shall have any liability to the seller, buyer, mortgagee of a Living Unit or to others if the Certificate of Compliance issued hereunder is not correct. The Association may require the advance payment of a reasonable fee for the issuance of the Certificate of Compliance. The Certificate shall be substantially in the form of Exhibit "B".

ARTICLE IX DESIGN REVIEW COMMITTEE

Section 9.1 – Power of Committee

There is hereby created a Design Review 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 New Hampton 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 need not be made up of members of the Association. After control of New Hampton has been transferred over to the Association, the Committee shall be composed of not less than three (3) individuals appointed by the Board of Trustees 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 9.2 – Operation of Committee

No Living Unit shall be altered, modified or changed in any way which changes exterior or the appearance thereof, nor shall any Living Unit be rebuilt, nor shall an addition be made, or deck added or modified, to a Living Unit, nor shall any grading be changed unless an application, plans and specifications for the proposed alteration, modification, change or addition shall have been submitted to and approved in writing by the Committee. All alterations, modifications, changes and additions to a Living Unit must comply with local building and zoning ordinances, rules and regulations. If the Committee fails to approve or disapprove said application, plans and specifications within thirty (30) days after the same was submitted to it, approval will not be required and this Section will be deemed to have been fully complied with. Provided, however, 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 9.3 – 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.

Section 9.4 – Violations and Remedies

Should any Living Unit be altered, constructed, or an addition be made thereto within the Sublot, 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 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 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 Living Units 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 within 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 X
ASSESSMENTS

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Section 10.1 – Definition of Assessments

As used in this Declaration, Assessments shall mean all of the costs and expenses incurred by the Association in the exercise of its obligations with respect to the 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 and improvements and/or capital acquisitions (but not repairs or replacements) having a total cost in excess of Two Thousand Five Hundred Dollars (\$2,500.00), without in each case the prior approval of the Class "B" Member and the vote of at least two-thirds (2/3rds) of the Class "A" Members who are voting in person or by proxy, at a meeting duly called for this purpose. 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 10.2 – Creation of the Lien and Personal Obligation of Assessments

Each Owner of any Sublot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual Assessments or changes, (2) special Assessments for capital improvements, and (3) additional Assessments, all such Assessments to be established and collected as hereinafter provided. Each such Assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Sublot at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to his successors in title unless expressly assumed by them.

Section 10.3 – Purpose of Assessments

The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of New Hampton and for the improvement and maintenance of the Common Areas and as is otherwise consistent with the rights and responsibilities of the Association hereunder and for the benefit of the Members.

Section 10.4 – Maximum Annual Assessment

Until January 1 of the year immediately following the conveyance of the first Sublot to an Owner, the maximum annual Assessment shall be Two Hundred Sixty Dollars (\$260) per Sublot,

- a) From and after January 1 of the year immediately following the conveyance of the first Sublot to an Owner, the maximum annual Assessment may be increased each year not more than ten percent (10%) above the maximum Assessment for the previous year without a vote of the membership.
- b) From and after January 1 of the year immediately following the conveyance of the first Sublot to an Owner, the maximum annual Assessment may be increased above ten percent (10%) by a vote of at least fifty-one percent (51%) of the Class "A" Members (excluding the Developer). A lesser approval is acceptable if the action is taken by a vote of two-thirds (2/3rds) of each class of Members who are voting in person or by proxy, at a meeting duly called for this purpose in accordance with Section 10.5 below.
- c) In addition to the annual Assessments authorized herein, the Association may levy, in any Assessment year, a special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, including fixtures and personal property related thereto, and/or to meet any other emergency or unforeseen expenses of the Association, provided that any such special Assessment shall have the assent of two-thirds of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose.
- d) Special Assessments shall be due as provided by the Board.

Section 10.5 – Notice and Quorum for any Action Authorized Under Sections 10.1(d) and 10.4

Written notice of any meeting called for the purpose of taking any action authorized under Section 10.1(d) and 10.4 shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 10.6 – Uniform Rate of Assessment

Both annual and special Assessments must be fixed at a uniform rate for all

Sublots and may be collected on a monthly basis or other periodic basis not more often than monthly or less often than annually. Notwithstanding the foregoing, if the Association performs services which do not benefit the Developer, such as recreational supervision, Sublots owned by the Developer that do not contain Living Units may be assessed a percentage of the Assessment referred to in Section 10.4 hereof based on the services that do not benefit the Developer, provided that the financial stability of the Association will not be jeopardized.

Section 10.7 – Date of Commencement of Annual Assessments: Due Dates

The annual Assessment provided for herein shall commence as to all Sublots on the first date of the month following the conveyance of the Common Area, or any portion thereof, to the Association. The first annual Assessment shall be adjusted according to the number of months remaining in the calendar year. The Board shall fix the amount of the annual Assessment against each Sublot at least thirty (30) days in advance of each annual Assessment period. Written notice of the annual Assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board. If additional land is annexed to the Property as herein permitted, the annual Assessments as to the Sublots added to the Property by such annexation shall commence on the first (1st) day of the month following conveyance to an Owner of a Sublot within the annexed land. The Association, shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the Assessment on a specified Sublot have been paid. A properly executed certificate of the Association as to the status of Assessments on a lot is binding upon the Association as of the date of its issuance.

Section 10.8 – Effect of Nonpayment of Assessments; Remedies of the Association

Any Assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of six percent (6%) per annum and shall be subject to the remedies available to the Association as set forth in Section 11.1 this Declaration. In addition, the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclosure the lien against the Owner's Sublot.

Section 10.9 – Subordination of the Lien to Mortgages

The lien of the Assessments provided for herein shall be subordinate to the lien of any purchase money evidenced by a recorded first mortgage, and to any executory land sales contract wherein the Administrator of Veterans Affairs (Veterans Administration) is seller, whether such contract is owned by the Veterans Administration or its assigns, and whether recorded or not. However, the lien of such Assessments shall be superior to any homestead exemption as now or hereafter may be provided by Ohio law and the acceptance of a deed to land subject to this Declaration shall constitute a waiver of the homestead exemption as against the said Assessment lien. Sale or transfer of any Sublot shall not affect the Assessment lien. However, the sale or transfer of any Sublot pursuant to mortgage foreclosure or any proceeding in lieu thereof, or the cancellation or foreclosure of any executory land sales contract wherein the Administrator of Veterans (Veterans Administration) is seller,

whether such contract is owned by the Veterans Administration or its assigns, and whether or not, shall extinguish the lien of record such Assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Sublot from liability for any Assessments thereafter becoming due or from the lien thereof.

Section 10.10 – Exempt Property

Notwithstanding anything to the contrary herein, the Common Areas shall be exempt from payment of Assessments or Additional Assessments. All property dedicated to and accepted by a public authority and all property owned by a charitable or non-profit organization exempt from the laws of the State of Ohio shall be exempt from the Assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said Assessments.

Section 10.11 – 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 or by abandonment of his Sublot. 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 10.12 – Point-of-Sale Stewardship Assessment to Ohio Stream Preservation

Each purchasing Owner of a Sublot or Living Unit (other than the Developer) shall pay a point-of-sale stewardship assessment to Ohio Stream Preservation, Inc. at the time of the purchase of such Sublot or Living Unit (the "Stewardship Assessment"). The Stewardship Assessment shall be in the amount of 0.05% of (i.e. 0.0005 times) the sales price of such Sublot or Living Unit (for example, the Stewardship Assessment on a Living Unit with a sales price of \$200,000 would be 0.0005 times \$200,000 or \$100). The Stewardship Assessment shall be payable by the grantee of each Sublot or Living Unit at the time of transfer of title to each such Sublot or Living Unit, however the Stewardship Assessment shall not be payable by any such grantee (i) who entered into a purchase agreement to purchase a Living Unit from Developer prior to January 4 2002; (ii) who is Pulte Homes of Ohio, Inc., or an Affiliate of Pulte Homes of Ohio, Inc., or (iii) who is exempt from real property conveyance fees pursuant to the provisions of Section 319.54(F)(3) of the Ohio Revised Code as the same may be supplemented or amended from time-to-time; or (iv) who is an Eligible Mortgage Holder taking title to such Sublot or Living Unit in foreclosure of its security interest in such Sublot or Living Unit. The title company and/or escrow agent collecting and distributing funds in each such sale of a Sublot or Living Unit shall collect the Stewardship Assessment from the transferee Owner and shall distribute such Stewardship Assessment to OSP from the proceeds at closing of such transaction. If there is no title company and/or escrow agent collecting and distributing such funds, the transferee Owner shall pay the Stewardship Assessment to OSP upon taking title to a Sublot or Living Unit. Should any such transferee Owner fail to pay the Stewardship Assessment when due, the

executive director of OSP may provide written notice to such transferee Owner that payment of the Stewardship Assessment is due OSP, and should the transferee Owner fail to pay the Stewardship Assessment to OSP within thirty (30) after receipt of such notice, the Executive Director of OSP may declare such unpaid Stewardship Assessment to be a lien upon the transferee Owner's Sublot or Living Unit equivalent to the lien created by Section 10.2 herein and subject to Article XI herein, and the transferee Owner shall be a Delinquent Owner as defined in Section 11.1 herein, and the executive director of OSP may file and perfect such lien pursuant to the provisions of Article XI herein.

