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**DECLARATION OF
COVENANTS, CONDITIONS AND
RESTRICTIONS**

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RECORDER
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**SUNSET VIEWS
UNIT II**

Lily Lake, Illinois

SS+VW-LL2 (*)

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**GENERAL PLAN OF DEVELOPMENT FOR
SUNSET VIEWS UNIT II
A PLANNED COMMUNITY DEVELOPMENT**

Sunset Views Unit II is a carefully planned residential community. Located in the Village of Lily Lake, Kane County, Illinois, it will offer residents superb country living, yet near transportation, shopping and recreational facilities.

DESCRIPTION OF PROPERTY

Sunset Views Unit II is located in Kane County, Illinois, approximately 7 miles west of St. Charles, in the Village of Lily Lake. The property lies north of Empire Road, and is east of State Highway 47.

PRINCIPAL LAND USE: RESIDENTIAL

In accordance with the master plan, Sunset Views Unit II will contain forty-two (42) single family home sites of not less than 56,628 square feet in area.

COMMON PROPERTIES

Detention Area/Open Space – A portion of the land in Sunset Views Unit II has been set aside as a detention area and open space. These areas will be conveyed to the Sunset Views Unit II Homeowners' Association (discussed in the Declaration) and will be maintained by the Association. The Village has formed a special service area empowered to perform maintenance functions in the event that the Association fails or is unable to do so. The special service area also will cover road maintenance and repairs of the streets within Sunset Views Unit II.

SUNSET VIEWS UNIT II HOMEOWNERS' ASSOCIATION

The Developer has caused to be created as a nonprofit corporation under the laws of Illinois a property owners' association named the Sunset Views Unit II Homeowners' Association. The Association will own and operate the Common Properties transferred to it by Developer. Membership in the Association is mandatory for all Lot Owners and contract

purchasers. A copy of the Articles and By-laws of the Association will be furnished to each purchaser.

PROVIDING FUNDS FOR ASSOCIATION EXPENSES

Each Owner is subject to annual assessment by the Association for the purpose of providing the Association with adequate funds to carry out its obligations. The annual assessment will be determined by the Board of Directors of the Homeowners' Association. In addition, a reserve fund for the Association will be established through the payment of \$350.00 by each lot owner at the time of the sale of each Lot to its initial purchaser. Failure of an Owner (which includes contract purchasers) to pay when due any assessment made in respect to his property will result in a fine and a lien being imposed thereon for the amount of such assessment, together, with interest and costs of collection, and will also be his personal obligation. The Village of Lily Lake will have the legal right, under certain circumstances, to enforce assessments for maintenance or repair of storm water detention facilities and streets. Each Purchaser should carefully read the provisions of the Declaration of Covenants, Conditions and Restrictions relating to assessments, a copy of which will be furnished each Purchaser.

PROTECTIVE COVENANTS AND RESTRICTIONS

A Declaration of Covenants, Conditions and Restrictions setting forth provisions for the common benefit of all Owners in the project has been recorded. Through this means the Developer intends to provide for the preservation of natural beauty, value and amenities within the project.

ARCHITECTURAL CONTROL

In the interest of providing for the development of an ecologically sound and aesthetically pleasing community, the Developer has created an Architectural Review Committee. This Committee is charged with the responsibility of reviewing and approving in advance all plans and specifications for physical improvements and alterations on the properties covered by the Declaration. Matters with which the Committee is concerned include location of

buildings on a home site; size, type, style, quality and exterior appearance of buildings; erection of buildings, fences or other structures; etc.

ROADS AND UTILITIES

All roads within the development will be public and dedicated by the Developer to the Village of Lily Lake. Roads will be constructed by Developer in accordance with standards imposed by the Village. A special service area has been formed by the Village for repair and replacement purposes.

The Owner of any Lot will be responsible for having a well drilled at his expense prior to occupying any building on the site.

Sewage disposal for Single-Family Lots will be by individual septic systems for individual Lots which conform to Kane County and Village ordinances. Installation of such systems will be the responsibility of the Lot Owner and the cost thereof will be paid by the Lot Owner.

It is intended that this document is a general description of Developer's General Plan for Sunset Views Unit II and that its provisions do not create any contractual obligation upon Developer. Each Purchaser should examine his purchase contract, the Annexation Agreement for the property, the Declaration of Covenants, Conditions and Restrictions pertaining to his property, the Articles of Incorporation and By-Laws of the Association and the Architectural Guidelines. If any statement herein conflicts with any provision of any such document, the provisions of such document shall prevail with respect to such matters.

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SUNSET VIEWS UNIT II

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REVISED 11/22/04

THIS DECLARATION made this ____ day of _____, 2004 by AMG Homes, INC. Developer (hereinafter referred to as "Developer").

ARTICLE I
DECLARATION - PURPOSES

1.1 **General Purposes.** Developer is the owner and the developer of certain real property located in the Village of Lily Lake, Kane County, Illinois, and legally described in Exhibit "A" attached hereto and incorporated herein, and desires to create thereon a planned community development provided with Common Properties designed for the private use of Owners within such development, except as herein otherwise provided.

- (a) Developer intends to subject the real property described in Exhibit "A" to certain covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which are for the benefit of Purchasers and Owners of Lots on the Subject Property and for the benefit of the Association described below;
- (b) Developer intends to grant certain water detention easements and to establish an Illinois not-for-profit corporation known as the Sunset Views Unit II Homeowners' Association ("the Association"), and to convey the Common Properties (as hereinafter defined) to the Association; and
- (c) Developer has deemed it desirable for the efficient preservation of the values and amenities of the subject development to create the Association for the purpose of administering and enforcing the covenants, conditions and restrictions, and for collecting and disbursing the assessments and charges hereinafter created.

1.2 **Declaration.** Developer hereby declares that the Subject Property shall be held, sold and conveyed subject to the following covenants, conditions, restrictions, easements, charges and liens which are for the purpose of protecting the value and desirability of Subject Property, and which shall run with the Subject Property and be binding on and inure to the benefit of all parties having any right, title or interest in the Subject Property or any part thereof, and their heirs, successors and assigns.

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1.3 **Rights of Village.** This Declaration of Covenants, Conditions and Restrictions is incorporated in a Final Plat of Subdivision approved by the Village of Lily Lake ("Village") and was part of the basis for the Village to approve the development of the Subject Property.

Accordingly, it is specifically intended that the Village be a beneficiary of certain of the covenants, conditions, restrictions and easements set forth in this Declaration, and that the same be enforceable by the Village in any appropriate action at law or in equity. The Village shall have the right, but not the obligation to enforce any of such provisions.

ARTICLE II DEFINITIONS

2.1 The following words and terms, when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

- (a) "Association" shall mean and refer to the Sunset Views Unit II Homeowners' Association, its successors and assigns.
- (b) "The Properties" shall mean and refer to the Existing Properties, subject to this Declaration.
- (c) "Existing Properties" shall mean and refer to the real estate described in Article III Section 1 hereof, and on Exhibit "A" attached hereto and incorporated herein.
- (d) "Common Properties" shall mean any real property and improvements thereon and any personal property or equipment with respect to which the Developer grants, assigns or conveys to the Association, title, interest in or rights of use, or with respect to which the Developer permits use by the Association and its members, and any replacements of or for any of the foregoing.
- (e) "Lot" shall mean any plot of land described by a number upon any recorded subdivision map of the Properties, but shall not include any plot designated therein as an "outlot" or "retention area." "Lot" may also include, where applicable, a "Dwelling Lot."
- (f) "Single Family Residential" shall mean all of the Properties restricted to use for improvement with dwellings.
- (g) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the property, including

contract Sellers. For any purposes of this Section, holders of beneficial interests under land trusts holding title to any Lot which is a part of the property shall be considered an Owner. Developer shall, as long as he owns lots, be an Owner.

(h) "Member" shall mean all those Owners who are members of the Association as hereinafter provided.

(i) "Dwelling Lot" shall mean any Lot intended for improvement with a dwelling.

(j) "Dwelling" shall mean any building located on a Dwelling Lot and intended for the shelter and housing of a single family.

(k) "Dwelling Accessory Building" shall mean a subordinate building or a portion of a Dwelling, the use of which is incidental to the Dwelling and customary in connection with that use.

(l) "Single Family" shall mean one or more persons, each related to the other by blood, marriage or adoption, or a group of not more than three persons not all so related, together with his or their domestic servants, maintaining a common household in a Dwelling.

(m) "Story" shall mean that portion of a Dwelling included between the surface of any floor and the surface of a floor next above, or if there is not floor above, the space between the floor and the ceiling next above.

(n) "Living Area" shall mean that portion of a Dwelling which is enclosed and customarily used for Dwelling purposes and having not less than eight (8) feet headroom, but shall not include open porches, open terraces, breezeways, attached garages, carports, basements or Dwelling Accessory Buildings. The minimum square footage of living area for any Dwelling on any Dwelling Lot shall be 2200 square feet if a one-story or ranch type home; and 2650 square feet if a multi-story home, with not less than 1400 square feet on the first floor level.

