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COOK COUNTY  
RECORDER  
EUGENE "GENE" MOORE  
BRIDGEVIEW OFFICE



**CHESTNUT ON THE GREEN  
DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS**

**THIS DECLARATION** made this 16<sup>th</sup> day of December, 1999 by **HARRIS BANK HINSDALE**, as Trustee and not personally under Trust Agreement dated September 29, 1998 and known as Trust No. L-3762 (hereinafter referred to as "Declarant").

**WITNESSETH:**

**WHEREAS**, Declarant is the Owner and has an interest in certain Property in the County of Cook, State of Illinois, which is more particularly described in Exhibit "A" attached hereto and incorporated herein; and

**WHEREAS**, the said Property shall be conveyed, by Declarant, subject to certain protective easements, restrictions, covenants, conditions, reservations, liens and charges as hereinafter set forth.

**NOW THEREFORE**, the Declarant hereby declares that all of the Property described in said Exhibit "A" shall be held, sold and conveyed subject to the following easements, restrictions, covenants, conditions, reservations, liens and charges which are for the purpose of protecting the value and desirability of, and which shall run with the Property and be binding on all parties having any right, title or interest in the described Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE ONE  
DEFINITIONS**

**SECTION 1. "Association"** shall mean and refer to *Chestnut on the Green Homeowners Association*, an Illinois not-for-profit corporation, its successors and assigns.

PREPARED BY:  
JOHN H. BARCELONA  
73 W. 61st Street  
Westmont, Illinois 60559



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**SECTION 2. "Owner"** shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any parcel which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

**SECTION 3. "Property"** shall mean and refer to that certain real property hereinbefore described on Exhibit "A".

**SECTION 4. "Common Area"** shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first Lot is set forth on Exhibit "B".

**SECTION 5. "Parcel" or "Lot"** for the purposes of this Declaration shall mean and refer to any plot of land shown upon any Plat of Subdivision or Survey of the Property (with the exception of the Common Area) and upon which one individual townhouse dwelling unit is constructed or is to be constructed.

**SECTION 6. "Dwelling" or "Residence"** shall mean the Townhome and attached garage located upon one of the Lots and intended for the shelter and housing of a single family.

**SECTION 7. "Committee"** shall mean the Architectural Review Committee.

**SECTION 8. "Member"** shall mean and refer to every person or entity who holds a membership in the Association.

**SECTION 9. "Voting Member"** shall mean and refer to a member of the Association who is entitled to cast a vote for the individual Lot or Parcel.

**SECTION 10. "Declarant"** shall mean and refer to Harris Bank Hinsdale, N.A., not personally but as Trustee under Trust Agreement dated September 29, 1998 and known as Trust Number L-3762, its successors and assigns if such successors and assigns should acquire more than one undeveloped parcel from the Declarant for the purpose of development.

**SECTION 11. "Plat of Subdivision"** shall mean the plat of the Property, or any part thereof, recorded with the Recorder of Deeds of Cook County, Illinois on November 19, 1998 as Document Number 08-044765.

## **ARTICLE TWO** **MEMBERSHIP IN THE ASSOCIATION**

**SECTION 1. Incorporation of Association.** Declarant will cause to be incorporated prior to conveyance of the first Parcel to an Owner other than Declarant the

*Chestnut on the Green Homeowners Association.* Said corporation shall be an Illinois not-for-profit corporation.

**SECTION 2. Membership.** Every person or entity, including the Declarant, who is a record owner of a fee simple or an undivided fee interest in any Parcel which is subject to this **CHESTNUT ON THE GREEN DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**, including contract sellers, shall be a member of the Association and each purchaser of any Parcel by acceptance of a deed therefor covenants and agrees to be a member of the Association whether or not it shall be so expressed in any deed or other conveyance. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. For each Parcel owned, the Owner thereof shall be entitled to one (1) membership. Membership shall be appurtenant to and may not be separated from the fee ownership of any Parcel. Ownership of such Parcel shall be the sole qualification for membership. For the purpose of this Declaration, the word "Member" shall include any beneficiary of a trust holding legal title to one or more Parcels.

**SECTION 3. Transfer.** Membership held by any Owner of a Parcel is an appurtenance to such Parcel and shall not be transferred, alienated, or pledged in any way, except upon the sale or encumbrance of such Parcel, and then only to the Purchaser of such Parcel. Any attempt to make a transfer except by the sale or encumbrance of a Parcel is void. Reference to the transfer of membership need not be made by an instrument of conveyance or encumbrance of such Parcel for the transfer to be effective, and the same shall automatically pass with title to the Parcel.

### **ARTICLE THREE** **VOTING RIGHTS IN THE ASSOCIATION**

The Association shall have two (2) classes of voting membership:

**Class A:** Class A Members shall be all those Owners as defined in Article Three with the exception of the Declarant. Class A Members shall be entitled to one (1) vote for each Parcel in which they hold the interest required for membership in Article Two. When more than one person holds such interest in any Parcel, all such persons shall be Members and the vote for such Parcel shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Parcel.

**Class B:** The Class B Member shall be the Declarant. The Class B member (or its beneficiary in the case where Declarant is a land trust) shall be entitled to three (3) votes for each Parcel in which it holds the interest required for membership by Article Two, provided that the Class B membership shall cease and be converted to a Class A membership on the happening of any of the following events, whichever occurs earliest:

- (A) Four (4) years from the date of this Declaration of Covenants, Conditions and Restrictions.

- (B) 120 days after which seventy-five (75%) percent of the Parcels which have been submitted to this Declaration shall have been conveyed by Declarant to Owners.
- (C) The date on which Declarant voluntarily withdraws as the Class B Member by executing and recording with the Recorder of Deeds of Cook County, Illinois, a written declaration of intent to withdraw, which shall become effective in the manner specified in such declaration of intent.

Anything contained in the Articles of Incorporation or the By-Laws of the Association notwithstanding, so long as Declarant is a Class B Member, it shall have the absolute right to appoint and remove any member of the Board of Directors and/or Officers of the Association.

#### **ARTICLE FOUR PROPERTY RIGHTS**

**SECTION 1. Members' Easements of Enjoyment.** Every Member shall have a right and easement for ingress and egress over and across and of use and enjoyment in and to the Common Area and over the areas set forth in Exhibit "C" and such easements shall be appurtenant to and shall pass with the title to every Parcel. Reference in the respective deeds of conveyance, or in any mortgage or trust deeds or other evidence of obligation, to the easements and covenants herein described shall be sufficient to create and reserve such easements and covenants to the respective grantees, mortgagees or trustees of said parcels as fully and completely as though said easements and covenants were fully recited and set forth in their entirety in such documents. Said easement for ingress and egress over and across and of enjoyment in and to the Common Area shall be subject to the following provisions:

- (A) The right of the Association, in accordance with Articles and By-Laws, to borrow money for the purposes of improving or reconstructing the Common Area facilities thereof and in aid thereof to mortgage said Common Area (or a portion thereof).
- (B) The right of the Association to suspend the voting rights of a Member for any period during which any assessment against his Parcel remains unpaid and delinquent; and for a period not to exceed thirty (30) days for any single infraction of the published rules and regulations of the Association provided that any suspension of such voting rights, except for failure to pay assessments, shall be made only by the Association or a duly appointed committee thereof, after notice and hearing given and held in accordance with the By-Laws of the Association.

- (C) The right of the Association to declare or grant easements and licenses (subject to the reservation by Declarant as set forth in Article 8, Section 3 hereof) and to dedicate or transfer all or any part of the Common Area to any public agency, authority, or public or private utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument has been recorded, signed by the Association and authorized by the assent of at least sixty-seven percent (67%) or more of the votes of each class of Members present in person or by proxy and entitled to vote at a meeting duly called for this purpose at which a quorum is present, written notice of which is mailed to all Members not less than five (5) days nor more than forty (40) days in advance of the meeting, setting forth the purpose of the meeting.
- (D) The right of the Association to establish uniform rules and regulations pertaining to the use of the Common Area.
- (E) The right of Declarant (its beneficiaries if Declarant is a land trust), and its designees or the developers of other tracts within the area described on Exhibit "A" (and their respective sales agents and representatives) to (1) non-exclusive use of the Common Area in connection with the sale or rental of residential units within such tracts; (2) the use of any improved townhouse on any of the Lots as a model or sales office until the last such Parcel in the Property is improved with a townhouse and conveyed to a third party purchaser; and (3) to place signs on any Parcel which has not been conveyed to a Purchaser advertising the sale of townhomes.
- (F) Such other rights as are reserved or created by this Declaration.

