

RESOLUTION NO. R-67-17

**A RESOLUTION APPROVING PULTE HOMES DECLARATIONS OF COVENANTS
FOR THE LORETTO CLUB**

WHEREAS, on April 4, 2017 the City of Wheaton (hereinafter "City") and Pulte Homes entered into a development agreement pursuant to Resolution R-20-17 (hereinafter "Settlement Agreement") for the property commonly known as the Loretto Club; and

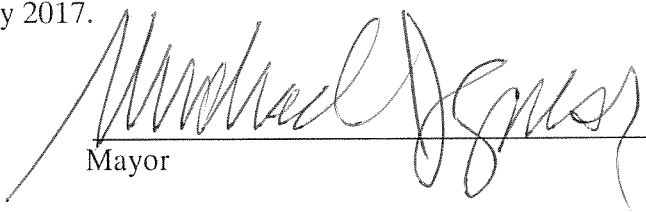
WHEREAS, the Development Agreement (Sections 4.2 and 4.3), provides that declarations and covenants for the Loretto Club contain certain provisions for the benefit of the City; and

WHEREAS, there has been submitted to the City a document entitled "Declaration of Covenants for Loretto Club" a copy of which is attached hereto and incorporated herein as if fully set forth as Exhibit 1; and

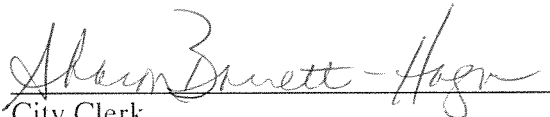
WHEREAS, Corporate Authorities of the City have concluded that the Declaration of Covenants for Loretto Club (Exhibit 1) are consistent with and fulfill the requirements of the Development Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and the City Council of the City of Wheaton, that the Declarations of Covenant of the Loretto Club attached hereto and incorporated herein as if fully set forth as Exhibit 1 are hereby deemed to conform to the requirements of the Development Agreement and are approved and accepted for the benefit of the City of Wheaton.

ADOPTED this 17th day of July 2017.


Mayor

ATTEST:


City Clerk

Ayes:

Roll Call Vote:
Councilman Rutledge
Councilman Scalzo
Councilman Barbier
Councilwoman Fitch
Mayor Pro Tem Sues

Nays:

None

Absent:

Mayor Gresk
Councilman Prendiville

Motion Carried Unanimously

THIS INSTRUMENT PREPARED
BY AND SHOULD BE RETURNED
TO:

Victoria C. Bresnahan
MELTZER, PURTILL & STELLE LLC
300 South Wacker Drive, Suite 2300
Chicago, Illinois 60606

ABOVE SPACE FOR RECORDER'S USE ONLY

DECLARATION OF COVENANTS FOR LORETTO CLUB

[Section 1.21 contains blanks; Exhibits A & B are incomplete]

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DECLARATION OF COVENANTS FOR LORETTO CLUB

This Declaration is made by Pulte Home Company, LLC, a Michigan limited liability company ("Declarant").

RECITALS

Declarant is the record title holder of the Development Area which is legally described in Exhibit A hereto. Some or all of the Development Area shall be the subject of a single family development called "Loretto Club" (the "Development").

The Declarant shall subject the real estate which is legally described in Exhibit B hereto to the provisions of this Declaration as the Premises.

Certain portions of the Premises are designated as Lots and other portions are designated as Community Area. The Declarant has formed (or will form) the Association under the Illinois Limited Liability Company Act. The Association shall have the responsibility for administering and maintaining the Community Area and shall set budgets and fix assessments to pay the expenses incurred in connection with such responsibility. Each Owner of a Lot shall be a member of the Association and shall be responsible for paying assessments with respect to the Lot owned by such Owner, as more fully described in this Declaration.

As of the Recording of this Declaration, the Declarant's Development Plan provides for the construction of 48 single family homes and certain community area lots, all as shown on the Plat, as maybe added or amended from time to time.

During the construction and marketing of the Development, the Declarant shall retain certain rights set forth in this Declaration, which rights shall include, without limitation, the right, prior to the Turnover Date, to manage the affairs of the Association, or to designate the Managers of the Association, as more fully described in Article Nine and in the Operating Agreement, the right to come upon the Premises in connection with Declarant's efforts to sell Lots and other rights reserved in Article Nine.

NOW, THEREFORE, the Declarant hereby declares as follows:

Article One DEFINITIONS

For the purpose of brevity and clarity, certain words and terms used in this Declaration are defined as follows:

1.01 ASSOCIATION: The Loretto Club Homeowners' Association LLC, an Illinois limited liability company, and its successors and assigns. As more fully provided in Section 5.10, the Association may be merged into an Illinois not for profit corporation, which would become the Association hereunder.