(o) "Structure" shall mean any building or other improvement erected or constructed, the use of which requires more or less permanent location on or in the ground, or attached to something having a permanent location on or in, the ground. A sign or other advertising device, attached or projecting, shall be construed to be a separate structure.

- (p) "Committee" shall mean the Architectural Review Committee of the Sunset Views Unit II Homeowners' Association established in Article IV hereof.
- (q) "Declaration" shall mean the within instrument together with those exhibits which are attached hereto and made a part hereof and shall include such amendments, if any, to the within instrument as may be from time to time adopted pursuant to the terms hereof. The within Declaration may be referred to in any other document as the Declaration of Covenants, Conditions and Restrictions for Sunset Views Unit II, Village of Lily Lake, Illinois.
- (r) "Village" shall mean the Village of Lily Lake, Kane County, Illinois, or, where applicable, the corporate authorities of said Village, or its duly authorized officers or employees.
- (s) "Developer" shall mean AMG Homes, INC. and its successors and assigns.

ARTICLE III

EXISTING PROPERTIES - ADDITIONS THERETO - MERGERS

3.1 **Existing Properties.** The real property which is and shall be held transferred, sold, conveyed and occupied subject to this Declaration is located in Kane County, Illinois and more particularly described in Exhibit A attached hereto and hereby made a part hereof.

3.2 **Mergers.** In the event of a merger or consolidation of the Association with another association as authorized by its Articles of Incorporation, its properties, rights and obligations may be transferred to another surviving consolidated association. Alternatively, if the Association is the surviving corporation in a merger or consolidation, it may administer the covenants and restrictions established by this Declaration within the Existing Properties together with the covenants and restrictions established upon any other properties as one scheme. However, no such merger or consolidation shall affect any revocation, change or addition to the covenants established by this Declaration with respect to the Existing Properties. Developer may subject other adjacent property to this Declaration as hereinafter provided.

ARTICLE IV

ARCHITECTURAL REVIEW PROCESS

4.1 **Objectives.** Developer's objectives are to carry out the general purposes expressed in this Declaration; and to assure that any improvements or changes in the properties will be of good and attractive design and in harmony with the natural setting of the area and will serve to preserve and enhance existing features of natural beauty; and to assure that materials and workmanship of all improvements are of high quality and comparable to other improvements in the area.

4.2 **Architectural Review Committee.** To achieve Developer's objectives, the Developer shall create an Architectural Review Committee (the "Committee") with power to administer this Declaration with regard to approving or disapproving those matters which are expressed herein to be within the jurisdiction of the Committee. The Committee shall consist of not less than three (3) members. Members appointed by the Developer may be removed by him with or without cause. Members of the committee may, but need not, be owners. The names and addresses of the persons who from time to time comprise the membership of the Committee shall be furnished by the Association to its members. Matters requiring approval of the Committee shall be submitted to its Chairman, or as the Committee otherwise designates. The appointment of the Committee members shall be transferred by Developers to the Association Board of Directors upon the completion of construction of the last home constructed on the Subject Property.

4.3 **Matters Requiring Approval.** Prior written approval shall be obtained from the Committee with respect to all matters stated in this Declaration as requiring such approval. In addition thereto, no building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or alteration to or exterior change in color or material change or alteration, therein be made, nor shall any clearing of trees, change of property drainage grade on easements, or change of property grade be made until the plans and specifications showing the nature, kind, shape, elevations, heights, materials and color, location and grade, proposed landscaping design and proposed location on the lot of the sanitary disposal system, of the same shall have been submitted to and approved in writing by the

Committee. No owner may request a building permit from the Village without such written approvals; nor shall the Village be required to issue a building permit without written evidence of such approval.

4.4 Procedure. Whenever approval is required of the Committee, appropriate plans and specifications shall be submitted to the Committee. The Committee shall either approve or disapprove such design and location and proposed construction and clearing activities within ninety days after said plans and specifications have been submitted to it; except that if such plans and specifications are disapproved in any respect, the applicant shall be notified wherein such plans and specifications are deficient. The Committee may withhold approval for any reason deemed by it to be appropriate, including aesthetic reasons, except that approval will not be withheld for capricious or unreasonable reasons. Enforcement of the anti-monotony provisions of this Declaration shall be a sufficient reason for withholding such approval. If such plans and specifications are not approved or disapproved within ninety days after submission, approval will not be required and this Article will be deemed fully complied with. At the discretion of the Committee a reasonable filing fee established by the Committee shall accompany the submission of such plans to defray expenses, except that so long as the Committee is under Developer's control such fee shall not exceed \$200.00. No additional fee shall be required for resubmission of plans revised in accordance with recommendations made upon disapproval. A copy of each approved set of plans and specifications shall be kept on file with the Committee.

4.5 Anti-Monotony Requirement. All homes within the Subject Property shall comply with the following anti-monotony provisions:

- (a) No two single-family residences of similar front elevation or façade shall be constructed on adjacent lots; nor shall more than 20% of the single-family residences in any streetscape be constructed with similar front elevation or façade. Front elevations or façades shall be deemed to be similar when there is no substantial difference in rooflines; and no substantial difference in either the size, location or type of windows; and either no differences in the color of materials used, or no substantial difference in the kind of materials used.

(b) Adjacent lots are lots that adjoin or share side property lines or lots, the front property lines of which, although separated by a street, overlap another by more than 30%.

(c) A streetscape is made up of the façades of single-family residences on both sides of a street. The length of a streetscape shall be limited to no more than 20 lots per side of street. When more than 20 lots per street side exist without an intervening cross street, the Village shall, through one of its officials or employees, establish those lots that shall constitute a separate streetscape. In making that determination, the official or employee shall consider that configuration of lots that will be most influenced and affected by adjacent lots. When possible, physical demarcations such as topography, road configuration, or landscaping shall be used in establishing the appropriate streetscape. In general, the front elevation or facade of the residence will determine the applicable streetscape.

4.6 ***Deviations from Covenants, Conditions and Restrictions.*** The Committee shall not have the power to enter into agreements with the owner of any lot, without the consent of the owner of the adjoining or adjacent lot or lots, to deviate from the provisions of the Covenants, Conditions and Restrictions within the jurisdiction of the Committee for any reason, except as hereinafter expressly set forth, unless approved by three-fifths (3/5) of all of the members of the Association at a meeting duly called for such purpose. In such event, the proposed deviation or variation must be based upon reasons of practical difficulty or particular hardships which otherwise would be suffered by such owner, and the Committee shall submit to the Association members a detailed written statement setting forth the reasons for the proposed deviation. Any such deviation, which shall be manifested by written agreement, shall not constitute or be deemed to constitute, a waiver of any such covenant, condition or restriction as to any other lots in the Properties. In no case shall any deviation or variation be granted which would violate the provisions of the Annexation Agreement, or any Village ordinance or regulation in effect at the time of such proposed deviation or variation. The General Restrictions set forth in Article V hereof shall not be waivable by the Committee or the Association for any reason.

4.7 **Architectural Guidelines.** Attached hereto as Exhibit "E" and made a part hereof are Architectural Guidelines for Lot Owners and the Committee. In the event of any conflict between those guidelines and this Declaration, the Declaration shall control.

ARTICLE V

GENERAL RESTRICTIONS

5.1 **General Permitted Land Use - Single Family Residential.** All Lots within the Properties are designated "Single Family Residential" use, and shall be used only as Dwelling Lots. All Lots are restricted to Single Family Residential use. No structure shall be erected, re-erected or maintained on any Lot except for one Dwelling designated for occupancy by a Single Family, except as otherwise permitted herein. No Dwelling Accessory Structure shall be erected prior to construction of a Dwelling. No structure may be erected or maintained on any such Lot except as shall be approved in writing by the Committee. No detached accessory buildings, including but not limited to detached garages and storage buildings or barns, shall be erected, placed or constructed upon any Lot, except that this section shall not apply to accessory buildings for in-ground swimming pools, which may, subject to approval by the Architectural Review Committee as established in this Declaration, be located in accordance with applicable Village zoning requirements.

5.2 **Minimum Size of Residence; Garages; Roof Pitch.** No structure for a private residence on any lot shall have a floor area (in square feet), exclusive of basements, garages and porches, of less than the following:

- (a) One story ranch type = 2200 square feet.
- (b) Two story or more = 2650 square feet of which 1400 square feet shall occur on the first floor level.

All garages must be attached to the residence, must be constructed at the same time as the residence dwelling, and must accommodate at least two (2) automobiles, but not more than four (4) automobiles. Additional stalls may be permitted in the discretion of the Committee. Garages shall be side-loaded wherever feasible. All residences shall have a minimum roof pitch of 8/12.

