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**LAKEWOOD CREEK**

**HOMEOWNERS ASSOCIATION**

**DECLARATION**

**OF COVENANTS, CONDITIONS**

**AND RESTRICTIONS**

CHICAGO TITLE & TRUST CO  
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**LAKEWOOD CREEK**

**HOMEOWNERS ASSOCIATION**

**DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS**

THIS DECLARATION, made as of this 6th day of August, 2001, by Lakewood Creek, L.L.C., a Delaware limited liability company (hereinafter, together with its successors and assigns, called "Developer").

**WITNESSETH:**

WHEREAS, Developer is the owner of the real property located in Kendall County, Illinois, described on Exhibit "A" attached hereto and made a part hereof (the "Property"); and

WHEREAS, Developer desires to subject the Property described on Exhibit "A" to the provisions of this Declaration and to thereafter from time to time to subject portions of the real estate described on Exhibit "B" (the "Additional Land") to the provisions of this Declaration;

WHEREAS, Developer desires to develop a residential development on the Property to be known as "Lakewood Creek" (the "Development"); and

WHEREAS, Developer desires to develop recreation facilities to be used by the owners of the homes within the Development which are subjected to the provisions of this Declaration;

NOW THEREFORE, Developer declares that the Property shall be held, transferred, sold, conveyed and occupied subject to the provisions of this Declaration.

**Article 1**

**Definitions**

The following words when used in this Declaration shall have the following meanings:

**1.1 Additional Land:**

The real estate legally described on Exhibit "B" attached hereto and made a part hereof.

**1.2 Association:**

Lakewood Creek Homeowners Association, an Illinois not-for-profit corporation, its successors and assigns, or if such name is not available, a not-for-profit corporation having a similar name chosen by Developer. For purposes of these Covenants, references to the Association or its Board of Directors shall mean the Developer until such time as the Association is formed.

**1.3 Village:**

The Village of Montgomery.

**1.4 Common Areas:**

All those portions of the Property owned or to be owned and/or maintained by the Association for the common use and enjoyment of the Owners, including, but not limited to, any portion thereof which is designated as a Common Area, "Open Space, Recreational Area & Utilities," "Club House, Open Space & Recreational Area," "Landscape/Buffer Easement & Utilities," detention or retention easement or area, which may be for the benefit of Owners and the general public (to the extent not within a public right of way) or outlot on the Plat or by separate instrument recorded by Developer.

**1.5 Common Facilities:**

All non-public improvements and fixtures situated on or in rights of way within the Property, and on or in Common Areas owned by the Association including, but not limited to, Recreation Facilities, fences, pavings, landscape islands, brick pylons and portals, if any, and all personal property owned by the Association.

**1.6 Entry Monuments:**

All entranceway monuments or identification monuments installed by the Developer on or within the Property, on or in rights of way within the Property, and on or in Common Areas owned by the Association or for the benefit of the Association.

**1.7 Developer:**

Lakewood Creek, L.L.C., a Delaware limited liability company, and its successors and assigns.

**1.8 First Mortgagee:**

The holder of any recorded first mortgage lien on one or more Units.

**1.9 Owner:**

The record owner, whether one or more persons or entities and including the Developer, where applicable, of the fee simple title to any Unit situated in the Development. Owner shall not mean or refer to a mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding or transfer in lieu of foreclosure.

**1.10 Plat:**

Collectively, any plat or plats of subdivision recorded in respect to the Property.

**1.11 Property:**

The real estate legally described on Exhibit "A" attached hereto and made a part hereof and all or any portion of the real estate described on Exhibit "B" hereafter subject to the provisions hereof.

**1.12 Recreation Areas:**

All those portions of the Development owned or to be owned and maintained by the Association for the recreational use and enjoyment of the Owners of the Units and the guests for such Owners subject to the rules and regulations adopted from time to time by the Board.

**1.13 Recreation Facilities:**

All recreation improvements and fixtures situated on and all personal property used for recreational purposes and owned by the Association which may include, but need not be limited to, a recreation center, a pool center, sand volleyball courts, tennis courts, picnic areas, tot lots, and playground equipment.

**1.14 Unit:**

A platted lot or portion thereof upon which a single family residence is or could be constructed, (for example the platted lot upon which a detached single family home is or could be situated would be deemed a Unit and each partition of a platted lot upon which an attached single family home, such as a townhome or duplex home, is or could be situated would also be deemed a Unit). Excluded from the definition of Unit is any platted lot designated as a common area or for common use or benefit. The Developer's

conveyance of a portion of a platted lot shall, unless the Developer specifies to the contrary, be conclusive evidence that such portion constitutes a Unit.

## **Article 2**

### **Property Subject to this Declaration**

#### **2.1 Purposes.**

Developer desires, by the imposition of the covenants, conditions, restrictions and easements hereinafter set forth, to create on the Property a residential development for future Owners of Units for the following general purposes:

##### **2.1.1 Community.**

to provide a harmonious community for the benefit of the Property and the Owners;

##### **2.1.2 Recreation Facilities.**

to provide recreation facilities for the benefit of the Owners;

##### **2.1.3 Protect Values.**

to enhance and protect the values of the Development;

##### **2.1.4 Prevent Improper Use.**

to prevent the improper use of Units which may depreciate the value of the other Units in the Development;

##### **2.1.5 Ensure Adequate Development.**

to ensure adequate and reasonable development of the Property; and

**2.1.6 Provide for Maintenance.**

to provide for the maintenance of the Common Areas and Common Facilities.

**2.2 Declaration.**

The Property is hereby specifically declared to be subject to the provisions of this Declaration effective upon the recording of this Declaration and upon recording of this Declaration, the Property shall be held, transferred, sold, conveyed and occupied subject to this Declaration.

**2.3 Addition of Property Without Approval of Class "A" Members.**

Developer shall have the unilateral right, privilege, and option, from time to time and at any time within seven (7) years from the date this Declaration is recorded, to subject to the provisions of this Declaration and the jurisdiction of the Association all or any portion of the Additional Land. Such addition shall be accomplished by filing in the Office of Recorder of Deeds for Kendall County, Illinois, an amendment to this Declaration adding such property, and from and after the date of such filing the property so subject shall be deemed part of the Property for all purposes of this Declaration. Such amendment shall not require the consent of the Class A members defined in Section 7.5.1. Any such addition shall be effective upon the filing for record of such amendment. Developer shall have the unilateral right to transfer to any other person the said right, privilege, and option to add the Additional Land which is herein reserved to Developer, provided that the transfer is memorialized in a written instrument executed by the Developer and recorded in the Office of Recorder of Deeds for Kendall County. The subjection of portions of Additional Land to this Declaration will add members to the Association and increase

usage of Recreation Area and Recreation Facilities. Developer and Association shall not be obligated to add on additional Recreation Areas and Recreation Facilities at any time, notwithstanding the increase in membership resulting from the inclusion of Additional Land into the Property.

#### **2.4 Use of Recreation Areas and Facilities.**

Every Owner shall have a right of use, access and enjoyment in and to the Recreation Areas and Recreation Facilities subject to the rules and regulations of the Board. Any Owner may delegate its right of enjoyment to tenants subject to the same rules and regulations on usage applicable to Owners. Persons who violate the rules and regulations adopted by the Board shall be subject to sanctions which may include reasonable monetary fines and suspension of the right to use the Recreation Areas and Recreation Facilities in accordance with procedures it may adopt. Sanctions shall apply only to the persons actually violating the rules and regulations or the persons whose guests or invitees violate such rules and regulations. Owners are responsible for the behavior of their respective guests and for ensuring that such guests comply with all applicable rules and regulations. The Board may charge a reasonable use fee for guests of Owners.

### **Article 3**

#### **Maintenance Obligations**

##### **3.1 Maintenance of Easement Areas.**

Easements for installation and maintenance of the utilities, sewer pipelines and facilities and drainage facilities over each of the Units, and all pipelines and other facilities located and to be located in said easements are reserved as shown on the Plat or as created with



this Declaration 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 of each Unit and all improvements in it shall be maintained continuously by the Owner of the Unit, except for those improvements for which a public authority, a private or public utility company or the Association is responsible. Any portion of any Unit which is designated as a drainage or Village easement on the Plat shall be kept free of obstructions to drainage including, for purposes of illustration only and not limitation, shrubbery, fencing and other structures not approved by the Village. Unless otherwise specifically directed by the Village, the respective Unit Owners shall be responsible for the control of erosion within those portions of any such easements which are part of their respective Units.

### **3.2 Maintenance of Common Areas and Common Facilities.**

The Association shall maintain, operate, and manage all the Common Areas and Common Facilities (whether such Common Area or Common Facilities are dedicated to public bodies or not unless such public bodies expressly accept responsibility thereof).

### **3.3 Maintenance of Entry Monuments.**

The Association shall maintain, operate, and manage all Entry Monuments (whether such Entry Monuments are dedicated to public bodies or not unless such public bodies expressly accept responsibility thereof).

## **Article 4**

### **Architectural Standards**

#### **4.1 Authority.**

The Board of Directors shall have the authority and standing, on behalf of the Association, to enforce in courts of competent jurisdiction decisions of the committee established in Section 4.2. This Article may not be amended without the Developer's written consent so long as a Declarant or a partnership in which the Developer is the general partner owns any land subject to this Declaration or subject to annexation to this Declaration.

#### **4.2 Review Committee.**

The Board of Directors shall establish a Review Committee ("RC") to consist of at least three (3) and no more than five (5) members, all of whom shall be appointed by the Developer until one hundred (100%) percent of the Property has been developed and conveyed to purchasers in the normal course of development and sale. There shall be no surrender of this right prior to that time except in a written instrument in recordable form executed by Developer. Upon the expiration of such right, the Board of Directors shall appoint the members of the RC. The RC shall have exclusive jurisdiction over modifications, additions, or alterations made on or to existing Units or structures containing Units and the open space, if any, appurtenant thereto.

Plans and specifications showing the nature, kind, shape, color, size, materials and location of such modifications, additions or alterations, shall be submitted to the RC for approval. No permission or approval shall be required to repaint in accordance with an

original exterior color scheme, or to rebuild in accordance with original plans and specifications. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of any Unit, or to paint the interior of his Unit any color desired. In the event that the RC fails to approve or to disapprove such plans or to request additional information reasonably required within forty-five (45) days after submission, the plans shall be deemed approved. The RC shall have the right to approve and designate mail boxes in addition to the mail boxes depicted and described on Exhibit "D" attached hereto, which may also be installed within the Properties. After obtaining the RC's approval, applicants shall be responsible for obtaining all permits necessary for the approved modifications, additions or alterations.

#### **4.3 No Waiver of Future Approvals.**

The approval of the RC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of such Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters whatever subsequently or additionally submitted for approval or consent.

### **Article 5**

#### **Building and Use Restrictions**

##### **5.1 Uses Limited to Residential Purposes.**

The Property shall be used only for residential, recreational, and related purposes, which purposes may include, without limitation, offices for any property manager employed by

or retained by the Association or any neighborhood association or business and sales offices for the Developer.

## **5.2 Vehicle Parking and Storage.**

Commercial vehicles, tractors, mobile homes, recreational vehicles, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, boat trailers and unlicensed or inoperable motor vehicles shall be parked and stored on Units only within garages with the doors thereto closed except when the parked or stored vehicle, boat or trailer is being moved in or out within a forty-eight (48) hour time frame. Operable, licensed motor vehicles, including motorcycles, shall be parked only within garages or on the driveway or driveway apron. Operable, licensed motor vehicles, including motorcycles, shall not be parked on the lawn or on any other areas of outdoor open space within any Unit. As used herein, the term "commercial vehicles" does not include two (2) axle vehicles which are not larger than minivans or pick-up trucks.

## **5.3 Antennas.**

To the extent permitted by law, no antennas, aerials, satellite dishes larger than thirty (30) inches in diameter, or other apparatus for the transmission and receipt of television, radio, or other signals of any kind shall be placed, allowed, or maintained upon any portion of a Unit which is not located solely within the interior of the building located on a Unit.

With the prior approval of the RC, satellite dishes 30 inches or less may be installed within the Properties so long as not attached to the exterior of a building located on a Unit and are appropriately screened from view as determined by the RC.

## **5.4 Basketball Equipment.**

No basketball hoops and backboards other than those mounted on free-standing poles shall be erected or installed on any Unit.

**5.5 Clotheslines.**

No clotheslines or clothes poles shall be erected or installed on any Unit.

**5.6 Guns.**

The discharge of firearms within the Property is prohibited. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size.

**5.7 Air Conditioning Units.**

No window air conditioning units may be installed in any Unit.

**5.8 Lighting.**

Seasonal holiday decorative lights may be displayed between December first (1<sup>st</sup>) and January tenth (10<sup>th</sup>) only.

**5.9 Fences.**

**5.9.1 Permitted Type and Heights.**

No fences of any kind, other than board on board fences constructed of unpainted/unstained natural cedar, shall be installed on any Unit. Said remaining fences shall be four (4) feet in height and shall conform to the standards shown on Exhibit "C". Developer may install fences of varying heights in locations selected by the Developer on the Property.

**5.9.2 Fence Maintenance.**

Fences on any Unit shall be maintained by the Owner of the Unit at the Owner's expense.

If an Owner fails to maintain the fences on such Owner's Unit, the Association shall have the right, but not the obligation, to undertake the repairs after first giving notice to Owner describing the needed repairs (the "Notice Repairs"). If the Notice Repairs are not made within thirty (30) days after notice from the Association, the Association shall have the right, but not the obligation, to enter upon the Unit to make the Notice Repairs and send an invoice to the Owner for the costs thereof. Invoices not paid within forty-five (45) days, shall be deemed delinquent and the Association shall have the same rights with respect thereto as provided in Section 8.10 for delinquent assessments.

**5.10 Above-Ground Pools.**

The installation of an above-ground swimming pool within any Unit is prohibited unless such pool is decked and skirted and installed pursuant to plans approved by the RC.

**5.11 Storage Buildings and Sheds.**

Storage buildings and sheds of all kinds shall not be installed on the Property.

**5.12 Gazebos and Decks.**

Decks and gazebos shall be installed only with the prior written approval of the RC.

**5.13 Dog Runs.**

Dog runs shall not be installed on the Property.

