

CUYAHOGA COUNTY RECORDER  
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DECLARATION  
OF  
EASEMENTS, COVENANTS AND RESTRICTIONS  
FOR  
CHESAPEAKE SUBDIVISION NO. 4 HOMEOWNERS' ASSOCIATION

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DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS FOR  
CHESAPEAKE SUBDIVISION NO. 4 HOMEOWNERS' ASSOCIATION

THIS DECLARATION is made as of the 28 <sup>JUNE</sup> day of ~~May~~, 2000, by CHESAPEAKE DEVELOPMENT COMPANY, an Ohio corporation (the "Declarant"), JOHN EGIZII ("Egizii"), and CHESAPEAKE SUBDIVISION NO. 4 HOMEOWNERS' ASSOCIATION, an Ohio non-profit corporation (the "Association").

RECITALS:

A. Declarant is the owner of the real property located in the City of North Royalton, Ohio (the "City"), legally described in Exhibit A attached hereto (the "Declarant's Property"). Egizii is the owner of the real property located in the City legally described in Exhibit B attached hereto (the "Egizii Property", and, together with the Declarant's Property, the "Property"). The Property is shown on the Plat attached hereto as Exhibit C (the "Plat"). The Declarant and Egizii presently plan to develop the Property as a residential subdivision known as "Chesapeake Subdivision No. 4" containing thirty-three (33) single-family sublots.

B. This Declaration provides the legal requirements necessary (a) to establish a general scheme of controls that will ensure the orderly and harmonious development and use of the Property as a single-family residential community, (b) to create an association whereby community members will be permitted, and encouraged, to participate in policy-making decisions, (c) to provide for payment of the costs and expenses necessary to maintain the Easement Areas, and (d) to establish high standards for the use and maintenance of Residences and the Easement Areas so that the character of Chesapeake Subdivision No. 4 will be preserved.

C. The Association has been incorporated for the purposes set forth above and joins in this Declaration to accept the duties and responsibilities imposed upon it by the protective covenants and restrictions contained in this Declaration.

DECLARATION:

NOW, THEREFORE, the Declarant and Egizii declare that the Property shall be owned, held, transferred, sold, conveyed, used, and occupied subject to the covenants, conditions, restrictions, easements, assessments, charges, and liens (collectively, the "Covenants and Restrictions") provided in this Declaration, which Covenants and Restrictions shall run with the land and shall be binding on and inure to the benefit of all persons having any right, title, or interest in any part of the Property, and their heirs, personal representatives, successors and assigns.

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ARTICLE I.  
EXHIBITS AND DEFINITIONS

1.1 Exhibits. The following exhibits are attached to and made a part of this Declaration:

- Exhibit A: A legal description of the Declarant's Property.
- Exhibit B: A legal description of the Egizii Property.
- Exhibit C: A copy of the Subdivision Plat for Chesapeake Subdivision to be recorded in the Cuyahoga County, Ohio Map Records, which plat may hereafter be amended in a manner consistent with the Zoning Code of the City.
- Exhibit D: The Articles of Incorporation of Chesapeake Subdivision No. 4 Homeowners' Association filed with the Secretary of State of the State of Ohio.
- Exhibit E: The By-Laws of Chesapeake Subdivision No. 4 Homeowners' Association.

1.2 Definitions. The following definitions are applicable to this Declaration (unless the context shall prohibit):

(a) "Assessments", the share of Common Costs referred to in Section 7.1, and special assessments as permitted herein, together with "Other Charges" which are from time to time levied by the Board and are required to be paid by an Owner. "Other Charges" shall include, without limitation, (i) interest upon each Assessment and Other Charges as determined from time to time by the Board, but in no event greater than the highest legal rate which may be charged to an individual without being usurious (but not greater than eighteen percent (18%) per annum) from the date the Assessments or Other Charges first become due to the date it is paid in full; (ii) a late payment charge if any Assessment shall not be paid within five (5) days of the due date, as established from time to time by the Board (but in no event higher than ten percent (10%) of the amount due); and (iii) the reasonable costs of collection of any unpaid Assessments and Other Charges (including court costs and reasonable attorneys' fees and disbursements of counsel).

(b) "Association", Chesapeake Subdivision No. 4 Homeowners' Association, an Ohio non-profit corporation, its successors and assigns, created to govern, operate, control, and administer Chesapeake Subdivision No. 4 and to supervise and enforce the Covenants and Restrictions.

(c) "Board", the Board of Trustees of the Association.

(d) "Builder", any residential home builder to which the Declarant or Egizii sells a Lot or Lots.

(e) "Chesapeake Subdivision No. 4", the residential community to be developed by the Declarant and Egizii as described in Recital A to this Declaration.

(f) "City", the City of North Royalton, Ohio, a municipal corporation organized and existing under the laws of the State of Ohio.

(g) "Declarant", Chesapeake Development Company, an Ohio corporation, and its successors and assigns. No Person shall be deemed to be a successor or assign of the original Declarant for the purposes of this Declaration unless such Person has been specifically so designated by Declarant, by instrument in writing and placed of record.

(h) "Declaration", this Declaration of Easements, Covenants and Restrictions.

(i) "Easement Areas", (i) those portions of the Property designated on the Plat as Storm and Detention Basin Easements, and related storm water drainage facilities used in connection therewith, and (ii) any other real property in which the Association now or hereafter may be granted rights by easement, license or otherwise for the common benefit of the Owners or Occupants.

(j) "Egizii", John Egizii and his heirs, personal representatives, successors and assigns as owners of the Egizii Property.

(k) "Lot", any subplot shown on the Plat (as the same may be amended or modified) upon which a Residence is intended to be constructed and which is treated by the Auditor of Cuyahoga County, Ohio, as a separate tax parcel for the purposes of assessing real property taxes.

(l) "Member", a member of the Association, being the Declarant, other Owners and Tenants.

(m) "Occupant", a natural person who resides in a Residence.

(n) "Owner", any Person (including the Declarant and Egizii) who holds part or all of the record title to a Lot situated on the Property. The word "Owner" shall not include any Person having an interest merely as security for the payment of or performance of an obligation unless and until said Person shall have acquired title pursuant to foreclosure or any act or proceeding in lieu of foreclosure.

(o) "Ownership Interest", the fee simple interest of the Declarant, Egizii or any Owner of a Lot or any other portion of the Property.

(p) "Person", a natural person, corporation, limited liability company, partnership, limited partnership, trust and any other legal entity to which the law attributes the capacity of holding title to real property.

- (q) "Property", the Declarant's Property and the Egizii Property.
- (r) "Residence", any single-family dwelling unit located on a Lot.
- (s) "Rules", such rules and regulations to govern the operation and use of the Easement Areas and any other property owned by the Association as may be adopted from time to time by the Board to implement and carry out the provisions and intent of this Declaration.
- (t) "Start-Up Period", the period commencing upon the filing of this Declaration for record with the Cuyahoga County Recorder and ending on the earlier of the date that (i) the Declarant has completed the conveyance of all Lots owned by the Declarant in Chesapeake Subdivision No. 4 and (ii) the Declarant files for record an amendment to this Declaration expressly terminating the Start-Up Period.
- (u) "Tenant", a Person living in and having a possessory leasehold interest in a Residence, other than an Owner.

## ARTICLE II. STORM AND DETENTION BASIN EASEMENTS

2.1 Storm and Detention Basin Easements. An easement is hereby created in favor of the Declarant and the Association upon, over and across the Easement Areas and such other parts of the Property as may be necessary to enable the Declarant to install, and the Association to repair, maintain, replace and reinstall as provided in this Declaration, the Easement Areas, including, without limitation, any retention facilities, detention facilities, drainage pipes and other facilities associated therewith, providing storm water drainage, retention and detention for Chesapeake Subdivision No. 4. No one shall change the grade of the Easement Areas without the written approval of the City.

## ARTICLE III. COVENANTS, CONDITIONS AND RESTRICTIONS

3.1 Covenant of Good Maintenance. Each Owner shall keep and maintain his Lot and all improvements, buildings and structures therein or thereon, in a clean and safe condition and in good order and repair, including, but not limited to the seeding, watering, and mowing of all lawns; the pruning and cutting of all trees, shrubbery and grass, the painting (or other appropriate external care) of all buildings, structures and other improvements located thereon, and the absence of conditions constituting violations of applicable building, fire and health codes, all in a manner and with such frequency as is consistent with good property management.

3.2 Fences, Walls, Hedges, Etc. Fences, walls, trees, hedges and shrub plantings shall be maintained in a sightly and attractive manner and shall not obstruct the right-of-way sight lines for vehicular traffic.

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3.3 Nuisance. No obnoxious or offensive activity shall be conducted upon any portion of the Property, nor shall anything be done thereon that may be or become a nuisance or annoyance to the neighborhood.

3.4 Storage of Material and Trash Handling. No lumber, metals, bulk material, refuse or trash shall be burned, whether in indoor incinerators or otherwise (excluding the burning of wood in an indoor or outdoor fireplace), kept, stored or allowed to accumulate on any portion of the Property, except (i) normal residential accumulation pending pick-up, (ii) building materials during the course of construction or reconstruction of any building or structure, and (iii) firewood which may be stored on a Lot in such a manner as will not create a nuisance or annoyance to other Owners. If trash or other refuse is to be disposed of by being picked up and carried away on a regular recurring basis, containers may be placed and permitted to remain in the open only on any day that a pick-up is to be made or the evening prior thereto, so as to provide access to persons making such pick-up. At all other times such containers shall be stored in garages or in other interior areas expressly designated by the Board for such purpose. No dumping shall be permitted on any part of the Property.

3.5 Pipelines and Drilling. No water pipe, gas pipe, sewer pipe, or drainage pipe shall be installed or maintained on any portion of the Property above the surface of the ground, except hoses and movable pipes used for temporary irrigation purposes. No portion of the surface or subsurface of the Property shall be used for the purpose of boring, mining, quarrying, exploring, or removing oil, gas or other hydrocarbons, minerals, gravel or earth.

3.6 Residential Use. Each Lot shall be used for single-family residential dwelling unit purposes in conformity with the terms and conditions contained in this Declaration. Except as expressly permitted in this Declaration, or by Rules adopted in accordance with this Declaration, no industry, business, trade or full-time occupation or profession of any kind, commercial, religious, educational or otherwise, designated for profit, altruism, exploration or otherwise, shall be conducted, maintained, or permitted on any part of the Property; provided, however, an Occupant may use a portion of such Occupant's Residence for such Occupant's office or studio in accordance with the Zoning Code of the City, provided that the activities therein shall not interfere with the quiet enjoyment or comfort or any other Occupant and that such use does not result in the Residence becoming principally an office, school or studio instead of a residence. Nothing in this section shall prohibit the Declarant or any Builder from utilizing any Lot as a model unit, sales office or general office in connection with the construction and sale of Residences or the development of the Property.

