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**COLLEEN M. SWEDYK  
MEDINA COUNTY RECORDER  
MEDINA, OH  
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**MEDINA COUNTY RECORDER**

**COLLEEN M. SWEDYK**

**(DO NOT REMOVE THIS COVER SHEET.  
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**DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND RESERVATION OF EASEMENTS  
FOR WINDSOR PARK PHASE 2**

KTB - m

Declarant, AJK Land Company LLC, is the owner of certain real estate in Montville Township, Medina County, Ohio, described in Exhibit "A" attached hereto and incorporated herein (hereinafter referred to as "Property").

Declarant hereby declares that the Property shall be held, sold and conveyed subject to the covenants, conditions, restrictions and reservation of easements herein, which are for the purpose of protecting the value and desirability of the Property and which shall run with the Property submitted hereunder or which may subsequently be added, and shall be binding on all parties having any right title or interest in the Property, its successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I  
DEFINITIONS**

As used in this Declaration the following terms shall have the stated meanings:

1.1. "Allocated Interests" means the Common Expense Liability and votes in the Owners Association as set forth in Article III.

1.2. "Assessments" means those charges upon the Lots established by Article VII of this Declaration.

1.3. "Owners Association" shall mean Windsor Park Phase II Owners Association, an unincorporated association or an Ohio nonprofit corporation formed and named by the Declarant's designated Board of Trustees, and either's successor by merger, successors or assigns. Except as the context otherwise requires "Owners Association" shall mean the Board of Trustees of then applicable unincorporated association or Ohio nonprofit corporation, acting on behalf of the Owners Association.

1.4. "Board" shall mean the duly appointed and/or elected Board of Trustees, inclusive of the individual Trustees of the Owners Association.

1.5. "Builder" means any person or entity (including the Declarant) who acquires a Lot for the purpose of improving that Lot and erecting a Dwelling Unit thereon for resale to an Owner.

1.6. "Common Elements" shall mean any real estate owned or leased by the Owners Association other than a Lot, including easements in favor of the Owners Association.

1.7. "Common Expense Liability" means the liability for Common Expenses allocated to each Lot pursuant to Article III, of this Declaration.

1.8. "Common Expenses" means expenditures made by, or financial liabilities of the Owners Association, together with any allocations to reserves.

1.9. "Declarant" means AJK Land Company LLC, its successors and assigns. Mailing address: 34305 Solon Road, Suite 10, Solon, OH 44139. Declarant's "successors and assigns" shall not include any Class A Member of the Owners Association.

1.10. "Declarant Control Period" means the period of time that the Declarant may appoint members of the Board of Trustee of the Owners Association as set forth in Article XIII.

1.11. "Declaration" means this Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Windsor Park Phase 2, including any amendments and/or Supplemental Declarations hereto.

1.12. "Development Period" means the period commencing on the date of recording of this Declaration and ending on the date of the sale by Declarant of the last Lot within the subdivision and the Declarant's right to submit Additional Land to the terms of this Declaration terminates.

1.13. "Dwelling Unit" means a building situated on the Lots designed and intended for use and occupancy as a single-family residence.

1.14. Lot. "Lot" means the physical portion of the Property designated for separate ownership or occupancy, the boundaries of which are described pursuant to Article II, Section 2.1 and denominated as a "sublot" on the Recorded Plat and/or the term "sublot" of any legal description of a deed of conveyance of the Lot.

1.15. "Member" means any person or entity entitled to membership in the Owners Association as provided herein.

1.16. "Occupant" means any person in possession of a Lot or Dwelling Unit whether or not such possession is lawful and shall include but not be limited to, an Owner's family members, guests, invitees, tenants and lessees.

1.17. "Owner" means the Declarant or other person or entity who owns a Lot but does not include a person or entity having an interest in a Lot solely as security for an obligation.

1.18. "Property" or "Properties" means the real estate described in Exhibit "A" attached hereto and any other property, which may be made subject to the terms of this Declaration, together with any improvements made thereon.

1.19. "Recorded Plat" means the recorded plat for the Property and known as Windsor Park Phase II Subdivision, Medina County, Ohio Recorder's Document #2013PL000025, and any subsequent plats or re-plats thereof.

1.20. "Subdivision" shall mean and refer to Windsor Park Phase II, the Property described in Exhibit A attached to this Declaration and shown on the Recorded Plat, including the Lots and Common Elements and such additional real property as may be added pursuant to a Supplemental Declaration.

1.21. "Supplemental Declaration" shall mean an amendment or supplement to this Declaration executed by or consented to by Declarant, if required, which subjects additional property to this Declaration, imposes, expressly or by reference, additional restrictions and obligations on the Land described therein, or designates property as Common Elements and Limited Common Elements. The term shall also refer to any instrument which may be recorded pursuant to Article XII, Section 12.1, of this Declaration to subject Additional Property to this Declaration.

1.22. "Surface Water Management System" shall mean the system designed for the Property by the Declarant for storm water, soil erosion and sediment control. Such system shall include all existing watercourses, ditches, retention basins and swales located at the Property.

1.23. "Wooded Areas" shall mean those areas so designated as wooded areas on the Recorded Plat, if any.

1.24. "Landscape Buffer" shall mean those areas so designated as Landscape Buffer areas on the Recorded Plat, if any.

ARTICLE II  
LOTS

2.1. Types of Lots.

The Lots shall be single-family lots for the construction and occupation of a single-family dwelling unit. Such Lots shall abut dedicated streets.

2.2. Description of Lot Boundaries.

The boundaries of the Lots shall be those as set forth on the Recorded Plat.

ARTICLE III  
ALLOCATION OF ALLOCATED INTERESTS

3.1. Common Expense Liability.

The allocation of Allocated Interests for Common Expense Liability shall be determined in accordance with the allocation of the various assessments as set forth in Article VII, Section 7.7.

3.2. Votes in the Owners Association.

The allocation of Allocated Interests for voting purposes shall be one vote per Lot, except Declarant's voting rights pursuant to Article VI, Section 6.3.2.

ARTICLE IV  
COMMON ELEMENTS AND EASEMENTS

4.1. Description.

The Common Elements shall be any portion of the Property owned by the Owners Association in fee or by easement or leased to the Owners Association. The Common Elements include any private streets and common sidewalks within the Subdivision as identified on the Recorded Plat. These private streets are expressly declared to be easements for ingress and egress for the benefit of the Owners and others as set forth in this Declaration. The Common Elements shall be held, used and maintained as common green space as defined in the Montville Township Zoning Resolution, Section 805, Sub-Section 126, H. The wooded area/areas shown on the Recorded Plat and marked as Blocks, if any, shall be maintained by the Owners Association in substantially the same condition, as on this date and shall remain wooded areas with the understanding that except for natural aging of the stock, there shall be no "clearing" of the land herein designated as wooded areas.

#### 4.2. Easements.

The Lots and Common Elements shall be subject to certain easements. These easements shall be appurtenant to and pass with the title to the Lots.

##### 4.2.1. Enjoyment.

The Common Elements and Lots shall be an easement of enjoyment in favor of the Lots and Owners. Such easement shall be limited to the purposes for which the easements are created. Nothing herein shall be construed to provide any right of access to the Lots by any persons who are not Owners thereof.

##### 4.2.2. Access.

The Common Elements shall be subject to permanent nonexclusive easement for ingress and egress in favor of the Lots. Such easements shall be limited to the purposes for which the easements were created. A non-exclusive easement is granted to the owners of all Lots, occupants; their guests and invitees, and to all police, fire and other emergency personnel, and to all similar persons, and to the local governmental authorities, but not to the public in general, to enter upon the Common Elements, including the private streets, if any, as shown on the Recorded Plat in the performance of their duties.

##### 4.2.3. Drainage.

The Lots shall be subject to easements in favor of the Lots benefitted for Surface Water Management as further defined in Article V. No Owner shall do anything within a Lot or Dwelling Unit that shall unreasonably increase the flow of surface water.

##### 4.2.4. Montville Township.

A non-exclusive easement is granted to Montville Township, and to all police, fire and other emergency personnel, ambulance operators, delivery, garbage and trash removal personnel, and to all similar persons, and to the local governmental authorities, but not the public in general, to enter upon the Common Elements and the Surface Water Management System in the performance of their duties. In the event of nonperformance or maintenance of the Common Elements that affect the public interest by the Owners Association, Montville Township and other appropriate governmental bodies shall have the right, after proper notice, to make improvements and perform maintenance functions with the costs levied as a lien against the Owners Association and the property of the Owners Association members. Advance notice is not necessary for emergency entrance onto Common Elements, such as common green space and recreation facilities, if any.

#### 4.3 Owner's Delegation Rights.

Any Owner may delegate his or her easement rights and rights of enjoyment to the Common Elements to any Occupants, and any guests, invitees, tenants or lessees thereof. Any Owner who has leased his or her Lot shall be deemed to have delegated such rights. Any such delegation, however, shall in accordance with and subject to reasonable rules, regulations and limitation as may be adopted by the Owners Association in accordance with its By-laws.

#### 4.4. Limitation on Common Elements and Easements.

All Common Elements, easements and rights granted herein are subject to:

4.4.1. Restrictions set forth in this Declaration and any Amendments or Supplemental Declaration.

4.4.2. Any rules and regulations adopted by the Owners Association and the right to enforce such rules and regulations.

4.4.3. The right of the Owners Association to levy assessments for the Common Expenses and other assessments as set-forth herein.

4.4.4. The right of the Declarant and the Owners Association to amend the Record Plat and to grant further rights and easements within, upon, over, under, and across the Common Elements for the benefit of the Owners, the Owners Association or Declarant.

4.4.5. The Common Elements cannot be mortgaged or conveyed without the consent of two-thirds of the Owners, excluding the Declarant. A conveyance or encumbrance of the Common Elements shall not deprive any Lot or Dwelling Unit of its rights of access nor affect the priority of validity of pre-existing encumbrances. During any Declarant Control Period as set forth in Article XIII, no portion of the Common Elements can be dedicated without the prior approval, if required, of the Federal Housing Administration or the Veterans Administration, if either such agency is insuring or guaranteeing the mortgage on any Lot.

4.4.6. The Common Elements cannot be conveyed or mortgaged for any use that is inconsistent with the Montville Township Zoning Resolution without the prior consent of the Montville Township Trustees. In the event that the Owners Association is dissolved, the Common Elements shall be conveyed to a successor entity to hold such property in accordance with this Declaration and the terms of the Montville Township Zoning Resolution.

4.4.7. All rights granted to the Owners Association in this Declaration.

4.4.8. Development rights and Special Declarant Rights as set forth in Articles XII and XIII.

4.5 Maintenance of Lot.

Each Lot Owner has the continuing obligation for the maintenance of the Lot, including the structures thereon, drainage easements, street trees and sidewalks in accordance with this Declaration and the easements, covenants, conditions, restrictions and reservations set forth on Exhibit B, which is attached hereto and made part hereof.

ARTICLE V  
SURFACE WATER MANAGEMENT

5.1. Surface Water Management System.

The Surface Water Management System shall consist of the "Storm Easements" and "Storm water Management Easement" as shown on the Recorded Plat. The Owners Association shall maintain and administer the Surface Water Management System in accordance with the guidelines as may be promulgated from time to time by Montville Township and/or Medina County. The Owners Association shall have primary responsibility for the maintenance of the retention basin, including any pipes, concrete gutters or mechanical devices.

5.2. Surface Water Management System Easements.

Each Lot shall be subject to and shall be benefitted by an easement for storm sewers, drainage and surface water management as more particularly shown on the Recorded Plat, if any. Such easement shall be non-exclusive as to the Owners and shall run to the Owners Association, which has control and responsibility for drainage and surface water management. Such easement, however, shall not run to the public at large.

5.3. Access to Lots.

For the purpose solely of performing the maintenance required or authorized herein, the Owners Association, through its duly authorized agents or employees, or subcontractors, shall have the right, after reasonable notice to the Owner, to enter upon the Lot at reasonable hours on any day.

5.4. Individual Maintenance.

Each Owner shall maintain that portion of the Surface Water Management System, which serves only that Owner's Lot. Each Owner shall have primary responsibility for grass-cutting and vegetation control within the easements located on his Lot. Such responsibility shall include keeping these easements clean and unobstructed. Maintenance of the Surface Water



Management System shall be in accordance with the guidelines and standards set forth by Montville Township and/or Medina County. If any portion of the Surface Water Management System that is on an Owner's Lot is damaged, the Owner of that Lot shall promptly cause the portion of the Surface Water Management System on the Owner's Lot to be repaired at the Owner's expense.

5.5. Retention Basin Maintenance.

The Owners Association shall provide for all maintenance of any retention basin, including vegetation control and debris removal.

5.6. Restriction On Use.

No Owner shall use or permit any other persons to use the Surface Water Management System in any manner which would constitute a nuisance, hazard or unsanitary condition or be in violation of any local, state, or federal law ordinance, rule, regulation or statute.

ARTICLE VI  
OWNERS ASSOCIATION

6.1. Formation.

Initially upon filing of this Declaration with the By-laws attached hereto as Exhibit "D" and the designation of the initial Board of Trustees by the Declarant, there shall exist the Owners Association and thereafter the Board of Trustees of the unincorporated Owners Association may cause to be chartered in accordance with Chapter 1702 of the Ohio Revised Code a nonprofit corporation to be named Windsor Park Phase II Owners Association, Inc. or other available corporate name by the Ohio Secretary of State and the nonprofit corporation shall be the Owners Association for the Subdivision. The purposes for the Owners Association are to provide for the administrative governance, maintenance and upkeep of the Subdivision and to promote the health, safety, and welfare of the Owners and Occupants of the Subdivision.

