



**DECLARATION OF COVENANTS, CONDITIONS  
RESTRICTIONS AND RESERVATION OF EASEMENTS FOR  
EMERALD LAKE HOMEOWNERS ASSOCIATION**

Declarant, Welsh Development Company, an Ohio corporation, is the owner of certain real estate in City of Fairfield, Ohio, described in Exhibit "A", attached hereto and incorporated herein (hereinafter referred to as "Property").

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

**ARTICLE I**

**Definitions**

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DECLARATION 188.00  
OR Book 7508 Page 1598 - 1619

1.1 **Additional Land.** "Additional Land" means property that may adjoin **Emerald Lake** that the Declarant may develop and add to the subdivision in the future, which may be made subject to this Declaration pursuant to Article XII.

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

1.3 **Assessments.** "Assessments" means those charges upon the Lots established by Article VI of this Declaration.

1.4 **Association.** "Association" means **Emerald Lake** Homeowners Association, an Ohio nonprofit corporation, its successors and assigns. Except as the context otherwise requires "Association" shall mean the Board of Trustees acting on behalf of the Association.

1.5 **Board.** "Board" shall mean the Board of Trustees of the Association.

1.6 **Builder.** "Builder" shall mean any Lot Owner who purchases a Lot directly from the Declarant for purposes of constructing a single family residence on said Lot.

1.7 **Common Elements.** "Common Elements" shall mean any real estate owned or leased by the Association, including easements in favor of the Association.

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

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

1.10 **Declarant.** "Declarant" means Welsh Development Company, Inc., its successors and assigns.

**TRANSFER NOT NECESSARY**  
**KAY ROGERS**  
BY MB 2/4/05 DEPT.  
**AUDITOR, BUTLER CO., OHIO**



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1.11 **Declaration.** "Declaration" means this Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for **Emerald Lake** Homeowners Association, including any amendments hereto.

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

1.13 **Lot.** "Lot" means the physical portion of the Property designated for separate ownership or occupancy, the boundaries of which are described pursuant to Article II, Section 2.1.

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

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

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

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

1.18 **Survey Plat.** "Survey Plat" means the plat of **Emerald Lake**, Plat Envelope 3778, pages A-C, of the **Butler County**, Ohio Records; and the plat for any additional land made subject to the terms and conditions of this Declaration.

1.19 **Turnover Date.** "Turnover Date" shall be the date that 95% of the Lots in all Sections of **Emerald Lake** Subdivision have been sold by the Declarant.

## **ARTICLE II**

### **Lots**

2.1\_ **Description of Lot Boundaries.** The Boundaries of the Lots shall be those as set forth on the Final Plat recorded with the **Butler County Recorder**.

## **ARTICLE III**

### **Allocation of Allocated Interests**

3.1\_ **Common Expense Liability.** The allocation of Allocated Interests for Common Expense Liability shall be determined in accordance with the allocation of the various assessments as set forth in Article VI, Section 6.8.

3.2\_ **Votes in the Association.** The allocation of Allocated Interests for voting purposes shall be one vote per Lot, however, the Declarant shall have 10 votes per lot owned.



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## ARTICLE IV

### Common Elements and Easements

4.1\_ **Description.** The Common Elements shall be any portion of the Property owned by the Association in fee or by easement or leased to the Association.

4.2\_ **Easements.** The Lots and Common Elements shall be subject to certain easements. These easements shall be appurtenant to and pass with the title to the Lots.

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

4.2.2 **Drainage.** All Lots are subject to private drainage easements as identified on the Record Plat. No Owner shall do anything within a Lot or Dwelling Unit, which shall unreasonably increase or divert the flow of surface water. The Association shall maintain the detention basins, pipes, and inlets/outlets structures located within these basins.

4.3\_ **Owner's Delegation Rights.** Any Owner may delegate his or her easement rights and rights of enjoyment to the Common Elements to any Occupants, and any guests, invitees, tenants or lessees thereof. Any Owner who has leased his or her Lot shall be deemed to have delegated such rights. Any such delegation, however, shall in accordance with and subject to reasonable rules, regulations and limitation as may be adopted by the Association in accordance with its Code of Regulations.

4.4\_ **Limitation on Easements.** All easements and rights granted herein are subject to:

4.4.1 Restrictions set forth in this Declaration;

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

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

4.4.4 All rights granted to the Association in this Declaration.

## ARTICLE V

### Owners' Association

5.1\_ **Formation.** The Declarant has caused or will cause to be chartered in accordance with Chapter 1702 of the Ohio Revised Code, a nonprofit corporation named **Emerald Lake Homeowners Association**. The purposes for the Association are to provide for the administrative governance, maintenance and upkeep of the Property and to promote the general health, and welfare of the Owners and Occupants of the Property.

5.2\_ **Membership.** The membership of the Association shall at all times consist exclusively of Owners. All Owners shall be Members. Membership shall be appurtenant to and may not be separated from such ownership.





