

ARTICLES OF INCORPORATION
OF
AVENBURY LAKES
HOMEOWNERS ASSOCIATION, INC.

TABLE OF CONTENTS

Page

ARTICLE I	NAME.....	1
ARTICLE II	DEFINITIONS	1
ARTICLE III	PRINCIPAL OFFICE AND AGENT.....	1
ARTICLE IV	OBJECTS, PURPOSES AND POWERS.....	1
ARTICLE V	MEMBERS	3
ARTICLE VI	TERM	4
ARTICLE VII	BOARD OF TRUSTEES	4
ARTICLE VIII	OFFICERS.....	4
ARTICLE IX	INDEMNIFICATION	5
ARTICLE X	DISPOSITION OF ASSETS UPON DISSOLUTION.....	6
ARTICLE XI	AMENDMENT OF ARTICLES	6
ARTICLE XII	BYLAWS	7
ARTICLE XIII	INCORPORATOR	7

ARTICLES OF INCORPORATION
OF
AVENBURY LAKES HOMEOWNERS ASSOCIATION, INC.

THE UNDERSIGNED, for the purpose of forming a corporation not for profit under and pursuant to Sections 1702.01 et seq. of the Ohio Revised Code certifies:

ARTICLE I
NAME

The name of this corporation is AVENBURY LAKES HOMEOWNERS ASSOCIATION, INC. The corporation is sometimes referred to herein as the "Association."

ARTICLE II
DEFINITIONS

All terms defined in the Avenbury Lakes Declaration of Covenants, Conditions and Restrictions, as amended from time to time, and as recorded in the public records of Lorain County, Ohio (the "Declaration") shall have the same meanings when used herein.

ARTICLE III
PRINCIPAL OFFICE AND AGENT

The principal place of business of the Association shall be 35290 Detroit Road, Avon, Ohio 44011. The registered office of the Association is 35290 Detroit Road, Avon, Ohio 44011.

ARTICLE IV
OBJECTS, PURPOSES AND POWERS

Section 4.1. This Association is a corporation not for profit. No part of its net earnings shall inure to the benefit of any private shareholder or Member.

Section 4.2. The objects and purposes for which this Association is organized are as follows:

4.2.1. To establish, maintain, operate, and provide all community services of every kind and nature required or desired by the Members including without limitation those services and functions described in the Declaration.

4.2.2. To provide for the enforcement of the Declaration.

4.2.3. To engage in such other activities as may be to the mutual benefit of the Members and the owners of portions of the Property.

4.2.4. To own, operate, and manage Common Area and properties conveyed to it, in accordance with the Declaration.

4.2.5. To do such other things as may be necessary and proper to carry out and accomplish the above objects and purposes.

4.2.6. The Association shall operate, maintain, and manage the surface water and stormwater systems in a manner consistent with all applicable governmental laws, rules and regulations.

Section 4.3. In furtherance of the aforesaid objects, purposes, and powers, the Association shall have all the powers of a Corporation Not for Profit organized and existing under the laws of the State of Ohio, which powers shall include, but are not limited to, the power:

4.3.1. To make, levy, and collect Assessments from its Members and to expend the proceeds of such Assessments for the benefit of its Members.

4.3.2. To bring and defend suits on behalf of the Association.

4.3.3. To make and enforce reasonable rules and regulations governing the use of the Properties covered by the Declaration.

4.3.4. To maintain, repair, replace, operate, and insure those portions of the property that the Association has the duty or right to maintain, repair, replace, operate, and insure under the Declaration, these Articles, and the Bylaws of the Association.

4.3.5. To contract and pay for the management of its property and to delegate to such contractors any or all powers and duties of the Association.

4.3.6. To employ personnel to perform the duties and services authorized by these Articles and by the Bylaws of the Association.

4.3.7. To purchase insurance for the protection of the Association and its Members.

4.3.8. To reconstruct improvements constructed on its property after casualty or other loss.

4.3.9. To make additional improvements to its property in accordance with the Declaration.

4.3.10. To acquire and enter into agreements whereby it acquires leaseholds, memberships, or other possessory or use interests in lands or facilities including but not limited to clubhouses, lakes, and other recreational facilities, whether or not contiguous.

4.3.11. The Association may purchase, lease, rent, and finance the purchase of equipment, furniture, and other items for the benefit of the Association or its Members.

ARTICLE V MEMBERS

Section 5.1. Identity. The Members of the Association shall consist of the Declarant and all owners of record title to Lots as provided in the Declaration.

Section 5.2. Transfer. Membership in the Association cannot be transferred in any manner except as may be provided in the Declaration.

Section 5.3. Classes. The Association shall have two (2) classes of voting membership: Class A and Class B. All votes shall be cast in the manner provided in the Bylaws. When more than one person or entity holds an interest in any Lot the vote for such Lot shall be exercised as such persons or entities determine, but in no event shall more than the number of votes hereinafter designated be cast with respect to any such Lot nor shall any split vote be permitted with respect to such Lot. The two classes of voting memberships and voting rights related thereto, are as follows:

A. Class A. Class A members shall be all Owners of Lots provided, however so long as there is Class B membership, the Declarant shall not be a Class A member. Owner's of Class A Lots shall be entitled to one (1) vote for each Lot owned.

B. Class B. The Class B member shall be the Declarant. Class B Lots shall be all Lots or acreage owned by the Declarant which have not been converted to Class A as provided below. The voting rights appurtenant to the Class B Lots shall be as follows: the Declarant shall be entitled to nine (9) votes for each Class B Lot which it owns.

C. Termination of Class B. From time to time, Class B membership may cease and be converted to Class A membership, and any Class B Lots then subject to the terms of this Declaration shall become Class A Lots upon the happening of any of the following events, whichever first occurs:

1. If Declarant waives Class B membership, in writing;
2. When the total votes outstanding in the Class A membership equal or exceed 321, or
3. On December 31, 2010, however Declarant may extend this date by not more than five (5) years by written notice given to all Owners by December 31, 2010.

D. Voting. When more than one (1) person holds an ownership interest in any Lot, the vote for such Lot shall be exercised as the owners of all such interests determine among themselves, but in no event shall more than one (1) vote be cast with respect to each Lot or Block. In the event of a disagreement among such persons and an attempt by two (2) or more of them to cast the vote of such Lot such vote shall not be recognized and the Lot shall not be counted for any purpose until such dispute is resolved.

E. Class B Rights. Until the time at which the Class B membership terminates, as provided herein, the Class B Member shall be vested with the sole voting rights in the Association on all matters, except such matters as to which the Declaration, these Articles of Incorporation, or the Bylaws of the Association specifically require a vote of the Class A Members.

ARTICLE VI TERM

Section 6.1. Term. Existence of the Association shall commence with the filing of these Articles of Incorporation with the Secretary of State of Ohio. The Association shall exist in perpetuity.

ARTICLE VII BOARD OF TRUSTEES

Section 7.1. Board. The business and affairs of the Association shall be managed by a Board of Trustees consisting of not less than three (3) Trustees nor more than five (5) Trustees. The first Board of Trustees shall consist of three (3) Members. The Board of Trustees shall be elected by the Members of the Association entitled to vote. The names and addresses of the first Board of Trustees who shall hold office until their successors are elected and have qualified, are as follows:

Trustee	Michael J. DeAnna
Trustee	Joseph R. Scaletta
Trustee	Delia Lannon

Section 7.2. Election. The Trustees of the Association shall be elected at the time and in the manner provided for in the Bylaws. The terms of office shall be established by the Bylaws.

ARTICLE VIII OFFICERS

Section 8.1. Officers. The officers of the Association shall consist of a President, one (1) or more Vice President, a Secretary, and a Treasurer. The officers in the Association shall be elected by the Board of Trustees of the Association in accordance with the provisions of the Bylaws of the Association. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary may not be held by the same person. The initial officers are:

President	Michael J. DeAnna
Vice President	Joseph R. Scaletta

ARTICLE IX INDEMNIFICATION

Section 9.1. Third Party Actions. The Association shall indemnify any person who was or is a party or is threatened to be made a party of any threatened, pending, or completed action, suit, or proceeding, or appeal therefrom, whether civil, criminal, administrative, investigative, or otherwise (other than any action by or in the right of the Association) by reason of the fact that he or she is or was a director, officer, or employee of the Association, or at the express or implied request of the Association is or was serving as a director, trustee, officer, or employee of another association or a partnership, joint venture, trust, or other enterprise (including without limitation any affiliated association, partnership, joint venture, trust, or other enterprise), against expenses (including attorney's fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit, or proceeding if he or she acted in good faith and in a manner reasonably believed to be in, or not opposed to, the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe such conduct was unlawful.

Section 9.2. Derivative Actions. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action or suit by or in the right of the Association, or appeal therefrom, to procure a judgment in its favor by reason of the fact that he or she is or was a director, officer, or employee of the Association, or at the express or implied request of the Association is or was serving as a director, trustee, officer, or employee of another association or a partnership, joint venture, trust, or other enterprise (including without limitation any affiliated association, partnership, joint venture, trust, or other enterprise), against expenses (including attorneys' fees and amount paid in settlement) actually and reasonably incurred in connection with the defense or settlement of such action or suit if he or she acted in good faith and in a manner reasonably believed to be in or not opposed to the best interests of the Association; provided, however, that no person shall be entitled to indemnification under this Section 9.2 in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for gross negligence or willful misconduct in the performance of his or her duty to the Association.

Section 9.3. Successful Defense. To the extent that a director, officer, or employee has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Section 9.1 or 9.2 of this Article IX, or in defense of any claim, issue, or matter mentioned therein, such determination shall constitute conclusive evidence of such person's right to be indemnified against expenses (including attorneys' fees) actually and reasonably incurred in connection therewith, and the Board of Trustees of the Association shall direct the reimbursement of all such expenses.

Section 9.4. Determination of Propriety of Indemnification. No person seeking indemnification under Section 9.1 or 9.2 of this Article IX shall be indemnified unless pursuant

to a determination by a court or unless the Board of Trustees in good faith by a majority vote of trustees who were not parties to such action, suit, or proceeding determine that the standards set forth in such Sections have been met in the circumstances. The Association may provide for additional indemnification and right to any person (including without limitation those persons referred to in Sections 9.1 and 9.2 of this Article IX), in each case except as otherwise ordered by a court or prohibited by law.

ARTICLE X DISPOSITION OF ASSETS UPON DISSOLUTION

Section 10.1. Disposition. No Member, trustee, or officer of the Association or other private individual shall be entitled to share in the distribution of any of its assets upon dissolution of the Association. Unless agreed to the contrary by two-thirds (2/3) of each and every class of members, upon dissolution of the Association, the assets of the Association shall be granted, conveyed, and assigned to an appropriate public body, agency, or agencies, utility or utilities, or any one or more of them or to any one or more nonprofit associations, trusts, or other organizations to be devoted to purposes as nearly as practical the same as those to which they were required to be devoted by the Association. No disposition of the Association's assets shall divest or diminish the any right or title of any Member vested under the Declaration unless made in accordance with the provisions of such Declaration.

ARTICLE XI AMENDMENT OF ARTICLES

Section 11.1. Amendments. These Articles may be amended by an affirmative vote of two-thirds (2/3) of the votes cast by the Members of the Association entitled to vote.

ARTICLE XII
BYLAWS

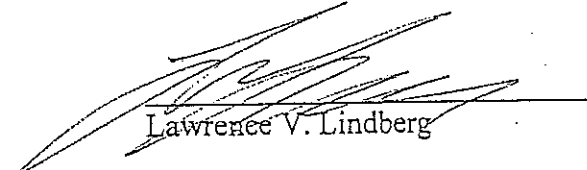
Section 12.1. Bylaws. The Association shall adopt Bylaws governing the conduct of the affairs of the Association. The Bylaws shall be altered, amended, or rescinded as provided in the Bylaws.

ARTICLE XIII
INCORPORATOR

Section 13.1. Incorporator. The name and address of the incorporator to these Articles of Incorporation is as follows:

Lawrence V. Lindberg
Baker & Hostetler LLP
3200 East Ninth Street
Cleveland, Ohio 44114

IN WITNESS WHEREOF, the subscribing incorporator has hereunto set his hand and seal and caused these Articles of Incorporation to be executed this 4th day of MAY, 1999.



Lawrence V. Lindberg

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ORIGINAL APPOINTMENT OF AGENT

The undersigned, being the sole incorporator of Avenbury Lakes Homeowners Association, Inc., does hereby appoint Joseph R. Scaletta, a natural person, upon whom any process, notice or demand required or permitted by statute to be served upon the corporation may be served. His complete address is 35290 Detroit Road, Avon, Ohio 44011..

By: 

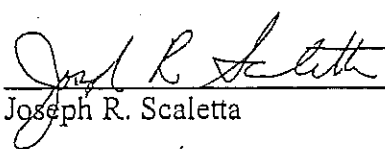
Lawrence V. Lindberg
Sole Incorporator

Date: MAY 14, 1999

Avenbury Lakes
Homeowners Association, Inc.

Ladies and Gentlemen:

I hereby accept appointment of agent of your corporation upon whom process tax notices or demands may be served.


Joseph R. Scaletta

Date: 5/14/99

615955 FILM NO 1461
1-36.

AMENDED AND RESTATED
DECLARATION OF
COVENANTS, CONDITIONS
AND RESTRICTIONS
FOR
AVENBURY LAKES

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I DEFINITIONS	2
Section 1. Additional Land	2
Section 2. Articles	2
Section 3. Assessment	2
Section 4. Association	2
Section 5. Avenbury Lakes	2
Section 6. Board of Trustees	2
Section 7. Bylaws	2
Section 8. Common Area	2
Section 9. Declarant	2
Section 10. Declaration	3
Section 11. Lot	3
Section 12. Owner	3
Section 13. Occupant	3
Section 14. Person	3
Section 15. Plat	3
Section 16. Property	3
Section 17. Storm Water Detention Area	3
Section 18. Rules and Regulations	3
Section 19. Unit	3
ARTICLE II PURPOSE	4
Section 1. General Purpose	4
Section 2. Expansion of the Common Area	4
Section 3. Housing for Older Persons	4
ARTICLE III EASEMENTS AND PARTY WALLS	5
Section 1. Reservation of Easement Rights	5
Section 2. Owners' Access Easement	5
Section 3. Owners' Easements of Enjoyment	6
Section 4. Encroachments	6
Section 5. Easements for Certain Purposes	7
Section 6. Easements to Public Utilities and Government Authorities and the Association	7
Section 7. Easements to Run with Land	7
Section 8. Delegation of Use	7
Section 9. Parking and Driveway Rights	8
Section 10. Party Walls	8
ARTICLE IV MEMBERSHIP AND VOTING RIGHTS	9

Section 1.	Membership	9
Section 2.	Classes.....	9
ARTICLE V RIGHTS AND OBLIGATIONS OF THE ASSOCIATION		10
Section 1.	Responsibilities	10
Section 2.	Personnel.....	10
Section 3.	Personal Property for Common Use	10
Section 4.	Insurance	10
Section 5.	Implied Rights.....	11
Section 6.	Title to Common Area.	11
Section 7.	Storm Water Detention Area	11
Section 8.	Sewer and Water Line Obligations	11
Section 9.	Services for Which Assessments May Be Charged	12
ARTICLE VI COVENANT FOR MAINTENANCE AND OTHER ASSESSMENTS		12
Section 1.	Creation of the Lien and Personal Obligation of Assessments	12
Section 2.	Purpose of Assessments.....	13
Section 3.	Special Assessments for Capital Improvements	13
Section 4.	Notice and Quorum for Any Action Authorized Under Section 3	13
Section 5.	Initial Capital Contribution	13
Section 6.	Annual Assessment	14
Section 7.	Declarant's Assessments.....	14
Section 8.	Exemption from Assessments.....	14
Section 9.	Date of Commencement of Annual Assessments: Due Dates	14
Section 10.	Lien for Assessments	14
Section 11.	Effect of Nonpayment of Assessments: Remedies of the Association.....	14
Section 12.	Foreclosure.....	15
Section 13.	Subordination of the Lien to Mortgages	15
Section 14.	Liability for Assessments upon Voluntary Conveyance.....	15
Section 15.	Reserves	15
ARTICLE VII ADDITIONAL PROPERTY		15
Section 1.	Additions to the Property	16
Section 2.	Procedure for Making Additions to the Property	16
Section 3.	General Provisions Regarding Additions to the Property	16
ARTICLE VIII GENERAL COVENANTS AND RESTRICTIONS		17
Section 1.	Use	17
Section 2.	Restrictions	17
Section 3.	Limitation on Association Liability	21
ARTICLE IX SPECIFIC OBLIGATIONS OR OWNERS AND DECLARANT		21
Section 1.	Owner Obligations	21

Section 2.	Declarant Obligations	23
ARTICLE X GENERAL PROVISIONS.....		23
Section 1.	Enforcement.....	23
Section 2.	Severability	24
Section 3.	Amendment.....	24
Section 4.	Exception.	24
Section 5.	Interpretation.....	25
Section 6.	Reservations.....	25

AMENDED AND RESTATED DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
AVENBURY LAKES

THIS AMENDED AND RESTATED DECLARATION is made on the date hereinafter set forth by AVENBURY LAKES INC., an Ohio corporation, hereinafter referred to as "Declarant."

WITNESSETH: That,

WHEREAS, Declarant is the owner of certain real property in the City of Avon, Lorain County, Ohio, which is commonly known as Avenbury Lakes Subdivision No. 1 and Avenbury Lakes Phase I, as more particularly described on Exhibit A attached hereto and made a part hereof (collectively, the "Initial Property"), which real property is a part of a larger tract of land owned by Declarant described on Exhibit B attached hereto and made a part hereof;

WHEREAS, Declarant is developing a residential community known as Avenbury Lakes on the land described on Exhibit A;

WHEREAS, Declarant has previously caused a Declaration of Covenants, Conditions and Restrictions for Avenbury Lakes (the "Original Declaration") to be recorded on March 11, 1999 as Document No. 990600461 in the Records of Lorain County, Ohio;

WHEREAS, Declarant wishes to amend and restate in its entirety the Original Declaration and Declarant, as the owner of all of the real property encumbered by the Declaration, has the power and authority to so amend and restate the Original Declaration; and

WHEREAS, Declarant hereby enters into this Amended and Restated Declaration of Covenants, Conditions and Restrictions to amend and restate in its entirety the Original Declaration.

NOW THEREFORE, Declarant hereby declares and reaffirms that the real estate described on Exhibit A, any Additional Land added to the Property in accordance with the Declaration and all improvements on or appurtenant to such property shall be held, used, improved, developed, assigned, owned, maintained, sold, and conveyed subject to the terms, easements, covenants, conditions and restrictions contained in this Amended Declaration of Covenants, Conditions and Restrictions for Avenbury Lakes, which shall run with the land and be binding on, and inure to the benefit of, Declarant, the Association and any and all Persons having any right, title, or interest in such property or any part thereof, and their respective heirs, personal representatives, successors, and assigns.

ARTICLE I DEFINITIONS

Section 1. "Additional Land" shall mean the land described on Exhibit "B" attached hereto and made a part hereof and any other land adjacent to the Initial Property or the land described on Exhibit "B".

Section 2. "Articles" shall mean the Articles of Incorporation of the Association, including any and all amendments or modifications to those Articles.

Section 3. "Assessment" shall mean the assessments charged against Lots and/or Units pursuant to the terms of the Declaration, including interest thereon and late payment charges, if any, as may be established from time to time by the Board of Trustees and the costs of collection thereof, including court costs and fees.

Section 4. "Association" shall mean the Avenbury Lakes Homeowners Association, Inc., an Ohio not-for-profit corporation.

Section 5. "Avenbury Lakes" shall mean the residential community to be developed by Declarant on the Property.

Section 6. "Board of Trustees" shall mean the Association's Board of Trustees.

Section 7. "Bylaws" shall mean the Bylaws of the Association, including, without limitation, any and all amendments or modifications to those Bylaws.