6.2. Membership.

The membership of the Owners Association shall at all times consist exclusively of Owners of the Lots. All such Owners shall be Members. Membership shall be appurtenant to and may not be separated from such ownership. Every Lot Owner will have a membership in the Owners Association. No Lot Owner, whether one or more persons, shall have more than one membership per Lot owned. Membership within the Owners Association will terminate upon the

conveyance, transfer or assignment by such Lot Owner of his ownership interest, at which time the new Lot Owner will immediately and automatically become a member of the Owners Association. The membership of the Owners Association is and shall be divided into the following classes:

6.2.1. Class A Members will be all Lot Owners, with the exception of the Class B Member, if any.

6.2.2. Class B Member will be the Declarant.

6.3. Members' Voting Rights.

Subject to special Declarant Rights as set forth in Article XIII, each Class of Members shall be entitled to vote on matters properly before them in accordance with this Article, the Bylaws, the laws of the State of Ohio and the following rights and restrictions:

6.3.1. Voting By Class A Members.

Each Class A Member will be entitled to cast one vote for each Lot owned by said member. When any Lot is owned of record and titled in the name of two or more persons or entities, whether fiduciaries, joint tenants, tenants-in-common, tenants-in-partnership or in any other manner of joint or common ownership, or if two or more persons or entities have the same fiduciary relationship respecting the same Lot, then, unless the instrument or order appointing them or creating the tenancy otherwise directs and it or a copy thereof is filed with the Secretary of the Owners Association, such Lot Owner will select one official representative to qualify for voting in the Owners Association and will notify the Secretary of the Owners Association of the name of such individual. The vote of such individual will be considered to represent the will of all of the Owners of the Lot.

6.3.2. Voting Rights of Class B Member.

Notwithstanding anything herein to the contrary, until the last Lot owned by Declarant is sold and transferred to a third party, not a subsidiary of Declarant, or the sooner election by Declarant to terminate its Class B Member Voting Rights, the Class B Member will have a total number of votes equal to not less than the number of votes cumulatively held by all of the Class A Members, plus one.

6.3.2.1. It is the intent of Section 6.3.2 that the Declarant possess exclusive control of the Owners Association until the Declarant elects to terminate its Class B Voting Rights or sells the last Lot owned by it, Declarant shall call a meeting, as provided in the Bylaws for special meetings, to advise the membership of termination of Class B status and Class B Voting Rights.

### 6.3.3. Proxies.

A Class A Member's vote allocated to a Lot may be cast pursuant to a proxy duly executed by an Owner.

6.3.3.1. If a Lot is owned by more than one person, each Owner of the Lot may vote or register protest to the casting of votes by the Owners of a Lot through a duly executed proxy.

6.3.3.2. An Owner may revoke a proxy given pursuant to this section only by actual notice of revocation to the person presiding over a meeting of the Owners Association.

6.3.3.3. A proxy is void if it is not dated or purports to be revocable without notice.

6.3.3.4. Except as hereinafter provided, a proxy shall terminate one year after its date, unless it specifies a shorter time.

6.3.3.5. If a first mortgagee has been designated a proxy under the terms of a first mortgage covering the Lot, its presentation to the Board of a copy of the mortgage shall be notice of the proxy designation, and if the mortgage so states, of the irrevocability of that designation.

6.3.3.6. Written notice to the Board or notice in a meeting of a revocation of a proxy designation shall not affect any vote or act previously taken.

6.3.3.7. Each proxy shall automatically cease upon conveyance of the Lot by the Owner and the grantee of the proxy.

6.3.3.8. Unless expressly reserved and the Owners Association is notified of such reservation, a land contract vendee as defined in Chapter 5313 of the Revised Code, shall be deemed the proxy of a land contract vendor for purposes of this section.

### 6.3.4. No Cumulative Voting.

There will be no cumulative voting.

### 6.3.5. Owners Association.

No votes allocated to any Lots owned by the Owners Association may be cast.

6.4. Powers of the Owners Association.

Subject to Special Declarant Rights hereinafter set forth in Article XIII, the Owners Association may:

- 6.4.1. Adopt and/or amend the Bylaws for the government of the Owners Association, the conduct of its affairs and the management of the Property;
- 6.4.2. Adopt rules and regulations for the use and occupation of the Common Elements and to enforce violations of the rules and regulation and the provisions and restrictions of the Declaration as against the Owners and Occupants.
- 6.4.3. Adopt and amend budgets for revenues, expenditures and reserves and levy and collect Assessments from Owners;
- 6.4.4. Hire and discharge managing agents and other employees; agents and independent contractors;
- 6.4.5. Institute, defend or intervene in litigation or administrative proceedings in its own name or behalf of itself or two or more Owners on matters affecting the community;
- 6.4.6. Make contracts and incur liabilities;
- 6.4.7. Regulate the use, maintenance, repair, replacement and modification of the Common Elements for which the Owners Association has maintenance responsibility and other rights as set forth herein;
- 6.4.8. Cause additional improvements to be made as part of the Common Elements;
- 6.4.9. Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property;
- 6.4.10. Grant easements, liens, licenses and concessions through or over the Common Elements;
- 6.4.11. Impose and receive any payments, fees or charges for the use, rental or operation of the Common Elements and for services provided to Owners;
- 6.4.12. Impose charges for late payments of Assessments and after notice and an opportunity to be heard, levy reasonable fines for violations of the Declarations, Bylaws, Rules and Regulations of the Owners Association;
- 6.4.13. Impose reasonable charges for the preparation and recordation of amendments to

the Declaration or for statements of unpaid Assessments;

6.4.14. Provide for indemnification of its officers and board of trustees and maintain directors' and officers' liability insurance;

6.4.15. Assign its right to future income, including the right to receive Common Expense Assessments, except that this power shall be limited to the purposes of repair of existing structures or improvements;

6.4.16. Exercise any other powers conferred by the Declaration, Bylaws or Articles of Incorporation;

6.4.17. Exercise all other powers that may be exercised in this state by "owners associations" required and established pursuant to Chapter 5312 of the Ohio Revised Code and if and when applicable, any and all other powers that may be exercised in this state by nonprofit corporations pursuant to Chapter 1702 of the Ohio Revised Code;

6.4.18. Exercise any other powers necessary and proper for the governance and operation of the Owners Association;

#### 6.5. Annual Meeting.

A meeting of the Members of the Owners Association shall be held at least once each year.

#### 6.6. Management Agent.

The Board of the Owners Association may employ a professional management agent or agents at a compensation established by the Board to perform such duties and services as the Board shall authorize. The Board may delegate to the managing agent or manager, subject to the Board's supervision, certain powers granted to the Board by this Declaration. The Declarant, or an affiliate of the Declarant, may be employed as a managing agent or manager.

6.6.1. No management contract may have a term in excess of three (3) years and must permit termination by either party without cause and without termination fee on ninety (90) days or less written notice.

#### 6.7. Permissible Merger Of Owners Association.

If the statutory "owners association" for the adjacent planned community known as Windsor Park Of Montville Township Homeowners Assoc., Inc. agrees to assume the duties of this Owners Association for Windsor Park Subdivision Phase II and/or votes to incorporate/merge the Windsor Park Subdivision Phase II into "Windsor Park Subdivision" pursuant to its *Declaration of Covenants, Conditions, Restrictions And Reservation Of Easement For Windsor Park*, the Owners Association for Windsor Park Subdivision Phase II may be Windsor Park Of

Montville Township Homeowners Assoc. Inc., upon approval of such merger by said not-for-profit corporation and making Windsor Park Subdivision Phase II subject to all of the *Declaration of Covenants, Conditions, Restrictions And Reservation Of Easement For Windsor Park* and the By-Laws of Windsor Park Of Montville Township Homeowners Assoc. Inc.

6.7.1. A simple majority vote of the Members of the Owners Association shall be required for such incorporation/merger.

## ARTICLE VII ASSESSMENTS

### 7.1. Establishment of Assessments.

Certain Assessments for Common Expenses and other expenses are hereby established for the benefit of the Owners Association, its successors and assigns, as a charge on each Lot. Each Owner, by acceptance of a Deed, covenants and agrees to pay such Assessments.

### 7.2. Purpose of the Assessments.

The Assessments are established for the benefit and use of the Owners Association and shall be used in covering the costs of its Common Expenses and for other such purposes as hereinafter set forth.

### 7.3. Annual General Assessment.

There is hereby established an Annual General Assessment levied against all Lots for the purpose of the Common Expenses of the Owners Association. The Common Expenses shall be, but not limited to: (a) operation, maintenance, repair and replacement as required by this Declaration; (b) the cost of any insurance required by this Declaration; (c) reasonable reserves for contingencies and replacement, (d) administrative, accounting, legal and management fees; and (e) all other costs and liabilities incurred by the Owners Association in the exercise of its powers and duties pursuant to this Declaration.

### 7.4. Individual Assessment.

The Owners Association after approval by two-thirds (2/3) vote of all members of the Board shall have the right to assess an individual Lot for any of the following:

7.4.1. Any costs incurred by the Owners Association in the performance of any maintenance in accordance with Article VIII, Section 8.3 and Section 8.4;

7.4.2. Any charges or fines imposed or levied in accordance with Article IX, Section

9.3.1.1;

7.4.3. Any costs incurred for maintenance or repair caused through the willful or negligent act of an Owner or Occupant or their family, tenants, guests or invitees, including attorney fees, court costs and other expenses incurred;

7.4.4. Any costs associated with the enforcement of this Declaration or the Rules and Regulations of the Owners Association, including, but not limited to attorney fees, witness fees and costs, and court costs.

#### 7.5 Working Capital Fund; Initial Assessment.

At the time of closing of a Lot from a Builder, the purchaser of such Lot shall be assessed the sum of \$400.00 as such purchaser's initial capital contribution to the working capital fund of the Owners Association. These Assessments shall be used by the Owners Association for its operating expenses. Such Assessment is not an advance payment of the Annual General Assessment, and it will not be held in any sort of trust or reserve account. Builders shall not be subject to such Working Capital Fund Assessment.

#### 7.6. Computation and Payment of Annual General Assessment.

The Annual General Assessment shall be computed and levied in accordance with the budget adopted by the Board pursuant to the Bylaws. This Assessment shall be effective as to each Lot on the first day of the Owners Association's fiscal year. The initial Annual General Assessment as to each Lot shall commence on the first day of the month following the earlier of (a) its conveyance to an Owner other than a Builder; or (b) occupation of the Dwelling Unit. The initial Annual General Assessment shall be prorated on a monthly basis to the end of the Owners Association's fiscal year, and shall be collected at closing of the conveyance of the Lot from the Builder. So long as there has been no default in payment of the assessment, it shall be payable in annual installments due on the first day of each fiscal year. The Board shall have the power from time to time to adopt such billing, collection and payment procedures, charges and other payment time schedules, as it deems appropriate.

#### 7.7. Allocation of Assessments.

The Common Expense Liability of each Lot shall be its portion of the Common Expense. The Common Expense Liability and the Annual General Assessment shall be allocated equally to each Lot. The other Assessments shall be allocated as applicable to the respective Lots as determined by the Board.

#### 7.8. Lien for Assessments.

The Owners Association shall have a lien for any Assessment levied against a Lot, for fines

imposed against an Owner or Occupant, and for interest; costs and reasonable attorney fees.

7.8.1. Creation.

The lien for Assessments is created by this Declaration and shall be a charge and a continuing lien on each Lot, which shall run with the land. All persons or entities acquiring an interest in a Lot after the filing of this Declaration take such interest subject to the lien.

7.8.2. Effective Dates.

The lien for the Common Expense Liability for each Lot as set forth in the Annual General Assessment shall be effective on the first day of the fiscal year of the Owners Association. The lien for other Assessments shall be effective on the first day of the month following the notice of its levy on the Owners affected.

7.8.3. Perfection.

Recording of this Declaration constitutes notice and perfection of the Lien.

7.8.4. Notice of Lien.

The Owners Association may file a notice of lien with the Recorder of Medina County. Such notice shall not be required for the Owners Association to enforce its lien.

7.8.5. Priority of the Lien.

The lien created by Section 7.8 shall be prior to all liens and encumbrances recorded subsequent to this Declaration except the lien for real estate taxes and assessments and the lien of any bona fide first mortgage filed of record.

7.8.6. Subordination and Mortgagee Protection.

Notwithstanding any of the provisions hereof to the contrary, the lien of any Assessment levied pursuant to this Declaration, including any late charges, interest, costs and attorney fees, shall be subordinate to, and shall in no way affect the rights of the holder of a first mortgage made in good faith for value received; provided, however, that such subordination shall apply only to Assessments, or installments thereof, which have become due and payable prior to the date of Sheriff s sale of such Lot pursuant to a foreclosure or the date of a deed in lieu of foreclosure. Such sale or transfer shall not relieve the mortgagee or the purchaser of a Lot at such sale from liability for any Assessments thereafter becoming due, nor from the lien of any such subsequent Assessment.



7.8.7. Extinguishment of the Lien.

A lien for unpaid Assessments is extinguished unless proceedings to enforce it are instituted within five (5) years after the full amount of the Assessment becomes due. If an Owner of a Lot subject to a lien files a petition for relief under the United States Bankruptcy Code, then the period of time to enforce the Owners Association's lien shall be tolled until thirty (30) days after the automatic stay under Section 362 of the Bankruptcy code is lifted.

7.8.8. Estoppel Certificate.

Upon request of any mortgagee or Owner and upon payment in full of all Assessments and other charges permitted by this Declaration that are due to the Owners Association, the Owners Association shall execute and deliver to such mortgagee or Owner an Estoppel Certificate. Such certificate shall be in recordable form and shall note the payment of the outstanding Assessments and charges and that the Owners Association is estopped from the enforcement of its lien with respect to Assessment and charges becoming due and payable prior to the date of the Certificate. The Owners Association may charge a reasonable fee for the preparation of such certificate.