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**5.3\_ Powers of the Association.** Subject to the Special Declarant Rights hereinafter set forth, the Association may:

5.3.1 adopt and amend a Code of Regulations for the government of the Association, the conduct of its affairs and the management of the Property;

5.3.2 adopt rules and regulations for the use and enjoyment of the Common Elements and to enforce violations of the rules and regulation and the provisions and restrictions of the Declaration as against the Owners and Occupants;

5.3.3 adopt and amend budgets for revenues, expenditures and reserves and levy and collect Assessments from Owners;

5.3.4 hire and discharge managing agents and other employees, agents and independent contractors;

5.3.5 institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Owners on matters affecting the community;

5.3.6 make contracts and incur liabilities; specifically to include agreements to maintain landscaping and trees in the right-of-way.

5.3.7 regulate the use, maintenance, repair, replacement and modification of the Common Elements for which the Association has maintenance responsibility and other rights as set forth herein;

5.3.8 cause additional improvements to be made as part of the Common Elements except that this power shall be limited to improvement required solely for surface water management, landscaping, street lighting, signage and/or recreational purposes;

5.3.9 acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property;

5.3.10 grant easements, liens, licenses and concessions through or over the Common Elements;

5.3.11 impose and receive any payments, fees or charges for the use, rental or operation of the Common Elements and for services provided to Owners;

5.3.12 impose charges for late payments of Assessments and after notice and an opportunity to be heard, levy reasonable fines for violations of the Declarations, Code of Regulations, Rules and Regulations of the Association;

5.3.13 impose reasonable charges for the preparation and recordation of amendments to the Declaration or for statements of unpaid Assessments;

5.3.14 provide for indemnification of its officers and board of trustees and maintain directors' and officers' liability insurance;





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

5.3.16 exercise any other powers conferred by the Declaration, Code of Regulations or Articles of Incorporation;

5.3.17 exercise all other powers that may be exercised in this state by nonprofit corporations;

5.3.18 exercise any other powers necessary and proper for the governance and operation of the Association;

5.3.19 enforce the terms of the Restrictions found in Article VIII herein and as contained on the Plat;

5.4\_ **Voting Rights.** Members shall be entitled to vote on matters properly before them in accordance with this Article and the laws of the State of Ohio.

5.4.1 **Number of Votes.** The Declarant shall have 10 votes per lot owned. All other owners shall have one vote per lot. If only one of several Owners for a Lot is present at a meeting of the Association, that Owner is entitled to cast the vote allocated to that Lot. If more than one of the Owners is present, the vote allocated to that Lot may be cast only in accordance with the agreement of a majority in interest of the Owners. There is majority agreement if any one of the Owners casts the vote allocated to that Lot without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Lot. The Association may adopt rules regarding deadlocks. No votes allocated to any Lots owned by the Association may be cast.

5.4.2 **Proxies.** A vote allocated to a Lot may be cast pursuant to a proxy duly executed by an Owner. If a Lot is owned by more than one person, each Owner of the Lot may vote or register protest to the casting of votes by the Owners of a Lot through a duly executed proxy. An Owner may revoke a proxy given pursuant to this section only by actual notice of revocation to the person presiding over a meeting of the Association. A proxy is void if it is not dated or purports to be revocable without notice. Except as hereinafter provided, a proxy shall terminate one year after its date, unless it specifies a shorter time. If a first mortgage has been designated a proxy under the terms of a first mortgage covering the Lot, its presentation to the Board of a copy of the mortgage shall be notice of the proxy designation, and if the mortgage so states, of the irrevocability of that designation. Written notice to the Board or notice in a meeting of a revocation of a proxy designation shall not affect any vote or act previously taken. Each proxy shall automatically cease upon conveyance of the Lot.

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

5.5\_ **Annual Meeting.** A meeting of the Members of the Association must be held at least once a year.

5.6\_ **Management Agent.** The Board may employ for the Association a professional management agent or agents at a compensation established by the Board to perform such duties and services as the Board shall authorize. The Board may delegate to the managing agent or manager, subject



to the Board's supervision, certain powers granted to the Board by this Declaration. The Declarant, or an affiliate of the Declarant, may be employed as a managing agent or manager.

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

## **ARTICLE VI**

### **Assessments**

6.1\_ **Establishment of Assessments** There are hereby established for the benefit of the association, its successors or assigns, as a charge on each lot, certain assessments for common expenses and other expenses. Each Owner, by acceptance of a deed, covenants and agrees to pay such assessments, except the Declarant shall have no obligation to pay assessments unless the dwelling unit located upon any lot owned by the Declarant is occupied. In addition, any lot owned by a Builder shall not be subject to an assessment until one year after the transfer of the lot from the Declarant to the Builder. The annual general assessment is estimated to be \$300.00 per lot for the first year for which assessments are charged. In addition, each lot shall be assessed a one-time capitalization fee of \$400.00 to be paid to the Homeowners Association.

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

6.3\_ **Annual General Assessment.** There is hereby established an Annual General Assessment for the purpose of the Common Expenses of the Association. The Common Expenses shall be, but not limited to, (1) operation, maintenance, repair and replacement as required by this Declaration; (2) the cost of any insurance required by this Declaration; (3) reasonable reserves for contingencies and replacement; and (4) administrative, accounting, legal and management fees; (5) all other costs and liabilities incurred by the Association in the exercise of its powers and duties pursuant to this Declaration. Notwithstanding the above, the Association shall not be required to establish any reasonable reserves for contingencies and replacement prior to the Turnover Date.