**SECTION 2. Delegation of Use.** Any Member may delegate in accordance with the By-Laws of the Association, his right of enjoyment of the Common Area to the members of his family, his tenants or contract purchasers who reside on the property.

**SECTION 3. Title to the Common Area.** The Declarant hereby covenants for itself, its heirs and assigns, that it will convey fee simple title to the Common Area to the Association free and clear of all encumbrances and liens, no later than after the conveyance by Declarant of the parcel improved with a townhouse dwelling to an Owner which represents 75% of the Parcels in the Property subject to:

- (A) Covenants, conditions and restrictions then of record;
- (B) The terms of this Declaration;

- (C) Public zoning ordinances;
- (D) Current real estate taxes, not yet due and payable;
- (E) Utility easements granted or to be granted for sewer, water, gas, electricity, telephone and any other necessary utilities;
- (F) Any easements which may be created herein for the placement of signs designating the name of the community as *Chestnut on the Green*.

**SECTION 4. Waiver of Use.** No member may exempt himself from personal liability for assessments duly levied by the Association nor release the Parcel owned by him from the liens and charges hereof, by waiver of the use and enjoyment of the Common Area or by abandonment of his Parcel.

## **ARTICLE FIVE**

### **COVENANTS FOR ASSESSMENTS**

**SECTION 1. Creation of the Lien and Personal Obligation of Assessments.** The Declarant (subject to the provisions set forth in Sections 7 and 8 of this Article Five) for each Parcel owned within the Property hereby covenants, and each Owner of any Parcel by acceptance of a deed therefor or possession thereof, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to personally and individually covenant and agree to pay to the Association: (1) annual assessments or charges; (2) special assessments for capital improvements, such annual and special assessments to be fixed, established and collected from time to time as hereinafter provided and (3) reserve assessments as set forth in Section 11 of this Article Five. The annual, special and reserve assessments, together with interest thereon, attorney's fees and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment (and deficiency contributions, in the case of Declarant), together with such interest, costs and reasonable attorney's fees shall also be the personal obligation of the person who is the Owner of such Parcel at the time when the assessment falls due. The personal obligation shall pass to his successors in title accepting a deed to or assignment of beneficial interest in any trust holding title to said Parcel.

**SECTION 2. Purpose of Assessments.** The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety, welfare and enjoyment of its Members, and in this connection, for the maintenance and improvement of the Common Area and facilities thereon and to provide funds for the Association to carry on its duties set forth herein or in its Articles of Incorporation and By-Laws.

**SECTION 3. Basis and Maximum of Annual Assessments.** Until January 1, 2000, the maximum annual assessment shall be \$1,800.00 per Parcel (and if collected monthly, at the rate of \$150.00 per month).

- (A) From and after January 1, 2000, the maximum annual assessment may be increased effective January 1st of each year by the Board of Directors of the Association (at any meeting of the Board of Directors duly convened at least thirty (30) days prior to said January effective date) without a vote of the membership provided that any such increase shall not be greater than twenty-five percent (25%).
- (B) From and after January 1, 2000, the maximum annual assessment may be increased for any year by the Board of Directors of the Association at any time, over the maximum annual assessment permitted in Subsection 3(A), without the vote of the membership if the same is necessary to pay the cost of any increases in real estate taxes for the Common Area over the prior year.
- (C) From and after January 1, 2000, the maximum annual assessment may be increased for the coming assessment year only for all succeeding assessment years effective January 1st of each year by the Board of Directors at any meeting of the Board of Directors (duly convened at least thirty (30) days prior to said January 1st effective date) in an amount greater than provided in Subsection (A) or (B) hereof for the coming assessment year provided that any such change shall have the assent of the majority of the votes of each class of Members voting in person or by proxy, at a meeting duly called for such purpose, at which a quorum is present, written notice of which will be sent to all Members not less than five (5) days nor more than forty (40) days in advance of the meeting, setting forth the purpose of the meeting. The limitations hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.
- (D) After consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix regular annual assessments in lesser amounts than the maximum annual assessments, but such action shall not limit or prohibit the Board from fixing assessments for any year(s) following on the basis of increases in the maximum annual assessment permitted hereunder rather than the actual assessments so fixed.

**SECTION 4. Reasonable Reserves.** The Association shall establish and maintain from the annual assessments collected hereunder reasonable reserves for the costs of the maintenance, repair and replacement of the Common Areas which are the obligation of the Association hereunder, subject to the provisions of Article Ten, Section 1.

**SECTION 5. Special Assessments for Capital Improvements.** In addition to the annual assessments authorized above, the Association may levy in any assessment year, a special assessment applicable to that and succeeding years for the purpose of defraying in full or in part the cost of any construction or reconstruction, unexpected repair or replacement of a capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of at least sixty-seven percent (67%) of the votes of each Class of Members who are voting in person or by proxy at a meeting duly called for this purpose, at which a quorum is present, written notice of which shall be sent to all Members not less than five (5) days nor more than forty (40) days in advance of the meeting setting forth the purpose of the meeting. Unless the special assessment specifies that it shall be applicable to a specified number of years, it shall be applicable only to the year enacted.

**SECTION 6. Uniform Rate of Assessment.** Both annual and special assessments must be fixed at a uniform rate for all Parcels, and may be collected on a monthly basis or such other basis as set by the Board of Directors.

**SECTION 7. Assessments for Parcels Owned by Declarant.** Prior to the completion of construction (issuance of an occupancy certificate by the Village of Indian Head Park) of a townhouse on any Parcel, and while said Parcel is still owned by the Declarant, such Parcel shall be exempt from assessments.

**SECTION 8. Deficiency Contributions.** For every calendar year during which Declarant remains a Class B Member of the Association, Declarant shall contribute to the Association all funds in excess of the budgeted assessments which shall be necessary to defray the costs properly paid or incurred by it for the purposes for which annual assessments may be collected, all without limitation as to the maximum amounts provided under Section 3. Declarant's contribution for the calendar year during which Declarant's Class B Membership terminates shall be prorated to the date of such termination.

For purposes hereof, the establishment of reserves pursuant to Section 4 of this Article Five does not constitute the payment or incurring of costs by the Association and Declarant's deficiency contribution shall not be required to be applied to the establishment of reserves.

**SECTION 9. Date of Commencement of Annual Assessments, Due Dates.** The annual assessments provided for herein shall commence for any Parcel within the Property on the day of the conveyance of the Parcel in the Property and shall be prorated for the month of said conveyance. The Board of Directors shall fix the amount of the annual assessment against each Parcel at least thirty (30) days in advance of each annual assessment period and in lieu thereof, the



amount of the prior year's annual assessment shall be the fixed amount. Written notice of any changed amount of the annual assessment shall be sent to every Owner subject thereto.

The due dates when said annual assessments are due and payable shall be established by the Board of Directors.

**SECTION 10. Certificate of Payment.** The Association shall, upon demand, furnish to any Owner liable for said assessment, a certificate in writing signed by an officer of the Association, setting forth whether the regular and special assessments on a specified Parcel have been paid and the amount of the delinquency, if any. A reasonable charge may be made by the Board for the issuance of these certificates. Said certificates shall be conclusive evidence that any assessment therein stated to have been paid has in fact been paid. No charge shall be made for issuing from time to time said certificates to the Declarant on Parcels then owned by Declarant.

**SECTION 11. Working Capital Reserve.** The Declarant, at the time of conveyance of each individual Parcel to an Owner, reserves the right to collect as a working capital reserve for the Association, an amount equal to two times the regular monthly assessment then in existence at the time of conveyance. Said reserve shall remain the property of the Association and shall not be refunded to an Owner upon sale of his Townhome Unit. Said payment may be transferred between Owners.

## **ARTICLE SIX**

### **EFFECT OF NON-PAYMENT OF ASSESSMENTS, REMEDIES OF ASSOCIATION**

**SECTION 1. Delinquency.** Any assessment provided for in this Declaration which is not paid when due, shall be delinquent. With respect to each assessment not paid within fifteen (15) days after its due date, the Association may, at its election, require the Owner (other than a title holding Land Trustee) to pay a "late charge" in a sum to be determined by the Association and applied uniformly but not less than \$15.00. Any references herein to charges against an Owner shall not refer to a charge against a title holding Land Trustee. If any such assessment is not paid within thirty (30) days after the delinquency date, the assessments shall bear interest from the date of delinquency at the highest rate permitted by Illinois law, and the Association may, at its option, bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Parcel, and there shall be added to the amount of such assessment the late charge, the costs of preparing and filing a Complaint and such action and reasonable attorney's fees, and in the event a judgment is obtained, such judgment shall include interest together with the costs of action. Each Owner vests in the Association or its assigns, the right and power to bring all actions at law or lien foreclosures against such Owner for the collection of such delinquent assessments.