ARTICLE XI LIENS

Section 11.1 – 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 the Declaration or 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 Cuyahoga County, a Certificate of Lien. The Certificate of Lien shall be in recordable form and shall include the name of the delinquent Owner, a description of the Ownership Interest of the delinquent Owner, the entire amount claimed for the delinquency and/or violation, including interest thereon and Costs of Collection, and a statement referring to the provisions of this Declaration authorizing the Certificate of Lien.

Section 11.2 – Duration of Lien

Said lien shall remain 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.

Section 11.3 – Priority

A lien perfected under this Article XI shall take priority over any lien or encumbrance subsequently arising or created except for liens for real estate taxes and Assessments and liens of bona fide mortgages which have been heretofore filed for record. A lien perfected pursuant to this Article may be foreclosed in the same manner as a mortgage or real property in 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's 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 11.4 – Dispute as to Assessment

The Developer or any Owner 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 17.8 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 11.5 – 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.

Section 11.6 – Personal Obligations

The obligations created pursuant to this Article XI shall be and remain the personal obligation 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.

**ARTICLE XII
REMEDIES OF THE ASSOCIATION**

Section 12.1 – Denial of Voting Rights

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

Section 12.2 – 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 Living Unit or Sublot or portion thereof upon which, or as to such violation or breach exists, and summarily abate and remove, at the expense of the Owner of the Living Unit or Sublot where the violations 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 with the exercise by the Association of any remedies hereunder, the same to be deemed "Costs of Collection" under Section 12.3 hereof.

Section 12.3 – 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 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 (hereinafter defined).
- b) In addition to the amount referred to in (a) above, the Association may assess against such owner, liquidated damages, 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 liquidated damages shall be in addition to interest, 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 liquidated damages shall hereinafter be referred to as "Cost of Collection".
- c) Foreclose a lien filed in accordance with Article XI 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 12.4 – Binding Effect

The remedies provided in this Article XI against a Delinquent Owner may also be pursued against the heirs, executors, administrators, successors and assigns and grantees of such Owner of Developer, except as specifically provided in Section 10.9 of this Declaration.

**ARTICLE XIII
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 XIV CONDEMNATION

Whenever all or any part of the Common Areas shall be taken (or conveyed in lieu of and under threat of condemnation) by any authority having the power of condemnation or eminent domain, the Association shall give each Owner notice thereof. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Areas on which improvements have been constructed, then, unless within sixty (60) days after such taking the 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 such improvements are to be repaired or restored, the provisions in Section 7.5 hereof regarding the disbursement of funds in respect to casualty damage or destruction shall apply. 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 XV MORTGAGEES' RIGHTS

The following provisions are for the benefit of holders, insurers, or guarantors of first mortgages on Living Units 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, 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 15.1 – 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 Living Unit 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 15.2 and 15.3 of this Article.

If an Eligible Mortgage Holder fails to submit a response to any written proposal for an amendment under this Article XV 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 15.2 – 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 Living Units to which at least two-thirds (2/3rds) of the votes of Sublots and the Eligible Mortgage Holders of first mortgages of the Class "A" and 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 Sublots of at least two-thirds (2/3rds) of the votes of Living Units and the Eligible Mortgage Holders of first mortgages of the Class "A" Members and the Class "B" Members, subject to mortgages held by such Eligible Mortgage Holders, are allocated.

Section 15.3 – 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 15.2(a) and (b) of this Article:

- a) The consent of at least two-thirds (2/3rds) of the Class "A" Members and of the Class "B" Member and the approval of the Eligible Mortgage Holders to which at least two-thirds (2/3rds) of the votes of the Sublots subject to a mortgage appertain, shall be required to terminate the Association.
- b) The vote of at least two-thirds (2/3rds) of the Class "A" Members and the consent of the Class "B" Member and the approval of Eligible Mortgage Holders to which at least two-thirds (2/3rds) of the votes of Sublots subject to mortgages appertain, shall be required to materially amend any provisions of the

Declaration, Code, or Articles 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 the Living Units; (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 Sublot (this provision is subject and subordinate to any provision in an agreement for the sale by the Developer of a Sublot); (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 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 which are for the express benefit of Eligible Mortgage Holders on Sublots.

Section 15.4 – 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 (2/3rds) of the first mortgages 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 Common Areas and may pay overdue premiums or 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 XVI
TRANSFER OF SPECIAL DEVELOPER RIGHTS

Section 16.1 – 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 16.2 – Liability of Transferor of Special Developer Rights

- 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 16.3 – 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 Living Units owned by a Developer in the Property, a person acquiring title to all the Living Units being foreclosed (or deed in lieu of foreclosure) or sold, but only upon his request, succeeds to all Special Developer Rights related to such Living Units, 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 16.4 – Termination of Special Developer Rights

Upon foreclosure (or deed in lieu of foreclosure), tax sale, judicial sale, Living Units 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 16.5 – 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 (c) or (d) 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 Trustees; 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 Rights 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 Living Units 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 Living Unit 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 Code for the duration of the period that a Developer has the right to elect or designate Board Members, and any attempted exercise of this 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.

Section 16.6 – 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 XVII GENERAL PROVISIONS

Section 17.1 – Covenants Run with the Property; Binding Effect

All of the Easements, Covenants and Restrictions which are imposed upon, granted and/or reserved in this Declaration constitute Easements, Covenants and Restrictions running with the Property and are binding upon every subsequent transferee of all or any portion thereof, including, without limitation, grantees, Tenants, Owners and Occupants.

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

Section 17.2 – Notices

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

Notices to the Developer shall be deemed given only when received and must be either by hand delivered or mailed by certified or registered mail, postage prepaid, to Pulte Homes (Developer), 30575 Bainbridge Road, Suite 150, Solon, OH 44139 with a copy to Richard A. Rosner, Esquire, Kahn, Kleinman, Yanowitz & Arnson, Co., L.P.A., The Tower at Erievue, Suite 2600, 1301 East Ninth Street, Cleveland, OH 44114

Section 17.3 – Enforcement of Waiver

The Association, or any Owner, shall be empowered and have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or any one permitted in 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 17.4 – Construction of the Provisions of this Declaration

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 any adjudication by arbitrator(s) or a court of competent jurisdiction to the contrary, its construction and 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 Design Review Committee, as the case may be.

Section 17.5 – 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 common lines, pipes, utilities, conduits, ducts, wires, cables, 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, 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 (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 Living Units 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 the Developer's 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.

Section 17.7 – Severability

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

Section 17.8 – 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 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.

Section 17.9 – Litigation

No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by the vote of two-thirds (2/3rds) of the Class "A" Members. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided in Articles IX and X hereof, (c) proceedings involving challenges to real estate taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is made by the Developer or is approved by the percentage votes, and pursuant to the same procedures, necessary to

institute proceedings as provided above.

Section 17.10 – 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 purchase 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 17.11 – Duration and Amendment of Declaration

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

- a) 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 the 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, ordinance, rule or regulation or any judicial determination; or (6) correcting obvious errors or inconsistencies between this Declaration and other documents governing New Hampton, the correction of which would not have a material adverse affect upon 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. 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 rights of 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 forth the Subsequent Amendment which shall be signed by Original Developer and shall be effective upon the filing of the Subsequent Amendment with the Cuyahoga County Recorder.

- b) 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.
- c) The Covenants and Restrictions of this Declaration shall run with and bind the land for a term of twenty (20) 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. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Owners of Sublots, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Owners of the Sublots. Any amendment must be recorded with the Cuyahoga County Recorder.

Section 17.12 – Liability of Owners for Certain Types of Damage

Unless an Owner is liable under Ohio law, absolute liability shall not be imposed upon an Owner for damage to the Common Areas or Sublots, including improvements thereon, of others where maintained by the Association, whether caused by such Owners, their families, guests or invitees.