1.02 CHARGES: The Community Assessment, any special assessment levied by the Association and/or any other charges or payments which an Owner is required to pay or for which an Owner is liable under this Declaration or the Operating Agreement.

1.03 CITY: The City of Wheaton, an Illinois municipal corporation, or any political entity which may from time to time be empowered to perform the functions or exercise the powers vested in the City as of the Recording of this Declaration.

1.04 COMMUNITY AREA: Those portions of the Premises which are described and designated as "Community Area" in Exhibit B hereto, together with all improvements located above and below the ground and rights appurtenant thereto. The Community Area shall generally include, without limitation, detention areas, bike path and landscape easement areas, within the Development, together with improvements located thereon.

1.05 COMMUNITY ASSESSMENT: The amounts which the Association shall assess and collect from the Owners to pay the Community Expenses and accumulate reserves for such expenses, as more fully described in Article Six.

1.06 COMMUNITY EXPENSES: The expenses of administration (including management and professional services), operation, maintenance, repair, replacement and landscaping and other improvements (including any monument signage) on the Community Area, or as otherwise provided in this Declaration; the cost of insurance for the Community Area; the cost of general and special real estate taxes and assessments levied or assessed against the Community Area owned by the Association; the cost of, and the expenses incurred for, the maintenance, repair and replacement of personal property acquired and used by the Association in connection with the maintenance of the Community Area; if not separately metered or charged to the Owners, the cost of necessary utility services to the Premises; costs, expenses, fees or charges payable to the City pursuant to this Declaration; and any other expenses lawfully incurred by the Association for the common benefit of all of the Owners. Notwithstanding the foregoing, Community Expenses shall not include any payments made out of Capital Reserves.

1.07 COUNTY: DuPage County, Illinois or any political entity which may from time to time be empowered to perform the functions or exercise the powers vested in the County as of the Recording of this Declaration.

1.08 DECLARANT: Pulte Home Company, LLC, a Michigan limited liability company, its successors and assigns.

1.09 DECLARANT'S DEVELOPMENT PLAN: Declarant's current plan for the Development. Declarant's Development Plan shall be maintained by the Declarant at its principal place of business and may be changed at any time or from time to time without notice, but at all times shall comply with City ordinances.

1.10 DECLARATION: This instrument with all Exhibits hereto, as amended or supplemented from time to time.

1.11 DEVELOPMENT AREA: The real estate described in Exhibit A hereto with all improvements thereon and rights appurtenant thereto as Exhibit A may be amended as provided in Section 10.01. Exhibit A is attached hereto for informational purposes only and no covenants, conditions, restrictions, easements, liens or changes shall attach to any part of the real estate described therein, except to the extent that portions thereof are described in Exhibit B and expressly made subject to the provisions of this Declaration as part of the Premises.

1.12 FIRST MORTGAGEE: The holder of a bona fide first mortgage, first trust deed or equivalent security interest covering a Lot.

1.13 FOUNDATION PLANTINGS: The Declarant will install a mulched area adjacent to each Home improved with minimal plantings. The Owner of a Home may from time to time add to these plantings subject to Section 3.05. All plantings to this area or increasing the mulched areas shall be known as "Foundation Plantings", and shall comply with the Declarant's Development Plan and City ordinances.

1.14 HOME: That portion of a Lot which is improved with a single family home, including any steps or decks which serve the Home.

1.15 LOT: A subdivided lot which is designated in Exhibit B as a "Lot" and upon which a Home is or will be constructed.

1.16 MANAGERS: The manager or managers from time to time as appointed or elected as provided in this Declaration or the Operating Agreement, provide, that if the Association is merged into an Illinois not for profit corporation, as more fully provided in Section 5.10 below, the Managers shall be the board of directors of the Association.

1.17 OPERATING AGREEMENT: The Operating Agreement of the Association, a true copy of which is attached hereto as Exhibit C, provided that, if the Association is merged into an Illinois not for profit corporation, as more fully provided in Section 5.10 below, the term Operating Agreement as used herein shall mean the by-laws of the Association.

1.18 OWNER: A Record or beneficial owner, whether one or more persons, of fee simple title to a Lot, including contract seller, but excluding those having such interest merely as security for the performance of an obligation. The Declarant shall be deemed to be an Owner with respect to each Lot owned by the Declarant.

1.19 PERSON: A natural individual, corporation, partnership, limited liability company, trustee or other legal entity capable of holding title to real property.