3.7 Firearms; Preservation of Wildlife. Firearms, ammunition, and explosives of every kind shall not be discharged, nor shall any traps or snares be set, nor shall any fishing, hunting or poisoning of wildlife of any kind be permitted in or upon the Property, except for rodent control, and the control of such other animals as constitute a nuisance or cause damage to property, or except upon prior written approval of the Board.

3.8 Control of Trucks and Commercial Vehicles. No tractor trailers, commercial tractors, commercial vehicles (except for automobiles and two-axle trucks with no more than



four tires), road machinery or excavating equipment shall be permitted to remain on any portion of the Property for any period of time whatsoever, except while making deliveries or performing services thereon and except as necessary for the construction, reconstruction or repair of buildings or structures. The Board shall have the right to adopt Rules with respect to the use or storage of such vehicles within the Property in accordance with the Zoning Code of the City.

3.9 Storage of Vehicles and Machinery. No truck (except a two-axle truck with no more than four tires), camper, camper trailer, recreational vehicle, boat, boat trailer, all-terrain vehicle, airplane, snowmobile, commercial vehicle, van, mobile home, tractor, bus, farm equipment, off-road vehicles or other vehicles of any kind, licensed or unlicensed, shall be stored on any driveway or other area in or upon the Property except (i) in the confines of garages or (ii) in respect of automobiles in good operating condition, on driveways. No vehicles of any type (including, without limitation, automobiles) shall be parked overnight on any street within Chesapeake Subdivision No. 4.

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

3.11 Violation of Article III. If any Person required to comply with the foregoing Covenants and Restrictions is in violation of any one of the same, the Declarant (as long as the Declarant is a Member of the Association) or the Association shall have the right to give notice to such person to terminate, remove or extinguish such violation. Such notice shall expressly set forth the facts constituting such violation.

If within fifteen (15) days after written notice of such a violation reasonable steps have not been taken toward the removal, alleviation or termination of same, or if such remedial action is not prosecuted with due diligence and until satisfactory completion of same, the Declarant or the Association shall have the right to obtain an injunction from any court having jurisdiction for the cessation of such violation of this Article III. The rights and remedies of the Declarant and the Association contained in this paragraph shall be non-exclusive and in addition to any other right or remedy available at law or in equity.

The Association or Declarant shall notify in writing the Person in violation of this Article III of all of the costs incurred to remedy same and of any other damages to which the Association or Declarant may be entitled. If said amounts are not paid within ten (10) calendar days following said notification, then said costs shall be "delinquent" and together with the Other Charges as defined in Section 1.2(b) shall, upon perfection as provided in Section 8.1 become a continuing lien upon the portion of the Property owned or occupied by such Person(s) and a personal obligation of the Person(s) violating this Article. In addition, the Owner of any portion

of the Property shall be liable, jointly and severally, for any violations of an Occupant of such Owner's property.

ARTICLE IV.  
ARCHITECTURAL CONTROL

4.1 Construction of Residences.

(a) Each one (1) story Residence constructed upon a Lot shall have a minimum of at least two thousand (2,000) square feet of interior floor space, exclusive of attics, basements, breezeways, garages, porches, patios or other enclosed areas not heated for year-round living. Each Residence of more than one (1) story constructed upon a Lot shall have a minimum of at least two thousand five hundred (2,500) square feet of interior floor space, exclusive of basements, breezeways, garages, porches, patios or other enclosed areas not heated for year-round living;

(b) All Residences constructed upon a Lot shall have at least a two (2) car attached garage. No garage door shall be permitted along the front elevation of a Residence, but shall face either to the side or rear of the Residence; and

(c) During such period as the Declarant retains responsibility for review of plans and specifications as provided in Section 4.2, the Declarant shall have the right to grant variances from the building restrictions set forth in paragraphs (a) and (b) of this Section 4.1, if, and to the extent that, the Declarant in its sole judgment determines that by reason of the shape, dimensions and/or topography of any Lot or any other reason satisfactory to the Declarant, the enforcement of such restriction would work a hardship on any Person, including, without limitation, any Builder. Any Person requesting a variance shall submit to the Declarant a variance request along with the construction plans and specifications and other documents required to be submitted to the Declarant as provided in Section 4.2.

4.2 Architectural Control. No Residence, fence, shed, wall or other structure shall be erected, placed, or altered within the Property until the plans and specifications showing the nature, kind, shape, heights, materials, colors, and location of the same, and the topography, landscaping, lighting and other improvements relating thereto have been submitted to the Declarant for review and have been approved by (i) the Declarant in writing and (ii) by the City as required by the Building and Zoning Code of the City. The Declarant's written approval of plans and specifications must be obtained before the plans and specifications are submitted to the City for approval and for building permits. All fees for architectural review shall be paid by the applicant. Responsibility for architectural review of the plans and specifications for Residences may be retained by the Declarant, if Declarant so desires, until all Residences within the Declarant's Property have been constructed. Responsibility for architectural review of plans and specifications for fences, sheds, walls and other structures (and responsibility for architectural review of plans and specifications for Residences if not retained by the Declarant as provided above) shall transfer from the Declarant to the Association at such time as, in the opinion of Declarant, the Association is able to perform this architectural review, whereupon the Board is to

establish an architectural review committee comprising three (3) persons, two (2) of whom shall be Owners and one (1) of whom may (but need not) be an Owner. The Board shall then establish rules and regulations by which the architectural review committee shall conduct meetings.

4.3 Scope of Review. Review and approval of any application pursuant to this Article IV shall be made on the basis of aesthetic considerations only, and none of the Declarant, the Association, the Board or the architectural review committee shall bear any responsibility for insuring the marketability, structural integrity or soundness of approved construction or modifications, nor for insuring compliance with building codes and other governmental requirements. None of the Declarant, the Association, the Board, the architectural review committee or any member of the foregoing shall be held liable for any injury, damages, or loss arising out of either (i) the manner or quality of approved construction or modifications or (ii) any failure or delay in the approval of any plans and specifications. The Declarant (and the architectural review committee after the Declarant is no longer responsible for architectural review) shall have the right to establish, and to modify from time to time, guidelines and building requirements and standards applicable to the Property and to establish, and to modify from time to time, procedures, standards and guidelines regarding the submission of plans and specifications for approval.

#### ARTICLE V. THE ASSOCIATION

5.1 Existence. The Association is a duly constituted non-profit corporation existing under the laws of the State of Ohio. Copies of its Articles of Incorporation and its By-Laws are marked, respectively, Exhibit D and Exhibit E, and are attached to this Declaration.

5.2 Membership. Each Owner and Tenant (provided in respect of a Tenant, that the Tenant is also an Occupant) shall, upon becoming such, automatically become and be a Member of the Association.

In the case of an Owner, membership in the Association shall terminate upon the conveyance, transfer or assignment of record by such Owner of his Lot, at which time the new Owner shall automatically become a Member of the Association. In the case of a Tenant, membership in the Association shall cease upon the occurrence of either of the following events: (a) termination of the tenancy, or (b) the Tenant ceases to be an Occupant of the leased Residence.

Declarant shall also be a Member of the Association, but Declarant's membership shall terminate on the earlier of: (a) the date when Declarant no longer is the Owner of a fee simple interest of any part of the Property; or (b) the voluntary termination by Declarant.

5.3 Voting Rights. Members shall have those voting rights set forth herein and in the Articles of Incorporation. So long as the Declarant is a Member only the Declarant shall have the right to vote on any action to come before the Association for a vote. Thereafter, each Owner

shall be entitled to exercise one (1) vote for each Lot owned by such Owner. Tenants shall have no voting rights.

5.4 Board of Trustees and Officers. The Board of Trustees shall initially be composed of three (3) Persons as provided in the By-Laws. All Board Members shall be elected by the Declarant so long as the Declarant is a Member of the Association. Thereafter, Board Members shall be elected by the voting Members at the annual meeting of the Association as provided in the By-Laws. The Board shall be vested with and shall exercise all of the powers of the Association and shall elect the officers of the Association, and shall discharge the duties and obligations of the Association and shall have all rights conferred by law, the Articles of Incorporation and the By-Laws of the Association.

5.5 Rights of the Association. Notwithstanding the rights and easements created in Article II of this Declaration, and in addition to any other right the Association shall have pursuant to this Declaration or at law, the Association shall have the right to enter or to authorize its agents to enter in or upon the Property or any part thereof, when necessary in connection with any maintenance, repair or construction for which the Association is responsible or has a right to maintain, repair or construct. Such entry shall be made with as little inconvenience to the Owner and Occupants thereof as is practicable and any damage caused thereby shall be repaired by the Association.

#### ARTICLE VI. RESPONSIBILITIES OF THE ASSOCIATION

6.1 Responsibilities of the Association. The Association shall have the exclusive duty to perform the following functions:

(a) Maintenance.

- (i) The Association shall maintain in a clean and safe condition and in good order and repair the Easement Areas, including, without limitation, the storm and detention basins and any facilities used for storm water drainage, retention or detention for Chesapeake Subdivision No. 4, including, without limitation, the dredging, cleaning, siltation control, erosion control and control of weeds and other undesirable vegetation and the maintenance and replacement as necessary of any trees, shrubs and other plantings in and around the storm and detention basins. Notwithstanding the foregoing, the obligation of the Association to maintain the Easement Areas shall terminate if (but only if) such areas are offered for dedication to the City for public use and the City accepts such dedication, which the City shall be under no obligation to do.
- (ii) The Association shall provide, or cause to be provided, equipment and supplies necessary for the maintenance of the Easement Areas and any

other property which the Association is required or has agreed to maintain from time to time.

- (iii) In case of damage or destruction to any of the facilities which are required to be maintained by the Association, the Association shall promptly restore such facilities to a condition at least equal to the condition in which they existed prior to the damage or destruction. All work performed by the Association under this paragraph shall be performed in a good and workmanlike manner.

(b) Liability of the Association. The Association and the Association's agents and employees shall not be liable for, and each Owner and Occupant waives all claims for injury or death to Persons or loss or damage to property, or any consequential or incidental damage or loss, resulting from any accident or occurrence in or upon any Residence, the Easement Areas, or any other part of the Property.

(c) Insurance. The Association may, but shall not be obligated to, obtain and maintain such insurance as it deems desirable, including, without limitation, public liability insurance in respect of death, injury or property damage occurring in, on or about any Easement Areas, directors' and officers' liability insurance, and fire, extended coverage, vandalism and malicious mischief insurance, insuring the improvements, if any, which may be constructed on the Easement Areas, all such insurance to be in such amounts and with such deductibles as the Association shall deem appropriate.

(d) Management. The Association shall provide the management and supervision for the maintenance and operation of the Easement Areas and any other facilities which the Association is required or has agreed to maintain. The Association shall establish and maintain such policies, programs and procedures to fully implement this Declaration for the purposes intended and for the benefit of the Members and may (but shall not be required to) adopt rules for the conduct of Members in connection with the use of Easement Areas and the facilities located thereon.