**SECTION 2. Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or trust deed. Sale or transfer of any Parcel shall not affect the assessment lien nor shall the sale or transfer of any

Parcel pursuant to the foreclosure of a mortgage or trust deed or any proceeding or deed in lieu thereof extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Parcel from liability for any assessments thereafter becoming due or from the lien thereof.

## **ARTICLE SEVEN** **PARTY WALLS**

**SECTION 1. General Rules of Law to Apply.** Each wall which is built as part of the original construction of the townhouses and/or garage units in the subdivision and placed on the dividing line or adjacent to or near the dividing line (provided same serves two or more units) between the units shall constitute a party wall and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and of liability for property damage due to negligent or willful acts or omissions shall apply thereto.

**SECTION 2. Sharing of Repair and Maintenance.** The cost of reasonable repair and maintenance of a party wall or walls shall be shared equally by the Owners who make use of the wall or walls.

**SECTION 3. Encroachments and Overhangs.** Since some of the individual townhouses in a building may be aesthetically and functionally designed with structures that encroach and/or overhang (above, beneath, and/or grade level) adjoining Parcels, the Owners of each Parcel hereby take title subject to a perpetual easement for any such overhang and/or encroachment, which easement shall include the reasonable right of access thereto for inspection, maintenance, repair and/or replacement of all or a portion thereof. In the event of a fire or other casualty that results in a total or partial destruction of a townhouse or a building, each townhouse is entitled to be repaired or rebuilt in such a fashion to permit these overhangs or encroachments to be re-established.

**SECTION 4. Destruction by Fire or Other Casualty.** If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and, if the Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof on a pro-rata basis without prejudice, however, to the right of any such Owners to require a larger contribution or reimbursement from the other under any rule of law regarding liability for negligent or willful acts or omissions.

**SECTION 5. Weatherproofing.** Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

**SECTION 6. Right to Contribution Runs with Land.** The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

## **ARTICLE EIGHT**

### **EASEMENTS**

**SECTION 1. Utility Easements.** The Declarant hereby reserves unto itself, its successors, assigns and designees, the right to create, declare and grant over, above, under and across the Common Areas nonexclusive perpetual utility easements for the installation, construction, improvement or removal or reconstruction, replacement, substitution, and maintenance of sewer (storm and sanitary) water, gas, electricity, cable television, telephone and any other easements as may be necessary in the Declarant's sole judgment to develop, service and maintain the Property. The aforesaid easement shall include reasonable rights of ingress and egress.

**SECTION 2. Reservation of Easements for Declarant's Benefit.** Anything contained in this Declaration to the contrary notwithstanding, the Declarant hereby reserves for itself, its agents, employees, contractors, subcontractors, workmen, materialmen, invitees and any successor builders an easement under, over and across the Common Area for the purposes of constructing, completing, repairing, maintaining, inspecting, exhibiting and selling any Parcels or townhouses then owned by the Declarant.

### **SECTION 3. Easements for Construction Errors, Settlement, Shifting.**

Declarant hereby declares and reserves to itself and all Owners easements of not more than one (1) foot for the continuation, repair and replacement of any walls or structures encroaching on any adjoining Parcel by reason of inadvertent construction error, settlement or shifting.

## **ARTICLE NINE**

### **ARCHITECTURAL COMMITTEE**

No building, fence, patio or deck, swimming pools, outdoor whirlpools or spas shall be erected, placed or altered on any Parcel within the Property described herein (except as are installed or approved by the Declarant in connection with the initial construction of the dwellings and other improvements on Parcels) until the building plans, specifications and plot plan showing the location and fence or patio have been approved in writing as to conformity of external design and harmony with existing structures in the Property and as to location with respect to topography and finished ground elevation, by an Architectural Committee which shall consist of three (3) members designated and replaced from time to time by the Declarant. The committee shall notify an applicant of such approval of its action within thirty (30) days after said building plans and specifications and plot plan have been submitted to the committee; or, in the event, no suit to enjoin the erection, placement or alteration of such building, fence, patio or deck has been commenced prior to the completion thereof, such approval will not be required, and this covenant shall be deemed to have been fully complied with. No member of such committee, nor its designated representative, shall be entitled to any compensation for such services performed pursuant to this covenant. The powers and duties of Declarant to designate and replace such

committee shall cease at the time the last Parcel of the Property is developed with a townhouse and is sold to a third party purchaser. Thereafter, such powers and duties shall be vested in the Board of Directors of the Association or in a committee duly appointed by such Board of Directors.

## **ARTICLE TEN** **MAINTENANCE**

**SECTION 1. Association's Maintenance Obligations.** The Association shall be responsible for the routine maintenance, painting, repair or replacement of all exterior walls, including the foundations thereof, including, but not limited to driveways, parking areas, roofs, exterior downspouts, fencing and landscaping which the Developer installs, of all streets and street lights located on the Property, and for the cost of maintaining all of Lots 50 and 51 as shown on the plat of subdivision of the Property. However, the Association shall not be responsible for repairs that are caused by wind or casualty which is covered by Owner's homeowners insurance policy, dents in siding done by the landscape maintenance contractor, dents in siding adjacent to the auto courtyards caused by the Owner, their guests or invitees and minor repairs to decks. The Association shall also be responsible for their pro-rata share of the cost of maintaining and other costs attributable to the bridge over Flagg Creek and 72<sup>nd</sup> Street from the bridge to Flagg Creek Drive including that portion of Flagg Creek Drive which is not a part of the Property or the Common Area. This cost may be paid directly as a part of the regular monthly assessment or as a separate payment to a Master Association that assumes responsibility for said bridge and 72<sup>nd</sup> Street. The creation of a Master Association is at the discretion of the Declarant and is not mandatory. Maintenance of the landscaping shall include cutting of grass, trimming of shrubbery and fertilizing of grass and shrubbery. This responsibility shall commence on the date the first Parcel is conveyed to an Owner and shall be done in the discretion of the Association as a result of natural or ordinary wear and deterioration.

The Developer has been required by the Pleasantview Fire Protection District to install fire alarm systems in each Townhome unit. Said units have been wired to a central station for monitoring purposes. The Association shall be obligated to continue the monitoring and the cost of same shall be included in the annual budget of the Association and paid as part of the regular monthly assessment. However, the cost of maintaining and for repair of the actual system contained within said unit shall be the cost of the individual Owner.

In the event that the need for maintenance or repair of any of the above items is caused through the willful or negligent act of any Owner, his family guests or invitees, then the cost of such maintenance and repairs shall be added to and come a part of the assessment to which Owner's Parcel is subject.

**SECTION 2. Owner's Maintenance Obligations.** Each Owner shall keep his Parcel and certain portions of the exterior of his townhouse in a clean, sightly and healthful condition, including glass surfaces and other improvements installed by an Owner. In the event Owner fails or refuses to do so, the Association, at its sole option and upon ten (10) days notice,

may elect to enter the Parcel and perform such obligations and the cost of such maintenance shall be added to and become a part of the assessment to which such Parcel is subject.

## **ARTICLE ELEVEN USE RESTRICTIONS**

**SECTION 1. Residential Use.** The Property is hereby restricted to residential dwellings and ancillary and accessory uses and buildings in connection therewith. All buildings or structures erected on the Property shall be of new construction and no buildings or structures shall be moved from other locations to the Property and no subsequent buildings or structures other than townhouses shall be built on any Parcel where the Declarant has theretofore constructed a townhouse. No building or structure of a temporary character, trailer, tent, shack, barn, storage shed or other outbuilding shall be placed on or used on any Parcel at any time except that the Declarant may maintain a sales or construction trailer on the Property until construction and sale of all the buildings has been completed. This shall include buildings to be constructed on property to be annexed pursuant to Article Seventeen herein.

**SECTION 2. Animals.** No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Parcel except for dogs, cats or other domestic animals kept solely as household pets. Owners are limited to one (1) pet per Residence and said pet shall have a maximum weight of forty (40) pounds. This shall be subject to all applicable ordinances of the Village of Indian Head Park.

**SECTION 3. Commercial Activities, Nuisances.** No advertising signs, billboards, objects of unsightly appearance or nuisances shall be erected, placed or permitted to remain on any Parcel or upon any portion of the Common Area, nor shall any Parcel be used in any way or for any purpose which may endanger the health or unreasonably disturb the residents of the Property except that no more than one (1) "For Sale" sign or "For Rent" sign of not more than 5 square feet shall be maintained on any Parcel. No commercial activities of any kind whatever shall be conducted on any building or any portion of the Property except activities intended primarily to service residents in the Property. This shall not apply to maintenance by a resident of his personal library or a person performing his personal work in his residence providing his business is not being operated from said townhome. The foregoing restrictions shall not apply to the commercial activities, signs and billboards, if any, of the Declarant or its designees during the construction and sales period or by the Association in furtherance of its powers and purposes set forth hereinafter in its Articles of Incorporation, By-Laws and Rules and Regulations, as the same may be amended from time to time. The Declarant and its successors and assigns shall have the right to rent any or all units.