1.20 PLAT: Any City approved plat of subdivision or plat of resubdivision which includes part of the Premises, including without limitation the Plat of Subdivision for Loretto Club Recorded _____ as Document Number _____, as may be amended or resubdivided from time to time.

1.21 PREMISES: The real estate which is legally described in Exhibit B hereto, as amended or supplemented from time to time, with all improvements thereon and rights appurtenant thereto.

1.22 RECORD: To record in the office of the Recorder of Deeds for the County.

1.23 RESIDENT: An individual who resides in a Home.

1.24 SUBJECT TO ASSESSMENT: A Lot shall only be "Subject to Assessment" hereunder from and after such time as a temporary, conditional or permanent certificate of occupancy has been issued for the Home constructed thereon and the Lot is conveyed by the Declarant to the first purchaser thereof.

1.25 TURNOVER DATE: The date on which the right of the Declarant to manage the affairs of the Association is terminated under Section 9.04.

1.26 VOTING MEMBER: The individual who shall be entitled to vote in person or by proxy at meetings of the Owners, as more fully set forth in Article Five.

Article Two
SCOPE OF DECLARATION

2.01 PROPERTY SUBJECT TO DECLARATION: Declarant, as the owner of fee simple title to the Premises, expressly intends to and by Recording this Declaration, does hereby subject the Premises to the provisions of this Declaration.

2.02 CONVEYANCES SUBJECT TO DECLARATION: All easements, restrictions, conditions, covenants, reservations, liens, charges, rights, benefits, and privileges which are granted, created, reserved or declared by this Declaration shall be deemed to be covenants appurtenant, running with the land and shall at all times inure to the benefit of and be binding on any Person having at any time any interest or estate in the Premises, and their respective heirs, successors, personal representatives or assigns, regardless of whether the deed or other instrument which creates or conveys the interest makes reference to this Declaration.

2.03 CITY ORDINANCES: All ordinances and codes of the City remain applicable to the Premises. If anything in this Declaration is inconstant with the City Code or ordinances, the stricter provision shall apply.

2.04 DURATION: Except as otherwise specifically provided herein the covenants, conditions, restrictions, easements, reservations, liens, and charges, which are granted, created, reserved or declared by this Declaration shall be appurtenant to and shall run with and bind the land for a period of forty (40) years from the date of Recording of this Declaration and for successive periods of ten (10) years each unless revoked, changed or amended in whole or in part as provided in Section 10.02.

2.05 LOT CONVEYANCE: Once a Lot has been conveyed by the Declarant to a bona fide purchaser for value, then any subsequent conveyance or transfer of ownership of the Lot shall be of the entire Lot and there shall be no conveyance or transfer of a portion of the Lot without the prior written consent of the Managers.

2.06 ACCESS EASEMENT: Each Owner and Resident of a Lot shall have a non-exclusive, perpetual easement for ingress to and egress from his Lot to public streets and roads over and across the roads, driveways and walkways, if any, located on the Community Area, which easement shall run with the land, be appurtenant to and pass with title to every Lot. The City or any other governmental authority which has jurisdiction over the Premises shall have a non-exclusive easement of access over roads and driveways located on the Community Area for police, fire, ambulance, waste removal, or for the purpose of furnishing or performing municipal or emergency services to the Premises, including, without limitation, enforcement activities. The Association, its employees, agents and contractors, shall have the right of ingress to, egress from, the Community Area and the right to store equipment on the Community Area, for the purpose of furnishing any maintenance, repairs or replacements required or permitted hereunder.

2.07 RIGHT OF ENJOYMENT: Each Owner shall have the non-exclusive right and easement to use and enjoy the Community Area and the exclusive right to use and enjoy the Owner's Lot. Such rights and easements shall run with the land, be appurtenant to and pass with title to every Lot, and shall be subject to and governed by the laws, ordinances and statutes of jurisdiction, the provisions of this Declaration, the Operating Agreement, and the reasonable rules and regulations from time to time adopted by the Association, including the right of the Association to come upon a Home to furnish services hereunder.

2.08 DELEGATION OF USE: Subject to the provisions of this Declaration, the Operating Agreement, and the reasonable rules and regulations from time to time adopted by the Association, any Owner may delegate his right to use and enjoy the Community Area to Residents of the Owner's Home. An Owner shall delegate such rights to tenants and contract purchasers of the Owner's Home who are Residents.

2.09 RULES AND REGULATIONS: The use and enjoyment of the Premises shall at all times be subject to reasonable rules and regulations duly adopted by the Association from time to time.