7.9. Delinquency and Acceleration.

Any installment of an Assessment provided for by this Declaration shall become delinquent if not paid on the due date as established by this Declaration or by the Board. With respect to each installment of an Assessment not paid within five (5) days of its due date, the Board may, at its election, require the Owner to pay a reasonable late charge, costs of collection, reasonable attorney fees and interest at the rate provided in Section 1343.03 of the Ohio Revised Code (and as amended from time to time). Interest shall be calculated from the date of delinquency to the date full payment is received by the Owners Association. If any installment of an Assessment is not paid within thirty (30) days of its due date the Board may, at its election, declare all of the unpaid balance of the Assessment without further notice or demand to the Owner. The Owners Association may enforce the collection of the full Assessment and all charges thereon in any manner authorized by law or this Declaration. The filing of any petition for relief pursuant to the United States Bankruptcy Code by an Owner whose Assessment has been accelerated shall operate as a restoration of the Assessment to its prior status as if it has not been accelerated.

7.10. Remedies Cumulative.

A suit to recover money judgment for unpaid Assessments and charges may be maintained without foreclosing or waiving the right to enforce the lien. A foreclosure may be maintained notwithstanding the pendency of any suit to recover a money Judgment.

7.11. Personal Obligation.

The Assessments, including fines, if any, payable by each Owner, together with any penalty, interest, costs and reasonable attorney fees shall be the personal obligation of the Owner of the Lot at the time incurred. The personal obligation shall not pass to any successors in title unless expressly assumed by them.

7.12. Statement of Unpaid Assessments.

The Owners Association shall upon written request of the Owner, contract purchaser, or first mortgagee, furnish a statement setting forth the amount of unpaid Assessments against the Lot. This statement must be furnished within ten (10) business days after receipt of the request and is binding on the Owners Association, the Board and every Owner. The Owners Association may charge a reasonable amount for this statement.

7.13. No Waiver of Liability for Common Expenses.

No Owner may exempt himself from liability for payment of the Common Expenses by waiver of the use or enjoyment of the Common Elements or by abandonment of the lot against which the Assessments are made.

ARTICLE VIII  
UPKEEP OF THE PROPERTY

8.1. Lots.

Each and every Lot, its Dwelling Unit and any improvement erected thereon shall be maintained in a reasonable manner in accordance with the standard generally prevailing throughout the Subdivision.

8.2. Common Elements.

The Owners Association shall maintain the Common Elements.

8.3. Landscape Buffer Areas.

The Landscape Buffer Areas, if any, shown on the Recorded Plat shall be maintained by the Owner of the Lot which is adjacent to each such buffer area. In the event any Lot Owner fails to maintain the Landscape Buffer Area adjacent to his lot, then the Owners Association shall have the right to provide such maintenance pursuant to Section 8.4 and 8.5 and assess the Lot for the cost of such maintenance.

#### 8.4 Owners Association's Right to Maintain.

In the event that an Owner shall fails to provide maintenance as required by this Declaration in a manner satisfactory to the Owners Association, and such Owner has failed to comply for ten (10) days after being so notified of such failure and upon being provided an opportunity to be heard concerning such failure, then the Owners Association shall have the right, through its agents and employees, to enter upon said Lot and repair, maintain and restore the Lot. In the event that such failure poses a health, safety or security risk, then no notice or hearing need be given. The cost of such maintenance and repair shall be assessed against the subject Lot in accordance with Article VII, Section 7.4. Nothing in this Section shall be construed as giving the Owners Association any right to repair, maintain or restore any Dwelling Unit.

#### 8.5. Access to Lots.

For the purpose solely of performing the maintenance required or authorized herein, the Owners Association, through its duly authorized agents or employees, or subcontractors, shall have the right, after reasonable notice to the Owner, to enter upon any Lot at reasonable hours on any day.

### ARTICLE IX RESTRICTIONS

#### 9.1. Use and Occupancy.

The following restrictions are applicable to all Lots with respect to the use and occupancy of the Property.

##### 9.1.1. Compliance with Laws.

No improper, offensive or unlawful use shall be made of Property or any part thereof, and all valid laws, zoning resolutions and regulations of all governmental agencies having jurisdiction shall be observed. All laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereof relating to any portion of the Property shall be complied with, by and at the sole expense of the Owner.

##### 9.1.2. Harmful Discharges.

There shall be no emissions of dust, sweepings, dirt, cinders, odors, gases or other substances into the atmosphere (other than normal residential chimney emissions), no production, storage or discharge of hazardous wastes on the Property or discharges of liquid, solid wastes or other harmful matter into the ground or any body of water, if such emission, production, storage or discharge may adversely affect-the use or intended use of any portion of the Property or may adversely affect the health, safety or comfort of any

person. No waste nor any substance or materials of any kind shall be discharged into any public sewer or the Surface Water Management System serving the Property or any part thereof in violation of any regulation of any public body having jurisdiction over such public sewer, or Surface Water Management System.

9.1.3. Noise.

No person shall cause any unreasonably loud noise (except for security devices) anywhere on the Property, nor shall any person permit or engage in any activity, practice or behavior for the purpose of causing annoyance, discomfort or disturbance to any person lawfully present on any portion of the Property.

9.1.4. Signs.

Except for such as may be posted by the Declarant or any Builder for sales and marketing purposes, no signs of any permanent character shall be erected, posted or displayed on any Lot. "For sale" signs, political or similar such residential purpose signs, not exceeding six (6) square feet in area maybe erected, posted or displayed on a temporary basis.

9.1.5. No Trade or Business.

No trade or business of any kind may be conducted in or from any Lot or Dwelling except that an Owner or Occupant of a Lot or Dwelling Unit may conduct such business activity within the Lot or Dwelling Unit so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from the exterior of the Lot or Dwelling Unit; (b) the business activity conforms to all zoning requirements for the Property; (c) the business activity does not involve persons coming on to the Lot who do not reside in the Dwelling Unit of the Lot and (d) the business activity is consistent with the residential character of the Property.

The terms "business" and "trade" as used in this provision shall be construed to have their ordinary generally accepted meanings and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether (a) such activity is engaged in full-time or part-time; (b) such activity is intended to or does generate a profit; (c) a license is required thereof. The term "trade" or "business" for purposes of this restriction shall not include the construction, operation and maintenance of any model home or homes and sales offices, by Declarant and/or any Builder during reasonable hours.

9.1.6. Trash.

Except in connection with construction activities, no burning of any trash and no accumulation or storage of litter, refuse, bulk materials; building materials or trash of any other kind shall be permitted on any Lot. Trash containers (except during construction) shall not be permitted to remain in public view except on days of trash collection. No incinerator shall be kept or maintained upon any Lot.

9.1.7. Parking; Vehicle Repairs.

Except in connection with construction activities, trucks, trailers, campers, recreational vehicles, boats and other large vehicles may only be parked on a Lot and/or Property only if in garages. No junk or derelict vehicle or other vehicle on which current registration plates are not displayed shall be kept upon any portion of the Property. Vehicle repairs and storage of vehicles are permitted on the Property only if in garages. Recreational vehicles and boats may be parked in the driveways for a period not to exceed twenty-four (24) hours for the purpose of cleaning, loading or unloading.

9.1.8. Animals.

The maintenance, keeping, boarding or raising of animals, livestock, poultry or reptiles of any kind, regardless of number, is prohibited on any Lot. The keeping of guide animals and orderly domestic pets (e.g., dogs, cats or caged birds) is permitted. No pets shall be kept or maintained for commercial purposes or for breeding. No external compound cages, kennels or hutches shall be permitted.

9.1.9. Open Fires.

Open burning is not permitted on the Property, except that outdoor fireplaces, grills, and chimneys may be used if equipped with fire screens to prevent the discharge of embers or ashes.

9.1.10. Clothes Drying.

No outdoor clothes drying apparatus may be placed on any Lot.

9.2. Architectural Restrictions.

The following architectural restrictions shall be applicable to all Lots.

9.2.1. Plan Approval.

No structure shall be placed, erected or installed upon any Lot, no construction (which

term shall include within its definition staking, clearing, excavation, grading, and other site work), no exterior alteration or modification of existing improvements, and no plantings or removal of plants, trees, or shrubs shall take place until the requirements of this section have been fully met. Prior to any construction, the Owner or Builder shall first submit to the Declarant (which for the terms of this section shall include its designee) a complete set of building plans for the proposed construction. The Declarant shall approve, reject or modify such plans in a writing sent to the Owner or Builder in question not more than thirty (30) days after the plans are submitted to the Declarant. The thirty (30) day period shall commence upon execution of a written notice by the Declarant acknowledging receipt of plans and specifications and all information required therewith. The Declarant shall review the plans as to the quality of workmanship and design and harmony of external structures with existing structures and as to location in relation to surrounding structures, topography and finish grade elevation. The Declarant shall not unreasonably withhold approval of any plans that conform in every way with the Declaration and with the general character of the development on neighboring Lots within the Subdivision. If the Declarant fails to approve, reject, or modify the plans within the thirty (30) day period, the Declarant's approval shall be deemed to have been given, and no further permission shall be needed before the improvements described in such plans may be constructed or installed. However, in no event shall any improvements be constructed or installed that violate any terms of this Declaration.

#### 9.2.2. Declarant's Plan Approval Period.

Declarant's exclusive right of plan approval shall exist for as long as Declarant owns any Lot in the Subdivision. Declarant's right of plan approval shall include any alterations to existing Lots or Dwelling Units and/or-items requiring prior approval by this Declaration. In any items or matters that are discretionary, the Declarant's decision shall be conclusive upon all parties.

#### 9.2.3. Owners Association's Right of Plan Approval.

After Declarant's right of plan approval has terminated, the Owners Association shall be responsible for plan approval. The Declarant may by providing written notice to the Owners Association, assign its right of plan approval or any portion thereof, to the Owners Association.

#### 9.2.4. No Liability.

Each Owner and builder is responsible to insure that all construction or any modifications are in compliance with the restrictions and approved plans. If the Developer or the Board have acted in good faith on the basis of such information possessed by them, neither the Developer, the Board nor any Trustee shall be liable to the Owners Association or to any Owner for any damage, loss or prejudice suffered or

claimed due to: (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective; or (b) the construction or performance of any work whether or not pursuant to approved plans, drawings, and specifications.

9.2.5. Dwelling Type.

No building shall be erected, altered, placed or be permitted to remain on any Lot other than one single-family dwelling and a garage for at least two cars. A single-family dwelling shall meet the following requirements:

9.2.5.1. A one story dwelling structure, the living area being the first floor space only, constructed with a basement and a space between the first floor ceiling and the roof of adequate heights to permit its use as a dwelling place.

9.2.5.2. A story and a half or Cape Cod dwelling structure, the living area of which is on two levels connected by a stairway and constructed with a basement. The upper level is constructed within the gable portion of the roof. Window penetrations are made by use of dormers.

9.2.5.3. A two-story dwelling structure, the living area of which is on two levels connected by a stairway, constructed with a basement.

9.2.6. Dwelling Floor Areas.

The living area of the Dwelling Unit exclusive of porches, decks, attics, basements, areas not heated year round and garages shall be no less than the area set forth in Exhibit "B", Paragraph 5, Restrictions, attached hereto and incorporated herein.

9.2.7. Roof Requirements.

The roof and gables of each Dwelling Unit shall be no less than 6 - 12 pitch. Porch and patio roofs may be 4 - 12 pitch. All shingles shall be of a uniform color. All roof penetrations shall be located on the rear side of the Dwelling Unit.

9.2.8. Set Back, Minimum Elevation and Yard Requirements.

All Dwelling Units shall be located in accordance with the building set back lines, minimum basement elevation and yard requirements as shown on the Recorded Plat and as set forth in the Montville Township Zoning Resolutions. The Owner or Builder shall be responsible for compliance with these standards. Declarant shall not be responsible for any failure to comply with these standards.

9.2.9. Front Yards and Driveways.

Front yards shall be landscaped and seeded and all driveways shall be paved with concrete, brick or paving stones within ninety (90) days after a certificate of occupancy is issued by the Medina County Building Department, weather permitting.

9.2.10. Construction Materials.

No Dwelling Unit shall be constructed of concrete block, cinder block or other similar materials unless the exterior of the Dwelling Unit is covered with brick and/or siding. No underground Dwelling Units shall be permitted.

9.2.11. Exterior Siding.

Any wooden sheeting materials must have prior approval.

9.2.12. Front Storage.

No front porch shall be used for the storage of any items except normal porch furniture. No front yard shall be used for storage of any kind of items. This restriction shall not apply to building materials and/or equipment stored on the Lot during construction of the Dwelling Unit.

9.2.13. Radio and Television Antennas.

With the exception of eighteen inch home satellite dishes, no exterior antennas, aerials, satellite dishes, or other apparatus for the reception or transmission of television; radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon any portion of the Properties, including any Dwelling Unit, without the prior written approval as provided in Section 9.2.1, and in accordance with the Guidelines established by the Declarant or the Owners Association. A copy of the current Guidelines is attached as Exhibit C. Nothing herein shall be construed so as to be in conflict with current Federal Communications Commission's rules and regulations for antennas.

9.2.14. Air Conditioning and Heat Pump Equipment.

Air-conditioning and heating equipment should be located and screened in such a manner so as to provide minimum visual impact from other Lots.

9.2.15. Awnings.

No metal or plastic awnings for windows, doors or patios may be erected or used.

9.2.16. Exterior Carpeting.



No exterior carpeting shall be permitted if it is visible from the street or any neighboring lot.

9.2.17. Mailboxes.

Each Owner, at Owner's expense, shall install a matching mailbox and newspaper box in accordance with specifications as to style and color determined by Declarant.

9.2.18. Foundations.

All Dwelling Unit foundations facing any street shall be brick, stone, decorative block or poured wall with decorative imprint.