(e) Construction of Facilities. The Association may authorize the construction, alteration, renovation, modification or reconstruction of any facilities located on the Easement Areas; provided, however, no such alteration, renovation, modification or reconstruction of such facilities which requires the approval of the City may be undertaken unless and until such approval is obtained.

(f) Enforcement. The Association shall take all actions reasonably necessary in the circumstances to enforce the Covenants and Restrictions set forth in this Declaration.

(g) General. The Association shall perform and carry out all other duties and acts reasonably necessary to give effect to and implement the intent of the provisions of this Declaration.

ARTICLE VII.  
COMMON COSTS - ASSESSMENTS

7.1 Common Costs. Each Owner (other than Declarant and Egizii, to the extent provided in Section 7.8, below), whether or not it shall be so expressed in any contract, deed or other conveyance, shall be deemed to covenant and agree to pay the Association the annual Assessment for Common Costs as determined by Declarant or the Board to meet the annual Common Costs of the Association. As used in this Declaration, "Common Costs" shall mean all of the costs and expenses incurred by the Association in owning, maintaining, repairing, replacing, cleaning, preserving, upgrading, administering, managing and operating the areas and facilities which the Association is required or has agreed to maintain and in carrying out the responsibilities, duties and obligations of the Association, including, without limitation:

- (a) all expenditures required to fulfill the responsibilities of the Association outlined in Articles III and VI of this Declaration;
- (b) the costs of any insurance carried by the Association;
- (c) the costs of utilities and other services which may be provided by the Association whether for the Easement Areas and any facilities located thereon or for any other purpose;
- (d) the cost of funding all reserves established by the Association, including, without limitation, a general operating reserve and a reserve for capital expenditures;
- (e) such other costs, charges and expenses which the Association determines to be necessary and appropriate within the meaning and spirit of this Declaration, including, without limitation, reimbursement of the Declarant for any amounts expended by the Declarant to fulfill any of the responsibilities of the Association during the Start-Up Period.

7.2 Operating Budget and Annual Assessments. The Declarant or the Board shall prepare or cause the preparation of an annual operating budget for the Association and shall fix the amount of the annual Assessment against each Lot. Written notice of the annual Assessment shall be sent to each Owner. Payment of Assessments may be required on a monthly, quarterly, semi-annual or annual basis as determined by the Declarant or the Board. The Declarant shall have the right to collect the annual Assessment (or prorated portion thereof) for the first year from any purchaser acquiring title to a Lot from the Declarant or Egizii at the time of transfer of title of such Lot from the Declarant or Egizii, as the case may be, to such purchaser. No person liable for the payment of an Assessment may be exempt from liability for the payment of an Assessment by abandonment of any Residence or by the abandonment or waiver of any right to use or benefit from the Easement Areas or any facilities located thereon.

7.3 Payment of Common Costs. Each Owner, other than the Declarant and Egizii (to the extent provided in Section 7.8, below), shall pay his proportionate share of Common Costs

by payment of Assessments in such amount as shall be established by the Board from time to time. The annual Assessments for the first full year following the filing of this Declaration for record shall be \$100 per Lot. The Board shall establish a budget and set the Assessments for each year thereafter.

7.4 Assessments. Assessments for the Common Costs, extraordinary expenditures, and all other charges shall be made in the manner provided herein and in the By-Laws of the Association. All Assessments made by the Association shall be of uniform amount in accordance with the provisions of this Declaration, and each Owner (other than the Declarant and Egizii, to the extent provided in Section 7.8, below) hereby covenants to pay the Assessments levied against him in such manner and at such times as provided herein and in the By-Laws.

7.5 Creation of Lien and Personal Obligation. If a Person liable for the payment of an Assessment shall fail to pay the same when due, the Association shall notify said Person, in writing, of his failure to make said payment. In the event that the Assessment is not paid within ten (10) calendar days following said notification, then such Assessment shall be "delinquent" and, together with the Other Charges as defined in Section 1.2(b) shall, upon "perfection" as provided in Section 8.1, become a continuing lien upon the portion of the Property owned or occupied by such Person and a personal obligation of the Person who has not paid said Assessment. A Co-Owner of a Lot shall be personally liable, jointly and severally, with all other Co-Owners for all Assessments made by the Association in respect of said Lot.

7.6 Non-Liability of Foreclosure Sale Purchaser for Past-Due Amounts. Where the holder of a first mortgage of record acquires an Ownership Interest as a result of foreclosure of the mortgage or of the acceptance of a deed in lieu of foreclosure, such mortgagee, its successors and assigns, shall not be liable for the assessments levied against the Owner of such Ownership Interest prior to its acquisition of the Ownership Interest. Any funds received on the judicial sale of the Ownership Interest in excess of the mortgage lien, the court costs and real estate taxes and assessments shall, however, be paid over to the Association to apply on all Assessments owed. The Owner of an Ownership Interest prior to the judicial sale thereof, and such owner's heirs, executors, administrators, personal representatives, successors and assigns shall be and remain personally and primarily liable, jointly and severally, for the Assessments accruing against the judicially sold Ownership Interest prior to the date of the judicial sale, as provided in this Article VII, but any unpaid part of the Assessment shall be deemed to be Common Costs and shall be assessed and levied against all of the other Owners including the Owner of the Ownership Interest foreclosed.

7.7 Liability for Assessments Upon Voluntary Conveyance. In a voluntary conveyance of an Ownership Interest, the grantee of the Ownership Interest shall be jointly and severally liable with the grantor for all unpaid assessments levied pursuant to this Declaration against the grantor and the Ownership Interest prior to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such prospective grantee shall upon written request delivered to the President or Secretary of the Association, be entitled to a statement from the Board setting

forth the amount of all unpaid Assessments due the Association in respect of the Ownership Interest to be conveyed, and such grantee shall not be liable for, nor shall the Ownership Interest conveyed be subject to a lien for, any unpaid Assessments which become due prior to the date of the making of such request if the same are not set forth in such statement. A devise of an Ownership Interest or the distribution of said Ownership Interest pursuant to the Statute of Descent and Distribution shall be deemed to be a voluntary conveyance.

7.8 Exemption From Liens and Assessments. Notwithstanding anything in this Declaration to the contrary, all properties to the extent of any easement or other interest therein dedicated and accepted by the City and devoted to public use, shall be exempted from the Assessments and liens created herein. In addition, all properties owned by the Declarant and Egizii (other than any Lot which has constructed on it a Residence which Egizii is using as his personal residence, which shall not be exempted) shall be exempted from the Assessments and liens created herein.

## ARTICLE VIII. LIENS

8.1 Perfection of Liens. If any Owner shall fail to pay when due any Assessment levied in accordance with this Declaration or any other amount due in accordance with the provisions of this Declaration (such Owner hereinafter referred to as the "Delinquent Person") and such Assessment or amount is delinquent pursuant to the provisions of this Declaration, the Board may authorize the perfection of a lien on the Ownership Interest of the Delinquent Person in the Property by filing for record with the Recorder of Cuyahoga County, Ohio, a certificate of lien. The certificate of lien shall be in recordable form and shall include the following:

- (a) the name of the Delinquent Person;
- (b) a description of the land owned by the Delinquent Person;
- (c) the entire amount claimed, including the amount of any delinquency and other charges;
- (d) a statement referring to the provisions of this Declaration and lien authorization.

8.2 Duration of Lien. Said lien shall remain valid for a period of five (5) years from the time of filing of said certificate of lien, unless sooner released or satisfied in the same manner provided by law for the release or satisfaction of mortgages on real property, or discharged by the final judgment or order of a court in an action brought to discharge such lien or unless an action for foreclosure shall be commenced in respect of such lien within said five (5) year period.

8.3 Priority. A lien perfected pursuant to this Article VIII shall take priority over any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments and liens of bona fide first mortgagees, and may be foreclosed in the same manner as a mortgage in real property in an action brought by the Association after authorization from



the Board. In any such foreclosure action, the person affected shall be required to pay reasonable rental for such Ownership Interest during the pendency of such action, and the plaintiff in such action shall be entitled to the appointment of a receiver to collect the same. Any funds received on the judicial sale of the Delinquent Person's Ownership Interest in excess of the mortgage liens, the court costs and tax and assessment liens shall be paid over to the Association to the extent of its lien.

8.4 Dispute as to Assessment. Any Person who believes that any Assessment levied by the Association for which a certificate of lien has been filed by the Association has been improperly determined, may bring an action in the Court of Common Pleas of Cuyahoga County, Ohio, for discharge of all or any portion of such lien; but until such court shall determine that the lien is improper, the lien shall continue until the lien is paid in full; and the Association may counterclaim in such action for foreclosure of the amount of lien found to be due.

8.5 No Waiver Implied. The creation of a lien upon any Ownership Interest owned by a Delinquent Person shall not waive, preclude nor prejudice the Association from pursuing any and all other remedies granted to it elsewhere in this Declaration, at law or in equity.

8.6 Personal Obligations. The obligations created pursuant to this Declaration shall be and remain the personal obligations of the Delinquent Person until fully paid, discharged or abated as well as being obligations which run with the land and binding on the heirs, executors, administrators, personal representatives, successors and assigns of such Delinquent Person.

#### ARTICLE IX. REMEDIES OF THE ASSOCIATION

9.1 Specific Remedies. A violation of any Rule or the breach of any Covenants and Restrictions shall give the Association and the Declarant the right, in addition to all other rights herein set forth and those provided by law or in equity,

- (a) to deny the violating or breaching Owner or Occupant the right to vote on Association matters unless and until such violation or breach is cured;
- (b) to enter upon the Lot or portion thereof upon which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the holder of the Ownership Interest where the violation or breach exists, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions of this Declaration, the By-Laws of this Association or the Rules, and the Declarant or the Association and their respective agents shall not thereby be deemed guilty in any manner of trespass;
- (c) to enjoin, abate, or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach; and/or

- (d) to commence and prosecute any action to recover any damages which may have been sustained by the Association or any of its Members.

9.2 Cost of Collection. If any Person fails to pay any Assessment when due or upon delinquency in payment of any sums or costs due under this Declaration, Declarant or the Association may pursue any or all of the following remedies, which shall be in addition to any other remedy available in this Declaration, at law or in equity:

- (a) Assess against such Owner "liquidated damages" not to exceed fifteen percent (15%) of the amount of the delinquency or One Hundred Dollars (\$100), whichever is greater, said amount to be determined by the Board. Said liquidated damages shall be in addition to the Other Charges;
- (b) sue and collect from such Person the amount due and payable, together with the Other Charges;
- (c) foreclose a lien filed in accordance with Article VIII of this Declaration in the same manner as provided by the laws of the State of Ohio for the foreclosure of real estate mortgages.

9.3 Binding Effect. The remedies provided in this Article IX against a Delinquent Person may also be pursued against the heirs, administrators, executors, successors, assigns and grantees of such Person.