2.10 UTILITY EASEMENTS: The City and all public and private utilities (including cable companies) serving the Premises are hereby granted the right to lay, construct, renew, operate, repair and maintain conduits, cables, pipes, wires, transformers, switching apparatus and other equipment, into and through the Community Area for the purpose of providing utility or other services to the Premises or any other portion of the Development Area. Location of utility easements will be delineated on the City-approved final plat of subdivision, subject to any amendments in conformance with the law.

2.11 EASEMENTS, LEASES, LICENSES AND CONCESSIONS: The Association shall have the right and authority from time to time to lease or grant easements, licenses, or concessions with regard to any portions or all of the Community Area for such uses and purposes as the Managers deem to be in the best interests of the Owners and which are not prohibited hereunder including, without limitation, the right to grant easements for utilities or any other purpose which the Managers deem to be in the best interests of the Owners. Any and all proceeds from leases, easements, licenses or concessions with respect to the Community Area shall be used to pay the Community Expenses. Also, the Association shall have the right and power to dedicate any part or all of the roads and parking areas (if any) or other vacant areas located on the Community Area to the City or other governmental authority which has jurisdiction over the Community Area. Each person, by acceptance of a deed, mortgage, trust deed, other evidence of obligation, or other instrument relating to a Home, shall be deemed to grant a power coupled with an interest to the Managers, as attorney-in-fact, to dedicate portions of the Community Area or to grant, cancel, alter or otherwise change the easements provided for in this Section 2.11. Any instrument executed pursuant to the power granted herein shall be executed by the Manager of the Association prior to the Turnover Date or by the majority of the Managers thereafter and duly Recorded.

2.12 ASSOCIATION'S ACCESS: The Association shall have the right and power to come onto any Lot for the purpose of furnishing the services required to be furnished hereunder, including, without limitation, the services described in Section 3.02 and Section 3.05, or enforcing its rights and powers hereunder.

2.13 NO DEDICATION TO PUBLIC USE: Except for easements granted or dedications made as permitted in Section 2.11 or as shown on the Plat, nothing contained in this Declaration shall be construed or be deemed to constitute a dedication, express or implied, of any part of the Community Area to or for any public use or purpose whatsoever.

2.14 OWNERSHIP OF COMMUNITY AREA: Those portions of the Community Area which are part of a Lot, if any, shall be owned by the Owner of the Lot subject to the rights of the Association to maintain, repair and replace improvements thereon as provided in Article Three. Those portions of the Community Area which are not part of a Lot shall be conveyed to the Association free of mortgages no later than sixty (60) days after the Turnover Date, subject to the rights of Owners from time to time of Lots to use and enjoy the Community Area as provided herein.

2.15 REAL ESTATE TAXES FOR COMMUNITY AREA: If a tax bill is issued with respect to Community Area which is made subject to this Declaration in the middle of a tax year (regardless of when it is conveyed to the Association), then the tax bill shall be prorated so that the Declarant shall be responsible for the payment of that portion of the tax bill from January 1st of the tax year to the date that such Community Area is made subject to this Declaration, and the Association shall be responsible for the balance of the tax bill for such year, and any tax bills for subsequent years. Each Owner of a Lot shall be responsible for the payment of real estate taxes levied with respect to the Owner's Lot (including that portion of the Owner's Lot which is designated as Community Area hereunder).

Article Three COMMUNITY AREA/ASSOCIATION MAINTENANCE

3.01 IN GENERAL: The restrictions and limitations contained in this Article shall be subject to the rights of the Declarant set forth in Article Nine.

3.02 MAINTENANCE, REPAIR AND REPLACEMENT BY ASSOCIATION:

(a) The following maintenance, repairs and replacements shall be the responsibility of and furnished by the Association:

(i) Added planting, replanting, care and maintenance of trees, shrubs, flowers, grass, berms, parks and all other landscaping, including without limitation the landscape buffer located on Outlot D on the Plat per the landscape plans approved by the City and on file with the Association.

(ii) Subject to Section 8.10, Foundation Plantings installed by the Declarant or the Association shall be maintained by the Association (including adding mulch, trimming bushes, weed control), but repaired and replaced by the Owner of the Lot;

(iii) Maintenance, including mowing, of grass on the Lots shall be maintained by the association, but repaired and replaced by the Owner of the Lot;

(iv) Maintenance, repair and replacement of entryway monument, seating areas, gazebos, fences, landscape walls, and other improvements located on the Community Area;

(v) Maintenance, repair and replacement of stormwater areas and retention ponds located on the Community Area in conformance with the approved engineering plans and stormwater permit issued by the City;

(vi) To the extent not maintained by the City, maintenance (excluding street sweeping and snow removal), repair and replacement of the public access on Outlot B to the adjacent park, emergency access driveways on Outlot C on the Plat, parking areas, trails, sidewalks and walkways located on the Community Area;

(vii) Snow removal from the private driveways, service walks and front porches serving a Home located on a Community Area or on a Lot;

(viii) Maintenance, repair and replacement of the irrigation system, if any, located on the Community Area; and

(ix) Maintenance, repair and replacement of the electronic gate on the Community Area, including providing electrical service, for emergency access by the City fire department and other emergency service providers; provided, however, that the Owners as well as the owners of the adjacent property shall not be permitted access to or through the gate.