9.2.19. Chimneys.

All chimneys with metal flues must be enclosed within a chase that may be sided. Any direct vent chimney and/or furnace flues, hot water heater or any other flues shall be vented only to the rear or side of the Dwelling Unit.

9.2.20. Completion.

Construction of a Dwelling Unit on any Lot shall be completed with one (1) year from the date construction is started.

9.2.21. Lot Maintenance.

All Lots must be kept mowed and free of debris and clutter. During construction, each Owner and builder shall be responsible for keeping the streets and adjacent Lots clean and free of debris. The Declarant shall have the right to assess an Owner or Builder for the cost of mowing or clean up in the event that the Owner or Builder fails to do so. Owners shall be responsible for all costs incurred to repair or replace damaged curbs and/or gutters along the front of the Owner's Lot resulting from construction vehicles or any negligence during the construction of the Dwelling Unit.

9.3. Remedies for Breach of Covenants and Restrictions.

The violation of any covenant or restriction contained in the Declaration or violation of any rule or regulation duly adopted by the Board shall give the Board the authority to enforce the covenants, restrictions, rules and regulations in accordance with this Section.

9.3.1. Actions.

The Board may take any of the following actions:

9.3.1.1. Levy a fine against the Owner or Occupant, which shall also be an individual assessment under Article VII, Section 7.4.

9.3.1.2. To enter upon a Lot or portion thereof upon which or, as to which, such violation or breach exists and to summarily abate and remove at the expense of the Owner, any structure, thing or condition that may exist thereon: contrary to the intent and meaning of the provisions of this Declaration, and the Board, or its agents shall not be thereby deemed guilty in any manner of trespass or wrongful act.

9.3.1.3. To institute appropriate legal proceedings to enjoin, abate or remedy the continuance of any breach.

9.3.1.4. Undertake such dispute resolution methods such as mediation and arbitration, except that this provision shall not be construed as any requirement to do so as a condition precedent to legal proceedings.

9.3.2. Notice And Opportunity To Be Heard.

Prior to any action, the Board shall give the Owner and/or Occupant reasonable notice of the violation and notice of a hearing to be held affording the Owners and/or Occupant an opportunity to be heard. Notice shall be given at least ten (10) days prior to any hearing set pursuant to this Section 9.3.2. Such notice and opportunity shall not be required in emergency situations or for repeated or continuing violations.

9.3.3. Individual Actions.

Each Owner is empowered to enforce the covenants by appropriate legal proceedings or alternative dispute resolution methods.

ARTICLE X  
INSURANCE AND CASUALTY LOSSES

10.1. Casualty Insurance.

The Board, or its duly authorized agent shall have the authority to and shall obtain blanket "all-risk" property insurance, if reasonably available, for all insurable improvements on the Common Elements and such other property as the Owners Association is obligated to maintain and insure. If blanket "all-risk" coverage is not reasonably available, then at a minimum an insurance policy providing fire and extended coverage shall be obtained, The face amount of such insurance shall be sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard.

## 10.2. Liability Insurance.

The Board shall also obtain a public liability policy covering the Common Elements, insuring the Owners Association and its Members for all damage or injury caused by the negligence of the Owners Association, any of its Members, employees or agents, or any other person who has a right to occupy a Dwelling Unit. The public liability policy shall have at least a Two Million (\$2,000,000.00) Dollar single person limit as for bodily injury, if reasonably available, and property damage a One Million (\$1,000,000.00) Dollar limit per occurrence, if reasonably available, and a Three Hundred Thousand (\$300,000.00) Dollar minimum property damage limit.

## 10.3. Cost of Insurance.

Premiums for all insurance on the Common Elements shall be a Common Expense of the Owners Association. The policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the coverage required hereunder. The deductible shall be paid by the party who would be liable for the loss or repair in the absence of insurance and in the event of multiple parties, shall be allocated in relation to the amount each party's loss bears to the total.

## 10.4. Named Insured.

All insurance coverage obtained by the Board shall be written in the name of the Owners Association as trustee for the respective benefitted parties as further identified below. Such insurance shall be governed by the provisions hereinafter set forth:

10.4.1. All policies shall be written with a company authorized to do business in Ohio which holds a Best's rating of A or better and is assigned a financial size category of XI or larger as established by A. M. Best Company, Inc., if reasonably available, or, the most nearly equivalent rating which is available.

10.4.2. All policies on the Common Elements shall be for the benefit of the Owners Association and its Members, and their Mortgagees, as their interests may appear.

10.4.3. Exclusive authority to adjust losses under policies obtained by the Owners Association on the Properties shall be vested in the Board; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

10.4.4. In no event shall the insurance coverage obtained and maintained by the Owners Association's Board of Trustees hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees.

10.4.5. All property insurance policies shall have an inflation guard endorsement, if reasonably available, and if the policy contains a co-insurance clause, it shall also have an agreed amount endorsement. The Owners Association shall arrange for an annual review of the sufficiency of insurance coverage by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Medina County area.

#### 10.5. Coverage.

The Board shall be required to use reasonable efforts to secure insurance policies that will provide the following:

10.5.1. A waiver of subrogation by the insurer as to any claims against the Board, officers, employees and manager, the Owners and Occupants of Units and their respective tenants, servants, agents, and guests;

10.5.2. A waiver of the insurer of its rights to repair and reconstruct, instead of paying cash;

10.5.3. A statement that no policy may be canceled, invalidated, suspended, or subject to non-renewal on account of anyone or more individual Owners;

10.5.4. A statement that no policy may be canceled, invalidated, suspended, or subject to non-renewal on account of any curable defect or violation without prior demand in writing delivered to the Owners Association to cure the defect or violation and the allowance of a reasonable time thereafter within which the defect may be cured by the Owners Association; its manager, any Owner, or Mortgagee;

10.5.5. A statement that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

10.5.6. A statement that the Owners Association will be given at least thirty (30) days' prior written notice of any cancellation, substantial modification, or non-renewal.

#### 10.6. Other Insurance.

In addition to the other insurance required by this Section, the Board shall obtain, as a Common Expense, worker's compensation coverage, if and to the extent required by law, Trustees' and officers' liability coverage, if reasonably available, a fidelity bond or bonds on Trustees, officers, employees, and other Persons handling or responsible for the Owners Association's funds, and flood insurance, if reasonably available. The amount of fidelity coverage shall be determined in the Board's best business judgment. Bonds shall contain a waiver of all defenses based upon the

exclusion of persons serving without compensation and shall require at least thirty (30) days prior written notice to the Owners Association of any cancellation, substantial modification, or non-renewal.

#### 10.7. Individual Insurance.

Each Owner covenants and agrees with all other Owners and with the Owners Association that each Owner shall carry blanket all-risk property insurance on the Lot; the Dwelling Unit and structures associated therewith. Each Owner further covenants and agrees that in the event of a partial loss or damage resulting in less than total destruction of structures comprising his Dwelling Unit, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article X of this Declaration. The Owner shall pay any costs of repair or reconstruction which are not covered by insurance proceeds. In the event that the structure is totally destroyed, the Owner may decide not to rebuild, in which case the Owner shall clear the Lot of all debris and ruins and thereafter the Owner shall maintain the Lot in a neat and attractive, landscaped condition consistent with the standard prevailing in the neighborhood.

#### 10.8. Casualty of Owners Association Property.

Immediately after damage or destruction by fire or other casualty to all or any part of the Properties covered by insurance written in the name of the Owners Association, the Board of Trustees or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Properties. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Properties to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

#### 10.9. Reconstruction Or Repair of Common Elements.

Any damage or destruction to the Common Elements shall be repaired or reconstructed unless the Members representing at least seventy-five (75) percent of the total Class "A" vote of the Owners Association, if Common Elements, shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Owners Association within said period, then the period shall be extended until such funds or information shall be made available; provided, however, such extension shall not exceed sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Elements shall be repaired or reconstructed.

10.10. Complete Destruction.

In the event that it should be determined in the manner described above that the damage or destruction to the Common Elements shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Properties shall be cleared of all debris and ruins and maintained by the Owners Association, or the Owners, as applicable, in a neat and attractive, landscaped condition consistent with the standards prevailing in the neighborhood.

10.11. Disbursement of Proceeds.

If the damage or destruction for which the proceeds of insurance policies held by the Owners Association are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction shall be retained by and for the benefit of the Owners Association and placed in a capital improvements account. In the event no repair or reconstruction is made, any proceeds remaining after making such settlement as is necessary and appropriate with the affected Owner or Owners and their Mortgagee(s), as their interests may appear, shall be retained by and for the benefit of the Owners Association and placed in a capital improvements account. This is a covenant for the benefit of any Mortgagee of a Unit and may be enforced by such Mortgagee.

10.12. Cost Of Repair Or Reconstruction.

If the damage or destruction to the Common Elements for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Trustees shall, without the necessity of a vote of the Members, levy a special assessment against the Owners. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

10.13. Additional Insurance Provisions.

The Declarant or Board, without a vote of the Lot Owners, may amend the provisions of this Article or any supplemental provisions set forth in a Supplemental Declaration, if such amendment is necessary to comply with secondary mortgage market guidelines or is necessary or desirable to meet the requirements of any institutional lender, the Veteran's Administration, the Federal Housing Administration, the Federal National Mortgage Owners Association, the Federal Home Loan Mortgage Corporation, or any other agency which may issue or purchase loans on a Lot:

ARTICLE XI  
CONDEMNATION

11.1. Governmental Condemnation.

Whenever all or any part of the Common Elements shall be taken (or conveyed in lieu of and under threat of condemnation by the Board, acting on its behalf or on the written direction of all Owners of Lots subject to the taking, if any) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof and to participate in the proceedings incident thereto, unless otherwise prohibited by law. The award made for such taking shall be payable to the Owners Association, as trustee for all Owners, to be disbursed as follows:

11.1.1. If the taking involves a portion of the Common Elements on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant and at least seventy-five (75) percent of the Members of the Owners Association shall otherwise agree, the Owners Association shall restore or replace such improvements so taken on the remaining land included in the Common Elements, to the extent lands are available therefore, in accordance with plans approved by the Board. If such improvements are to be repaired or restored, the above provisions in Article X hereof regarding the disbursement of funds in respect to casualty damage or destruction, which is to be repaired, shall apply.

11.1.2. If the taking does not involve any improvements on the Common Elements, 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 Owners Association and used for such purposes as the Board shall determine.

ARTICLE XII  
DEVELOPMENT RIGHTS

12.1. Submission of Additional Land.

The Declarant reserves the right, from time to time, to add additional and other land to the Property and to subject the same to the provisions of this Declaration without the consent of the Owners at any time so long as Declarant owns a Lot within the Subdivision provided that any such proposed addition is adjacent to the existing property (or adjacent to any property which may have been added thereto). Property abutting or located across a street or highway from any portion of existing property, or added property, or located within two hundred (200) feet from any portion of the existing property, or added property, shall be considered to be adjacent to it. The submission shall be accomplished by the filing of a Supplemental Declaration identifying

the Additional Land, the Lots and the Common Elements. During any Declarant Control Period, annexation of Additional Land, subject to the prior approval, if required, of the Federal Housing Administration or the Veterans Administration, if either such agency is insuring or guaranteeing the mortgage on any Lot.

12.2. Notice to Board.

The Declarant shall promptly notify the Board of the filing of any Supplemental Declaration.

12.3. Easements Reserved.

The Declarant reserves for itself, its successors and assigns and any Builder, the following easements:

12.3.1. Easements for drainage and all utilities as shown on the Recorded Plat.

12.3.2. Easements for ingress, egress, drainage and all utilities over the Common Elements provided that such easements do not unreasonably interfere with any Owner's rights of enjoyment.

12.3.3. An easement over the Common Elements as may be reasonably necessary for the purpose of discharging its obligations or exercising any rights under the Declaration.

12.3.4. An easement for ingress, egress, drainage and all utilities over the Common Elements and in favor of the Additional Property and the right to convey that easement to others in the event that the Additional Property is not submitted to this Declaration.

12.4. Assignment of Development Rights.

The Declarant reserves the right to assign any or all of its Development Rights to any person or entity for the purpose of further development and improvement of the Property. No assignment shall be effective unless in a writing filed with the Recorder of Medina County, Ohio.

12.5. Transfer of Development Rights by Foreclosure.

Unless otherwise provided in any mortgage securing the Property held by Declarant, in the case of foreclosure of such mortgage, deed in lieu of foreclosure, judicial sale, tax sale, sale under the U. S. Bankruptcy Code or receivership proceedings, of any portion of the Property held by the Declarant subject to the Development Rights herein reserved (including the Special Declarant Rights), a person acquiring title to such property, but only upon his request, succeeds to all such Development Rights. The judgment or instrument conveying title must provide for the transfer of such rights. Upon foreclosure sale, deed in lieu of foreclosure, judicial sale, tax sale, sale under the U.S. Bankruptcy Code or receivership proceedings, the Declarant ceases to have any of the



rights herein reserved. A successor to the Development Rights held by a transferee that acquired such rights pursuant to this Section, may declare by a recorded instrument the intention to hold such rights solely for transfer to another person. Thereafter, until transferring such Development Rights to any person acquiring title to the Property subject to the Development Rights, or until recording an instrument permitting exercise of such rights, that successor may not exercise any of those rights, and any attempted exercise is void. So long as a successor Declarant may not exercise any Development Rights under this section, such Declarant is not subject to any liability as a Declarant.

ARTICLE XIII  
SPECIAL DECLARANT RIGHTS

13.1. Use For Sale Purposes.

Declarant reserves for itself, its successors and assigns, and any Builder the right to maintain sales offices and models on the Lots.