**SECTION 4. Storage.** No Owner shall store anything on the deck which is attached to a Residence. All storage shall be inside the garage which is attached to each Residence.

**SECTION 5. Screening Trash Removal.** All clotheslines, equipment, garbage cans, and storage piles shall be screened by adequate planting or other means so as to conceal them as much as possible from view of neighboring Parcels and streets. All rubbish, trash and garbage shall be regularly removed from the Property and shall not be allowed to accumulate thereon. The foregoing restrictions shall not apply to the activities of Declarant, its designees and those working for or on behalf of Declarant during the construction and sales period.

**SECTION 6. Changes or Improvements.** Awnings and other additions, changes or improvements to any building, changes in the colors of exterior building surfaces or any part thereof (including roofs, siding, doors, windows or trim) will be allowed only with the approval of the Architectural Committee referred to herein.

**SECTION 7. Derricks, etc.** No derrick or other structure designed for use in boring, mining, or quarrying for oil or natural gas, precious minerals, shall be erected, maintained or permitted upon any Parcel in the Property, provided that nothing in this Declaration shall be construed to restrict a public utility from erecting, maintaining and operating upon any Parcel owned by it within the Property, a well, housing and equipment for the purpose of extracting from the subsurface and/or the treatment, storage and distribution of water through the system of such public utility.

**SECTION 8. Radio, TV Antennae.** No radio or television receiving or transmitting antennae shall be installed on any Lot. So called satellite dishes shall be permitted which are no more than 36 inches in diameter. If said satellite dish is not attached to the Townhome, it must be screened from view by landscaping as determined by the Architectural Committee. Radio or television receiving or transmitting antennae may be installed only in the attic of a Townhome.

**SECTION 9. Maintenance and Easement Areas.** Easements for installation and maintenance of the utilities, sewer pipelines and facilities and drainage facilities over each of said Parcels, and all pipelines and other facilities located and to be located in said easements are reserved as shown on the recorded Plat of Subdivision or as created in accordance with this Declaration of Covenants, Conditions and Restrictions or any amendments hereof. Within these easements, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction in the flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area shown on the Plat of Subdivision and all improvements in it shall be maintained continuously by the Association, except for those improvements for which a public authority or a private or public utility company is responsible.

**SECTION 10. Leases of Parcels.** Any Owner may lease his Parcel, but no lease may be for a period of less than six (6) months. This provision shall not apply to the Declarant who may lease a Parcel for any length of time. All leases must be made expressly subject to the terms

of this Declaration and must be approved by the Association. The Association reserves the right to charge a fee not to exceed \$50.00 for review and issuance of said approval.

**SECTION 11. Campers, Etc.** No Owner, tenant of an Owner or person residing in any Parcel, may park a camper, recreational vehicle, vehicles with commercial names affixed thereto, truck or commercial vehicle on his Parcel, any other Parcel, or any portion of the Common Area. In addition, No Owner, tenant of an Owner or person residing in any Parcel, may place a basketball hoop and backboard on his Parcel, any other Parcel or any portion of the Common Area.

## **ARTICLE TWELVE RECONSTRUCTION**

Each Owner, their successors and assigns, hereby covenants and agrees to maintain his Parcel and the townhouse dwelling unit constructed thereon in a neat and proper condition and to perform all necessary repairs except where the Association is required to maintain and repair. Each Owner further covenants and agrees to promptly restore, rebuild or replace all or any portion of the Owner's dwelling unit and sidewalks and appurtenances thereto, located on the Owner's Parcel when destroyed or damaged by any cause and each Owner further covenants that to secure this covenant said Owners will maintain casualty insurance covering said Parcel and dwelling unit with good and sufficient companies in a minimum amount equal to the replacement cost of said premises.

## **ARTICLE THIRTEEN JOINT CONNECTION OF SEWER, WATER, ELECTRICAL, GAS AND TELEPHONE LINES**

The rights and duties of the Owners of Parcels within the Property with respect to sewer, water, gas and telephone shall be governed by the following:

(A) Wherever joint house connections of sanitary and storm sewer, water, electricity, gas or telephone lines are installed within the Property, and the connections, or any portion thereof, lie in or upon Parcels owned by others than the Parcel owners served by said connections, the Association and other Owners of any Parcels served by said connection shall have the right, and are hereby granted an easement to the full extent necessary therefore, to enter upon Parcels or have the utility companies enter upon the Parcels within the Property in or upon which said connection, or any portion thereof lies to read meters, repair, replace and generally maintain said connection as and when the same may be necessary as set forth below, and further, if a majority of the Board of Directors of the Association deems the repair, replacement or maintenance of such connection to be an emergency, the Association shall have the right to repair, replace or maintain such connection and assess the costs thereof against the Parcels served by such connection in the amounts thereof against the Parcels served by such connection in the amounts the Owners would otherwise be responsible for under Paragraphs (C) and (D) herein, and each Owner, for himself, his heirs, successors and assigns, covenants that he will pay the Association (or its collecting

agent) said assessment upon demand or in such periodic payments as may be determined by the Board of Directors, and that said assessment, if not paid on the date when due, shall become delinquent, shall become a continuing lien on the Parcel and the personal obligation of the Owner and shall be subject to collection enforceability, foreclosure and remedies of the Association in the manner set forth in Article Six hereof for other assessments by the Association.

(B) Wherever joint house connections of storm and sanitary sewer, water, electricity, gas or telephone lines are installed within the subdivision and the connections serve more than one Parcel, the Owners of each Parcel serviced by said connection shall be entitled to full use and enjoyment of such portions of said connection as services his Parcel.

(C) In the event any portion of said connection or line is obstructed, damaged or destroyed through the act of an Owner of a Parcel being served by said connection, or any of his agents, guests, or members of his family, whether or not such act is negligent or otherwise culpable, so as to deprive the other Owners being served by said connection of the full use and enjoyment of said connection, then the Owner shall forthwith proceed to replace or repair the same to as good condition as formerly, without cost to the other Owners served by said connection.

(D) In the event any portion of said connection or line is obstructed, damaged, or destroyed by some cause other than the act of any Owner being served by said connection, his agents, guests, or members of his family (including ordinary wear and tear and deterioration from lapse of time), then in such event if said obstruction, damage or destruction shall prevent the full use and enjoyment of such connection by the other Owners served by said connection, all such Owners who are thereby deprived of said use and enjoyment shall proceed forthwith to replace or repair said connection to as good a condition as it was formerly at their joint and equal expense.

#### **ARTICLE FOURTEEN AVAILABILITY OF RECORDS**

Any Owner or first mortgagee of any Parcel shall be entitled, upon reasonable request, to receive for inspection from the Association current copies of the Declaration, Articles of Incorporation, By-Laws, records and financial statements of the Association. Furthermore, any holder of 51% or more of all of the mortgages given on the Property and any phases annexed thereto, shall be entitled to receive from the association, without cost, a copy of the Association's financial statement for the preceding year.

#### **ARTICLE FIFTEEN RIGHTS OF FIRST MORTGAGEES**

Upon written request, any first mortgagee of a Parcel shall be entitled to and shall receive from the Association notices of any of the following as shall be requested:



- (A) Any condemnation loss or casualty loss which affects a material portion of the Property and any phases annexed thereto or the Parcel on which its mortgage is held.
- (B) Delinquency of assessments which remain incurred for a period of sixty (60) days or more.
- (C) Any lapse, cancellation or modification of any insurance policy or fidelity bond maintained by the Association.
- (D) Any restoration or repair of the Property and any phases annexed thereto after partial condemnation or damage.
- (E) Any termination of the legal status of the Property and any phases annexed thereto.

Any termination of legal status as provided in subsection (E) above, shall require the consent of the holders of the mortgages on at least 51% of the Parcels contained in the Property and any phases annexed thereto at the time thereof.