Section 17.13 – 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 17.14 – Rule Against Perpetuities

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

Section 17.15 – FHAVA Approval

As long as there is a Class B membership, the following actions will require the approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Areas, and an amendment of this Declaration.

IN WITNESS WHEREOF, the parties have signed this document this 7 day of January, 2002.

Signed in the presence of:

PULTE HOMES OF OHIO CORPORATION,
an Ohio corporation

Linda Brown

By: [Signature]
Gregory C. Williams, President

Print Name: Linda Brown

Patricia Rakoc

Print Name: Patricia Rakoc

CUYAHOGA COUNTY RECORDER
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STATE OF OHIO)
) SS
CUYAHOGA COUNTY)

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above named PULTE HOMES OF OHIO CORPORATION, an Ohio corporation, by Gregory C. Williams, its President, who acknowledged that he executed the within instrument and that such execution was the free act and deed of said corporation and was his free act and deed both individually and in his capacity as officer of said corporation.

7 IN TESTIMONY WHEREOF, I have herein set my hand and notarial seal this day of January, 2002.

Linda K. Brown
NOTARY PUBLIC

My Commission Expires: LINDA K. BROWN

NOTARY PUBLIC, State of Ohio

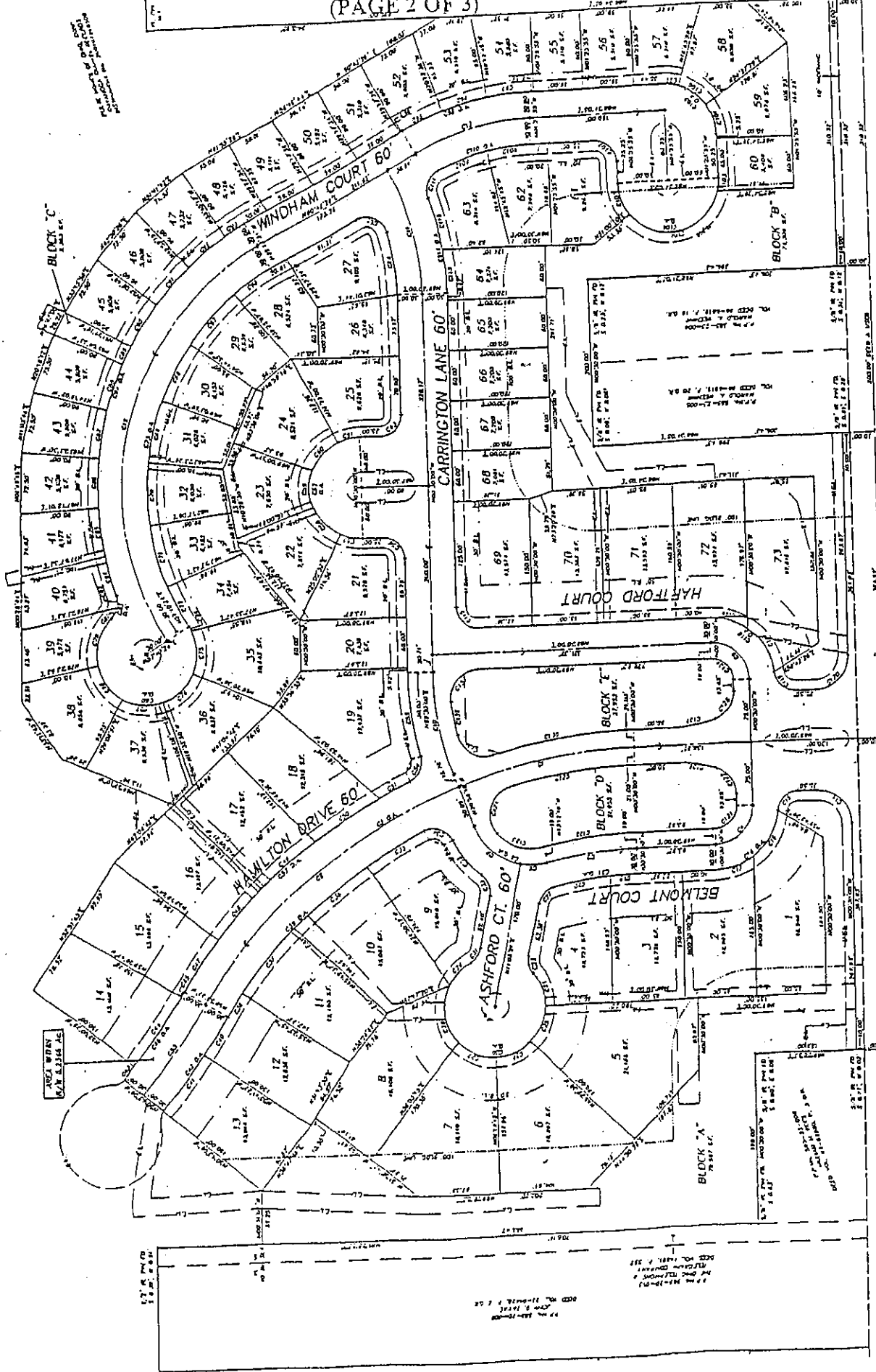
My Commission Expires September 1, 2004

EXHIBIT "A"
SITE PLAN OF THE PROPERTY

[Contained on following 3 pages.]

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EXHIBIT "A"
SITE PLAN OF THE PROPERTY
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BROADVIEW ROAD 60'

LANE
150' WIDE

EXHIBIT "A"
 SITE PLAN OF THE PROPERTY
 (PAGE 3 OF 3)

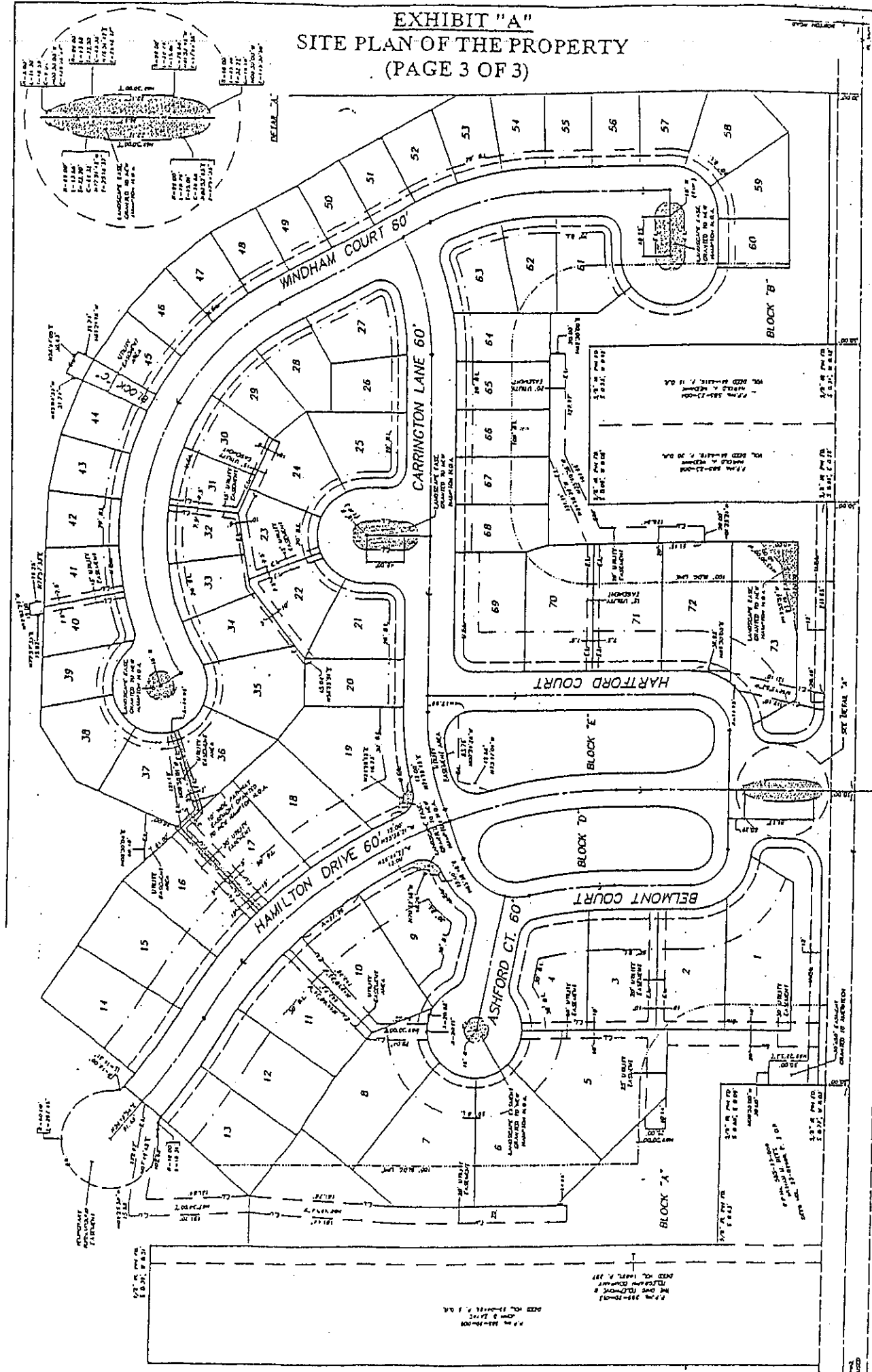


EXHIBIT "B"

LEGAL DESCRIPTION OF ADDITIONAL PROPERTY

[Contained on following 10 pages.]