**5.14 Modifications and Alterations.**

The height of buildings and structures containing dwelling units shall not be increased above the height when initially constructed. The size of the driveways and driveway

aprons on Units containing dwelling units shall not be increased or the location of such driveways and driveway aprons changed from the size and location established when initially constructed and installed. No dwelling unit shall be expanded so as to encroach onto the front yard, side yard or rear yard setbacks established by the applicable plat of subdivision or applicable ordinances. The original exterior color scheme of a building or structure may be changed either 1) seven years after the issuance of a certificate of occupancy for the Unit with the written approval of the Review Committee or 2) at any time with the written approval of Developer. Notwithstanding anything to the contrary, Developer may change the original exterior color scheme for Units owned by Developer.

**5.15 Mail Boxes.**

No mail boxes other than the mail boxes, as depicted and described on Exhibit "D" or as may subsequently designated and approved by the RC, shall be installed on the Property.

**Article 6**

**Special Conditions**

**6.1 Improvement of Common Areas Prohibited.**

Owners are prohibited from constructing improvements of any kind within the Common Areas.

**6.2 Removal of Common Facilities Prohibited.**

Owners are prohibited from removing any Entry Monuments.

**6.3 Storm Water Management Facilities.**

Storm water management facilities shall not be used for swimming or boating. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of the storm water management facilities and any other water features including streams and ponds within the Property.

**6.4 Unsightly or Unkempt Conditions.**

It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her Unit. All rubbish, trash, and garbage shall be stored in the Unit's garage, shall be regularly removed from the Property, and shall not be allowed to accumulate thereon.

**Article 7**

**The Association**

**7.1 Formation of Association.**

Developer shall form an Illinois not-for-profit corporation to be known as the "Lakewood Creek Homeowners Association" which shall provide for maintenance and operation of the Common Areas and Common Facilities. If such name is not available, the not-for-profit corporation shall bear a similar name chosen by the Developer.

**7.2 Directors and Officers.**

**7.2.1 Board**

The Association shall have a Board of Directors (the "Board") of three (3) directors, who need not be members of the Association, who shall be elected by the members of the Association at such intervals as the Articles of Incorporation



and By-Laws of the Association shall provide, except that the first Board and subsequent Boards (until the Turnover Date) shall be appointed by Developer.

#### **7.2.2 Offices**

The Association shall have such officers as shall be appropriate from time to time, which shall be elected by the Board and who shall manage and conduct the affairs of the Association under the direction of the Board. The directors and officer of the Association shall not be liable to the Owners, or any others for any mistake of judgment or any acts or omissions made in good faith as such directors or officers.

#### **7.3 Turnover.**

The Developer shall, through the Board appointed by it in accordance with Section 7.2.1, exercise control over all Association matters until the earlier of (a) the date Developer elects voluntarily to turn over to the members of the Association the authority to appoint the Board, or (b) the earlier of (i) four (4) months after 75% of the units have been conveyed to purchasers of units or (ii) three (3) years after the first unit is conveyed to a member (the "Turnover Date"). Prior to the Turnover Date, Developer shall have all of the rights and powers herein granted to the Association and shall be authorized and empowered to exercise all power and authority of the Board.

#### **7.4 Membership.**

Every person or entity who is a record owner of a fee or undivided fee interest in any Unit in a portion of the Development shall be a member of the Association and said membership shall be appurtenant to said Unit, and each purchaser of any Unit 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 such deed or other conveyance, provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a member.

## **7.5 Membership Classes.**

The Association shall have two classes of voting membership:

### **7.5.1 Class A.**

Class A members shall be all those Owners as defined in Section 1.9 with the exception of the Developer. Class A members shall be entitled to one vote for each Unit in which they hold the interest required for membership by Section 7.4. When more than one person holds such interest in any Unit, all such persons shall constitute one member. The vote for such Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Unit. With respect to Units owned by a land trust, if a trustee designated in writing a person to cast votes on behalf of the Unit Owner, the designation shall remain in effect until a subsequent document is filed with the Association.

### **7.5.2 Class B.**

The Class B member shall be the Developer. The Class B member shall be entitled to three (3) votes for each Unit in which it holds the interest required for membership by Section 7.4, provided that the Class B membership shall close and be converted to Class A membership on the Turnover Date or at such earlier time at the option of the Developer.

#### **7.6 Transfer of Membership.**

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

#### **7.7 Powers and Duties of the Association.**

The Association, in addition to its other powers, rights and duties as set forth in this Declaration and in its Articles of Incorporation, By-Laws and any rules and regulations which the Association may promulgate as hereinafter provided, and as any of the same may be amended, has the power and duty to:

##### **7.7.1 Power to Maintain Common Areas and Facilities.**

Maintain, operate and manage all the Common Areas and Common Facilities (whether such Common Areas or Common Facilities are dedicated to public bodies or not unless such public bodies expressly accept responsibility therefor) including, but not limited to, if any, entry monuments, retaining walls, wetlands and mitigation areas, detention areas and trees located on the Common Areas (it being understood that the Association may delegate one or more of such duties to one or more independent contractors including, without limitation, Developer and

entities affiliated with Developer, or agents or employees of the Association, by lease or contact).

**7.7.2 Power to Employ Manager.**

Employ a manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association.

**7.7.3 Power to Pay Taxes.**

Pay all real estate taxes, personal property taxes or other charges which may be assessed against or levied upon the Common Areas and Common Facilities.

**7.7.4 Power to Maintain Grounds.**

Maintain and otherwise manage the landscaping and grounds including any wetland/mitigation and storm water detention facilities located in the Common Areas.

**7.7.5 Power to Maintain Insurance.**

Maintain continually in effect, and to pay the premium of, fire and extended coverage insurance on the insurable portion of the Common Facilities, comprehensive public liability insurance covering all of the Common Area and Common Facilities, a fidelity bond or insurance policy covering all persons who are responsible for handling the funds of the Association and such other insurance as the Board shall deem to be necessary or desirable, all of which shall be in such amounts and with such companies as the Board shall determine; provided,

however, that if and for so long as any First Mortgagee shall be the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation or any other Federal, State or local agency or instrumentality, then the insurance coverage carried by the Association shall, at a minimum, comply with any applicable requirements of such association, corporation, agency and/or instrumentality.

#### **7.7.6 Powers to Promulgate Rules and Regulations.**

The extent and frequency of the activities of the Association in carrying out the duties of maintenance and management set forth above shall be decided by the Board, and the Board may also promulgate rules and regulations to aid in carrying out of said maintenance and management duties and for operation and use of the Common Areas and Common Facilities, and may amend said rules and regulations from time to time. The Board is expressly granted the right to adopt rules and regulations governing the use of the Recreation Areas and Recreation Facilities including but not limited to rules and regulations limiting the hours during which minor children may use some or all of the Recreation Areas and Recreation Facilities, establishing fees and charges for the use thereof by guests and the selling of seasonal passes to non-Owners.

## **Article 8**

### **Covenant for Capital Contributions And Maintenance Assessments**

#### **8.1 Creation of Lien and Personal Obligation of Capital Contributions and Assessments.**

Developer, if and to the extent provided in Section 8.12, and each purchaser of any Unit by acceptance of a deed or other instrument of conveyance therefore, whether or not it shall be so expressed in any deed or other instrument of conveyance, hereby covenants and agrees, for himself, his heirs, personal representatives, successors and assigns, to pay to the Association: (a) annual assessments or charges, payable monthly; (b) special assessments for payment of excess real estate taxes; and (c) capital contributions (described in Section 8.5). Such contributions and assessments are to be fixed, established and collected from time to time as hereinafter provided. Such capital contributions and assessments (or installments of either), together with such interest thereon, late charges, attorney's fees and costs of collection thereof as are hereinafter provided, when due and not fully paid shall be a charge on the land, and shall be a lien upon the property against which each call for such contributions or assessment (or installment of either) is made until the same shall be paid in full. Each such capital contribution or assessment (or installment of either), together with such interest thereon, late charges, attorney's fees and costs of collection thereof as are hereinafter provided, shall also be the personal obligation of the person who is the Owner of such property at the time when such contribution or assessment (or installments of either) falls due. No Owner may waive or otherwise exempt itself from liability for the payments of

assessments by non-use of the Common Areas and Common Facilities. The obligation to pay assessments is a separate and independent covenant on the part of each Owner.

## **8.2 Assessment Deposit.**

Upon the initial conveyance of each Unit from Developer to a purchaser, the purchaser shall establish an assessment deposit with the Association, which shall constitute a capital contribution, in an amount equal to two (2) times the then current monthly assessment for such Unit. The assessment deposit shall not be refunded to purchaser upon a subsequent conveyance unless and until the party to whom purchaser conveys deposits a like amount with the Association. The foregoing shall apply to all subsequent conveyances of the Unit so that a two (2) month assessment deposit shall be held by the Association at all times as to each Unit, so long as this Declaration is in effect. The foregoing shall not be deemed a limitation on the Association's use of said deposits.

## **8.3 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 the Development, and in particular for the maintenance of the Common Areas, the Common Facilities, and properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas and the Common Facilities, including, but not limited to, the payment of real estate taxes on the Common Areas, the payment of liability, casualty, worker's compensation, and fidelity insurance premiums and such other insurance premiums as may be deemed necessary from time to time on the Common Areas and/or the Common Facilities, fund reserves for replacement of improvements to the Common Areas or

Common Facilities, the payment of interest, the cost of maintenance, upkeep and repair of the Common Areas and/or the Common Facilities, the cost of labor, management, supervision and operation necessary or desirable for the use and enjoyment of the Common Areas and Common Facilities, and to provide funds for the Association to carry out its duties set forth herein or in its Articles of Incorporation or By-laws. The Association may also, at its option, levy assessments for the payment of property hazard insurance premiums on a master policy covering all of the Units in the Development.

#### **8.4 Assessments.**

From the date any Unit becomes subject to this Declaration and until the calendar year beginning January 1, 2002, the annual assessment shall be not more than Three Hundred Twenty-Six and 00/100 (\$326.00) per Unit. On and after January 1, 2002, for each succeeding year, on an annual basis, the annual assessment may be increased by vote of the Owners of the Association, as provided in Section 8.6. In the event the annual assessment is not increased by vote of the members of the Association, as provided in Section 8.6, this assessment may be increased effective the first day of January of each year on and after January 1, 2002, by action of the Board and without the necessity for a vote of the Owners. The Board may, after consideration of current maintenance costs and future needs of the Association, fix the actual assessment for any year at an amount more or less than the annual assessment established in accordance with this Article. If taxes on real estate owned by the Association, as shown by the tax bills received by the Association each year, shall exceed the amounts estimated for such taxes in the budget previously used in determining the annual assessment for such year, the Board may,



without the assent of the members, cause the Association to levy a special assessment to provide funds for payment of such increase in taxes, in such manner and time or times as the Board shall determine. Monies received by the Association pursuant to this Section shall be deposited in the general account of the Association. In the event that the sum of the annual and special assessments for any calendar year shall exceed the Association's expenses including reserves for such calendar year, the Board shall cause the Association either to return the amount of such excess assessments to the members of the Association promptly after the end of such calendar year or to apply the amount of such excess against the members' annual assessments for the next following calendar year. Any such excess assessments which the Board elects to return to the members shall be returned to those persons who are members of the Association on the last day of the calendar year in which such excess arose. For purposes of this Section, the Association's expenses for a calendar year shall be conclusively deemed to equal the expenses reported on the Association's federal income tax return for such calendar year. The Association shall establish and maintain from annual assessments collected hereunder, an adequate reserve fund for the costs of maintenance, repair and replacement of the Common Areas and Common Facilities, or any improvements or landscaping therein which are the obligation of the Association hereunder.

#### **8.5 Capital Contributions.**

In addition to the annual and special assessments authorized by Section 8.4, the Board may (and in the case of inadequate reserves for replacement of improvements to the Common Areas or Common Facilities shall) cause the Association to require, from time

to time on at least thirty (30) days' advance written notice to all members, a capital contribution to the Association (which may be payable in installments if so designated by the Board and, in the case of capital contributions for the replacement of improvements to the Common Areas or Common Facilities, shall be payable in monthly installments), for the purpose of (a) paying capital expenditures, including without limitation, the cost of any construction or reconstruction, alteration or replacement of one or more capital improvements upon the Common Areas or Common Facilities, the cost of the necessary fixtures and personal property related thereto, and the cost of acquisition or replacement of any major specified item or items of personal property owned or to be owned by the Association, or (b) making principal payments on loans made to the Association, or (c) providing the Association with working capital as reserves against future expenses, or (d) providing funds to cover losses incurred by the Association. Notwithstanding the foregoing, such capital contributions may not be levied without the assent of two-thirds (2/3) of the votes of each class of voting membership in the Association, cast in person or by proxy at a meeting duly called for this purpose, written notice of which shall be given to all voting Owners at least thirty (30) days in advance and which shall set forth the purpose of the meeting. The purpose(s) of each capital contribution shall be specified in the aforementioned notice and all monies received by the Association in payment of the capital contributions referred to in this Section shall be segregated from all other monies of the Association in a separate bank account or other investment approved by the Board, to be held by the Association and identified as being for funds for the purpose called for in the said notice to the membership.

**8.6 Change in Assessments by Action of the Membership.**

Subject to the limitations of Section 8.4, for the calendar year 2002 and for each annual period thereafter, the Association may, notwithstanding any action or inaction by the Board, change the annual assessment fixed pursuant to said Section 8.4 prospectively for any such period, provided that any such change shall have the consent of a majority of the votes of each class of the voting Owners of the Association, cast in person or by proxy at a meeting duly called for this purpose, written notice of which shall be given to all voting Owners at least thirty (30) days in advance and shall set forth the purpose of the meeting.

**8.7 Quorum for Actions under Sections 8.5 and 8.6.**

The quorum required for any action authorized by Sections 8.5 and 8.6 of this Article shall be as follows: At the first meeting called, as provided in said Sections 8.5 and 8.6, the presence at such meeting of Owners of the Association, or of proxies, entitled to cast sixty percent (60%) of all of the votes of each class of voting members shall constitute a quorum. If the required quorum is not forthcoming at such meeting, another meeting may be called, subject to the notice requirement set forth in said Sections 8.5 and 8.6 and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the immediately preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the date of the immediately preceding meeting.