5.3 **Development Activity.** Notwithstanding another provision herein, any owner, including the Developer, shall be entitled to conduct on the Property all activities normally

associated with and convenient to the development of the Property and the construction and sale of Single-Family Residential units on the Property.

5.4 **Quality of Structures.** It is the intention and purpose of these covenants to insure that all structures shall be of a quality of design, workmanship, and materials which are compatible and harmonious with the natural setting of the area and other structures within the development. One hundred (100%) percent of the exterior of any single family residence must be of brick, stone, cedar or other similar acceptable material. Dryvit or similar product may be used for architectural detailing as permitted in writing by the Committee. All structures shall be constructed in accordance with applicable government building codes and with restrictive standards as may be required by the Committee. No vinyl or aluminum siding shall be allowed. Vinyl or aluminum soffit and/or fascia shall be allowed.

5.5 **Location of Structures on Lot.** The Developer deems that the establishment of standard inflexible building set back lines for location of structures on individual Lots would be incompatible with the objective of preserving the natural setting of the area and preserving and enhancing existing features of natural beauty and visual continuity of the area. Therefore the location of each structure, including driveways and culverts, on a Lot shall be subject to approval in writing by the Committee, giving consideration to setback lines on the recorded plat, or as may be otherwise provided by Village ordinance, provided that each owner shall be given reasonable opportunity to recommend the suggested construction site. House on Lot 29 shall not project over building line setback. An attached patio or porch on Lot 29 may project over the setback line if it is not a roofed structure.

5.6 **Nuisances.** No noxious or offensive activity shall be carried on, in or upon any premises, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No plants or seeds or other things or conditions, harboring or breeding infectious plant diseases obnoxious insects shall be introduced or maintained upon any part of a Lot.

5.7 **Temporary Structures.** No trailer, mobile home, recreational vehicle, tent, shack, or other structure, except as otherwise permitted herein, or by the Annexation Agreement, and no temporary building or structure of any kind shall be used for a residence, either temporary or permanent.

5.8 **Completion of Construction.** Any construction undertaken on any Lot shall be continued with diligence toward the completion thereof and construction of any Dwelling shall be completed within one year from commencement of construction, except that such period may be extended for a reasonable time by reason of act of God, labor disputes, or other matters beyond the owner's control. No structure shall be deemed completed until installation of approved landscaping. Any structure not so completed shall be deemed to constitute a public nuisance. The Association may enforce this provision by the levying of appropriate fines, which shall constitute additional assessments under Article IX hereof or by an appropriate action at law or in equity. Within six months from the date of occupancy of any residence, a driveway to serve said residence shall be completed with a dust-free hard surface.

5.9 **Maintenance of Lots.** All Lots, including any Common Properties, whether occupied or unoccupied, and any improvements placed thereon, at all times shall be maintained in such manner as to prevent their becoming unsightly, unsanitary or a hazard to health. If not so maintained, the Association shall have the right, through its agents and employees, to do so, the cost of which shall be added to and become a part of the annual assessment with respect to such Lot and such amount shall be immediately due and payable and the Association shall have such rights and remedies with respect to collection as are provided for annual assessments. Neither the Association nor any of its agents, employees or contractors shall be liable for trespass or any damage which may result from such work.

5.10 **Lot Appearance.** No person shall accumulate on his Lot junked vehicles, litter, refuse, or other unsightly materials. If a Homeowner wishes to store refuse outdoors, the site for storage must be approved by the Association. The storage site shall be screened by appropriate shrubbery and said refuse shall be stored in containers approved by the Association. Otherwise refuse is not to be stored outside in open areas. In addition, the Lot Owner must maintain lawns that do not exceed an average length of six (6) inches in height. If a Lot Owner's lawn exceeds six (6) inches in height, then the Association is permitted, but is not required, to enter upon the Lot for the purpose of cutting the excessive growth of grass, provided that the Association shall first notify the Lot Owner of the violation of this Section and the Owner shall continue to neglect to be in compliance of this Section. In the event that the Association shall undertake to cut the excessive growth, then in that event, the Association shall have a lien on the Lot for all costs,

fees and expenses related thereto. The Homeowner's Association and/or the Village is permitted, at their option, but shall not be required, to enter upon any Lot for the purpose of cutting any growth of weeds as provided in the Village's weed control ordinance, if, after appropriate notice, the Lot Owner shall fail or neglect to do so, and in such event shall have a lien on the Lot for all costs, fees and expenses relating thereto.

5.11 Other Prohibited Matters.

- (a) No animals other than unoffensive common domestic household pets such as dogs and cats, shall be kept on any Lot. No more than a combined total of three (3) dogs and/or cats may be kept on any Lot.
- (b) No business activities, home occupation or profession shall be conducted on any Lot except as may be authorized by the Association in accordance with applicable Village ordinances and regulations or as may be provided in the Annexation Agreement. Home office type occupations, which do not involve more than two (2) employees, shall not be deemed to be a violation of this section, if and only if permitted by Village ordinance. *As of the date hereof, Village ordinances provide that only family members may engage in a home occupation. Outside employees are not permitted.*
- (c) Habitual parking of commercial vehicles on any Lot or street is prohibited.

5.12 Easements Reserved with Respect to Lots. Developer reserves for himself, his successors and assigns, and to the Village, easements over each Lot, and the right to ingress and egress to the extent reasonable, necessary to exercise such easements, as follows:

- (a) Utility easements shown on the recorded Plat of the Properties are reserved for the installation and maintenance of utility facilities (including but not limited to cable television, internet or similar services), and incidental usage related thereto. All electric service, telephone service and other utilities shall be supplied by underground service, and no poles shall be permitted.
- (b) An Owner shall not place any structure on any such easements and shall be responsible for maintaining the easement (except as herein provided) and any damages caused by a user of right to the easement shall be repaired and restored by such user.
- (c) The Association has the right, upon fourteen (14) days prior written notice, to enter upon any Lot for the purpose of removing offensive underbrush or for pest control

purposes at the Owner's expense. The fourteen (14) day notice requirement may be waived if the Association deems the offensive underbrush or pest control to be an immediate hazard to the other property owners. No such entry shall be deemed a trespass.

(d) No Owner shall have any claim or cause of action, except as herein provided, against Developer, his successors, assigns, or licensees or the Village arising out of exercise or non-exercise of any reserved easement except in cases of willful or wanton misconduct.

5.13 **Signs.** No signs or billboards of any kind shall be displayed to the public view on any Lot except that one professional sign used by a builder to advertise the Property during the construction and sales period, or a "for sale" sign if offered by Owner or broker may be displayed, which signs shall be in compliance with the applicable ordinance of the Village. Political signs shall not be subject to this Section, so long as they are unlighted and are displayed not more than sixty (60) days prior to an election. All such signs shall be removed not later than five (5) days after the election.

5.14 **Parking or Keeping of Vehicles.** No vehicles are to be parked on any part of any Lot, except upon driveways or within attached garages. No campers, vans, pick-up trucks, boats (on or off trailers), recreational vehicles and other types of non-passenger vehicles and accessories may be kept on any Lot for more than 7 days or any consecutive 180 day period; unless the same are fully enclosed within the garage located on such Lot. Overnight parking of vehicles on any street is prohibited.

5.15 **Garbage and Refuse Disposal.** No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage lawn cuttings, branches or other waste shall not be kept except in sanitary containers, shall be removed at reasonable intervals, and may not be buried on any lot. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition, and shall be enclosed and not open to public view. Composting of landscape waste shall be permitted per Village Ordinance or Association rules.

5.16 **Sight Distance at Intersections.** No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street

property lines and a line connecting them at points twenty five (25) feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight line limitation shall apply on any Lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

5.17 **Garages.** All garages must be attached. Garage doors should be of the overhead type. The garage must have a minimum capacity of two cars and a maximum capacity of four cars, unless a greater number is allowed by the Committee. Garages should be side loaded if feasible, considering the topography of the lot and the desire to preserve existing trees. Garages on lots 5, 6, 13, 17 and 33 are required to be side load garages.

5.18 **Driveways.** All driveways must have a permanent hard surface. Concrete, asphalt or brick are acceptable. Gravel driveways are not permitted. Driveways must be fully completed within one (1) year from the start of construction (weather permitting) or six months from the date of occupancy, whichever is later, and shall be not more than twenty (20) feet in width at the street, and no less than sixteen (16) feet in width unless required to accommodate a front loaded garage.

5.19 **Home Occupations and Businesses.** No part of the Property, or any Lot, and no building erected or maintained on any part of the Property shall be used for manufacturing, industrial or business purposes, including home occupations, except as provided in Section 5.11(b) hereof.

5.20 **Landscaping.** A landscaping plan shall be required for each Lot. The landscaping plan shall be submitted to the Committee established pursuant to Article IV of this Declaration. All landscaping shall be completed by the Purchaser within a period of the first growing season subsequent to the occupancy of said Dwelling.