**ARTICLE SIXTEEN**  
**INSURANCE**

**SECTION 1. Association’s Insurance Obligations.** The Association shall be responsible for maintaining general liability insurance on the Common Areas of the Property which are shown on Plat of Subdivision of the Property as Lots 50 and 51 and on the easement areas set forth in Exhibit “C”. The cost of said insurance shall be included in the annual budget of the Association. Since the Association is responsible for the bridge over Flagg Creek and 72<sup>nd</sup> Street from the bridge east to Flagg Creek Drive, they shall also maintain general liability insurance on these improvements and that cost shall be included in the annual budget of the Association. The Board of Directors of the Association may vote to secure directors and officers liability insurance and if so, the cost of same shall be included in the annual budget of the Association. This coverage shall include any standing committees of the Board of Directors.

**SECTION 2. Owner’s Insurance Obligations.** Each Owner shall be responsible for procuring homeowner’s insurance to include general liability for his Townhome on his Parcel. The cost of this insurance shall be paid directly by each Owner and shall not be an expense of the Association.

**ARTICLE SEVENTEEN**  
**ANNEXATION OF ADDITIONAL PROPERTY**

**SECTION 1. Additional Property.** The Declarant for himself and his nominees and assigns, hereby reserves the right and option at any time and from time to time, within a period of five (5) years after the date of recording of this Declaration to add-on and annex to the Property, all or any portion of the Additional Property described in Exhibit “D” hereto, and in

connection therewith to record any amendment or amendments to this Declaration (each such instrument being hereinafter referred to as "Amendment to Declaration" which shall set forth the legal description of the additional parcel or parcels within the Additional Property to be annexed to the Property. Upon the recording of each Amendment to this Declaration, the additional Lot or Lots therein described shall be deemed submitted to and governed in all respects by the provisions of this Declaration and shall thereupon become part of the Property. No portion or portions of the Additional Property shall be subject to any of the provision of this Declaration unless and until an Amendment to this Declaration is recorded with the Cook County Recorder annexing such portion or portions to the Property as aforesaid except as set forth in the easements described in Exhibit "C". The Owners shall have no rights whatsoever in or to any portion of the Additional Property. Upon the expiration of the 5-year period, no portions of the Additional Property which have not then been made part of or annexed to the Property shall thereafter be annexed to the Property. No portions of the Additional Property must be added to the Property and any portion of the Additional Property may be added to the Property at different times within such 5-year period. Except as may be required by applicable laws and ordinances, there shall be no limitations (i) on the order in which portions of the Additional Property may be added to the Property; (ii) fixing the boundaries of such portions; (iii) on the location of improvements which may be made on the Additional Property; or (iv) on the number of Lots which may be created on the Additional Property, any structures, improvements, building and Residence to be constructed on portions of the Additional Property which are added to the Property need not (except to the extent required by applicable laws and ordinances) be compatible with the configuration of the Property in relation to density, use, construction and architectural style.

**SECTION 2. Amendments to this Declaration.** Each Amendment to this Declaration shall include:

- (A) An amendment to the legal description on Exhibit "A" of this Declaration which shall add to the legal description of the Property that portion or portions of the Additional Property annexed to the Property;
- (B) An amendment to the legal description on Exhibit "B" of this Declaration which shall add to the legal description of the Common Area that portion or portions of the Additional Property which is to become Common Area; and
- (C) An amendment to Exhibit "D" attached hereto which shall subtract from the legal description of the Additional Property those portions of the Additional Property annexed to the Property.

**SECTION 3. Binding Effect.** Each Owner and each mortgagee, grantee, heir, administrator, executor, legal representative, successor and assign of such Owner, by the Owner's acceptance of any deed or mortgage or other interest in or with respect to any Lot ownership, shall be deemed to have expressly agreed and consented to (i) each and all of the provisions of this Article Seventeen and (ii) the recording of each Amendment to this Declaration.

**ARTICLE EIGHTEEN**  
**GENERAL PROVISIONS**

**SECTION 1. Enforcement.** 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, liens and charges now or hereafter imposed by the provisions of the Declaration or any rules and regulations of the Board which may subsequently be adopted. Any costs incurred by the Association in said enforcement shall be paid by the party who breached the provisions of this Declaration or any rules and regulations of the Board which may subsequently be adopted. These costs shall include, but shall not be limited to, court costs and reasonable attorney fees. Each defaulting Owner, for himself, his heirs, successors and assigns, covenants that he will pay the Association (or its collecting agent) said amount on demand as if it were a regular monthly assessment. It may also be paid in such periodic payments as may be determined by the Board of Directors; and that said assessment, if not paid on the date when due, shall become delinquent, shall become a continuing lien on the Parcel and the personal obligation of the Owner and shall be subject to collection enforceability, foreclosure and remedies of the Association in the manner set forth in Article Six hereof for other assessments by the Association. 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. Breach of any of the covenants shall not defeat or render invalid the lien or any mortgage or trust deed made in good faith and for value as to said Lots or property, or any parts thereof, but such provisions, restrictions or covenants shall be binding and effective against any Owner of said property whose title thereto is acquired for foreclosure, trustee's sale or otherwise.

**SECTION 2. Reservation of Rights for Governmental Bodies.** The Declarant reserves unto the Village of Indian Head Park, Illinois and unto other applicable governmental agencies, bodies and districts perpetual nonexclusive rights of ingress and egress over and across the Common Areas for the purpose of enforcing the laws, rules and regulations and ordinances applicable to the Property and the inhabitants thereof, and further for the purpose of safeguarding and protecting the Property and the inhabitants thereof.

**SECTION 3. Severability.** Invalidating of any one or more of these covenants or restrictions by judgment or court order shall in no way effect any other provisions which shall remain in full force and effect.

**SECTION 4. Amendment.** The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Declarant, the Association, or the Owner of any Parcel subject to this Declaration, and their respective legal representatives, heirs, successors, and assigns, twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by an instrument signed by not less than sixty-seven percent (67%) of the Lot Owners, with the written consent of mortgagees holding at least fifty-one percent (51%) of the outstanding mortgages on the Property and any phases annexed thereto; provided, however, that so long as Declarant is a Parcel Owner,

Declarant must join into such instrument. Any such amendment that has the effect of (i) terminating this Declaration or (ii) terminating the legal status of the Association shall require the written consent of mortgagees holding at least sixty-seven percent (67%) of the outstanding mortgages on the Property and any phases annexed thereto. Notwithstanding the foregoing, in the event the Declarant desires to amend this Declaration: (a) to correct a technical or typographical error or to clarify any provisions herein which are otherwise vague, or (b) for the sole purpose of causing the Declaration to comply with form and substance as may be required to conform to the published manuals or guidelines of any governmental, quasi-governmental or private agency engaged in the business of the purchase of mortgage loans, including, but not limited to Federal Home Loan Mortgage Corporation (FHLMC) and Federal National Mortgage Association (FNMA) for the purpose of mortgage loans made on Parcels in the Property, it may do so by an instrument signed by Declarant without the consent of Owners or mortgagees, but shall give notice of any such amendments to all Owners, FHLMC, FNMA, and all mortgagees of Parcels who have requested same in writing. The failure to give such notice shall not affect the validity or effectiveness of such amendment. In furtherance of the foregoing, a power coupled with an interest is hereby reserved to Declarant, John H. Barcelona or James A. Wallin, as Attorney-in-Fact, to so amend the Declaration as provided in this Section 4, and each deed, mortgage or other instrument with respect to a Parcel and acceptance thereof shall be deemed a grant and acknowledgement of and a consent to such power to any of said Attorneys-in-Fact. Any amendment must be recorded with the Cook County Recorder of Deeds.

**SECTION 5. Quorum.** Unless otherwise specified to the contrary in any provision of this Declaration, the presence of members or of proxies entitled to cast fifty percent (50%) of the votes of each class of membership shall constitute a quorum for any meeting of the members of the Association. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirements set forth in the By-Laws of the Association and the required quorum at such subsequent meeting shall be the same as that required at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

## **ARTICLE NINETEEN** **BY-LAWS OF ASSOCIATION**

The provisions of the following Articles Twenty and Twenty One shall constitute the By-Laws of the Association.

## **ARTICLE TWENTY** **BOARD OF DIRECTORS**

**SECTION 1. In General.** The direction and administration of the property prior to vesting control in the Lot Owners shall be vested in a Board of Directors of the Association which shall consist of three (3) persons who shall be selected and appointed by Declarant. Except for the Directors so designated and selected by Declarant (i) each member of the Board shall be one of the Lot Owners. If a Lot Owner is a corporation, partnership, trust or designated agent of

such corporation, partnership, trust or other legal entity or any beneficiary of any such trust shall be eligible to serve as a member of the Board so long as such agent or beneficiary is designated by the legal titleholder as its agent, and notice given to the Association; and (ii) if a member of the Board fails such qualification during his or her term, such member shall thereupon cease to be a member of the Board and his or her place on the Board shall be deemed vacant.