ARTICLE X.  
[RESERVED]

ARTICLE XI.  
RIGHTS RESERVED TO DECLARANT

11.1 Rights Reserved by Declarant. Declarant hereby reserves the following rights and easements:

- (a) The right and easement for itself and owners of nearby lands to whom Declarant, in Declarant's sole discretion, may grant the same right and easement, to tie into, use, repair, maintain and replace without charge any and all common lines, pipes, utilities, conduits, ducts, wires, cables and rights-of-way in, on, or over the Property or any part thereof that will not materially interfere with the use or operation of a building or structure or other improvement thereon, in connection with the development and/or operation of real property. Any damage to buildings, improvements and real estate (including landscaping, if any) caused thereby shall be promptly repaired and restored to its prior condition by the party to whom such right and easement had been granted.

- (b) The right to grant or enter into any easements or covenants for the installation, maintenance, service or operation of any and all common lines, pipes, utilities, conduits, ducts, wires, cables, and rights-of-way in, on, or over the Property, or any part thereof that will not materially interfere with the use or operation of a building, structure or other improvement thereon. Any damage caused thereby shall be promptly repaired and the land shall be restored to its prior condition.
- (c) The right to enter into covenants and easements with any utility or public authority which Declarant believes, in its sole discretion, to be in the best interests of the development of the Property.
- (d) The right to perform or cause to be performed such work as is incident to the completion of the development and improvement of the Property owned or controlled by the Declarant, notwithstanding any covenant, easement, restriction or provision of this Declaration or its exhibits, which may be to the contrary.
- (e) The right to impose, reserve or enter into additional covenants, easements and restrictions with grantees of Lots as long as such additional easements, covenants and restrictions are not in conflict with the rights, duties and obligations of Owners as set forth in this Declaration.

11.2 Grant by Egizii. In order to permit the Declarant the full enjoyment and benefits of the rights and easements reserved in Section 11.1, above, Egizii, as to the Egizii Property, hereby grants such rights and easements to the Declarant.

11.3 Ingress and Egress. Each reservation, right and easement specified or permitted pursuant to this Article shall include the right of ingress and egress for the full utilization and enjoyment of the rights reserved and/or granted herein. The word "common" as used in this paragraph shall mean any and all lines, pipes, utilities, conduits, ducts, wires, cables, and rights-of-way intended for the use of or used by more than one Owner. Any easements or rights referred to in this Article, whether granted by Declarant prior to the filing of this Declaration or subsequent thereto, shall at all times have priority over the provisions of this Declaration and any lien created under this Declaration.

## ARTICLE XII. GENERAL PROVISIONS

12.1 Covenants Run With the Land; Binding Effect. All of the easements, covenants, and restrictions which are imposed upon, granted and/or reserved in this Declaration, including, without limitation, payment of Assessments, constitute easements, covenants and restrictions running with the land and are binding upon every subsequent transferee of all or any part thereof including, without limitation, grantees, Tenants and Owners.

Each grantee accepting a deed or Tenant accepting a lease (whether oral or written) which conveys any interest in any portion of the Property, whether or not the same incorporates

or refers to this Declaration, covenants for himself or herself, his or heirs, personal representatives, successors and assigns, to observe, perform and be bound by the provisions of this Declaration.

12.2 Duration of Easements, Covenants and Restrictions. The term of this Declaration and the Covenants and Restrictions which are imposed, granted and/or reserved upon all or any part of the Property by this Declaration shall end upon the date all of the Owners of all of the real property within the Property and the City agree, in writing, in recordable form, to terminate this Declaration and such writing is filed with the Cuyahoga County Recorder.

12.3 Plural Owners. In the event that any Owner shall hold title to any portion of the Property as a joint tenant, tenant in common or in any other manner with one or more other Persons (hereinafter referred to as a "Co-Owner"), the signature of any one of the Co-Owners shall be binding upon and shall be effective as an authorization from all of the other Owners of such portion of the Property. In addition, the vote cast at any meeting of the Association by one such Co-Owner shall be binding upon and shall be effective as an authorized vote from all of the Co-Owners of such portion of the Property. If two or more Co-Owners vote, their vote shall be divided equally among them unless they otherwise agree in writing delivered to the Secretary of the Association at the time immediately prior to the taking of the vote; for example, if four persons have three votes and if each of the four persons votes, the votes of each shall be three-quarters (3/4) of a vote.

12.4 Notices. Any notices required to be given to any Owner or Occupant under the provisions of this Declaration shall be deemed to have been given when personally delivered to such Owner's or Occupant's Residence in Chesapeake Subdivision No. 4, or mailed, postage prepaid, to the last known address of such Person or principal place of business of a corporation; provided, however, that notice of a "delinquency" of any payment due hereunder shall be made by personal delivery to such Residence or principal place of business of a corporation, or by certified or registered mail, return receipt requested. The effective date of such notice shall be the date said notice is personally delivered or postmarked, as the case may be.

12.5 Enforcement - Waiver. The enforcement of the easements, covenants and restrictions set forth in this Declaration may be by any proceeding at law or in equity against any Person or Persons violating or attempting to violate any Covenant or Restriction, either to restrain violation or to recover damages against the Person or Ownership Interest, or to enforce any lien created by the covenants of this Declaration. The failure by the Association or anyone permitted by this Declaration to enforce any Covenant or Restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

12.6 Construction of the Provisions of this Declaration. The Association and the Declarant shall have the right to construe and interpret the provisions of this Declaration and in the absence of an adjudication by arbitrator(s) (as expressly provided in this Declaration) or a court of competent jurisdiction to the contrary, its construction or interpretation shall be final and binding as to all Persons or property which benefit or which are bound by the provisions hereof. Any conflict between any construction or interpretation by the Association or the Declarant and

that of any Person entitled to enforce the provisions hereof shall be resolved in favor of the construction of or interpretation of the Association or the Declarant, as the case may be.

The Association may adopt and promulgate rules regarding the administration, interpretation and enforcement of the provisions of this Declaration. In so adopting rules and making any findings, determination, ruling or order, or in carrying out any directive contained herein relating to the issuance of permits, authorizations, approvals, rules or regulations, the Association shall take into consideration the best interests of the Declarant, Egizii, Owners, Tenants and Occupants of the Property to the end that the Property shall be preserved and maintained as a high-quality, residential community.

12.7 Amendments. The terms and conditions of this Declaration may be amended, annulled or waived by any instrument in writing recorded in the public records of Cuyahoga County, Ohio, in the following manner and subject to the following conditions:

- (a) During the Start-Up Period, Declarant shall have the sole right and power of granting waivers to provisions of this Declaration and amending this Declaration in a manner consistent with the Building and Zoning Code of the City provided no such amendment shall materially and adversely affect the value of existing Residences or shall prevent a Residence from being used by the Owner in the same manner that said Residence was being used prior to the adoption of such amendment. No such amendment or waiver shall be undertaken by another Person without the prior written and recordable consent of the Declarant.
- (b) Except as expressly provided in this Declaration, and after the end of the Start-Up Period, any provision of this Declaration may be amended or repealed following a meeting of Members held for such purpose, by the affirmative vote of Members holding at least sixty-six and two-thirds percent (66-2/3%) of the voting power of the Association unless a greater percentage is required by this Declaration or in accordance with Ohio law; provided, however, that any amendment which would terminate or materially affect the easements set forth in Article II of this Declaration shall not be amended (except as expressly provided to the contrary in this Declaration) unless all Persons whose rights are terminated or materially affected shall affirmatively consent in writing to such amendment. Written notice shall be given to each Member at least ten (10) days in advance of the date of the meeting held for the purpose of amending this Declaration, which notice shall expressly state the amendment to be considered at such meeting. Each such amendment shall be effective when (i) signed by the President and one other officer of the Association, (ii) approved in writing by the City if and as required by the Building and Zoning Code of the City and (iii) filed for record with the Cuyahoga County Recorder.
- (c) In addition to the above, the Association shall have the right to amend this Declaration, the Articles of Incorporation, and/or the By-Laws without the consent of any Person to correct errors of omission or commission or as required

to comply with the requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veterans Administration, or any other governmental agency or public, quasi-public, or private entity which performs, or may in the future perform, functions similar to those currently performed by such entities, or to bring the Declaration, the Articles of Incorporation and/or the By-Laws, in compliance with the applicable laws, statutes and ordinances.

- (d) Except as stated above, the Articles of Incorporation and the By-Laws of the Association may be amended in the manner so provided in such documents.

12.8 Severability. The severability, invalidity or unenforceability of any provision hereof shall in no way affect the validity or enforceability of any other provision.

12.9 Attorneys' Fees. In the event of any litigation arising out of this Declaration, the prevailing party to the extent permitted by law shall be entitled to reimbursement of the costs and expenses thereof from the other party, including reasonable attorneys' fees and disbursements of counsel, including such costs, expenses and fees incurred on appeals of such litigation.

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12.10 Rule Against Perpetuities. If any of the options, privileges, covenants or rights created by this Declaration shall be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common-law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the date of the survivor of the now living descendants of William J. Clinton, President of the United States of America, and Albert Gore, Vice President of the United States of America.

IN WITNESS WHEREOF, the Declarant and the Association have executed this Declaration as of the day and year first above written.

In the presence of:

DECLARANT:

CHESAPEAKE DEVELOPMENT  
COMPANY

Lori M. Daley  
Lori M. Daley  
(Print/Type Name of Witness)

By: Richard Mackay  
Its: PRESIDENT.

Kimberly R. Kerber  
Kimberly R. Kerber  
(Print/Type Name of Witness)

EGIZII:

Kimberly R. Kerber  
Kimberly R. Kerber  
(Print/Type Name of Witness)

John Egizii  
JOHN EGIZII

Lori M. Daley  
Lori M. Daley  
(Print/Type Name of Witness)

(signatures continued on following page)

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(signatures continued from previous page)

CHESAPEAKE SUBDIVISION NO. 4  
HOMEOWNERS' ASSOCIATION

Lori M. Daley  
Lori M. Daley  
(Print/Type Name of Witness)

Kimberly R. Kerber  
Kimberly R. Kerber  
(Print/Type Name of Witness)

By: Richard Marking  
Its: President.

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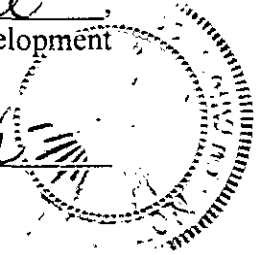


STATE OF OHIO )  
 ) SS:  
COUNTY OF CUYAHOGA )

The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of June, 2000, by RICHARD MACKAY, PRESIDENT of Chesapeake Development Company, an Ohio corporation, on behalf of the Corporation.

**VIRGINIA GAIL SMITH**  
Notary Public, State of Ohio  
My Commission Expires Jan. 24, 2004

*Virginia Gail Smith*  
Notary Public



STATE OF OHIO )  
 ) SS:  
COUNTY OF CUYAHOGA )

The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of June, 2000, by John Egizii.