The Village of Lily Lake landscape requirements require parkway street trees to be planted by the lot owner no more than 40 feet apart and a minimum of two tree species per block. Trees may be more than 40 feet apart only when driveways prevent the proper placement of trees. The proposed street plan requires that certain species each with a minimum 2.5" caliper. Planting of these trees shall be the responsibility of the Owner at the time of the

issuance of a building permit. All lots must be seeded or sodded (unless otherwise required to preserve existing trees on the lot) within six (6) months after completion of construction of any single family residence, or within the first growing season (as defined by a landscape architect of the Committee's choosing) following occupancy of a residence. All above-ground foundations shall be screened by bushes, shrubs or similar plantings. The landscape plan shall include both trees and shrubs, and the cost of the Plant Material shall have a retail value of not less than 2% of the estimated cost of the residence (excluding the lot cost).

Notwithstanding anything herein to the contrary, the Owners of vacant or improved Lots are obligated to maintain said Lots in a neat and clean manner. To the extent that any Owner shall fail to perform the maintenance of his own Lots at reasonable terms and in a reasonable manner, the Homeowners' Association may, but shall not be required to perform such maintenance, repair or upkeep upon fourteen days (14) prior written notice to the Owner, and in such event, the cost thereof shall be added to such owners annual assessments and such amount shall be immediately due and payable and the Homeowners' Association shall waive such rights and remedies with respect to the collection of the same as are herein provided with respect to annual assessments.

5.21 Removal of Trees. No trees shall be removed from any Lot (except dead or diseased trees) without the permission of the Committee established pursuant to Article IV Section 2 on good cause shown. In preparing and submitting plans and specifications for improvements to such Committee, each Owner shall make all reasonable efforts to minimize the number of trees to be removed.

5.22 Tennis Courts and Swimming Pools. The construction of tennis courts or in ground swimming pools must be approved by the Association prior to the Homeowner applying for a permit from the Village. Both of these structures may require a special building permit from the Village. They cannot be located within a front yard, but may be located in the side or rear yard area, subject to Village ordinances and regulations. Tennis courts or Swimming Pools in the side yard must be approved, in writing, by the committee and Village. Above ground swimming pools are prohibited.

5.23 Fences. No fences shall be erected without prior approval of the Committee. Fences required by Village ordinance for outdoor in ground swimming pool enclosure shall also

be approved by the Committee. Stockade, chain-link or wire fences are not allowed. No fencing shall be installed along the rear line of any lot located on the perimeter of the Subject Property unless approved by the Architectural Review Committee. All such fencing shall be of either split rail, corral or other rural type fencing, and shall be uniform for each lot. The Architectural Review Committee shall determine the type of fencing to be permitted. Fences shall be located on the resident side of the landscaped common area so that the landscaping, not fencing, is visible from Empire Road. All fences should be installed at the top of the slope of the berm, so that the fence height is kept as uniform as possible. Lots 28, 29 and 30 are required to have the same color and style fencing in the rear yards along Empire Road. Preferably, this fence would be open (i.e. picket, split rail or other similar design) rather than closed (i.e., board or board on stockade).

5.24 **Screening.** All tennis courts, swimming pools, dog runs and kennels must be screened from visual observation along any interior street within the Subject Property. Said plans are subject to review by the Committee established pursuant to Article IV of this Declaration.

5.25 Air conditioning condensers and other mechanical equipment are not permitted in the front yard, and shall be screened as provided by Village Ordinance.

5.26 **Flagpoles.** Flag poles higher than twenty five (25) feet in height are not permitted.

5.27 Awnings or canopies may not project more than three (3) feet from the building.

5.28 Open air laundry facilities are prohibited unless screened from adjoining properties.

5.29 **Satellite Dishes and Antennae.** Exterior television and radio antennae are permitted only in a manner approved by the Committee established pursuant to Article IV of this Declaration. Satellite antenna dishes over twenty four (24) inches are not permitted. All antennae or satellite dishes shall be located at the rear of the single family home. Ham Radio or Citizen's Band Antennae are not permitted, subject to any applicable Federal laws.

5.30 **Utility Towers.** No utility towers or similar structures shall be erected on any Lot.

5.31 Premises shall be landscaped and graded in such away that water will not run off on adjoining Property except as scaled by the original Developer. Lot Owners will be fully responsible on their Lot for establishing all drainage grading on easements.

5.32 All drainage culvert pipes on front lot entryways or driveways installed by Lot Owners shall be constructed of materials approved by the Committee. The width of said pipe shall be approved by the Village Engineer, and shall be installed pursuant to a design approved by the Village during the building permit process.

5.33 No animals, livestock or poultry shall be raised, bred or kept on any Lot, except that:

- (a) No horses shall be kept, maintained, or stabled on any Lot;
- (b) No more than a combined total of three (3) dogs and/or cats may be kept on any lot. A reasonable number of other pets maybe kept, provided they are not kept, bred or maintained for any commercial purposes;
- (c) No more than one dog run may be erected on each Lot;
- (d) All pets shall be restrained, and not allowed to roam;
- (e) Dog runs and kennels are to be screened from visual observation along any interior street within the Subject Property, and are restricted to a maximum of six (6) feet by twelve (12) feet.

5.34 No building, veranda, bay window, fence, nor portion of any building except open steps shall be erected or maintained upon any Lot between the front lot line and the building lines as shown on the Plat, and within ten (10) feet of each of the interior side lot lines.

5.35 The location of exterior post light, floodlights, etc., shall be approved by the Committee established pursuant to Article IV of this Declaration.

5.36 Each owner shall be responsible to provide a mailbox with address attached, in locations approved by Developer or the Homeowners' Association. The Association may require a uniform mailbox for each lot. In addition each property owner is responsible for having the address number on their lot engraved, attached or affixed to the front of their home. No newspaper boxes or other attachments to the mailbox are allowed. Lot Owners shall be responsible for the maintenance of the mailbox.

5.37 All homes shall have basements with a minimum size of at least fifty percent (50%) of the ground level plan, excluding the garage, unless waived by the Architectural Review Committee for valid engineering reasons. Such waiver shall also be subject to approval of the Village Engineer. In no event shall waivers be granted for more than five (5%) percent of the lots. The remainder of the area below ground level, excluding garage, shall be crawl space. Slab foundations are not permitted.

ARTICLE VI

EASEMENT FOR STORM WATER DRAINAGE AND DETENTION; RESPONSIBLE OFFICERS

6.1 ***Declaration of Easement.*** The Developer hereby declares and establishes an easement (the "Storm Water Drainage Easement") for drainage and detention of storm water over, upon and across those portions of the subject Property designated "Storm Water Drainage" and "Storm Water Detention" or "Retention" on each recorded plat of, subdivision of the Subject Property or portion thereof.

6.2 ***Initial Installation and Subsequent Maintenance of Storm Water Drainage Facilities.*** Initial installation of the improvements in the portions of the Subject Property designated for Storm Water Drainage and Storm Water Detention and Retention (the "Storm Water Drainage Facilities") shall be the responsibility of the Developer. Subsequent to approval by the Village Engineer of such initial installation in accordance with Kane County standards, the Association shall have responsibility for maintaining the Storm Water Drainage and Storm Water Detention Facilities, as set forth in Article VIII hereof, and the cost thereof shall be subject to assessments as set forth in Article IV hereof.

- (a) **First Year Guarantee.** By the end of the first full growing season, the basin shall exhibit nearly complete vegetative cover. There shall be no areas greater than one square meter that are devoid of vegetation; if so the Developer shall return to install more of the specific seed. The planting areas shall not contain visible sign of erosion, rills or gullies as a result of erosion. If so, the contractor shall repair the area.

- (b) **First Year Maintenance.** Mow IDOT CLASS 2A SALT TOLERANT ROADSIDE MIX once the seedlings have reached a height of 4-5" to the height of 2". After the initial cut, mowing should continue on a regular basis (approximately once a month depending on rainfall) at a height of 2-3". Turf should be fertilized once in late summer/early fall (September) with balanced turf fertilizer. Mow LOW MOW MIX once the seedlings have reached a height of 5-6" to a height of 3". After the initial cut, mow no more than twice the first growing season. Never remove more than 1/3 of the top growth. Clippings should not be bagged, as this vegetative material is the only fertilization needed. MOW BASIC PRAIRIE MIX once any weeds have reached a height of 8-12" (no taller than 12") Mow with a flail type mower to a height of 4-6". At this point any developing seed heads will be cut before weed seed can be distributed. Also, most native grasses and forbs will not grow any higher than 6" in the first year and thus will be protected. Mow this area 2-4 times, early during the growing season. At the end of the first season, do not mow down the first season's growth as this will help to insulate the seedlings throughout the winter.
- (c) **Second Year Guarantee.** By the end of the second full growing season, a minimum of 45% of the species (11) planted shall be alive and apparent. There shall be no areas greater than one half square meter that are devoid of vegetation, if so, the Developer shall return to install more of the specified seed. The planting areas shall not contain significant rills or gullies as a result of erosion. If so, the developer/homeowner's association shall repair the area.
- (d) **Second Year Maintenance.** Mow IDOT 2A SALT TOLERANT ROADSIDE MIX routinely (approximately once a month depending on rainfall) to a height of 3". Fertilize once in late summer/early fall (September) with a balanced turf fertilizer. Mow LOW MOW MIX no more than 2-3 times to a height of 3". It is recommended that one of these mowings take place in mid to late spring, as seed heads appear to keep a neater look suitable for public areas. Clippings should not be bagged, as this vegetative material is the only fertilization needed. In spring, the BASIC prairie MIX should be mowed right down to the ground, and the

cuttings raked down if possible. If weeds remain a problem, they may have to be mowed in late spring or early summer to a height of 12" when in full bloom. WEEDS OF PARTICULAR CONCERN; Sweet clover, Quack Grass, and Kentucky Blue Grass may require remediation by hand pulling or herbicide application by a licensed applicator trained in plant identification.