**8.8 Date of Commencement.**

The annual assessments provided herein shall commence as to each Unit on the first day of the calendar month following recordation of this Declaration, subject in all instances to

the provisions of Section 8.12 of this Article. The annual assessment shall become due and payable in equal monthly installments to be paid each month in advance, on or before the first day of the month commencing on the first day of January of the year for which the assessment is levied, unless the Board designates another form of periodic payments. The amount of the annual assessment which may be levied for the balance remaining in the first calendar year of assessment against a Unit shall be an amount which bears the same relationship to the annual assessment provided for in Section 8.4 for such year as the remaining number of months in that calendar year bears to twelve (12). The due date of any special assessment or capital contribution under Section 8.4 or Section 8.5 hereof respectively (and whether or not such assessment, or capital contribution, shall be payable in installments) shall be fixed in the resolution authorizing such assessment.

**8.9 Duties of Board of Directors as to Assessments.**

At least thirty (30) days in advance of the due date for any capital contribution assessed pursuant to Section 8.5 above, or annual or special assessment of the first installment of such contribution or assessment, the Board of the Association shall fix the amount of such contribution or assessment against each Unit. Subject to the provisions of Section 8.12, any such contribution or assessment shall be allocated equally among each Unit subject to this Declaration; provided, however, that nothing herein contained shall be deemed to restrict the remedies available to the Association against any particular Unit or Unit Owner(s) in the event of non-payment of contributions or assessments when due, or for costs assessed to Unit Owner(s) as a result of willful or negligent acts of Owner(s), their family, guests or invitees. The Board shall prepare a roster of the Units and capital

contributions and assessments applicable thereto which shall be kept in the office of the Association and such roster, as well as the other books and records of the Association, shall be open to inspection by any Owner or First Mortgagee. Written notice of the assessment or capital contribution, or both, shall thereupon be sent to every Owner and First Mortgagee (in possession) subject thereto. The Board may, in its discretion, designate a form of periodic payments. The Board may also, in its discretion, designate and retain any agent to collect such capital contributions and assessments on behalf of the Association, to whom payments of such contributions and assessments shall be made. However, in no event shall mortgagees be required to collect such capital contributions and assessments on behalf of the Association.

#### **8.10 Non-Payment.**

If the capital contributions or assessments (or any installments or either) are not paid on the date when due, they shall be deemed delinquent, and such delinquent contribution, assessment or installment of either shall, together with such interest thereon and the cost of collection thereof as are hereinafter provided, thereupon become a lien on the Unit of the delinquent Owner which shall bind such Owner, his heirs, devisees, personal representatives and assigns and the Association shall have the right to record in the Recorder's Office within which the Property is located, a notice of lien upon the Unit of the delinquent Owner. The personal obligation of the then Owner to pay such capital contribution or assessment however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them. Sale or transfer of any Unit shall not affect the continuing lien on such Unit for the

amount of any unpaid capital contributions or assessments (or installments of either). If a capital contribution or assessment (or installment of either) is not paid within thirty (30) days after the due date thereof, such contribution, assessment or installment shall bear interest from such due date at the highest rate permitted by Illinois law, and the Association, or its collecting agent designated by the Board, may bring any legal action against the Owner personally obligated to pay the same and/or to execute or foreclose upon the Association's lien against the delinquent Owner's Unit, and there shall be added to the amount of such contribution, assessment or installment the costs of preparing and filing the complaint in such action and, in the event a judgment is obtained, such judgment shall include interest on the contribution or assessment as above provided and a reasonable attorney's fee to be fixed by the court together with the cost of the action. In addition thereto, the Association may deny to the delinquent Owner the use and enjoyment of any of the Common Areas and Common Facilities except the right to use for ingress and egress to and from the Owner's Unit (which right shall be perpetual and pass with the conveyance of each Unit), until the delinquent contribution assessment or installment is paid, together with any interest, costs and other sums set forth above which the Association is entitled to receive. Under the provisions of this Declaration, the failure to pay such contributions or assessments shall in no way be construed as a default under the delinquent Owner's mortgage. No Owner may avoid liability for the capital contributions and assessments provided for herein by non-use of the Common Areas and/or the Common Facilities, by set-off of any claims he may have against the Association, or by abandonment of his Unit. In addition to the foregoing, the Association may, to the extent permitted by law, maintain an action against a delinquent Owner for

forcible entry and detainer under 735 ILCS 5/9-102, pursuant to the provisions thereof. Any unpaid assessment which cannot be promptly collected from an Owner of a Unit may (but need not) be reassessed by the Board as a common expense to be collected from all of the Owners, including (by way of illustration and not limitation) a purchaser who acquires title to the Unit owned by the defaulting Owner at a sheriff's sale of such Unit pursuant to execution upon a lien against such Unit (including, without limitation, the Association's lien for delinquent capital contribution(s) and/or assessment(s), his successors and assigns and any holder of a mortgage who comes into possession of a Unit by deed in lieu of foreclosure or any transfer or assignment in lieu of foreclosure).

#### **8.11 Subordination.**

The lien of the capital contributions and assessments provided for herein shall be subordinate to the lien of any first mortgage placed upon the Unit subject to such capital contribution or assessment prior to the time such capital contribution or assessment becomes a lien on such Unit; provided, however, that such subordination shall apply only to the contributions, assessments or installments which have become due and payable prior to the date of sale of such Unit pursuant to a decree of foreclosure of such mortgage or prior to the date of a deed, or other instrument of conveyance, of such Unit given by the mortgagor in lieu of foreclosure. Any First Mortgagee who comes into possession of a Unit on which it holds or held a mortgage, through foreclosure of such mortgage, or by deed (or assignment) in lieu of foreclosure, shall take the Unit free of any claims for unpaid assessments, capital contributions, or other charges against such Unit which have accrued prior to the time such First Mortgagee comes into possession of such Unit

(except for claims for a pro rata share of such assessments, capital contributions or other charges resulting from a pro rata reallocation thereof by the Association to all Units including the mortgaged Unit). Such sale, or deed or instrument of conveyance in lieu of foreclosure, shall not relieve such Unit from liability for any capital contributions or assessments, or installments of either, which thereafter become due nor from the lien of any such subsequent contribution, assessment or installment.

#### **8.12 Exempt Units.**

Each Unit, for the period prior to the time a home is constructed thereon and sold and conveyed by Developer, shall be exempt from the capital contributions, assessments, charges and liens of the Association created herein for any amount in excess of sixty percent (60%) of capital contributions, and/or monthly assessments paid by other Unit Owners. Such exemption for any such un conveyed Unit shall continue until the time of the closing of the sale and conveyance of such Unit by Developer to a purchaser. Upon the conveyance by Developer to an Owner other than Developer of a Unit which was theretofore entitled to the above partial exemption, such exemption shall be terminated ipso facto and such Unit shall thereafter be subject to the full amount of capital contributions and assessments elsewhere set forth in this Article prorated from the date of such conveyance. It is further understood that the following property subject to this Declaration shall be exempt from the capital contributions and assessments, charges and liens created herein: (a) properties dedicated to and accepted by a local public authority and devoted to public use, from and after the time of acceptance of such dedication; (b) all Common Areas and Common Facilities; and (c) all properties owned by a charitable



or non-profit organization exempt from taxation by the laws of the State of Illinois, so long as such properties are not used as a dwelling.

**8.13 Certificate of Payment.**

The Association shall, upon demand, furnish, within ten (10) days after demand therefor be made, to any Owner liable for said capital contribution or assessment, a certificate in writing signed by an officer of the Association, setting forth whether the annual assessments or capital contributions on a specified Unit 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 or capital contribution 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 Developer on Units then owned by Developer.

**Article 9**

**Use and Rights in Common Areas**

**9.1 Use and Rights of Owners and the Association.**

The Association is hereby granted rights of easement for ingress and egress over and across that portion of the Property as may be required to access and maintain the Entry Monuments. Except as the right may be suspended under Article 8 hereof for non-payment of delinquent assessments, or as provided below, each Owner, at the time he becomes an Owner and for so long as he is an Owner, is hereby granted rights of easement for ingress and egress over and across, and use of, enjoyment in, and access to all of the Common Areas and Common Facilities subject to the rules and regulations of

the Association as promulgated from time to time and subject to the right of the Association or its designee(s) for use of one or more of the Common Areas and/or Common Facilities and subject to such restrictions, including, without limitation, access restrictions, set forth in any easement grant. Such easements shall be deemed to be appurtenant to such Owner's Unit, shall run with the land and shall pass with the title to such Unit. Any conveyance, encumbrance, judicial sale, or other transfer (voluntary or involuntary) of an individual interest in the Common Areas will be void unless said Owner (excluding the Developer) receives the consent of at least two-thirds (2/3) of the Owners. If construction, reconstruction, repair, shifting, settlement, or other movement of any portion of improvements results either in the Common Areas encroaching on any Unit or in a Unit encroaching on a Common Area or another Unit, an easement is hereby granted for both the encroachment and its maintenance for the period during which the encroachment exists. There shall be no absolute liability imposed on an Owner for damage to the Common Areas or other Units. An Owner shall be liable for any damage caused by that Owner to the Common Areas or another Unit in accordance with Illinois law. The Association shall have the right to grant permits, licenses, or easements over or dedicate all or portions of the Common Areas owned by the Association and/or Common Facilities to any public body, agency, authority or utility for utilities, roads and other purposes necessary for the proper operation of the Development, provided that each Owner shall continue to have ingress and egress to his Unit; and further provided that no such dedication shall be effective unless an instrument signed by Owners entitled to cast two-thirds (2/3) of the votes of each class of voting membership has been recorded, agreeing to such dedication and unless written notice of the proposed dedication is mailed

or hand delivered to every Owner at least ninety (90) days in advance of any action taken. Any Unit Owner may delegate in accordance with the By-laws of the Association, his right of enjoyment to the Common Areas to the members of his family, his tenants or contract purchasers who reside on such Unit.

## **9.2 Utility Easements.**

The Common Areas owned by the Association shall be subject to utility easements granted or to be granted for sewer, water, drainage, cable television, gas, electricity, telephone and any other necessary utilities. If such utilities are not installed, or easements therefore are not granted or reserved prior to the conveyance of the Common Areas, such easements shall be granted later by the Association at the request of the Developer. As a part of its program of development of the Development into a residential community and to encourage the marketing thereof, the Developer shall have the right to use the Common Areas and Common Facilities thereon for any reasonable purposes including signage, without charge, during the sales and construction period for the Property.

## **9.3 Use by and Rights of Public Authorities.**

The duly designated officials, employees and contractors of governmental bodies having jurisdiction over the Development, shall have an easement to enter upon on, and over the Common Areas in the Development for the purpose of providing police and fire protection and enforcing the applicable laws, ordinances, rules and regulations of the said governmental bodies. The Developer and the Association shall hold police and governmental personnel harmless from civil or criminal actions arising through a charge of trespass for entering on the Common Areas in performance of their duties.

#### **9.4 Condemnation.**

In the event of condemnation or destruction of any Common Areas or Common Facilities, and in the event of liquidation or termination of the Association, any losses or proceeds resulting therefrom shall be shared equitably between the Unit Owners effected by such event(s), as reasonably determined by the Board. The Association is hereby designated to represent the members thereof in any proceedings, negotiations, settlements or agreements regarding any such condemnation or destruction, and each Member, by acceptance of a deed for a Unit appoints the Association as its attorney-in-fact for the foregoing purposes. Any proceeds from any such settlements shall be payable to the Association for the benefit of the Members and their mortgage holders.

### **Article 10**

#### **Documents and Records**

##### **10.1 Records.**

The Association shall maintain the following records and make them available for examination and copying at convenient hours of weekdays by any Owners or their mortgagees and their duly authorized agents and attorneys:

###### **10.1.1 Organizational Documents.**

Copies of the recorded Declaration, Articles of Incorporation and By-Laws of the Association, and any amendments thereto, annual reports and rules and regulations adopted by the Association, as well as the Association's books, records, and financial statements;

###### **10.1.2 Receipts and Expenditures.**

Detailed and accurate records in chronological order of the receipts and expenditures affecting the Common Areas specifying and itemizing the maintenance and repair expenses of the Common Areas and any other expenses incurred, and copies of all contracts, leases, or other agreements entered into by the Association;

**10.1.3 Minutes of Meetings.**

The minutes of all meetings of the Owners and the Board for not less than seven (7) years;

**10.1.4 Ballots and Proxies.**

Ballots and proxies related thereto, if any, for any election held for the Board and for any other matters voted on by the Owners, for not less than one (1) year;

**10.1.5 Other Records.**

Such other records of the Association as are available for inspection by members of a not-for-profit corporation pursuant to the General Not for Profit Corporation Act of the State of Illinois; and

Where a request for records under this Section is made in writing to the Association or its agent, failure to provide the requested record or to respond within thirty (30) days shall be deemed a denial by the Association. A reasonable fee may be charged by the Association for the cost of copying records. If the Association fails to provide records properly requested under this Section within thirty (30) days, the Owner may seek appropriate relief, including an award of attorneys' fees and costs.

## **Article 11**

### **Meetings and Finances**

#### **11.1 Annual Budget.**

Each Owner shall receive, at least thirty (30) days prior to the adoption thereof by the Board, a copy of the proposed annual budget. The Board shall annually supply to all Owners an itemized accounting of the common expenses for the preceding year actually incurred or paid, together with a tabulation of the amounts collected pursuant to the budget or assessment, and showing the next excess or deficit of income over expenditures plus reserves. Each Owner shall receive written notice mailed or delivered no less than ten (10) and no more than thirty (30) days prior to any meeting of the Board concerning the adoption of the proposed annual budget or any increase in the budget, or establishment of an assessment.

#### **11.2 Meetings of the Board of Directors.**

Meetings of the Board shall be open to any Owner, except for the portion of any meeting held:

##### **11.2.1 Litigation.**

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;

##### **11.2.2 Employment.**

To consider information regarding appointment, employment, or dismissal of an employee; or

### **11.2.3 Violations of Rules.**

To discuss violation of rules and regulations of the Association or unpaid common expenses owned to the Association.

Any vote on the foregoing matters shall be taken at a meeting or portion thereof open to any Owner. Any Owner may record the proceeding at meetings required to be open by this Section by tape, film, or other means; the Board may prescribe reasonable rules and regulations to govern the right to make such recordings. Notice of meetings shall be mailed or delivered at least forty-eight (48) hours prior thereto, unless a written waiver of such notice is signed by the persons entitled to notice before the meeting is convened. Copies of notice of meetings of the Board shall be posted in entranceways, elevators, or other conspicuous places in the Development at least forty-eight (48) hours prior to the meeting of the Board. In the event of a resale of a Unit, the purchaser of a Unit from a seller other than Developer, pursuant to an installment contract for purchase shall, during such times as he/she resides in the Unit, be counted toward a quorum for purposes of election of members of the Board at any meeting of the Owners called for purposes of electing members of the Board, and shall have the right to vote for the election of members of the Board and to be elected and to serve on the Board unless the seller expressly retains in writing any or all of these rights. In no event may the seller and purchaser both be counted toward a quorum, be permitted to vote for a particular office, or be elected and serve on the Board. Satisfactory evidence of the installment contract shall be made available to the Association or its agents. "Installment Contract" shall have

the same meaning as set forth in subsection (e) of Section 1 of the Dwelling Unit Installment Contract Act of the State of Illinois.