Section 8. "Common Area" shall mean any portion of the Property other than the Lots or improvements on Lots, including, without limitation, any streets and rights-of-way serving the Property which are not publicly dedicated roadways, open space or green space areas now or hereafter designated or created within the Property by Declarant or the Board of Trustees, the clubhouse or other recreational or common facilities including, without limitation, any caretaker's residence, secondary clubhouse, maintenance sheds or buildings, and all other real property and real property interests (including the improvements thereto) owned or leased by the Association (in fee simple or in other interests) for the common use and enjoyment of the Owners, Occupants and their guests, as the same may be improved or modified pursuant to the Declaration. The Common Area shall also include the Association's interest in the Storm Water Detention Area over which area the Association shall be granted easements and /or other property rights to permit the Association to maintain, repair, replace and manage the Storm Water Detention Area. The Common Area to be owned by the Association at the time of conveyance of the first Lot shall be all land, other than Lots and publicly dedicated roadways, shown on the recorded Plat of Avenbury Lakes Phase I and the Plat of Avenbury Lakes Subdivision No. 1.

Section 9. "Declarant", shall mean Avenbury Lakes, Inc., an Ohio corporation, and any successor, alternate, or additional Declarant appointed by Avenbury Lakes, Inc., as a successor, alternate, or additional Declarant, by an instrument in writing, specifically setting forth that such successor, alternate, or additional Declarant is to have, together with or in lieu of

Avenbury Lakes, Inc., Declarant's rights, duties, obligations and responsibilities, in whole or in part, for all or any portion of the Property.

The term "Declarant" shall not include any Person who purchases a Lot from Declarant, unless such purchaser is specifically assigned, by a separate recorded instrument, some or all of the Declarant's rights, duties, obligations, or responsibilities under this Declaration with regard to the property conveyed.

Section 10. "Declaration" shall mean this Amended and Restated Declaration of Covenants, Conditions and Restrictions for Avenbury Lakes.

Section 11. "Lot" shall mean each individual subplot and/or townlot shown upon any recorded plat map of the Property.

Section 12. "Owner" shall mean the record Owner, whether one or more Persons, of fee simple title to any Lot including, without limitation, any land installment contract purchasers, but excluding any Person having such interest merely as security for the performance of an obligation.

Section 13. "Occupant" shall mean any Person residing in a Unit, regardless of whether that Person is a Unit Owner.

Section 14. "Person" shall mean a human being, corporation, partnership or any other legal entity to which the law attributes the capacity of having rights or duties.

Section 15. "Plat" shall mean the Plat of Avenbury Lakes Phase I and the Plat of Avenbury Lakes Subdivision No. 1 as recorded in the office of the Lorain County Recorder. Plat shall also mean any additional Plat recorded in connection with the addition of any of the Additional Property to the Property.

Section 16. "Property" shall mean the Initial Property as described on Exhibit "A" and such additions to the Property as may hereafter be made in accordance with the Declaration.

Section 17. "Storm Water Detention Area" shall mean the Storm Water Detention Area shown on the Plat.

Section 18. "Rules and Regulations" shall mean any rules and regulations adopted from time to time by the Board of Trustees in accordance with the terms of the Declaration, the Articles or By-laws, and any amendments or modifications thereto.

Section 19. "Unit" shall mean a Lot together with the individual dwelling unit and other improvements located thereon.

ARTICLE II PURPOSE

Section 1. General Purpose. The Declarant has entered into and recorded the Declaration and has organized the Association to assure that the residential community known as Avenbury Lakes will be developed, owned, operated and managed in accordance with a general plan and that the Common Area and other land and improvements, if any, for which it is responsible will be maintained in a manner that will contribute to the comfort and enjoyment of the Owners. [The principal purpose of the Association is to maintain the Common Area for which it is responsible as deemed appropriate by the Board of Trustees; to maintain certain portions of the individual Lots and Units of Owners, such as exterior building maintenance (e.g. exterior building siding), exterior painting, roof maintenance, driveway and sidewalk maintenance, exterior utility line maintenance and landscaping, if and as deemed appropriate by the Board of Trustees; to provide for snow removal as deemed appropriate by the Board of Trustees; to maintain financial reserves as deemed appropriate by the Board of Trustees; to pay any and all taxes applicable to the Common Areas (if separately assessed from Lots) and other property of the Association; and to take such other actions as the Association is required or authorized to take with regard to the Property pursuant to the Articles, the Bylaws or the Declaration and with regard to any other matters as determined by the Board of Trustees.

Section 2. Expansion of the Common Area. Additions to the Common Area may be made in accordance with the terms of Article VII of the Declaration which provides for additions to the Property. The Declarant shall not be obligated, however, to make any such additions other than such additions as may be necessary to transfer the Clubhouse and related land to the Association as required by Article IX of the Declaration. The Declarant has the right to make improvements to the Common Area but its only obligation to make such improvements shall be as set forth in Article IX of the Declaration.

Section 3. Housing for Older Persons. Avenbury Lakes is and shall be operated as, a housing community for persons 55 years of age or older, although certain exceptions may permit a Person younger than 55 (but at least 18 years of age) to reside in Avenbury Lakes. Avenbury Lakes shall be operated in compliance with the Fair Housing Act of 1968 (42 U.S.C. 3601 et seq.) as amended by the Housing for Older Persons Act of 1995 as such acts may have been and may hereafter be amended from time to time. The Board of Trustees shall publish and adhere to policies, procedures, rules and regulations which demonstrate the intent to provide housing for older persons, including, but not limited to, reliable surveys and affidavits for verification for occupancy. These policies, procedures, rules and regulations for operating as a 55 or older housing community shall be promulgated by the Board of Trustees and may be amended from time to time by the Board of Trustees consistent with the requirements and limitations of the Fair Housing Act of 1968 and the Housing for Older Persons Act of 1995, as amended from time to time.

Each Owner shall be required to provide to the Declarant or the Association prior to acquiring title to any Lot or Unit and thereafter from time to time upon the request of the Declarant or the Association, written verification of the age of the Owner and any other Occupant(s) of the Unit and such other information as may be required by Declarant or the Association to comply with the provisions of the Fair Housing Act of 1968 and the Housing for Older Persons Act of 1995, as amended from time to time. No Owner shall transfer title to any

Lot or Unit until the prospective purchaser or transferee of such Lot or Unit has delivered to the Association the required written verification and the Association, or authorized officer of the Association, has acknowledged that such certification has been received and approved by the Association.

If any Owner, purchaser, transferee or other Person shall fail to submit the written verification required by this Section 3 or any such verification shall be false or inaccurate, the Owner, purchaser, transferee or other Person submitting such verification shall be responsible to Declarant and the Association for any loss, cost, damage or expense, including, without limitation, legal fees, incurred or suffered by Declarant or the Association as a result of such Person's failure to submit the required verification or of the falsity or inaccurate information contained in such verification. In addition, Declarant and the Association shall have all rights and remedies at law or in equity including, without limitation the remedy of injunction with respect to the violation of any Person of the provisions of this Section 3.

ARTICLE III EASEMENTS AND PARTY WALLS

Section 1. Reservation of Easement Rights. Declarant reserves to itself, and to its successors and assigns; (a) the right to enter upon and use so much of the Common Area as may be reasonably necessary to construct the Units or any improvements or facilities forming part of any adjoining or related development; and (b) the right to grant consents, easements and rights of way for the construction, operation and maintenance of electric, cable television and telephone poles, wires and conduits, including underground facilities; and for drainage, water lines, sewers and any other facilities or utilities deemed convenient or necessary by Declarant or its successors and assigns for the service of the Property or for the service of other property pursuant to agreements with such property owners regarding sharing of utility lines, services, equipment and facilities. Declarant also reserves to itself, its successors and assigns, and to and for the benefit of the Association, the right to go upon or permit any public or quasi-public utility company to go upon the Lots and Common Area from time to time (a) to install, maintain and remove utility lines and equipment and to trim trees and shrubbery which may interfere with the successful and convenient operation thereof and (b) to exercise the rights and powers of the Association with respect to Lot and Units. No Owner shall have the right to reserve or grant any easements or rights of way upon or over any of the Lots without the prior written consent of the Declarant, its successors and assigns.

Section 2. Owners' Access Easement. Each Owner shall have a non-exclusive permanent easement appurtenant to such Owner's Lot for purposes of ingress and egress to the Lot over the Common Area roadways and walkways provided for such purposes.

Section 3. Owners' Easements of Enjoyment. Each Owner shall have the right and non-exclusive easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to each Lot, which easement and rights shall be subject to the following provisions:

A. the right of the Association, from time to time in accordance with the Declaration, the Articles or Bylaws, to establish, modify, amend, and rescind reasonable Rules and Regulations relating to the Common Areas;

B. the right of the Association to suspend the voting rights of, and the right to use the Common Area by, an Owner for any period during which any Assessment levied under the Declaration against the Owner's Lot remains unpaid and suspend such rights (for periods determined by the Association) for any infraction of its Rules and Regulations;

C. the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility as provided by the Declaration, the Articles or By-laws. Except as otherwise specifically provided in the Declaration, no such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer, signed by two-thirds (2/3) of each class of members, has been recorded;

D. the right of the Association to grant easements as to the Common Area or any part thereof as provided by the Declaration, the Articles or Bylaws;

E. the right of the Association to otherwise deal with the Common Area as provided by the Declaration, the Articles or Bylaws;

F. the right of the Association to allow the Common Area for use by non-members of the Association, including the general public;

G. the right of the Association to sell, lease, or transfer all or any part of the Common Area that has been deeded to the Association to a third party other than Declarant or any Owner, as provided by the Declaration, the Articles or Bylaws; provided, however, that, except as otherwise specifically provided in the Declaration, any sale, lease or transfer of any part of the Common Area that has been deeded to the Association shall require the approval of two-thirds (2/3) of each class of members; and

H. the right of the Declarant and its designees to use Common Areas for business purposes in connection with the development of the Property.

Section 4. Encroachments. In the event that by reason of the construction, repair, restoration, settlement or shifting of any building or improvement or by reason of the partial or total destruction and rebuilding of any building or improvement, any part of the Common Area encroaches or shall hereafter encroach upon any part of a Unit, or any part of a Unit encroaches or shall hereafter encroach upon any part of the Common Area, or, if by reason of the design or construction of utility systems, any mains, pipes, ducts, or conduits serving any Unit or Common Area encroaches or shall hereafter encroach upon any other Unit, valid easements for the maintenance of such encroachment and for the use of such adjoining space are hereby established and shall exist for the benefit of such Unit or the Common Area as applicable, provided, however, that in no event shall a valid easement for any encroachment be created in favor of any Unit or in favor of the Common Area if such encroachment occurred due to the willful negligent conduct of any Person.

Section 5. Easements for Certain Purposes. The Association may hereafter grant easements on behalf of Owners for the benefit of the Property, including the right to install, lay, maintain, repair and replace water mains and pipes, sewer lines, gas mains, telephone wires and equipment, ducts, public utility lines, electrical conduits and wires, cables and wiring for information transmission and television and communication cables and wiring along, within or through any portion of the Common Area, however, no such easement shall be granted within the boundaries of any Unit, and further provided that it is a condition to the use and enjoyment of any such easement, that the grantee of such easement does by the acceptance and use thereof covenant and agree that the grantee of such easement shall restore the Property and all portions thereof to the condition in which it existed prior to the grantee's use of such easement.

Section 6. Easements to Public Utilities and Government Authorities and the Association. Declarant has granted certain easements to public utilities for the purpose of providing and maintaining utility service on the Property or for permitting other Persons to share in the lines, mains, equipment and other utility facilities on or benefiting the Property, such as the lift station, storm sewer mains and force main lines easements. Declarant has also granted easements to the City of Avon for water and sewer lines on the Property. The Declarant has dedicated certain utility facilities to the City of Avon, such as the lift station and force main lines, all in accordance with Declarant's Subdivider's Agreement dated December 23, 1997 with the City of Avon, as the Subdivider's Agreement has and may hereafter be amended from time to time (the Subdivider's Agreement"). Declarant also reserves the right to grant to the Association easements to enable the Association to assume responsibility for maintenance, upkeep, repair, replacement and management of the Storm Water Detention Area in accordance with the Subdivider's Agreement.

Section 7. Easements to Run with Land. All easements and rights described herein are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on the undersigned, its successors and assigns, and any Owner, purchaser, mortgagee and other person having an interest in said land, or any part or portion thereof.

Section 8. Delegation of Use. Any Owner may delegate, in accordance with the Declaration or By-Laws, the right of enjoyment to the Common Area to the members of the Owner's family or contract purchasers who reside on the Property, in each case subject to the limitations of the Declaration, the Articles, the By-Laws and any Rules and Regulations established by the Association.

Section 9. Parking and Driveway Rights. Ownership of a Unit on a townhouse lot shall entitle the Owner to parking for not more than four (4) motor vehicles. A minimum of two (2) parking spaces shall be in the garage which is part of the Unit and the other two (2) spaces shall be in the paved areas immediately outside of and adjacent to the garage.

Section 10. Party Walls.

A. General Rules of Law to Apply. To the extent not inconsistent with the provisions of this Section 10, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to each party wall or party fence which is built or maintained at any time within the Property. The term "party wall"

shall be deemed to include all utility lines serving two or more Units within a party wall, or within the interior of a Unit or located beneath any Lot.

B. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be equally shared by the Owners who make use of such party wall in proportion to such use. Party fences shall be maintained and repaired by the Association.

C. Destruction by Fire or Other Casualty. If a party wall or party fence is destroyed by fire or other casualty, any Owner who has a right to the use thereof may restore it, and any adjoining Owner thereafter making use of such facility shall contribute to the cost of restoration thereof in proportion to such use without prejudice however, to the right of the Owner who has restored the same to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omissions.

D. Right to Contribute Runs With Land. The right of any Owner to contribution from any other Owner under this Section 10 shall be appurtenant to the land and shall pass to such Owner's successors in title.

E. Miscellaneous. Every Owner having the use or benefit of a party wall or party fence, by accepting a deed to such Owner's Lot, shall be deemed to have accepted the party wall covenants set forth in this Section and shall have the right to use such party wall or party fence jointly. The term "use" shall include reasonable normal use for the purposes for which such party wall or party fence was designed and constructed. No Owner sharing a party wall may alter, extend or increase the height of the party wall except upon the written approval of the other Owner(s) and holders of any mortgages on each Lot. No such alteration, extension or increase in height may be made which impairs the strength or injures the existing wall or the foundation of any Unit.

ARTICLE IV MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot shall be a member of the Association and be subject to and bound by the Association's Articles, Bylaws, Rules and Regulations and the Declaration. The foregoing does not include Persons who hold a leasehold interest or interest merely as security for the performance of an obligation. Ownership, as specified above, shall be the sole qualification for membership. When any Lot is owned of record by two or more Persons, all such persons shall be members, but multiple ownership shall not result in additional voting rights. An Owner of more than one Lot shall be entitled to one membership for each Lot owned. Membership shall be appurtenant to, and may not be separated from, ownership of a Lot which is subject to assessment, and it shall be automatically transferred by conveyance of that Lot. The Declarant shall also be a member so long as it owns one or more Lots or until the expiration of the period within which Additional Land may be added to the Property; whichever is later.

Section 2. Classes. The Association shall have two (2) classes of voting membership: Class A and Class B. All votes shall be cast in the manner provided in the Bylaws. When more than one Person holds an interest in any Lot, the vote for such Lot shall be exercised

as such Persons determine, but in no event shall more than the number of votes hereinafter designated be cast with respect to any such Lot, nor shall any split vote be permitted with respect to such Lot. The two classes of voting memberships and voting rights related thereto, are as follows:

A. Class A. Class A members shall be all Owners of Lots; provided, however, so long as there is Class B membership, the Declarant shall not be a Class A member. Owners of Class A Lots shall be entitled to one (1) vote for each Lot owned.

B. Class B. The Class B member shall be the Declarant. Class B Lots or acreage shall be all Lots or acreage owned by the Declarant which have not been converted to Class A as provided below. The voting rights appurtenant to the Class B Lots or acreage shall be as follows: the Declarant shall be entitled to nine (9) votes for each Class B Lot or acre of Additional Land which it owns.

C. Termination of Class B. From time to time, Class B membership may cease and be converted to Class A membership, and any Class B Lots then subject to the terms of this Declaration shall become Class A Lots upon the happening of any of the following events, whichever first occurs:

1. If Declarant waives Class B membership, in writing;
2. When the total votes outstanding in the Class A membership equals or exceeds 321; or
3. On December 31, 2010, however, the Declarant shall have the right to extend the date in this Article IV, Section 2C3 for up to five (5) years if Declarant provides written notice to all Unit Owners on or prior to December 31, 2010 of the extension.

ARTICLE V RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 1. Responsibilities. The Association, subject to the rights of the Owners set forth in the Declaration, shall be responsible for management and control of the Common Area, and shall keep the same in good, clean, and proper condition, order, and repair. The Association shall also maintain and care for any other land and improvements designated or permitted in Article II hereof in the manner therein required. The Association shall be responsible for the payment of all costs, charges, and expenses, including, without limitation, taxes incurred in connection with the ownership, operation, administration and management of the Common Area, and the performance of its other obligations hereunder. The Association shall operate and maintain areas designated by Declarant as Common Area, whether or not title to those areas has been formally conveyed to the Association.

The Association shall also repair, maintain and replace the non-structural portions of the exterior walls, roofs, gutters, downspouts, chimneys and exterior building surfaces of all Units and all trees, shrubs, grass and decorative landscaping within the Lots and all exterior walks, patios, fences, driveways and utility lines appurtenant thereto, unless such repairs or

replacements are necessitated by the tortious or negligent acts or omissions of any Owner (in which event such Owner shall be responsible for such repair or replacement) or if such repair or replacement is necessitated as a result of fire or other casualty as otherwise provided for herein;

If (i) any Owner fails to maintain, repair and replace the portions of the Unit for which such Owner is responsible under the Declaration, and (ii) in the judgment of the Association such maintenance, repair and replacement is necessary to protect the Common Areas or maintain the overall appearance of the Property or to protect the safe occupancy of any other Unit, the Association shall have the further right to enter upon said Unit or Lot and to maintain, repair or replace such portions thereof with the cost of any such repair or maintenance levied as a special charge against such Unit or Lot and the Owner(s) thereof.

Section 2. Personnel. The Association may obtain, employ and pay Persons to assist in managing its affairs and carrying out its responsibilities hereunder to the extent it deems advisable.

Section 3. Personal Property for Common Use. The Association may acquire and hold tangible and intangible personal property and may dispose of the same by sale or otherwise, subject to such restrictions, if any, as may be provided in the Declaration, the Articles or the Bylaws.

Section 4. Insurance. The Association, shall procure and maintain adequate policies of public liability and other insurance as it deems advisable or necessary including, without limitation, liability insurance with respect to the use or operations of the Association on or with respect to any Lots or Units. The Association additionally may cause all Persons responsible for collecting and disbursing the Association's money to be insured or bonded with adequate fidelity insurance or bonds.

Each Owner shall be responsible for providing insurance with respect to damage or destruction of any and all buildings, improvements and personal property located on such Owner's Lot or which constitute part of such Owner's Unit. Each Owner shall provide liability insurance with respect to any injury to persons or damage to property occurring on or in respect of the use or enjoyment of such Owner's Lot and Unit. The Association shall have no obligation or responsibility for injury to persons or damage to property on or with respect to any Owner's Lot or Unit.

Section 5. Implied Rights. The Association may exercise any other right or privilege given to it expressly by the Declaration, the Articles or the Bylaws, or by law and every other right or privilege reasonably implied from the existence of any right or privilege granted herein or therein or reasonably necessary to effectuate the exercise of any right or privilege granted herein or therein.

Section 6. Title to Common Area. No later than the date of the termination of Class B membership in accordance with Article IV of the Declaration, Declarant shall convey, and the Association shall accept, title to all Common Area subject to such easements, reservations, conditions, and restrictions as may then be of record. Declarant may convey, and the Association shall accept, title to Common Area at any time prior to the time referred to in this Section 6, at Declarant's option.

Section 7. Storm Water Detention Area. The Association shall have full responsibility for all maintenance, upkeep, repair, replacement and management of the Storm Water Detention Area. No improvement or structure of any kind may be constructed or maintained in the Storm Water Detention Area or other area on which the City of Avon has an easement. In accordance with the Subdivider's Agreement, the Declarant has established a special fund approved by the Engineer and Law Director of the City of Avon for the sole purpose of maintaining the Storm Water Detention Area and its appurtenant easements. The Declarant is required by the Subdivider's Agreement to cause sixty dollars (\$60.00) per Lot to be deposited into the special fund for each Lot sold up to and including the time Declarant has sold seventy-five percent (75%) of the total Lots in the Property. Until Declarant has sold seventy five percent (75%) of the total Lots in the Property, Declarant shall cause sixty dollars (\$60.00) of the initial capital contribution made by each Lot, purchaser (as described in Article VI, Section 5) to be deposited into the special fund. Thereafter, the special fund shall be transferred by Declarant to the Association which shall continue the requirement that initial purchasers of additional Lots contribute sixty dollars (\$60.00) to the special fund. If the Association fails to maintain the Storm Water Detention Area or other Common Area, the City of Avon may enter upon the Property and perform such maintenance, repair or replacement and charge the cost to the Association and/or Unit Owners.