13.2. Signs and Marketing.

The Declarant reserves the right for itself and any Builder to post signs and displays on the Property to promote sales of Lots, and to conduct general sales activities in a manner that will not unreasonably disturb the rights of Owners,

13.3. Control of the Owners Association.

13.3.1. Appointment of Trustees and Officers.

The Declarant reserves the right to appoint and remove the members of the Board and the Officers of the Owners Association during the Declarant being a Class B Member or until ninety (90) days after the sale and conveyance of the last Lot owned by Declarant, including any hereafter created lots in any Additional Lands, to Owner(s) other than Declarant, its subsidiary or any Builder.

13.3.2. Early Termination of Control.

The Declarant may voluntarily surrender the right to appoint and remove trustees and officers before the termination of the period set forth above. In that event, the Declarant may require, for the duration of that period, that specified actions of the Owners Association or the Board, be approved by Declarant before they become effective. Such voluntary termination shall be evidenced by a recorded instrument executed by the Declarant setting forth the termination of right to appoint and the actions which require Declarant's approval.

#### 13.4. Declarant's Personal Property.

The Declarant and any Builder reserve the right to retain all personal property and equipment used in sales, management, construction and maintenance of the premises that has not been represented as property of the Owners Association. The Declarant and Builder reserve the right to remove, within One (1) year after the sale of the last Lot, from the Property any and all goods and improvements used in development, marketing, and construction, whether or not they have become fixtures.

#### 13.5. Declarant's Right to Amend Declaration.

Notwithstanding anything to the contrary in this Declaration, during the Development Period, this Declaration may be amended by at any time without the vote of Owners by a Supplemental Declaration executed by the Declarant for the purpose of: (a) eliminating or correcting any typographical or other inadvertent error herein; (b) eliminating or resolving any ambiguity herein; making nominal changes; clarifying Declarant's original intent; (c) submission of additional land to this Declaration pursuant to Article XII, Section 12.1; (d) making any change necessary or desirable to meet the requirements of any institutional lender, the Veteran's Administration, the Federal Housing Administration, the Federal National Mortgage Owners Association, the Federal Home Loan Mortgage Corporation, or any other agency which may insure or purchase loans on a Lot.

##### 13.5.1. No Amendment To Affect Owner's Interest.

No such amendment, however, shall materially affect any Owner's interest in the Owners Association or the Common Elements.

##### 13.5.2 Consent To Amendment.

Each Owner and his mortgagees, by acceptance of a deed to a Lot or a mortgage encumbering such Lot, shall be deemed to have consented to and approved of the provisions of this paragraph and the amendment of this Declaration by Declarant as provided in the immediately preceding sentence. All such Owners and their mortgagees, upon request of Declarant, shall execute and deliver from time to time all such instruments and perform all such acts as may be deemed by a Declarant to be necessary or proper to effectuate the provisions of Article XIII, Section 13.5.

#### 13.6 Reservation of Mineral Rights.

The Declarant for itself, its successors and assigns, reserves all mineral rights to the Property, including, but not limited to oil and gas.

13.6.1. No Surface Extraction of Minerals.

No extraction of minerals, including oil and gas shall be permitted on the surface of any Property in the Subdivision, including but not limited to any above ground well.

13.6.2. Not a Personal Reservation.

Declarant's reservation is not a personal reservation and shall run with the land for the benefit of Declarant, its successors and assigns.

13.6.3. Limitation On Successors And Assigns.

Declarant's "successors and assigns" shall not include any Owner who becomes a Class A Member of the Owners Association.

ARTICLE XIV  
DURATION, AMENDMENT AND TERMINATION

14.1. Duration.

This Declaration, and its provisions, shall be covenants running with the land and shall bind the Property and shall (regardless of whether any such beneficiary owns an interest in any Lot) inure to the benefit of and be enforceable by Declarant, the Owners Association, and each Owner, Occupant and their legal representatives, heirs, devisees, successors and assigns and shall continue in full force and effect for twenty (20) years from the date on which this Declaration is recorded. Thereafter this Declaration shall be automatically renewed for successive ten (10) year periods unless amended or terminated as provided in this Article.

14.1.2 Mineral Rights Not Affected.

The reservation by Declarant of all mineral rights pursuant to Article XIII, Section 13.6 shall not terminate pursuant to Section 14.1 and shall be a reservation of a divisible property right.

14.3. Amendments To Declaration by Owners.

Until Declarant cease to own any Lot in the Subdivision, any provision of this Declaration may be amended in whole or in part by a Supplemental Declaration, thereafter any amendment must be approved by the Owners of at least seventy-five percent (75%) of all Lot Owners, with each Lot providing the Owner or Owners thereof one vote.

14.4. Formalities.

All Supplemental Declarations adopted pursuant to Article XIV, Section 14.3 by shall be executed by a majority of the Trustees of the Board and shall certify: (a) that the proper notices were sent; and (b) that the requisite vote was obtained. Any Supplemental Declaration need not be signed by the Owners nor the Federal Housing Administration or the Veterans Administration to be effective.

14.5. Township Approval.

Any amendment adopted pursuant to Section Article XIV, Section 14.3 that purports to amend the definition, use or maintenance of the Common Elements shall have the prior approval of the Montville Township Board of Zoning Appeals with advice of its legal counsel.

14.6. Termination.

This Declaration and the covenants, conditions, restrictions, and reservations herein stated may be terminated only in accordance with the following:

14.6.1. Consent Required.

This Declaration may be terminated only upon consent of Eighty Percent (80%) of the Owners and the prior consent of the Montville Township Trustees, and if during the Declarant Control Period, by consent the Declarant and the prior approval, if required, of the Federal Housing Administration or the Veterans Administration, if either such agency is insuring or guaranteeing the mortgage on any Lot.

14.6.2 Agreement to Terminate.

No termination shall be effective unless an agreement to terminate is filed for record with the Medina County Recorder. This agreement shall be executed in the same manner as a deed by the requisite number of Owners. The agreement shall provide for disposition of the Common Elements, disposition of Owners Association funds and other resolutions and provisions necessary to terminate the regime and wind up the affairs of the Owners Association.

ARTICLE XV  
MISCELLANEOUS

15.1. No Reversion.

No covenant, condition, restriction or reservation of easement contained in this Declaration is

intended to create, or shall be construed as creating, a condition subsequent or a possibility of reversion of interest.

15.2. Notices.

Any notice required or permitted to be given to an Owner or resident by the Board pursuant to the provisions of this Declaration shall be deemed given when mailed by United States mail, postage prepaid, addressed to such person's last address as it appears on the tax records of the Medina County Auditor or other address provided to the Owners Association.

15.3. Construction.

The Board shall have the right to construe the provisions of this Declaration, and, in the absence of an adjudication by a court of competent jurisdiction to the contrary, such construction shall be final and binding as to all persons and entities benefitted or bound by the provisions of this Declaration.

15.4. Invalidity.

The determination by a court of competent jurisdiction that any provision of this Declaration is invalid for any reason shall not affect the validity of any other provision hereof.

15.5. Headings.

The headings of the Articles and Sections are for conveyance only and shall not affect the meaning or construction of the contents of this Declaration.

15.6. Gender.

Throughout this Declaration, the masculine gender shall be deemed to include the feminine and neuter, and the singular, the plural and vice versa.

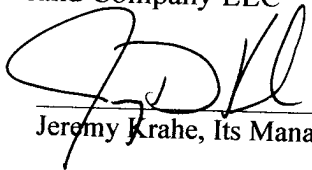
15.7. Conflict.

In the event of a conflict between the Restrictions or anyone or more of them and the restrictions of any Supplemental or Amended Declaration which may be recorded subsequent to this Declaration, the more restrictive restriction, covenant, condition, easement or other obligation shall control.

[THIS SPACE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, AJK Land Company LLC signed this Declaration this 30<sup>th</sup> day of October, 2013.

AJK Land Company LLC

BY:  ~~MANAGING MEMBER~~  
Jeremy Krahe, Its Managing Member

CERTIFICATE OF NOTARY ACKNOWLEDGMENT

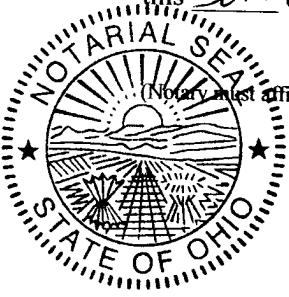
STATE OF OHIO

\ss


COUNTY OF MEDINA

Before me, a Notary Public in and for said County and State, personally appeared the above named AJK Land Company LLC, by Jeremy Krahe, Managing Member, who acknowledged that he did sign the foregoing instrument, that he had full authority to sign said instrument and that the same is the free act and deed of said limited liability company and his free act and deed personally as the Managing Member of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Medina, Ohio this 30<sup>th</sup> day of October, 2013.



(Notary must affix seal)  
**Connie L. Carlton**  
**Notary Public State of Ohio**  
**Medina County**  
**My Commission Expires**  
**November 12, 2014**

  
\_\_\_\_\_  
Notary Public  
My commission expires 11/12/14.

Instrument Prepared By:

Gregory W. Happ  
Attorney at Law  
Ohio Sup. Ct. Reg. 0008538  
Medina, Ohio

EXHIBIT "A"

LEGAL DESCRIPTION

Situated in the Township of Montville, County of Medina, and State of Ohio and known as being the whole of Sublot 58, Sublot 59, Sublot 60, Sublot 61, Sublot 62, Sublot 63, Sublot 64, Sublot 65, Block "D" and Block "E" in Windsor Park Subdivision Phase II, being a part of Montville Township Lot No. 50 and Lot No. 63, as shown by the recorded plat at Medina County Recorder's Document 2013PL000025 be the same more or less but subject to all legal highways.

Sublot 58	PPN# 030-11B-31-174
Sublot 59	PPN# 030-11B-36-091
Sublot 60	PPN# 030-11B-36-092
Sublot 61	PPN# 030-11B-36-093
Sublot 62	PPN# 030-11B-36-094
Sublot 63	PPN# 030-11B-36-095
Sublot 64	PPN# 030-11B-31-175
Sublot 65	PPN# 030-11B-31-176

Open Space Block "D"	PPN# 030-11B-31-177
Open Space block "E"	PPN# 030-11B-36-096

EXHIBIT "B"

1. Designation of Common Elements And Maintenance.

The following described real property shall be deemed to be Common Elements as set forth in Article IV of the Declaration.

Situated in the Township of Montville, County of Medina, and State of Ohio and known as being the whole of Block "D" and Block "E" in Windsor Park Subdivision Phase II, being a part of Montville Township Lot No. 50 and Lot No. 63, as shown by the recorded plat at Medina County Recorder's Document 2013PL000025 be the same more or less but subject to all legal highways

Open Space Block "D"	PPN# 030-11B-31-177
Open Space Bock "E"	PPN# 030-11B-36-096

The Common Elements described above shall be part of the Owners Association's responsibility for maintenance pursuant to Article IV, Section 4.1. Such maintenance responsibility includes but not limited to street signage and the landscaping and entryway monuments. Montville Township assumes no responsibility for maintenance of any item that is within the Owners Association's maintenance responsibility;

2. Reservation of Easements.

Declarant reserves unto itself, its successors and assigns, landscape easements, landscape/walk easements, drainage easements and utility easements as shown on the Recorded Plat. Drainage easements shown and noted on the Recorded Plat shall be part of the Surface Water Management System as set forth in the Declaration.

3. Owner's Responsibility.

Each Owner shall maintain his or her property, including the structures thereon, drainage easements, street trees and sidewalks in accordance with Article IV of the Declaration.

4. Utilities.

The Lots shall be subject to an easement five (5) feet wide on the side of each Lot; twelve (12) feet wide on: the front of each Lot and ten (10) feet along the exterior and interior boundaries of the Subdivision and along the green space for the purpose of installing, operating, maintaining and servicing pole lines, cables and conduits for utility service and cablevision franchise. The character of the installation and structures which may be constructed,



reconstructed, removed and maintained in, on and through these easements shall include, but not limited to, all incidental appurtenances, such as, guys, conduits, poles, anchors, transformers, paramount transformers, hand holes, etc. Said easement right shall include the right, without liability therefore, to remove trees and landscaping, including lawns within said easement premises which may interfere with the installation, maintenance, repair or operation of the electric and or communication facilities, and with right of access, ingress to and from any of the within premises for exercising and of the purpose of this right of way and easement grant.

5. Restrictions.

The following restrictions apply to the Property described in Exhibit "A".

a) Dwelling Unit Size.

Dwelling Units within this Neighborhood must be at least 1700 square feet for a one story type dwelling, 1800 square feet for a one and one-half story dwelling and 1800 square feet for a two-story Dwelling Unit. Square footage for other types of dwellings (quad-levels, tri-levels and bi-levels, if permitted) shall be determined by the Declarant upon plan review. Declarant reserved the right to make minor variances if, in its sole opinion, the intent of the section is maintained.

b) Fences.

No fence of any sort, may be erected unless and until prior approval in accordance with Section 9.2 of the Declaration has been obtained. The Declarant has reserves the right to prohibit all fences or types of fences on certain Lots. No fence shall be erected in the front yard. For purposes of this section, the front yard shall run from the street right of way to the rear line of the Dwelling Unit. Privacy fences, if permitted, shall not exceed six (6) feet in height. Yard fencing shall not exceed five (5) feet in height Dark green or black mesh fencing material may be attached to the split rail fences to provide for additional enclosure. Invisible pet fences are permitted without prior approval.

c) Other Structures.

No structure of a temporary character, trailer, or shack shall be permitted on any Lot. Barns, storage sheds or other outbuildings must have prior approval in accordance with Section 9.2. Such outbuildings must be located near the rear of the Lot, shall not exceed 120 square feet in floor area, not exceed 12 feet in height and must be constructed with siding materials and shingles to match the Dwelling Unit. Construction trailers and/or storage sheds shall be permitted only during construction.

d) Pools and Spas.