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EXHIBIT "B"
LEGAL DESCRIPTION OF ADDITIONAL PROPERTY
(PAGE 1 OF 10)



DONALD G. BOHNING & ASSOCIATES, INC.

CIVIL ENGINEERING & SURVEYING

7979 HUB PARKWAY • VALLEY VIEW, OHIO 44125 • (216) 642-1130
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New Hampton
Parcel A Minus Phase 1
DGB 2974-10

November, 2001

LEGAL DESCRIPTION

Situated in the City of Broadview Heights, County of Cuyahoga, and State of Ohio, and known as being part of Original Brecksville Township Lots 63 & 64, and bounded and described as follows:

Beginning at an iron monument found in the centerline of Boston Road, 60 feet wide, at its intersection with the original centerline of Broadview Road, 60 feet wide, being also the southwesterly corner of said Original Lot 64;

Thence North 0 degrees 30 minutes 00 seconds West along the original centerline of Broadview Road, 850.00 feet to a nail set at its intersection with the westerly prolongation of the southerly line of the New Hampton Subdivision Phase 1;

Thence North 88 degrees 34 minutes 05 seconds East along said westerly prolongation and the southerly line of the New Hampton Subdivision Phase 1, 506.18 feet to its intersection with the easterly line of said Subdivision and the principal place of beginning of the parcel herein described;

Thence along the easterly line of the New Hampton Subdivision Phase 1 the following:

North 60 degrees 42 minutes 26 seconds East, 168.03 feet;

North 56 degrees 49 minutes 44 seconds East, 59.14 feet;

North 61 degrees 55 minutes 28 seconds East, 124.09 feet;

North 51 degrees 41 minutes 12 seconds East, 71.53 feet;

North 42 degrees 30 minutes 26 seconds East, 72.50 feet;

North 33 degrees 15 minutes 58 seconds East, 72.50 feet;

North 26 degrees 47 minutes 05 seconds East, 29.22 feet;

EXHIBIT "B"
LEGAL DESCRIPTION OF ADDITIONAL PROPERTY
(PAGE 2 OF 10)



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New Hampton
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North 20 degrees 18 minutes 12 seconds East, 72.50 feet;

North 11 degrees 03 minutes 44 seconds East, 72.50 feet;

North 01 degree 49 minutes 15 seconds East, 72.50 feet;

North 00 degrees 28 minutes 44 seconds East, 223.21 feet;

North 33 degrees 11 minutes 43 seconds West, 83.22 feet;

North 66 degrees 52 minutes 10 seconds West, 143.26 feet;

North 47 degrees 04 minutes 42 seconds East, 97.94 feet;

North 32 degrees 51 minutes 43 seconds East, 176.26 feet;

North 52 degrees 00 minutes 29 seconds West, 150.00 feet to
a point in the southeasterly line of Hamilton Drive, 60 feet
wide;

Thence northeasterly along the southeasterly line of
Hamilton Drive, being the arc of a curve deflecting to the
right, 19.58 feet to a point in the most easterly termini of
Hamilton Drive, said arc having a radius of 870.00 feet, a
central angle of 01 degree 17 minutes 22 seconds and a chord
which bears North 38 degrees 38 minutes 13 seconds East,
19.58 feet;

Thence North 50 degrees 43 minutes 06 seconds West along the
most easterly termini of Hamilton Drive, and the easterly
line of the New Hampton Subdivision Phase 1, 210.00 feet to
a point;

Thence North 00 degrees 31 minutes 07 seconds West along the
easterly line of said Subdivision, 61.25 feet to a point in
the southerly line of a parcel of land conveyed to the Ohio
Telephone & Telegraphy Company by deed recorded in Volume
14891, Page 897 of Cuyahoga County Records;

EXHIBIT "B"
LEGAL DESCRIPTION OF ADDITIONAL PROPERTY
(PAGE 3 OF 10)



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Thence North 89 degrees 28 minutes 53 seconds East along the southerly line of said land conveyed to The Ohio Telephone & Telegraph Company, 124.77 feet to its intersection with the easterly line of said land so conveyed, and from which point an iron pin found bears South 0.39 feet; West 0.51 feet;

Thence North 0 degrees 30 minutes 00 seconds West along the easterly line of said land conveyed to The Ohio Telephone & Telegraph Company, and along the easterly line of a parcel of land conveyed to John D. Zayac by deed recorded in Volume 93-04428, Page 5 of the Official Records of Cuyahoga County, and its northerly prolongation, 804.13 feet to its intersection with the northerly line of a parcel of land conveyed to Kenneth and Cathleen Peffer by deed recorded in Volume 95-00661, Page 27 of the Official Records of Cuyahoga County, and from which point a capped iron pin found (7567) bears South 0.39 feet; West 0.60 feet;

Thence South 89 degrees 43 minutes 27 seconds West along the northerly line of said land conveyed to Kenneth and Cathleen Peffer, 641.20 feet to its intersection with the easterly line of a parcel of land conveyed to Nicholas P. Isvarin, Jr., by deed recorded as A.F.N. 200006301203 of Cuyahoga County Records, and from which point a capped iron pin found (7567) bears South 0.57 feet; West 0.70 feet;

Thence North 0 degrees 30 minutes 00 seconds West along the easterly line of said land conveyed to Nicholas P. Isvarin, Jr., 100.00 feet to its intersection with the northerly line of said land so conveyed, and from which point a capped iron pin found (7567) bears South 0.57 feet; West 0.70 feet;

Thence South 89 degrees 43 minutes 27 seconds West along the northerly line of said land conveyed to Nicholas P. Isvarin, Jr., 230.00 feet to a nail set at its intersection with the centerline of Broadview Road;

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LEGAL DESCRIPTION OF ADDITIONAL PROPERTY
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DONALD G. BOHNING & ASSOCIATES, INC.

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New Hampton
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Thence North 0 degrees 30 minutes 00 seconds West along the centerline of Broadview Road, 440.85 feet to a nail set at its intersection with the southerly line of Parcel "C" in a Lot Split recorded in Volume 256, Page 52 of Cuyahoga County Map Records;

Thence North 88 degrees 20 minutes 06 seconds East along the southerly line of said Parcel "C" and its easterly prolongation, 4038.99 feet to an iron pin set at its intersection with the easterly line of said Original Lot 63;

Thence South 0 degrees 19 minutes 37 seconds East along the easterly line of said Original Lot 63 and the Corporation Line between the City of Broadview Heights and the City of Brecksville, 1429.49 feet to an iron pin set at the southeast corner of said Original Lot 63;

Thence South 0 degrees 23 minutes 56 seconds East along the easterly line of said Original Lot 64 and said Corporation Line, 1996.48 feet to its intersection with the northerly line of a parcel of land conveyed to Joseph Jr. and Angelica Krivetzky by deed recorded in Volume 85-1505, Page 21 of the Official Records of Cuyahoga County, and from which point a capped iron pin found (7567) bears South 0.22 feet; East 0.22 feet;

Thence South 88 degrees 34 minutes 05 seconds West along the northerly line of said land conveyed to Joseph, Jr. and Angelica Krivetzky and its westerly prolongation, 803.16 feet to its intersection with the westerly line of a parcel of land conveyed to Jeanne M. Olsen by deed recorded in Volume 12517, Page 523 of Cuyahoga County Records, and from which point an iron pin found bears West 0.60 feet; North 0.06 feet;

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LEGAL DECIPTION OF ADDITIONAL PROPERTY
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DONALD G. BOHNING & ASSOCIATES, INC.