Section 8. Sewer and Water Line Obligations. The Association shall restore any part of the Property on which work on sewer or water lines shall have been done by the City of Avon, pursuant to the Subdividers Agreement and easements granted to the City of Avon. This restoration shall include, without limitation, restoration of landscaping, pavement, fences or other structures or objects. The Association and the Owners shall indemnify the City of Avon and hold it harmless from any claims for loss to property arising out of or in any manner related to the repair and maintenance of sewer and water lines or other utilities, including the Storm Water Detention Area. The Association shall maintain a broad form liability insurance policy providing primary coverage for any such claims arising out of the repair and maintenance of said utilities and facilities.

Section 9. Services for Which Assessments May Be Charged. The Association may include within Assessments the costs and other charges incurred by the Association in performing its obligations under the Declaration, the Articles and the By-laws and maintaining, managing, operating, repairing and replacing the Common Area including, but not limited to, the cost of repairs, maintenance and replacements made by the Association to the Common Area and other portions of the Property as required or permitted by the Declaration, any costs or expenses incurred by the Association for the maintenance, repair or replacement of any portion of an Owner's Unit which is the Owner's responsibility to maintain repair or replace under the Declaration, or any costs or expenses which were the responsibility of an Owner, any charges made by the Association for special services to an Owner or such Owner's ownership interest and for special or extraordinary uses or consumptions attributable to an Owner or his ownership interest, damages resulting from the failure of an Owner or any Occupant of a Unit to comply with any of the covenants, conditions, obligations or restrictions of the Declaration, the Articles or the By-Laws, the costs of any action to enforce any right or remedy of the Association or to obtain injunctive relief against an Owner, Occupant or other Person, any other charges or assessments permitted by this Declaration or the By-Laws against the Owner or the Owner's ownership interest, interest upon each assessment or charge at the rate permitted in the

Declaration and the reasonable costs of collecting any unpaid assessments and charges, including court costs and reasonable attorneys' fees. The Association may also include within Assessments costs of utility charges for lighting Common Areas or public walkways and roadways, if deemed appropriate by the Association.

ARTICLE VI COVENANT FOR MAINTENANCE AND OTHER ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned by it within the Property, hereby covenants, and each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association; (a) annual assessments or charges, (b) special charges for maintenance, repair or replacement of any portion of an Owner's Unit which is the Owner's responsibility to maintain, repair or replace under the Declaration or special services or charges applicable to an Owner's Unit or Lot, and (c) special assessments for capital improvements and unexpected operating costs, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorneys' fees, shall be effective from, and relate back to, the date of recording the Declaration and shall be a charge on the land and shall be secured by a continuing lien upon the property against which each such assessment is made. This continuing lien shall also secure interest on unpaid Assessments, fines for violation of the Declaration, the Articles, the Bylaws or the Rules and Regulations of the Association, and the costs of collecting unpaid Assessments and fines, and court costs for actions enforcing this Declaration and obtaining injunctions, all including reasonable attorney's fees. Notice of the lien will be given by recording a Claim of Lien in the public records of Lorain County, Ohio, stating the Lot description, the name of the record Owner, the amount due, and the due date. A Claim of Lien may be filed against a Lot for unpaid assessments after conveyance of the Lot by the Declarant. Each such assessment or charge, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the Person who was the Owner of such property at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to such Person's successors in title unless expressly assumed by such successor or as otherwise provided in Section 14 of this Article VI.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used for carrying out of the responsibilities and obligations of the Association under this Declaration, the Articles, and the Bylaws.

Section 3. Special Assessments for Capital Improvements. In addition to the annual assessment authorized above, the Association may levy, in any calendar year, a special assessment applicable to that year only (or spread over such number of years as the Board of Trustees may deem appropriate) for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the Common Area, including buildings and fixtures and personal property related thereto and for other purposes as designated by the Association, provided that any such special assessment, the cost of which exceeds \$15,000 increased annually commencing January 1, 2001 by the increase in the Consumer Price Index for the prior calendar year), shall have the assent of fifty percent (50%) of

the votes of each class of members who are voting in person or by proxy at a meeting duly called for such purpose.

Section 4. Notice and Quorum for Any Action Authorized Under Section 3. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 immediately above shall be sent to all members not less than ten (10) days nor more than sixty (60) days in advance of the meeting. At such meeting, the presence of members or of proxies entitled to cast one-third (1/3) of all the votes of each class of membership shall constitute a quorum.

Section 5. Initial Capital Contribution. Until the time the Declarant no longer exercises voting control over the Association, the Declarant may require each Owner (other than Declarant), acquiring title to a Lot, (for the initial sale from Declarant only), as evidenced by the recording of a deed with the Lorain County Recorder to contribute an initial capital contribution to the Association in an amount equal to three (3) months of the annual assessments determined by Declarant. Sixty dollars (\$60.00) of the initial capital contribution of each initial purchaser of a Lot shall be deposited into the special fund for maintaining the Storm Water Detention Area, as described in Article V, Section 7 of the Declaration. Thereafter, the Board of Trustees shall determine the required amount of the initial capital contribution. This initial contribution shall be nonrefundable.

Section 6. Annual Assessment. Subject to the provisions contained in this Article VI, the annual assessment shall be fixed by the Board of Trustees and shall be the same for each Class A Lot.

Section 7. Declarant's Assessments. Notwithstanding any provision of this Declaration or the Association's Articles or the Bylaws to the contrary, the Declarant shall not be obligated for, nor subject to, any annual assessment for any Lot which it may own, whether Class A or Class B until one (1) year after Declarant has constructed a Unit on such Lot.

Section 8. Exemption from Assessments. Except as otherwise provided in Section 7 of this Article VI, the assessments, charges, and liens provided for or created by this Article VI shall not apply to: (i) Declarant; or (ii) the Common Area or any property dedicated to and accepted for maintenance by a public or governmental authority or agency, any property owned by a public or private utility company or public or governmental body or agency, or any property used for commercial purposes.

Section 9. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the conveyance of the first Lot to an Owner other than the Declarant. The first annual assessment shall be adjusted according to the number of months remaining in that calendar year. The Board of Trustees shall fix the amount of the annual assessment (to be paid monthly) against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be on the first day of each month or on such other dates as may be established by the Board of Trustees. The Association shall, upon demand, and for a reasonable uniform charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments or any installments on a specified Lot have been paid or are delinquent and, if so, the particulars of the delinquencies. A properly executed certificate of the

Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance. A purchaser of a Lot or Unit shall pay to the Association its first month's payment toward the annual assessment upon the acquisition of the Lot or Unit however if the date of acquisition is not the first day of a month the purchaser shall pay a prorated portion of the first month's assessment based on the number of days remaining in the month in which the acquisition occurs.

Section 10. Lien for Assessments. All sums assessed against any Lot pursuant to this Declaration, together with interest and all costs and expenses of collection, including reasonable attorneys' fees shall be secured by a continuing lien on such Lot in favor of the Association as hereinabove provided.

Section 11. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the lesser of eighteen percent (18%) per annum or the maximum rate allowed by law. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot or both. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area, or abandonment of such Owner's Lot.

Section 12. Foreclosure. The lien for sums assessed pursuant to the Declaration may be enforced by judicial foreclosure by the Association in the same manner in which mortgages on real property may be foreclosed in Ohio or as may be otherwise provided by Ohio law. In any such foreclosure, the Owner shall be required to pay all costs and expenses of foreclosure, including reasonable attorneys' fees. All such costs and expenses shall be secured by the Lien being foreclosed. The Owner shall also be required to pay to the Association any assessments against the Lot which shall become due during the period of foreclosure, and the same shall be secured by the lien foreclosed and accounted for as of the date of the Owner's title is divested by foreclosure. The Association shall have the right and power to bid at the foreclosure sale to acquire the Lot foreclosed, and thereafter to hold, convey, lease, rent, encumber, use, and otherwise deal with the same as the owner thereof.

Section 13. Subordination of the Lien to Mortgages. The liens for the assessments provided herein shall be subordinate to the lien of any first mortgage which is recorded prior to any Claim of Lien. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of mortgage shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve the Owner of such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 14. Liability for Assessments upon Voluntary Conveyance. In conveyance of a Unit, other than a conveyance described in Section 12, above, the grantee of the Unit shall be jointly and severally liable with the grantor for all unpaid assessments and other charges by the Association against the grantor and his Unit to the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore. However, any such grantee shall be entitled to a statement from the Board of Trustees, to be given within ten (10) days after receipt by the Board of Trustees his request, setting forth the amount of all unpaid assessments or other charges; and such grantee shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid assessments made by the Association

against the grantor in excess of the amount set forth in such statement for the period reflected in such statement. As used in this paragraph "grantor" shall include a decedent and "grantee" shall include a devisee or heir, donee, or any other successor or assign of a grantor.

Section 15. Reserves. The Association shall maintain reserves for future improvements to the Common Area in such amounts as the Board of Trustees from time to time deems appropriate.

ARTICLE VII ADDITIONAL PROPERTY

Section 1. Additions to the Property. Additional real estate may be brought within the jurisdiction and control of the Association and the Declaration in the manner specified in Section 2 of this Article and made subject to all the terms of the Declaration as if part of the Property initially included within the terms hereof, provided such is done within thirty (30) years from the date this Declaration is recorded. Notwithstanding the foregoing, however, under no circumstances shall the Declarant be required to make such additions, and until such time as such additions are made to the Property in the manner hereinafter set forth, no other real estate owned by the Declarant or any other person or party whomsoever, other than the Property, shall in any way be affected by or become subject to this Declaration. All additional real estate which, pursuant to this Article, is brought within the jurisdiction and control of the Association and made subject to this Declaration shall thereupon and thereafter be included within the term "Property" as used in this Declaration. Notwithstanding anything contained in this Section 1, the Declarant neither commits to, nor warrants or represents, that any such additional development shall occur.

Section 2. Procedure for Making Additions to the Property. Additions to the Property may be made, and thereby such additions shall become subject to the Declaration by, and only by the following procedure:

A. Additions of Additional Real Estate. The Declarant shall have the right (but not the duty or obligation) from time to time, in its discretion and without need for consent or approval by either the Association or its members, to bring within the jurisdiction and control of the Association and make subject to the Declaration, any additional real estate. In the Declarant's sole discretion, portions of any such additional real estate may be designated as Common Area.

B. Maximum Number of Units. The maximum number of Units permitted on the Property shall not exceed ~~355~~ unless Declarant adds at least 15 acres of land (other than land described on Exhibit B) which is adjacent to the Initial Property or the land described on Exhibit "B", in which event the maximum number of Units permitted on the Property shall not exceed 390.

Section 3. General Provisions Regarding Additions to the Property.

A. Amendments and Supplements. The additions authorized under Section 2 A of this Article shall be made by the Declarant's filing of record either an Amended and Restated Declaration of Covenants, Conditions and Restrictions or a Supplement to Declaration of

Covenants, Conditions and Restrictions with respect to the additional real estate extending the covenants, conditions, easements and restrictions of this Declaration to such real estate, except as hereinafter provided in Section 3 C. Such Amended and Restated Declaration or Supplement need only be executed by Declarant and shall not require the joinder or consent of the Association or any of its members. Such Amended and Restated Declaration or Supplement may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added real estate or permitted use thereof.

B. Nonrevocation. Regardless of which of the foregoing methods is used to add additional land to that subject to the terms and provisions of this Declaration, no addition shall revoke or diminish (except for the dilution that occurs as a result of inclusion of additional Owners) the rights of the Owners of the Property to the utilization of the Common Area as established hereunder except to grant to the owners of the real estate being added to the Property the right to use the Common Area according to the terms and conditions as established hereunder, and the right to vote and be assessed as herein provided.

C. No Obligation. Nothing contained in this Article shall obligate the Declarant to make additions to the Property.

ARTICLE VIII GENERAL COVENANTS AND RESTRICTIONS

Section 1. Use. Except as specifically otherwise provided in the Declaration, the Property shall be used exclusively for singly family residential purposes and recreational purposes ancillary thereto.

Section 2. Restrictions.

A. Hazardous Uses and Waste. Nothing shall be done or kept in any Unit or in the Common Area which will increase the rate of insurance on any of the Units or contents thereof or on any improvements in the Common Area, without the prior written consent of the Board of Trustees. No Owner shall permit anything to be done or kept in his Unit or in the Common Areas which will result in the cancellation or restriction of insurance on the Units or contents thereof, or which would be in violation of any law. No waste will be committed on any part of the Property.

B. Obstruction of Common Area. There shall be no obstruction of the Common Areas nor shall anything be stored in the Common Areas without prior consent of the Board of Trustees except as in the Declaration expressly provided.

C. Exterior Surfaces and Units. Except as permitted by the Rules and Regulations of the Board of Trustees, no Owner shall cause or permit anything to be hung or displayed on the outside of windows or outside walls of any Unit, and no awning, canopy, shutter, radio or television antenna, or air conditioning unit shall be affixed to or placed upon the exterior walls or roof. Subject to the Rules and Regulations of the Board of Trustees and the approval of the

Board of Trustees as to the location and size of such dish, satellite dishes shall be permitted on an Owner's Lot or Unit. The exterior color of any Unit shall initially be determined by Declarant. Any change in such exterior color shall be subject to the approval of the Board of Trustees.

D. Animals and Pets. The Association may, from time to time, adopt rules and regulations pursuant to the By-laws governing the keeping of pets on the Property including limitations on the number and size of pets, provided, however, that an Owner shall in all events be permitted to keep for its lifetime a pet he or she was permitted to keep under the Rules and Regulations in effect when said Owner acquired the pet. Pets may not be tied outside the Units or allowed to roam on the Property. Pets must be walked on a leash and all droppings must be removed by the Owner. Any pet causing a nuisance or unreasonable disturbance shall be permanently removed from the Property upon seven (7) days' written notice from the Board of Trustees.

E. Nuisances. No noxious or offensive activity shall be carried on in any part of the Property, nor shall anything be done thereon, which may be or become an annoyance, or hazard, to the other Owners.

F. Impairment of Structural Integrity of Buildings. Nothing shall be done in any Unit or in, or, or to, the Common Areas, which will impair the structural integrity of any Building or any improvements or which would structurally change any buildings, except as herein otherwise provided. No person shall pave, brick or asphalt any exterior surface without obtaining approval of the Association.

G. Laundry or Rubbish in Common Areas and Facilities. No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out or exposed on any part of the Common Area, except in such areas as may be specifically designated by the Association for such purpose. All Common Area and Lots shall be kept free of rubbish, debris and other unsightly materials.

H. Lounging or Storage in Common Areas. There shall be no playing, lounging, parking or storage of baby carriages, bicycles, wagons, toys, vehicles, abandoned automobiles, campers, boats, automobile tires, benches, chairs, or any other tangible personal property on any part of the Common Area except in accordance with Rules and Regulations adopted by the Association. The Declarant intends, but shall not be required to, provide a separate area for parking boats and recreational vehicles (the "Boat/RV Parking Area"). If the Boat/RV Parking Area is created, the Association shall establish Rules and Regulations for the use of the Boat/RV Parking Area which may include reasonable charges for use.

I. Common Parking Areas. The Common Areas include designated parking areas as shown on the Plat. Owners, and their guests may park automobiles in said areas as available. No trucks, campers, boats or recreational vehicles or other vehicles other than automobiles may be parked in any Common Area other than the Boat/RV Parking Area. The Association reserves the right to issue Rules and Regulations from time to time governing parking in the Common Areas. Such regulations may, among other things, limit the type and size of vehicles other than automobiles that may be parked in the area designated for such vehicles and may limit the total number of vehicles that any resident or household may park on the Property.

J. Parking of Service and Other Vehicles. No vehicle bearing the name of any business may be parked on the Property except in a garage or except temporarily in the course of making a delivery or providing service for an Owner or Occupant.

K. Prohibited Advertising. No "For Sale" signs, or other window displays or advertising shall be maintained or permitted on any part of the Property except in accordance with Rules and Regulations adopted by the Association; provided, however, that until Declarant has sold all the Lots, Declarant reserves the right to use one or more unsold Lots for business or promotional purposes, including clerical offices, model units and the like, in connection with the original sale or rental of said Lots. Declarant further reserves the right to place "For Sale" signs and signs on any unsold Lots (or Lots of Units being handled by Declarant for resale) or in other areas of the Property. The right is hereby given the Declarant, the Association or any mortgagee as owner of unsold or unoccupied Lots to place "For Sale" signs on such Lots or in other areas of the Property, provided that any such signs shall be, in kind and location, consistent with the character of the Property.

L. Rental of Units. It is required that Units be occupied only by Owners and/or their immediate family subject to such Rules and Regulations established by the Association from time to time. No Unit shall be rented by the Owner thereof for any purpose, including without limitation, transient or hotel purposes, however, an Owner who has occupied a Unit (or such Owner's immediate family, heirs or personal representative) may petition the Board of Trustees for a limited right to rent such Owner's Unit if due to death, illness, family emergency or other unforeseen circumstance, a temporary right to rent the Unit is required to mitigate this type of hardship to the Owner or the Owner's immediate family, heirs or personal representative. Upon consideration of such petition, the Board of Trustees, at its sole discretion, may grant a limited right to rent such Unit if the Board of Trustees determines that such grant will mitigate such hardships to an Owner or an Owner's heirs, family members or personal representative and will not violate the requirements of Article II, Section 3 of the Declaration. No "For Rent" signs shall be permitted on the Property.

M. Common Areas. The Common Area shall be used exclusively for non-commercial recreation, utility and roadway purposes, subject to the Rules and Regulations.

N. Wells. No well for gas, water, oil or any other substance shall at any time be erected, placed or maintained on any of the Lots.

O. Protection of Trees and Plants. Except as Declarant, or the Association may deem necessary or desirable to facilitate the construction of buildings, structures, improvements and facilities and except in the event of disease or in an emergency to preserve the safety of Occupants and property, no tree on a Lot or in the Common Area shall be removed without the express authorization of the Board of Trustees which, in its discretion, may adopt and promulgate Rules and Regulations regarding the preservation of trees and other natural resources.

P. Commercial, Religious or Professional Uses. Except as expressly permitted to Declarant in the Declaration, or by the Rules and Regulations, no industry, business, trade full-time occupation or profession of any kind, commercial, religious, educational or otherwise,

designated for profit, altruism, exploration or otherwise, shall be conducted, maintained or permitted on any Lot; provided, however, a Unit Owner may use a portion of such Owner's Unit for such Owner's office or studio, provided that the activities therein shall not interfere with the quiet enjoyment or comfort of any other Owner and that such use does not result in the residence becoming principally an office, school or studio as distinct from a residence. No signs or advertising displays for any industry, business, trade, occupation or profession shall be placed on any part of the Property. The Association may adopt Rules and Regulations which further limit such use but may not adopt rules which lessen the prohibitions against such use as set forth in this Section.

Q. Poles, Wires, Antennae, Etc. Except for satellite dishes (to the extent permitted under Article VIII, Section 2C hereof) any antennae or other external communication device installed by or with the approval of the Declarant or the Association no exterior antennae or other external communication device shall be permitted on the roof or exterior wall of any building or structure or on the Common Area. Subject to applicable easements and rights, no facilities, including poles and wires, for the transmission of electricity, telephone messages and the like including, without limitation, clothes lines, shall be placed or maintained above the surface of the ground without the prior approval of the Declarant or the Board of Trustees.

R. Use of Common Area; Landscaping of Lots. All initial landscaping shall be done by Declarant as part of the original development of Lots and Common Areas. Thereafter, all areas of Lots not under permanent structure shall be maintained and landscaped in accordance with a landscaping plan approved by Declarant or the Board of Trustees. Each Owner shall be responsible for watering all lawn areas and landscaping on such Owner's Lot or in the Common Area immediately adjacent to such Owner's Unit.