- (e) **Third Year Guarantee.** By the end of the third full growing season, a minimum of 65% of the species (16) planted shall be alive and apparent. There shall be no areas greater than one half square meter that are devoid of vegetation, if so the developer/homeowner's association shall return to install more of the specified seed. The planting areas shall not contain significant rills or gullies as a result of erosion. If so, the developer/homeowner's association shall replace the area.
- (f) **Third Year Maintenance.** Mow IDOT CLASS 2A SALT TOLERANT ROADSIDE MIX routinely (approximately once a month depending on rainfall) to a height of 3" Fertilize once in late summer/early fall (September) with a balanced turf fertilizer. De-Thatch and aerate in late summer / early fall (September) to promote deep rooting and alleviate compaction. Mow LOW MOW MIX no more than 2-3 times to a height of 3". It is recommended that one of these mowings occur in mid to late spring, as seed heads appear, to keep a tidy look suitable for public areas. Clippings should not be bagged, as the vegetative material serves as the only fertilization necessary. De-thatch and aerate in late summer/early fall (September) to promote deep rooting and alleviate compaction. At the completion of the third growing season, fire shall be introduced as the primary management tool where practical. Trained professionals experienced in the fuel types present shall conduct burning. State and Local permits shall be required prior to the prescribed burning. Prior to a prescribed burn surrounding property owners as well as local police and fire departments will be notified. A burn plan designating the preferred wind direction and speed, location of fire breaks, and necessary personnel and equipment shall be prepared and utilized in planning and burn implementation. If burning is not practical or possible, then the prairie should be mowed to the ground and the debris raked off. Mowing should

take place in early to mid spring unless conditions are too wet, then mowing should take place in late fall.

6.3 **Responsible Officers.** Pursuant to the applicable provisions of the Kane County Storm Water Ordinance, the Officers of the Association responsible for the maintenance of the Storm Water Drainage Facilities shall be transmitted in writing to the Village and to the appropriate official of Kane County. The Association shall promptly notify the Village and the County of any change in the responsible Officers.

ARTICLE VII

THE COMMON PROPERTIES: RIGHTS, OBLIGATIONS AND RESERVATIONS WITH RESPECT THERETO

7.1 **Members Easements of Enjoyment.** Subject to the provisions of this Article VII, every Member shall have the non-exclusive right and easement of enjoyment in and to the Common Properties, which easement shall be appurtenant to and shall pass with the title to every Lot.

7.2 **Obligation of the Association with Respect to Common Properties: Conveyance by Developer.** The Association, for itself, its successors and assigns, hereby covenants with the Developer as follows:

- (a) Developer shall convey the Common Properties to the Association by warranty deed or other similar instrument prior to the sale of the first lot on the Subject Property.
- (b) The Association will accept conveyance of the Common Properties on the terms and conditions specified herein. The conveyance of the Common Properties shall contain an express provision imposing the obligation to maintain the Storm Water Facilities upon the Association and an acceptance of that obligation by the Association.
- (c) The Association will preserve and maintain for the common benefit of its Members, and other users of right, all of the Common Properties, which it shall own, shall pay any taxes assessed thereon, carry insurance with respect thereto as determined by its Board of Directors, and shall keep the same in good and sightly appearance.

(d) The obligations of the Developer with respect to the Common Properties are set forth in the Common Properties Maintenance Agreement attached hereto as Exhibit "D" and made a part hereof.

7.3 ***Extent of Members Easements.*** The rights and easements of enjoyment created hereby for the benefit of Association member; and other users of right shall be subject to the following:

- (a) Rights of the Developer, his successors, and assigns, as herein reserved.
- (b) The right of the Association, in accordance with its By-Laws, to borrow money for the purpose of improving the Common Properties, and in addition thereto, to mortgage such Properties. In the event of a default upon any such mortgage, the lender's rights shall be limited to the right, after taking possession of such Properties, to charge admission and other fees as a condition to continued enjoyment by the Members and, if necessary to open the enjoyment of such Properties to a wider public until the mortgage debt is satisfied whereupon the possession of such Properties shall be returned to the Association and all Members' rights fully restored.
- (c) The right of the Association to take such steps as are reasonably necessary to protect the Common Properties against foreclosures.
- (d) The right of the Association, as provided in its Articles and By-Laws, to make reasonable rules and regulations with respect to the use of the Common Properties and to suspend enjoyment rights of any Member for any period during which any assessment against such Member remains unpaid, and for any period not to exceed thirty (30) days, for any infraction of its published rules and regulations.
- (e) The right of the Association to dedicate or transfer all or any part of the Common Properties to any public agency, authority, or utility, subject to the conditions and limitations as provided in its Articles of Incorporation.
- (f) Rights of the Village of Lily Lake, public utilities, and the public as set forth in this Declaration, the Annexation Agreement or as shown on the recorded Plat of Subdivision.

7.4 Rights and Easements Reserved by Developer. The Developer, for himself, his successors and assigns, reserves the following rights and easements in and with respect to Common Properties transferred to the Association:

(a) An easement is reserved with respect to all open areas conveyed to the Association pursuant to this Declaration, to install, lay, construct, renew, operate, and maintain utility lines and conduits and underground and overhead poles and equipment, and structures and devices relating to utility services for the purpose of serving the properties with telephone, electricity, water, sewer service, and other utility services; and Developer, its successors and assigns, through authorized representatives, may enter upon such areas at all times for any such purposes, and cut down and remove any trees or bushes that interfere or threaten interference with any such right of use.

(b) An easement is reserved for surface drainage over any open areas, not otherwise provided for in Article VI.

(c) The Developer, his successors and assigns, by his agent, reserves the right during the sales period of the development, but not exceeding fifteen (15) years from the date of the recording of this document, to the non-exclusive use in common with members of the Association of the open areas for recreational purposes, except that the exercise of such right shall not unreasonably interfere with the Common Property of the members.

7.5 Limitations on Improvements. No buildings or structures shall be erected on any Common Properties.

ARTICLE VIII

CREATION OF HOMEOWNERS' ASSOCIATION

A Homeowners' Association to be known as the Sunset Views Unit II Homeowners' Association has been formed in accordance with applicable Illinois law by the Developer for the benefit of the property owners. The Homeowners' Association shall be comprised of an initial Board consisting of five (5) Directors. Two (2) Directors shall be appointed by the Developer and three (3) shall be elected by the majority vote of the Homeowners within 45 days from the date that thirty homes are constructed and occupied. Once all 42 lots are owned and occupied, the 2 directors appointed by the Developer shall resign and the required number of directors shall

be reduced to three. Developer may remove any director appointed by him with or without cause. The Directors shall be elected and appointed for an initial term of three (3) years. The Homeowners' Association will be a non-stock, not-for-profit corporation, organized pursuant to applicable Illinois Statutes, in accordance with the Articles of Incorporation attached hereto as Exhibit "B" and the By-laws of the Association attached hereto as Exhibit "C", which exhibits are incorporated in this Declaration as if fully set forth. The Association shall have the power to enforce this Declaration, but shall not have the power to make rules or regulations which have the effect of prohibiting or regulating any activity not specifically prohibited by this Declaration. All members of the Board of Directors shall be owner/residents except those appointed by Developer. The Homeowner's Association shall not be dissolved without the written consent of the Village, and the By-laws shall so provide.

ARTICLE IX

MEMBERSHIP AND VOTING RIGHTS

9.1 Every Owner of any Lot which is subject to assessment, in whole or in part, shall automatically be a member of the Homeowners' Association and shall remain such so long as he remains an Owner of a Lot subject hereto. Upon the termination of the interest of an Owner, his membership shall thereupon automatically terminate and transfer and inure to the new Owner succeeding him in interest. Developer shall be a member of the Homeowners' Association so long as he remains an owner of a Lot subject to this Declaration and shall have one vote for each lot owned. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

9.2 The Developer shall appoint the initial Board of Directors of the Homeowners' Association for an initial three year period. Thereafter the Directors shall be elected by the membership as provided in the By-laws, subject to Developer's rights under Article VIII hereof.