**SECTION 2. Election of Board Members at the Initial Meeting.** At the initial meeting of the Voting Members, the Voting Members shall elect the Board consisting of five (5) members. In all elections for the members of the Board, each Voting Member shall be entitled to vote on a non-cumulative voting basis and the candidates receiving the highest number of votes with respect to the number of offices to be filled shall be deemed to be elected. Members of the Board elected at the initial meeting of the Voting Members shall serve until the first annual meeting of the Voting Members but in no event shall they serve for a term less than one (1) year or for the term to which they were elected at the initial meeting. The election and term of office as between candidates receiving the same number of votes shall be determined by lot. At the initial meeting and at all annual meetings thereafter, the three (3) parties receiving the highest number of votes shall be elected for a term of two (2) years and the other parties for a term of one (1) year. The Voting Members having at least two-thirds ( $2/3$ ) of the total votes may from time to time increase or decrease such number of persons on the Board or may increase or decrease the term of office of Board members at any annual or special meeting, provided that (i) such number shall not be less than three (3), (ii) the terms of at least one-third ( $1/3$ ) of the persons on the Board shall expire annually and (iii) no Board member or officer shall be elected for a term of more than two (2) years (although Board members or officers may succeed themselves). All candidates for election to the Board or their designated representative, shall have the right to be present at the time of counting the election ballots.

Members of the Board (including without limitation those members designated by Declarant) shall receive no compensation for their services. Vacancies on the Board, including vacancies due to any increase in the number of persons on the Board, shall be filled by a  $2/3$  majority vote of the remaining members thereof, except that a vacant position on the Board last filled by a person appointed by the Declarant shall be filled by a person appointed by the Declarant. Any director elected or appointed to fill a vacancy shall hold office for a term equal to the unexpired term of the director he succeeds. Except as otherwise provided in this Declaration or these By-Laws, the Property shall be managed by the Board and the Board shall act by a majority vote of those present at its meetings when a quorum exists. Meetings of the Board shall be held and conducted in accordance with such regulations as the Board may adopt provided, however, that (i) each Lot Owner shall be entitled to notice in the same manner as provided in these By-Laws of any meeting of the Board called for the purpose of considering the adoption of the proposed annual budget or any increase or establishment of an assessment and (ii) the Board shall meet not less than four (4) times each year. A majority of the total number of members of the Board shall constitute a quorum.

**SECTION 3. Officers.** The Board shall elect from among its members for the term of one (1) year (i) a President who shall preside over both of its meetings and those of the Voting

Members and who shall be the chief executive officer of the Board and the Association and who shall be designated to mail and receive all notices and execute all amendments hereto on behalf of the Board or the Association as provided herein; (ii) a Secretary who shall keep the minutes of all meetings of the Board and Voting Members and who shall, in general, perform all the duties incident to the office of the Secretary; (iii) a Treasurer to keep the financial records and books of account and (iv) such additional officers as the Board shall see fit to elect. Vacancies in any office shall be filled by the Board by a majority vote of the remaining members thereof at a special meeting of the Board. Any director elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer he succeeds. Any officer may be removed for cause at any time by a vote of two-thirds (2/3) of the total membership of the Board at a special meeting thereof.

**SECTION 4. Removal.** Except for directors designated by Declarant, any Board member may be removed from office at any time after the election of directors at the initial meeting of the Voting Members by affirmative vote of the Voting Members having at least two-thirds (2/3) of the total votes at any special meeting called for that purpose. A successor to fill the unexpired term of a Board member removed may be elected by the Voting Members at the same meeting, any subsequent annual meeting or any subsequent special meeting called for that purpose.

**SECTION 5. Notice to Members of Board Meeting.** Written notice stating the place, date and hour of any meeting of the Board shall be delivered to each member of the Board not less than five (5) days prior to the date of such meeting. The purpose for which the meeting is called shall be stated in the notice. The Board shall meet at least four (4) times annually on the first Mondays of February, May, August, November and at such other times as the Board deems necessary.

**SECTION 6. Notice to Lot Owners.** All meetings of the Board, except those specified herein shall be open to attendance by any Lot Owner and notices of such meetings shall be posted not less than forty-eight (48) hours prior to such meeting unless a written waiver of such notice is signed by the Lot Owner entitled to such notice prior to the convening of such meeting.

The Board may exclude Lot Owners and/or members of the Association from a meeting or portions of meetings held for the following purposes: (i) to discuss litigation when an action against or on behalf of the Association has been filed and is pending in a court or administrative tribunal or when the Board finds that such an action is probable or imminent; or, (ii) to consider information regarding appointment, employment or dismissal of an employee; or (iii) to discuss violations of rules and regulations of the Association or a Lot Owner's unpaid share of Common Expenses; provided, however, that any vote taken on those matters shall be taken at a meeting or portion thereof open to any Lot Owner.

**SECTION 7. Delivery of Documents by Declarant.** Within sixty (60) days following the election of a majority of members of the Board other than those members designated by Declarant, the Declarant shall deliver to the Board the following:

(A) All original documents pertaining to the Property and its administration, such as this Declaration, the Articles of Incorporation for the Association, a minute book containing the minutes of any meetings held by the Association and any rules and regulations governing the Property;

(B) A detailed accounting by the Declarant setting forth the source and nature of receipts and expenditures in connection with the management, maintenance and operation of the Property;

(C) Any Association funds on hand which shall at all times be segregated from any other funds of the Declarant; and

(D) A schedule of all personal property, equipment and fixtures owned by the Association, including documents such as invoices or bills of sale, if available, evidencing transfer of title to such property.

**SECTION 8. General Power of the Board.** The powers and duties of the Board may or shall include, but shall not be limited to, the following matters:

(A) Operation, care, upkeep, maintenance, replacement and improvements of the Common Area;

(B) Operation, care, upkeep, maintenance, replacement and improvements of the bridge over Flagg Creek and 72<sup>nd</sup> Street from the bridge east to Flagg Creek Drive and Flagg Creek Drive including the easement areas described in Exhibit "C";

(C) Operation, care, upkeep, routine maintenance, replacement and improvement of the Townhome residences and the landscaping surrounding same and the auto courtyards at the rear of each Townhome;

(D) Preparation, adoption and distribution of the annual budget for the Property;

(E) Levying of assessments;

(F) Collection of assessments from Lot Owners;

(G) Employment and dismissal of personnel necessary or advisable for the maintenance and operation of the Common Area;

(H) Obtaining adequate and appropriate kinds of insurance;

(I) Adoption and amendment of rules and regulations covering the details of the operation and use of the Property;

(J) The cost of monitoring of the fire alarm system installed in each Townhome unit;

(K) To pay for water, waste removal, other operating expenses, electricity, telephone, and other necessary utility service for the Common Area;

(L) To pay for landscaping, gardening, snow removal, painting, cleaning, tuckpointing, routine maintenance, decorating, repair and replacement of the dwellings, Common Area and auto courtyards at the rear of each Townhome and such furnishings and equipment for the Common Area as the Board shall determine are necessary and proper and the Board shall have the exclusive right and duty to acquire the same for the Common Area;

(M) To pay for any other materials, supplies, furniture, labor, services, routine maintenance, repairs, structural alterations or assessments which the Board is required to secure or pay for pursuant to the terms of this Declaration or By-Laws of which, in its opinion, shall have the exclusive right and duty to acquire the same for the Common Area;

(N) To pay for any other materials, supplies, furniture, labor, services, routine maintenance, repairs, structural alterations or assessments which the Board is required to secure or pay for pursuant to the terms of this Declaration of By-Laws of which in its opinion shall be necessary or proper for the maintenance and operation of the Property as a first class development or for the enforcement of the Board's rules and regulations;

(O) To pay any amount necessary to discharge any mechanic's lien or other encumbrance against the Common Area or any part thereof which first arises after the date of this Declaration and which may in the opinion of the Board constitute a lien against the Common Area rather than merely against the interests therein of particular Lot Owners. Where one or more Lot Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any costs incurred by the Board by reason of said lien or liens shall be specially assessed to said Lot Owners;

(P) All agreements, contracts, deeds, leases, vouchers for payment of expenditures and other instruments shall be signed by the officer or officers, or agent or agents, of the Board in such manner as from time to time shall be determined by written resolution of the Board. In the absence of designation by the Board, such documents shall be signed by the Treasurer and countersigned by the President of the Board;

(Q) The Board may adopt such reasonable rules and regulations which are not inconsistent with this Declaration and which the Board deems advisable for the routine maintenance, administration, management, operation, use, conservation and beautification of the dwellings and the Common Area and for the health, comfort, safety and general welfare of the Lot Owners and Occupants. Written notice of rules and regulations shall be given to all Lot Owners and Occupants and all Lot Owners and Occupants shall at all times be subject to and



comply with, and the entire Property shall at all times be maintained subject to such rules and regulations;

(R) The Board may engage the services of an agent to manage the Property to the extent deemed advisable by the Board and the Board may retain the services of an accountant and attorney as required for Association business;

(S) Nothing contained herein shall be construed to give the Board, the Association or the Lot Owners authority to conduct an active business for profit on behalf of all the Lot Owners or any of them; and

(T) Upon authorization by the affirmative vote of not less than a majority of the Voting Members at a meeting duly called for such purposes, the Board, acting on behalf of the all Lot Owners, shall have the power to seek relief from, or in connection with, the assessment or levy of any real property taxes, special assessments and any other special taxes or charges of the State of Illinois or any political subdivision thereof or any other lawful taxing or assessing body, which are authorized by law to be assessed and levied on real property and to charge and collect all expenses incurred in connection therewith as Common Expenses.