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Thence South 1 degree 18 minutes 10 seconds East along the westerly line of said land conveyed to Jeanne M. Olsen, 200.00 feet to its intersection with the northerly line of Boston Road, and from which point a capped iron pin found (7567) bears South 0.29 feet; East 0.06 feet;

Thence South 88 degrees 34 minutes 05 seconds West along the northerly line of Boston Road, 100.00 feet to its intersection with the easterly line of a parcel of land conveyed to Kenneth D. Marshall by deed recorded in Volume 15625, Page 787 of Cuyahoga County Records, and from which point an iron pin found bears West 0.58 feet; South 0.13 feet;

Thence North 1 degree 18 minutes 10 seconds West along the easterly line of said land conveyed to Kenneth D. Marshall, 200.00 feet to its intersection with the northerly line of said land so conveyed, and from which point an iron pin found bears West 1.00 foot; South 0.06 feet;

Thence South 88 degrees 34 minutes 05 seconds West along the northerly line of said land conveyed to Kenneth D. Marshall, 100.00 feet to its intersection with the westerly line of said land so conveyed, and from which point an iron pin found bears West 1.05 feet; South 0.08 feet;

Thence South 1 degree 18 minutes 10 seconds East along the westerly line of said land conveyed to Kenneth D. Marshall, 200.00 feet to its intersection with the northerly line of Boston Road, and from which point an iron pin found bears West 0.59 feet; North 0.07 feet;

Thence South 88 degrees 34 minutes 05 seconds West along the northerly line of Boston Road, 200.00 feet to its intersection with the easterly line of a parcel of land conveyed to Robert J. and Barbara A. Dvorak by deed recorded in Volume 87-1245, Page 49 of the Official Records of Cuyahoga County, and from which point a capped iron pin found (7567) bears South 0.25 feet; East 0.07 feet;

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New Hampton
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Thence North 1 degree 18 minutes 10 seconds West along the easterly line of said land conveyed to Robert J. and Barbara A. Dvorak, 200.00 feet to its intersection with the northerly line of said land so conveyed, and from which point a capped iron pin found (7567) bears South 0.15 feet; East 0.13 feet;

Thence South 88 degrees 34 minutes 05 seconds West along the northerly line of said land conveyed to Robert J. and Barbara A. Dvorak, 110.00 feet to its intersection with the westerly line of said land so conveyed, and from which point a capped iron pin found (7567) bears South 0.17 feet; East 0.31 feet;

Thence South 1 degree 18 minutes 10 seconds East along the westerly line of said land conveyed to Robert J. and Barbara A. Dvorak, 179.95 feet to a point of curvature, therein, and from which point a capped iron pin found (7567) bears South 0.23 feet;

Thence southeasterly along the curved southwesterly line of said land conveyed to Robert J. and Barbara A. Dvorak, being the arc of a curve deflecting to the left, 31.46 feet to its intersection with the northerly line of Boston Road, and from which point a capped iron pin found (7567) bears South 0.18 feet; East 0.26 feet; said arc having a radius of 20.00 feet, a central angle of 90 degrees 07 minutes 45 seconds, and a chord which bears South 46 degrees 22 minutes 02 seconds East, 28.32 feet;

Thence South 88 degrees 34 minutes 05 seconds West along the northerly line of Boston Road, 100.00 feet to its intersection with the southeasterly line of a parcel of land conveyed to The Cleveland Electric Illuminating Company by deed recorded in Volume 10325, Page 391 of Cuyahoga County Records, and from which point a capped iron pin found (7567) bears South 0.22 feet;

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Thence northeasterly along the curved southeasterly line of said land conveyed to The Cleveland Electric Illuminating Company, being the arc of a curve deflecting to the left, 31.37 feet to a point of tangency, therein, and from which point a capped iron pin found (7567) bears South 0.21 feet; said arc having a radius of 20.00 feet, a central angle of 89 degrees 52 minutes 15 seconds, and a chord which bears North 43 degrees 37 minutes 58 seconds East, 28.25 feet;

Thence North 1 degree 18 minutes 10 seconds West along the easterly line of said land conveyed to The Cleveland Electric Illuminating Company, 180.05 feet to its intersection with the northerly line of said land so conveyed, and from which point a capped iron pin found (7567) bears South 0.11 feet; East 0.28 feet;

Thence South 88 degrees 34 minutes 05 seconds West along the northerly line of said land conveyed to The Cleveland Electric Illuminating Company and its westerly prolongation, 710.00 feet to its intersection with the westerly line of a parcel of land conveyed to Leonard C. and Josephine M. Lukwinski by deed recorded in Volume 14275, Page 15 of Cuyahoga County Records, and from which point a capped iron pin found (7567) bears South 0.04 feet; East 0.11 feet;

Thence South 1 degree 18 minutes 10 seconds East along the westerly line of said land conveyed to Leonard C. & Josephine M. Lukwinski, 200.00 feet to its intersection with the northerly line of Boston Road, and from which point a capped iron pin found (7567) bears South 0.14 feet; East 0.10 feet;

Thence South 88 degrees 34 minutes 05 seconds West along the northerly line of Boston Road, 200.00 feet to an iron pin set at its intersection with the easterly line of a parcel of land conveyed to Wayne D. & Sharon L. Tomsic by deed recorded in Volume 84-5082, Page 24 of the Official Records of Cuyahoga County;

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LEGAL DESCRIPTION OF ADDITIONAL PROPERTY
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Thence North 1 degree 18 minutes 10 seconds West along the easterly line of said land conveyed to Wayne D. & Sharon L. Tomsic, 200.00 feet to its intersection with the northerly line of said land so conveyed, and from which point a capped iron pin found (7567) bears South 0.03 feet; East 0.06 feet;

Thence South 88 degrees 34 minutes 05 seconds West along the northerly line of said land conveyed to Wayne D. & Sharon L. Tomsic and its westerly prolongation, 200.00 feet to its intersection with the westerly line of a parcel of land conveyed to Warren R. & Victoria M. Biggs by deed recorded in Volume 14241, Page 309 of Cuyahoga County Records, and from which point an iron pin found bears South 0.04 feet; East 0.04 feet;

Thence North 16 degrees 18 minutes 10 seconds West, 310.32 feet to an iron pin set;

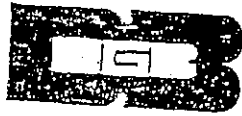
Thence South 88 degrees 34 minutes 05 seconds West, 613.17 feet to an iron pin set;

Thence North 0 degrees 30 minutes 00 seconds West, 320.00 feet to an iron pin set;

Thence South 88 degrees 34 minutes 05 seconds West, 343.82 feet to the principal place of beginning, and containing 255.9293 acres of land, as described by Donald G. Bohning & Associates, Inc. in November, 2001.

The courses used in this description are referenced to an assumed meridian and are used to indicate angles only.

EXHIBIT "B"
LEGAL DESCRIPTION OF ADDITIONAL PROPERTY
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New Hampton
Parcel D
DGB 2974-5

May, 2001

LEGAL DESCRIPTION

Situated in the City of Broadview Heights, County of Cuyahoga, and State of Ohio, and known as being part of Original Brecksville Township Lot 64, and bounded and described as follows:

Beginning at an iron monument found in the centerline of Boston Road, 60 feet wide, at its intersection with the original centerline of Broadview Road, 60 feet wide, being also the southwesterly corner of said Original Lot 64;

Thence North 88 degrees 34 minutes 05 seconds East along the centerline of Boston Road, 850.00 feet to a nail set, and the principal place of beginning of the parcel herein described;

Thence North 0 degrees 30 minutes 00 seconds West, 530.00 feet to an iron pin set;

Thence North 88 degrees 34 minutes 05 seconds East, 613.17 feet to an iron pin set;

Thence South 16 degrees 18 minutes 10 seconds East, 310.32 feet to the northwest corner of a parcel of land conveyed to Warren R. & Victoria M. Biggs by deed recorded in Volume 14241, Page 309 of Cuyahoga County Records, and from which point an iron pin found bears South 0.04 feet; East 0.04 feet;

Thence South 1 degree 18 minutes 10 seconds East along the westerly line of said land conveyed to Warren R. & Victoria M. Biggs, 200.00 feet to its intersection with the northerly line of Boston Road, and from which point a capped iron pin found (7567) bears South 0.04 feet; East 0.03 feet;

Thence South 88 degrees 34 minutes 05 seconds West along the northerly line of Boston Road, 100.00 feet to an iron pin set;

Thence South 1 degree 18 minutes 10 seconds East, 30.00 feet to a nail set in the centerline of Boston Road;

EXHIBIT "B"
LEGAL DESCRIPTION OF ADDITIONAL PROPERTY
(PAGE 10 OF 10)



DONALD G. BOHNING & ASSOCIATES, INC.
CIVIL ENGINEERING & SURVEYING
7979 HUB PARKWAY • VALLEY VIEW, OHIO 44125 • (216) 642-1130
FAX • (216) 642-1132

New Hampton
Parcel D
DGB 2974-5

Thence South 88 degrees 34 minutes 05 seconds West along the centerline of Boston Road, 600.91 feet to the principal place of beginning and containing 8.1364 acres of land of which 0.4137 acres lie within the road right-of-way, all according to the survey by Donald G. Bohning & Associates, Inc. in May, 2001.