## **Article 12**

### **Administration of Project Prior to Election of Initial Board of Directors**

#### **12.1 Developer's Authority.**

Until the election by Owners of the Board, the same rights, titles, powers, privileges, trusts, duties, and obligations that are vested in or imposed on the Board by this Declaration shall be held and performed by the Developer.

#### **12.2 Election of Initial Board.**

The election of the initial Board by the Owners shall be held not later than the Turnover Date. Developer shall give at least twenty-one (21) days notice of the meeting to elect the initial Board and shall upon request provide any Owner within three (3) working days of the request, the names, addresses, telephone numbers (if in the records of the Association), and vote of each Owner entitled to vote at the meeting. Any Owner shall upon request be provided with the same information, within three (3) working days of the request, with respect to each subsequent meeting to elect members of the Board. If the initial Board is not elected by the Owners at the time established, Developer shall at least once a year thereafter conduct meetings to turn over the Association following the procedures set forth in this Section. Developer shall continue in office until an initial Board is elected or until thirty (30) days after the Developer sends notice of its resignation of Board responsibilities to all Owners entitled to vote at an election for members of the Board, at which time Developer shall have no further rights, duties, or obligations to the



Members other than to turn over Association records and documents as herein provided to a duly constituted Board.

### **12.3 Delivery of Records.**

Within sixty (60) days after the election of a majority of the Board other than Developer by Owners, Developer shall deliver to the Board:

#### **12.3.1 Original Documents.**

All original documents as recorded or filed pertaining to the community, its administration, and the Association, such as this Declaration, the Articles of Incorporation, other instruments, annual reports, minutes, rules, and regulations and contracts, leases, or other agreements entered into by the Association. If any original documents are unavailable, a copy may be provided if certified by affidavit of the Developer, or an officer or agent of Developer as being a complete copy of the actual document recorded or filed.

#### **12.3.2 Detailed Accounting.**

A detailed accounting by Developer, setting forth the source and nature of receipts and expenditures in connection with the management, maintenance, and operation of the community, copies of all insurance policies, and a list of any loans or advances to the Association which are outstanding.

#### **12.3.3 Funds**

Association funds, which shall have been at all times segregated from any other moneys of the Developer.

#### **12.3.4 Property.**

A schedule of all real or personal property, equipment, and fixtures belonging to the Association, including documents transferring the property, warranties, if any, for all real and personal property and equipment, deeds, title insurance policies, and all tax bills.

#### **12.3.5 Litigation.**

A list of all litigation, administrative action, and arbitrations involving the Association

#### **12.3.6 Government Notices.**

Any notices of governmental bodies involving actions taken or which may be taken concerning the Association.

#### **12.3.7 Specifications.**

To the extent available, engineering and architectural drawings and specifications as approved by any governmental authority.

#### **12.3.8 Filed Documents.**

All other documents filed with any governmental authority, all governmental certificates, correspondence involving enforcement of any association requirements, copies of any documents relating to disputes involving Owners, and originals of all documents relating to everything listed in this subsection.

### **12.4 Agreements.**

Any contract, lease, or other agreement made prior to the election of a majority of the Board other than Developer by or on behalf of the Owners, which extends for a period of more than two (2) years from the recording of this Declaration, shall be subject to cancellation by more than 50% of the votes of the Owners, other than Developer, cast at a special meeting of members called for that purpose during a period of ninety (90) days prior to the expiration of the two (2) year period. At least sixty (60) days prior to the expiration of the two (2) year period, the Developer shall send notice to every Owner, notifying them of this provision, of what contracts, leases, and other agreements are affected, and of the procedure for calling a meeting of the members for the purpose of acting to terminate such contracts, leases, or other agreements. During the ninety (90) day period, the other party to the contract, lease, or other agreement shall also have the right of cancellation.

#### **12.5 Statute of Limitations.**

To the extent permitted by law, the statute of limitations for any actions in law or equity which the Association may bring shall not begin to run until the Owners have elected a majority of the members of the Board.

### **Article 13**

#### **Resale of Units**

##### **13.1 Document Delivery.**

In the event of any resale of a Unit by an Owner other than Developer, the Owner may obtain from the Board and shall make available for inspection to the prospective purchaser, upon demand, the following:

**13.1.1 Declaration.**

A copy of this Declaration, other instruments, and any rules and regulations.

**13.1.2 Statement of Account.**

A statement of any liens, including a statement of the account of the Unit setting forth the amounts of unpaid assessments and other charges due and owing.

**13.1.3 Capital Expenditures.**

A statement of any capital expenditures anticipated by the Association within the current or succeeding two (2) fiscal years.

**13.1.4 Reserves.**

A statement of the status and amount of any reserve for replacement fund and any portion of such fund earmarked for any specific project by the Board.

**13.1.5 Financial Condition.**

A copy of the statement of financial condition of the Association for the last fiscal year for which such a statement is available.

**13.1.6 Pending Litigation.**

A statement of the status of any pending suits or judgments in which the Association is a party.

**13.1.7 Insurance.**

A statement setting forth what insurance coverage is provided for all Owners by the Association.

#### **13.1.8 Other Documents.**

Any other documents required by law.

The principal officer of the Association or such other officer as is specifically designated shall furnish the information when requested to do so in writing within thirty (30) days of receiving the request. A reasonable fee covering the direct out-of-pocket costs of copying and providing such information may be charged by the Association to the Unit seller.

### **Article 14**

#### **Errors and Omissions**

##### **14.1 Omissions or Errors.**

If there is an error or omission or scrivener's error in this Declaration or other instrument of the Association, the Association may correct the error or omission by an amendment to this Declaration or other instrument, as may be required to correct such error, omission or scrivener's error or to conform the Declaration to any applicable statute, or to conform any other instrument this Declaration. The amendment shall be adopted by vote of 2/3 of the members of the Board or by a majority vote of the members at a meeting called for that purpose, unless the Declaration specifically provides for greater percentages or different procedures.

##### **14.2 Ratification.**

If an omission or error or a scrivener's error in this Declaration or other instrument is corrected by vote of 2/3 of the members of the Board pursuant to the authority established in Section 14.1, the Board, upon written petition by Owners with 20% of the votes of the Association, received within 30 days of the Board action, shall call a meeting of the

Owners within 30 days of the filing of the petition to consider the board action. Unless a majority of the votes of the Owners are cast at the meeting to reject the action, it is ratified whether or not a quorum is present.

#### **14.3 Affected Owners' Consent.**

The procedures for amendments set forth in Sections 14.1 and 14.2 cannot be used if such an amendment would materially or adversely affect property rights of the Owners unless the affected Owners consent in writing. This Section shall not restrict the powers of the Association to otherwise amend this Declaration, the By-Laws, or other instruments, but authorizes a simple process of amendment requiring a lesser vote for the purpose of correcting defects, errors, or omissions when the property rights of Owners are not materially or adversely affected.

#### **14.4 Correction by Court Action.**

If there is an error or omission in this Declaration or other instruments that may not be corrected by an amendment procedure set forth, then the Circuit Court in the County in which the Association is located shall have jurisdiction to hear a petition of one or more Owners thereon or of the Association, to correct the error or omission, and the action may be a class action. The court may require that one or more of the methods or correct be submitted to the Owners to determine the most acceptable correction. All Owners must be joined as parties to the action. Service of process on Owners may be by publication, but the plaintiff shall furnish all Owners not personally served with process with copies of the petition and final judgment of the court by certified mail, return receipt requested, at their last known address.

#### **14.5 Legal Requirements.**

Nothing contained in this Article shall be construed to invalidate any provision of this Declaration authorizing the Developer to amend an instrument prior to the latest date on which the initial members meeting must be held, whether or not it has actually been held, to bring the instrument into compliance with the legal requirements of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, the United States Veteran Administration, or their respective successors and assigns, or other purposes specified herein.

### **Article 15**

#### **General Provisions**

#### **15.1 Enforcement.**

These Covenants shall run with, and be binding upon the Property and shall inure to the benefit of and shall be binding upon the Association and all persons owning, leasing, subleasing, or occupying any such land and their heirs, executors, administrators, personal representatives, successors, and assigns. These Covenants may be enforced by the Association, which shall have the right to expend Association monies in pursuance thereof, and may also be enforced by the Owner of any Unit in the Development or any one or more of the aforesaid persons benefited thereby. If these Covenants are enforced by appropriate proceedings by any such Owner or Owners, such Owner or Owners, if successful in such enforcement and if the Association had theretofore refused such enforcement, shall be reimbursed by the Association for all or any part of the cost incurred, but such reimbursement shall be solely in the discretion of the Board.

Enforcement of these Covenants shall be by any proceeding at law, equity, or otherwise

1) against any person or persons violating or attempting to violate any of these Covenants either a) to restrain violation, b) to compel compliance, and/or c) to recover damages, and  
2) against the land to enforce any lien created by these Covenants. Failure by the Association or any Owner to enforce any of the Covenants herein contained shall in no event be deemed a waiver of the right to do so thereafter.

### **15.2 Enforcement of Covenants by Village.**

In the event the Association or an Owner fails to satisfactorily perform any of its responsibilities under these Covenants, the Village may, but shall not be obligated, to perform them, and the costs thereof may be recorded as a lien or liens on the title to all the Units within the Property, if the responsibility is that of the Association, or as a lien against an individual Unit, if the responsibility is that of an individual Owner. Any such lien may be foreclosed by court action initiated by the Village in any manner provided for in the Illinois Code of Civil Procedure or other applicable law. In addition to the foregoing remedy, the Village may pursue any other remedy or right provided by law including, but not limited to, pursuing an action at law against the Association and/or the Owner. Notwithstanding any other provision in this Declaration, any amendments to this Section shall require the prior written approval of the Village.

### **15.3 Duration, Termination and Amendment.**

Subject to the provision hereof, these covenants shall remain in full force and effect for a period of thirty-five (35) years from the date hereof, and thereafter they shall be deemed to have been automatically renewed for successive terms of ten (10) years except that at



any time, and from time to time, they may be amended or terminated by the vote of the Owners of not less than sixty-seven percent (67%) of the Units then in the Association.

#### **15.4 Powers Retained by Developer.**

A power coupled with an interest is hereby retained by and granted to the Developer (acting by and through its duly authorized officers), its successors, assigns or designees, as attorney-in-fact, to amend this Declaration, the By-laws of the Association, or the Articles of Incorporation of the Association, for any of the following purposes: (a) compliance with requirements of the Veterans Administration, the Department of Housing and Urban Development, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, any successor to any of such organizations and any other federal, state or local governmental entity or agency, including, but not limited to, amendments which give mortgagees the right to participate in or approve certain decisions of the Board or Association; (b) correcting any typographic or scrivener's error (including defining or redefining terms); and (c) meeting requirements of the Internal Revenue Code as now, or hereafter amended, (i) relating to organizations exempt from tax or (ii) specifically exempting homeowners' association from any Federal income tax; provided that Developer shall have no obligation to cause any such amendment to be made. The acceptance of each deed, mortgage or other instrument with respect to any Unit which is subject to these Covenants shall be deemed to be a confirmation of such power to such attorney-in-fact and shall be deemed to constitute a consent and agreement to and acceptance, confirmation and ratification of all such amendments, which shall be

effective upon the recording in the office of the Recorder of Deeds of the County within which the Community is located of an appropriate instrument, setting forth the amendment, and its authorization pursuant to this Section, which instrument shall be executed and acknowledged by Developer.

#### **15.5 Sales Facilities.**

The Developer may maintain sales and construction facilities within the Property. Such facilities may include trailers, model homes, signs, temporary lighting, temporary fencing, flags, and any other improvement or facility deemed necessary by the Developer for the marketing and construction of the Property.

#### **15.6 Assignment of Developer's Rights.**

Notwithstanding anything herein to the contrary, Developer hereby reserves the right to transfer, assign, mortgage or pledge any and all of its privileges, rights, title and interest hereunder, or in the Property, by means of recording an assignment of such with the Office of the Recorder of Deeds in the County in which the Property is located. Upon such assignment the assignee shall be deemed the "Developer" for purposes hereof, and Developer shall be relieved of any liability arising from the performance or non-performance of such rights and obligations accruing from and after the recording of such assignment. No such successor assignee of the rights of Developer shall have or incur any liability for the obligations or acts of any predecessor in interest.

#### **15.7 Leases.**

Any lease or rental agreement affecting any Unit must be in writing, for a period of at least six (6) months, and shall be subject to these Covenants, and the Articles of Incorporation and By-Laws of the Association.

**15.8 Professional Management Contracts.**

Developer shall not directly or indirectly bind the Association to any professional management contract unless such contract includes a right of termination without cause that the Association can exercise at any time after transfer of control. Said right of termination shall not require any payment of any penalty or advance notice of more than ninety (90) days.

**15.9 Village Ordinances Prevail.**

None of the covenants, conditions, restrictions or provisions of the Declaration are intended to supersede or prevail over the ordinances of general or specific applicability of the Village as they currently exist or as they may be amended from time to time, in which the Development is located, and in the event of any conflict, the applicable ordinances of the Village shall supersede and prevail over the covenants, conditions, restrictions and provisions of this Declaration. Notwithstanding any other provision in this Declaration, any amendments to this Section shall require the prior written approval of the Village.

**15.10 Severability.**

Invalidation of any one or more of the provisions of these Covenants or portions thereof by judgment or court order shall in no way affect the validity of any of the other provisions or portions thereof, which shall remain in full force and effect.

**15.11 Notices.**

Any notice or other communication required to be sent to any Owner under the provisions of this instrument shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing. Notice to the Association shall be sent in the manner addressed to its President or Secretary at 2500 W. Higgins Road, Suite 1250, Hoffman Estates, Illinois, 60195, or to such other address of which the Association shall have notified the Unit Owners in the aforesaid manner.

**15.12 Captions.**

The Section captions in this instrument are for convenience only and do not in any way define, limit, describe or amplify the terms and provisions of this instrument or the scope or intent thereof.