S. Architectural and Landscaping Control; Exterior Appearance. No building or structure (or the landscaping on any Lot) shall be erected, placed, or maintained upon any portion of the Property otherwise than in accordance with building and landscaping plans and specifications approved by the Declarant or the Board of Trustees. The exterior of any building or structure on the Property shall not be altered, modified, changed or redecorated in any way as to change the appearance or decor of the structure, nor shall any of the landscaping appurtenant to such building or structure be materially changed without the express written authorization of the Declarant or the Board of Trustees.

T. Repair or Removal of Damaged Property. In the event that any improvement, building or structure within the Property shall be damaged or destroyed by any event, casualty or occurrence, whether intentional or unintentional, the Owner thereof shall promptly either (a) immediately commence the repair or rebuilding of said improvement following such damage or destruction and thereafter diligently and continuously complete the same, or (b) raze said improvement, building or structure and remove all rubble and debris from the area within sixty (60) days following such damage or destruction.

U. Waiver of Subrogation. Declarant, each Owner and any other person that owns, leases, operates or controls any portion of the Property as a condition of accepting title and/or possession of a Lot, and the Association, by its acceptance of title to the Common Area, agree for themselves, and their respective successors, heirs, executors, administrators, personal representatives, assigns and lessees, provided said agreement does not invalidate or prejudice any

policy of insurance, that in the event that any building, structure or improvement within the Property or the fixtures or personal property of anyone located therein or thereon are damaged or destroyed by fire or other casualty that is covered by insurance of Declarant, any Owner, or any other Person that owns, leases, operates or controls any portion of the Property, or the Association, the rights, if any, of any of them against the other, or against the employees, agents, licensees or invitees of any of them with respect to such damage or destruction and with respect to any loss resulting therefrom and hereby waived to the extent of the proceeds of insurance covering said damage or destruction.

V. Lights on Exterior of Unit: Security System. All exterior lighting shall be subject to the review and approval of the Declarant or Board of Trustees as part of the architectural review process described in Section S above. Each Owner shall keep and maintain all exterior lighting in good condition and repair and shall replace any burnt-out bulbs or broken lights or light fixtures promptly as required and shall comply with the Rules and Regulations hereafter adopted respecting the location, use and maintenance thereof.

Section 3. Limitation on Association Liability.

By acquiring a Lot or Unit, each Owner acknowledges that it shall use the Common Areas, including, without limitation, the recreational facilities which are a part thereof in accordance with the Rules and Regulations of the Association as amended from time to time and that neither Declarant, the Association, any Trustee or Officer shall be responsible for any loss, cost, damage, or injury incurred or suffered by any person or party as a result of the use or operations of the Common Areas.

ARTICLE IX
SPECIFIC OBLIGATIONS OF OWNERS AND DECLARANT

Section 1. Owner Obligations. Each Owner shall be responsible for the following:

A. To maintain, repair and replace at Owner's expense all portions of the Property damaged or destroyed by Owner's own act or neglect, the act or neglect of any Occupant of Owner's Unit, or the act or neglect of any invitee, licensee or guest of such Owner or Occupant, to the extent such damage or destruction is not covered by insurance maintained by the Association. Notwithstanding the foregoing obligation of the Owner, the Association (or other Owner in respect to Owner's own Unit) may, but shall not be obligated to, repair and replace the property damaged or destroyed by reason of the act or neglect of a Owner, an Occupant, or the invitee, licensee or guest of same, and recover from such Owner the cost of any such repair or replacement. Should the repair or replacement be made by the Association, the cost and expense thereof shall be a lien against the Unit which the Association may assert and collect in the same manner as the Association may assert and collect a lien against a Unit for non-payment of his share of assessments for common expenses. The right herein of the Association to assert and collect upon a lien shall not be exclusive, but shall be in addition to all other rights and remedies available to the Association, in law and in equity for recovery of the cost and expense so incurred.

B. Not to impair any easement without first obtaining the written consent of the Association and of any Person or government entity for whose benefit such easement exists.

C. To perform Owner's responsibilities in such a manner as not to unreasonably disturb other Owners and Occupants.

D. To pay all costs for utility services, (including but not limited to water, electricity, gas, sewage, rubbish and trash disposal) furnished to Owner's Unit unless any or all of such services are provided in common as or through the Association in which case, the Owner shall pay for the same as part of an assessment or directly to the Association upon proper billing.

E. Not to use the Common Area in such manner as to interfere with, restrict or impede the use thereof by others entitled to their use.

F. No Owner or other permitted user shall violate the reasonable Rules and Regulations promulgated by the Association, as the same from time to time may be adopted or amended (or both) by the Association.

G. To maintain, repair and replace and keep in good order, condition and repair at such Owner's sole cost all portions of the Lot and the Unit which are not the responsibility of the Association as provided herein including, but not limited to, (i) all interior walls, floors, ceilings and installations, (ii) the structural portions of all exterior walls (excluding exterior building maintenance and exterior painting, driveway, walkway and patio repair and maintenance which shall be the responsibility of the Association) and roofs, (iii) all glass surfaces, windows and doors, including garage doors and (iv) the foundations, and (v) the heating, ventilating, electrical, plumbing and mechanical systems within or serving the Unit.

H. To maintain, at Owner's cost, homeowners' insurance (including casualty and public liability coverage) on the Unit and its contents on a "all risk" basis (such policy to have an "agreed amount" endorsement to avoid co-insurance penalty) and other types of insurance as may be designated from time to time by Rules and Regulations adopted by the Association and make all repairs and replacements to the Unit caused by fire or other casualty;

I. To reimburse the Association for such costs, if any, in excess of proceeds of insurance, as the Association shall incur for maintaining, repairing or replacing any portion of the Unit or Common Areas which may be damaged or destroyed by the Owner's act or negligence or by the act or negligence of any Occupant of such Owner's Unit or their respective invitees, agents, licensees or guests;

J. Each Owner and Occupant will indemnify Declarant, the Association, and every other Owner and Occupant from and against any and all claims, actions, damages, liability and expenses in connection with death or injury to a person(s) or loss or damage to property occurring in, on, or about, or arising out of the Lot or Unit occupied or owned by such Occupant or Owner and the use of the occupancy thereof, or the conduct of such

Owner or Occupant, or occasioned wholly or in part by any act or omission by such Owner or Occupant and such Owner's or Occupant's agents, contractors, licensees, guests or invitees.

Section 2. Declarant Obligations.

A. Declarant agrees to cause to be constructed on Additional Land, a clubhouse/recreational facility containing the following amenities: gathering room/ballroom, exercise and spinning room, men's and women's locker rooms, bathrooms, card rooms, multi-purpose room, business center, kitchen, reception area, office area and indoor pool (the "Clubhouse"). Construction of the Clubhouse shall be completed on or before June 1, 2000, subject to force majeure at which time the Clubhouse, together with such Additional Land on which it is located shall be conveyed to the Association as Common Area. The Clubhouse and other recreation facilities, if any, shall be operated and managed by the Association. The Association shall promulgate Rules and Regulations for the use and operation of the Clubhouse and other recreational facilities which may include, without limitation, charges for usage by Owners and limitations on the usage of certain areas or rooms when other areas or rooms are in use. For example, when the gathering room/ballroom and kitchen are in use, no other rooms in the Clubhouse may be used except for the exercise room, bathrooms, indoor pool and men's and women's locker rooms.

B. Declarant warrants the structural components and mechanical, electrical, plumbing, heating and air conditioning elements of the Common Area for a period of one year commencing on the date that the Common Area are conveyed to the Association. The warranty covers the full cost of labor and materials for any necessary repair or replacement. The warranty specifically excludes exterior concrete or asphalt streets, driveways, walkways, patios and steps; any condition caused by negligence of the Association or failure to give notice of a defect within a reasonable time; normal wear and tear and normal deterioration; damage due to an act of God (including without limitation, fire, smoke, explosion, water escape, wind hail, lightning, flood and earthquake) and any consequential damages.

**ARTICLE X
GENERAL PROVISIONS**

Section 1. Enforcement.

A. Persons Entitled to Enforce. The Declarant, the Association, or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Declarant, the Association, or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

B. No Jury Trial. **EACH OWNER, BY ACCEPTANCE OF SUCH OWNER'S DEED, AND THE ASSOCIATION, AGREES THAT NEITHER THE OWNER NOR THE**

ASSOCIATION NOR ANY ASSIGNEE, SUCCESSOR, HEIR, OR LEGAL REPRESENTATIVE OF ANY OF THEM (ALL OF WHOM ARE HEREINAFTER REFERRED TO AS THE "PARTIES") SHALL SEEK A JURY TRIAL IN ANY LAWSUIT, PROCEEDING, COUNTERCLAIM, OR ANY OTHER LITIGATION PROCEDURE, WHETHER IN CONTRACT OR IN TORT OR AT LAW OR IN EQUITY, BASED UPON OR ARISING OUT OF THIS DECLARATION, OR THE OBLIGATIONS, BENEFITS, DEALINGS, OR THE RELATIONSHIPS BETWEEN OR AMONG THE ASSOCIATION AND THE OWNERS, THEIR HEIRS, SUCCESSORS AND ASSIGNS, OR ANY OF THEM. NEITHER THE ASSOCIATION NOR ANY OWNER WILL SEEK TO CONSOLIDATE ANY SUCH ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED TO THE FULLEST EXTENT FORMULATED BY LAW.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, all of which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of the Declaration shall run with and bind all of the Property (regardless of when any particular Lot of land is added hereto), for a term of fifty (50) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years each. The Declaration may be amended by an instrument signed by not less than two-thirds (2/3) of the Lot Owners. Any amendment must be recorded. For so long as the Declarant owns any Lot in the Property, any amendment of this Declaration must be approved in writing by the Declarant. At any time a Class B membership exists, the Declaration may be amended by recorded instrument executed solely by Declarant, without the necessity of the approval of joinder of any other Owner or the Association, and an officer of the Association shall execute a certificate indicating the amendment is consistent with the Declaration.

Provided the provisions of this Section 3 are complied with, any provision of this Declaration may be amended upon the approval of the requisite percentage of Lot Owners.

Section 4. Exception.

A. Anything in this Declaration to the contrary notwithstanding, if any amendment to this Declaration is required at any time by an institutional mortgagee, such as a bank, savings and loan association, or insurance company, or any governmental agency, such amendment shall be effective upon recording of such amendment as executed by the Declarant, without the necessity of the approval or joinder of any other Owner or the Association. No such amendment may adversely affect the lien or priority of any institutional first mortgage recorded prior to the amendment.

B. Until the completion of the contemplated improvements on the Property, and closing of all Lot sales, the Declarant specifically reserves the right, without the joinder of any person or other legal entity, to make amendments to or corrections of this Declaration and its exhibits, as may be required by any lender, governmental authority, or as may, in Declarant's sole judgment, be necessary or desirable. This paragraph shall take precedence over any other

provision of this Declaration or its attachments. No such amendment shall impair the security or priority of an institutional first mortgage.

Section 5. Interpretation. Unless the context otherwise requires, the use herein of the singular shall include the plural and vice versa; the use of one gender shall include all genders; and the use of the term "including" shall mean "including without limitation." The headings used herein are for indexing purposes only and shall not be used as a means of interpreting or construing the substantive provisions hereof.

Section 6. Reservations. Declarant hereby reserves the following rights:

Until such time as Declarant has completed all of the contemplated improvements and has sold all of the Lots and Units within the Avenbury Lakes development, the Declarant hereby reserves to the Declarant an easement across all of the Common Area and additions to the Common Area for the construction of water, sewer, storm sewer, drainage, telephone, cable television, water retention, electric facilities, gas facilities and other similar utility and facilities deemed by Declarant necessary for the development and enjoyment of the Property and Common Area and for the conduct of all construction, sales, and marketing activities deemed necessary by the Declarant.

Until such time as Declarant has completed all of the contemplated improvements and have sold all of the Lots and Units within the Avenbury Lakes development, the Declarant hereby reserves the right to alter the boundaries of the Common Area whether or not it has been previously deeded to the Association; provided that such alteration does not substantially, materially, and adversely affect the function and use of the Common Area.

Until such time as Declarant has completed all of the contemplated improvements and has sold all of the Lots and Units within Avenbury Lakes development, the Declarant reserves the right to place a restriction on portions of the Common Area prohibiting the construction of permanent improvements thereon and/or creating so called conservation easements restricting the uses of said Common Areas. Declarant specifically acknowledges and advises all Owners that pursuant to the Subdivider's Agreement, Declarant must create a greenspace area pursuant to a conservation easement of not less than 20 acres, which conservation easement Declarant intends to create in portions of Additional Land which shall become Common Area under the Declaration. Such area shall be kept in its natural state subject to and in accordance with the conservation easement.

The Association and each Owner hereby irrevocably appoints the Declarant as their attorney-in-fact to execute and/or deliver any documents, plats, deeds, or other written matters necessary or convenient to accomplish the addition of Common Area or Property or both, to create easements as deemed necessary by Declarant, and to adjust the boundary or boundaries of the Common Area.

Until such time as Declarant has completed all of the contemplated improvements and have sold all of the Lots and Units within Avenbury Lakes development, neither the Association nor its members, nor the use of the Common Area by the Association and its members shall interfere with the completion of the contemplated improvements or the marketing and sale by Declarant of Lots within the Avenbury Lakes development.

Until the Declarant or their respective assigns have built and sold all of its Lots and Units within the Avenbury Lakes development, Declarant reserves the right to make such use of Lots and the Common Area as may facilitate completion and sale of Lots and Units by the Declarant including, without limitation, office areas in buildings (other than Units) on the Property. Without limiting the foregoing, Declarant shall have the right to maintain or permit others to maintain sales offices, model units, administration offices, and construction offices (which may be construction trailers or temporary or permanent buildings or in the Clubhouse), or any or all of same, on Lots or on the Common Area. Declarant further shall have the right to erect and maintain signs on Lots or on the Common Area, shall have the right to bring prospective purchasers upon the Common Area, shall have the right to use the Common Area for any sales purposes, shall have the right to grant the right of use of the Common Area to any prospects or any other individual or group in Declarant's sole discretion and shall be entitled to conduct all other marketing activities desired by Declarant and the right to permit others to exercise such rights in common with Declarant.

In addition to all other rights of the Declarant, until the Declarant has built and sold all of its Lots and Units within the Avenbury Lakes development, without the express prior written consent of Declarant, no amendment shall be made to this Declaration, and no rules or regulations shall be adopted by the Association, which shall modify the assessments or other charges on Declarant's Lots or which shall restrict, impair, or, in Declarant's sole judgment, materially adversely affect the activities of the Declarant with regard to construction, use of Common Area, and delegation of use of Common Area, and marketing and sale of the remaining Lots in the Avenbury Lakes development, whether or not such activities are enumerated in the preceding paragraphs.

WITNESS WHEREOF, the undersigned, being the Declarant named herein, has executed this Declaration on May 14, 1999.

WITNESSES:

AVENBURY LAKES, INC., an Ohio Corporation

Delia Lannon
(As to Both)

Printed Name: Delia Lannon

By: Joseph R. Scaletta

Name: Joseph R. Scaletta

Its: President

Michael J. DeAnna
(As to Both)

Printed Name: Michael J. DeAnna

By: Leslie D. Scaletta

Name: Leslie D. Scaletta

Its: Secretary

STATE OF OHIO)
COUNTY OF CUYAHOGA) SS.

This instrument was acknowledged before me on this 14th day of May, 1999, by Joseph R. Scaletta and Leslie D. Scaletta on behalf of AVENBURY LAKES, INC., an Ohio Corporation.

Michael J. DeAnna
Notary Public

Michael J. DeAnna
Notary Public, State of Ohio, Cuy. Cty.
My Commission Expires Apr. 21, 2002

This instrument prepared by:

L.V. Lindberg
Baker & Hostetler LLP
3200 National City Center
Cleveland, Ohio 44114

594880 FILM NO 1605

~~668253 FILM NO 1552~~

FIRST AMENDMENT TO AMENDED
AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS
AND RESTRICTIONS
FOR
AVENBURY LAKES

NO TRANSFER NECESSARY

MARK R. STEWART
LORAIN COUNTY AUDITOR

7-12-2000 *JS*
DEPUTY

NO TRANSFER NECESSARY

MARK R. STEWART
LORAIN COUNTY AUDITOR

2-10-2000 *JS*
DEPUTY

Document being re-recorded to add Exhibits A & B

FIRST AMENDMENT TO
AMENDED AND RESTATED DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
AVENBURY LAKES

THIS FIRST AMENDMENT TO AMENDED AND RESTATED DECLARATION is made on the date hereinafter set forth by AVENBURY LAKES INC., an Ohio corporation, hereinafter referred to as "Declarant."

WITNESSETH: That,

WHEREAS, Declarant and the persons listed on Schedule 1 are the owners of certain real property in the City of Avon, Lorain County, Ohio, which is commonly known as Avenbury Lakes Subdivision No. 1 and Avenbury Lakes Phase I, as more particularly described on Exhibit A attached hereto and made a part hereof (collectively, the "Initial Property"), which real property is a part of a larger tract of land owned by Declarant described on Exhibit B attached hereto and made a part hereof;

WHEREAS, Declarant is developing a residential community known as Avenbury Lakes on the land described on Exhibit A;

WHEREAS, Declarant has previously caused a Declaration of Covenants, Conditions and Restrictions for Avenbury Lakes (the "Original Declaration") to be recorded on March 11, 1999 as Document No. 990600461 in the Records of Lorain County, Ohio and an Amended and Restated Declaration of Covenants, Conditions and Restrictions For Avenbury Lakes (the "Amended Declaration") to be recorded on MAY 18, 1999 as Document No. 9990615955 in the Records of Lorain County, Ohio; and

WHEREAS, Declarant wishes to further amend the Amended Declaration and Declarant, as the owner of more than two-thirds (2/3rds) of the Lots and as a Class B Member, has the power and authority to so amend the Amended Declaration.

NOW THEREFORE, Declarant hereby enters into this First Amendment (the "First Amendment") to Amended and Restated Declaration of Covenants, Conditions and Restrictions as follows:

Section 1. Definitions. Capitalized terms in this First Amendment which are not defined herein shall have the meanings given those terms in the Amended Declaration.

Section 2. Amendments. The Amended Declaration shall be amended in the following respects:

(a) Article VI, Section 9 shall be amended by adding the following at the end of said Section 9:

If the Board of Trustees so elects, it may allocate annual assessments and capital assessments, as applicable, based upon the types of Units in the Property so that similar

Units pay equivalent assessments but different types of Units pay different levels of assessments according to the Board of Trustees' determination of the relative costs and benefits allocable to the different Unit types. For example, the Board of Trustees may elect to establish four levels of assessments based upon the currently planned four types of Units: Manor Homes on large single Lots; Paired Villas on Townhouse Lots; Garden Homes on Townhouse Lots; and Garden Homes on large single Lots.

(b) Article VIII, Section R shall be amended in its entirety to read as follows:

"R. Use of Common Area; Landscaping of Lots. All initial landscaping shall be done by Declarant as part of the original development of Lots and Common Areas. Thereafter, all areas of Lots not under permanent structure shall be maintained and landscaped in accordance with a landscaping plan approved by Declarant or the Board of Trustees. Each Owner shall be responsible for watering all lawn areas and landscaping on such Owner's Lot or in the Common Area immediately adjacent to such Owner's Unit, however the Association may grant to a Unit Owner the right to install a sprinkler system in the Common Area immediately adjacent to such Owner's Unit provided the Unit Owner pays for the cost of (i) installing and maintaining the sprinkler system, (ii) restoring the Common Area disturbed by the installation, repair or replacement of such system, and (iii) the water used by such system.

(c) Article X, Section 6, shall be amended by adding the following at the end of the third full paragraph of Section 6:

"As the property within the conservation area is or will be part of the Common Area, the cost and expense incurred by the Association with respect to the use and operation of property and improvements within the conservation area shall be costs and expenses of maintaining, repairing, reconstructing and/or replacing Common Areas and Common Area Improvements under this Declaration."

(d) Article IX, Section V shall be amended in its entirety to read as follows:

"V. Lights on Exterior of Unit: Security System. All exterior lighting shall be subject to the review and approval of the Declarant or Board of Trustees as part of the architectural review process described in Section S above. Each Owner shall keep and maintain all exterior lighting in good condition and repair and shall replace any burnt-out bulbs or broken lights or light fixtures promptly as required and shall comply with the Rules and Regulations hereafter adopted respecting the location, use and maintenance thereof, however the Association may elect to assume responsibility for maintaining exterior lighting and replacement bulbs and fixtures in which event the Association may allocate to each Unit Owner benefited by such maintenance a special charge as reasonably determined by the Association or include such cost as part of the annual assessments generally allocable to all Owners."