No swimming pools of any type shall be permitted. All hot tubs and spas must be in ground or if above ground incorporated into a deck and have prior approval in accordance with section 9.2 of the Declaration. All hot tubs and spas must be screened with a privacy fence. Privacy screening shall not exceed six (6) feet in height.

e) Playground Equipment.

Normal playground equipment shall be kept to the rear of the Dwelling Units and at least ten (10) feet from the side yard lot lines. No basketball hoops shall be installed on any side of the dwelling Unit. Basketball hoops are permitted, however, in the front yard area adjacent to the driveway. Only free standing pole- mounted basketball hoops with clear backboards shall be permitted.

f) Outdoor Clothes Drying.

No outdoor clothes drying apparatus of any sort shall be permitted.

g) Mailboxes, Lampposts.

All mailboxes and lampposts must be of uniform design, style and color as determined by Declarant.

EXHIBIT "C"  
WINDSOR PARK ANTENNA GUIDELINES

The following guidelines are hereby adopted by the Declarant and the Windsor Park Phase II Owners Association with respect to radio and television antennas. These guidelines are to be interpreted so as to balance the right of the individual owners to receive acceptable quality broadcast signals in accordance with F.C.C. regulations with the right and duty of the Owners Association to preserve, protect and enhance the value of the properties within the subdivision.

A. Prohibited Apparatus.

All exterior antennas, except the following, are prohibited:

1. An antenna that is designed to receive direct broadcast satellite service, including direct-to-home satellite services, that is one meter or less in diameter; or
2. An antenna that is designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, and that is one meter or less in diameter or diagonal measurement; or
3. An antenna that is designed to receive television broadcast signals.

B. Permitted Locations.

An antenna must be located in the rear yard or on the rear of the Dwelling Unit in such a manner so as not to be visible by a person of normal height standing at the edge of the street directly in front of the Dwelling Unit. Other locations are permitted if placement under these guidelines precludes reception of an acceptable quality signal. In such case, the owner and the Declarant or the Owners Association shall attempt to find a location with the least visual impact upon the surrounding properties. An "acceptable quality signal" is one that is intended for reception in the viewing area and is consistent with the quality of signals received by others in the immediate vicinity. No location of an antenna shall be permitted if installation creates a line of sight problem for drivers in the vicinity. The Declarant or the Owners Association may prohibit a location that imposes a legitimate safety concern. An example of a location that imposes a legitimate safety concern is one that is near high voltage power lines or one where the guy wires obstruct legitimate pedestrian access.

C. Other Requirements.

The Declarant or the Owners Association may require that the antenna be painted in a fashion that will not interfere with reception so that it blends into the background against which it is

mounted or that the antenna be screened so as to reduce the visual impact. Any such requirements must be reasonable in light of the cost of the equipment or services and the visual impact of the antenna. The Declarant or the Owners Association may impose restrictions on methods of installation that create legitimate safety concerns. For example, permitted methods of installation may include reasonable height restrictions and adequate bolting and guying.

D. Continued Maintenance.

Each owner shall maintain any antenna in a reasonable manner so as not to become unsightly. Each owner shall remove any antenna upon: cessation of its use.

EXHIBIT "D"

BY-LAWS OF

WINDSOR PARK PHASE II OWNERS ASSOCIATION

PREAMBLE

These By-Laws are executed by AJK Land Company LLC, an Ohio Limited Liability Company.

ARTICLE I  
THE ASSOCIATION

1.1 Name and Nature of Owners Association.

The Owners Association shall be an Ohio non-profit unincorporated association or corporation recognized or formed under the Laws of the State of Ohio and shall be called: WINDSOR PARK PHASE II OWNERS ASSOCIATION or WINDSOR PARK PHASE II OWNERS ASSOCIATION, INC. or such other available corporate name allowed by the Ohio Secretary of State, whichever the case maybe.

1.2 Conformance with Internal Revenue Code Section 528

The Owners Association is hereby established as an "owners association" (as defined in Section 528 of the Internal Revenue Code and Chapter 5312 of the Ohio Revised Code. Notwithstanding anything contained herein to the contrary.

(a) This Owners Association is organized and operated to provide for the acquisition, construction, management, maintenance and care of the Association Property, including the Cul-De-Sac Areas, Subdivision Entrance Areas and Common Elements; and

(b) No part of the net earnings of this Owners Association shall inure, other than by acquiring, constructing or providing management, maintenance and care of the Owner Association's property, including the Common Elements including any Cul-De-Sac and Subdivision entrance areas and sign, if any and other than by a rebate of excess membership dues, fees or assessments, to the benefit of any private shareholder, any member of the Owners Association or any other individual.

1.3 Definitions

Certain of the terms used in these By-Laws have been defined in the *Declaration of Covenants, Conditions and Restrictions* imposed upon the Windsor Park Phase II Subdivision

("Declaration") and, when used herein, shall have the same meaning as set forth in the Declaration.

#### 1.4 Membership

The Owners Association will have two (2) classes of membership, Class A and Class B.

### ARTICLE II VOTING

#### 2.1 Voting

The voting rights of Members shall be as set forth in the Declaration and herein.

#### 2.2 Majority

Except as otherwise provided in the Declaration, all actions taken by the Members shall require the affirmative vote of the majority of Owners Association Members present at a meeting at which a quorum is present. As used in these By-Laws, the term "majority" shall mean those votes, Members or other group as the context may indicate totaling more than fifty percent (50) of the total number.

#### 2.3 Quorum

Except as otherwise provided by the Declaration or by these By-Laws, the presence in person or by proxy of Members having a majority of the voting power of the Owners Association, shall constitute a quorum. No action may be authorized or taken by a lesser percentage than required by the Declaration or these By-Laws. A majority of the voting power of the Owners Association present at a meeting, whether or not a quorum is present, may adjourn such meeting from time to time.

#### 2.4 Proxies

At all meetings of Members, each Member may vote or act in person or by proxy. The person appointed as proxy need not be a member of the Owners Association. Designation by a Member of a proxy to vote or to act on his behalf shall be made in writing to the Members of the Owners Association ("Board" or "Board Members"), shall be filed with the Secretary, and shall be revocable at any time by actual notice to the Board given by said Member. Notice to the Board in writing or in open meeting of the revocation of the designation of a proxy shall not affect any vote or act previously taken or authorized.

ARTICLE III  
MEETINGS

3.1 Place of Meetings

Meetings of the Owners Association shall be held, if possible, at such suitable place on the Property as may be designated by the Board. If sufficient space is not available, then the meeting shall be held at some other suitable place convenient to the Members as may be selected by the Board.

3.2 Establishment of the Owners Association

The Owners Association shall be established not later than the date the deed or other evidence of ownership is filed for record following the first sale of a Lot, or as soon thereafter as is practicable.

3.3 Annual Meetings

The First Annual Meeting (herein defined) of the Members shall be held in accordance with the provisions of Section 4.4 of these By-Laws. Subsequent annual meetings shall be held at such place and time as the Board selects (but not later than thirty (30) days before or after the anniversary of the First Annual Meeting) by so notifying the Members not less than ten (10) days prior to the date fixed for said annual meeting. Any business which may be properly brought before any meeting of the Owners Association, including the election or designation of members of the Board, may be considered and transacted at the annual meetings. Those members present or represented by proxy shall constitute a quorum.

3.4 Special Meeting

Special meetings of the Members may be held on any business day when called by the Declarant, President of the Owners Association, by the Board or by the Members entitled to exercise at least twenty-five percent (25) of the voting power of the Owners Association. Upon request in writing delivered either in person or by certified mail to the President or the Secretary of the Owners Association by any persons entitled to call a meeting of the Members, such officers shall forthwith notify the Members of such special meeting. If such notice is not given within ten (10) days after the delivery or mailing of such request, the persons calling the meeting may fix the time of the meeting and give notice thereof. Each special meeting shall be called to convene at such time and shall be held at such place on the Property or at such place within Medina County, Ohio as shall be specified in the notice of meetings. Calls for such meetings shall specify the purposes of which such meeting is requested. No business other than that specified in the call and set forth in the notice shall be considered at any special meeting. Those members present or represented by proxy shall constitute a quorum.

### 3.5 Notice of Meeting

Not less than seven (7) days nor more than thirty (30) days before the day fixed for a meeting of the Members, written notice stating the time, place and purpose of such meeting shall be given by or at the direction of the Secretary of the Owners Association or any other person or persons required or permitted herein to give such notice. Such notice shall be given by personal delivery (which personal delivery shall be effective if hand delivered to a Member, deposited in a Member's mail box or attached to or placed under the door of the Member's Lot) or by mail to a Member. If mailed, such notice shall be addressed to the Members and others such as mortgagees of Lots (if entitled to such notice) at their respective addresses as they appear on the records of the Owners Association or to the Member's Lot if no address has been given to the Owners Association. Notice of the time, place and purpose of any meeting of the Members may be waived in writing by any Member, either before or after the holding of such meeting, which writing shall be filed with or entered upon the records of the meeting. The attendance of any member at any such meeting without protesting the lack of proper notice, prior to or at the commencement of the meeting, shall be a waiver by said Member of notice of such meeting.

### 3.6 Adjourned Meetings

If any meeting of Members cannot be organized due to the failure to obtain a quorum, the Members who are present, either in person or by proxy, may adjourn the meeting to a time not less than twenty-four (24) hours from the time the original meeting was called. If any meeting is adjourned, the notice of such adjournment need not be given if the time and place to which such meeting is adjourned are fixed and announced at such meeting.

### 3.7 Order of Business at Meeting

The order of the business at all regular meetings of Members shall be as follows:

- (1) Calling of meeting to order;
- (2) Proof of notice of meeting or waiver of notice;
- (3) Reading of minutes of preceding meeting;
- (4) Reports of officers;
- (5) Reports of committees;
- (6) Appointment of inspectors of election (at annual meetings);
- (7) Election of members of the Board (at annual meetings);
- (8) Unfinished and/or old business;
- (9) New business; and
- (10) Adjournment.



### 3.8 Order of Business at Special Meetings

The business at each special meeting shall be that business specified in the notice therefor.

### 3.9 Actions Without a Meeting

All actions, except removal of a Board member, which may be taken at a meeting of the Members, may be taken without a meeting if a consent in writing setting forth the action so taken is signed by Members having the percentage of voting power required to take such action if the same were taken at a meeting. Such writings shall be filed with the Secretary of the Owners Association.

### 3.10 Conduct of Meetings

The President shall preside over all meetings of the Owners Association and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting as well as a record of all transactions occurring thereat.

## ARTICLE IV BOARD MEMBERS

### 4.1 Qualifications

All members of the Board shall be Members; spouses of Members; mortgagees of Lots; partners, agents or employees of a partnership owning a Sub lot; officers, directors, agents or employees of a corporation or an association owning a Sublet; or fiduciaries, officers, agents or employees of fiduciaries owning a Sub lot. Notwithstanding the preceding sentence, in accordance with the Declaration, Members of the Board elected or designated by Declarant may be any individuals Declarant selects, whether or not such individuals are Members, or partners, agents or employees of Declarant. Board Members elected or designated by Declarant may be removed only by Declarant or as otherwise provided herein.

### 4.2 Number of Board Members

Except for power and authority vested in the Declarant or in the Members by the Declaration or these By-Laws, all power and authority of the Owners Association shall be exercised by the Board which shall consist of three (3) persons.

#### 4.3 Appointment of Board Members by Declarant Prior to the First Annual Meeting

Until the First Annual Meeting, Declarant will designate the Board Members. Upon the earlier of (i) ten (10) years after the date of the filing of the Declaration or (ii) ninety (90) days after the sale and conveyance by Declarant of all of its interest in the Lots to Owners, the Owners Association is to meet and elect all three (3) Board Members and all officers of the Owners Association and all persons previously elected or designated shall immediately resign, provided, however, that such person shall be eligible for re-election to the board ("First Annual Meeting").

#### 4.4 Election Of Board Members from and after the First Annual Meeting

Except as otherwise provided in these By-Laws, Board Members shall be elected at the annual meeting of the Members, but if the annual meeting is not held or Board Members are not elected then, they may be elected at a special meeting called and held for that purpose. Such election shall be by written secret ballot whenever requested by any Member; but, unless such request is made, the election may be conducted in a manner determined by the Board.

Subject to Section 4.3 herein, any Board Member elected or designated prior to the First Annual Meeting shall hold office for a term not to exceed one (1) year after his election or designation. At the First Annual Meeting of the Owners Association, one (1) Board Member shall be elected for a term of three (3) years, one (1) Board Member for a term of two (2) years and one (1) Board Member for a term of one (1) year. The Board Member candidates receiving the highest percentages of the total votes cast shall serve for the longest terms. Tie votes will be decided by drawing of lots. At meetings of the Owners Association subsequent to the First Annual Meeting which are called for the purpose of electing Board Members, Board Members shall be elected for terms of three (3) years or to complete unfinished terms.

Except as otherwise provided herein, each Board Member shall hold office until the expiration of his term and until his successor is elected, or until his earlier resignation, removal from office or death. Any Board Member may resign at any time by oral statement to that effect, made at a meeting of the Board or by a writing to that effect delivered to the Secretary of the Owners Association; such resignation shall take effect immediately or at such other time as the Board Member may specify.

#### 4.5 Removal of Board Members

Except as otherwise provided herein, a majority of the Board may remove any Board Member and thereby create a vacancy in the Board if by order of court he has been found to be of unsound mind, or if he is physically incapacitated or fails to attend at least one of any three (3) consecutive meetings of the Board. At any regular or special meeting of the Members duly called at which a quorum shall be present, anyone or more of the Board Members may be removed, with or without cause, by the affirmative vote of the majority of Members at such meeting and a successor or successors to such Board Member so removed may be elected at the

same meeting for the unexpired term for each such removed Board Member. Any Board Member whose removal has been proposed by the Members shall be given an opportunity to be heard at such meeting prior to the vote on his removal.