(b) All maintenance, repair and replacement work required pursuant to this Declaration shall be promptly completed in a good and workmanlike manner consistent with any applicable governmental regulations or standards, or, if no such regulations or standards apply, then consistent with good engineering, forestry, or other similar professional standards so as to ensure the safe and effective condition of the portion of the Development subject to maintenance, repair or replacement. The cost of any maintenance, repairs and replacement furnished by the Association pursuant to this Section shall be Community Expenses.

(c) The Association shall maintain the grass, shrubs, trees, and flowers, if any, installed by the Declarant on the Community Area ("Initial Plantings") in accordance with the Declarant's Development Plan and with generally accepted landscape maintenance standards, including mowing, trimming, fertilization, pruning, re-mulching, applications of insect and disease control, as needed, and any other maintenance which will promote the health of the Initial Plantings. If the Association fails to maintain the Initial Plantings in accordance with generally acceptable landscape maintenance standards and Initial Plantings die or decline as a result of this failure, then, the Association shall be responsible for the replacement of the declining or dead Initial Plantings, including, but not limited to replacements required by the City in connection with the City's acceptance of the Initial Plantings. All expenses incurred under this subsection shall be Community Expenses.

(d) The Association shall not be required to provide maintenance to any Lot which is not yet Subject to Assessment hereunder.

3.03 MAINTENANCE BY OWNER:

(a) Except as otherwise specifically provided for in this Declaration each Owner of a Lot shall be responsible for the maintenance, repair and replacement of the Owner's Lot and the Home thereon.

(b) Each Owner shall be responsible for maintenance, repairs and replacements of patios and decks adjacent to the Owner's Home.

(c) Each Owner shall be responsible for repairs and replacements of Foundation Plantings on the Owner's Lot as well as the maintenance, repair and replacement of any added Foundation Plantings.

(d) Each Owner shall be responsible for the maintenance, repair and replacement of the front porch, service walk and driveway which serves his Home.

(e) The Owners of Lots 31 through 36 shall be responsible for the maintenance, repair and replacement of the landscape buffer area per the landscape plans approved by the City and on file with the Association.

(f) If, in the judgment of the Managers, an Owner fails to maintain those portions of the Owner's Lot which the Owner is responsible for maintaining hereunder in good condition and repair or the appearance of such portions is not of the quality of that of other Lots in the Development or in compliance with rules and regulations adopted by the Managers from time to time, then the Managers may, in its discretion, take the following action:

(i) advise the Owner of the work which must be done and allow the Owner at least twenty (20) days (or less in the case of an emergency) to cause the work to be done; and

(ii) if the work is not done to the satisfaction of the Managers, in its sole judgment, then the Managers may seek injunctive relief, levy a fine and/or cause such work to be done and the cost thereof shall be a Charge payable by the Owner to the Association upon demand.

3.04 ALTERATIONS, ADDITIONS OR IMPROVEMENTS TO THE COMMUNITY AREA: Subject to the provisions of Article Nine, no alterations, additions or improvements shall be made to the Community Area without the prior approval of the Managers and, if required under applicable City ordinances, the approval of the City. The Association may cause alterations, additions or improvements to be made to the Community Area and the cost thereof shall be paid from a special assessment, as more fully described in Section 6.05, or from the Capital Reserve, as more fully described in Section 6.06; except, that, any such alteration, addition or improvement which shall cost more than four (4) months assessments then in effect under the then current budget shall be approved in advance at a special meeting of the Owners.

3.05 ALTERATIONS, ADDITIONS OR IMPROVEMENTS TO LOTS: Except as provided in Article Nine, no additions, alterations or improvements, including, without limitation, (i) changes in the exterior color of a Home, (ii) construction of awnings, antenna or satellite dish, (iii) adding new or replacement landscaping, (iv) construction of a deck or patio, and (v) installation of other similar improvements, shall be made to any Lot or any part of the Home which are visible from outside the Home by an Owner without first (a) compliance with applicable ordinances of the City, including the issuance of any necessary permits and satisfaction of any lot coverage restrictions required by the City, and second (b) the prior written consent of the Managers, and, until the Declarant no longer owns or controls title to any portion of the Development Area, the Declarant. Applications for approvals shall not be submitted to the City unless and until the Owner has obtained any necessary approval by the Board.