The courses used in this description are referenced to an assumed meridian and are used to indicate angles only.

Kenneth L. Bohning
Registered Surveyor No. 6720

CUYAHOGA COUNTY RECORDER
200201111023 PAGE 63 of 64

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EXHIBIT "C"

CERTIFICATE OF COMPLIANCE AND STATUS OF ASSESSMENTS
WITH RESPECT TO THE RESALE OF A LIVING UNIT
IN NEW HAMPTON SUBDIVISION, PHASE ___
BROADVIEW HEIGHTS, OHIO

New Hampton Master Association, Inc., a non-profit Ohio corporation (the "Association"), created to govern, operate, control and administer the "Areas of Common Responsibility" for New Hampton Subdivision, Phase __, Broadview Heights, Ohio ("New Hampton") and to supervise and enforce the Declaration of Covenants, Conditions, Easements and Restrictions for New Hampton (the "Declaration") hereby certifies as follows:

1. The Association has received notice of a proposed sale of Living Unit located at _____, Broadview Heights, Ohio.
2. The proposed purchaser of the Living Unit is _____.
3. The Owner(s) of the Living Unit (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 Living Unit is \$_____.
6. The assessments are payable at the rate of \$_____ per (month) (quarter) (annually); said assessments being payable through _____.
7. A fee of \$_____ 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 8.27 of the Declaration.

NEW HAMPTON MASTER
ASSOCIATION, INC.

By: _____

Date: _____

SUBSEQUENT AMENDMENT NO. 1 TO
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS and EASEMENTS
OF NEW HAMPTON,
BROADVIEW HEIGHTS, OHIO

ADDING ADDITIONAL PROPERTY
(SUBLOTS 74 through 161, BLOCKS "F", "G", "H" and "I")

THIS SUBSEQUENT AMENDMENT NO. 1 ("Amendment No. 1") made as of the 21st day of November, 2002 by PULTE HOMES OF OHIO CORPORATION, an Ohio corporation (referred to herein as the "Developer").

PREAMBLE

A. On January 11, 2002 Developer caused a document entitled "Declaration of Covenants, Conditions, Restrictions and Easements of New Hampton, Broadview Heights, Ohio" (the "Declaration") to be filed for record as Instrument No. 200201111023 of Cuyahoga County Records for the "Property" known as New Hampton, said Property being described in Exhibit "A" of the Declaration. Unless otherwise defined herein, the terms capitalized herein shall have the same meaning as defined in the Declaration.

Also on January 11, 2002 Developer caused a document entitled "Code of Regulations of New Hampton Master Association, Inc." to be filed for record as Instrument No. 200201111024 of Cuyahoga County Records.

B. Section 1.3 of the Declaration reserves unto Developer the right to add additional property to the Property, including the Property described on "Exhibit A" attached hereto and made a part hereof (the "First Expansion Property"), consisting of eighty-eight (88) Sublots and the Living Units constructed thereon, the Common Areas known as Block "F", Block "G", Block "H", and Block "I" by filing a Subsequent Amendment submitting such additional property to the provisions of the Declaration and to the covenants and conditions set forth in the Declaration.

C. Developer desires to add to the Property the First Expansion Property.

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

1. The Preamble is incorporated in and made a part of this Amendment No. 1.
2. The First Expansion Property is added to the Property, subject to the Declaration and shall be held, sold and conveyed, subject to the covenants, conditions, easements and restrictions set forth in the Declaration, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all of the parties having any right, title or interest in the described properties or any part thereof, their heirs,

Reserve Title # 720
21

personal representatives, successors and assigns, and shall inure to the benefit of each owner thereof.

3. The Sublots and Common Areas in the First Expansion Property are shown on the plat prepared for Declarant entitled "New Hampton Subdivision Phase 2" recorded July 31, 2002 as Instrument No. 200207310527 (v. 319, p. 25-29) in the Cuyahoga County Records and shall be held, granted and conveyed as provided for Sublots and Common Areas in the Declaration.

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

IN WITNESS WHEREOF, PULTE HOMES OF OHIO CORPORATION signed this Amendment No. 1 this 26 day of November, 2002

PULTE HOMES OF OHIO CORPORATION, an Ohio corporation

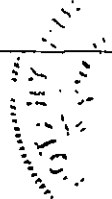
By: [Signature]

Name: Greg Williams

Its: President

STATE OF OHIO)
COUNTY OF CUYAHOGA)

ss:



BEFORE ME, a Notary Public in and for said county and state, personally appeared the above-named PULTE HOMES OF OHIO CORPORATION, an Ohio corporation, by GREG WILLIAMS, its PRESIDENT, who acknowledged that he executed the within instrument and that such execution was the free act and deed of said corporation and was his free act and deed both individually and in his capacity as officer of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Solon, Ohio, this 26 day of November, 2002.

[Signature]
NOTARY PUBLIC
My Commission Expires LINDA K. BROWN
NOTARY PUBLIC, State of Ohio
My Commission Expires September 1, 2004

THIS INSTRUMENT PREPARED BY:

MARK J. STOCKMAN, ATTORNEY AT LAW
KAHN KLEINMAN, A LEGAL PROFESSIONAL ASSOCIATION
2600 ERIEVIEW TOWER
1301 EAST NINTH STREET
CLEVELAND, OHIO 44114-1824
TEL: (216) 696-3311

CUYAHOGA COUNTY RECORDER
200211261178 PAGE 2 of 3

EXHIBIT A

LEGAL DESCRIPTION

Situated in the City of Broadview Heights, County of Cuyahoga, State of Ohio and known as being New Hampton Subdivision Phase 2, creating Sublot Nos. 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, and 161, and Block "F", Block "G", Block "H", and Block "I", being part of Parcel "A" in the New Hampton Subdivision of Part of original Brecksville Township Lot 63 & 64, as shown by the recorded plat in filed as Instrument No. 200207310527 of Cuyahoga County Map Records, be the same more or less, but subject to all legal highways.

TRANSFER NOT REQUIRED

NOV 26 2002

**ROBERT KLABER JR., PE., PS.
CUYAHOGA COUNTY ENGINEER**

CUYAHOGA COUNTY RECORDER

200211281178 PAGE 3 of 3

2
Resource accn
type #33002

**SUBSEQUENT AMENDMENT NO. 2 TO
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS and EASEMENTS
OF NEW HAMPTON,
BROADVIEW HEIGHTS, OHIO**

CUYAHOGA COUNTY RECORDER
PATRICK J. OMALLEY
DEED 03/04/2003 02:47:25 PM
200303041358

**ADDING ADDITIONAL PROPERTY
(SUBLOTS 162 through 198, BLOCKS "J" and "K")
(SUBLOTS 199 THROUGH 233, BLOCKS "L," "M" and "N;")
SUBLOTS 234 through 311 BLOCKS "K-1", "K-2", "K-3", "K-4" and "K-5"**

THIS SUBSEQUENT AMENDMENT NO. 2 ("Amendment No. 2") made as of the 27th day of February, 2003 by PULTE HOMES OF OHIO LLC, a Michigan limited liability company, successor by merger to Pulte Homes of Ohio Corporation, an Ohio corporation (referred to herein as the "Developer").

PREAMBLE

A. On January 11, 2002 Developer caused a document entitled "Declaration of Covenants, Conditions, Restrictions and Easements of New Hampton, Broadview Heights, Ohio" (the "Declaration") to be filed for record as Instrument No. 200201111023 of Cuyahoga County Records for the "Property" known as New Hampton, said Property being described in Exhibit "A" of the Declaration and being further known as Sublots 1 through 73 and Blocks "A", "B", "C", "D" and "E". Also on January 11, 2002 Developer caused a document entitled "Code of Regulations of New Hampton Master Association, Inc." (the "Code") to be filed for record as Instrument No. 200201111024 of Cuyahoga County Records. Unless otherwise defined herein, the terms capitalized herein shall have the same meaning as defined in the Declaration and the Code.