IN WITNESS, Lakewood Creek, L.L.C., a Delaware limited liability company has caused its name to be signed to this instrument by its managing member this day of 2001.

**Lakewood Creek, L.L.C., a Delaware  
limited liability company**

By:  **LAKWOOD HOMES, INC.,  
its managing member**

By: \_\_\_\_\_  
President

Attest:

  
\_\_\_\_\_  
Secretary

STATE OF ILLINOIS )  
COUNTY OF Cook )SS

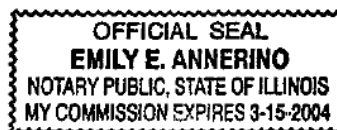
The Undersigned, a Notary Public in and for said County, in the State aforesaid,  
do hereby certify that Bert Hoffman and Richard Snows personally known to me  
as the Vice President and Assistant Secretary respectively, of Lakewood Homes, Inc., personally  
known to me to be the same persons whose names are subscribed to the foregoing instrument,  
appeared before me this day in person and acknowledged that they signed and delivered the same  
instrument and caused the corporate seal of said corporation to be affixed thereto, pursuant to  
authority given by said corporation as their free and voluntary act and as the free and voluntary  
act and deed of said corporation for the uses and purposes therein set forth.

GIVEN under my hand and seal this day of 6th August, 2000.

Emily E. Annerino  
Notary Public

My commission expires:

3/15/2004



Prepared by and Return to:

John H. Mays  
Gould & Ratner  
222 North LaSalle Street  
Suite 800  
Chicago, Illinois 60601  
Phone: (312) 236-3003

### SCHEDULE OF EXHIBITS

A = Property  
B = Additional Land  
C = 4 Foot Fences  
D = Mail Boxes

**EXHIBIT A**

**PROPERTY**

Lots 1 through 269, Lot A, B, C, D, E, F, and G of Lakewood Creek Unit 1 being a Subdivision of part of the West Half of the Northwest Quarter of Section 1 and part of the Northeast Quarter of Section 2, all in Township 37 North, Range 7 East of Third Principal Meridian, in Kendall County recorded as Document No. 200100004400 on March 19, 2001.

## EXHIBIT B

### ADDITIONAL LAND

#### PROPOSED LAKEWOOD CREEK UNIT NO. 2

THAT PART OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 1, TOWNSHIP 37 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 1; THENCE NORTH 89° 59' 14" EAST, ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 1, 1320.27 FEET TO THE EAST LINE OF THE WEST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 1; THENCE SOUTH 00° 24' 46" EAST ALONG THE EAST LINE OF THE WEST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 1, 1009.70 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 00° 24' 46" EAST ALONG SAID LINE, 1693.66 FEET TO THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 1; THENCE SOUTH 89° 05' 39" WEST ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 1, 669.78 FEET; THENCE NORTH 00° 54' 10" WEST, 234.99 FEET; THENCE NORTH 18° 54' 17" EAST, 276.62 FEET; THENCE NORTH 01° 12' 08" EAST, 286.12 FEET; THENCE SOUTH 86° 48' 22" WEST, 288.36 FEET; THENCE SOUTH 21° 22' 27" EAST, 55.78 FEET; THENCE SOUTH 20° 47' 22" EAST, 84.86 FEET; THENCE SOUTH 05° 35' 25" EAST, 65.02 FEET; SOUTH 04° 11' 18" EAST, 70.62 FEET; THENCE SOUTH 39° 32' 11" WEST, 141.23 FEET; THENCE SOUTH 83° 15' 40" WEST, 141.23 FEET; THENCE NORTH 53° 00' 51" WEST, 138.99 FEET; THENCE NORTH 21° 28' 34" WEST, 103.81 FEET; NORTH 40° 03' 58" EAST, 74.07 FEET; THENCE NORTH 32° 04' 37" WEST, 169.44 FEET; THENCE NORTH 57° 55' 23" EAST, 10.36 FEET; THENCE NORTH 32° 04' 37" WEST, 68.86 FEET; THENCE NORTH 21° 39' 08" WEST, 63.25 FEET; THENCE NORTH 16° 40' 29" WEST, 58.13 FEET; THENCE NORTH 09° 07' 40" WEST, 58.04 FEET; THENCE NORTH 04° 06' 41" WEST, 202.02 FEET; THENCE NORTH 85° 21' 21" EAST, 150.00 FEET; THENCE SOUTH 58° 00' 40" EAST, 25.00 FEET TO A POINT ON A CURVE; THENCE NORTHEASTERLY ALONG A NON-TANGENT CURVE BEING CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 180.00 FEET, A CENTRAL ANGLE OF 20° 55' 06" AND A CHORD BEARING OF NORTH 42° 26' 53" EAST A DISTANCE OF 65.72 FEET TO A POINT ON SAID CURVE; THENCE NORTH 11° 45' 20" WEST, 152.38 FEET; THENCE NORTH 80° 37' 24" EAST, 100.54 FEET; THENCE NORTH 64° 41' 03" EAST, 87.49 FEET; THENCE NORTH 58° 23' 31" EAST, 34.12 FEET; THENCE NORTH 41° 32' 52" EAST, 343.22 FEET; THENCE NORTH 62° 47' 12" EAST, 46.36 FEET; THENCE NORTH 77° 23' 41" EAST, 46.02 FEET; THENCE SOUTH 89° 58' 37" EAST, 117.27 FEET; THENCE SOUTH 00° 01' 23" WEST, 130.17 FEET TO A POINT ON A CURVE; THENCE EASTERLY ALONG A NON-TANGENT CURVE BEING CONCAVE SOUTHERLY HAVING A RADIUS OF 330.00 FEET, A CENTRAL ANGLE OF 07° 29' 09" AND A CHORD BEARING OF SOUTH 84° 23' 20" EAST A DISTANCE OF 43.11 FEET TO A POINT OF TANGENCY; THENCE SOUTH 80° 38' 45" EAST, 36.78 FEET; THENCE NORTHEASTERLY ALONG A NON-TANGENT CURVE BEING CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 330.00 FEET, A CENTRAL ANGLE OF 03° 57'



58" AND A CHORD BEARING OF NORTH 16° 33' 11" EAST A DISTANCE OF 22.84 FEET TO A POINT OF TANGENCY; THENCE NORTH 18° 32' 10" EAST, 25.30 FEET; THENCE NORTHEASTERLY ALONG A NON-TANGENT CURVE, BEING CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 70.00 FEET, A CENTRAL ANGLE OF 129° 14' 46" AND A CHORD BEARING OF NORTH 18° 32' 10" EAST A DISTANCE OF 157.90 FEET; THENCE SOUTH 71° 27' 50" EAST, 60.00 FEET; THENCE SOUTHEASTERLY ALONG A NON-TANGENT CURVE BEING CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 70.00 FEET, A CENTRAL ANGLE OF 19° 02' 18" AND A CHORD BEARING OF SOUTH 36° 34' 04" EAST, A DISTANCE OF 23.26 FEET; THENCE SOUTH 71° 27' 50" EAST, 62.89 FEET TO A POINT OF CURVE; THENCE EASTERLY ALONG A CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 250.00 FEET A CENTRAL ANGLE OF 18° 56' 56" AND A CHORD BEARING OF SOUTH 80° 56' 18" EAST A DISTANCE OF 82.68 FEET TO A POINT OF TANGENCY; THENCE NORTH 89° 35' 14" EAST, 136.90 FEET TO THE POINT OF BEGINNING, IN KENDALL COUNTY, ILLINOIS. CONTAINING 37.597+/- ACRES.

### PROPOSED LAKEWOOD CREEK UNIT NO. 3

THAT PART OF THE NORTHEAST QUARTER OF SECTION 2, TOWNSHIP 37 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 2; THENCE SOUTH 00° 20' 28" EAST ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 2, 56.00 FEET TO THE SOUTH LINE OF THE ROUTE 30 RIGHT OF WAY, PER DOCUMENT NUMBER 116441 AND 116442; THENCE SOUTH 89° 59' 04" EAST, ALONG SAID RIGHT OF WAY LINE 437.69 FEET TO THE EAST LINE OF THE COMMONWEALTH EDISON COMPANY RIGHT OF WAY PER DOCUMENT NUMBER 901980; THENCE SOUTH 00° 33' 00" WEST ALONG THE EAST LINE OF THE COMMONWEALTH EDISON RIGHT OF WAY, 1265.10 FEET; THENCE SOUTH 89° 27' 00" EAST, 170.00 FEET; THENCE NORTH 00° 33' 00" EAST, 2.37 FEET; THENCE SOUTH 89° 57' 53" EAST, 296.00 FEET; THENCE SOUTH 80° 43' 12" EAST, 57.71 FEET; THENCE SOUTH 59° 30' 32" EAST, 60.82 FEET; THENCE SOUTH 50° 32' 29" 145.00 FEET; THENCE NORTH 39° 27' 31" EAST, 5.00 FEET; THENCE SOUTH 50° 32' 29" EAST, 215.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 50° 32' 29" EAST, 80.00 FEET; THENCE NORTH 39° 27' 31" EAST, 85.00 FEET; THENCE 44° 51' 16" EAST, 100.45 FEET; THENCE SOUTH 50° 32' 29" EAST, 145.55 FEET; THENCE SOUTH 31° 45' 39" EAST, 53.75 FEET; THENCE NORTH 39° 27' 31" EAST, 128.00 FEET; THENCE SOUTH 50° 02' 35" EAST, 80.00 FEET; THENCE SOUTH 49° 44' 38" EAST, 67.83 FEET; THENCE SOUTH 32° 10' 38" EAST, 86.41 FEET; THENCE SOUTH 23° 49' 08" EAST, 84.54 FEET; THENCE SOUTH 08° 52' 20" EAST, 84.54 FEET; THENCE SOUTH 06° 04' 28" WEST, 84.54 FEET; THENCE SOUTH 14° 56' 47" WEST, 89.94 FEET; THENCE SOUTH 30° 27' 51" WEST, 205.08 FEET; THENCE SOUTH 27° 12' 25" WEST, 193.64 FEET; THENCE SOUTH 24° 08' 09" WEST, 135.12 FEET; THENCE SOUTH 03° 04' 48" WEST, 64.29 FEET; THENCE SOUTH 01° 00' 14" EAST, 162.74 FEET; THENCE SOUTH 41° 09' 16" WEST, 133.25 FEET; THENCE SOUTH 01° 00' 15" EAST, 15.00 FEET TO THE SOUTH LINE OF THE NORTHEAST QUARTER OF THE SAID SECTION 2; THENCE SOUTH 88° 59' 45"

WEST, ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 2, 687.23 FEET; THENCE NORTH 01° 00' 15" WEST 314.78 FEET TO A POINT OF CURVE; THENCE NORTHEASTERLY ALONG A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 640.00 FEET, A CENTRAL ANGLE OF 28° 12' 41" AND A CHORD BEARING OF NORTH 13° 06' 05" EAST A DISTANCE OF 315.12 FEET TO A POINT OF TANGENCY; THENCE NORTH 27° 12' 25" EAST 548.59 FEET TO A POINT OF CURVE; THENCE NORTHEASTERLY ALONG A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 640.00 FEET A CENTRAL ANGLE OF 12° 15' 06" AND A CHORD BEARING OF NORTH 33° 19' 58" EAST A DISTANCE OF 136.85 FEET TO A POINT OF TANGENCY; THENCE NORTH 39° 27' 31" EAST 77.18 FEET TO THE POINT OF BEGINNING, IN KENDALL COUNTY, ILLINOIS. CONTAINING 22.743+/- ACRES.

#### **PROPOSED LAKEWOOD CREEK UNIT NO. 4**

THAT PART OF THE NORTHEAST QUARTER OF SECTION 2, TOWNSHIP 37 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 2; THENCE SOUTH 00° 20' 28" EAST, ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 2, 56.60 FEET TO THE SOUTH LINE OF THE ROUTE 30 RIGHT OF WAY, PER DOCUMENT NUMBER 116441 AND 116442; THENCE SOUTH 89° 59' 04" EAST ALONG SAID RIGHT OF WAY LINE, 437.69 FEET TO THE EAST LINE OF THE COMMONWEALTH EDISON COMPANY RIGHT OF WAY PER DOCUMENT NUMBER 901980; THENCE SOUTH 00° 33' 00" WEST ALONG THE EAST LINE OF THE COMMONWEALTH EDISON COMPANY RIGHT OF WAY, 1265.10 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89° 27' 00" EAST, 170.00 FEET; THENCE NORTH 00° 33' 00" EAST, 2.37 FEET; THENCE SOUTH 89° 57' 53" EAST, 296.00 FEET; THENCE SOUTH 80° 43' 12" EAST, 57.71 FEET; THENCE SOUTH 59° 30' 32" EAST, 60.82 FEET; THENCE SOUTH 50° 32' 29" EAST, 145.00 FEET; THENCE NORTH 39° 27' 31" EAST, 5.00 FEET; THENCE SOUTH 50° 32' 29" EAST, 135.00 FEET; THENCE SOUTH 39° 27' 31" WEST, 77.18 FEET TO A POINT OF CURVE; THENCE SOUTHWESTERLY ALONG A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 640.00 FEET, A CENTRAL ANGLE OF 12° 15' 06" AND A CHORD BEARING OF SOUTH 33° 19' 58" WEST A DISTANCE OF 136.85 FEET TO A POINT OF TANGENCY; THENCE SOUTH 27° 12' 25" WEST, 548.59 FEET TO A POINT OF CURVE; THENCE SOUTHWESTERLY ALONG A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 640.00 FEET A CENTRAL ANGLE OF 28° 12' 41" AND A CHORD BEARING OF SOUTH 13° 06' 05" WEST A DISTANCE OF 315.12 FEET TO A POINT OF TANGENCY; THENCE SOUTH 01° 00' 15" EAST, 314.78 FEET TO THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 2; THENCE SOUTH 88° 59' 45" WEST ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 2, 763.78 FEET TO THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 2; THENCE NORTH 00° 20' 28" WEST ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 2, 1086.65 FEET TO THE SOUTH LINE OF THE SAID COMMONWEALTH EDISON RIGHT OF WAY; THENCE NORTH 88° 58' 07" EAST ALONG THE SOUTH LINE OF THE SAID COMMONWEALTH EDISON RIGHT OF WAY, 411.61 FEET TO THE EAST LINE OF THE

SAID COMMONWEALTH EDISON RIGHT OF WAY; THENCE NORTH 00° 33' 00" EAST ALONG THE EAST LINE OF THE SAID COMMONWEALTH EDISON RIGHT OF WAY, 413.23 FEET TO THE POINT OF BEGINNING IN KENDALL COUNTY, ILLINOIS. CONTAINING 27.697+ ACRES.