3. Ratification. The Amended Declaration, as amended hereby is ratified and affirmed.

WITNESS WHEREOF, the undersigned, being the Declarant named herein, has executed this First Amendment on Dec. 29, 1999.

WITNESSES:

AVENBURY LAKES, INC., an Ohio Corporation

Delia Lannon
(As to Both)

Printed Name: Delia Lannon

By: Joseph R. Scaletta
Name: JOSEPH R. SCALETTA

Its: PRESIDENT

Michael J. DeAnna
(As to Both)

Printed Name: Michael J. DeAnna

By: Leslie D. Scaletta
Name: LESLIE D. SCALETTA

Its: SECRETARY

STATE OF OHIO)
COUNTY OF CUYAHOGA) SS.

This instrument was acknowledged before me on this 29th day of Dec., 1999, by Joseph R. Scaletta and Leslie D. Scaletta on behalf of AVENBURY LAKES, INC., an Ohio Corporation.

Michael J. DeAnna
Notary Public

Michael J. DeAnna

Notary Public, State of Ohio, Cuy. Cty.
My Commission Expires Apr. 21, 2002

This instrument prepared by:

L.V. Lindberg
Baker & Hostetler LLP
3200 National City Center
Cleveland, Ohio 44114

MARY ANN JAMISON
LORAIN COUNTY
RECORDER

2000 FEB 10 P 3:43

RECEIVED FOR RECORD

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24.00 ME
BAH

Box: Miller Title
JKE

EXHIBIT A

Avenbury Lakes Subdivision No. 1

Situated in the City of Avon, County of Lorain and State of Ohio and being part of Original Avon Township Section 22 and known as being Sublot Nos. 1 through 20 of Avenbury Lakes Subdivision No. 1 as shown in Record Plat recorded in Volume 62 Page 68-70 of Maps in the Records of the County Recorder of Lorain County, Ohio.

DESCRIPTION OF AVENBURY LAKES PHASE 1

Situate in the State of Ohio, County of Lorain, City of Avon, and being part of Original Avon Township Section 22, also being part of those lands of Avenbury Lakes, Inc., Doc. No. 98 057-6221, Parcel No. 04-00-022-101-049 and being more particularly described as follows:

Beginning, for reference, at an iron pin in a monument box found marking the intersection of centerlines of Detroit Road and Shakespeare Lane; thence, S $67^{\circ}47'00''$ E, a distance of 70.00 feet to a point; thence, N $22^{\circ}13'00''$ E, a distance of 33.00 feet to a $\frac{1}{2}$ " iron rod set in the north right of way line of Detroit Road and the TRUE POINT OF BEGINNING for this description;


1. thence with the easterly line of Shakespeare Lane and with the arc of a curve to the right having a radius of 30.00 feet, a central angle of $90^{\circ}00'00''$, a length of 47.12 feet, the chord of which bears N $22^{\circ}47'00''$ W, a chord distance of 42.43 feet to a point;
2. thence with said line N $22^{\circ}13'00''$ E, a distance of 70.38 feet to a point;
3. thence with the easterly line of Shakespeare Lane and with the arc of a curve to the left having a radius of 100.00 feet, a central angle of $6^{\circ}45'45''$, a length of 11.80 feet, the chord of which bears N $18^{\circ}50'08''$ E, a chord distance of 11.80 feet to a point;
4. thence with said line N $15^{\circ}27'15''$ E, a distance of 28.97 feet to a point;
5. thence with the easterly line of Shakespeare Lane and with the arc of a curve to the right having a radius of 220.00 feet, a central angle of $31^{\circ}48'43''$, a length of 122.15 feet, the chord of which bears N $31^{\circ}21'37''$ E, a chord distance of 120.59 feet to a point;
6. thence with said line N $47^{\circ}15'58''$ E, a distance of 213.02 feet to a point;
7. thence with the easterly line of Shakespeare Lane and with the arc of a curve to the left having a radius of 280.00 feet, a central angle of $48^{\circ}16'05''$, a length of 235.88 feet, the chord of which bears N $23^{\circ}07'55''$ E, a chord distance of 228.97 feet to a point;
8. thence with said line N $1^{\circ}00'07''$ W, a distance of 669.99 feet to a point;
9. thence with the easterly line of Shakespeare Lane and with the arc of a curve to the right having a radius of 220.00 feet, a central angle of $32^{\circ}37'04''$, a length of 125.24 feet, the chord of which bears N $15^{\circ}18'25''$ E, a chord distance of 123.56 feet to a point;
10. thence with said line N $31^{\circ}36'57''$ E, a distance of 216.61 feet to a point;

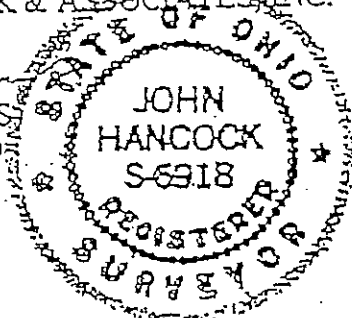
11. thence with the easterly line of Shakespeare Lane and with the arc of a curve to the right having a radius of 30.00 feet, a central angle of $90^{\circ}00'00''$, a length of 47.12 feet, the chord of which bears $N 76^{\circ}36'57'' E$, a chord distance of 42.43 feet to a point in the southerly right of way line of Middleton;
12. thence with said southerly line of Middleton $S 58^{\circ}23'03'' E$, a distance of 262.04 feet to a point;
13. thence through the aforementioned lands of Avenbury Lakes, Inc. $S 31^{\circ}36'57'' W$, a distance of 36.47 feet to a point;
14. thence through said lands, $S 52^{\circ}53'46'' E$, a distance of 172.96 feet to a point;
15. thence through said lands, $S 7^{\circ}53'46'' E$, a distance of 65.71 feet to a point;
16. thence through said lands, $S 17^{\circ}06'14'' W$, a distance of 82.00 feet to a point;
17. thence through said lands, $S 42^{\circ}06'14'' W$, a distance of 65.71 feet to a point;
18. thence through said lands, $S 67^{\circ}06'14'' W$, a distance of 82.00 feet to a point;
19. thence through said lands, $N 70^{\circ}11'13'' W$, a distance of 35.38 feet to a point;
20. thence through said lands, $S 67^{\circ}06'14'' W$, a distance of 82.00 feet to a point;
21. thence through said lands, $S 81^{\circ}50'11'' W$, a distance of 38.89 feet to a point;
22. thence through said lands, $S 0^{\circ}56'15'' E$, a distance of 53.51 feet to a point;
23. thence through said lands, $S 66^{\circ}43'52'' E$, a distance of 46.80 feet to a point;
24. thence through said lands, $S 70^{\circ}00'01'' E$, a distance of 82.00 feet to a point;
25. thence through said lands, $S 67^{\circ}56'37'' E$, a distance of 35.32 feet to a point;
26. thence through said lands, $S 50^{\circ}00'01'' E$, a distance of 82.00 feet to a point;
27. thence through said lands, $S 25^{\circ}00'01'' E$, a distance of 65.71 feet to a point;
28. thence through said lands, Due South, a distance of 82.00 feet to a point;
29. thence through said lands, $S 24^{\circ}59'59'' W$, a distance of 65.71 feet to a point;
30. thence through said lands, $S 50^{\circ}00'00'' W$, a distance of 82.00 feet to a point;

31. thence through said lands, S 67°56'36" W, a distance of 35.32 feet to a point;
32. thence through said lands, S 70°00'00" W, a distance of 82.00 feet to a point;
33. thence through said lands, S 63°10'08" W, a distance of 39.97 feet to a point;
34. thence through said lands, S 1°03'23" E, a distance of 58.32 feet to a point;
35. thence through said lands, S 37°08'34" E, a distance of 95.26 feet to a point;
36. thence through said lands, S 26°05'07" W, a distance of 98.50 feet to a point;
37. thence through said lands, S 17°37'31" W, a distance of 145.48 feet to a point;
38. thence through said lands, S 27°15'57" W, a distance of 348.50 feet to a point in the northerly right of way line of Detroit Road;
39. thence with said right of way line, N 70°44'00" W, a distance of 199.94 feet to a point;
40. thence with said line, N 67°47'00" W, a distance of 165.93 feet to the point of beginning, containing 14.0184 acres of land, more or less. ***

This description was prepared by John Hancock, P.S. No. 6918 from surveys conducted for the plat of Avenbury Lakes Phase 1. Bearings herein are assumed for purposes of indicating angles.

JOHN HANCOCK & ASSOCIATES, INC.


John Hancock, P.S.
February 11, 1999



792phldes

*** Being Further identified as All of Avenbury Lakes Phase 1, as recorded in Plat Volume 62, Pages 71 thru 74 of Lorain County Records.

John Hancock & Associates, inc.
ENGINEERS • SURVEYORS

326 E. Market St. • Sandusky, Ohio 44870 • (419) 625-7838

DESCRIPTION OF LANDS OF AVENBURY LAKES, INC.
SECTION 22, ORIGINAL AVON TOWNSHIP, CITY OF AVON
LORAIN COUNTY, OHIO

Situate in the State of Ohio, County of Lorain, City of Avon, and being part of Section 22 in Original Avon Township, also being all of those lands of Avenbury Lakes, Inc. described in Document Nos. 515845, 515846, and 503964, records of the Lorain County Recorder, and being more particularly described as follows:

Beginning, for reference, at an iron pin found in a monument box marking the intersection of the north line of Section 22 with the centerline of Jaycox Road (60 feet in width); thence, S 89°33'22" W with said section line, a distance of 332.43 feet to a 3/4" iron pipe found at the northwest corner of lands of Daniel P. and Gretchen M. Shimola, O.R. 23, Pg. 655 and the TRUE POINT OF BEGINNING for this description;

thence, S 0°29'21" E with said lands and with lands of William L. and Nancy Dever, D.V. 670, Pg. 187, with lots 1 through 18 of The William H. and Marie A. Pabst Subdivision, P.V. 17, Pg. 15-A, and lands of Tim E. Thole, O.R. 979, Pg. 825, a distance of 3191.07 feet (previously recorded as 3187.60 feet) to a 1/2" iron rod set in the westerly line of said lot 18 and at the northeast corner of lands of Aloys J. Nagel, D.V. 1392, Pg. 328;

thence, N 70°44'00" W with said lands of Nagel and with lands of Melvin A. and Cecilia M. Nagel, D.V. 1366, Pg. 680, a distance of 162.62 feet to a 1/2" iron rod set;

thence, S 0°48'00" E with said lands of Melvin Nagel, a distance of 399.61 feet to a railroad spike set (passing at 367.66 feet a 3/4" iron pipe found) in the centerline of Detroit Road (66 feet in width), said spike bearing N 70°44'00" W, a distance of 516.40 feet from a railroad spike set at the intersection of centerlines of Jaycox Road and Detroit Road;

thence, N 70°44'00" W with the centerline of Detroit Road, a distance of 316.74 feet to a railroad spike set at the southeast corner of lands of John A. and Ellen J. Ralph, D.V. 1325, Pg. 324;

thence, N 0°45'45" W with said lands of Ralph, a distance of 466.65 feet to a 3/4" iron pipe found, passing at 31.95 feet a 3/4" iron pipe found;

thence, N 70°50'44" W with said lands, a distance of 199.98 feet to a 3/4" iron pipe found;

thence, S 0°43'22" E with said lands, a distance of 466.11 feet to a railroad spike set in the centerline of Detroit Road, passing at 439.57 feet a 3/4" iron rod found;

thence, N 70°44'00" W with said centerline, a distance of 816.38 feet to a railroad spike set at a point of deflection;

thence, N 67°47'00" W with said centerline, a distance of 658.56 feet to a railroad spike set, passing at 236.72 feet a railroad spike set at the intersection of centerlines of Shakespeare Lane and Detroit Road;

thence, N 0°58'58" W with lands of Joseph N. and Virginia A. Magyary, O.R. 66, Pg. 189 and O.R. 383, Pg. 687, lands of Irene Russell, et al., O.R. 45, Pg. 387, and lands of Smith Associates, O.R. 850, Pg. 320, a distance of 2832.45 feet (previously recorded as 2839.06 feet) to a 1/2" iron rod set at the northwest corner of Section 22, passing at 32.32 feet a 3/4" iron pipe found;

thence, N 89°33'22" E along the north line of Section 22 and with two parcels of land of Virginia C. Smith, et al., O.R. 1426, Pg. 262 and with lands of Donald A. Brown, Trustee, D.V. 1384, Pg. 183, a distance of 2037.89 feet to the point of beginning, containing 146.3969 acres of land, more or less, subject to all legal highways and easements of record.

This description was prepared by John Hancock, P.S. No. 6918 from a survey conducted in June, 1998. Bearings herein are based on the centerline of Detroit Road west of the west line of Section 22 bearing N 67°47'00" W.

John Hancock & Associates, Inc.

John Hancock, P.S.
September 29, 1998

File 792suroa.wpd

MARY ANN JAMISON
LORAIN COUNTY
RECORDER

2000 JUL 12 P 3:36

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MARY ANN JAMISON
LORAIN COUNTY
RECORDER

1999 MAY 18 P 3:21

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NO TRANSFER NECESSARY
MARK R. STEWART
LORAIN COUNTY AUDITOR
TV 5/10/99
DEPUTY

Box. M. d. l. a. n. e. f. i. t.

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MARY ANN JAMISON
LORAIN COUNTY
RECORDER

2002 JUN 28 P 12:38

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SECOND AMENDMENT TO AMENDED
AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS
AND RESTRICTIONS
FOR
AVENBURY LAKES

SECOND AMENDMENT TO AMENDED
AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS AND
RESTRICTIONS FOR AVENBURY LAKES

THIS SECOND AMENDMENT TO AMENDED AND RESTATED DECLARATION is made on the date hereinafter set forth by AVENBURY LAKES, INC. and Ohio corporation, hereinafter referred to as "Declarant."

WITNESSETH: That,

WHEREAS, Declarant and the person listed on Schedule I are the owners of certain real property in the City of Avon, Lorain County, Ohio which is commonly known as Avenbury Lakes subdivision, as more particularly described on Exhibit A attached hereto and made a part hereof;

WHEREAS, Declarant is developing a residential community known as Avenbury Lakes

WHEREAS, Declarant has previously caused a Declaration of Covenants, Conditions and Restrictions for Avenbury Lakes (the "Original Declaration") recorded on March 11, 1999 as Document No. 990600461 in the Records of Lorain County, Ohio and an Amended and Restated Declaration of Covenants, Conditions and Restrictions for Avenbury Lakes (the "Amended Declaration") recorded on May 18, 1999 as Document No. 19990615955 in the Records of Lorain County, Ohio; and a First Amendment to Amended and Restated Conditions and Restrictions for Avenbury Lakes recorded on February 10, 2000 as Document No. 668253 in the Records of Lorain County, Ohio, and re-recorded on July 12, 2000 as Document No. 694880 in the Records of Lorain County, Ohio, and

WHEREAS, Declarant wishes to further amend the Amended Declaration and Declarant, as the Class B Member, has the power and authority to so amend the Amended Declaration.

NOW THEREFORE, Declarant hereby entered into this Second Amendment ("First Amendment") to Amended and Restated Declaration of Covenants, Conditions and Restrictions as follows:

Amendment. The Amended Declaration shall be further amended as follows:

1. Article III, Section 3(a) shall be amended by adding the following at the end of said Section 3(a); and further provided that the association shall not sell or transfer title to the unit known as 35290 Detroit Road and/or the unit known as 35410 Detroit Road without the prior written consent of the Declarant, or its assignee. In the event that Declarant corporation should be dissolved, pursuant to Chapter 1701.86 Ohio Revised Code, Declarant shall notify the Association in writing of the name and address of the person or entity to whom the Declarant shall have assigned the right to consent or withhold consent to transfer of said units. Declarant or the assignee may, in its sole discretion, consent or withhold consent, or attach

conditions to the consent (including, without limitation payment of consideration to Declarant or its assignee). Revocation or modification of this provision shall require the unanimous vote of all unit owners.

2. The following is to be added to Article VII, Section 2.5. In the event that any owner should increase the area of landscaping on or adjacent to said owner's Lot, the Association may require, as a condition for permitting such enlargement, that said unit owner agree in writing to pay a special charge to cover the additional cost to the Association for maintaining the enlarged area. The Association may impose a like charge on any unit owner who has already enlarged the original area of landscaping prior to the date of this Amendment. Any such special charge shall be payable governed by the provision of Article VII with regard to payment and collection of assessments.

IN WITNESS WHEREOF, the undersigned, being the Declarant named herein, has executed the Second Amendment on June 25, 2002.

WITNESSES:

AVENBURY LAKES, INC., an Ohio Corporation

Delia Lannon
(As to Both)

By: Joseph R. Scaletta
Name: JOSEPH R. SCALETTA
President

Printed name: Delia Lannon

Abigail J. Sear
(As to Both)

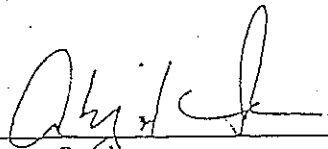
By: Leslie D. Scaletta
Name: LESLIE D. SCALETTA
Secretary

Printed name: Abigail J. Sear

STATE OF OHIO)
) SS:
LORAIN COUNTY)

Before me, a notary public, in and for said county and state; personally appeared the above-named Joseph R. Scaletta and Leslie D. Scaletta on behalf of AVENBURY LAKES, INC., an Ohio Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at
Avon, Ohio this 25th day of June, 2002.


Notary Public Abigail Sear
 Notary Public, State of Ohio
 My Commission Expires 12-25-05

This instrument prepared by:

John J. Duffy & Associates
23823 Lorain Road, Suite 270
North Olmsted, OH 44070
(440) 779-6636

Box: midland
Title

0001

916336#1962

THIRD AMENDMENT TO AMENDED
AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS
AND RESTRICTIONS
FOR
AVENBURY LAKES

THIRD AMENDMENT TO
AMENDED AND RESTATED DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR AVENBURY LAKES

THIS THIRD AMENDMENT TO AMENDED AND RESTATED DECLARATION is made on the date hereinafter set forth by AVENBURY LAKES INC., an Ohio Corporation, hereinafter referred to as "Declarant."

WITNESSETH: That,

WHEREAS, Declarant is the owner of certain real property in the City of Avon, Lorain County, Ohio, which is commonly known as Avenbury Lakes Subdivision, as more particularly described on Exhibit A attached hereto and made a part hereof;

WHEREAS, Declarant is developing residential community known as Avenbury Lakes on the land described on Exhibit A;

WHEREAS, Declarant has previously caused a Declaration of Covenants, Conditions and Restrictions for Avenbury Lakes (the "Original Declaration") to be recorded on March 11, 1999 as Document No. 990600461 in the Records of Lorain County, Ohio and an Amended and Restated Declaration of Covenants, Conditions and Restrictions for Avenbury Lakes (the "Amended Declaration") to be recorded on May 18, 1999 as Document No. 19990615955 in the Records of Lorain County, Ohio; and has twice amended said Amended Declaration, and

WHEREAS, Declarant wishes to further amend the Amended Declaration and Declarant, as a Class B Member, has the power and authority to so amend the Amended Declaration.

NOW, THEREFORE, Declarant hereby enters into this Amendment (the "Amendment") to Amended and Restated Declaration of Covenants, Conditions and Restrictions as follows:

Section 1. Definitions. Capitalized terms in this Amendment which are not defined herein shall have the meanings given those terms in the Amended Declaration.

Section 2. Amendments. The Amended Declaration shall be amended in the following respects:

(a) Article V, Section 4 shall be amended as follows:

The following shall replace the second paragraph of said section:

Each owner shall have the right and duty to provide insurance coverage for damage or destruction of any and all buildings, improvements and personal property located on such owner's lot or which constitute a part of such owner's unit. The owner shall cause the Association to be named as an additional insured - as its interest may appear, on each such policy. Each such policy shall cover the full replacement cost of the unit. Each owner shall also carry liability insurance covering any injury to persons or damage to property occurring on or in respect to the use or enjoyment of such owner's lot or unit. Notwithstanding the foregoing, the Association shall have no obligation, liability or responsibility for injury to persons or damage to property on or with respect to any owner's lot or unit.