6.4\_ **Individual Assessment.** The Association after approval by two-thirds (2/3) vote of all members of the Board shall have the right to assess an individual Lot for any of the following:

6.4.1 any costs incurred by the Association in the performance of any maintenance in accordance with Article VII, Section 7.4.

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

6.4.3 any costs associated with the enforcement of this Declaration or the Rules and Regulations of the Association, including, but not limited to attorneys fees, witness fees and costs, and court costs.

6.5\_ **Special Assessments.** In addition to the other Assessments authorized herein, the Association may levy Special Assessments in any fiscal year. So long as the total amount of Special Assessments allocable to each Lot does not exceed One Hundred Twenty Percent (120%) of the Annual





General Assessment for that fiscal year, the Board may impose the Special Assessment. Any Special Assessments which would cause the amount of Special Assessments allocable to any Lot to exceed this limitation shall be effective only if approved by a majority vote of the Members present and voting at a meeting duly called for such purpose. Special Assessments shall be paid as determined by the Board, and the Board may permit Special Assessments to be paid in installments extending beyond the fiscal year in which the Special Assessment is imposed.

**6.6\_ Computation and Payment of Annual General Assessment.** The Annual General Assessment shall be computed and levied in accordance with the budget adopted by the Board pursuant to the Code of Regulations. This Assessment shall be effective as to each Lot on the first day of the Association's fiscal year subject to the limitations set forth in Section 6.1 above. With respect to Lots added during the fiscal year, this Assessment shall be prorated to the end of the Association's fiscal year. So long as there has been no default in payment of the Assessment, it shall be payable in annual installments due on the first day of each fiscal year. The Board shall have the power from time to time to adopt such billing, collection and payment procedures, charges and other payment time schedules as it deems appropriate.

**6.7\_ Lien for Assessments.** The Association shall have a lien for any Assessment levied against a Lot, for fines imposed against an Owner or Occupant, and for interest, costs and reasonable attorney fees.

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

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

**6.7.3 Perfection.** Recording of this Declaration constitutes notice and perfection of the Lien.

**6.7.4 Notice of Lien.** The Association may file a notice of lien with the Recorder of Butler County, Ohio. Such notice shall not be required for the Association to enforce its lien.

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

**6.7.6 Subordination and Mortgagee Protection.** Notwithstanding any of the provisions hereof to the contrary, the lien of any Assessment levied pursuant to this Declaration (and any late charges, interest, costs and attorney fees) shall be subordinate to, and shall in no way affect the rights of the holder of a first mortgage made in good faith for value received; provided, however, that such subordination shall apply only to Assessments, or installments thereof, which have become due and payable prior to the date of Sheriff's sale of such Lot pursuant to a foreclosure or the date of a deed in lieu of foreclosure. Such sale or transfer shall not relieve the mortgagee or the purchaser of a Lot at such sale from liability for any Assessments thereafter becoming due, or from the lien of any such subsequent Assessment.





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

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

6.8\_ **Allocation of Assessments.** The Common Expense Liability of each Lot shall be the portion of the Common Expense. The Common Expense Liability and the Annual General Assessment shall be allocated so as the share of the Lots shall be shared equally for each Lot.

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

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

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

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

6.13\_ **No Waiver of Liability for Common Expenses.** No Owner may exempt himself or herself from liability for payment of the Common Expenses by waiver of the use or enjoyment of the Common Elements or by abandonment of the Lot against which the Assessments are made.



## ARTICLE VII

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### Upkeep of the Property

7.1\_ **Lots.** Each and every Lot, its Dwelling Unit and any improvement erected thereon shall be maintained in a reasonable manner in accordance with the standard generally prevailing throughout the Properties,

7.2\_ **Common Elements.** The Declarant shall maintain the Common Elements, specifically to include the maintenance and upkeep of the detention/retention basins, landscaping and entrance features, and any other Common Elements for six months after recording of this Declaration. For any Additional Property added to the terms and conditions of this Declaration, the Declarant shall maintain Common Elements identified on such Addition Property for six months after the recording of any amendment adding such Additional Property.

Thereafter, upon notice from the Declarant to the Association, the Association shall maintain the Common Elements, specifically to include the maintenance and upkeep of the detention basins, landscaped area and entrance features and any other Common Elements.

7.3\_ **Drainage Easements.** Each Owner will be responsible for the maintenance, management and upkeep of all private drainage easement areas shown on the Survey Plat.

7.4\_ **Association's Right to Maintain.** In the event that an Owner shall fail to provide maintenance as required by this Declaration in a manner satisfactory to the Association, and such Owner has failed to comply for ten (10) days after being so notified of such failure and upon being provided an opportunity to be heard concerning such failure, then the Association shall have the right, through its agents and employees, to enter upon said lot and repair, maintain and restore the Lot. In the event that such failure poses a health, safety or security risk, then no notice or hearing need be given. The cost of such maintenance and repair shall be assessed against the subject Lot in accordance with Article VI, Section 6.4. Nothing in this section shall be construed as giving the Association any right to repair, maintain or restore any Dwelling Unit.