If an addition, alteration or improvement which requires prior approval of the City and the consent of the Managers and/or Declarant hereunder is made to a Lot by an Owner without such prior City approval or the prior written consent of the Managers or Declarant, or both, as applicable, then the Managers may, in their discretion, take either of the following actions:

(a) Require the Owner to remove the addition, alteration or improvement and restore the Lot to its original condition, all at the Owner's expense; or

(b) If the Owner refuses or fails to properly perform the work required under (a), may cause such work to be done and may charge the Owner for the cost thereof as determined by the Managers or the Declarant, as applicable.

In addition to the foregoing, until such time as the Declarant no longer owns or controls title to any portion of the Development Area, the Declarant may, in its discretion take either of the above actions as well.

3.06 CERTAIN UTILITY COSTS: Certain utility costs incurred in connection with the use, operation and maintenance of the Community Area may not be separately metered and billed to the Association. If the cost for any such utility is metered and charged to individual Homes rather than being separately metered and charged to the Association, then the following shall apply:

(a) If in the opinion of the Managers, each Owner is sharing in a fair and equitable manner the cost for such service, then no adjustment shall be made and each Owner shall pay his own bill; or

(b) If in the opinion of the Managers, the Owner of a Home is being charged disproportionately for costs allocable to the Community Area, then the Association shall pay, or reimburse such Owner, an amount equal to the portion of the costs which in the reasonable determination of the Managers is properly allocable to the Community Area and the amount thereof shall be Community Expenses hereunder. Any determinations or allocations made hereunder by the Managers shall be final and binding on all parties.

3.07 DAMAGE BY RESIDENT: If, due to the act or omission of a Resident of a Home, or of a household pet or guest or other authorized occupant or invitee of the Owner of a Lot, damage shall be caused to the Community Area and maintenance, repairs or replacements shall be required thereby, which would otherwise be a Community Expense, then the Owner of the Lot shall pay for such damage and such maintenance, repairs and replacements, as may be determined by the Managers, to the extent not covered by insurance carried by the Association or an Owner.

Article Four INSURANCE/CONDEMNATION

4.01 COMMUNITY AREA INSURANCE:

(a) The Association shall have the authority to and shall obtain fire and all risk coverage insurance covering the improvements, if any, to the Community Area and other improvements required to be maintained by the Association (based on current replacement cost for the full insurable replacement value) of such improvements.

(b) The Association shall have the authority to and shall obtain comprehensive public liability insurance, including liability for injuries to and death of persons, and property damage, in such limits as it shall deem desirable, and workmen's compensation insurance and other liability insurance as it may deem desirable, insuring each Owner, the Association, its managers and officers, the Declarant, the managing agent, if any, and their respective employees and agents, as their interests may appear, from liability resulting from an occurrence on or in connection with, the Community Area, and/or adjacent dedicated rights of way or detention areas. The Managers may, in their discretion, obtain any other insurance which it deems advisable including, without limitation, insurance covering the managers and officers from liability for good faith actions beyond the scope of their respective authorities and covering the indemnity set forth in Section 5.06. Such insurance coverage shall include cross liability claims of one or more insured parties.

(c) Fidelity bonds indemnifying the Association, the Managers and the Owners for loss of funds resulting from fraudulent or dishonest acts of any employee of the Association or of any other person handling funds of the Association may be obtained by the Association in such amounts as the Managers may deem desirable.

(d) The premiums for any insurance obtained under this Section shall be Community Expenses.

4.02 CONDEMNATION: In the case of a taking or condemnation by competent authority of any part of the Community Area, the proceeds awarded in such condemnation shall be paid to the Association and such proceeds, together with any Community Area Capital Reserve being held for such part of the Community Area, shall, in the discretion of the Managers, either (i) be applied to pay the Community Expenses, (ii) be distributed to the Owners and their respective mortgagees, as their interests may appear, in equal shares, or (iii) be used to acquire additional real estate to be used and maintained for the mutual benefit of all Owners, as Community Area under this Declaration. Any acquisition by the Association pursuant to this Section 4.02 of real estate which shall become Community Area hereunder shall not become effective unless and until a supplement to this Declaration, which refers to this Section 4.02 and legally describes the real estate affected, is executed by the Manager of the Association prior to the Turnover Date or by a majority of the Managers thereafter and Recorded.