**VIRGINIA GAIL SMITH**  
Notary Public, State of Ohio  
My Commission Expires Jan. 24, 2004

*Virginia Gail Smith*  
Notary Public

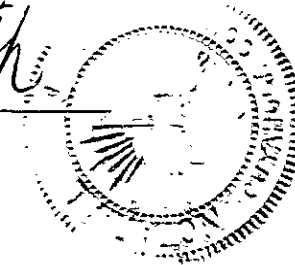


STATE OF OHIO )  
 ) SS:  
COUNTY OF CUYAHOGA )

The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of June, 2000, by RICHARD MACKAY, PRESIDENT of Chesapeake Subdivision No. 4 Homeowners' Association, an Ohio non-profit corporation, on behalf of the Corporation.

**VIRGINIA GAIL SMITH**  
Notary Public, State of Ohio  
My Commission Expires Jan. 24, 2004

*Virginia Gail Smith*  
Notary Public



This instrument prepared by:  
Paul J. Singerman, Esq.  
Berick, Pearlman & Mills Co., L.P.A.  
1350 Eaton Center  
1111 Superior Avenue  
Cleveland, Ohio 44114

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EXHIBIT A

**MACKAY**  
*Engineering & Surveying Company*

7017 Pearl Road  
Cleveland, Ohio 44130  
www.mackayeng-surv.com

(440) 886-4500  
Fax (440) 886-4590  
Email: mackay@en.com

**LEGAL DESCRIPTION**  
  
**FOR**  
**CHESAPEAKE DEVELOPMENT COMPANY**

October 7, 1999

Situated in the City of North Royalton, County of Cuyahoga and State of Ohio and being part of original Royalton Township Section No. 10 and known as being Parcel B of the Lot Split and Consolidation Map for Chesapeake Development Company as recorded in Volume 280, Page 12 of Cuyahoga County Map Records and further described as follows:

Beginning at the Northwest corner of said Parcel B and the Northeast corner of Parcel A of the said Lot Split and Consolidation Map for Chesapeake Development Company;

Thence South 89°53'40" East along said Southerly line, about 1121.57 feet to the Northwesterly corner of lands conveyed to Richard and Imogene L. Huffman by deed recorded in Volume 15009, Page 539 of Cuyahoga County Records;

Thence South 01°07'00" East along the Westerly line of lands conveyed to Richard & Imogene L. Huffman, 800.00 feet;

Thence North 89°55'42" West, 305.97 feet;

Thence North 89°53'40" West, 150.00 feet;

Thence North 00°01'46" East, 100.00 feet;

Thence North 71°28'03" West, 316.35 feet;

Thence North 89°58'14" West, 374.67 feet to a point on the Easterly line of said Parcel A;

Thence North 00°37'55" West along said Easterly line, about 600.78 feet to the point of beginning and containing 17.9168 acres of land, be the same more or less but subject to all legal highways.

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**MACKAY**

*Engineering & Surveying Company*

7017 Pearl Road  
Cleveland, Ohio 44130  
www.mackayeng-surv.com

(440) 886-4500  
Fax (440) 886-4590  
Email: mackay@en.com

**LEGAL DESCRIPTION**

**P.P. NO. 482-08-014**

**JOHN EGIZZI**

October 7, 1999

Situated in the City of North Royalton, County of Cuyahoga and State of Ohio, and known as being part of Original Royalton Township Section No. 10 and known as being Parcel A of the Lot Split and Consolidation Map for Chesapeake Development Company as recorded in Volume 280, Page 12 of Cuyahoga County Map Records and being further described as follows:

Beginning at the Southwest corner of said Parcel A and the Northwest corner of the Achill Village Subdivision as shown by the plat recorded in Volume 269, Page 56 of Cuyahoga County Map Records which corner is also the Northwest corner of a parcel of land conveyed to Achill Development Corporation by deed recorded in Volume 93-04164, Page 23 of Cuyahoga County Deed Records;

Thence North  $01^{\circ} 04' 34''$  West along the Westerly line of said Parcel A and along the Northerly prolongation of the Westerly line of the said Achill Village Subdivision which Westerly line is also the Easterly line of a parcel of land conveyed to Ralph and Lillian Knitt by deed recorded in Volume 85-1303, Page 26 of Cuyahoga County Deed Records, about 186.79 feet to a point in the Northerly line of said Parcel A which Northerly line is also the Southerly line of Parcel No. 2 in the deed to James Money dated February 8, 1869 and recorded in Volume 164, Page 162 of Cuyahoga County Deed Records;

Thence North  $89^{\circ} 15' 13''$  East along said Southerly line of Parcel A, about 199.63 feet to a Southwest corner of said Parcel A, which Southwest corner is also the Southeast corner of said Parcel No. 2 in the deed to James Money;

Thence North  $01^{\circ} 32' 01''$  West along the Westerly line of said Parcel A which line is also the Easterly line of Monticello Subdivision No. 2 as recorded in Volume 225, Page 62 of Cuyahoga County Map Records and also the Easterly line of said Parcel No. 2 in the deed to James Money, about 518.68 feet to a point in the Northerly line of said Parcel A;

Thence South  $89^{\circ} 53' 40''$  East along the Northerly line of said Parcel A, 306.30 feet to the Northeast corner of said Parcel A;

Thence South  $00^{\circ} 37' 55''$  East, 600.78 feet to a Southeast corner of said Parcel A;

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Legal Description  
PPN 482-08-014  
Page 2

Thence South 89° 58' 14" East along a Southerly line of said Parcel A, 19.58 feet to a Southeast corner of said Parcel A;

Thence South 00° 01' 46" West, along the Easterly line of said Parcel A, 162.43 feet to the Southeast corner of said Parcel A;

Thence North 83° 49' 37" West along the Southerly line of said Parcel A, 517.64 feet to the Southwest corner of said Parcel A and the place of beginning and containing 6.1234 acres of land, be the same more or less but subject to all legal highways.

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ROBERT KLAIBER P.E., P.S. COUNTY ENGINEER TAX MAP DIVISION	
APPROVED FOR	
RECORD	<u>TAR</u>
TRANSFER	
SPLIT	

TRANSFER NOT REQUIRED

JUL 27 2000

ADU  
AUDITOR

CHESAPEAKE SUBDIVISION No. 4

**CITY EXPENSE**

LINE TABLE			
LINE	BEARING	LENGTH	LENGTH
1	S 10° 10' 00" W	123.53	123.53
2	S 89° 50' 00" E	100.00	100.00
3	S 89° 50' 00" E	100.00	100.00
4	S 89° 50' 00" E	100.00	100.00
5	S 89° 50' 00" E	100.00	100.00
6	S 89° 50' 00" E	100.00	100.00
7	S 89° 50' 00" E	100.00	100.00
8	S 89° 50' 00" E	100.00	100.00
9	S 89° 50' 00" E	100.00	100.00
10	S 89° 50' 00" E	100.00	100.00
11	S 89° 50' 00" E	100.00	100.00
12	S 89° 50' 00" E	100.00	100.00
13	S 89° 50' 00" E	100.00	100.00
14	S 89° 50' 00" E	100.00	100.00
15	S 89° 50' 00" E	100.00	100.00
16	S 89° 50' 00" E	100.00	100.00
17	S 89° 50' 00" E	100.00	100.00
18	S 89° 50' 00" E	100.00	100.00
19	S 89° 50' 00" E	100.00	100.00
20	S 89° 50' 00" E	100.00	100.00
21	S 89° 50' 00" E	100.00	100.00
22	S 89° 50' 00" E	100.00	100.00
23	S 89° 50' 00" E	100.00	100.00
24	S 89° 50' 00" E	100.00	100.00
25	S 89° 50' 00" E	100.00	100.00
26	S 89° 50' 00" E	100.00	100.00
27	S 89° 50' 00" E	100.00	100.00
28	S 89° 50' 00" E	100.00	100.00
29	S 89° 50' 00" E	100.00	100.00
30	S 89° 50' 00" E	100.00	100.00
31	S 89° 50' 00" E	100.00	100.00
32	S 89° 50' 00" E	100.00	100.00
33	S 89° 50' 00" E	100.00	100.00
34	S 89° 50' 00" E	100.00	100.00
35	S 89° 50' 00" E	100.00	100.00
36	S 89° 50' 00" E	100.00	100.00
37	S 89° 50' 00" E	100.00	100.00
38	S 89° 50' 00" E	100.00	100.00
39	S 89° 50' 00" E	100.00	100.00
40	S 89° 50' 00" E	100.00	100.00
41	S 89° 50' 00" E	100.00	100.00
42	S 89° 50' 00" E	100.00	100.00
43	S 89° 50' 00" E	100.00	100.00
44	S 89° 50' 00" E	100.00	100.00
45	S 89° 50' 00" E	100.00	100.00
46	S 89° 50' 00" E	100.00	100.00
47	S 89° 50' 00" E	100.00	100.00
48	S 89° 50' 00" E	100.00	100.00
49	S 89° 50' 00" E	100.00	100.00
50	S 89° 50' 00" E	100.00	100.00
51	S 89° 50' 00" E	100.00	100.00
52	S 89° 50' 00" E	100.00	100.00
53	S 89° 50' 00" E	100.00	100.00
54	S 89° 50' 00" E	100.00	100.00
55	S 89° 50' 00" E	100.00	100.00
56	S 89° 50' 00" E	100.00	100.00
57	S 89° 50' 00" E	100.00	100.00
58	S 89° 50' 00" E	100.00	100.00
59	S 89° 50' 00" E	100.00	100.00
60	S 89° 50' 00" E	100.00	100.00
61	S 89° 50' 00" E	100.00	100.00
62	S 89° 50' 00" E	100.00	100.00
63	S 89° 50' 00" E	100.00	100.00
64	S 89° 50' 00" E	100.00	100.00
65	S 89° 50' 00" E	100.00	100.00
66	S 89° 50' 00" E	100.00	100.00
67	S 89° 50' 00" E	100.00	100.00
68	S 89° 50' 00" E	100.00	100.00
69	S 89° 50' 00" E	100.00	100.00
70	S 89° 50' 00" E	1	