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

## ARTICLE VIII

### Restrictions

8.1\_ Easements for installations and maintenance of utilities and drainage facilities will, where necessary, be reserved for such purpose in the conveyance of the individual lots.

8.2\_ No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

8.3\_ No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuildings shall be used on any Lot at any time as a residence, either temporary or permanently. Construction or storage trailers or sheds are permitted while homes are under construction.





8.4\_ No lot shall be used or maintained as a dumping ground for rubbish, except during the period of construction of the house on the particular lot or house in the vicinity. Trash, garbage, or other waste shall not be kept except in sanitary containers. All incinerations or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition.

8.5\_ All dwellings shall be constructed in such a manner as to conform with the Zoning laws, Building codes and the Plumbing Codes of the **City of Fairfield**, Ohio, and any state health regulations, which might apply to this development.

8.6\_ A satellite dish with a maximum of 1 meter in diameter is allowed. The dish can only be mounted in front of the house if an acceptable signal cannot be achieved elsewhere on the lot. Radio and television antennas of any kind may not exceed the highest point of the roof. Any antennas not attached to the house are prohibited.

8.7\_ No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot, dwelling, or garage erected thereon, except that dogs, cats, or other household pets may be kept, provided they are inside the main residence of each lot at night, and further, provided they are not bred or maintained for any commercial purpose, nor in such numbers as to become a nuisance or offensive to other owners. Kennels, doghouses or other enclosures or pet housing areas are not permitted unless approved by the Declarant.

8.8\_ No signs of any kind shall be displayed to the public view on any lots or buildings except one professional sign of not more than one square foot in area. Signs of not more than six square feet in area advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period are permitted. The developer will be allowed a large subdivision sign close to the entrance of the subdivision. Political signs not more than five square foot will be permitted 30 days prior to an election, and must be removed within 7 days after election. Before any sign can be placed a permit maybe necessary from the City of Fairfield. Nothing stated above shall be construed to supersede the City requirements.

8.9\_ The grades of all lots shall not be materially altered or changed so as to adversely affect or interfere with any other owner's property.

8.10\_ All driveways shall be surfaced with concrete or brick/stone pavers.

8.11\_ Permanent basketball goals shall not be permitted in the front yard and rollaway goals shall be stored indoors when not in use. Approval by the Declarant shall be required for any permanent goal.

8.12\_ No fences, walls, or hedges shall be erected or placed on any lot nearer to any street than the minimum building setback line. No solid, stockade, or board on board fences will be permitted. No chain link fences will be permitted. No fences higher than 4' will be permitted except as required by local or state building or zoning law. All fences shall require approval by the Declarant and City as necessary. Acceptable fences shall include split-rail fencing with or without wire mesh, decorative wrought iron or similar type of material.

8.13\_ Only one single-family residence with necessary attached garage for not less than two automobiles may be built on any of said lots. All three-car garages shall be required to be side entry. Garages larger than three-cars shall require approval by the Declarant. No house trailer shall be parked on any of said lots at any time. Campers, boats, trailers or recreational vehicles may not be stored in front, rear or side yards, except for a 48-hour period of time for loading and unloading. No detached





garages will be permitted unless designed as a carriage style that compliments the architecture of the home. This type of garage shall require the approval of the Declarant and the City of Fairfield. No underground or log homes will be permitted.

8.14\_ One storage shed is permitted per lot provided the shed is no larger than 150 square feet and no taller than 12 feet. The shed must be made of wood, brick or similar material, metal sheds are not permitted. The shed must have a shingled roof and be painted or stained to compliment the house. All sheds must be located in the rear of the lot and comply with City of Fairfield requirements but cannot be closer than 5 feet to a property line. All sheds require the Declarant's approval. Outbuildings or freestanding accessory structures such as pool houses; gazebos, playhouses, and swing sets are permitted subject to approval of the Declarant. The design and detail of the outbuilding or freestanding accessory structures must be consistent and compliment the home with regard to materials and architecture.

8.15\_ No above ground swimming pools will be permitted. When an in ground swimming pool is installed, a small storage shed with a maximum of 35 square feet will be permitted for the purpose of housing pool filter, pump, heater, equipment, and chemicals. The Declarant can approve a larger storage facility at his discretion if necessary to adequately house the pool equipment. It will be necessary to screen any structure if visible from adjoining homes within the subdivision.

8.16\_ A one-story home shall have a minimum requirement of 2200 square feet and a two or more story home shall have a minimum requirement of 2800 square feet. Garages, porches and basements cannot be included in the determination of square footage. Square footage will be measured from outside of wall to outside of wall.

8.17\_ Brick, drivet, stone, or comparable architectural material as approved by the Declarant shall be required for the front facades and required on the first floor of the home. Only premium grade siding can be used as approved by the Declarant. Aluminum siding shall not be permitted. A maximum of 24 inches of exposed foundation wall shall be permitted. All other areas must be covered with the appropriate material listed above unless otherwise approved by the Declarant.