#### **PROPOSED LAKEWOOD CREEK UNIT NO. 5**

THAT PART OF THE NORTHWEST QUARTER OF SECTION 1 AND THE NORTHEAST QUARTER OF SECTION 2 ALL IN TOWNSHIP 37 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN TAKEN AS A TRACT AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 1; THENCE SOUTH 00° 22' 15" EAST, 58.20 FEET TO THE SOUTH LINE OF THE ROUTE 30 RIGHT OF WAY, PER DOCUMENT NUMBER 116441 AND 116442; THENCE SOUTH 89° 57' 47" EAST ALONG THE SOUTH LINE OF THE ROUTE 30 RIGHT OF WAY, 305.20 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 89° 57' 47" EAST ALONG THE SOUTH LINE OF THE ROUTE 30 RIGHT A WAY, 1015.12 FEET TO THE EAST LINE OF THE WEST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 1; THENCE SOUTH 00° 24' 46" EAST ALONG THE EAST LINE OF THE WEST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 1, 1009.70 FEET; THENCE SOUTH 89° 35' 14" WEST, 136.90 FEET TO A POINT OF A CURVE; THENCE WESTERLY ALONG A CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 250.00 FEET, A CENTRAL ANGLE OF 18° 56' 56" AND A CHORD BEARING OF NORTH 80° 56' 18" WEST, A DISTANCE OF 82.68 FEET TO A POINT OF TANGENCY; THENCE NORTH 71° 27' 50" WEST, 62.89 FEET; THENCE NORTHWESTERLY ALONG A NON-TANGENT CURVE BEING CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 70.00 FEET A CENTRAL ANGLE OF 19° 02' 18" AND A CHORD BEARING OF NORTH 36° 34' 04" WEST A DISTANCE OF 23.26 FEET; THENCE NORTH 71° 27' 50" WEST ALONG A LINE NON-TANGENT TO THE LAST DESCRIBED CURVE, 60.00 FEET; THENCE SOUTHWESTERLY ALONG A NON-TANGENT CURVE BEING CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 70.00 FEET A CENTRAL ANGLE OF 129° 14' 46" AND A CHORD BEARING OF SOUTH 18° 32' 10" WEST A DISTANCE OF 157.90 FEET; THENCE SOUTH 18° 32' 10" WEST ALONG A LINE NON-TANGENT TO THE LAST DESCRIBED CURVE, 25.30 FEET TO A POINT OF CURVE; THENCE SOUTHEASTERLY ALONG A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 330.00 FEET A CENTRAL ANGLE OF 03° 57' 58" AND A CHORD BEARING OF SOUTH 16° 33' 11" WEST A DISTANCE OF 22.84 FEET; THENCE NORTH 80° 38' 45" WEST ALONG A LINE NON-TANGENT TO THE LAST DESCRIBED CURVE, 36.78 FEET TO A POINT OF CURVE; THENCE WESTERLY ALONG A CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 330.00 FEET A CENTRAL ANGLE OF 07° 29' 09" AND A CHORD BEARING OF NORTH 84° 23' 20" WEST A DISTANCE OF 43.11 FEET; THENCE NORTH 00° 01' 23" EAST ALONG A LINE NON-TANGENT TO THE LAST DESCRIBED CURVE A DISTANCE OF 130.17 FEET; THENCE NORTH 89° 58' 37" WEST, 117.27 FEET; THENCE SOUTH 62° 47' 12" WEST, 46.02 FEET; THENCE SOUTH 77° 23' 41" WEST, 46.36 FEET; THENCE SOUTH 41° 32' 52" WEST, 343.22 FEET; THENCE

SOUTH 58° 23' 31" WEST, 34.12 FEET; THENCE SOUTH 64° 41' 03" WEST, 87.49 FEET; THENCE SOUTH 80° 37' 24" WEST, 100.54 FEET; THENCE SOUTH 11° 45' 20" EAST, 152.38 FEET; TO A POINT ON A CURVE; THENCE SOUTHWESTERLY ALONG A NON-TANGENT CURVE BEING CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 180.00 FEET A CENTRAL ANGLE OF 20° 55' 06" AND A CHORD BEARING OF SOUTH 42° 26' 53" WEST A DISTANCE OF 65.72 FEET; THENCE NORTH 58° 00' 40" WEST ALONG A LINE NON-TANGENT TO THE LAST DESCRIBED CURVE, 25.00 FEET; THENCE SOUTH 85° 21' 21" WEST, 283.51 FEET; THENCE NORTH 04° 06' 41" WEST, 117.94 FEET TO A POINT OF CURVE; THENCE NORTHERLY ALONG A CURVE CONCAVE WESTERLY HAVING A RADIUS OF 430.00 FEET A CENTRAL ANGLE OF 16° 44' 40" AND A CHORD BEARING OF NORTH 12° 29' 01" WEST A DISTANCE OF 125.67 FEET; THENCE NORTH 69° 08' 39" EAST ALONG A LINE NON-TANGENT TO THE LAST DESCRIBED CURVE, 137.82 FEET; THENCE NORTH 30° 22' 37" WEST 279.81 FEET; THENCE NORTH 41° 33' 28" WEST, 70.72 FEET; THENCE NORTH 64° 35' 04" EAST, 134.22 FEET; THENCE SOUTH 30° 22' 37" EAST, 4.26 FEET; THENCE NORTH 59° 37' 23" EAST, 221.17 FEET; THENCE NORTH 35° 31' 17" EAST, 297.60 FEET; THENCE NORTH 34° 36' 27" EAST, 47.29 FEET; THENCE NORTH 00° 24' 35" WEST, 502.80 FEET TO THE POINT OF BEGINNING, IN KENDALL COUNTY, ILLINOIS. CONTAINING 31.647+ ACRES.

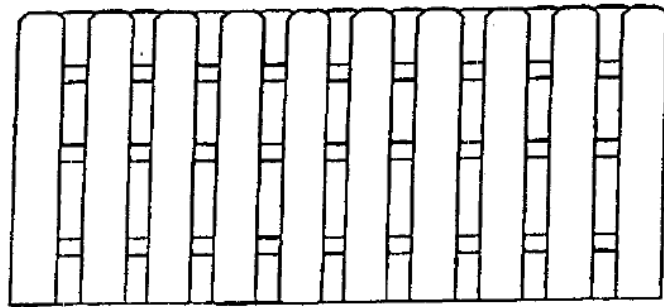
THE WEST 30 ACRES OF THE EAST  $\frac{1}{2}$ , AND THE EAST 10 ACRES OF THE WEST  $\frac{1}{2}$  OF THE NORTHWEST  $\frac{1}{4}$  OF SECTION 2, TOWNSHIP 37 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE TOWN OF BRISTOL, KENDALL COUNTY, ILLINOIS. ALSO THAT PART OF THE EAST  $\frac{1}{2}$  OF THE NORTHWEST  $\frac{1}{4}$  OF SECTION 2, TOWNSHIP 37 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF THE NORTHWEST  $\frac{1}{4}$  OF SECTION 2, AFORESAID; THENCE WEST 13 CHAINS 5 LINKS; THENCE SOUTH 43 CHAINS, MORE OR LESS, TO THE SOUTH LINE OF SAID QUARTER; THENCE EAST 13 CHAINS 5 LINKS TO THE SOUTHEAST CORNER OF SAID QUARTER SECTION; THENCE NORTH 43 CHAINS, MORE OR LESS, ON THE HALF SECTION LINE TO THE POINT OF BEGINNING, IN THE TOWN OF BRISTOL, KENDALL COUNTY, ILLINOIS, EXCEPT THEREFROM LANDS DESCRIBED IN A WARRANTY DEED AND QUIT CLAIM DEED CONVEYED BY EDWARD P. DEBES TO THE COMMONWEALTH EDISON COMPANY, BOTH INSTRUMENTS DATED JULY 10, 1972, AND BOTH RECORDED JULY 19, 1972, AND RECORDED IN THE RECORDER'S OFFICE OF KENDALL COUNTY, ILLINOIS, AS DOCUMENTS 72-3333 AND 72-3334.

**EXCEPTING THEREFROM:**

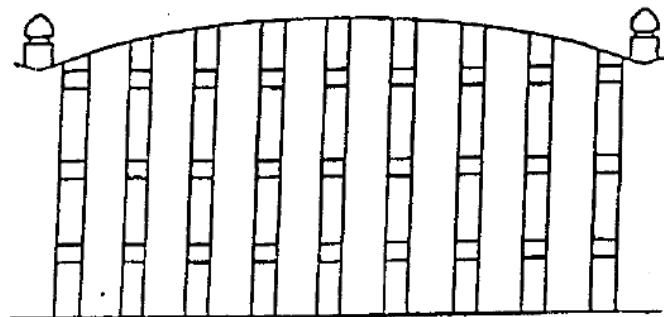
THAT PART OF THE NORTHWEST  $\frac{1}{4}$  OF SECTION 2, TOWNSHIP 37 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF SAID NORTHWEST  $\frac{1}{4}$  OF SECTION 2 WITH THE WEST LINE OF THE EAST 10 ACRES OF THE WEST  $\frac{1}{2}$  OF SAID NORTHWEST  $\frac{1}{4}$  OF SECTION 2; THENCE SOUTHERLY ON THE WEST LINE OF THE EAST 10 ACRES OF THE WEST  $\frac{1}{2}$  OF SAID NORTHWEST  $\frac{1}{4}$  OF SECTION 2, HAVING A BEARING OF SOUTH 0 DEGREES 04 MINUTES 02 SECONDS WEST, A DISTANCE OF 2856.61 FEET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF SAID NORTHWEST  $\frac{1}{4}$  OF SECTION 2; THENCE NORTH 89 DEGREES 27 MINUTES 33 SECONDS EAST, 10.500 FEET; THENCE NORTH 0 DEGREES 04 MINUTES 02 SECONDS EAST, 2856.53 FEET TO A POINT OF INTERSECTION WITH THE NORTH LINE OF SAID NORTHWEST  $\frac{1}{4}$  OF SECTION 2; THENCE WESTERLY ON SAID NORTH LINE OF THE NORTHWEST  $\frac{1}{4}$  OF SECTION 2, HAVING A BEARING OF SOUTH 89 DEGREES 29 MINUTES 46 SECONDS WEST, 10.50 FEET TO THE POINT OF BEGINNING (EXCEPTING THEREFROM THAT PART TAKEN FOR HIGHWAY PURPOSES, ALSO ALL THAT PART CONVEYED TO THE COMMONWEALTH EDISON COMPANY AS FILED IN THE KENDALL COUNTY RECORDER'S OFFICE ON JULY 19, 1972 UNDER DOCUMENT NO. 72-3333) ALL IN THE TOWNSHIP OF BRISTOL, KENDALL COUNTY, ILLINOIS.

EXHIBIT C  
FOUR FOOT FENCES

# 4 FT. BOARD ON BOARD FENCE



BOARD ON BOARD DOG EAR

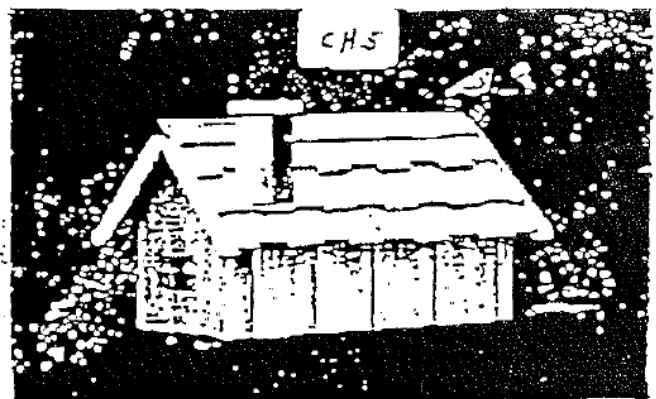
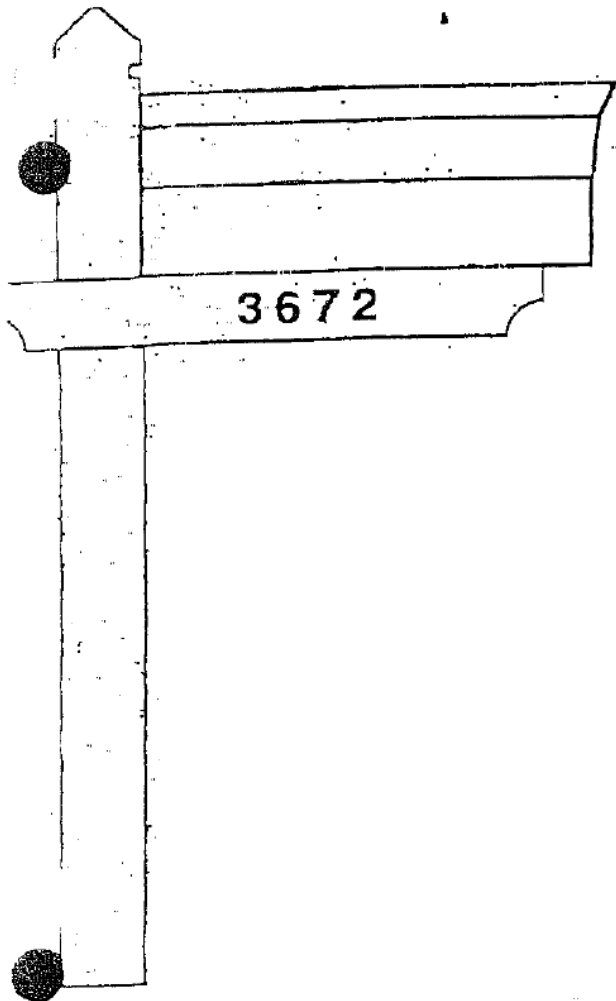
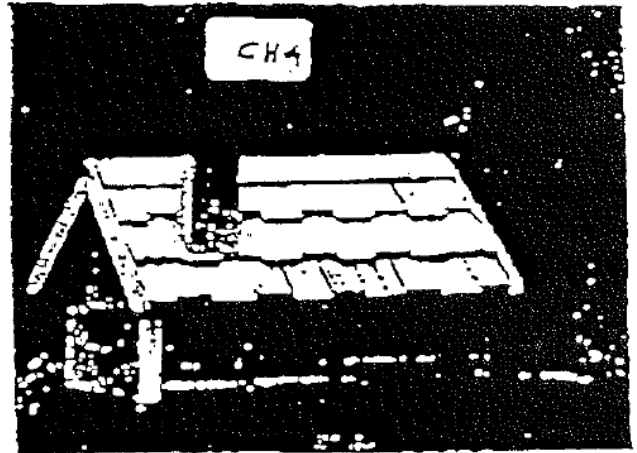
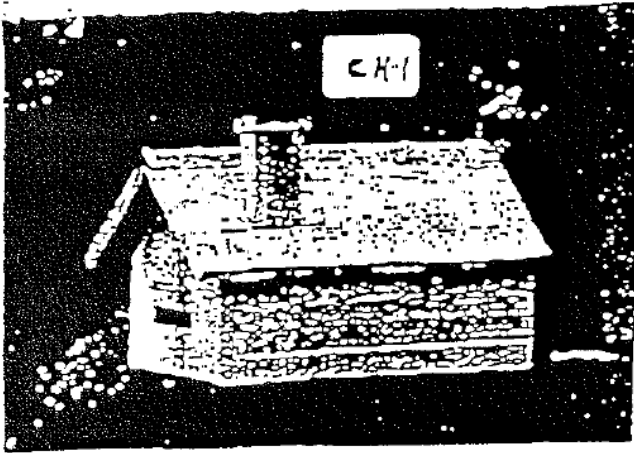


BOARD ON BOARD ARCHED

EXHIBIT D

MAILBOXES

Mail Boxes



Notes:

1. 4x4 cedar post with cedar topper.