(b) Article VIII, Section 2c shall be amended in its entirety to read as follows:

C. Exterior Surfaces and Units. Declarant shall initially determine the exterior color of any Unit. Any change in such exterior color shall be subject to the approval of the Board of Trustees. Except as permitted by the Rules and Regulations of the Board of Trustees, no Owner shall cause or permit anything to be hung or displayed on the outside of windows or outside walls of any Unit, and no awning, canopy, shutter, radio or television antenna, or air conditioning unit be affixed to or placed upon the exterior walls or roof. A satellite dish may be professionally installed either in the three-foot mulch area immediately surrounding a home or on the roof of the home in a location determined by the installation company to achieve the best reception. The satellite dish must not exceed 18" in diameter and if mounted to a post around the home, the height of the dish shall not exceed 56" above the ground. Under no circumstances shall the satellite dish be mounted to any other surface of the home besides the roof. Any damage to the roof or subsequent water damage caused by such installation, maintenance or removal of the satellite dish shall be the responsibility of the homeowner. In the event of a sale of the unit, the satellite dish must be removed and the area restored to its original condition. Should the new owner wish to keep the satellite dish in its present location, the new owner must confirm such arrangements prior to the transfer of title.

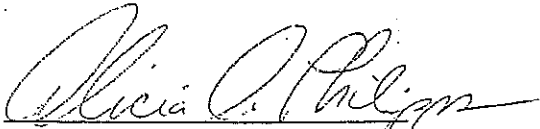
(c) Article IX, Section 1G shall be amended in its entirety to read as follows:

A. To maintain, repair and replace and keep in good order, condition and repair at such Owner's sole cost all portions of the Lot and the Unit which are not the responsibility of the Association as provided herein including, but not limited to, (i) all interior walls, floors, ceilings, and installations, (ii) the structural portions of all exterior walls and roofs (excluding exterior building maintenance, replacement of roof shingles due to deterioration, exterior painting, driveway, walkway and patio repair and maintenance which shall be the responsibility of the Association), (iii) all glass surfaces, windows and doors, including garage doors and (iv) the foundations, and (v) the heating, ventilating, electrical, plumbing and mechanical systems within or serving the Unit.

WITNESS WHEREOF, the undersigned, being the Declarant named herein, has executed this Amendment on May 5th, 2003.

WITNESSES:

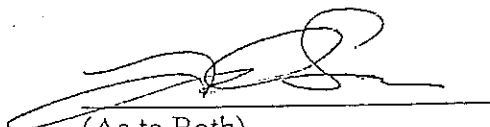
AVENBURY LAKES, INC., an Ohio Corporation



(As to Both)

By: 

ALICIA A. PHILIPPS
Printed Name

Name: JOSEPH R. SCALETTA
Its: PRESIDENT

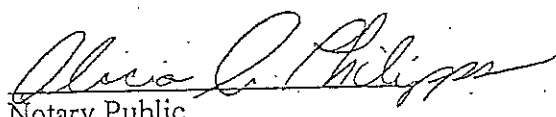

(As to Both)

BY: 
Name: LESLIE D. SCALETTA
Its: Secretary

THOMAS SETTLE
Printed Name

STATE OF OHIO)
)
COUNTY OF CUYAHOGA) SS.

This instrument was acknowledged before me on this 5th day of May, 2003, by Joseph R. Scaletta and Leslie D. Scaletta on behalf of AVENBURY LAKES, INC., AN Ohio Corporation.


Notary Public
ALICIA A. PHILLIPS
NOTARY PUBLIC - STATE OF OHIO
MY COMMISSION EXPIRES MARCH 16, 2008
3-16-08


This instrument prepared by:
John J. Duffy
John J. Duffy & Associates
23823 Lorain Road, #270
North Olmsted, OH 44070
(440) 779-6636

MARY ANN JAMISON
LORAIN COUNTY
RECORDER

2003 MAY 23 A 9:17

RECEIVED FOR RECORD

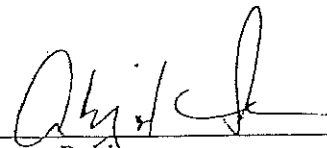
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STATE OF OHIO)
) SS:
LORAIN COUNTY)

Before me, a notary public in and for said county and state; personally appeared the above-named Joseph R. Scaletta and Leslie D. Scaletta on behalf of AVENBURY LAKES, INC., an Ohio Corporation.

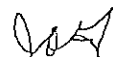
IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at
Avon, Ohio this 25th day of June, 2002.


Notary Public Abigail Sear
 Notary Public, State of Ohio
 My Commission Expires 12-25-05

This instrument prepared by:

John J. Duffy & Associates
23823 Lorain Road, Suite 270
North Olmsted, OH 44070
(440) 779-6636

Box: midland
Title



DESCRIPTION OF LANDS OF AVENBURY LAKES, INC.
SECTION 21 & 22, ORIGINAL AVON TOWNSHIP, CITY OF AVON
LORAIN COUNTY, OHIO

Situate in the State of Ohio, County of Lorain, City of Avon, and being part of Section 21 and 22 in Original Avon Township, also being all those lands of Avenbury Lakes, Inc. described in Document No. 98 057 6221 and 98 065 0632, records of the Lorain County Recorder, and being more particularly described as follows:

Beginning, for reference, at an iron pin found in a monument box marking the intersection of the north line of Section 22 with the centerline of Jaycox Road (60'); thence South $89^{\circ}33'22''$ West with said section line, a distance of 332.43 feet to a $3/4$ " iron pipe found at the northwest corner of lands now or formerly owned by Daniel P. and Gretchin M. Shimola, O.R. 23, Pg. 655 and the TRUE POINT OF BEGINNING for this description;

thence, South $0^{\circ}29'21''$ East with lands now or formerly owned by William L. and Nancy Dever, D.V. 670, Pg. 187, with lots 1 through 18 of the William H. and Marie A. Pabst Subdivision, P.V. 17, Pg. 15-A, and with lands now or formerly owned by Tim E. Thole, O.R. 979, Pg. 825, a distance of 3191.07 feet (previously recorded as 3187.60 feet) to a $1/2$ " iron rod found in the westerly line of said lot 18 and at the northeast corner of lands now or formerly owned by Aloys J. Nagel, D.V. 1392, Pg. 328;

thence, North $70^{\circ}44'00''$ West with said lands of Nagel and with lands now or formerly owned by Melvin A. and Cecilia M. Nagel, D.V. 1366, Pg. 680, a distance of 162.62 feet to a $1/2$ " iron rod found;

thence, South $0^{\circ}48'00''$ East with said lands of Melvin Nagel, a distance of 399.61 feet to a railroad spike found (passing at 367.66 feet a $3/4$ " iron pipe found) in the centerline of Detroit Road (66'), said spike bearing North $70^{\circ}44'00''$ West, a distance of 516.40 feet from a railroad spike found at the intersection of centerlines of Jaycox Road and Detroit Road;

thence, North $70^{\circ}44'00''$ West with the centerline of Detroit Road, a distance of 316.74 feet to a railroad spike found at the southeast corner of lands now or formerly owned by Oral G. and Mary Ann Lyons, Doc# 99 064 8003;

thence, North $0^{\circ}45'45''$ West with said lands of Lyons, a distance of 466.65 feet to a $3/4$ " iron pipe found, passing at 31.95 feet a $3/4$ " iron pipe found;

thence, North $70^{\circ}50'44''$ West with said lands, a distance of 199.98 feet to a $3/4$ " iron pipe found;

thence, South $0^{\circ}43'22''$ East with said lands, a distance of 466.11 feet to a railroad spike set in the centerline of Detroit Road, passing at 439.57 feet a $3/4$ " iron rod found;

thence, North $70^{\circ}44'00''$ West with said centerline, a distance of 816.38 feet to a railroad spike

found at a point of deflection;

thence, North 67°47'00" West with said centerline, a distance of 658.56 feet to a railroad spike set at the southeasterly corner of lands of Joseph N. and Virginia A. Magyary Doc# 2000 690 925, passing at 236.72 feet a railroad spike found at the intersection of centerlines of Shakespeare lane and Detroit Road;

thence, North 00°58'58" West with said lands of Magyary, a distance of 35.90 to a 1/2" iron rod found marking the northerly right of way of Detroit Road;

thence, South 67°47'00" East continuing with said lands, a distance of 9.37 feet to a 1/2" iron rod found;

thence, North 15°33'56" East with said lands, a distance of 176.19 feet to a 1/2" iron rod found;

thence, North 67°47'00" West with said lands, a distance of 63.97 feet to a 1/2" iron rod found in the west line of Section 22;

thence, North 00°58'58" West with said lands and with lands of Irene Russell et al., O.R. 45, Pg 887, and lands of Avon Commons Subdivision, P.V. 64, Pgs. 32-34, a distance of 2664.79 feet, passing a 1/2" iron rod found marking the northwest corner of Section 22 at 2606.15 feet, to a 1/2" iron rod set in the southerly right of way of Interstate 90;

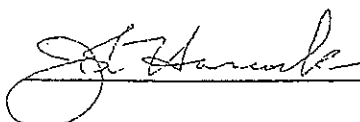
thence, North 89°16'57" East with the southerly right of way of said Interstate 90, a distance of 1214.80 to a 1/2" iron rod set marking the northwesterly corner of lands of Donald A. Brown, D.V. 1384, Pg. 183;

thence, South 0°26'58" West with said westerly line of lands of Brown, a distance of 64.45 feet to a 1/2" iron rod set;

thence, North 89°33'22" East continuing with said lands of Brown, a distance of 824.68 feet to the point of beginning, containing, 147.9643 acres of land, more or less, subject to all legal highways and easements of record.

This description was prepared by John Hancock, P.S. No. 6918 from a survey conducted in May, 2003. Bearings herein are based on the centerline of Detroit Road west of the west line of Section 22 bearing North 67°47'00" West.

John Hancock & Associates, inc.



Date: MAY 2, 2003
File: 792overall



**CORRECTED
FIFTH AMENDMENT TO
AMENDED AND RESTATED DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR AVENBURY LAKES**

THIS FIFTH AMENDMENT TO AMENDED AND RESTATED DECLARATION is made on the date hereinafter set forth by AVENBURY LAKES INC., an Ohio Corporation, hereinafter referred to as "Declarant."

WITNESSETH: That,

WHEREAS, Declarant is the owner of certain real property in the City of Avon, Lorain County, Ohio, which is commonly known as lots in Avenbury Lakes Subdivision and

WHEREAS, Declarant is developing a residential community known as Avenbury Lakes and

* 19990600461A

WHEREAS, Declarant has previously caused a Declaration of Covenants, Conditions and Restrictions for Avenbury Lakes (the "Original Declaration") recorded on March 11, 1999 as Document No. 990600461 in the Records of Lorain County, Ohio and an Amended and Restated Declaration of Covenants, Conditions and Restrictions for Avenbury Lakes (the "Amended Declaration") recorded on May 18, 1999 as Document No. 19990615955 in the Records of Lorain County, Ohio; and a First Amendment to Amended and Restated Conditions and Restrictions for Avenbury Lakes recorded on February 10, 2000 as Document No. 668253 in the Records of Lorain County, Ohio, and re-recorded on July 12, 2000 as Document No. 694880 in the Records of Lorain County, Ohio, and a Second Amendment to Amended and Restated Declaration of Covenants, Conditions and Restrictions for Avenbury Lakes recorded on June 28, 2002 as Document No. 839178 in the Records of Lorain County, Ohio and a Third Amendment to Amended and Restated Declaration of Covenants, Conditions and Restrictions for Avenbury Lakes recorded on May 23, 2003 as Document No. 916336 and a Fourth Amendment to Amended and Restated Declaration of Covenants, Conditions and Restrictions for Avenbury Lakes recorded on July 19, 2004 as Document No. 015958 and a Fourth Amendment to Amended and Restated Declaration of Covenants, Conditions and Restrictions for Avenbury Lakes recorded on August 1, 2005 as Document No. 088326.

WHEREAS, Declarant wishes to further amend the Amended Declaration and Declarant has the power and authority to so amend the Amended Declaration pursuant to Article X, Section 4B of the Declaration.

NOW, THEREFORE, Declarant hereby enters into this Fifth Amendment to Amended and Restated Declaration of Covenants, Conditions and Restrictions as follows:

Amendment. The Amended Declaration shall be further amended as follows:

1. Article III, Section 4 shall be replaced by the following:

Section 4. Encroachments. In the event that by reason of the construction, repair, restoration, settlement or shifting of any building or improvement or by reason of the partial or total destruction and rebuilding of any building or improvement, any part of the Common Area encroaches or shall hereafter encroach upon any part of a Unit, or any part of a Unit encroaches or shall hereafter encroach upon any part of the Common Area, or, if by reason of the design or construction of utility systems, any mains, pipes, ducts, or conduits serving any Unit or Common Area encroaches or shall hereafter encroach upon any other Unit, valid easements for the maintenance of such encroachment and for the use of such adjoining space are hereby established and shall exist for the benefit of such Unit or the Common Area as applicable, provided, however, that in no event shall a valid easement for any encroachment be created in favor of any Unit or in favor of the Common Area if such encroachment occurred due to the willful or negligent conduct of any Owner, other than the Declarant. The easement provided in this section is expressly intended to include encroachments onto the Common Area by patios and other improvements constructed or to be constructed by the Declarant. All easements provided in this section shall run with the land.

WITNESS WHEREOF, the undersigned, being the Declarant named herein, has executed the Fifth Amendment on December ____, 2005.

This Amendment replaces the Fourth Amendment recorded on August 1, 2005 at No. 088326 #2233, mistakenly identified as the Fourth Amendment.

WITNESSES:

AVENBURY LAKES, INC.,
an Ohio Corporation

By: Joseph R. Scaletta

(As to Both)

Name: JOSEPH R. SCALETTA
Its: PRESIDENT

Printed Name

BY: Leslie D. Scaletta

Name: LESLIE D. SCALETTA
Its: Secretary

(As to Both)


Printed Name

125177

STATE OF OHIO)
) ss.
COUNTY OF LORAIN)

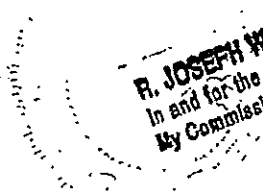
On this 29th day of December, 2005, before me, a Notary Public in and for said County and State, appeared the above named corporation AVENBURY LAKES, INC., by its President, Joseph R. Scaletta, and by its Secretary, Leslie D. Scaletta who acknowledged that they did sign the foregoing instrument and that the same is the free act and deed of said corporation and their free act and deed personally and as such officers.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official.



Notary Public

My commission
Expires 06/19/07


R. JOSEPH WAGNER, Notary Public
In and for the State of Ohio
My Commission Expires 06-19-107

Prepared by:
John J. Duffy & Associates
Attorneys at Law
23823 Lorain Road - #270
North Olmsted, OH 44070
(440) 779-6636

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JUDITH M. NEDWICK
LORAIN COUNTY
RECORDER

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BOX: LORAIN COUNTY TITLE

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AMENDMENT
TO
THE BY-LAWS OF THE
AVENBURY LAKES HOMEOWNERS ASSOCIATION

This amendment to the By-Laws of the Avenbury Lakes Homeowners Association, an Ohio non-profit corporation, being Exhibit C of the Restated Declaration of Covenants, Conditions and Restrictions for Avenbury Lakes.

WITNESSETH THAT,

WHEREAS, the Declarant is the sole Class B member of the Avenbury Lakes Homeowners Association, and

WHEREAS, the undersigned constitute a majority of members of the Board of Trustees of the Avenbury Lakes Homeowners Association and,

WHEREAS, the Board has voted to amend the By-Laws of said association,

NOW, THEREFORE, the undersigned hereby amend the By-Laws of the Avenbury Lakes Homeowners Association as follows:

1. Add the following to Article V Section after 5.3.2

Section 5.3.3

The term of each Trustee elected in 2004 shall begin on July 1, 2004.

Thereafter, the term of each Trustee shall begin upon his or her election and end when an election is held for said Trustee's position at the expiration of the term, as set forth in Section 5.3.2.

2. Replace the second paragraph of Article XI, Section 11.1 with the following:

The first Annual Meeting of the Class A Members shall be held on a date selected by the Class B Member, which is not later than three (3) months after the termination of the Class B Membership. Thereafter, the regular Annual Meeting of the Members shall be held in April of each ensuing year at a time, date and location determined by the Board of Trustees.

IN WITNESS WHEREOF, the undersigned have set their hands to this Amendment this 2nd day of May, 2004.

WITNESSES

Delia A. Lannon
Delia A. Lannon

By Joseph R. Scaletta
Joseph R. Scaletta, President

R. Joseph Wagner
R. Joseph Wagner

By Leslie D. Scaletta
Leslie D. Scaletta, Secretary

STATE OF OHIO)
): SS
LORAIN COUNTY)

Before me, a notary public in and for said county and state, personally appeared the above named Joseph R. Scaletta and Leslie D. Scaletta, personally known to me, and acknowledged that each did sign the foregoing Amendment as their free and voluntary act.

IN WITNESS WHEREOF, I have set my hand and notorial seal at Avon, Ohio this 2nd day of May, 2004.

R. JOSEPH WAGNER, Notary Public
in and for the State of Ohio
My Commission Expires 06/20/07

R. Joseph Wagner

This Instrument Prepared by:
John J. Duffy
John J. Duffy & Associates
23823 Lorain Road, #270
North Olmsted, Ohio 44070
(440) 779-6636


JUDICIAL COUNCIL
LORAIN COUNTY
RECORDED

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Doc ID: 015027380014 Type: OFF
Kind: DECLARATION
Recorded: 12/15/2008 at 01:08:36 PM
Fee Amt: \$128.00 Page 1 of 14
Lorain County, Ohio
Judith M Nedwlok County Recorder
File 2008-0278102

AMENDMENTS TO THE
AMENDED AND RESTATED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
AVENBURY LAKES

PLEASE CROSS MARGINAL REFERENCE WITH THE AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
AVENBURY LAKES RECORDED AT INSTRUMENT NO. 19990615955, OF THE
LORAIN COUNTY RECORDS ON MAY 18, 1999.

AMENDMENTS TO THE
AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR AVENBURY LAKES

WHEREAS, the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Avenbury Lakes (the "Declaration") was recorded at Lorain County Records Instrument No. 19990615955, and

WHEREAS, the Avenbury Lakes Homeowners Association, Inc. (the "Association") is a corporation consisting of all Owners in Avenbury Lakes and as such is the representative of all Owners, and

WHEREAS, Article X, Section 3 of said Declaration authorizes amendments to the Declaration, and

WHEREAS, Owners representing not less than 2/3rds of the Association's voting power have executed instruments in writing setting forth specifically the matters to be modified (the "Amendments"), and

WHEREAS, the Association has in its records the signed, written consents to Amendment A signed by Owners representing 88.06% of the Association's voting power as of September 18, 2008, and

WHEREAS, the Association has in its records the power of attorney signed by Owners representing 88.06% of the Association's voting power authorizing the Association's officers to execute Amendment A on their behalf, and

WHEREAS, the Association has in its records the signed, written consents to Amendment B signed by Owners representing 67.04% of the Association's voting power as of September 18, 2008, and

WHEREAS, the Association has in its records the power of attorney signed by Owners representing 67.04% of the Association's voting power authorizing the Association's officers to execute Amendment B on their behalf, and

WHEREAS, the Association has in its records the signed, written consents to Amendment C signed by Owners representing 83.52% of the Association's voting power as of September 18, 2008, and

WHEREAS, the Association has in its records the power of attorney signed by Owners representing 83.52% of the Association's voting power authorizing the Association's officers to execute Amendment C on their behalf, and

WHEREAS, the Association has in its records the signed, written consents to the Maintenance Amendment signed by Owners representing 67.32% of the Association's voting power as of November 1, 2008, and

WHEREAS, the Association has in its records the power of attorney signed by Owners representing 67.32% of the Association's voting power authorizing the Association's officers to execute the Maintenance Amendment on their behalf, and

WHEREAS, the proceedings necessary to amend the Declaration as required by the Declaration have in all respects been complied with.