8.18\_ The main roof shall have a minimum pitch of 8 to 12 and all front facing gables shall have a minimum pitch of 10 to 12.

8.19\_ The Declarant shall have the option at his sole discretion in the approval of all home plans. However, all plans at a minimum must comply with the home plans approved by the City of Fairfield as part of the rezoning of the property. The Declarant can make any changes deemed necessary to the exterior home plans prior to approval of said plans. Plans for all homes shall be approved in writing by Declarant, (except homes built by Ryan Homes which have been pre-approved) its successors or assigns, before construction on said residence begins.

8.20\_ Construction shall begin on each lot within (1) year of closing the lot with the Declarant. The Declarant can allow an extension of this date at his discretion. All homes shall be completed within one (1) year of the start of construction. Completion of the lawn and landscaping shall be within 120 days of occupancy of the home, weather permitting. Each home shall be required to have at a minimum landscaping that extends along the front facade of the home, where possible, and is installed in a manner that compliments and enhances the value of the homes in the community.

8.21\_ All homes shall use a mailbox and post as specified by Declarant.

8.22\_ Christmas lights may be erected no sooner than four weeks prior to and removed no later than four weeks after Christmas.



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8.23\_ Air conditioning and heat pump equipment shall be located in the side or rear yard and shall be landscaped to reduce the appearance of the equipment were possible.

8.24\_ There shall be no more than two garage or yard sale held on any lot during a one-year period.

8.25\_ Flag poles are permitted in the front, side or rear yard for the purpose of flying the U.S and or the Ohio flags. Flag poles can be no larger than 25 feet in height and must be maintained in neat and orderly manner. The flags can be no larger than 4' x 6' feet in size and can be up-lighted from the pole base. Flags can be permitted to be attached to the house.

8.26\_ After the Turnover Date any restrictions herein contained in this Article VIII may be waived or suspended at any time by an instrument in writing recorded in the Recorder's Office of Butler County, Ohio, signed by the then owners of not less than three/fourths of the lots included in **Emerald Lake**.

8.27\_ Invalidity of any one of these covenants by a judgment or court order shall not effect any of the other provisions, which shall remain in full force and effect.

8.28\_ Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenants either to restrain violation or to recover damages.

## ARTICLE IX

### Architectural Approval

9.1\_ **Architectural Standards.** All Property at any time subject to this Declaration shall be governed and controlled by this Article. Until the date that all Lots within the subdivision have been sold by the Declarant and the initial construction on all Lots has been completed, the Declarant shall have the exclusive authority to determine the architectural standards, which shall govern the construction of Improvements on the Property. Each Owner covenants and agrees by acceptance of a deed to a Lot, to comply with, and to cause his/her Lot and any occupancy thereof to comply with the standards promulgated by the Declarant. The initial architectural standards adopted by the Declarant are found within Article 8.16 thru 8.18 above. The Declarant reserves the right to unilaterally adopt alternate standards for **Emerald Lake**.

9.2\_ **Approval by Declarant.** No improvement shall be placed, erected or installed on the Property, no construction (which term shall include in its definition staking, clearing, excavation, grading and other site work) and no plantings or removal of plants, trees or shrubs shall be permitted without, until and unless the Owner first obtains the written approval thereof by the Declarant and otherwise complies with the provisions of this Declaration. The terms and conditions of this provision apply to all improvements related to the initial construction of the Dwelling Unit upon the Lot and any alterations, improvements or additions made to the Dwelling Unit or otherwise upon the Lot during the period that the Declarant is the Owner of any Lots within the subdivision.

Owners shall submit plans and specifications showing the nature, kind, shape, color, size materials and location of improvements and alterations to the Declarant or Association (after the turnover date) for its approval. The form used for approval of improvements is attached hereto as Exhibit "C". Nothing contained herein shall be construed to limit the right of an Owner to remodel or decorate the interior of his/her residence.



## ARTICLE X



### Insurance and Casualty Losses

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10.1 **Insurance.** The Board or its duly authorized agent shall have the authority to and shall obtain insurance for all insurable improvements on the Common Elements against loss or damage by fire, other hazards, including all risk coverage, vandalism and malicious mischief. This insurance shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. The Board shall also obtain a public liability policy covering the Common Elements, the Association, and its members or for all damage or injury caused by the negligence of the Association or any of its members or agents, and if reasonably available, directors' and officers' liability insurance. The public liability policy shall have such coverages as the Board in its discretion may decide to be reasonable after due consideration of all factors involved. Premiums for all insurance of the Common Elements, public liability and directors' and officers' insurance shall be Common Expenses of the Association. The policy may contain a reasonable deductible and the amount thereof shall be added to the face amount of the policy in determining whether the insurance equals the full replacement cost.

Cost of insurance coverage obtained for the Common Elements, public liability, and directors' and officers' shall be included in the General Assessment, as defined in Article VI, Section 6.3.

All such insurance coverage obtained by the Board shall be written in the name of the Association, as Trustee, for the respective benefited parties, as further identified below. The provisions hereinafter set forth shall govern such insurance:

10.1.1 All policies on the Common Elements shall be for the benefit of the Lot Owners and their mortgages as their interests may appear.