9.3 The Homeowners' Association shall have one class of voting membership; one vote per Lot, regardless of the number of owners of a Lot.

ARTICLE X

HOMEOWNERS' ASSOCIATION:

COVENANTS FOR MAINTENANCE ASSESSMENTS

10.1 ***Creation of Lien and Personal Obligation for Assessments.*** Every Owner of a Lot, by acceptance of a deed therefor or otherwise, whether or not it shall be so expressed in any such deed or other conveyance, hereby covenants and agrees and shall be deemed to, covenant and agree to pay to the Homeowners' Association for each Lot owned (or to a management company or other collection agency designated by the Homeowners' Association):

- (a) Annual assessments or charges to be paid in such installments as the Board of Directors of the Homeowners' Association shall elect; and
- (b) Special assessments for any purpose including for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided, but no capital improvements shall be undertaken other than those specifically authorized by this Declaration or to repair existing facilities without the affirmative vote of 80% of all Lot Owners.

The assessments thus collected by the Homeowners' Association shall constitute the maintenance fund of the Homeowners' Association. The annual and special assessments, together with such interest thereon and costs of collection thereof, including but not limited to, reasonable attorneys' fees, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon each lot against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof, including but not limited to, reasonable attorneys' fees, as hereinafter provided, shall also be the continuing personal obligation of the person who was the Owner of such Lot at the time when the said assessment fell due.

10.2 ***Purpose of assessments.*** Each Owner shall pay to the Homeowners' Association assessments representing his proportionate share of the expenses of maintenance, repair, replacements, administration and Operation of the Storm Water Drainage and Storm Water Detention Facilities and for any other purpose appropriate under the Articles of Incorporation and By-Laws of the Association or this Declaration. To the extent, if at all, that any assessments for any fiscal year are not expended by the Homeowners' Association, any such savings shall be applied by the Homeowners' Association in reduction of its budget and the annual assessments to the Owners for the following year, except with respect to amounts held by the Homeowners'

Association as reserves which shall be deemed to be held by the Homeowners' Association in trust for the members for the uses and proposes for which reserves have been established. Any interest of any Owner in and to such reserve funds shall be deemed appurtenant to such Owner's membership and shall automatically transfer and inure to such Owner's successor in interest.

10.3 **Computation of Assessments.** Payments of assessments shall be in such amounts and at such times as provided below:

(a) On or before each November 1st, the Board of Directors shall estimate the total amount necessary to pay the cost of taxes, wages, materials, insurance, services and supplies, relating to maintenance of the Storm Water Drainage Facilities and such other items as provided for herein and in the By-Laws of the Homeowners' Association, which will be required during the ensuing calendar year for the rendering of all services, together with a reasonable amount necessary for a reserve for contingencies and replacements, and shall on or before December 1st of each year, notify each owner in writing as to the amount of such estimate, with reasonable itemization thereof.

(b) All obligations of the Owners hereunder for assessments, special assessments or other levies by the Homeowners' Association pursuant to this Declaration or the By-Laws of the Homeowners' Association, shall be determined by multiplying the amount of such assessment, special assessment or levy by a fraction, the numerator of which is the number of Lots owned by an Owner and the denominator of which is the number of Lots subjected from time to time to the terms and conditions of this Declaration. On or before January 1st of the ensuing year, and on the first day of January and the first day of July of every year thereafter, each Owner shall be obligated to pay the Board of Directors or as it may direct, one-half ($\frac{1}{2}$) of the assessment made pursuant to this paragraph, unless the Board of Directors elects a different payment schedule. On or before the date of the annual meeting of each calendar year, the Board of Directors shall supply all Owners with an itemized accounting of the maintenance expenses for the preceding calendar year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the estimates provided, and showing the net amount over and under the actual expenditures plus reserves. In any given year, any amount accumulated in excess of the amount required for actual expenses and reserves shall be

credited equally to each Owner by applying any such excess, as the Board of Directors sees fit, to expenses and/or reserves for the subsequent year.

(c) If said estimated cash requirement proves inadequate, for any reason, to defray the operating expenses and costs during any given year, then the Board of Directors shall be authorized to adopt a supplemental budget or budgets and shall adjust the assessments accordingly. The Board of Directors shall serve notice of such further or adjusted assessment on all Owners by a statement in writing giving the amount and reasons therefor, and such further or adjusted assessment shall become effective with the next maintenance payment. Any increase in the annual assessment in excess of ten percent (10%) of the approved assessment must be approved by two-thirds (2/3) of each class of members voting in person or by proxy at a meeting duly called for such purposes.

(d) In addition to the annual assessment authorized above, the Homeowners' Association may levy, in any assessment year, special assessments applicable to that year only for the purpose of defraying, in whole or in part, the cost of any taxes, construction, reconstruction, repair or replacement of a capital improvement upon any of the Storm Water Drainage and Storm Water Detention Facilities provided that any such assessments in excess of a total of One Thousand and No/100 Dollars (\$1,000.00) in any assessment year shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for the purpose. Any such assessment shall be levied equally per Lot against each Owner.

(e) The Board of Directors shall establish and maintain reasonable reserves for contingencies and replacements as it shall deem necessary, and any extraordinary expenditures not included in the estimated cash requirements shall be first charged against such reserve in the year of such expenditure. If such reserves are depleted or, in the opinion of the Board of Directors, significantly reduced, then any supplemental budget, or the next regular estimated cash requirements, shall provide for the re-establishment of such reserves as the Board shall deem reasonably appropriate. All Purchasers shall begin and commence payment of the then current assessment(s) on January first (1st) following their date of purchase.

(f) An initial reserve shall be created by the payment of \$350.00 to the Association by the initial purchaser of any lot at the time of the closing of the initial sale of such lot. The Association shall not maintain reserves in excess of 150% of the prior year's expenditures, except pursuant to a specific capital improvement program approved by at least two-thirds of all Owners at an annual or special meeting of Owners.

(g) The failure or delay of the Board of Directors to prepare or serve the annual or adjusted estimate or the itemized accounting or other document on the Owner shall not constitute a waiver or release in any manner of such Owner's obligation to pay the maintenance costs, necessary reserves or adjusted assessments, as herein provided, whenever the same shall be determined, and in the absence of any annual estimate or adjusted estimate, the Owner shall continue to pay the maintenance charge at the then existing bi-annual rate established for the previous period until notice of the next maintenance payment which is due more than thirty (30) days after such annual or adjusted estimate shall have been mailed or delivered.

(h) The Board of Directors shall keep full and correct books of account in chronological order of the receipts and expenditures affecting the Property specifying and itemizing and maintenance and repair expenses of the Property and any other expenses incurred. Such records shall be available for inspection by any Owner or first mortgagee of record, at such reasonable time or times during normal business hours as may be requested by the Owner or mortgagee.

(i) No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use or abandonment of his Lot. Except as otherwise provided elsewhere herein, an Owner on the first day of January and the first day of July shall personally be liable for one-half (½) of the annual assessment payment; and the Owner as of the date of any levy of a special assessment shall be personally liable for such assessment.

10.4 Date of Commencement of Annual Assessments Due Dates. The annual assessments provided for herein shall commence upon the transfer of title to individual Owners. The Homeowners' Association shall, upon demand at any time, furnish a certificate in writing signed by an Officer of the Homeowners' Association setting forth whether the assessments on a

specified Lot have been paid. A reasonable charge may be made by the Board of Directors for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

10.5 Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at an annual rate equal to the prime rate of interest plus five (5) percent as published by the Wall Street Journal on the first business day of the month for which any such liability accrues, or in lieu thereof, such other maximum interest rate as may from time to time be provided by law or statute, and the Homeowners' Association may proceed in equity to foreclose the assessment lien (which foreclosure shall follow mortgage proceedings then in force and effect and selected by the Homeowners' Association) and/or bring an action at law against the Owners of the Lot for the amount of such assessment. The Board of Directors may adopt a rule imposing late charges for delinquent assessments in lieu of interest.

10.6 Subordination of the Lien to Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien of any bona fide first mortgage (or equivalent security interest) on a Lot recorded prior to the date upon which such assessment became due, and a decree of foreclosure under such mortgage or any proceeding or conveyance in lieu of foreclosure thereof, shall not extinguish the lien of all such assessments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for an assessment thereafter becoming due or from the lien thereof.

ARTICLE XI

SANITARY DISPOSAL

11.1 Septic Systems. No individual septic system or sewage disposal facility installed upon any Lot shall be installed with any of its components less than fifty (50) feet from the high water mark of any lake, stream, wet bottom detention pond or other body of water. All Lots

shall support septic systems in conformity with the ordinances, rules and regulations of the Village of Lily Lake. All septic systems shall be approved by the Kane County Health Department. Areas of each Lot designated for use by septic or sewage dispersal system shall be staked out at each Lot Owner's expense prior to any construction or earth moving on such Lot so as to prevent compaction of such areas.