THIS PLAY HAS BEEN APPROVED BY THE ENGINEER OF THE CITY OF NORTH  
ROYALTON 0940 THIS DAY OF 1999

RIGHT-OF-WAY DIVISION

CURVE DATA							
CHORD	ROOT	5TH	3RD	2ND	CHORD BEARING	DELTA TARGET	TARGET
C1	250.00	44.43	44.43	44.43	F	10.59.15	23.31
C2	250.00	37.12	37.68	37.68	F	10.59.15	18.50
C3	250.00	30.82	31.38	31.38	F	10.59.15	13.50
C4	250.00	24.52	25.08	25.08	F	10.59.15	8.50
C5	250.00	18.22	18.78	18.78	F	10.59.15	3.50
C6	50.00	102.58	90.53	13.08	F	87.55.00	48.64
C7	65.00	96.28	84.23	16.58	F	87.55.00	43.64
C8	65.00	89.98	77.93	20.08	F	87.55.00	38.64
C9	65.00	83.68	71.63	23.58	F	87.55.00	33.64
C10	250.00	53.37	53.93	53.93	F	19.17.44	24.81
C11	250.00	47.07	47.63	47.63	F	19.17.44	19.81
C12	250.00	40.77	41.33	41.33	F	19.17.44	14.81
C13	250.00	34.47	35.03	35.03	F	19.17.44	9.81
C14	110.00	63.44	63.99	63.99	F	10.03.23	32.00
C15	250.00	57.14	57.70	57.70	F	10.03.23	27.00
C16	250.00	50.84	51.40	51.40	F	10.03.23	22.00
C17	250.00	44.54	45.10	45.10	F	10.03.23	17.00
C18	250.00	38.24	38.80	38.80	F	10.03.23	12.00
C19	250.00	31.94	32.50	32.50	F	10.03.23	7.00
C20	250.00	25.64	26.20	26.20	F	10.03.23	2.00
C21	250.00	19.34	19.90	19.90	F	10.03.23	0.00
C22	250.00	13.04	13.60	13.60	F	10.03.23	0.00
C23	250.00	6.74	7.30	7.30	F	10.03.23	0.00
C24	250.00	0.44	1.00	1.00	F	10.03.23	0.00
C25	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C26	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C27	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C28	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C29	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C30	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C31	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C32	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C33	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C34	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C35	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C36	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C37	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C38	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C39	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C40	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C41	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C42	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C43	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C44	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C45	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C46	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C47	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C48	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C49	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C50	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C51	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C52	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C53	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C54	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C55	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C56	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C57	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C58	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C59	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C60	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C61	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C62	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C63	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C64	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C65	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C66	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C67	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C68	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C69	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C70	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C71	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C72	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C73	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C74	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C75	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C76	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C77	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C78	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C79	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C80	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C81	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C82	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C83	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C84	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C85	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C86	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C87	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C88	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C89	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C90	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C91	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C92	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C93	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C94	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C95	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C96	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C97	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C98	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C99	250.00	0.00	0.00	0.00	F	10.03.23	0.00
C100	250.00	0.00	0.00	0.00	F	10.03.23	0.00

**MADRAY**  
Engineering & Surveying Company  
2317 Pearl Road  
Cuyahoga Falls, Ohio 44115  
(440) 928-5500 (440) 928-5501 fax

SCALE: 1" = 60'  
RECORDED JUNE 21, 1999  
REVISED JUNE 21, 1999



**SUBDIVISION PLAT  
IN  
CHESAPEAKE SUBDIVISION No. 4**

SITUATED IN THE CITY OF NORTH ROYALTON COUNTY OF CUYAHOGA  
AND STATE OF OHIO AND KNOWN AS BEING PART OF ORIGINAL  
ROYALTON TOWNSHIP No. 10, ALSO KNOWN AS BEING PARCELS  
"A" AND "B" OF CHESAPEAKE DEVELOPMENT COMPANY AS  
RECORDED IN VOLUME 280, PAGE 12 OF CUYAHOGA COUNTY MAPS.

\* - INDICATES MONUMENT TO BE  
SET DURING CONSTRUCTION

**GUYAHOGA COUNTY RECORDER  
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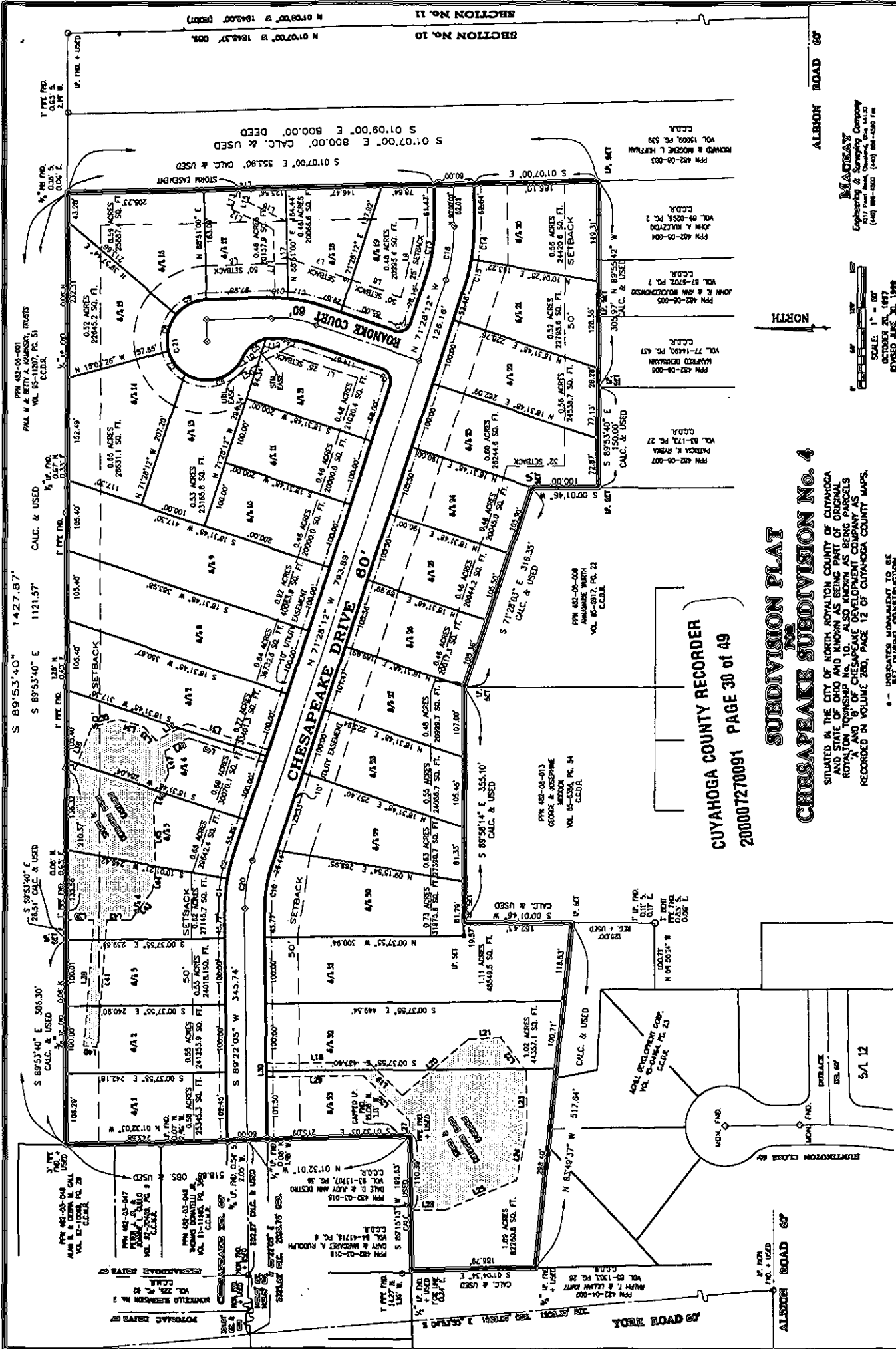


EXHIBIT D

ARTICLES OF INCORPORATION

OF

CHESAPEAKE SUBDIVISION NO. 4 HOMEOWNERS' ASSOCIATION

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ARTICLES OF INCORPORATION  
OF  
CHESAPEAKE SUBDIVISION NO. 4 HOMEOWNERS' ASSOCIATION

The undersigned, a citizen of the United States, desiring to form a corporation, NOT FOR PROFIT, under Sections 1702.01 et seq. of the Ohio Revised Code, does hereby certify:

FIRST:     NAME.

The name of the corporation shall be CHESAPEAKE SUBDIVISION NO. 4 HOMEOWNERS' ASSOCIATION.

SECOND:    LOCATION OF PRINCIPAL OFFICE.

The place in Ohio where the principal office of the corporation is to be located is the City of Middleburg Heights, County of Cuyahoga, Ohio.

THIRD:     DEFINITIONS.

The following definitions are applicable to these Articles of Incorporation:

1.   ASSOCIATION, CHESAPEAKE SUBDIVISION NO. 4 HOMEOWNERS' ASSOCIATION, a non-profit Ohio corporation, its successors and assigns.

2.   DECLARATION, Declaration of Easements, Covenants and Restrictions for Chesapeake Subdivision No. 4 Homeowners' Association which will be filed for record in the office of the Cuyahoga County Recorder.

3.   DECLARANT, CHESAPEAKE DEVELOPMENT COMPANY, an Ohio corporation, and any successor(s) who stands in the same relation to Chesapeake Subdivision No. 4 as Chesapeake Development Company does upon execution hereof.

4.   EGIZII, JOHN EGIZII, and his heirs, legal representatives, successors and assigns, who stand in the same relation to Chesapeake Subdivision No. 4 as John Egizii does upon execution hereof.

5.   LOT, any subplot shown on the plat attached to the Declaration (as the same may be amended or modified) upon which a single-family Residence is intended to be constructed and which is treated by the Auditor of Cuyahoga County, Ohio, as a separate tax parcel for the purposes of assessing real property taxes.

6.   MEMBER, a member of the Association, being the Declarant, Egizii, other Owners and Tenants.



7. OWNER, any Person (including the Declarant) who holds part or all of the record title to a Lot. The word "Owner" shall not include any person having an interest merely as security for the performance of an obligation unless and until said person shall have acquired title pursuant to foreclosure or any act or proceeding in lieu of foreclosure.

8. RESIDENCE, any single-family dwelling unit located on a Lot.

9. START-UP PERIOD, the period commencing upon the filing of the Declaration for record with the Cuyahoga County Recorder and ending on the earlier of the date that (i) the Declarant has completed the sale of all Lots in Chesapeake Subdivision No. 4 and (ii) the Declarant files for record an amendment to the Declaration expressly terminating the Start-Up Period.

10. TENANT, a person living in and having a possessory leasehold interest in a Residence, other than an Owner.

FOURTH: PURPOSES.

The principal purposes of the Association are:

1. To own, maintain, repair, replace, manage and operate certain facilities to be constructed within the Easement Areas (as defined in the Declaration).
2. To establish Rules, regulations and criteria applicable to Chesapeake Subdivision No. 4.
3. To establish an orderly and efficient system of billing to pay for the expenses incurred in the furtherance of the purposes of the Association.
4. To carry out the responsibilities and obligations of the Association set forth in the Declaration, to exercise the rights set forth in the Declaration, and to perform such acts and deeds as are deemed necessary to achieve the aforesaid objectives.

FIFTH: POWERS.

The Association shall have the power to engage in any lawful act pursuant to Chapter 1702 of the Ohio Revised Code deemed by it necessary or desirable to accomplish the purposes set forth in ARTICLE FOURTH of these Articles and to protect the lawful rights and interests of its members in connection therewith.

SIXTH: DURATION.

The duration of the Association shall be inperpetuo.

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SEVENTH: MEMBERSHIP AND VOTING RIGHTS.

1. Membership. The Declarant, Egizii, each Owner upon becoming an Owner, and each Tenant upon becoming a Tenant, shall automatically be a Member of the Association.