Article Five THE ASSOCIATION

5.01 IN GENERAL: Declarant has caused or shall cause the Association to be organized as a limited liability company under the laws of the State of Illinois law. The Association shall be the governing body for all of the Owners for the administration and operation of the Community Area. The Association shall be responsible for the maintenance, repair and replacement of the Community Area, and such other portions of the Premises as set forth in this Declaration.

5.02 MEMBERSHIP: Each Owner shall be a member of the Association. There shall be one membership per Lot. There shall be two (2) classes of membership. Each Owner of a Lot (other than Declarant) shall be a "Class A Member"; and the Declarant shall be a "Class B Member" with respect to its ownership of any Lot. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Ownership of a Lot shall be the sole qualification for

membership. The Association shall be given written notice of the change of ownership of a Lot within ten (10) days after such change.

5.03 VOTING MEMBERS: Subject to the provisions of Section 9.04, voting rights of the members of the Association shall be vested exclusively in the Voting Members. One individual shall be designated as the "Voting Member" for each Lot. The Voting Member or his proxy shall be the individual who shall be entitled to vote at meetings of the Owners. If the Record ownership of a Lot shall be in more than one person, or if an Owner is a trustee, corporation, partnership or other legal entity, then the Voting Member for the Lot shall be designated by such Owner or Owners in writing to the Managers and if in the case of multiple individual Owners no designation is given, then the Managers at its election may recognize an individual Owner of the Lot as the Voting Member for such Lot.

5.04 MANAGERS: Prior to the Turnover Date, the Managers shall be the Declarant, or one or more entities or persons designated by the Declarant from time to time, who need not be Owners or Voting Members. Initially, the Declarant shall be the sole Manager of the Association. After the Turnover Date, the Managers shall consist of that number of individuals provided for in the Operating Agreement, each of whom shall be an Owner or Voting Member.

5.05 VOTING RIGHTS: Prior to the Turnover Date, all of the voting rights at each meeting of the Association shall be vested exclusively in the Class B Member, the Declarant, and the Owners (other than Declarant) shall have no voting rights. From and after the Turnover Date, all of the voting rights at any meeting of the Association shall be vested in the Voting Members, and each Voting Member who represents a Lot owned by a Class A Member shall have one (1) vote for each Lot which the Voting Member represents, and the Declarant, as the Class B Member, shall have ten (10) votes for each Lot which it owns. From and after the Turnover Date any action may be taken by the Voting Members at any meeting at which a quorum is present (as provided in the Operating Agreement) upon an affirmative vote of a majority of the votes represented by Voting Members and the Declarant, except as otherwise provided herein or in the Operating Agreement.

5.06 MANAGER LIABILITY: The Managers, the committee members or the officers of the Association shall not be personally liable to the Association or the Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such Managers, committee members or officers except for any acts or omissions found by a court to constitute criminal conduct, gross negligence or actual fraud. The Association shall indemnify and hold harmless the Declarant and each of the Managers, the committee members or the officers, and its or their heirs, executors or administrators, against all contractual and other liabilities to the Association, the Owners or others arising out of contracts made by or other acts of the Managers, the committee members or the officers on behalf of the Owners or the Association or arising out of their status as Managers, committee members or officers unless any such contract or act shall have been made criminally, fraudulently or with gross negligence. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, counsel fees, amounts of judgments paid and amounts paid in settlement) actually and reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative, or other in which any such Manager, committee member or officer may be involved by virtue of such person being or having been such Manager, committee member or officer; provided, however, that such indemnity shall not be operative with respect to (i) any matter as to which such person shall have been finally

adjudged in such action, suit or proceeding to be liable for criminal conduct, gross negligence or actual fraud in the performance of his duties as such Manager, committee member or officer, or (ii) any matter settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Managers, the committee members or the officers, there is not reasonable ground for such person being adjudged liable for criminal conduct, gross negligence or actual fraud in the performance of his duties as such Manager, the committee member or the officer.

5.07 MANAGING AGENT: The Declarant (or an entity affiliated with the Declarant) may be engaged by the Association to act as the managing agent for the Association and as managing agent shall be paid a reasonable fee for its services as fixed by a written agreement between the Association and the Declarant (or an entity controlled by the Declarant). Any management agreement entered into by the Association prior to the Turnover Date shall have a term of not more than two years and shall be terminable by the Association without payment of a termination fee on ninety (90) days written notice.

5.08 REPRESENTATION: The Association shall have the power and right to represent the interests of all of the Owners in connection with claims and disputes affecting the Community Area. Without limiting the foregoing, the Association shall have the power after the Turnover Date to settle warranty disputes or other disputes between the Association, the Owners, and the Declarant affecting the construction, use or enjoyment of the Community Areas and any such settlement shall be final and shall bind all of the Owners.