**ARTICLE TWENTY ONE**  
**MEMBERS**  
**(LOT OWNER)**

**SECTION 1. Voting Rights.** There shall be one person with respect to each Lot Ownership entitled to vote at any meeting of the Lot Owners. Such Voting Member shall be the Lot Owner or some person (who need not be a Lot Owner) designated by the Lot Owner to act as proxy on behalf of the Lot Owner. Such designations shall be made in writing to the Board and shall be revocable at any time by annual notice to the Board of the death or judicially declared incompetence of any designator, or by written notice to the Board by the Lot Owner. Any or all of the persons included in the ownership may vote or take any other action as a Voting Member either in person or by proxy. Each Lot Owner shall be entitled to one (1) vote. The Declarant shall designate the Voting Member with respect to any Lot Ownership owned by the Declarant.

**SECTION 2. Quorum.** Meetings of the Voting Members shall be held at the Property or at such other place in Indian Head Park, Illinois, as may be designated in any notice of meeting. The presence in person or by proxy at any meeting of the Voting Members having at least a majority of the total votes shall constitute a quorum. Unless otherwise expressly provided herein, any action may be taken at any meeting of the Voting Members having a majority of the total votes represented at such meeting.

**SECTION 3. Initial and Annual Meetings.** The initial meeting of the Voting Members shall be held upon not less than ten (10) or more than thirty (30) days written notice given by the Trustee or Declarant, but in any event, the initial meeting of the Voting Members shall be held not later than sixty (60) days after a conveyance by the Declarant of seventy-five

(75%) percent of the Lots or three (3) years after the recording of this Declaration, whichever is earlier. The words "75% of the Lots" as used herein shall mean 75% of the sum of the Lots listed on Exhibit "A" attached hereto. After the initial meeting of the Voting Members, there shall be an annual meeting of the Voting Members on the first Wednesday of November following the initial meeting and on the first Wednesday of each succeeding November thereafter at 7:30 P.M. or at such other reasonable time or date as may be designated by written notice of the Board delivered to the Voting Members not less than ten (10) days or more than thirty (30) days prior to the date fixed for said meeting.

**SECTION 4. Special Meeting.** Special meetings of the Voting Members may be called at any time for the purpose of considering matters which by the terms of this Declaration require the approval of all or some of the Voting Members or for any other reasonable purpose. Special meetings shall be called by written notice, authorized by the president of the Board, a majority of the Board, or by the Voting Members having 20% of the total votes and delivered not less than ten (10) days or more than thirty (30) days prior to the date filed for said meeting. The notices shall specify the date, time and place of the meeting and the matters to be considered. Matters to be submitted at special meetings of the Voting Members shall first be submitted to the Board at least ten (10) days prior to the special meeting who shall then submit the matters to the Voting Members.

**SECTION 5. Notices of Meetings.** Notices of meetings required to be given under this Declaration may be delivered either personally or by mail to the person entitled to vote, addressed to each person at the address given by such person to the Board for the purpose of service of such notice or to the Lot or Lot Owner with respect to which such voting rights appertain.

**SECTION 6. Miscellaneous.** No merger or consolidation of the Association, no sale, lease, exchange, mortgage, pledge or other disposition of all or substantially all of the property and assets of the Association, and no purchase or sale of land or of Lots on behalf of all Lot Owners shall be effectuated unless there is an affirmative vote of two-thirds (2/3) of the votes of Lot Owners unless a greater percentage is otherwise provided for in this Declaration.

This Declaration is executed by **HARRIS BANK HINSDALE**, as Trustee as aforesaid, and not personally, in the exercise of the power and authority conferred upon and vested in it as such Trustee (and the **HARRIS BANK HINSDALE**, hereby warrants that it possesses full power and authority to execute this instrument). It is expressly understood and agreed by every person, firm or corporation hereafter claiming any interest under this Declaration, that the **HARRIS BANK HINSDALE**, as Trustee as aforesaid, and not personally, has joined in the execution of this Declaration for the sole purpose of subjecting the titleholding interest and the trust estate under said Trust No. L-3762 to the terms of this Declaration; that any and all obligations, duties, covenants and agreements of every nature herein set forth by the **HARRIS BANK HINSDALE**, as Trustee as aforesaid, to be kept or performed, are intended to be kept, performed and discharged by the beneficiaries of said Trust No. L-3762 or their successors, and

not by the **HARRIS BANK HINSDALE**, either personally or as such Trustee, to sequester trust assets, rentals, avails or proceeds of any kind or otherwise to see to the fulfillment or discharge of any obligations, express or implied, arising under the terms of this Agreement, except where said Trustee is acting pursuant to direction as provided by the terms of said Trust No. L-3762 and after the Trustee has first been supplied with funds required for the purpose. In the event of conflict between the terms of this paragraph and the remainder of the Declaration on any questions or apparent liability or obligation resting upon said Trustee, the exculpatory provisions hereof shall be controlling.

**IN WITNESS WHEREOF**, the said **HARRIS BANK HINSDALE**, as Trustee as aforesaid and not individually, has caused its corporate seal to be affixed hereunto and has caused its name to be signed to these presents by its Assistant Vice President/Land Trust and attested by its Vice President, this 6<sup>th</sup> day of December, 1999.

**HARRIS BANK HINSDALE, as Trustee as aforesaid and not individually.**

BY: Shirley M. Nolan  
Its Assistant Vice President

**ATTEST:**

BY: Marcia D. Fry  
Its VICE PRESIDENT

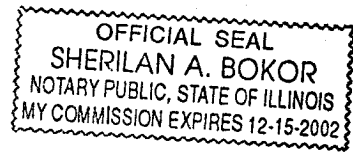
STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF DUPAGE )

I, the undersigned, a Notary Public in and for the County and State aforesaid, **DO HEREBY CERTIFY**, that the above named Assistant Vice President/Land Trust and Vice President of the **HARRIS BANK HINSDALE**, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such A.V.P. and V.P., respectively, appearing before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said **HARRIS BANK HINSDALE**, as Trustee, for the uses and purposes set forth herein; and the said A.V.P., as custodian of the corporate seal of said **HARRIS BANK HINSDALE**, caused the corporate seal of said **HARRIS BANK HINSDALE** to be affixed to said instrument as said A.V.P. own free and voluntary act of said **HARRIS BANK HINSDALE**, for the uses and purposes therein set forth

**GIVEN** under my hand and Notarial Seal this 16<sup>th</sup> day of December, 1999.

Sherilan A. Bokor  
Notary Public

**AFFIX SEAL:**



**CONSENT AND ADOPTION OF MORTGAGEE  
TO  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
CHESTNUT ON THE GREEN  
A RESIDENTIAL COMMUNITY**

**HARRIS BANK HINSDALE, N.A.** holder of mortgage dated October 29, 1998 and recorded with the Cook County Recorder of Deeds on November 12, 1998 as Document No. 98-08016361 on property legally described in Exhibit "A" hereto, hereby consents to the execution and recording of the within **DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CHESTNUT ON THE GREEN, a Residential Community**, and agrees that said mortgage is subject to the provisions of said Declaration.

**IN WITNESS WHEREOF**, the said **HARRIS BANK HINSDALE, N.A.** has caused this instrument to be signed by its duly authorized officers on its behalf, all done at Hinsdale, Illinois, on this 6 day of December, 1999.

**HARRIS BANK HINSDALE, N.A.**

**BY:** Virginia Rodriguez Arayo  
Its AUD

**ATTEST:** Kevin P. Hamedy  
Its VICE PRESIDENT

STATE OF ILLINOIS     )  
  ) SS.  
COUNTY OF DUPAGE    )

I, the undersigned, a Notary Public in and for said county and state aforesaid, **DO HEREBY CERTIFY** that Virginia Rodriguez Arayo and Kevin P. Hamedy, respectively, of **HARRIS BANK HINSDALE, N.A.** personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Asst. Vice President and Vice President, appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary act of said **HARRIS BANK HINSDALE, N.A.** for the uses and purposes therein set forth.