2. Voting Rights. Members shall have the voting rights set forth herein and in the Declaration. So long as the Declarant is a Member, only the Declarant shall have the right to vote on any action to come before the Association for a vote. Thereafter, each Owner shall be entitled to exercise one (1) vote for each Lot owned by such Owner. Tenants shall have no voting rights.

EIGHTH: BOARD OF TRUSTEES.

The persons vested with the authority to conduct the affairs of the Association shall be known as the Board of Trustees. The following persons having the addresses set forth opposite their respective names, shall serve the Association as Trustees until the first annual meeting or other meeting called to elect Trustees:

DANIEL J. BAILEY	18051 Jefferson Park Road Suite 102 Middleburg Heights, Ohio 44130
RICHARD MACKAY	7017 Pearl Road Middleburg Heights, Ohio 44130
MICHAEL MACKAY	7017 Pearl Road Middleburg Heights, Ohio 44130

NINTH: INDEMNITY.

Each member of the Board of Trustees and each officer of the Association and each former member of the Board of Trustees and officer of the Association shall be indemnified by the Association against the costs and expenses reasonably incurred by him in connection with the defense of any pending or threatened action, suit or proceeding, criminal or civil, to which he is or may be made a party by reason of being or having been such Board Member or officer of the Association (whether or not he is a member or officer at the time of incurring such costs and expenses), except with respect to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for misconduct or negligence in the performance of his duty as such Board Member or officer. In case of a settlement of any action, suit or proceeding to which any Board Member or officer of the Association, or any former Board Member or officer of the Association, is made a party or which may be threatened to be brought against him by reason of his being or having been a Board

Member or officer of the Association, he shall be indemnified by the Association against the costs and expenses (including the cost of settlement) reasonably incurred by him in connection with such action, suit or proceeding (whether or not he is a Board Member or officer at the time of incurring such costs and expense), if (A) the Association shall be advised by independent counsel that such Board Member or officer did not misconduct himself or was not negligent in the performance of his duty as such Board Member or officer with respect to the matters covered by such action, suit or proceeding, and the cost to the Association of indemnifying such Board Member or officer (and all Board Members and officers, if any, entitled to indemnification hereunder in such case) if such action, suit or proceeding were carried to a final adjudication in their favor could reasonably be expected to exceed the amount of costs and expenses to be reimbursed to such Board Member and officers as a result of such settlement, or (B) disinterested Association members entitled to exercise the majority of the voting power shall, by vote, at any annual or special meeting of the Association, approve such settlement and the reimbursement to such Board Member or officer of such costs and expenses. The phrase "disinterested members" shall mean all Members of the Association other than (i) any Board Member or officer of the Association who was a party to or threatened with such action, suit or proceeding, (ii) any corporation or organization of which such Board Member or officer owns of record or beneficially one percent (1%) or more of any class of voting securities, (iii) any firm of which such Board Member or officer is a partner and (iv) any spouse, child, parent, brother or sister of any such Board Member or officer. The foregoing rights of indemnification shall inure to the benefit of the heirs and legal representatives of each such Board Member or officer and shall not be exclusive of other rights to which any Board Member or officer may be entitled to or granted pursuant to Section 1701.12(E) of the Ohio Revised Code, as a matter of law, or under the Declaration, these Articles, the Bylaws of the Association, any vote of corporation Members, or any agreement.

IN WITNESS WHEREOF, I subscribe my name this \_\_\_\_ day of October, 1999.

RICHARD MACKAY

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ORIGINAL APPOINTMENT OF AGENT

The undersigned, being the sole incorporator of CHESAPEAKE SUBDIVISION NO. 4 HOMEOWNERS' ASSOCIATION, hereby appoints RICHARD MACKAY, a natural person resident in the State of Ohio, as the Statutory Agent for said Association, upon whom any process, notice or demand required or permitted by statute to be served upon the Corporation, may be served. His complete address is:

Richard Mackay  
7017 Pearl Road  
Middleburg Heights, Ohio 44130

RICHARD MACKAY

"Sole Incorporator"

Dated: October \_\_, 1999  
Middleburg Heights, Ohio

ACCEPTANCE OF APPOINTMENT

The undersigned, Richard Mackay, named herein as the statutory agent for Chesapeake Subdivision No. 4 Homeowners' Association, hereby acknowledges and accepts the appointment of statutory agent for said corporation.

RICHARD MACKAY

"Statutory Agent"

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EXHIBIT E

INDEX OF BYLAWS OF

CHESAPEAKE SUBDIVISION NO. 4 HOMEOWNERS' ASSOCIATION

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	Section 2. Membership and Voting Rights . . . . .	1
	Section 3. Proxies . . . . .	1
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BYLAWS OF  
CHESAPEAKE SUBDIVISION NO. 4 HOMEOWNERS' ASSOCIATION

ARTICLE I

DEFINITIONS

Definitions in Articles of Incorporation.

The definitions set forth in Section 1.2 of the Declaration of Covenants and Restrictions for Chesapeake Subdivision No. 4 Homeowners' Association ("Declaration") shall be applicable to the words and terms used in these Bylaws unless expressly otherwise provided herein or unless the context otherwise requires.

ARTICLE II

THE ASSOCIATION

Section 1. Name and Nature of Association.

The Association shall be an Ohio nonprofit corporation called "CHESAPEAKE SUBDIVISION NO. 4 HOMEOWNERS' ASSOCIATION".

Section 2. Membership and Voting Rights.

The Declarant and each Owner and Tenant, upon becoming such, shall automatically be a Member of the Association. The voting rights of Members are described in the Declaration and the Articles.

Section 3. Proxies.

Members may vote or act in person or by proxy. The person appointed as proxy need not be a Member of the Association. Each proxy shall be executed in writing by the Member entitled to vote or by his duly authorized attorney-in-fact and filed with the Secretary of the Association.

Section 4. Meeting of Members.

(a) Annual Meeting. The annual meeting of Members of the Association for the election of members of the Board and the transaction of such other business as may properly be brought before such meeting shall be held at such place within five (5) miles of Chesapeake Subdivision No. 4 as may be designated by either the Board or the President and specified in the notice of such meeting, at 8:00 p.m. or such other reasonable time as may be designated by the Board or the President and specified in the notice of the meeting. The first annual meeting of Members of the Association shall be held when determined by Declarant, but shall not be later than on the first Tuesday of the fourth month

following the end of the Start-Up Period, if not a legal holiday, and if a legal holiday, then on the next succeeding business day. Subsequent annual meetings of Members of the Association shall be held on the first Tuesday following the anniversary of the first annual meeting if not a legal holiday, and, if a legal holiday, then the next succeeding business day.

(b) Special Meeting. Special meetings of the Members shall be called upon the written request of the Declarant, President of the Association or, in case of the President's absence, death or disability, the Vice-President of the Association, a majority of the members of the Board acting either with or without a meeting, or Members entitled to exercise at least twenty-five percent (25%) of the total voting power of the Association. Upon request in writing for a special meeting delivered either in person or by certified mail to the President or the Secretary of the Association by any persons entitled to call a meeting of Members such officer shall forthwith cause to be given to the Members entitled thereto notice of a meeting to be held on a date not less than five (5) or more than thirty (30) days after the receipt of such request as such officer may fix. If such notice is not given within thirty (30) days after delivery or mailing of such request, the persons calling the meeting may fix the date and place of the meeting and give notice thereof. Each special meeting shall be called to convene at 8:00 o'clock P.M. or such other reasonable time as may be designated by the person calling the meeting and specified in the notice of the meeting and shall be held at such place within Chesapeake Subdivision No. 4 or off Chesapeake Subdivision No. 4 but within five (5) miles of Chesapeake Subdivision No. 4 as shall be specified in the notice of meeting. No business other than that specified in the call shall be considered at any special meeting.

(c) Notices of Meetings. Not less than five (5) nor more than sixty (60) days before the day fixed for a meeting of the Members of the Association, written notice stating the time, place and purpose of such meeting shall be given by or at the direction of the Secretary of the Association or any other person or persons required or permitted by these Bylaws to give such notice. The notice shall be given by personal delivery or by mail to each Member of the Association. If mailed, the notice shall be addressed to the Members of the Association at their respective addresses as they appear on the records of the Association. Notice of the time, place and purposes of any meeting of Members of the Association may be waived in writing, either before or after the holding of such meeting, by any Member of the Association, which writing shall be filed with or entered upon the records of the meeting. The attendance of any Member of the Association at any such meeting without protesting, prior to or at the commencement of the meeting, the lack of proper notice shall be deemed to be a waiver by him of notice of such meeting.



(d) Quorum; Adjournment. At any meeting of the Members of the Association, the Members of the Association entitled to exercise thirty-three percent (33%) of the voting power of the Association present in person or by proxy shall constitute a quorum for such meeting; provided, however, that no action required by law, by the Declaration, by the Articles or by these Bylaws to be authorized or taken by a designated percentage of the voting power of the Association may be authorized or taken by a lesser percentage; and provided, further, that the Members of the Association entitled to exercise a majority of the voting power represented at a meeting of Members, whether or not a quorum is present, may adjourn such meeting from time to time.

(e) Order of Business. The order of business at all meetings of Members of the Association shall be as follows:

- (i) Calling of meeting to order
- (ii) Proof of notice of meeting or waiver of notice
- (iii) Reading of minutes of preceding meeting
- (iv) Reports of officers
- (v) Reports of committees
- (vi) Appointment or election of inspectors of election
- (vii) Election of members of Board (if applicable)
- (viii) Unfinished and/or old business
- (ix) New business
- (x) Adjournment

### ARTICLE III

#### BOARD OF TRUSTEES

##### Section 1. Number and Qualification.

Until the first annual meeting of Members of the Association, the Board of Trustees shall consist of three persons designated in ARTICLE EIGHTH of the Articles, subject to a vacancy or vacancies being filled by the remaining Trustees as permitted in Section 2 of this ARTICLE III. None of such three persons or their replacements need be Members. At the time of the first annual meeting of Members of the Association the three persons serving as Trustees as provided above shall resign and thereafter the Board of Trustees shall consist of five (5) persons, all of whom must be Members.

## Section 2. Election of Board; Vacancies.

Board members shall be elected at the annual meeting of Members of the Association or at a special meeting called for such purpose except that prior to the first annual meeting of members, only the Trustees designated in the Articles or their replacements shall have the right to call such a meeting. At a meeting of Members of the Association at which Board members are to be elected, only persons nominated as candidates shall be eligible for election as board members and the candidates receiving the greatest number of votes shall be elected. In the event of the occurrence of any vacancy or vacancies in the Board, however caused, the remaining Board members, though less than a majority of the whole authorized number of Board members, may, by vote of a majority of their number, fill any such vacancy for the unexpired term.