**LAKEWOOD CREEK HOMEOWNERS ASSOCIATION**  
**BY-LAWS**

**Article 1**  
**Name and Location**

The name of the corporation is LAKEWOOD CREEK HOMEOWNERS ASSOCIATION, hereinafter referred to as the "Association." The principal office of the corporation shall be located at 2500 W. Higgins Road, Suite 1250, Hoffman Estates, Illinois 60195, but meetings of Members and Directors may be held at such places within the State of Illinois as may be designated by the Board of Directors.

**Article 2**  
**Definitions**

**2.1 "Association"** shall mean and refer to Lakewood Creek Association, an Illinois not-for-profit corporation, its successors, and assigns.

**2.2 "Declaration"** shall mean and refer to the Declaration of Covenants, Conditions, Easements and Restrictions applicable to the Development recorded in the Office of the Recorder of Deeds of Kendall County, Illinois.

**2.3 "Developer"** shall mean and refer to Lakewood Creek, L.L.C., a Delaware limited liability company and its agents, successors, and assigns.

**2.4 "Development"** shall mean and refer to that certain real property described in the Declaration and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

**2.5 "First Mortgagee"** shall mean and refer to those holders of first mortgages on Units who are defined as being "First Mortgagees" in Article I of the Declaration.

**2.6 "Lot"** shall mean and refer to any plot of land shown upon any recorded subdivision plat of the Development with the exception of the Common Areas, and streets dedicated to the public.

**2.7 "Member"** shall mean and refer to those persons entitled to membership as provided in the Declaration.

**2.8 "Owner"** shall mean and refer to the record owner, whether one or more persons or entities and including the Developer where applicable, of the fee simple title to any Lot which is a part of the Development, but shall not mean or refer to a mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding or transfer in lieu of foreclosure.



**2.9 "Turnover Date"** shall mean and refer to the earlier of (a) four (4) months after 75% of the Units have been conveyed to Unit purchasers, or (b) three (3) years after the first Unit is conveyed to a Member.

**2.10 "Unit"** shall mean a platted lot other than a platted lot designated as a common area or for common use or benefit.

### **Article 3** **Membership and Voting Rights**

**3.1 Qualifications for Membership.** Every person or entity who is a record owner of a fee or undivided fee interest in any Unit in a portion of the Development shall be a Member of the Association and said membership shall be appurtenant to said Unit, and each purchaser of any Unit 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 such deed or other conveyance, provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a Member

**3.2 Voting Rights of Members.** The Association shall have two classes of voting membership:

(a) Class A. Class A Members shall be all those Owners as defined in Section 4.4 with the exception of the Developer. Class A Members shall be entitled to one vote for each Unit in which they hold the interest required for membership by Section 3.4. When more than one person holds such interest in any Unit, all such persons shall constitute one Member. The vote for such Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Unit.

(b) Class B. The Class B Member shall be the Developer. The Class B Member shall be entitled to three (3) votes for each Unit in which it holds the interest required for membership by Section 3.4, provided that the Class B membership shall close and be converted to Class A membership on the Turnover Date or at such earlier time at the option of Developer.

**3.3 Conditions of Continued Membership.** As provided in the Declaration, the rights of membership are subject to the making of capital contributions called for by the Association and the payment of annual and special assessments levied by the Association, the obligation for which capital contributions and assessments are imposed against each Owner of a Unit and which are secured by a lien upon the Unit and against which the call for contribution or assessment is made. A Member who is delinquent in payment of such capital contribution or assessment will be subject to additional charges, all of which may be enforced by any legal action against the Owner, and/or foreclosure of the aforesaid lien.

**3.4 Suspension of Membership Rights.** The membership rights of any person whose interest in the Development is subject to the making of capital contributions and the payment of

assessments under Section 3.3 hereof, whether or not he be personally obligated to pay such capital contributions and assessments, may be suspended by action of the Board of Directors during the period when a capital contribution or assessment or installment of either remains unpaid; but, upon full payment of such assessment or installment, his rights and privileges shall be automatically restored.

#### **Article 4** **Meeting of Members**

**4.1 Annual Meetings.** The first annual meeting of the Members shall be held no later than sixty (60) days after the Turnover Date, and each subsequent regular annual meeting of the Members shall be held on the same day of the same month of each year thereafter, at the hour of 8 o'clock p.m. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

**4.2 Special Meetings.** Special meetings of the Members may be called at any time by the President or by the Board of Directors or upon written request of the Members equaling one-fourth (1/4) of all the votes of the Class A membership.

**4.3 Notice of Meetings.** Written notice of each meeting of the Members shall be given by, or at the direction of the secretary or person authorized to call the meeting, by mailing a copy of such notice postage prepaid, at least 15 days before such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day, and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

**4.4 Quorum.** The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

**4.5 Proxies.** At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically expire upon conveyance by the Member of his Unit.

#### **Article 5** **Board of Directors; Selection; Term of Office**

**5.1 Number.** The affairs of this Association shall be managed by a Board of three (3) directors, who need not be Members of the Association.

**5.2 Term of Office.** At the first annual meeting, the Members shall elect one director for a term of one year, one director for a term of two years, and one director for a term of three years and at each annual meeting thereafter the Members shall elect a director for the position of the director whose tenure expires on that date for a term of three years. Prior to the Turnover Date the first and subsequent Board shall be appointed by the Developer.

**5.3 Removal.** Any director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association. In the event of death, resignation, or removal of a director, his successor shall be selected by the remaining Members of the Board and shall serve for the unexpired term of his predecessor.

**5.4 Compensation.** No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

**5.5 Action Taken Without a Meeting.** The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of a majority of the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

## **Article 6**

### **Nomination and Election of Directors**

**6.1 Nomination.** Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a Member of the Board of Directors, and two or more Members of the Association who may or may not be Directors. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among Members or non-members of the Association.

**6.2 Election.** Election to the Board of Directors shall be by secret written ballot. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

**6.3 Election of Initial Board.** The election of the initial Board of Directors by the Owners shall be held not later than the Turnover Date. Developer shall give at least twenty-one (21) days notice of the meeting to elect the initial Board of Directors and shall upon request provide any Owner within three (3) working days of the request, the names, addresses, telephone numbers (if in the records of the Association), and weighted vote of each Owner entitled to vote at the meeting. Any Owner shall upon request be provided with the same information, within

three (3) working days of the request, with respect to each subsequent meeting to elect Members of the Board of Directors. If the initial Board of Directors is not elected by the Owners at the time established above, Developer shall continue in office for a period of thirty (30) days, whereupon written notice of his designation sent to all Owners entitled to vote at an election for Members of the Board of Directors.

## **Article 7**

### **Meetings of Directors**

**7.1 Regular Meetings.** Regular meetings of the Board of Directors shall be held at least semi-annually without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held as scheduled by the Board of Directors.

**7.2 Special Meetings.** Special meetings of the Board of Directors shall be held when called by the president of the Association, or by any two directors, after not less than three (3) days' notice to each director, provided, however, that attendance or written waiver shall be deemed as conclusive evidence of proper notice.

**7.3 Quorum.** A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

**7.4 Meetings Open to Members.** Meetings of the Board of Directors shall be open to any Owner, except for the portion of any meeting held:

- (a) 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 of Directors finds that such an action is probable or imminent;
- (b) to consider information regarding appointment, employment, or dismissal of an employee; or
- (c) to discuss violation of rules and regulations of the Association or unpaid common expenses owned to the Association.

Any vote on the foregoing matters shall be taken at a meeting or portion thereof open to any Owner. Any Owner may record the proceeding at meetings required to be open by this Article 4 by tape, film, or other means; the Board of Directors may prescribe reasonable rules and regulations to govern the right to make such recordings. Notice of meetings shall be mailed or delivered at least forty-eight (48) hours prior thereto, unless a written waiver of such notice is signed by the persons entitled to notice before the meeting is convened. Copies of notice of meetings of the Board of Directors shall be posted in entranceways, elevators, or other conspicuous places in the project at least forty-eight (48) hours prior to the meeting of the Board of Directors. In the event of a resale of a Unit, the purchaser of a Unit from a seller other than Developer, pursuant to an installment contract for purchase shall, during such times as he/she

resides in the Unit, be counted toward a quorum for purposes of election of Members of the Board of Directors at any meeting of the Owners called for purposes of electing Members of the Board of Directors, and shall have the right to vote for the election of Members of the Board of Directors and to be elected and to serve on the Board of Directors unless the seller expressly retains in writing any or all of these rights. In no event may the seller and purchaser both be counted toward a quorum, be permitted to vote for a particular office, or be elected and serve on the Board of Directors. Satisfactory evidence of the installment contract shall be made available to the Association or its agents. "Installment Contract" shall have the same meaning as set forth in subsection (c) of Section 1 of the Dwelling Unit Installment Contract Act.

## **Article 8**

### **Powers and Duties of the Board of Directors**

#### **8.1 Powers.** The Board of Directors shall have the power to:

- (a) suspend the voting rights of a Member during any period in which such Member shall be in default in the payment of any capital contribution or assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 30 days for infraction of published rules and regulations;
- (b) exercise for the Association all powers, duties, and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;
- (c) declare the office of a Member of the Board of Directors to be vacant in the event such Member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and
- (d) employ a manager, an independent contractor, or such other employees or agents as they deem necessary, and to prescribe their duties. Any management contract entered into by the Developer on behalf of the Association shall not bind the Association unless said contract contains a reasonable employment term and a right of termination without cause, exercisable by the Association without penalty, and upon notice of 90 days or less.

#### **8.2 Duties.** It shall be the duty of the Board of Directors to:

- (a) cause to be kept a complete record of all of its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or any special meeting when such statement is requested in writing by one-fourth (1/4) of the Class A Members who are entitled to vote;
- (b) supervise all officers, agents, and employees of this Association, and to see that their duties are properly performed;

(c) as more fully provided in the Declaration, to:

(i) fix the amount of any capital contribution called for or the amount of the annual or special assessment against each Unit at least thirty (30) days in advance of the due date of such capital contribution or assessment (or the first installment of either, if such contribution or assessment is to be made in installments);

(ii) send written notice of each capital contribution or annual or special assessment to every Owner subject thereto at least thirty (30) days in advance of the due date of such capital contribution or assessment (or the first installment of either, if such contribution or assessment is to be made in installments);

(iii) take all reasonable steps to obtain payment of capital contributions and assessments (or installments of either) which are not paid within thirty (30) days of their due date, including, without limitation (where such action is required in the Board's judgment), enforcing the Association's lien rights against the delinquent Owner's Unit and bringing any legal action against the Owner personally obligated to pay the same, or both; and

(iv) cause a roster of Units to be prepared, stating the amount of any capital contributions and the annual and special assessments applicable thereto, on which roster shall be reported each payment of such contributions and assessments when received; such roster to be kept in the office of the Association and to be open to inspection by any Member and any First Mortgagee during regular business hours.

(d) issue, or cause an appropriate officer or collecting agent designated by the Board to issue, upon demand by any Member or First Mortgagee, a certificate setting forth whether or not all capital contributions and assessments (or installments thereof) against such Unit which are then due and payable have been paid as of the date of such certificate. A reasonable charge may be made by the Board for the issuance of such certificates. If a certificate states that a capital contribution or assessment (or an installment of either) has been paid, such certificate shall be conclusive evidence of such payment;

(e) cause a roster of First Mortgagees to be prepared and maintained in a current manner, which roster shall contain the names of all First Mortgagees, and the addresses to which notices to such First Mortgagees are to be sent, and shall identify the Units which are subject to the first mortgages held by such First Mortgagees;

(f) procure and maintain liability, casualty, and hazard insurance on property owned by the Association, a fidelity bond or insurance policy covering all persons

who are responsible for handling the funds of the Association, directors' and officers' liability insurance for the directors and officers of the Association, if available, and such other insurance as the Board of Directors shall deem to be necessary or desirable in carrying out its responsibilities under the Declaration; and

(g) cause all officers or employees having fiscal responsibilities to be bonded or insured, as it may deem appropriate.

## **Article 9**

### **Officers and Their Duties**

**9.1 Enumeration of Offices.** The officers of the Association shall be a president and vice president, who shall at all times be Members of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create.

**9.2 Election of Officers.** The officers shall be elected by majority vote of the directors at the first meeting of the Board of Directors following each annual meeting of the Members except that the initial Board of Directors named in the Articles of Incorporation shall elect the initial officers of the Association at the first meeting of such Board of Directors.

**9.3 Term.** The officers of the Association shall be elected annually by the Board and (with the exception of the initial officers who shall serve only until the first meeting of the Board after the first annual meeting of the Members) each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or shall be otherwise disqualified to serve.

**9.4 Special Appointments.** The Board may appoint such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

**9.5 Resignation and Removal.** Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving notice thereof to the Board, the president, or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and the acceptance of such resignation shall not be necessary to make it effective.