ARTICLE XII WATER SERVICE

12.1 ***Wells and Plumbing.*** All plumbing fixtures, dishwashers, toilets, or sewage disposal systems shall be connected to a septic tank system constructed by the Owner and approved by any state, county, or municipal authority having jurisdiction. Septic tank systems and locations must be of registered professional engineer design. Said engineer's design plans must be submitted to the Village or other authority for approval and issuance of permit prior to commencing construction. All systems are to be of the closed type; no waste water is to be discharged into any pond, or onto any Common Properties.

12.2 Every Owner of or contract Purchaser for a Lot in the Properties shall be presumed conclusively, by acceptance of a deed of conveyance to or execution of a contract of purchase for such Lot, to have covenanted, for himself, his heirs, representatives, successors and assigns to install a well water system on his Lot. Each well system or other approved method shall be designed to satisfy the requirements of the County of Kane. Wells shall be established not less than five (5) feet from any property line. Before installation, the design plans for the system shall be submitted to and a permit for installation obtained from Kane County or any other governmental authority having jurisdiction. Any such well system as installed shall be subject to inspection and final approval by the approving authority. The cost of installation of the well system and septic system shall be borne by the Owner. Final approval by the Committee of building plans shall be subject to issuance of the required permits for well water and septic systems.

ARTICLE XIII
RESUBDIVISION OF LOTS

No Lot contained within the Subdivision may be resubdivided.

ARTICLE XIV
MAINTENANCE OF
STORM WATER DRAINAGE AND DETENTION FACILITIES

The Storm Water Drainage and Storm Water Detention Facilities shall not be filled or otherwise altered by the Owners in any way which would adversely affect the functioning of such drainage system areas, retention or detention areas. To the extent, if at all, that any Owner shall fail to perform the maintenance of his own Lot whether vacant or improved, which is required by the foregoing, upon thirty (30) days prior written notice, and in a reasonable manner, the Homeowners' Association may, but shall not be required to, perform such maintenance or repair and, in such event, the cost thereof shall be added to such Owner's annual assessment and such amount shall be immediately due and payable and the Association may, but shall not be required to, perform such maintenance or repair and, in such event, the cost thereof shall be added to such Owner's annual assessment and such amount shall be immediately due and payable and the Homeowners' Association shall have such rights and remedies respect to the collection of the same as are herein provided with respect to annual assessments.

The Storm Water Detention and Drainage Facilities (the "Detention Facilities") as shown on the Final Plat of Subdivision shall be owned by the Homeowners' Association created pursuant to this Declaration. The Detention Facilities, and any detention easement area on any individual lot (collectively, the "Detention Easements"), shall be maintained by the Association out of the annual maintenance assessment. The Association shall have the exclusive right and obligation to maintain the Detention Easements, and shall have an easement in gross over, upon and through any individual lot for such purpose. The Association shall also be responsible to maintain all drain titles, outlot pipes, culverts or other Drainage Facilities. In the event that the Association shall fail and refuse, or be unable, to maintain any and all of the Detention Facilities or the Detention Easements, then and in such event, the Village of Lily Lake shall have the right,

but not the obligation, to perform any and all maintenance of such facilities, shall be reimbursed for any of its costs and expenses so incurred, including outside professional fees and attorneys' fees incurred in enforcing its rights and obligations hereunder and shall have a lien on the Lot for all such costs, fees and expenses relating thereto. The Village shall have an easement for all such maintenance over any individual lot in the Project to the extent required for such purposes.

ARTICLE XV SPECIAL SERVICE AREAS

The Village has formed a special service area pursuant to the Illinois Special Service Area Tax Law to provide for backup maintenance of the Storm Water Detention Facilities, the Detention Easements and the Entrance Easements. In addition, the special service area may provide for the repair and replacement of the streets within Sunset Views Unit II and certain other expenses of the Village in administering the subdivision. Formation of such Special Service Area shall not constitute either a waiver of any remedies granted to the Village in this Declaration for failure to maintain the Detention Facilities, Detention Easements or the Entrance Easements, nor shall it constitute an election of remedies. Pursuant to the Special Service Area, the Village may impose an annual ad valorem tax upon all taxable properties in the area. This tax shall not exceed \$1.50 per \$100 (one dollar fifty cents per one hundred dollars of assessed valuation). It is the intent of the Village and Developer that such authority be exercised only as a last resort; such determination, however, shall lie within the sole discretion of the Village.

ARTICLE XVI IMPACT FEES

Impact fees for the Burlington Consolidated School District 301, Elburn and Country-Side Fire & Ambulance Districts, and the Village of Lily Lake have been paid by Developer. Any other fees currently required or required in the future by Kane County or other governmental bodies shall be the responsibility of the lot purchaser.

ARTICLE XVII
GENERAL PROVISIONS

17.1 **Insurance.** The Board of Directors of the Homeowners' Association shall have the authority to and shall, to the extent such insurance is available on a commercially reasonable basis, obtain comprehensive liability insurance, in such limits as it shall deem desirable, and workman's compensation insurance and other liability insurance as it may deem desirable, insuring the Association, the Board of Directors, and any Lot Owner on whose Lot any of the Storm Water Drainage Facilities or any pond is located. The premiums for all insurance purchased pursuant to the provision of this Section shall be paid at least thirty (30) days prior to the expiration date of any policy. Except as herein above provided, each Owner shall be responsible for obtaining fire and casualty and other types of insurance as such owner shall deem necessary on his own Lot and the contents of his own Lot, and his additions and improvements thereto as well as his personal liability.

17.2 **Remedies.** In the event of any default by any Owner under the provisions of the Declaration, By-laws or rules and/or regulations of the Homeowners' Association, the Board of Directors or the Village of Lily Lake, in its own right or in right of the Association, shall have each and all of the rights and remedies which may be provided for in this Declaration, the By-Laws and said rules and regulations, and those which may be available at law or in equity, and may prosecute any action or other proceedings against such defaulting Owner and/or others for enforcement of any lien, statutory or otherwise, including foreclosure of such lien and the appointment of a receiver for the Lot and ownership interest of such Owner, or for damages or injunction, or specific performance, or for judgment for payment of money and collection thereof, or for any combination of remedies, or for any other relief. No remedies herein provided or available at law or in equity shall be deemed mutually exclusive of any other such remedy. All expenses of the Homeowners' Association or the Village of Lily Lake in connection with any such actions or proceedings, including court costs and attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the maximum rate permitted by law, from the due date until paid, shall be charged and assessed against such defaulting Owner (to the same extent as the lien provided herein for unpaid assessments), upon the Lot and upon all of his additions and improvements thereto, and upon all

of his personal property upon the Lot. Any and all of such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Homeowners' Association, its Board of Directors by any or all aggrieved Lot Owners, or the Village of Lily Lake. The Village shall have the right, but not the obligation to take any enforcement action permitted hereunder. All of the provisions of this instrument, and those in the Articles of Incorporation and By-Laws of the Homeowners' Association are mutually enforceable by and among the members of the Homeowners' Association, and where applicable by Kane County and the Village of Lily Lake. Any member who feels that a provision is being violated may petition the Homeowners' Association to investigate the situation. Should the Homeowners' Association determine that the allegation is true and that corrective action should be taken, the Homeowners' Association shall take whatever action is necessary to end the violation. Should the Homeowners' Association deem the allegation of violation as unworthy of action or fail to investigate the alleged violation within thirty (30) days of notice, then the complaining Member may prosecute his claim in whatever legal manner is best suited to the situation.

17.3 **Land Trusts.** In the event title to any Lot is conveyed to a land title-holding trust under the terms of which all powers of management, operation and control of the Lot remain vested in the trust beneficiary or beneficiaries, then the Lot under such trust and the beneficiaries thereunder from time to time shall be responsible for payment of all obligations, liens or indebtedness and for the performance of all agreements, covenants and undertakings chargeable or created under this Declaration against such Lot or its Owner. The names of the beneficiaries of the Trust shall be disclosed in writing to the Homeowners' Association within thirty (30) days of such conveyance, or any subsequent assignment of the beneficial interest in such trust. No claim shall be made against any such title-holding trustee personally for the payment of any lien or obligation hereunder created, and such trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of such lien or obligation shall continue to be a charge or lien upon the Lot and the beneficiaries of such trust notwithstanding any transfers of title of such Lot.