#### 4.6 Vacancies

Vacancies in the Board may be filled by a majority vote of the remaining Board Members for the unexpired portion of the term of the predecessor Board Member whose place shall be vacant until the election of a duly qualified successor.

#### 4.7 Powers and Duties

The Board shall have the powers, duties and authority specifically conferred upon it by the Declaration and these By-Laws and shall have the powers, duties and authority necessary for the administration of the affairs of the Owners Association including the adoption from time to time of rules and regulations ("Rules"), a copy of which shall be furnished in writing to all Members, and may do all such acts and things as the Declaration or by these By-Laws direct to be exercised and done by the Members. Board Members shall serve without compensation for their services. However, nothing contained herein shall be construed to preclude any board Members from having dealings with the Owners Association in any other capacity and receiving compensation therefor. In addition, the Owners Association shall have all rights and duties set forth in its Articles of Incorporation and the Declaration.

#### 4.8 Other Duties

In addition to or as a reiteration of the duties imposed by the Declaration, these By-Laws or by resolutions of the Owners Association, the Board shall:

- a) Maintain the Association Property, including the Cul-de-sac Areas, Subdivision Entrance Areas, and Common Elements in good order, condition, replacement and repair;
- b) Levy and collect Assessments;
- c) Employ and discharge all personnel necessary for the operation of the Owners Association's duties and obligations,
- d) Enforce the Declaration, and
- f) Obtain all insurance coverage set forth in Article XIII of the Declaration. Notwithstanding any contrary provision herein or in the Declaration, the Board shall not borrow any amounts which in the aggregate exceed at any one time the sum of Ten

Thousand Dollars (\$10,000.00) without the prior approval of the Members entitled to exercise a majority of the voting power of the Owners Association.

The procedure by which the Board shall authorize the maintenance, repair and replacement of the Association Property, including the Cul-de-sac Areas and Subdivision Entrance Areas shall be that procedure by which the Board is authorized to act pursuant to this Article IV.

#### 4.9 Organizational Meeting

Immediately after each annual meeting of the Members or special meeting held in lieu thereof, the newly elected Board Members and those Board Members whose terms have not expired shall hold an organizational meeting for the purpose of electing officers and transacting any other business. No notice of such meeting of the board is required to be given.

#### 4.10 Regular Meetings

Regular meetings of the Board may be held at such time and place in Medina County, Ohio as shall be determined, from time to time, by a majority of the Board, but at least one (1) such meeting shall be held during each calendar year. Notice of regular meetings of the Board shall be given to each Board Member, personally, by mail or by telephone at least three (3) days prior to the day named for such meetings. At such meetings, any and all business within the power of the Board may be transacted.

#### 4.11 Special Meetings

Special meetings of the Board may be held at any time upon call by the President or any two (2) Board Members. Notice of the time, place and purposes of each special meeting shall be given to each Board Member by the Secretary or by the person or persons calling such meeting. Such notice shall state the purpose or purposes of the meeting and may be given in any manner or method and at such time so that the Board Member receiving it may have reasonable opportunity to attend the meeting. Such notice shall, in all events, be deemed to have been properly and duly given if delivered or mailed at least forty-eight (48) hours prior to the meeting and directed to the residence of the Board Members shown upon the Secretary's records. Unless otherwise indicated in the notice thereof, any business may be transacted at any special meeting of the Board.

#### 4.12 Waiver of Notice

Before or at any meeting of the Board, any Board Member may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Board Member at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the Board Members are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

#### 4.13 Quorum

At all meetings of the Board, a majority of the Board Members shall constitute a quorum for the transaction of business, and the acts of the majority of the Board Members present at a meeting at which a quorum is present shall be the acts of the Board. If, at any meeting of the Board, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

#### 4.14 Open Meetings

Meetings of the Board shall be open to all Members.

#### 4.15 Action Without a Meeting

Any action required to be taken or any action which may be taken, at a meeting of the Board, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Board Members.

#### 4.16 Committees

The Board may by resolution provide for special standing or special committees as it deems desirable, and discontinue the same at its discretion. Each such committee, consisting of at least two (2) Board Members, shall have such powers and perform such duties, not inconsistent with the Declaration or the By-Laws, as may be delegated to it by the Board. Each such committee shall keep full records and accounts of its proceedings and transactions. All action by any such committee shall be reported to the Board at its meeting next succeeding such action and shall be subject to control, revision and alteration by the Board as long as no rights of third persons shall be prejudicially affected thereby. Each such committee shall fix its own rules of procedure and shall meet as provided by such rules or by resolutions of the Board, and it shall also meet at the call of the President of the Owners Association or of any two members of the committee. Unless otherwise provided by such rules or by such resolutions, the provisions of Section 4.11 relating to the notice required to be given of special meetings of the Board shall also apply to special meetings of each such committee. A majority of the members of a committee shall constitute a quorum, and the acts of the majority present at a meeting at which a quorum is present shall be the acts of the committee. Each such committee may act without a meeting in writing or by telephone with written confirmation, but no such action shall be effective unless concurred in by all members of the committee. Vacancies in such committee shall be filled by the Board or as it may provide.

#### 4.17 Fidelity Bonds.

The Board may require that all officers, employees, volunteers and agents of the Owners Association handling or responsible for Owners Association funds shall furnish adequate fidelity bonds or insurance. The premiums on such bonds or insurance shall be paid by the Owners Association, and shall be a common expense.

## ARTICLE V OFFICERS

### 5.1 Designation

The principal officers of the Owners Association shall be a President, a Vice President, a Secretary and a Treasurer, all of whom shall be elected by the Board from the Members. The Board may appoint a Vice President, an Assistant Treasurer and an Assistant Secretary, and such other officers as in their judgment may be necessary or desirable. Each such officer shall hold office at the pleasure of the Board, and perform such duties as the Board may prescribe.

### 5.2 Election of Officers

The officers of the Owners Association shall hold office at the pleasure of the Board, and, unless sooner removed by the Board, shall hold office until the first meeting of each new Board or until their successors are duly elected.

### 5.3 Removal of Officers

Upon an affirmative vote of a majority of the Board Members, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board, or at any, special meeting of the Board called for such purpose. A vacancy in any office, however created; shall be filled by the Board.

### 5.4 President

The President shall be the chief executive officer of the Owners Association. He shall have all of the general powers and duties which are usually vested in the office of President of an Ohio non-profit corporation, and such further powers and duties as the Board may from time to time assign to him.

### 5.5 Vice President

The Vice President shall perform the duties of the President whenever the President is unable to act and shall have such other authority and perform such other duties as may be determined by the Board.

#### 5.6 Secretary

The Secretary shall keep the minutes of all meetings of the Board and the minutes of all meetings of the Owners Association; he shall have charge of such books and papers as the Board may direct, and he shall, in general, perform all the duties incident to the office of Secretary and such duties as the Board may prescribe. A copy of such minutes shall be posted in a place designated by the Board.

#### 5.7 Treasurer

The Treasurer shall have responsibility for Owners Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Owners Association. He shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit of the Owners Association in such depositories as may from time to time be designated by the Board, and he shall perform such other duties as from time to time may be assigned to him by the Board.

#### 5.8 Duties of Officers May be Delegated

In the absence of any officer of the Owners Association, the Board may delegate any of the powers or duties of such officer to any other officer or to any Board Member.

### ARTICLE VI COMMON EXPENSES AND PROFITS

#### 6.1 Common Expenses

The cost of maintenance and repair of the Association Property, landscaping, signs, all insurance and bonds procured by the Owners Association, salaries and fees of any independent contractors and employees and all costs considered necessary or appropriate to the proper administration of the Association Property shall be "Common Expenses." The cost of such Common Expenses shall be defrayed by Assessments levied against the Lots.

#### 6.2 Limitation on Expenditures

Except for expenditures made for the maintenance, repair or replacement of the property of the Owners Association and expenditures identified in the annual budget, the Owners Association shall not make expenditures for any single item in excess of Ten Thousand Dollars (\$10,000.00) nor aggregate expenditures in any one (1) year in excess of Twenty-Five Thousand Dollars (\$25,000.00), without in each case having the prior approval of the Members entitled to exercise a majority of the voting power of all the Members present in person or by

proxy at an annual or a special meeting duly held for such purpose. The limitations on expenditures by the Owners Association contained in this Section 6.2 shall not apply to repair of the Owners Association Property due to casualty loss, emergency repairs immediately necessary for the preservation and safety of the Owners Association Property or for the safety of persons or to avoid suspension of any necessary services. The foregoing provisions of this Section 6.2 shall not apply to the rehabilitation and renewal of obsolete property which shall be governed by the Declaration.

### 6.3 Common Profits

Any common profits shall be disbursed to the Members, added to a reserve fund, or credited to reduce Assessments, as the Board may determine, but in each case according to the respective percentages of interest held by each Member in the Subdivision(s).

## ARTICLE VII ASSESSMENTS AND SPECIAL CHARGES

### 7.1 Obligation of Members

Every Member shall pay his proportionate share of the Common Expenses. Payment thereof shall be in such amounts and at such times as may be designated by the Board in accordance with these By-Laws. In addition, each Member shall promptly pay to the Owners Association any special charges imposed by the Owners Association with respect to his Sub lot.

### 7.2 Preparation of Estimated Budget

On or before the 1<sup>st</sup> day of February of each year, the Board shall estimate the total amount necessary to pay the Common Expenses for the next calendar year, together with reasonable amounts for reserves if so determined by the Board, and other amounts necessary or required for the administration of the Homeowner's Association Property as authorized by the Declaration and these By-Laws. On or before the March 1<sup>st</sup> following the First Annual Meeting and on or before March 1st of each year thereafter, the Board shall notify each Member in writing of the amount of such estimate (the "estimated cash requirement") with reasonable itemization thereof. Said "estimated cash requirement" shall be assessed to the Members according to each Member's percentage of interest in the Subdivision. On or before February 1 of the next calendar year, each Member shall be obligated to pay the Owners Association in full the Assessments made pursuant to this Section 7.2. If the "estimated cash requirement" is insufficient for any reason, including the non-payment by any Member of his share of the Assessments, the Owners Association may at any time prepare an adjusted estimated cash requirement and levy additional Assessments according to each Member's percentage of interest in the Subdivision. A Member's percentage interest in the Subdivision shall be the ratio of the number of Lots owned by the Member divided by the total number of Lots in the



Subdivisions. The Owners Association shall give written notice of any such additional Assessments to all Members stating the amount thereof, the reasons therefor and time when the same shall be payable, which shall not be less than ten (10) days after the mailing of such notice, or, if the same is not mailed, after the delivery thereof, all Members shall be obligated to pay the Assessment as adjusted. Any amount collected by the Owners Association in excess of the amount required for actual expenses and reserves in any year shall be credited promptly (after the same has been determined according to each Member's percentage interest in the Property) to the annual installment next due from Members pursuant to the current year's estimate. Any deficiency shall be added (according to each Member's percentage of interest in the Subdivision) to the next Assessment due.

### 7.3 Fiscal Year

The fiscal year of the Owners Association shall end on the thirty-first (31st) day of December in each year, or on such other day as may be fixed from time to time by the Board.

### 7.4 Budget for First Year

For the period following the First Annual Meeting, the Board shall determine the estimated cash requirement for the period commencing at the beginning of the second full month after its election and ending on December 31<sup>st</sup> of the calendar year in which said election occurs. Assessments shall be levied against the Members during said period as provided in Section 7.2.

### 7.5 Failure to Prepare Annual Budget

The failure or delay of the Board to prepare or to serve a copy of the annual or adjusted budget on any Member shall not constitute a waiver or release in any manner of such Member's obligation to pay his share of the Common Expenses and any reserves, as herein provided, whenever the same shall be determined.

### 7.6 Reserve Fund

The Board shall establish and maintain for the Owners Association a reasonable reserve fund for contingencies and replacements in such amount as the Board may deem necessary. Upon the sale of a Lot by any Member, such Member shall have no right to any portion of the funds in the reserve account; nor shall such Member have any claim against the Owners Association with respect thereto. Extraordinary expenditures incurred in any year which were not originally included in the estimated cash requirement for such year shall be charged first against such reserve fund. The amount of the reserve fund shall be reviewed annually by the Board.

#### 7.7 Estimated Assessments and Initial Assessments

Following the establishment of the Owners Association and prior to the preparation of the estimated budget in accordance with Section 7.2, annual payments of Assessments shall be made by Members, excluding Declarant in its capacity as owner of any unsold Lot, in an amount estimated by the Board as being sufficient to cover the initial working capital requirements for the Owners Association (the respective amounts payable by each Member being in accordance with each Member's percentage of interest in the Subdivision, as defined herein), and if such annual payments shall be less than are required to meet current Common Expenses, all Members, excluding the Declarant in its capacity as owner of any unsold Lot, shall promptly make up any deficiency by payments allocated in accordance with their respective percentages of interest in the Subdivision, as defined herein.

Each Lot in the Lots shall have an initial annual assessment of \$300.00 which shall be paid in advance through escrow at the time of any Lot closing or title transfer, except that the purchaser of any such Lot shall pay only a "prorated" amount which shall be computed on the basis of the days remaining in the calendar year of said closing.

#### 7.8 Initial Capital Contribution

In addition to the payment of the initial annual assessment through escrow and the payment of regular annual payments of Assessments, each purchaser of a Lot will be required to make, at the time such purchaser acquires title to a Lot, an initial capital contribution to the Owners Association in an amount equal to one year's annual assessment for each Lot purchased. This initial capital contribution shall be paid into escrow at the time of title transfer and shall be paid out of escrow to the Owners Association. The general purpose of this contribution is to provide the Owners Association with a portion of the necessary initial working capital and a contingency reserve. Such funds may be used for certain prepaid items (e.g., insurance premiums, organizational expenses; equipment and supply costs) and for such additional purposes as the Board may determine. This initial capital contribution is not an escrow or advance and is not refundable.