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

10.1.3 In no event shall the insurance coverage obtained by the Board hereunder be brought into contribution with insurance purchased by individual Owners, Occupants, or their mortgagee, and the insurance carried by the Association shall be primary.

10.1.4 All casualty insurance policies shall have an agreed amount endorsement with an annual review by one or more qualified persons, as least one of whom must be in the real estate industry and familiar with construction in the Warren County, Ohio, area.

10.1.5 The Board shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

10.1.5.1 a waiver of subrogation by the insurer as to any claims against the Board, its manager (if any), the Owners and their respective tenants, servants, agents, and guests;

10.1.5.2 a waiver by the insurer of its rights to repair and reconstruct instead of paying cash;





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10.1.5.3 that no policy may be canceled, invalidated, or suspended on account of the acts of any one or more individual Owners;

10.1.5.4 that no policy may be canceled, invalidated, or suspended on account of the conduct of any trustee, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any Owner or mortgagee; and;

10.1.5.5 that any "other insurance" clause in any policy exclude individual Owner's policies from consideration.

**10.2\_ Disbursement of Proceeds.** Proceeds of insurance policies shall be disbursed as follows:

10.2.1 If the damages or destruction for which the proceeds are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repairs or reconstruction is made after making such settlement as is necessary and appropriate with the affected Owner or Owners and their mortgagee(s), as their interests may appear, if any Lot is involved, shall be remained by and for the benefit of the Association. This is a covenant for the benefit of any mortgagee of a Lot and may be enforced by such mortgagee.

10.2.2 If it is determined, as provided for in Section 10.3.2 of this Article, that the damage or destruction of the Common Elements for which the proceeds are paid shall not be repaired or reconstructed such proceeds shall be disbursed in the manner as provided for excess proceeds in Section 10.2.1 hereof.

**10.3\_ Damage or Destruction.** Immediately after the damage or destruction by fire or other casualty to all or any part of the Property covered by insurance written in the name of the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in the paragraph, means repairing or restoring the Property to substantially the same condition in which it existed prior to the fire or other casualty.

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

10.3.2 In the event that it should be determined by the Association in the manner described above that the damage or destruction of the Common Elements shall not be repaired or reconstructed and no alternative improvements are authorized, than and in that event that property shall be restored to its natural state and maintained as an undeveloped portion of the Common Elements by the Association in a neat and attractive condition.



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10.4\_ **Repair and Restoration.** If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the Members, levy a Special Assessment against all Owners. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the cost of repair, such excess shall be deposited to the benefit of the Association.

## **ARTICLE XI**

### **Condemnation**

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

If the taking involves a portion of the Common Elements on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant and at least seventy-five (75%) percent of the Members of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Elements, to be extent lands are available therefore, in accordance with plans approved by the Board. If such improvements are to be repaired or restored, the above damage or destruction, which is to be repaired, shall apply. If the taking does not involve any or if there are net funds remaining after such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

## **ARTICLE XII**

### **Development Rights**

12.1\_ **Submission of Additional Land.** The Declarant reserves the unilateral right to submit all or any portion of the Additional Land to the terms of this Declaration at any time during the Development Period without the consent of the Association. The submission shall be accomplished by the filing of a Supplemental Declaration identifying the Additional Land, the Lots and the Common Elements.

12.2\_ **Notice to the Board.** The Declarant shall promptly notify the Board of the filing of any Supplemental Declaration.

12.3\_ **Easements Reserved.** The Declarant reserves for itself, its successors and assigns and any Builder, the following easements:

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

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





**BK: 7508 PG: 1613**

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

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

12.4\_ **Assignment of Development Rights.** The Declarant reserves the right to assign any or all of its Development Rights to any person or entity for the purpose of further development and improvements of the Property. No assignment shall be effective unless it is in writing and filed with the Recorder of Butler County, Ohio.

### **ARTICLE XIII**

#### **Special Declarant Rights**

13.1\_ **Use for Sale Purposes.** Declarant reserves for itself, its successors and assigns, and any Builder the right to maintain sales offices and models on the Lots.

13.2\_ **Signs and Marketing.** The Declarant reserves the right for itself and any Builder to post signs and displays in the Property to promote sales of Lots, and to conduct general sales activities, in a manner as will not unreasonably disturb the rights of Owners.

#### **13.3\_ Control of the Association.**

13.3.1 **Appointment of Directors and Officers.** The Declarant reserves the right to appoint and remove the members of the Board and the Officers of the Association until such time as 95% of the Lots located on the Property or any Additional Property has been sold.