17.4 **Amendments.** The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless

seventy five percent (75%) of the votes outstanding shall have been voted to terminate the covenants and restrictions of this Declaration upon the expiration of the initial twenty year period or any extension thereof, which termination shall be by written instrument signed by seventy five percent (75%) of the Owners and approved by and filed with the Village of Lily Lake, and upon such approval properly recorded in Kane County, Illinois. This Declaration may be amended during the first twenty year period by an instrument signed by the Developer, and by not less than seventy five percent (75%) of the Owners except that Developer's consent shall not be required if he is no longer the owner of any Lot. Any amendment must be recorded. Notwithstanding any provisions hereof to the contrary, the Developer may, at his sole discretion and without consent being required of anyone, modify, amend, or repeal this Declaration at any time prior to the closing of the sale of the first Lot, provided said amendment, modification or repeal is in writing and properly recorded in Kane County, Illinois and further provided amendment of any provisions benefitting the Village of Lily Lake shall not be valid unless the Village consents by ordinance. Developer further reserves, prior to the closing of the sale of all of the Property, all rights which may be necessary to deal with the Property, including the right to vacate, amend, or modify the Plat of Subdivision, subject to approval of the corporate authorities of the Village. Further, nothing contained in this Section shall have application to nor require consent for the Developer's recording of any Supplementary Declaration relative to the annexation of additional properties which may be subjected to this Declaration provided no such modification shall change the substantive provisions of this Declaration or any Supplemental Declaration or materially alter the rights of any Owner or the Village established by any such document.

17.5 Rights and Obligations. The provisions of this Declaration and this By-Laws and the rights and obligations established thereby shall be deemed to be covenants running with the land and shall inure to the benefit of, and be binding upon, each and all of the Owners and their respective heirs, representatives, successors, assign, purchasers, grantees and mortgagees. By the recording or the acceptance of a deed conveying a Lot or any interest therein, or any ownership interest in the Lot whatsoever, the person, to whom such Lot or interest is conveyed shall be deemed to accept and agree to be bound by and subject to all of the provisions of this Declaration and the By-Laws, whether or not mention thereof is made in said deed.

17.6 ***Rights and Duties of Institutional Lenders.*** Any provision of the within Declaration or of the By-Laws to the contrary notwithstanding, the following provisions shall control:

(a) Upon written notice directed to the Homeowners' Association by any first mortgagee of a Lot, the following actions will require notice to all said institutional holders:

- (i) Abandonment or termination of the Homeowners' Association; and
- (ii) Material amendment to the Declaration, By-Laws or Articles of Incorporation.

(b) Upon the request in the manner prescribed above of any first mortgagee of a Dwelling on a Lot, the Homeowners' Association shall furnish to such mortgagee a written notice of any default by the Owner of such dwelling in the performance of such owner's obligations under the within Declaration or the By-Laws or Homeowners' Association's rules or regulations which is not cured within thirty (30) days.

(c) Each first mortgagee of a Dwelling on a Lot shall have the right to examine the books and records of the Homeowners' Association during normal business hours. The first mortgagees may, jointly or singly, pay taxes or other charges against the Common Areas or any portion thereof. First mortgagees may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for such property, and first mortgagees making such payments shall be owed immediate reimbursement therefor from the Homeowners' Association. The Homeowners' Association shall have the authority to enter into any agreement reflecting the provisions of the within subsection in such form as may reasonably be required by such mortgagees, and in the absence of any such agreement, the provisions of the within subsection shall be deemed to be the agreement of the Homeowners' Association and binding upon it in favor of all such mortgages.

(d) Institutional holders of first mortgages of a dwelling on a Lot shall, in addition, upon written request, have the right:

- (i) to receive an annual financial statement of the Homeowners' Association within ninety (90) days following the end of any fiscal year of the Homeowners' Association; and
- (ii) to receive written notice of all meetings of the Homeowners' Association and to designate a representative to attend all such meetings.

17.7 Actions Requiring Three-Quarters Vote. Unless at least seventy five percent (75%) of the Owners and the Developer have given their prior written approval, and unless the Village consents by ordinance approved by not less than two-thirds (2/3) of the corporate authorities, the Homeowners' Association shall not be entitled to:

- (a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Properties, or any portion thereof or interest therein; except that the granting of easements for public utilities, the dedication to a public park district or other public purposes consistent with the intended use of such property shall not be deemed a transfer within the meaning of this clause;
- (b) Change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner by Homeowners Association; or
- (c) By act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance of the dwellings or maintenance of the dwellings or Lots.

17.8 Headings. The headings contained in this Declaration are for reference purposes only and shall not in anyway affect the meaning or interpretation of this Declaration. All personal pronouns used in this Declaration, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa. Titles of Articles and Sections are for convenience only, and neither limit nor amplify the provisions of the Declaration unless specified reference is made to such Articles, Section or subdivisions by another document or instrument.

17.9 Conflicts and Incorporation by Reference.

- (a) The Developer's predecessor in title has heretofore entered into an Annexation Agreement with the Village, which has been recorded in Kane County, Illinois. The

provisions, restrictions and obligations of the Annexation Agreement are hereby incorporated in this Declaration of Covenants, Condition, and Restrictions as if fully set forth.

(b) The "Architectural Guidelines and Building Requirements for Sunset Views Unit II Homeowners' Association" attached hereto as Exhibit "E" are also incorporated herein as if fully set forth.

(c) In the event of any conflict between this Declaration and the By-Laws or Articles of Incorporation, this Declaration shall control.

(d) In the event of any conflict between the provisions of the Annexation Agreement and this Declaration, the most restrictive provisions shall control. In the event of any conflict between the provisions of this Declaration and the Architectural Guidelines attached hereto, the provisions of this Declaration shall control.

17.10 *Perpetuities and Restraints on Alienation.* If any of the options, privileges, covenants or rights created by this Declaration would otherwise be unlawful or void for violation of:

- (a) the rule against perpetuities or some analogous statutory provisions;
- (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 death of the now living lawful descendants of Rod Blagojevich, Governor-elect of the State of Illinois, and George W. Bush, President of the United States of America.

17.11 *Notices.* Notices provided for in the Declaration or By-Laws shall be in writing and shall be addressed to the Homeowners' Association or to any Owner at its respective address as follows:

Developer:

PREPARED BY:

AMG Homes, INC.

~~932 Canyon Trail~~, 534 BLUESTEM DR.

Yorkville, IL 60560

Attn: Chad Gunderson

Fax: (630)553-3726

pd 12/6

Sunset Views Unit II
Homeowners' Association:

Sunset Views Unit II Homeowners'
Association

~~932 Canyon Trail~~, 534 BLUESTEM DR.

Yorkville, IL 60560

Attn: Chad Gunderson

Fax: (630)553-3726

Notices addressed as above shall be deemed delivered when mailed by United States registered or certified mail, return receipt requested, or when delivered in person with written acknowledgment of the receipt thereof. Notices of change of address shall be sent certified or registered mail.

17.12 **Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

17.13 The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the perpetuation of a first-class development.

17.14 Notices required to be given any devisee or personal representative of a deceased owner may be delivered either personally or by mail to such party at his or its address appearing in the records of the court wherein the state of such deceased Owner is being administered.

17.15 No covenants, restrictions, conditions, obligations or provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

17.16 All rights which are specified in the Declaration to be rights of Developer are assignable or transferable. Upon any exercise of rights by the holder of said assignment or transfer, any one or more of such holders, its nominee or designee, any party appointed pursuant to such assignment or transfer and any successor assignee by foreclosure or otherwise, shall from time to time hold or be entitled to exercise the rights of Developer herein as fully as if named as such party herein. No party exercising rights as Developer hereunder shall have or incur any liability for the acts of any other party which previously exercised or subsequently shall exercise such rights, except to the extent allowed or required by law.

IN WITNESS WHEREOF, Developer has caused this instrument to be executed on his behalf and attested as of the day and year first above written.

OWNER/DEVELOPER:

By:

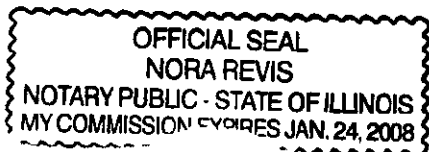
Manager

AMG HOMES, INC.

STATE OF ILLINOIS)
) SS
COUNTY OF KANE)

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that the Developer is personally known to me to be the same person whose name is subscribed to the foregoing instrument appeared before me this day in person and having been first duly sworn on oath, signed the above and foregoing instrument, and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and the free and voluntary act of the Developer, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 25 day of May, ²⁰⁰⁵2004.



Nora Revis
Notary Public

PERMANENT INDEX NOS: _____

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EXHIBIT A

LOTS 1 THROUGH 47 IN FINAL PLAT OF SUNSET VIEWS UNIT II, IN THE VILLAGE OF LILY LAKE, KANE COUNTY, ILLINOIS, ACCORDING TO THE PLAT THEREOF RECORDED THE 19th DAY OF APRIL, 2005, WITH THE KANE COUNTY RECORDER'S OFFICE AS DOCUMENT 2005K043542, IN THE CITY OF GENEVA, KANE COUNTY, ILLINOIS.

Unofficial