B. The Declaration was supplemented and amended by Subsequent Amendment No. 1 to Declaration of Covenants, Conditions, Restrictions and Easements of New Hampton recorded on November 26, 2002 with the Cuyahoga County Recorder as Instrument No. 200211261178 of Cuyahoga County Records submitting Sublots 74 through 161, Blocks "F," "G," "H" and "I" to the Declaration.

C. Section 1.3 of the Declaration reserves unto Developer the right to add additional property to the Property, including the Property described on "Exhibit A" attached hereto and made a part hereof (the "Second Expansion Property"), consisting of one hundred forty seven (147) Sublots and the Living Units constructed thereon, the Common Areas known as Block "J", Block "K", Block "L", Block "M", Block "N", Blocks "K-1", "K-2", "K-3", "K-4" and "K-5" by filing a Subsequent Amendment submitting such additional property to the provisions of the Declaration and to the covenants and conditions set forth in the Declaration.

D. Developer desires to add to the Property the Second Expansion Property.

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

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

2. The Second Expansion Property is added to the Property, subject to the Declaration and shall be held, sold and conveyed, subject to the covenants, conditions, easements and restrictions set forth in the Declaration, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all of the parties having any right, title or interest in the described properties or any part thereof, their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner thereof.

3. The Sublots and Common Areas in the Second Expansion Property are shown on the plats prepared for Developer entitled "New Hampton Subdivision Phase "3" recorded September 27, 2002 as Instrument No. 200209270269 (v. 320, p. 45-47) in the Cuyahoga County Records; "New Hampton Subdivision Phase 4" recorded on October 24, 2002 as Instrument No. 200210240221 (v. 320 p. 89-91) of Cuyahoga County Records; and "New Hampton Subdivision Phase 5" recorded on February 11, 2003 as Instrument No. 20030211047 (v. 323, p. 12-15) of Cuyahoga County Records, and shall be held, granted and conveyed as provided for Sublots and Common Areas in the Declaration.

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

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, PULTE HOMES OF OHIO LLC signed this Subsequent Amendment No. 2 this 27 day of February, 2003.

PULTE HOMES OF OHIO LLC,
a Michigan Limited Liability Company

By: [Signature]

Name: Greg Williams

Its: President

STATE OF OHIO)

COUNTY OF CUYAHOGA)

ss:

BEFORE ME, a Notary Public in and for said county and state, personally appeared the above-named PULTE HOMES OF OHIO LLC, a Michigan limited liability company, by GREG WILLIAMS, its PRESIDENT, who acknowledged that he executed the within instrument and that such execution was the free act and deed of said corporation and was his free act and deed both individually and in his capacity as officer of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Solon, Ohio, this 27 day of February, 2003.

[Signature: Linda K. Brown]
NOTARY PUBLIC
My Commission Expires: LINDA K. BROWN

NOTARY PUBLIC, State of Ohio
My Commission Expires September 1, 2004

This Instrument Prepared By:

MARK STOCKMAN, ATTORNEY AT LAW
KAHN KLEINMAN, A LEGAL PROFESSIONAL ASSOCIATION
2600 ERIEVIEW TOWER
1301 EAST NINTH STREET
CLEVELAND, OHIO 44114-1824
216-696-3311

EXHIBIT A

LEGAL DESCRIPTION

Situated in the City of Broadview Heights, County of Cuyahoga, State of Ohio and known as being New Hampton Subdivision Phase 3, creating Sublot Nos. 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, and 198, and Blocks "J" and "K" as shown by the recorded plat filed as Instrument No. 200209270269 of Cuyahoga County Map Records; being New Hampton Subdivision Phase No. 4 creating Sublot Nos. 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232 and 233 and Block "L", Block "M", and Block "N" as shown by the recorded plat filed as Instrument No. 200210240221 of Cuyahoga County Map Records; and being New Hampton Subdivision Phase No. 5 creating Sublot Nos. 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310 and 311 and Blocks "K-1", "K-2", "K-3", "K-4" and "K-5" as shown by the recorded plat filed as Instrument No. 200302110471 of Cuyahoga County Map Records, all being part of Parcel "A" in the New Hampton Subdivision of Part of original Brecksville Township Lot 63 & 64, be the same more or less, but subject to all legal highways.

SUBSEQUENT AMENDMENT NO. 3 TO
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS and EASEMENTS
OF NEW HAMPTON,
BROADVIEW HEIGHTS, OHIO

ADDING ADDITIONAL PROPERTY
(SUBLOTS 312 THROUGH 350, BLOCK "O")
(SUBLOTS 351 THROUGH 411, BLOCK "P")
(SUBLOTS 412 THROUGH 469, BLOCK "Q")
(SUBLOTS 470 THROUGH 516")
(SUBLOTS 517 THROUGH 532, BLOCK "R")

THIS SUBSEQUENT AMENDMENT NO. 3 ("Amendment No. 3") made as of the 12 day of January, 2004 by PULTE HOMES OF OHIO LLC, a Michigan limited liability company, successor by merger to Pulte Homes of Ohio Corporation, an Ohio corporation (referred to herein as the "Developer").

PREAMBLE

A. On January 11, 2002 Developer caused a document entitled "Declaration of Covenants, Conditions, Restrictions and Easements of New Hampton, Broadview Heights, Cuyahoga County, Ohio" (the "Declaration") to be filed for record as Instrument No. 200201111023 of Cuyahoga County Records for the "Property" known as New Hampton, said Property being described in Exhibit "A" of the Declaration and being further known as Sublots 1 through 73 and Blocks "A", "B", "C", "D" and "E". Also on January 11, 2002 Developer caused a document entitled "Code of Regulations of New Hampton Master Association, Inc." (the "Code") to be filed for record as Instrument No. 200201111024 of Cuyahoga County Records. Unless otherwise defined herein, the terms capitalized herein shall have the same meaning as defined in the Declaration and the Code.

B. The Declaration was supplemented and amended by "Subsequent Amendment No. 1 to Declaration of Covenants, Conditions, Restrictions and Easements of New Hampton, Broadview Heights, Ohio", recorded on November 26, 2002 with the Cuyahoga County Recorder as Instrument No. 200211261178 of Cuyahoga County Records submitting Sublots 74 through 161, Blocks "F," "G," "H" and "I" to the Declaration.

C. The Declaration was supplemented and amended by "Subsequent Amendment No. 2 to Declaration of Covenants, Conditions, Restrictions and Easements of New Hampton, Broadview Heights, Ohio", recorded on March 4, 2003 with the Cuyahoga County Recorder as Instrument No. 200303041358 of Cuyahoga County Records submitting Sublots 162 through 198, Blocks "J" and "K", Sublots 199 through 233, Blocks "L", "M" and "N", and Sublots 234 through 311, Blocks "K-1," "K-2," "K-3," "K-4," and "K-5" to the Declaration.

D. Section 1.3 of the Declaration reserves unto Developer the right to add additional property to the Property, including the Property described on "Exhibit A" attached hereto and made a part hereof (the "Third Expansion Property"), consisting of two hundred

Resource Title #A. J. 01 276.00

twenty (220) Sublots and the Living Units constructed thereon, the Common Areas known as Block "O", Block "P", Block "Q" and Block "R" by filing a Subsequent Amendment submitting such additional property to the provisions of the Declaration and to the covenants and conditions set forth in the Declaration.

E. Developer desires to add to the Property the Third Expansion Property.

NOW, THEREFORE, Developer hereby declares the following by this Amendment No. 3:

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

2. The Third Expansion Property is added to the Property, subject to the Declaration and shall be held, sold and conveyed, subject to the covenants, conditions, easements and restrictions set forth in the Declaration, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all of the parties having any right, title or interest in the described properties or any part thereof, their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner thereof.

3. The Sublots and Common Areas in the Third Expansion Property are shown on the plats prepared for Developer entitled "New Hampton Subdivision Phase 6" recorded March 19, 2003, as Instrument No. 200303190686 (Volume 323, Pages 68-69) in the Cuyahoga County Records; "New Hampton Subdivision Phase 7" recorded on August 4, 2003 as Instrument No. 200308040696 (Volume 326, Pages 26-30) of Cuyahoga County Records; "New Hampton Subdivision Phase 8" recorded August 7, 2003, as Instrument No. 200308071049 (Volume 326, Pages 38-39) in the Cuyahoga County Records; "New Hampton Subdivision Phase 9" recorded on October 6, 2003 as Instrument No. 200310061110 (Volume 327, Pages 44-45) of Cuyahoga County Records and "New Hampton Subdivision Phase 10" recorded on October 6, 2003 as Instrument No. 200310061111 (Volume 327, Pages 46-47) of Cuyahoga County Records, and shall be held, granted and conveyed as provided for Sublots and Common Areas in the Declaration.