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

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

13.5\_ **Right to Amend Documents.** Notwithstanding anything above to the contrary, this Declaration may be amended at any time without the vote of Owners by a written instrument executed by the Declarant for the purpose of eliminating or correcting any typographical or other inadvertent error herein; eliminating or resolving any ambiguity herein; making nominal changes; clarifying Declarant's original intent; making any change necessary or desirable to meet the requirements of any institutional lender, the Veteran's Administration, the Federal Housing Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or any other agency which may insure or purchase loans on a Lot. No such amendment, however, shall materially affect any Owner's interest in





**BK: 7508 PG: 1614**

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

## **ARTICLE XIV**

### **Duration, Amendment and Termination**

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

14.2\_ **Amendment.** During the period in which the Declarant owns any portion of the Property, any provision of this Declaration may be amended in whole or in part by a recorded instrument executed by Declarant and approved by the Owners of at least 67% percent of all Lots. For the purpose of making an amendment to this document each lot owned by the Declarant shall count as ten (10) lots.

After the Declarant has sold and conveyed all portions of the Property, any provision of this Declaration may be amended in whole or in part by a recorded instrument approved by the Owners of at least sixty-seven (67%) of all Lots.

All Amendments shall be executed by the Declarant, if required, and shall be executed by the President and Secretary of the Association. Such Amendment shall certify that the proper notices were sent and that the requisite vote was obtained. Amendments need not be signed by the Owners. All Amendments must be recorded with the **Butler County** Recorder in order to be effective.

14.3\_ **Termination.** This Declaration and the regime created thereby may be terminated only in accordance with this Section.

14.3.1 **Consent Required.** This Declaration may be terminated only upon consent of Eighty (80%) Percent of the Owners after the Turnover Date as identified in Section 1.19.

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



## ARTICLE XV

BK: 7508 PG: 1615

### Miscellaneous

15.1\_ **No Reverter.** No covenant, condition, restriction or reservation of easement contained in this Declaration is intended to create, or shall be construed as creating, a condition subsequent or a possibility of reverter.

15.2\_ **Notices.** Any notice required or permitted to be given to an Owner or resident by the Board pursuant to the provisions of this Declaration shall be deemed given when mailed by United States mail, postage prepaid, addressed to such person's last address as it appears on the records of the Association.

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

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

15.5\_ **Headings.** The headings of the Articles and Sections are for convenience only and shall not affect the meaning or construction of the contents of this Declaration.

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

15.7\_ **Conflict.** In the event of a conflict between the Restrictions or any one or more of them and the restrictions of any Declaration, which may be recorded subsequent to this Declaration, the more restrictive restriction, covenant, condition, easement or other obligation shall control.

## ARTICLE XVI

### Declarant Turnover

16.1\_ Once the Declarant has sold 95 percent of the lots within the development, the Declarant shall schedule a meeting to officially turnover the control of the Association to the current lot owners. The turnover process shall consist of written notice by regular mail to each lot owner that defines the purpose, date and location of the meeting. The Declarant and Board of Trustees shall conduct the meeting and attempt to hold an election for a new Board of Trustees at this meeting. The election of the new Board will be from a simple majority of the lot owners present at the meeting and any proxy ballots received by the predetermined deadline. Upon election of the new Board, the Declarant shall have officially turned over control of the Association. If no lot owner is present at the meeting and no proxy ballots have been received, the Declarant and the Board of Trustees will appoint a lot owner or owners to the new Board of Trustees. If no lot owner is willing to serve on the Board of Trustees the Declarant shall send written notice by regular mail to each lot owner that the Declarant has officially relinquished control of the Homeowners Association and the responsibility and control of the Association shall be the responsibility of the lot owners. The Declarant and previous Board of Trustees shall be released of all responsibility for the Association after this notice.



David Welsh, President of Welsh Development Company, Inc., does hereby establish these conditions and restrictions for the property heretofore described, and has hereunto set his hand this 4th day of FEBRUARY, 2005.

Welsh Development Company, Inc.  
An Ohio Corporation

David Welsh  
David Welsh, President



BK: 7508 PG: 1616

STATE OF OHIO

HAMILTON COUNTY

The foregoing instrument was signed and acknowledged before me this 4th day of FEBRUARY, 2005 by David Welsh, President of Welsh Development Company, Inc.

Patricia A. Risch  
Notary Public, State of Ohio

**PATRICIA A. RISCH**  
Notary Public, State of Ohio  
My Commission Expires April 19, 2005

This instrument was prepared by:  
Welsh Development Company, Inc

## EXHIBIT A

Situated in Section 2 & 3, Town 1, Range 2, City of Fairfield, Butler County, Ohio and known as Lot 13531 through 13574, inclusive of Emerald Lake, Section 1, recorded at Plat Envelop 3778, pages A - C of the Butler County Ohio Records.