NOW THEREFORE, the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Avenbury Lakes is hereby amended by the following:

AMENDMENT A

INSERT a new DECLARATION ARTICLE VIII, SECTION 2, PARAGRAPH W entitled, "Occupancy Restriction." Said new addition, to be added on Page 20 of the Declaration, as recorded at Lorain County Records, Instrument No. 19990615955, is as follows:

W. Occupancy Restriction. A person who is classified a Tier III or Tier II sexual offender/child-victim offender, or any future equivalent classification, and for whom the County Sheriff or other government entity must provide community notification of the sex offender's residence is prohibited from residing in or occupying a Lot or remaining in or on the Property for any length of time. The classification of a sexual offender/child-victim offender and determination of whether notice is required is made by a court of law pursuant to the Ohio Sex Offenders Act, as may be amended and/or renamed from time to time, or similar statute from another jurisdiction. The Association shall not, however, be liable to any Owner or Occupant, or anyone visiting any Owner or the Association, as a result of the Association's alleged failure, whether negligent, intentional, or otherwise, to enforce the provisions of this restriction.

Any conflict between this provision and any other provisions of the Declaration and Bylaws shall be interpreted in favor of this restriction on the occupancy of Lots. Upon the recording of this amendment, only Owners of record at the time of such filing shall have standing to contest the validity of the amendment, whether on procedural, substantive or any other grounds, provided further that any such challenge shall be brought in the court of common pleas within one year of the recording of the amendment.

AMENDMENT B

INSERT a new DECLARATION ARTICLE VIII, SECTION 2, PARAGRAPH X entitled, "Flags." Said new addition, to be added on Page 20 of the Declaration, as recorded at Lorain County Records, Instrument No. 19990615955, is as follows:

X. Flags. One standard-sized flag (not to exceed 3' x 5') of the United States of America, made of nylon, polyester, or cotton, is permitted to be displayed within the Lot on a pole attached to the front exterior of the home. The location of the flag must not interfere with the use of any walkways or obstruct the view of any driveways for motorists or pedestrians. The installation of a free-standing flag pole in the ground is prohibited. The flag must immediately be removed and/or replaced once it is worn, faded, and/or tattered.

Any conflict between this provision and any other provisions of the Declaration and Bylaws shall be interpreted in favor of this restriction on the display of flags. Upon the recording of this amendment, only Owners of record at the time of such filing shall have standing to contest the validity of the amendment, whether on procedural, substantive or any other grounds, provided further that any such challenge shall be brought in the court of common pleas within one year of the recording of the amendment.

AMENDMENT C

DELETE DECLARATION ARTICLE VIII, SECTION 2, PARAGRAPH D entitled, "Animals and Pets," in its entirety. Said deletion to be taken from Page 17 of the Declaration, as recorded at Lorain County Records, Instrument No. 19990615955.

INSERT a new DECLARATION ARTICLE VIII, SECTION 2, PARAGRAPH D entitled, "Animals and Pets." Said new addition, to be added on Page 17 of the Declaration, as recorded at Lorain County Records, Instrument No. 19990615955, is as follows:

D. Animals and Pets. No animals, birds, rabbits, livestock, fowl, reptiles or poultry of any kind shall be raised, bred, kept, or maintained for any commercial purpose in any Lot or in the Property, except that dogs (excluding, however, any dog of vicious breed as further described below), cats, domestic caged (including bird cages and fish tanks), or other household pets may be kept in Units, subject to Rules and Regulations adopted by the Board of Directors, including limitations on the number and size of pets, provided, however, that an Owner shall in all events be permitted to keep for its lifetime a pet he or she was permitted to keep under the Rules and Regulations in effect when said Owner acquired the pet; and provided further that any such pet causing or creating a nuisance or unreasonable disturbance

shall be permanently removed from the Property subject to these restrictions upon three (3) days' written notice from the Board of Directors; and provided further that they are not permitted in any area of the Property other than the Units unless they are on a hand-held leash, being carried, or otherwise transported and they are permitted only on those portions of the Property as shall have been designated for them by the Board; and provided further all waste from the pet must be removed by the Owner.

The term "household pet" does not include "exotic" animals as defined by the Board from time to time, including, but not limited to any snakes, other reptiles, exotic breeds, or wild hybrids. No Doberman, Rottweiler, Presa Canario, any dog commonly known as a pit bull, and any mixed breeds of the foregoing (collectively "Prohibited Dogs") may be kept, harbored, or permitted to remain on any part of the Property for any length of time. Any "exotic" animal or Prohibited Dog kept on the Property prior to the recording of this amendment shall be "grandfathered" and permitted to remain on the Property until its demise or relocation off the Property, at which time it may not be replaced. If an animal is considered "exotic" or a Prohibited Dog as determined by the Board, the Owner must obtain and maintain liability insurance of at least \$500,000.00 per occurrence and provide proof of such insurance to the Association within thirty (30) days of any written request from the Board.

A "vicious dog" means a dog that: (1) caused injury, including death, to any person or (2) has killed another dog. Upon the Board's determination that a given dog is a vicious dog, such dog is prohibited from being kept, harbored, or permitted to remain on any part of the Property for any length of time.

Any conflict between this provision and any other provisions of the Declaration and Bylaws shall be interpreted in favor of this restriction on pets. Upon the recording of this amendment, only Owners of record at the time of such filing shall have standing to contest the validity of the amendment, whether on procedural, substantive or any other grounds, provided further that any such challenge shall be brought in the court of common pleas within one year of the recording of the amendment.

MAINTENANCE AMENDMENT

DELETE the second paragraph of DECLARATION ARTICLE V, SECTION 1 in its entirety. Said deletion is to be made from Pages 9-10 of the Declaration, as recorded at Lorain County Records, Instrument No. 19990615955...

INSERT a new DECLARATION ARTICLE V, SECTION 10, entitled "Association Maintenance of Lots/Units." Said new addition, to be added on Page 12 of the Declaration, as recorded at Lorain County Records, Instrument No. 19990615955, is as follows:

Section 10. Association Maintenance of Lots/Units. The individual Owner of a Lot with a Unit is responsible to maintain, repair, replace, and insure all portions of the Owner's property subject to the conditions and restrictions contained in the Declaration. To, however, provide consistency in the exterior aesthetics of the community, the responsibility to reasonably maintain, repair, and/or replace some portions of the Lot or Unit is shifted to the Association. The following is the complete list of items the Association is responsible to reasonably maintain, repair, and replace, as the Board determines is needed, on the individual Lots and Units:

A. The non-structural portions of the Unit roofs. This consists of the shingles, underlayment, ridge, soffit, or other roof vents, ice guard, flashing, and roof decking material. The portion of any pipe, vent, or stack extending from the roof deck outward, including, without limitation, the cleaning or removal of any dirt, debris, animal, or other material or item from inside any pipe, vent, or stack, and the fireplace chimney pipe are not included in the Association's responsibility. The Association is also responsible for repairs to the non-structural portions of the roofing system that the Board determines are in order, but not insulation that may be needed in the attic or elsewhere in a Unit.

B. The gutters and downspouts, including gutter cleaning, and the fascia board to which a gutter may be attached. An Owner may, with the Board's prior written permission, install a gutter guard type product. The Owner, and any future owner of the Unit, is responsible to maintain, repair, and replace the gutter guard, and is responsible for any needed cleaning of the gutter itself for as long as the gutter guard remains in place. When the Association replaces a gutter, the Association is not responsible or liable for the gutter guard and is not required to re-install the gutter guard on a newly installed gutter.

C. The non-structural portions of the exterior siding/walls of the Unit. This consists of the siding, house-wrap type material, trim boards, soffits, and plywood or other material located between the siding and structural framing of the Unit, as well as caulking and/or flashing around windows and doors. The Association is also responsible for repairs to the non-structural portions of the exterior siding/wall system that the Board determines are in order. Any insulation located in an exterior or perimeter wall (or that the Owner decides needs to be added) is the Owner's responsibility. The Association is not responsible for any other vent or pipe that may protrude from a wall, including foundation wall, nor the cleaning of any dryer vent or other vent or pipe.

D. Painting of all exterior, exposed wood surfaces, including frames, molding, fascia boards, and soffits, the portion of basement or foundation walls extending above the ground and that was originally painted by the builder of the Unit, and any wood threshold and kick plate at the bottom of the exterior door(s) of a Unit.

E. The kick plate under any exterior door leading into a Unit as well as the wood (or other material) block on which exterior electrical outlets are mounted (the outlet itself is the Owner's responsibility).

F. All footer drains, French drains, and other storm water drainage lines located outside the foundation of the Unit. The Association is also responsible for any grading or similar issues that may be needed to divert surface water from the Unit foundation. The Association is not responsible for the waterproofing of any foundation wall.

G. The siding on any chimney chase and any structural repairs needed to the chase but not the flue located in a chimney chase.

H. Concrete patios, steps, and porches subject to the following:

1. Any steps leading to a porch stoop and any post situated on a front porch connecting to the roof area above as well as the underside of any front porch roof area and the porch floor and foundation, except snow removal from and the routine cleaning of the porch floor, are Association responsibility.

2. The Association is not responsible for decks and not responsible for any steps, whether made of wood, concrete, or other material, leading/serving a rear patio, deck, or enclosed porch or sunroom.

3. If a rear patio is enclosed in any fashion, which may only be done with the Board's prior written consent, the Owner is then responsible for the patio and siding located within the enclosed area. The Association is only responsible for the shingles and exterior siding of any three season, sunroom, or similar structure connected to the Unit, whether installed by the Declarant or Owner (with the Board's prior written consent). If an Owner installs a rear or side patio outside an enclosed patio, with the Board's prior written consent, that is substantially similar to the original design standards set by Declarant, as the Board may update from time-to-time, the Owner is then responsible for the new patio.

4. The Declarant installed railings on front patios/stoops of all "American Star" and "Astor"-style Units. The Association is responsible for these front railings and the front railing on any "Nivea" and "Trillium"-style Unit installed during the original construction of the Unit. Any front or side railing not installed during the original construction of a given Unit is the Owner's responsibility.

5. If an Owner covers, in whole or substantially in part, the Owner's patio or porch with pavers, tile, carpeting, or any other material, the Owner (and all future owners of Owner's Unit) is then responsible for all future maintenance, repair, and replacement of the patio or porch, including, without limitation the covering material and the concrete itself even after the removal of the covering material.

I. To the extent not the responsibility of the respective utility company, the part of any gas, electric, sanitary, or water line located outside of the walls or foundation of the Unit with the following exceptions:

1. The gas, electric, and other utility meter serving a Unit is the Owner's responsibility. The Association is, though, responsible for the wood or other material on which a meter may be mounted on the outside of a Unit.

2. The portion of any utility line leading from the meter into the Unit is also the Owner's responsibility. This includes the portion of any electric or gas line from the meter serving the Unit that runs underneath a neighboring Unit before entering the Unit. When, if ever, the portion of the electric or gas line running underneath a neighboring Unit needs to be replaced, the Association shall permit the Owner to, if needed and in accordance with applicable building code, install a new line in the land outside/around the neighboring Unit, provided the Owner repairs and restores all landscaping and other property or items removed or damaged during the installation of the new electric or gas line.

3. Any outside gas lines for an outdoor grill as well as any other outside utility line installed by an Owner (or a former Owner of the Unit), provided that no such line is to be installed without the Board's prior written permission, is the Owner's responsibility.

4. The Owner is responsible for having any blockage or obstruction in a sanitary sewer line, not arising from natural conditions, such as tree roots, or a break in the line, serving only the Owner's Unit cleared.

J. The street numbers located on the exterior of the Unit, whether on the front door or elsewhere on the Unit.

K. Mailboxes. This includes the post, the numbers on the mailboxes, and painting of the mailbox posts. The Owner, not the Association is responsible, for the brick pavers installed around the bottom of the mailbox posts.

L. The landscaping, including grass, on all Lots subject to the following:

1. In the foundation bed outside a Unit, the Owner is responsible for the replacement of any plantings as needed, provided the Owner must obtain the Board's prior written consent to install any new or replacement shrub, bush, or other planting in the foundation bed. The "foundation bed" is defined as the bed immediately adjacent to the outside of a Unit and extending up to, approximately, three feet from the foundation. As the landscaping beds around each Unit are not identical, the Board is empowered to reasonably define the outside boundary of any foundation bed, which may, within reason, be beyond three feet, on a case-by-case basis, provided that once so defined by the Board, it must be consistently followed in the future.

2. The Board alone determines if and when a given shrub, bush, tree, or other planting located outside a foundation bed is to be replaced, though any dead material is to be removed in a timely manner.

3. Any shrub, bush, tree, or other planting installed by an Owner, no matter where located, which can only be done with the Board's prior written consent, will be maintained by the Association in accordance with the Association's standard landscaping practices and procedures as set by the Board.

M. Pest control in the foundation beds and elsewhere on the Property other than the Units. The Owner is responsible for any pest control from the exterior surface of the Unit, including in or on any pipe, vent, chimney, stack, or extension attached to the Unit, inwards.

INSERT a new DECLARATION ARTICLE V, SECTION 11, entitled "Interpretation and Application of Association Maintenance Responsibilities of Lots/Units." Said new addition, to be added on Page 12 of the Declaration, as recorded at Lorain County Records, Instrument No. 19990615955, is as follows:

Section 11. Interpretation and Application of Association Maintenance Responsibilities of Lots/Units. The Association's responsibility for the maintenance, repair, and replacement of portions of the Lots and Units as set forth in Article V, Section 10, is further subject to the following:

A. The list of Association responsibilities in Article V, Section 10 is intended to be a comprehensive list of Association responsibilities relative to the Lots and Units. When, however, there is division of responsibility with respect to a single structure there will be, from time to time, some question or issue as to Association versus Owner responsibility. In the event of any uncertainty or good faith dispute as to whether the Association or an individual Owner is responsible for the maintenance, repair, or replacement of a given item, the Board's decision, exercised in good faith, as to whether a particular maintenance, repair, or replacement to be made is the Association's or individual Owner's responsibility shall be final, provided that such determination shall in the future be consistently followed for all Lots and Units.

B. If any maintenance, repair, or replacement involves components of the Lot and/or Unit that are part Association responsibility and part Owner responsibility, the cost of the work will be proportionately shared. The Association shall have first right and option to perform any work that involves both Association and Owner responsibility. If the Board decides to let the Owner undertake the work, the Association will reimburse the Owner for its portion of the work upon completion of the same and the Association's review and approval of the work; provided, however, that the Association is not liable to reimburse an Owner for any work done that includes an item of Association responsibility unless the Owner has first obtained the Association's written consent before commencing the work. Each Owner has a duty to promptly report to the Association the need for any maintenance or repair of the Owner's Lot or Unit that the Association is to maintain or repair.

C. In undertaking any maintenance, repair, or replacement of any part of a Lot or Unit in accordance with the above, the Board can decide to use or install new or alternative materials, such as, for example, composite wood material, as the Board reasonably determines is of equal or better quality than the material being replaced.

D. The list of Association responsibilities in Article V, Section 10 does not impose any contractual liability on the Association for the maintenance, repair, or replacement of any portion of the Lots or Units. Instead, the Association's liability is limited to damages resulting or arising from its negligence or intentional acts.

E. The list of Association responsibilities in Article V, Section 10 are further subject to the other provisions of the Declaration, including but not limited to, the Owner's insurance obligations and the Owner's liability for damage caused by the Owner's act or neglect. The Board may adopt such policies and/or procedures as the Board deems necessary for responding to and handling of exterior building repairs and replacements that are or may be the Owner's responsibility due to insurance coverage or other reasons as provided for in the Declaration.

DELETE DECLARATION ARTICLE IX, SECTION 1G in its entirety. Said deletion is to be made from Page 21 of the Declaration, as recorded at Lorain County Records, Instrument No. 19990615955. and as amended in the Third Amendment to the Declaration at Section 2(c), as recorded at Lorain County Records, Instrument No. 916336#1962.

INSERT a new DECLARATION ARTICLE IX, SECTION 1G. Said addition, to be made on Page 21 of the Declaration as recorded at Lorain County Records, Instrument No. 19990615955. and as amended in the Third Amendment to the Declaration at Section 2(c), as recorded at Lorain County Records, Instrument No. 916336#1962, is as follows:

G. To maintain, repair, and replace and keep in good order, condition, and repair, at such Owner's sole risk and expense, all portions of the Owner's Lot and the Unit, which are not the Association's responsibility as provided for in Declaration Article V, Section 10. This includes, without limitation, the following:

1. All walls, floors, ceilings, and installations and improvements inside the Unit.

2. All structural portions and components of the exterior walls and roof. This includes without limitation, framing, joists and stringers, and roof trusses.

3. All windows and doors, including screen doors, storm doors, and garage doors. This includes, without limitation, all window and door glass and screens, frames, sashes, jambs, and thresholds, as well as any hardware mounted to the exterior of any window or door. The Owner is also responsible for any solar tube, sun tunnel, or similar installation on the Unit, provided, however, that at the time the Board determines the Unit roof is to be replaced, the Association can require the replacement of any solar tube, sun tunnel, or similar installation at the Owner's expense as part of the roof replacement project.

4. The foundation. This includes, without limitation, footers, and foundation walls and floors forming a basement area, if any. The Owner is also responsible for any settlement or other movement of the foundation/Unit, waterproofing of the foundation, the repair of any chipping or other exterior deterioration of a foundation wall, and any glass block window that maybe located in a foundation wall. The Owner is also responsible for any radon mitigation system that may be needed, including any exterior pipe that is installed for the venting of radon, provided, however, that any such system may only be installed with the Board's prior written consent. The Owner is also responsible for any sump pump located in or underneath the Unit, including the discharge pipe for such pump up to the point of its connection to an outside storm drainage line.

5. The heating, ventilating, electrical, plumbing, and mechanical systems and components that serve the Unit, whether located inside or outside the Unit. This includes, without limitation:

- i. the pad on which the air-conditioner is located;
- ii. any duct work located underneath the floor of a Unit, including responsibility for any water that may leak or seep into such duct work;
- iii. any exterior electrical outlet;
- iv. any exterior water spigot except that the Association will provide Fall winterization and Spring reactivation service of any external water spigot the Association finds is needed due to the underground depth of the water line leading to the spigot;
- v. any chimney pipe and flue extending outside the Unit;
- vi. any vent or pipe that may protrude from a wall, including foundation wall, including the cleaning of any dryer vent or other vent or pipe and any vent cover;

vii. the cleaning of any debris, animals, or other items from any vent, pipe, stack, or similar item extending outside the Unit;

viii. exterior light fixtures, whether on a post or mounted to the Unit (as further addressed in Article IX, Section V in the First Amendment to the Amended and Restated Declaration); and

ix. all interior and exterior components of any door bell system.

6. Any exterior flag holder, including any damage to the exterior siding or other part of the Unit that may be caused by the use, installation, or replacement of a flag holder, provided that flag holders may only be installed in accordance with the Board's Rules or the Board's prior written permission.

7. Privacy fences, provided that such fences may only be installed in accordance with the Board's Rules or the Board's prior written permission.

8. Sprinkler system, as further provided for in Article III, Section R in the First Amendment to the Amended and Restated Declaration.

9. All parts and components of any installation, improvement, or addition made to or mounted on the exterior of the Unit by the Owner, including any prior Owner of the Unit, including, without limitation, any damage to the exterior of the Unit that may arise or be caused by any such installation, improvement, or addition at anytime in the future. The Owner shall also be responsible for all cost and expense the Association may incur in removing any installation, improvement, or addition as necessary for the Association to perform and complete work on or to any item for which the Association is responsible. The Association is not responsible for any damage caused to any installation, improvement, or addition arising from any maintenance, repair, or replacement work the Association undertakes in accordance with Article V, Section IX, nor for re-installing any installation, improvement, or addition that is removed for the Association to perform and complete work on or to any item for which the Association is responsible.

Any conflict between this provision and any other provisions of the Declaration and Bylaws shall be interpreted in favor of the above provisions on property maintenance, repair, and replacement responsibility of the Lots and Units. Upon the recording of this amendment, only Owners of record at the time of such filing shall have standing to contest the validity of the amendment, whether on procedural, substantive, or any other grounds, provided further that any such challenge shall be brought in the court of common pleas within one year of the recording of the amendment.

IN WITNESS WHEREOF, the said Avenbury Lakes Homeowners Association, Inc. has caused the execution of this instrument this 17th day of November, 2008.

AVENBURY LAKES HOMEOWNERS ASSOCIATION, INC.

By: Jim Mutchler, President
JIM MUTCHLER, its President

By: Bill Carpenter
BILL CARPENTER, its Secretary

STATE OF OHIO.