**9.6 Vacancies.** A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

**9.7 Multiple Offices.** Any offices may be held by the same person, subject to applicable law.

**9.8 Duties.** The duties of the officers are as follows:

(a) **President.** The president shall preside at all meetings of the Board of

Directors, shall see that orders and resolutions of the Board of Directors are carried out, shall have the power to sign all leases, mortgages, deeds, and other written instruments on behalf of the Association, and shall co-sign all checks and promissory notes of the Association.

(b) Vice President. The vice president shall act in the place and stead of the president in the event of his absence, inability, or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board of Directors.

(c) Secretary. The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the Members in books to be kept for that purpose; shall keep the corporate seal of the Association and affix it on all papers requiring said seal; shall serve notice of meetings of the Board of Directors and of the Members; shall keep appropriate current records showing the Members of the Association together with their addresses as registered with him by such Members; and shall perform such other duties as are required by the Board.

(d) 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 Directors, provided, however, that such a resolution shall not be necessary for disbursements made in the ordinary course of business conducted within the limits of a budget adopted by the Board of Directors; shall co-sign all checks and promissory notes of the Association, provided that such checks shall also be signed by the president or the vice president; shall keep proper books of account; shall maintain the roster of assessments referred to in Section 8.2(d)(4) hereof and the roster of First Mortgagees referred to in Section 8.2(e) hereof; may cause an annual audit of the Association books to be made by a certified public accountant (and shall cause such an audit and provide an audited financial statement for the preceding fiscal year to all mortgagees who request it); shall make a written report monthly to each Director; shall cause the financial statement of the Association to be delivered to each Member prior to the annual meeting of the membership; shall prepare an annual budget for the forthcoming fiscal year and submit it for review and adoption by the Board of Directors; and shall deliver a copy of the adopted budget to each Member.

## **Article 10**

### **Committees**

The Association shall appoint a Nominating Committee, as provided in the By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose or implementing the Declaration.



## **Article 11**

### **Books and Records**

Current copies of the Declaration, these By-Laws and other rules concerning the Development, and the books, records, and financial statements of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member, or by holders, insurers, or guarantors of the First Mortgages on the Units

## **Article 12**

### **Indemnification**

**12.1 Indemnification of officers and directors.** The Association shall indemnify the officers and directors of the Association to the full extent permitted or allowed by the laws of the State of Illinois including any person who, by reason of the fact that he is or was an officer or director of the Association, is made a party or is threatened to be made a party to any litigation, claim, suit, action, or other proceeding of any kind, against expenses (including reasonable attorneys' fees), liabilities, judgments, costs, fines, penalties, amounts paid in settlement, and other losses, actually and reasonably incurred by him in connection with the defense or settlement thereof, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association, and if he had no reasonable cause to believe his conduct was unlawful. No indemnification shall be made in respect of any claim or matter as to which such person shall have been adjudged to be liable for gross negligent or willful misconduct in the performance of his duty to the Association.

**12.2 Indemnification Non-Exclusive.** The indemnification provided hereby shall not be deemed exclusive of any other rights to which those seeking indemnification (whether or not they are officers or directors) may be entitled under any law, agreement, vote of Members, or directors or otherwise, both as to action in official capacities and as to action in other capacities, and shall continue as to a person who has ceased to be a director or officer and shall inure to the benefit of the heirs, executors, and administrators of the person being so indemnified.

## **Article 13**

### **Assessments**

As more fully provided in the Declaration, each Member is obligated to pay to the Association annual and special assessments and capital contributions which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the highest rate permitted by Illinois law, and the Association may bring legal action against the Owner personally obligated to pay the same or foreclose the lien against his property, and interest, costs, and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of his Unit.

**Article 14**  
**Corporate Seal**

The Association shall have a seal in circular form having within its circumference the words:

LAKEWOOD CREEK HOMEOWNERS ASSOCIATION

**Article 15**  
**Amendments**

**15.1 Amendment.** These By-Laws may be amended, at a regular or special meeting of the Members, by a vote of a majority of a quorum of Members present in person or by proxy, except that the Federal Housing Administration shall have a right to veto amendments while there is a Class B membership defined in Section 3.2(b).

**15.2 Developer's Power to Amend.** To comply with Governmental Requirements, a power coupled with an interest is hereby retained by and granted to the Developer (acting by and through its duly authorized officers), its successors, assigns or designees, as attorney-in-fact to amend this Declaration, the By-laws of the Association, or the Articles of Incorporation of the Association, for the purpose of either or both (a) compliance with requirements of the Veterans Administration, the Department of Housing and Urban Development, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, any successor to any of such organizations and any other federal, state or local governmental entity or agency, or (b) correcting any typographic or scrivener's error; and (c) meeting requirements of the Internal Revenue Code as now or hereafter amended, (i) relating to organizations exempt from tax or (ii) specifically exempting homeowners' associations from any federal income tax; provided that Developer shall have no obligation to cause any such amendment to be made. The acceptance of each deed, mortgage or other instrument with respect to any Unit which is subject to the Declaration shall be deemed to be a confirmation of such power to such attorney-in-fact and shall be deemed to constitute a consent and agreement to and acceptance, confirmation and ratification of all such amendments.

**Article 16**  
**Miscellaneous**

**16.1 Fiscal Year.** The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation of the Association.

**16.2 Captions.** The paragraph captions in these By-Laws are for convenience only and do not in any way define, limit, describe, or amplify the terms and provisions of these By-Laws or the scope or intent thereof.

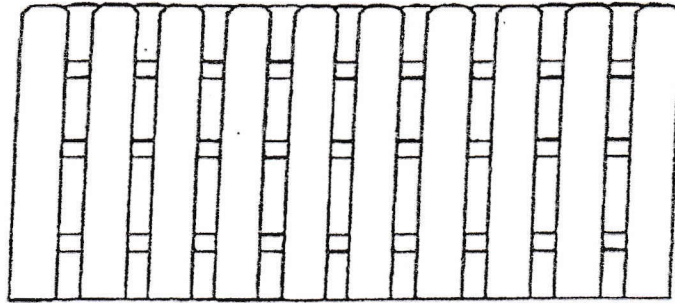
**16.3 Inconsistencies Among Documents.** In the case of any conflict between the

Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

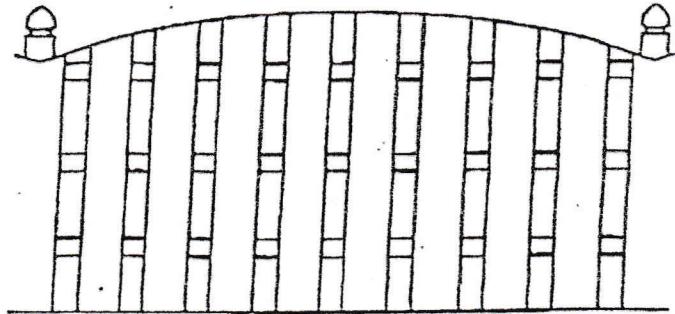
EXHIBIT C

4 or 6 Ft. Fence

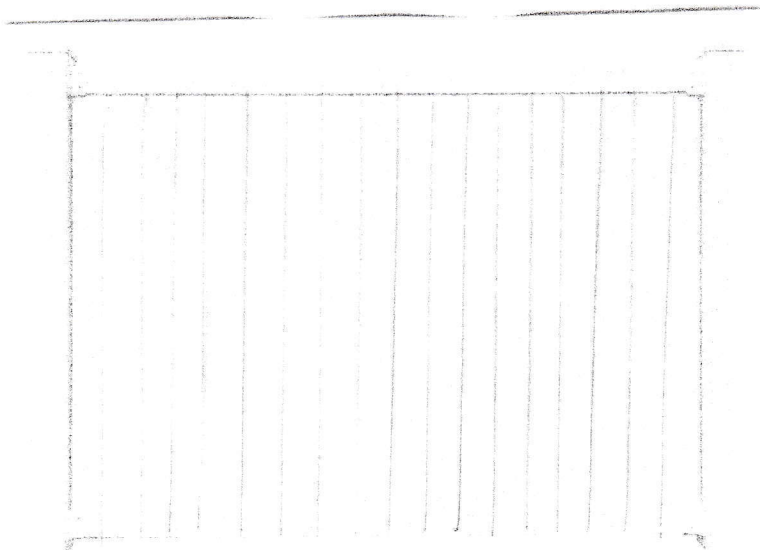
Board on Board (shadow box) or White Composite



BOARD ON BOARD DOC EAR



.BOARD ON BOARD ARCHED



White Composite

## EXHIBIT A ALLOWED MAILBOXES

The original cedar mailbox and the Rubbermaid mailboxes shown below are the only approved mailboxes allowed.



Step 2 MailMaster Plus Mailbox - Spruce or Black



**CLASSIC**

The Rubbermaid Classic 1 mailbox & post combo features a virtually indestructible double-wall plastic construction. The mailbox has a rear door for safe mail retrieval, keeping children and adults away from traffic. It is large enough to allow magazines to lay flat. Installation is quick and easy. The unit slides over a new or existing 4 x 4 post (not included).



**GENTRY**

The Rubbermaid Gentry all-in-one mailbox & post combo features a virtually indestructible double-wall plastic construction. The mailbox has a rear door for safe mail retrieval, keeping children and adults away from traffic. It is large enough to allow magazines to lay flat. The post features a built-in compartment for newspapers or small parcels. Installation is quick and easy. The unit slides over a new or existing 4 x 4 post (not included).



**GEORGIAN MANOR**

The Rubbermaid Georgian Manor mailbox and post combo is constructed of durable non-rust polymer. This mailbox combo comes complete with a built in newspaper holder and decorative finial. A ground mount is included. Black



**REYNOLDS**

The Rubbermaid Reynolds mailbox and post combo is constructed from durable non-rust polymer. The mailbox is a large size and comes complete with a mail signal to indicate when the mail has been delivered. A ground mount is included.



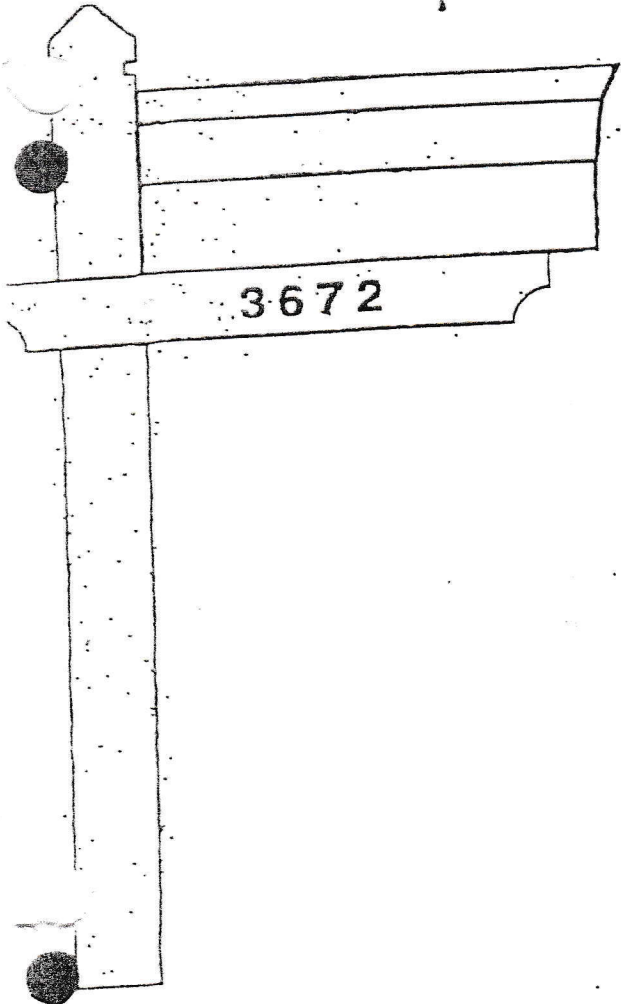
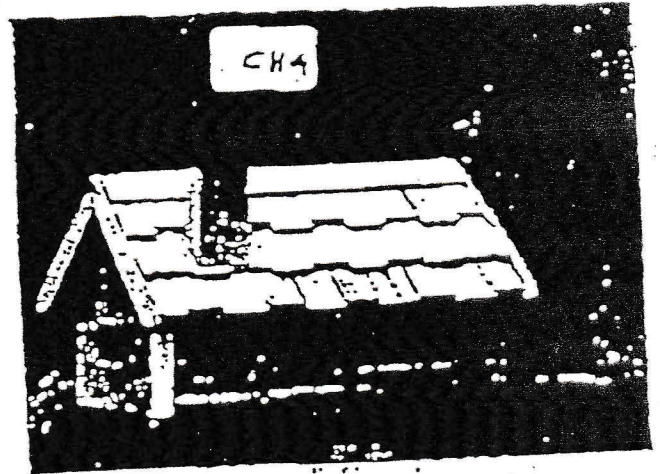
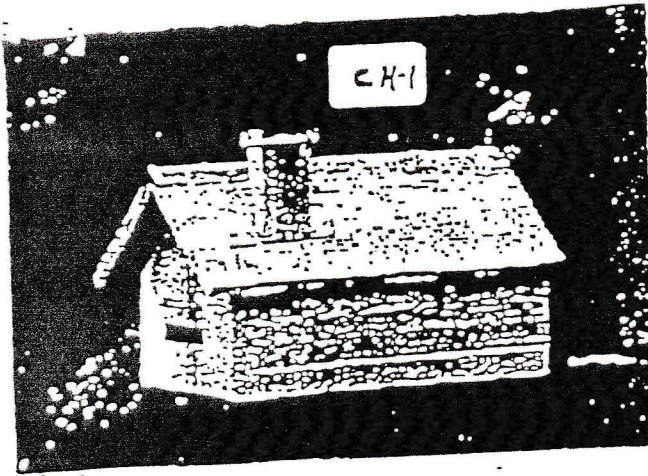
**HERITAGE**

The Heritage is a stylish all-in-one mailbox and post combination in a popular black color. This mailbox unit is made of a highly durable polymer material and will not rust or deteriorate. The mailbox is large enough to allow magazines to lay flat and comes with a horizontal red flag that retracts easily in and out. The decorative post features a classic look to complement the mailbox stylish look. The post features an emboss picture frame details with the expanded base to conceal the post installation. The post includes a compartment for newspaper or small parcels. The unit requires a 72 inch 4x4 post for installation (not included). Proudly made in the USA.



EXHIBIT D  
MAILBOXES

Mail Boxes



Notes:

1. 4x4 cedar post with cedar topper.