**BK: 7508 PG: 1617**



# EMERALD LAKE

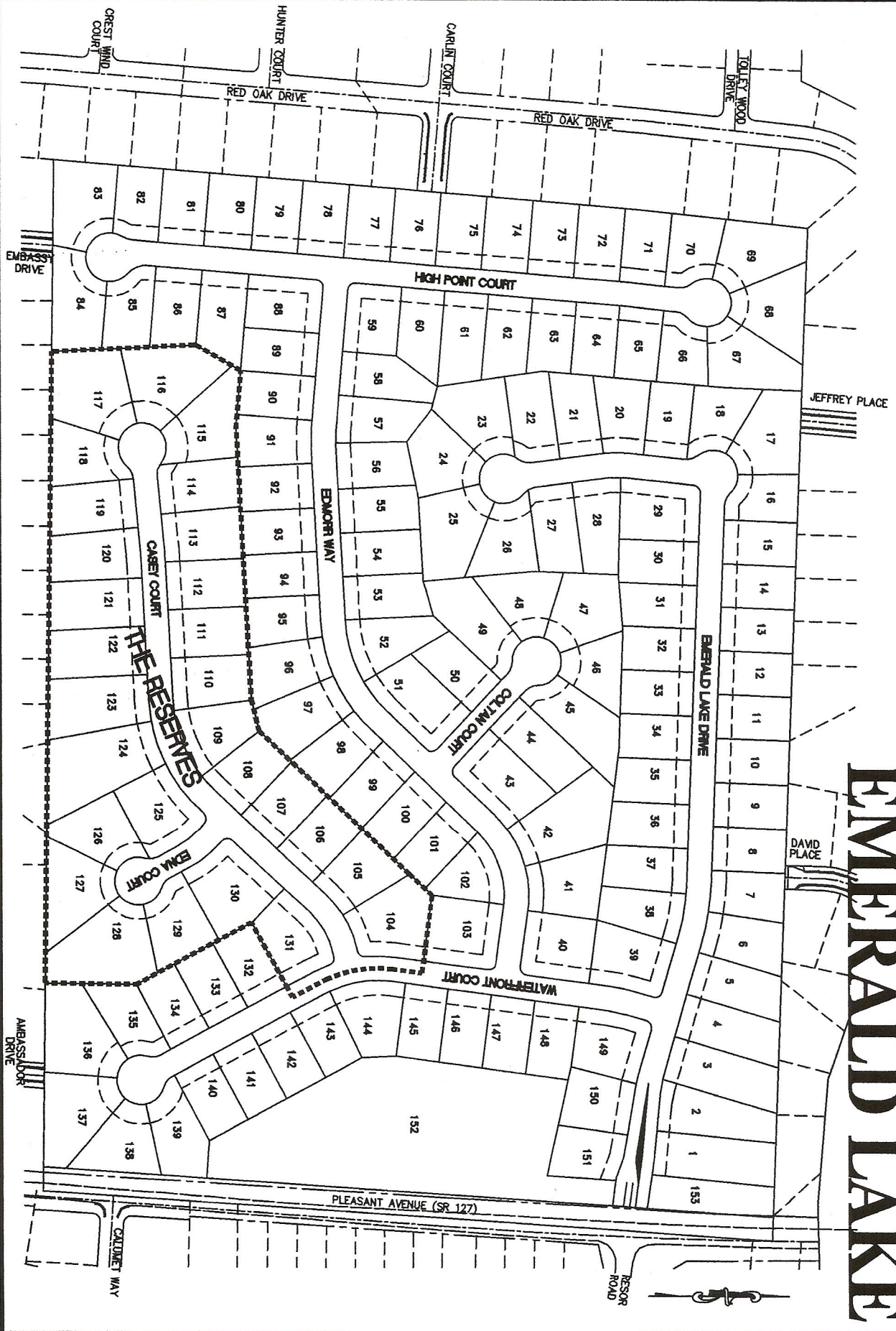


EXHIBIT A-1





EXHIBIT C

BK: 7508 PG: 1619

EMERALD LAKE HOMEOWNERS ASSOCIATION  
ARCHITECTURAL IMPROVEMENT APPLICATION

Pursuant to Article IX, Section 9.2 of the Declaration, "No improvement shall be placed, erected or installed on the Property, no construction (which term shall include in its definition staking, clearing, excavation, grading and other site work) and no plantings or removal of plants, trees or shrubs shall be permitted without, until and unless the Owner first obtains the written approval thereof by the Declarant and otherwise complies with the provisions of this Declaration. The terms and conditions of this provision apply to all improvements related to the initial construction of the Dwelling Unit upon the Lot and any alterations, improvements or additions made to the Dwelling Unit or otherwise upon the Lot during the period that the Declarant is the Owner of any Lots within the subdivision."

This form may be used to seek approval from Welsh Development Company for all new construction and any improvements to the exterior of the property during the term that Welsh Development Company owns any Lots within the subdivision. Please submit this application to the address below:

Welsh Development Company, 5780 S. Rt. 128, 9336 Dick Road, CLEVELAND OH 45002  
Harrison, Ohio 45030

OWNER: \_\_\_\_\_ HOME PHONE \_\_\_\_\_

ADDRESS: \_\_\_\_\_ WORK PHONE \_\_\_\_\_

Description of Improvement or change: \_\_\_\_\_

Attach plans, drawings, and/or materials list in order to clearly describe the improvement.

The undersigned hereby submits this Application to Welsh Development Company and agrees to complete the improvements precisely as described.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

ACTION BY WELSH DEVELOPMENT COMPANY

This Application was reviewed by Welsh Development Company on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_. This Application is:

Approved \_\_\_\_\_ Not Approved \_\_\_\_\_

Welsh Development Company

A copy of this Application and decision was mailed to the Lot Owner on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
\_\_\_\_\_