COUNTY OF Lorain }

SS

BEFORE ME, a Notary Public, in and for said County, personally appeared the above named Avenbury Lakes Homeowners Association, Inc., by its President and its Secretary, who acknowledged that they did sign the foregoing instrument, on Page 14 of 14, and that the same is the free act and deed of said corporation and the free act and deed of each of them personally and as such officers.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal in Avon, Ohio, this 17th day of November, 2008.

Carole L. Treptow
NOTARY PUBLIC

My commission expires Sept. 19, 2011

This instrument prepared by:
KAMAN & CUSIMANO, LLC., Attorneys at Law
2000 Terminal Tower
50 Public Square
Cleveland, Ohio 44113
(216) 696-0650

* Carole L. Treptow
PER KC

BYLAWS
OF
AVENBURY LAKES HOMEOWNERS
ASSOCIATION, INC.

TABLE OF CONTENTS

	<u>PAGE</u>
ARTICLE I ASSOCIATION.....	1
Section 1.1. Office	1
Section 1.2. Fiscal Year	1
ARTICLE II DEFINITIONS.....	1
Section 2.1. Definition	1
ARTICLE III MEMBERSHIP	1
Section 3.1. Membership	1
ARTICLE IV VOTING RIGHTS.....	1
Section 4.1. Voting Rights	1
ARTICLE V BOARD OF TRUSTEES.....	2
Section 5.1. Selection; Terms of Office	2
Section 5.2. Designation of Trustees by the Class B Member.....	2
Section 5.3. Election of Trustees by the Class A Members.....	2
Section 5.4. Vacancies	2
ARTICLE VI ELECTION PROCEDURE	3
Section 6.1. Election of Trustees	3
Section 6.2. Nominations Committee	3
Section 6.3. Ballots	3
Section 6.4. Voting Procedures.....	3
ARTICLE VII POWERS AND DUTIES OF THE BOARD OF TRUSTEES.....	4
Section 7.1. Powers	4
Section 7.2. Trustee Absences	4
Section 7.3. Duties	4
ARTICLE VIII TRUSTEES MEETINGS.....	5
Section 8.1. Time and Place.....	5
Section 8.2. Notice	5
Section 8.3. Special Meetings.....	5
Section 8.4. Waivers, Consents, and Approvals	5

Section 8.5.	Quorum	5
Section 8.6.	Adjourned Meetings.....	5
ARTICLE IX OFFICERS		6
Section 9.1.	Officers	6
Section 9.2.	Majority Vote.....	6
Section 9.3.	Term	6
Section 9.4.	President.....	6
Section 9.5.	Vice President	6
Section 9.6.	Secretary	6
Section 9.7.	Treasurer	6
ARTICLE X COMMITTEES.....		6
Section 10.1.	Standing Committees.....	6
Section 10.2.	Review of Complaints.....	7
ARTICLE XI MEETINGS OF MEMBERS.....		7
Section 11.1.	Annual Meeting	7
Section 11.2.	Special Meetings.....	7
Section 11.3.	Notice.....	7
Section 11.4.	Quorum	7
ARTICLE XII PROXIES		8
Section 12.1.	Form of Vote.....	8
Section 12.2.	Proxies.....	8
ARTICLE XIII LENDER'S NOTICES		8
Section 13.1.	Notices	8
ARTICLE XIV INSURANCE AND FIDELITY BONDS		8
Section 14.1	Insurance/Bonds.....	8
ARTICLE XV NO PARTITION OF COMMON AREA		8
Section 15.1.	No Partition.....	8
ARTICLE XVI INDEMNIFICATION.....		8
Section 16.1.	Indemnity	8
ARTICLE XVII RESERVES		9
Section 17.1.	Reserves	9

ARTICLE XVIII	INSPECTION OF BOOKS AND PAPERS	9
Section 18.1.	Inspection	9
ARTICLE XIX	PARLIAMENTARY RULE	9
Section 19.1.	Parliamentary Rule	9
ARTICLE XX	AMENDMENTS	9
Section 20.1.	Amendments	9
ARTICLE XXI	CONFLICTS	9
Section 21.1.	Conflicts	9

BYLAWS
OF
AVENBURY LAKES HOMEOWNERS ASSOCIATION, INC.

A Corporation Not for Profit
Under the Laws of the State of Ohio

These are the Bylaws of AVENBURY LAKES HOMEOWNERS ASSOCIATION, INC. (hereinafter for convenience called the "Association"), a corporation not for profit, incorporated under the laws of the State of Ohio.

ARTICLE I
ASSOCIATION

Section 1.1. Office. The initial registered office of the Association shall be at 35290 Detroit Road, Avon, Ohio 44011, or such other place as shall be designated by its Board of Trustees.

Section 1.2. Fiscal Year. The fiscal year of the Association shall be January 1 to December 31 of each year.

ARTICLE II
DEFINITIONS

Section 2.1. Definition. All terms defined in the Declaration of Covenants, Conditions, and Restrictions for Avenbury Lakes, as amended from time to time, recorded in the public records of Lorain County, Ohio (the "Declaration"), shall have the same meanings when used herein.

ARTICLE III
MEMBERSHIP

Section 3.1. Membership. The members of the Association shall be as provided for in Article V of the Articles of Incorporation.

ARTICLE IV
VOTING RIGHTS

Section 4.1. Voting Rights. Each class of membership shall have the voting rights set forth in Article V of the Articles of Incorporation.

ARTICLE V BOARD OF TRUSTEES

Section 5.1. Selection; Terms of Office. Until the time at which the Class B membership terminates, the Board of Trustees shall consist of three (3) persons, who need not be members and who shall be selected at the times and in the manner set forth in Section 5.2 hereof. After the time at which the Class B membership terminates, the Board of Trustees shall be elected at the time set forth in Section 5.3 hereof and in the manner set forth in Article VI of these Bylaws.

Section 5.2. Designation of Trustees by the Class B Member. Until the time at which the Class B membership terminates, as provided in Article V of the Articles of Incorporation, the Board of Trustees shall consist of three (3) persons who shall be appointed by the Class B Member.

Any Trustee or Trustees appointed by the Class B Member may be removed at any time, with or without cause, by the Class B Member at any regular or special meeting or by written action without a meeting, and the successor of such removed Trustee may be designated by the Class B Member.

Section 5.3. Election of Trustees by the Class A Members. After the time at which the Class B membership terminates as provided in Article V of the Articles of Incorporation, unless and until a majority of the Board of Trustees elects to increase the size of the Board, the Board shall consist of five (5) members who shall be elected in the following manner:

5.3.1. The incumbent Board of Trustees designated by the Class B Member shall hold office until the election of their successors by the Class A members at the first meeting of the Class A Members which shall be held for this purpose not later than three (3) months after the termination of the Class B membership.

5.3.2. At the first meeting of the Class A Members held for such purpose, there shall be elected in the manner set forth in Article VI of these Bylaws five (5) Trustees, two for a term of 3 years, two for a term of 2 years, and one for a term of 1 year. Thereafter, the terms of Trustees shall be three (3) years.

Section 5.4. Vacancies. Vacancies on the Board of Trustees shall be filled by the majority of the remaining Trustees, any such appointed Trustee to hold office until his or her successor is elected by the Class A Members or appointed by the Class B Member, as the case may be, who are entitled to elect the Trustee at the next annual meeting of the Members or at any special meeting duly called for that purpose.

ARTICLE VI ELECTION PROCEDURE

Section 6.1. Election of Trustees. Votes cast for persons nominated for election to the Board of Trustees shall be by written ballot as hereinafter provided. The persons receiving the largest number of votes shall be elected.

Section 6.2. Nominations Committee. Nominations for a full slate of Trustees for election to the Board of Trustees by the Class A Members shall be made by the Nominations Committee. The Nominations Committee shall consist of three (3) persons appointed each year by the Board of Trustees, one (1) of whom shall be a trustee, and two (2) of whom shall be non-trustees. Members of the Nominations Committee shall be appointed each year by the Board of Trustees at least sixty (60) days before the date on which the election of Trustees is to be held. The slate of Trustees to be nominated by the Nominations Committee shall be completed at least thirty (30) days before the date of such election.

In addition, nominations for the Board of Trustees may be made by petition signed by any voting Member of the Association, provided that such petition is filed with the Secretary of the Association at least ten (10) days before the date of the meeting at which the Trustees are to be elected.

No nominations may be made from the floor at the meeting at which Trustees are to be elected.

Section 6.3. Ballots. All elections to the Board of Trustees shall be made on a written ballot which shall (a) describe the vacancies to be filled and (b) set forth the names of those nominated by the Nominations Committee for such vacancies and those nominated by any petition timely filed with the Secretary of the Association.

Section 6.4. Voting Procedures. The person designated by the Owners of a Lot to cast the vote of the Owner thereof shall receive the ballot for such Lot at or prior to the Annual Meeting. After the ballots are marked, they shall be turned over to an Elections Committee which shall consist of three (3) members appointed by the Board of Trustees. The Elections Committee shall then adopt a procedure which shall establish that the number of ballots turned in by each member correspond with the number of Lots owned by such member identified on the ballot as reflected in the records of the Association. The procedure shall be taken in such a manner that the vote of any member shall not be disclosed to anyone, including the Elections Committee. The result of the election shall be announced by written announcement to the members. After the announcement of the results by the Elections Committee, unless a review of the procedure is demanded by thirty-five percent (35%) of the members casting ballots in the election within ten (10) days after the election, the ballots shall be destroyed and the results shall thereupon be final.

ARTICLE VII
POWERS AND DUTIES OF THE BOARD OF TRUSTEES

Section 7.1. Powers. The Board of Trustees shall have the powers set forth in the Articles of Incorporation and as provided by Ohio law.

Section 7.2. Trustee Absences. In the event that any member of the Board of Trustees of the Association shall be absent from three (3) consecutive regular meetings of the Board of Trustees, the Board may at the meeting during which said third absence occurs, declare the office of said absent Trustee to be vacant and the provisions relating to the filling of a vacancy of the Board of Trustees as set forth in these Bylaws shall become operative.

Section 7.3. Duties. It shall be the duty of the Board of Trustees:

7.3.1. To keep a complete record of all its acts and corporate affairs and to make reports of major acts and financial condition to the Members at the annual meeting or by written report in lieu of a report at the annual meeting.

7.3.2. To supervise all officers, agents, and employees of the Association.

7.3.3. To fix the amount of the annual Assessment against each Lot owned by a Member at least thirty (30) days in advance of the date any payment of such Assessment is due.

7.3.4. To prepare and maintain a roster of the Lots, and the Owners thereof and Assessments applicable thereto, which shall be kept in the offices of the Association and shall be open to inspection by any Member, and to send written notice of each Assessment to every Member.

7.3.5. To issue, or cause an appropriate officer to issue, upon demand by any person, within seven (7) days after written request, a certificate setting forth whether all assessments, including installments thereof, have been paid and identifying the amount of any unpaid Assessment and the period to which such unpaid Assessment relates. Such certificate shall be conclusive evidence to the person to whom it is addressed of payment of any Assessment which is stated to have been paid.

7.3.6. To obtain and maintain an insurance policy or insurance policies for the protection of the Association covering the Common Area and covering such risks and with such deductible amounts as the Board of Trustees shall determine.

7.3.7. To make available to Owners and to lenders, holders, insurers, or guarantors of any first mortgage, current copies of the Declaration, Articles, Bylaws, rules concerning the project, and the books, records, and financial statements of the Association. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances.

7.3.8. To provide to any holder of a first mortgage, upon written request, a financial statement for the immediately preceding fiscal year.

7.3.9. To make, amend, and rescind from time to time operating rules and regulations governing the use of the Common Areas and the Association and to assess fines for violation of the Declaration and the operating rules.

ARTICLE VIII TRUSTEES MEETINGS

Section 8.1. Time and Place. Meetings of the Board of Trustees may be held at any place within or without the State of Ohio. The Board of Trustees shall meet within fourteen (14) days following the close of the Annual Meeting of the Members. Regular meetings of the Board of Trustees may be held at such time and place as shall from time to time be determined by the Board of Trustees.

Section 8.2. Notice. No notice of regular meetings of the Board of Trustees is required, but when the Class B membership is terminated, the schedule for regular meetings of the Board of Trustees shall be published to the Members. If the day for a regular meeting shall fall upon a holiday, the meeting shall be held at the same hour on the first day following which is not a holiday.

Section 8.3. Special Meetings. Special meetings of the Board of Trustees shall be held when called by any officer of the Association or by any Trustee after not less than forty-eight (48) hours notice to each Trustee except in the case of an emergency.

Section 8.4. Waivers, Consents, and Approvals. The transaction of any business at any meeting of the Board of Trustees, however called and noticed, or wherever held, shall be valid as though made at a meeting duly held after regular call and notice if a quorum is present and, if either before or after the meeting, each of the Trustees not present signs a written waiver of notice, or a consent to the holding of such meeting, or an approval of the minutes thereof. All such waivers, consents, or approval shall be filed with the Association's records and shall be made a part of the minutes of the meeting.

Section 8.5. Quorum. The majority of the Board of Trustees shall constitute a quorum thereof.

Section 8.6. Adjourned Meetings. If at any meeting of the Board there is less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting, any business that might have been transacted at the meeting as originally called may be transacted without further notice.

ARTICLE IX OFFICERS

Section 9.1. Officers. The officers shall be a President, one or more Vice Presidents, a Secretary, and a Treasurer and may include such Assistant Secretaries and such Assistant Treasurers as the Board of Trustees may determine. The President shall be a Member of the Board of Trustees.

Section 9.2. Majority Vote. The officers shall be chosen by majority vote of the Trustees.

Section 9.3. Term. All officers shall hold office during the pleasure of the Board of Trustees.

Section 9.4. President. The President shall preside at all meetings of the Board of Trustees, and shall see that orders and resolutions of the Board of Trustees are carried out, and sign all notices, checks, leases, mortgages, deeds, and all other written instruments as may be incidental to the orders and the resolutions of the Board of Trustees and the proper operation of the Association.

Section 9.5. Vice President. The Vice President shall perform all the duties of the President in his or her absence or at the direction of the Board of Trustees.

Section 9.6. Secretary. The Secretary shall be "ex officio" the Secretary of the Board of Trustees, and shall record the vote and keep the minutes of all proceedings in a book to be kept for such purpose. The Secretary shall keep the records of the Association and shall record in a book kept for such purpose the names of all members of the Association together with their addresses as registered by such members.

Section 9.7. Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Trustees; provided, however, that a resolution of the Board of Trustees shall not be necessary for disbursements made in the ordinary course of business conducted within the limits of a budget adopted by the Board. The Treasurer shall keep proper books of account and cause financial statements to be made at the completion of each fiscal year. The Treasurer shall prepare the annual budgets to be submitted to the Trustees for review and approval and an annual statement of receipts and disbursements shall be presented to the membership at or before each regular Annual Meeting.

ARTICLE X COMMITTEES

Section 10.1. Standing Committees. The Board of Trustees may appoint such standing committees as it deems desirable. Each standing committee shall include a member of the Board of Trustees. The standing committee may be appointed by the Board of Trustees immediately after each Annual Meeting to serve until the close of the next Annual Meeting.

Section 10.2. Review of Complaints. It shall be the duty of each committee to receive complaints from Members on any matter involving Association functions, duties, and activities in its field of responsibility. It shall dispose of such complaints as it deems appropriate or refer them to the Board of Trustees.

ARTICLE XI MEETINGS OF MEMBERS

Section 11.1. Annual Meeting. Within three (3) months after the Class B membership terminates, as provided in the Articles of Incorporation, the first regular Annual Meeting of the Association shall be held at a time and place to be set by the Class B Member. Until the time at which the Class B membership terminates, the Class B Member is the sole voting Member of the Association. Unless there are matter requiring the approval of the Class A Members, the Class B Member does not intend to conduct an annual meeting of the Association until the Class B membership terminates. Any action required to be taken prior to termination of the Class B membership that does not require approval of the Class A Members may be taken by any means permitted under Ohio law.

The first Annual Meeting of the Class A Members shall be held on a date selected by the Class B Member which is not later than three (3) months after the termination of the Class B membership. Thereafter, the regular Annual Meeting of the Members shall be held at 7:00 p.m. on the first Tuesday in March of each ensuing year provided, however, if the day is a legal holiday, the meeting shall be held at the same hour on the following Thursday. The place of the Annual Meeting shall be determined by the Board of Trustees.

Section 11.2. Special Meetings. Special meetings of members may be called at any time by the President or by any two (2) or more members of the Board of Trustees. After termination of the Class B Membership, special meetings of Class A Members also may be called upon the written request of the members who have the right to cast one-fifth (1/5) of the total votes entitled to be cast under the provisions of the Articles of Incorporation at the time such written request is made.

Section 11.3. Notice. Notice of meetings of Class A Members shall be given to the Members by the Secretary either personally, or by sending a copy of the notice through the mail, postage thereon fully prepaid, to their addresses appearing on the books of the Association. Each Member shall register such Member's address with the Secretary, and notices of meetings shall be mailed to such address. Notice of any regular or special meeting shall be mailed at least twenty (20) days in advance of the meeting, and shall set forth in general the nature of the business to be transacted.

Section 11.4. Quorum. The presence at the meetings of Members entitled to cast, or of proxies entitled to cast, one-fifth (1/5) of the votes entitled to be cast shall constitute a quorum for any actions unless it is provided otherwise in the Declaration or the Articles of Incorporation, or elsewhere in these Bylaws.

ARTICLE XII PROXIES

Section 12.1. Form of Vote. At all meetings of members, each Member entitled to vote may vote in person or by proxy, except as may be prohibited by law.

Section 12.2. Proxies. All proxies shall be in writing and filed with the Secretary of the Association. No proxy shall extend beyond a period of twelve (12) months, and every proxy shall automatically cease if the person granting the proxy ceases to be a Member.

ARTICLE XIII LENDER'S NOTICES

Section 13.1. Notices. Upon written request to the Association, identifying the name and address of the holder, insurer, or guarantor and the Lot or Unit number on which a security interest is held, any mortgage holder, insurer, or guarantor will be entitled to timely written notice of:

(a) Any sixty (60) day delinquency in the payment of any assessments or charges owed by the Owner of any Lot or Unit on which it holds the mortgage.

(b) Any action which affects title to Common Area except for repairs, maintenance, and emergencies.

ARTICLE XIV INSURANCE AND FIDELITY BONDS

Section 14.1 Insurance/Bonds. To the extent that coverage is available, the Association will maintain in effect casualty and liability insurance and fidelity bond coverage as specified in the FNMA Lending Guide, Chapter Three, Part 5, Insurance Requirements.

ARTICLE XV NO PARTITION OF COMMON AREA

Section 15.1. No Partition. There shall be no judicial partition of the Common Area or any other part thereof, nor shall any person acquiring any interest in the Common Area or any part thereof seek such judicial partition. This provision may not be amended without the consent of all Members and the holders of all mortgages on Lots or Units.

ARTICLE XVI INDEMNIFICATION

Section 16.1. Indemnity. The Association shall indemnify any person who is or was entitled to indemnification in accordance with the Association's Articles of Incorporation.

ARTICLE XVII RESERVES

Section 17.1. Reserves. The Association is required to establish and maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements to the Common Area and the portions of the Lots and Units which the Association may be obligated to maintain. The fund is to be maintained out of regular assessments for common expenses.

ARTICLE XVIII INSPECTION OF BOOKS AND PAPERS

Section 18.1. Inspection. The bookkeeping records of the Association shall at all times, during reasonable business hours, be subject to the inspection by any Member and by any holder of a first mortgage on any Lot or Unit.

ARTICLE XIX PARLIAMENTARY RULE

Section 19.1. Parliamentary Rule. Roberts Rules of Order (latest edition) shall govern the conduct of the Association proceedings when not in conflict with the Declaration or the Articles of Incorporation.

ARTICLE XX AMENDMENTS

Section 20.1. Amendments. Except as otherwise specifically provided herein, until the time at which the Class B membership terminates and the Class A membership is entitled to voting rights, as provided for in the Articles of Incorporation, these Bylaws may be amended upon a majority vote of the Board of Trustees. After such time as the Class A Members shall be entitled to full voting privileges, these Bylaws also may be amended by two-thirds (2/3) of the Members of the Association entitled to vote, except as to those provisions where a greater vote is required.

ARTICLE XXI CONFLICTS

Section 21.1. Conflicts. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles of Incorporation shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