## Section 3. Term of Office; Resignations.

Each Board member shall hold office until the annual meeting of the Members of the Association held for the election of his or her position and until his or her successor is elected, or until his or her earlier resignation, removal from office or death. Any Board member may resign at any time by oral statement to that effect made at a meeting of the Board or in writing to that effect delivered to the Secretary of the Association, such resignation to take effect immediately or at such other time as the Board member may specify. Members of the Board shall serve without compensation. At the first annual meeting of the Members of the Association called for the purpose of electing the Board, the term of office of two Board members shall be fixed so that such term will expire one year from and after the date of the next following annual meeting of Members of the Association. The term of office of the three remaining Board members shall be fixed so that such term will expire at the date of the next following annual meeting of Members of the Association. At the expiration of such initial term of office of each respective Board member, his or her successor shall be elected to serve for a term of two (2) years. If the number of Board members is increased, such new members shall, also, serve for a term of two years, with their initial terms being similarly staggered. The term (or terms) of the first new members may be less than two years, if necessary, to properly stagger the expiration dates of the members of the Board.

## Section 4. Organizational Meeting.

Immediately after each annual meeting of Members of the Association, the newly elected Board members and those Board members whose terms hold over shall hold an organizational meeting for the purpose of electing officers and transacting any other business. Notice of such meeting need not be given.

Section 5. Regular Meeting.

Regular meetings of the Board may be held at such times and places as shall be determined by a majority of the Board, but at least one such meeting shall be held each year.

Section 6. Special Meetings.

Special meetings of the Board may be held at any time upon call by the President or any three Board members. Written notice of the time and place of each such meeting shall be given to each Board member either by personal delivery or by mail, telegram or telephone at least two days before the meeting, which notice need not specify the purposes of the meeting; provided, however, that attendance of any Board member at any such meeting without protesting, prior to or at the commencement of the meeting, the lack of proper notice shall be deemed to be a waiver by him or her of notice of such meeting, and such notice may be waived in writing either before or after the holding of such meeting, by any Board member, which writing shall be filed with or entered upon the records of the meeting. Unless otherwise indicated in the notice thereof, any business may be transacted at any organization, regular or special meeting.

Section 7. Quorum; Adjournment.

A quorum of the Board shall consist of a majority of the number of persons then serving as Board members; provided that a majority of the Board members present at a meeting duly held, whether or not a quorum is present, may adjourn such meeting from time to time. At each meeting of the Board at which a quorum is present, all questions and business shall be determined by a majority vote of those present, except as may be otherwise expressly provided in the Declaration or in these Bylaws.

Section 8. Powers and Duties.

Except as otherwise provided by law, the Declaration, the Articles or these Bylaws, all power and authority of the Association shall be exercised by the Board. In carrying out the purposes of the Declaration and subject to the limitations prescribed by law, the Declaration, the Articles or these Bylaws, the Board shall have the right to do all things permitted by law and exercise all powers and authority of the Association.

Section 9. Removal of Members of Board.

At any regular or special meeting of Members of the Association duly called, at which a quorum shall be present, any one or more of the Board members may be removed with or without cause by vote of the Members of the Association entitled to exercise at least seventy-five percent (75%) of the voting power of the

Association, and a successor or successors to such Board member or members so removed shall then and there be elected to fill the vacancy or vacancies thus created. Any Board member whose removal has been proposed by the Members of the Association shall be given an opportunity to be heard at such meeting.

Section 10. Fidelity Bonds.

The Board may require that all officers and employees of the Association handling or responsible for Association funds shall furnish adequate Fidelity Bonds. The premiums on such bonds shall be paid by the Association and shall be "Common Costs".

Section 11. Actions without a Meeting.

All actions which may be taken at a meeting of the Board may be taken without a meeting with the approval of and in a writing signed by all members of the Board then serving as such.

ARTICLE IV

OFFICERS

Section 1. Election and Designation of Officers.

The Board shall elect a President, a Vice President, a Secretary and a Treasurer, each of whom shall be a member of the Board. The Board may also appoint an Assistant Treasurer and an Assistant Secretary and such other officers as in their judgment may be necessary who may or may not be members of the Board but who are Members of the Association. One person may hold more than one office.

Section 2. Term of Office; Vacancies.

The officers of the Association shall hold office until the next organizational meeting of the Board and until their successors are elected, except in case of resignation, removal from office or death. The Board may remove any officer at any time with or without cause by a majority vote of the Board members then in office. Any vacancy in any office may be filled by the Board.

Section 3. President.

The President shall be the chief executive officer of the Association. The President shall preside at all meetings of Members of the Association and shall preside at all meetings of the Board. Subject to directions of the Board, the President shall have general executive supervision over the business and affairs of the Association. The President may execute all authorized deeds, contracts and other obligations of the Associa-

tion and shall have such other authority and shall perform such other duties as may be determined by the Board or otherwise be provided for in the Declaration or in these Bylaws.

Section 4. Vice President.

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

Section 5. Secretary.

The Secretary shall keep the minutes of meetings of the Members of the Association and of the Board. The Secretary shall keep such books as may be required by the Board, shall give notices of meetings of Members of the Association and of the Board as required by law, the Declaration or by these Bylaws and shall have such authority and shall perform such other duties as may be determined by the Board or otherwise as provided for in the Declaration or in these Bylaws.

Section 6. Treasurer.

The Treasurer shall receive and have in charge all money, bills, notes and similar property belonging to the Association, and shall do with the same as may be directed by the Board. The Treasurer shall keep accurate financial accounts and hold the same open for inspection and examination of the Board and shall have such authority and shall perform such other duties as may be determined by the Board.

Section 7. Other Officers.

The Assistant Secretaries and Assistant Treasurers, if any, and any other officers whom the Board may appoint shall, respectively, have such authority and perform such duties as may be determined by the Board.

Section 8. Delegation of Authority and Duties.

The Board is authorized to delegate the authority and duties of any officer to any other officer, to a managing agent or to a management company, or to any one or more of them, and generally to control the action of the officers and managing agent or management company and to require the performance of duties and in addition to those mentioned herein. The execution of a management agreement with a managing agent or management company which authorizes or requires the managing agent or management company to perform certain duties shall be deemed to be a delegation and authorization to such managing agent or management

company of such duties and of all power and authority necessary to carry out such duties.

Section 9. Architectural Review Committee.

At such time as the Declarant transfers to the Association responsibility for architectural review of plans and specifications as provided in Section 4.2 of the Declaration, the Board shall establish an architectural review committee comprised of three (3) persons, two (2) of whom shall be Owners and one (1) of whom may (but need not be) an Owner. Upon establishment of the architectural review committee, the Board shall establish rules and regulations by which the architectural review committee shall conduct meetings.

Section 10. Compensation of Officers, Trustees and Committee Members.

Officers, Trustees and committee members shall serve without compensation except that the Association shall reimburse such Officers, Trustees or committee members for out-of-pocket expenses incurred in connection with the exercise of their duties hereunder, pursuant to such reasonable Rules as the Board may, at its election, adopt.

ARTICLE V

APPLICABLE LAWS; PRIORITY OF DOCUMENTS

- (a) Chapter 1702 of the Ohio Revised Code,
- (b) The Declaration,
- (c) The Articles,
- (d) These Bylaws, and
- (e) The Rules

shall be attempted to be interpreted as a harmonious whole, and this Association shall be subject to and governed by all of such laws, documents and Rules. In the event of any direct inconsistency in any provisions in any of the foregoing, the provisions, in the law or document first above listed shall be given priority; provided, however, that all inconsistencies between or among the permissive provisions of Chapter 1702 of the Ohio Revised Code and any provisions of any documents or Rules, listed later, shall be resolved in favor of the documents or Rules listed later.

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## ARTICLE VI

### FINANCES OF ASSOCIATION (ASSESSMENTS)

#### Section 1. Preparation of Estimated Budget.

On or before December 15 of each year the Board shall estimate the total amount necessary to pay all of the Common Costs for each succeeding calendar year together with any income the Association may receive. On or before December 21, the Board shall notify each Member in writing as to the amount of such estimates. The failure of the Board to comply strictly with the above time requirements shall not be deemed to be a waiver and shall not prevent the Association from collecting Assessments for Common Costs. The net of the aggregate amounts of such estimates of the next calendar year shall be assessed to those Members required to pay such Assessments according to and as specifically set forth in the Declaration. Each Member required to pay Assessments shall pay to the Association or as it may direct the Assessment made pursuant to this Section on or before the first day of each calendar year, except that the Board may elect to collect annual Assessments quarterly or monthly. On or before the date of each annual meeting following the first annual meeting, the Association shall furnish to all Members an itemized accounting of the Common Costs for the preceding calendar year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the estimates provided, by special Assessments, or otherwise, and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited to the last maturing monthly installments due from the Members under the current year's estimate, pro rata. Any net shortage shall be added pro rata to the next installment due after the rendering of the accounting.

#### Section 2. Books and Records of Association.

The Association shall keep full and correct books of account, and the same shall be open for inspection by any Member or his representative duly authorized in writing, at such reasonable time or times during normal business hours as may be requested.

#### Section 3. Status of Funds Collected by Association.

All funds collected hereunder shall be held and expended solely for the purposes designated herein and shall be deemed to be held for the use, benefit and account of all Members required to pay Assessments pursuant to the Declaration.

Section 4. Reserve Fund.

The Board may establish and maintain for the Association a reasonable reserve fund for maintenance, repairs and replacements of the Easement Area and any other areas and facilities which the Association is required or has agreed to maintain, in such amount as the Board may deem necessary. The reserve, if established, may be funded through regular Assessments for Common Costs. Upon the sale of a Lot and/or Residence by any Owner, such Owner shall have no right to any portion of the funds in the reserve account; nor shall such Owner have any claim against the Association with respect thereto. Extraordinary expenditures incurred in any year which were not originally included in the estimate of the amount necessary to pay Common Costs for such year shall be charged first against the reserve fund. The amount of the reserve fund shall be reviewed annually by the Board.

Section 5. Lien of Unpaid Assessments - Interest Charges - Late Payment Charges.

Unpaid Assessments, together with the Other Charges, shall be a lien upon the Lot in the manner specified in the Declaration. The Board may charge interest on unpaid Assessments and Other Charges at a rate determined by the Board, subject to the limitations set forth in the Declaration. The Board may also establish a late payment charge for any payment not paid within five (5) days of the due date. The late payment charge shall not be in excess of ten percent (10%) of the amount due.

Section 6. Remedies for Failure to Pay Assessments.

The Board and the Declarant shall have all remedies for failure to pay Assessments set forth in the Declaration or available in law or in equity, and each such right in remedy of the Declarant and the Board shall be cumulative and non-exclusive.

Section 7. Statement of Unpaid Assessments.

Upon seven (7) days prior written notice to the Board and upon payment of a reasonable fee established by the Board, any Owner or existing or prospective mortgagee shall be furnished a statement of the account of such Owner setting forth the amount of any unpaid Assessments or other charges due and owing from such Owner. Any prospective purchaser or mortgagee may rely upon such statement.



ARTICLE VII

AMENDMENT

These Bylaws may be amended to the same extent and in the same manner as the Declaration may be amended.

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