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

[REMAINDER OF PAGE INTENTIONALLY BLANK]

CUYAHOGA COUNTY RECORDER
200401160829 PAGE 2 of 3

IN WITNESS WHEREOF, PULTE HOMES OF OHIO LLC signed this Subsequent Amendment No. 3 this 12 day of January, 2004.

PULTE HOMES OF OHIO LLC,
a Michigan Limited Liability Company

By: _____
Name: Mervin Singson
Title: Operations Manager

STATE OF OHIO)
)
COUNTY OF CUYAHOGA)

ss:

BEFORE ME, a Notary Public in and for said county and state, personally appeared the above-named **PULTE HOMES OF OHIO LLC**, a Michigan limited liability company, by Mervin Singson, its Operations Manager, who acknowledged that he executed the within instrument and that such execution was the free act and deed of said corporation and was his free act and deed both individually and in his capacity as officer of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Solon, Ohio, this 12th day of January, 2004.

Jennifer L. Vargo
NOTARY PUBLIC
My Commission Expires: _____



This Instrument Prepared By:

MARK STOCKMAN, ATTORNEY AT LAW
KAHN KLEINMAN, A LEGAL PROFESSIONAL ASSOCIATION
2600 ERIEVIEW TOWER
1301 EAST NINTH STREET
CLEVELAND, OHIO 44114-1824
216-696-3311

Vargo
Notary Public, STATE OF OHIO
Commission Expires _____
Recorded in Lake County

Jennifer L. Vargo
Notary Public, STATE OF OHIO
My Commission Expires 11-3-2008
Recorded in Lake County

CUYAHOGA COUNTY RECORDER
200401160829 PAGE 3 of 3

SUBSEQUENT AMENDMENT NO. 4 TO
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS OF NEW HAMPTON,
BROADVIEW HEIGHTS, CUYAHOGA COUNTY, OHIO

ADDING ADDITIONAL PROPERTY
BEING SUBLOTS 533 THROUGH 611, INCLUSIVE, AND
BLOCKS "S", "T", "U", "V", "W-1",
"W-2" (PRESTON LANE), "W-3", "W-4", "W-5",
"X-1", "X-2" (BUCKNELL COURT), "X-3" AND "X-4")

THIS SUBSEQUENT AMENDMENT NO. 4 ("Amendment No. 4") made as of the 7th day of July, 2004 by PULTE HOMES OF OHIO LLC, a Michigan limited liability company, successor by merger to Pulte Homes of Ohio Corporation, an Ohio corporation (referred to herein as the "Developer").

PREAMBLE

A. On January 11, 2002 Developer caused a document entitled "Declaration of Covenants, Conditions, Restrictions and Easements of New Hampton, Broadview Heights, Cuyahoga County, Ohio" (the "Declaration") to be filed for record as Instrument No. 200201111023 of Cuyahoga County Records for the "Property" known as New Hampton, said Property being described in Exhibit "A" of the Declaration and being further known as Sublots 1 through 73 and Blocks "A", "B", "C", "D" and "E". Also on January 11, 2002 Developer caused a document entitled "Code of Regulations of New Hampton Master Association, Inc." (the "Code") to be filed for record as Instrument No. 200201111024 of Cuyahoga County Records. Unless otherwise defined herein, the terms capitalized herein shall have the same meaning as defined in the Declaration and the Code.

B. The Declaration was supplemented and amended by "Subsequent Amendment No. 1 to Declaration of Covenants, Conditions, Restrictions and Easements of New Hampton, Broadview Heights, Ohio", recorded on November 26, 2002 with the Cuyahoga County Recorder as Instrument No. 200211261178 of Cuyahoga County Records submitting Sublots 74 through 161, Blocks "F," "G," "H" and "I" to the Declaration.

C. The Declaration was supplemented and amended by "Subsequent Amendment No. 2 to Declaration of Covenants, Conditions, Restrictions and Easements of New Hampton, Broadview Heights, Ohio", recorded on March 4, 2003 with the Cuyahoga County Recorder as Instrument No. 200303041358 of Cuyahoga County Records submitting Sublots 162 through 311, Blocks "J", "K", "L", "M", "N", "K-1," "K-2," "K-3," "K-4," and "K-5" to the Declaration.

D. The Declaration was supplemented and amended by "Subsequent Amendment No. 3 to Declaration of Covenants, Conditions, Restrictions and Easements of New Hampton, Broadview Heights, Ohio", recorded on January 16, 2004 with the Cuyahoga County Recorder

Resouce Title
Accession Number A-04-29

as Instrument No. 200401160829 of Cuyahoga County Records submitting Sublots 312 through 532 and Blocks "O", "P" "Q" and "R" to the Declaration.

E. Section 1.3 of the Declaration reserves unto Developer the right to add additional property to the Property, including the Property described on "Exhibit A" attached hereto and made a part hereof (the "**Fourth Expansion Property**"), consisting of seventy-eight (78) Sublots and the Living Units constructed or to be constructed thereon, the Common Areas known as Blocks "S", "T", "U", "V", "W-1", "W-2" (Preston Lane), "W-3", "W-4", "W-5", "X-1", "X-2" (Brucknell Court), "X-3" and "X-4" by filing a Subsequent Amendment submitting such additional property to the provisions of the Declaration and to the covenants and conditions set forth in the Declaration.

F. Developer desires to add to the Property the Fourth Expansion Property.

NOW, THEREFORE, Developer hereby declares the following by this Amendment No. 4:

1. The Preamble is incorporated in and made a part of this Amendment No. 4.
2. The Fourth Expansion Property is added to the Property, subject to the Declaration and shall be held, sold and conveyed, subject to the covenants, conditions, easements and restrictions set forth in the Declaration, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all of the parties having any right, title or interest in the described properties or any part thereof, their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner thereof.
3. The Sublots and Common Areas in the Fourth Expansion Property are shown on the plats prepared for Developer entitled "New Hampton Subdivision Phase 11" recorded on April 22, 2004, as Instrument No. 200404220874 (Volume 331, Pages 80-85) with the Cuyahoga County Records, and shall be held, granted and conveyed as provided for Sublots and Common Areas in the Declaration.
4. Except as amended herein, all covenants, conditions, easements and restrictions of the Declaration shall remain in full force and effect.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, PULTE HOMES OF OHIO LLC signed this Subsequent Amendment No. 4 this 7th day of July, 2004.

PULTE HOMES OF OHIO LLC,
a Michigan Limited Liability Company

By: [Signature]
GREGORY J. SCHMIDT
Its President

STATE OF OHIO)
)
COUNTY OF CUYAHOGA)

ss:

BEFORE ME, a Notary Public in and for said county and state, personally appeared the above-named **PULTE HOMES OF OHIO LLC,** a Michigan limited liability company, by **GREGORY J. SCHMIDT,** its President, who acknowledged that he executed the within instrument and that such execution was the free act and deed of said corporation and was his free act and deed both individually and in his capacity as officer of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Solon, Ohio, this 7th day of July, 2004.

[Signature]
NOTARY PUBLIC
My Commission Expires _____

This Instrument Prepared By:

MARK STOCKMAN, ATTORNEY AT LAW
KAHN KLEINMAN, LPA
2600 ERIEVIEW TOWER
1301 EAST NINTH STREET
CLEVELAND, OHIO 44114-1824
216-696-3311

Jennifer Clifford
Notary Public
My Commission Expires **December 9, 2008**
Recorded in Cuyahoga County

CUYAHOGA COUNTY RECORDER
200407121147 PAGE 3 of 4

EXHIBIT A

LEGAL DESCRIPTION

Situated in the City of Broadview Heights, County of Cuyahoga, State of Ohio and known as being New Hampton Subdivision Phase 11, creating Sublot Nos. 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610 and 611, and Block Block "S", Block "T", Block "U", Block "V", Block "W-1", Block "W-2", Block "W-3", Block "W-4", Block "W-5", Block "X-1", Block "X-2", Block "X-3" and Block "X-4" as shown by the recorded plat filed as Instrument No. 200404220874 of Cuyahoga County Map Records in Volume 331, Pages 80 through 85; and being the same more or less, but subject to all legal highways.