**GIVEN** under my hand and notarial seal this, 6th day of December, 1999.

Tracy Zako  
Notary Public



**EXHIBIT "A"**  
**TO**  
**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR**  
***CHESTNUT ON THE GREEN***  
**A RESIDENTIAL COMMUNITY**

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LEGAL DESCRIPTION OF THE PROPERTY

LOTS 1 TO 48 (BOTH INCLUSIVE) IN FLAGG CREEK TOWNHOMES, A PLANNED UNIT DEVELOPMENT, BEING A SUBDIVISION OF PART OF THE SOUTH  $\frac{3}{4}$  OF THE WEST  $\frac{3}{4}$  OF THE WEST  $\frac{1}{2}$  OF THE NORTHWEST  $\frac{1}{4}$  OF SECTION 29, TOWNSHIP 38 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN: 18-29-101-018-0000

**EXHIBIT "B"**  
**TO**  
**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR**  
***CHESTNUT ON THE GREEN***  
**A RESIDENTIAL COMMUNITY**

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LEGAL DESCRIPTION OF THE COMMON AREA

LOTS 50 AND 51 IN FLAGG CREEK TOWNHOMES, A PLANNED UNIT DEVELOPMENT, BEING A SUBDIVISION OF PART OF THE SOUTH  $\frac{3}{4}$  OF THE WEST  $\frac{3}{4}$  OF THE WEST  $\frac{1}{2}$  OF THE NORTHWEST  $\frac{1}{4}$  OF SECTION 29, TOWNSHIP 38 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

PIN: 18-29-101-018-0000

**EXHIBIT "C"**  
**TO**  
**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR**  
***CHESTNUT ON THE GREEN***  
**A RESIDENTIAL COMMUNITY**

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**DESCRIPTION OF THE EASEMENT AREAS**  
**APPURTENANT TO AND PASSING WITH THE**  
**TITLE TO EVERY PARCEL**

1. EASEMENTS FOR INGRESS AND EGRESS OVER AND ACROSS THOSE PORTIONS OF RELOCATED 72<sup>ND</sup> STREET AND FLAGG CREEK DRIVE AS SET FORTH ON GRANT OF EASEMENT RECORDED OCTOBER 14, 1998 AS DOCUMENT 98-918073.



**EXHIBIT "D"**  
**TO**  
**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR**  
**CHESTNUT ON THE GREEN**  
**A RESIDENTIAL COMMUNITY**

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**ADDITIONAL PROPERTY TO BE ANNEXED**  
**PURSUANT TO ARTICLE SEVENTEEN**

**\*\*THAT PART OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 38 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 29; THENCE SOUTH 00 DEGREES 00 MINUTES 43 SECONDS EAST ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 29, 221.19 FEET; THENCE SOUTH 89 DEGREES 49 MINUTES 05 SECONDS EAST, PARALLEL WITH THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 29, 50.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 89 DEGREES 49 MINUTES 05 SECONDS EAST ALONG SAID LAST DESCRIBED LINE, 280.17 FEET; THENCE SOUTH 00 DEGREES 10 MINUTES 55 SECONDS WEST, 40.00 FEET; THENCE SOUTH 89 DEGREES 49 MINUTES 05 SECONDS EAST, 63.29 FEET; THENCE NORTH 17 DEGREES 09 MINUTES 00 SECONDS WEST, 15.85 FEET; THENCE SOUTH 85 DEGREES 13 MINUTES 02 SECONDS EAST, 321.45 FEET TO A POINT 271.84 FEET SOUTH OF THE NORTH LINE AND 708.98 FEET EAST OF THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 29; THENCE SOUTH 59 DEGREES 51 MINUTES 00 SECONDS EAST, 76.33 FEET TO THE NORTHWEST CORNER OF LOT 5 IN FIRST ADDITION TO PLEASANT VIEW SUBDIVISION RECORDED JUNE 25, 1956 AS DOCUMENT NO. 15373962; THENCE SOUTH 89 DEGREES 52 MINUTES 04 SECONDS EAST ALONG THE NORTH LINE OF LOTS 5 AND 6 IN SAID SUBDIVISION, A PRORATED DISTANCE OF 234.02 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 6; THENCE SOUTH 72 DEGREES 08 MINUTES 29 SECONDS EAST, 49.27 FEET TO A POINT ON THE EAST LINE OF SAID LOT 6 (SAID POINT BEING 15.00 FEET SOUTH OF THE NORTHEAST CORNER OF SAID LOT 6 AS MEASURED ALONG THE EAST LINE THEREOF); THENCE SOUTH 70 DEGREES 39 MINUTES 36 SECONDS EAST, 441.60 FEET TO THE NORTHEAST CORNER OF LOT 10 IN SAID SUBDIVISION; THENCE SOUTH 70 DEGREES 19 MINUTES 35 SECONDS EAST, 70.08 FEET TO A POINT ON THE WEST LINE OF LOT 6 IN PLEASANT VIEW SUBDIVISION RECORDED OCTOBER 11, 1949 AS DOCUMENT NO. 14650837, SAID POINT BEING 136.84 FEET NORTH OF THE SOUTHWEST CORNER OF LOT 6 AS MEASURED ALONG THE WEST LINE THEREOF; THENCE SOUTH 70 DEGREES 16 MINUTES 38 SECONDS EAST, 214.21 FEET TO A**

POINT ON THE EAST LINE OF LOT 7 IN SAID LAST DESCRIBED SUBDIVISION, SAID POINT BEING 65.00 FEET NORTH OF THE SOUTHEAST CORNER OF SAID LOT 7 AS MEASURED ALONG THE EAST LINE THEREOF, THENCE SOUTH 00 DEGREES 00 MINUTES 34 SECONDS WEST ALONG THE EAST LINE OF SAID LOT 7, 98.00 FEET TO THE SOUTH LINE OF 72<sup>ND</sup> STREET AS SHOWN ON BOTH SUBDIVISIONS DESCRIBED HEREIN, SAID LINE BEING DESCRIBED AS THE SOUTH LINE OF THE NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 38 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN; THENCE NORTH 89 DEGREES 52 MINUTES 19 SECONDS WEST ALONG SAID LAST DESCRIBED LINE, 1145.12 FEET TO A POINT ON SAID LINE WHICH IS 595.22 FEET EAST OF THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 29 (AS MEASURED ALONG THE SOUTH LINE OF THE NORTH HALF OF THE NORTHWEST QUARTER OF SAID SECTION 29); THENCE SOUTH 19 DEGREES 59 MINUTES 49 SECONDS EAST, 156.93 FEET; THENCE SOUTH 70 DEGREES 00 MINUTES 11 SECONDS WEST, 110.00 FEET; THENCE NORTH 19 DEGREES 59 MINUTES 49 SECONDS WEST, 177.40 FEET; THENCE NORTH 51 DEGREES 01 MINUTES 03 SECONDS WEST, 29.69 FEET TO THE SOUTH LINE OF THE NORTH HALF OF THE NORTHWEST QUARTER OF SAID SECTION 29; THENCE SOUTH 89 DEGREES 52 MINUTES 19 SECONDS EAST ALONG THE LAST DESCRIBED LINE, 2.20 FEET; THENCE NORTH 31 DEGREES 51 MINUTES 51 SECONDS WEST, 6.39 FEET TO THE SOUTH LINE OF THE NORTH 40 ACRES OF THE NORTH HALF OF THE NORTH HALF OF THE NORTHWEST QUARTER OF SAID SECTION 29; THENCE NORTH 89 DEGREES 49 MINUTES 12 SECONDS WEST ALONG THE LAST DESCRIBED LINE, 8.95 FEET; THENCE NORTH 51 DEGREES 03 MINUTES 32 SECONDS WEST, 123.19 FEET; THENCE NORTH 60 DEGREES 00 MINUTES 20 SECONDS WEST, 353.18 FEET TO THE EAST LINE OF THE WOLF ROAD RIGHT OF WAY; THENCE NORTH 00 DEGREES 00 MINUTES 43 SECONDS WEST, 127.03 FEET TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.\*\*

PIN: 18-29-100-032-000  
18-29-100-063-000  
18-29-100-066-000  
18-29-100-067-000  
18-29-100-069-000  
18-29-100-071-000  
18-29-100-073-000  
18-29-100-074-000  
18-29-100-058-000