#### 7.9 Status of Funds Collected by Owners Association

All funds collected by the Owners Association shall be held and expended solely for the purposes designated in the Declaration and these By-Laws. Except for special charges as may be levied against less than all of the Members and except for such adjustments as may be required to reflect delinquent or prepaid Assessments, funds collected by the Owners Association shall be held for the use, benefit and account of all Members in accordance with each Member's percentage interest in the Subdivisions. All sums collected by the Owners Association may be commingled in a single fund or divided into more than one fund as determined by the Board. All funds collected by the Owners Association shall be deposited when received by the Owners Association in one or more accounts established in the name of

the Owners Association at one or more banks or savings and loan associations in Medina County, Ohio.

#### 7.10 Lien of Unpaid Assessments.

Assessments and special charges shall be a lien upon a Lot in the manner specified in the Declaration. The Board may charge interest as provided in the Declaration.

#### 7.11 Remedies for Failure to Pay Assessments.

If a Member is in default in the payment of any Assessments or Special Charges for ten (10) days, the Owners Association shall have all the rights and remedies set forth in the Declaration, in these By-Laws or at law or in equity.

#### 7.12 Books and Records of Owners Association

The Owners Association shall keep full and correct books of account, and the same shall be open for inspection by any Member or his mortgagee, or by any representative of a Member duly authorized in writing, at reasonable times and upon request by a Member. Upon fifteen (15) days prior written notice to the Board and upon payment of a reasonable fee, any Member shall be furnished a statement of his account setting forth the amount of any unpaid Assessments or Special Charges due and owing from such Member.

#### 7.13 Annual Statements

Within one hundred twenty (120) days after the end of each fiscal year of the Owners Association, the Board shall furnish to each Member a financial statement consisting of (a) a balance sheet containing a summary of the assets and liabilities of the Owners Association as of the date of such balance sheet and (b) a statement of the income and expenses for the period commencing with the date marking the end of the period for which the last preceding statement of income and expenses required hereunder was made and ending with the date of said statement, or in the case of the first such statement, from the formation of the Owners Association to the date of said statement. The financial statement shall have appended thereto a certificate signed by the President or a Vice President and the Treasurer or an Assistant Treasurer of the Owners Association or by a public accountant or firm of public accountants to the effect that the financial statement presents fairly the financial position of the Owners Association and the results of its operations.

#### 7.14 Annual Audit

The books of the Owners Association shall be reviewed once a year by the Board, and such review shall be completed prior to each annual meeting. At any time upon the request of the Members holding a majority of the voting power of the Owners Association, or upon request of two (2) Board Members; the Board shall: cause a review of the books of the Owners

Association to be made by a Certified Public Accountant, the cost therefor to be included as part of the Common Expenses.

#### 7.15 Special Services

The Owners Association may arrange for special services and facilities for the benefit of its Members and/or Occupants and to pay for same. The cost of any such special services or facilities shall be determined by the Owners Association and may be charged directly to participating Members and/or Occupants or paid through Special Charges levied against such participating Members and/or Occupants.

#### 7.16 Mortgagee's Collection of Assessments

The holder of a first mortgage encumbering a Lot shall be permitted to collect Assessments from the Member of said Lot and upon such collections shall promptly remit the amount so collected to the Owners Association.

### ARTICLE VIII MORTGAGEES

#### 8.1 Notices of Mortgagees

A Member who mortgages his Lot shall notify the Owners Association through the Secretary of the Board of the name and address of his mortgagee or the mortgagee's servicer and thereafter shall notify the Owners Association of the full payment, cancellation or other alteration in the status of such mortgage. The Owners Association may maintain such information in a book entitled "Mortgagees of Lots."

#### 8.2 Rights of Mortgagees

A mortgagee of a Lot shall be entitled to written notice from the Owners Association of any default by its mortgagor Member which is not cured within sixty (60) days. Any mortgagee may from time to time request in writing a written statement from the Board setting forth any and all unpaid Assessments due and owing to the Owners Association with respect to the Lot subject to the lien of its mortgage and such request shall be complied with within thirty (30) days from receipt thereof. Any mortgagee holding a mortgage on a Lot may pay any unpaid Assessment imposed with respect to such Lot.

ARTICLE IX  
INDEMNIFICATION

9.1 General

The Owners Association shall indemnify any present or former Board Member or officer of the Owners Association and their respective heirs, executors, administrators and successors, and, in its discretion, the Owners Association may indemnify any present or former agent or employee of the Owners Association, and their respective heirs, executors, administrators and successors, from and against reasonable expenses, including attorneys' fees, judgments, decrees, fines, penalties or amounts paid in settlement actually and necessarily incurred in connection with the defense of any pending or threatened action, suit, or proceeding, criminal or civil, to which any of the foregoing is or maybe made a party by reason of being or having been a Board Member, officer, employee or agent of the Owners Association, provided it is determined in the manner hereinafter set forth (a) that such Board Member, officer, employee or agent of the Owners Association was not, and is not adjudicated to have been, negligent or guilty of misconduct in the performance of his duties to the Owners Association, (b) that he acted in good faith in what he reasonably believed to be in the best interests of the Owners Association, (c) that, in any matter the subject of a criminal action, suit or proceeding, he had no reasonable cause to believe that his conduct was unlawful, and (d) in case of settlement, that the amount paid in the settlement was reasonable. Such determination shall be made by the Board Members.

9.2 Advance of Expenses

Funds to cover expenses, including attorneys' fees, with respect to any pending or threatened action, suit or proceeding, may be advanced by the Owners Association in its sole discretion prior to the final disposition thereof upon receipt of an agreement by or on behalf of the recipient to repay such amounts, unless it shall ultimately be determined that he is entitled to indemnification hereunder.

9.3 Indemnification Not Exclusive, Insurance

If the indemnification set forth in Article IX by the Owners Association shall deny any insurance coverage or cause any contract of insurance to be denied, any indemnification by the Owners Association shall be limited to any amount not paid by any applicable contract of insurance.

The indemnification provided for in this Article IX shall not be exclusive, but shall be in addition to any other rights to which any person may be entitled under the Articles of Incorporation, these By-Laws, vote of the Members or disinterested Board Members, any agreement, any insurance provided by the Owners Association, or otherwise. The Owners Association may purchase and maintain insurance on behalf of any person who is or was a Board Member, officer, agent or employee of the Owners Association against any liability

asserted against him or incurred by him in any such capacity or arising out of his status, as such, whether or not the Owners Association would have the power to indemnify him against such Liability under the provisions of this Article IX.

#### 9.4 Exoneration From liability

Neither any Board Member nor any officer of the Owners Association shall be liable to the Members for any mistake of judgment, negligence, or otherwise, except for his own individual willful misconduct or bad faith. The Owners Association shall indemnify and hold harmless each of the Board Members and officers of the Owners Association against all contractual liability to other parties arising out of contracts made on behalf of the Owners Association except with respect to any such contracts made in bad faith or contrary to the provisions of the Declaration or these By-Laws. It is intended that neither the Board Members, officers of the Owners Association or the Members shall be personally liable with respect to contracts entered into on behalf of the Owners Association.

#### 9.5 Cost of Indemnification

Any sums paid or advanced by the Owners Association under this Article IX shall constitute a Common Expense, and the Owners Association and the Board shall have the power to raise and the responsibility for collecting, by way of Assessments, any sums required to discharge the obligations of the Owners Association under this Article IX.

### ARTICLE X GENERAL PROVISIONS

#### 10.1 Employees and Independent Contractors

The Board shall have the authority to hire employees, to engage independent contractors, to purchase equipment and supplies, and to take any and all action on behalf of the Owners Association which may be necessary or appropriate to the proper administration of the Owners Association's Property.

#### 10.2 Acquisition, Lease, Sale or Exchange of Property

Notwithstanding any contrary provision herein, whenever the Board determines to acquire, lease, sell or exchange real property or any interest therein, including any Lot, the Board shall submit such acquisition, lease or exchange the vote of the Members, and, upon the affirmative vote of the Members entitled to exercise not less than seventy-five percent (75%) of the voting power of the Owners Association present in person or by proxy at an annual meeting or a special meeting duly held for such purpose, the Board may proceed with such acquisition,

lease, sale or exchange, in the name of the Owners Association and on behalf of all Members, and the costs and expenses incident thereto shall constitute part of the Common Expenses.

### 10.3 Rules and Regulations

The Owners Association, by the affirmative vote of the majority of the Members, or the Board, by a vote of a majority of the Board Members, may adopt such reasonable "Rules" from time to time (or amend or supplement the same) as may be advisable for the operation, use, maintenance, conservation and enhancement of the association Property or any portion thereof, or for the health, comfort, safety and general welfare of the Members and Occupants of the Association Property. Written notice of such Rules shall be given to all Members and Occupants, and the Association Property shall at all times be maintained subject to the Rules.

### 10.4 Declarant's Rights Pending First Annual Meeting

During the period specified in Section 4.3 of these By-Laws, Declarant or persons designated by Declarant shall have the right in its discretion to appoint and remove all Board Members and officers of the Owners Association and to exercise the powers and responsibilities otherwise assigned to the Owners Association by the Declaration or these By-Laws.

### 10.5 Severability

The invalidity of any covenants, restrictions, conditions, limitations or any other provisions of these By-Laws, or of any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of any other provision contained in these By-Laws or in the Declaration.

### 10.6 Ratification

All present and future Members and Occupants shall be subject to the provisions set forth in the Declaration, these By-Laws and the Rules. The acquisition, rental or occupancy of any of the Lots shall constitute acceptance and ratification of the Declaration, these By-Laws and the Rules.

### 10.7 Conflict Between Declaration, Articles of Incorporation, By-Laws and Rules

In the event of conflict or inconsistency between any of the provisions of the Declaration and the Articles of Incorporation of the Owners Association or these By-Laws or the Rules, as the case may be, it is hereby agreed that the provisions of the Declaration shall be paramount, and the Members and all persons claiming under them covenant to vote in favor of such amendments to the Articles of Incorporation or the By-Laws or the Rules, as the case may be, as will remove such conflicts or inconsistencies.

#### 10.8 Agreements Binding

All agreements and determinations lawfully made by the Owners Association in accordance with the procedures established in the Declaration and these By-Laws shall be deemed to be binding upon all Members, and their respective heirs, executors, administrators, successors and assigns.

#### 10.9 Gender

The use of the masculine gender in these By-Laws shall be deemed to include the feminine and the neuter genders, as the case may be, and the use of the singular shall be deemed to include the plural, wherever the context so requires.

#### 10.10 Marginal References

The heading of each Article of these By-Laws is inserted for convenience and reference only and in no way shall be held to explain, modify, amplify or limit the meaning of such Article.

#### 10.11 Amendment

The By-Laws may be amended or altered as follows: Until Declarant ceases to own any Lot in the Subdivision, Declarant has the right to appoint and designate the members of the Board of these By-Laws, Declarant will have the right to amend these By-Laws at any time and from time to time in accordance with or an implementation of any of the rights granted to or reserved in the Declaration or in these By-Laws. After Declarant ceases to own any Lots in the Subdivision any provisions of these By-Laws may be amended or modified or appealed following a meeting of the Members for such purpose, by affirmative vote of Members representing seventy-five percent (75%) of the total votes of the Owners Association, which shall include seventy-five percent (75%) of the votes of Members.

#### 10.12 Permissible Merger Of Owners Association.

If the statutory "owners association" for the adjacent planned community known as Windsor Park Of Montville Township Homeowners Assoc., Inc. agrees to assume the duties of this Owners Association for Windsor Park Subdivision Phase II and/or votes to incorporate/merge the Windsor Park Subdivision Phase II into "Windsor Park Subdivision" pursuant to its *Declaration of Covenants, Conditions, Restrictions And Reservation Of Easement For Windsor Park*, the Owners Association for Windsor Park Subdivision Phase II may be Windsor Park Of Montville Township Homeowners Assoc. Inc., upon approval of such merger by said not-for-profit corporation and making Windsor Park Subdivision Phase II subject to all of the *Declaration of Covenants, Conditions, Restrictions And Reservation Of Easement For Windsor Park* and the By-Laws of Windsor Park Of Montville Township Homeowners Assoc. Inc. A



simple majority vote of the Members of this Owners Association shall be required for such incorporation/merger.

IN WITNESS WHEREOF, AJK Land Company LLC, an Ohio limited Liability Company has executed these By-Laws this 30<sup>th</sup> day of October, 2013.

AJK Land Company LLC  
BY: [Signature] ~~MANAGING MEMBER~~  
Jeremy Krahe, Its Managing Member

CERTIFICATE OF NOTARY ACKNOWLEDGMENT

STATE OF OHIO

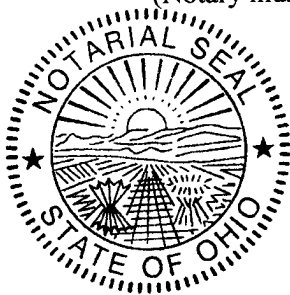
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COUNTY OF MEDINA

Before me a Notary Public in and for said County and State, personally appeared the above named AJK Land Company LLC, by Jeremy Krahe, Managing Member, who acknowledged that he did sign the foregoing instrument, that he had full authority to sign said instrument and that the same is the free act and deed of said limited liability company and his free act and deed personally as the Managing Member of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Medina, Ohio this 30<sup>th</sup> day of October, 2013.

(Notary must affix seal)



**Connie L. Carlton**  
Notary Public State of Ohio  
Medina County  
My Commission Expires  
November 12, 2014

[Signature]  
Notary Public  
My commission expires 11/12/14

Instrument Prepared By:  
Gregory W. Happ  
Attorney at Law  
Ohio Sup. Reg. No. 008538  
Medina, Ohio