5.09 LITIGATION: No judicial or administrative proceedings shall be commenced or prosecuted by the Association without first holding a special meeting of the members and obtaining the affirmative vote of Voting Members representing at least seventy-five percent (75%) of the total votes represented by all Voting Members to the commencement and prosecution of the proposed action. This Section shall not apply to (a) actions brought by the Association to enforce the provisions of this Declaration, the Operating Agreement or rules and regulations adopted by the Managers (including, without limitation, an action to recover unpaid assessments or other charges or to foreclose a lien for unpaid assessments or other charges) or (b) counterclaims brought by the Association in proceedings instituted against it.

5.10 MERGER: Prior to the Turnover Date, the Declarant, or after the Turnover Date, the Managers, shall have the right, power and authority to (i) organize an Illinois not for profit corporation ("NFP Association"), and (b) merge the Association into the NFP Association, all as permitted under applicable laws of the State of Illinois ("Merger Transaction"). In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant and/or the Managers, as applicable, to make, consent to, and execute the Merger Transaction provided for above on behalf of each Owner. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Declarant and/or the Managers to make, consent to, and execute the Merger Transaction and take such other actions as the Declarant and/or the Managers deem necessary or appropriate to carry out the intent of Merger Transaction, including, without limitation, adopting By-Laws for the NFP Association and transferring Community Area, bank accounts, contracts and other property or assets to the NFP Association. From and after the Merger Transaction, the NFP Association shall be and become the Association hereunder.

5.11 DISSOLUTION: Dissolution of the Association shall not occur without the consent of the City. To the extent permissible under applicable law, in the event of the dissolution of the Association, any Community Area owned by the Association shall be conveyed to the Owners as tenants in common. In such event, the Owners, as tenants in common, shall be jointly and severally responsible to the City to comply with the terms and conditions of this Declaration.

Article Six ASSESSMENTS

6.01 PURPOSE OF ASSESSMENTS: The assessments levied by the Association shall be exclusively to administer the affairs of the Association to pay the Community Expenses and to accumulate reserves for any such expenses.

6.02 COMMUNITY ASSESSMENT: Each year on or before December 1, the Managers shall adopt and furnish each Owner with a budget for the ensuing calendar year, which shall show the following with reasonable explanations and itemizations:

- (a) The estimated Community Expenses;
- (b) The estimated amount, if any, to maintain adequate reserves for Community Expenses including, without limitation, amounts to maintain the Capital Reserve;
- (c) The estimated net available cash receipts from the operation and use of the Community Area plus the estimated excess funds, if any, from the current year's assessments;
- (d) The amount of the "Community Assessment" payable by the Owners, which is hereby defined as the amount determined in (a) above, plus the amount determined in (b) above, minus the amount determined in (c) above;
- (e) That portion of the Community Assessment which shall be payable with respect to the ensuing calendar year by the Owner of each Lot which is Subject to Assessment hereunder, which each month until the next Community Assessment or revised Community Assessment becomes effective, which monthly amount shall be equal to the Community Assessment, divided by the number of Lots, divided by twelve (12), so that each Owner shall pay equal Community Assessments for each Lot owned. The Community Assessment shall be paid in periodic installments as determined by the Managers from time to time, but no less frequently than once each calendar year.

Anything herein to the contrary notwithstanding the provisions of this paragraph shall apply with respect to the period prior to the Turnover Date. Any budget ("Stabilized Budget") prepared by the Managers prior to the Turnover Date shall be based on the assumptions that (i) the Development has been fully constructed as shown on the Declarant's Development Plan and (ii) all proposed Homes have been sold, are occupied and are Subject to Assessment. Prior to the Turnover Date, each Owner of a Lot (other than Declarant) which is Subject to Assessment shall pay a Community Assessment equal to the total cash needs as shown on the Stabilized Budget divided by the total number of proposed Homes on the Declarant's Development Plan, divided by 12, so that each Owner (other than Declarant) will pay, with respect to each Lot which is Subject to Assessment and owned by the Owner, a monthly Community Assessment equal to what such Owner would be paying with respect to the Owner's Lot if the Development were

fully constructed pursuant to the Declarant's Development Plan and all proposed Homes have been built, are occupied and are Subject to Assessment. The Declarant shall not be obligated to pay any Community Assessments to the Association prior to the Turnover Date. However, if with respect to the period commencing on the date of the Recording of this Declaration and ending on the Turnover Date, the amount of Community Assessments and working capital contributions under Section 6.08 payable (whether or not paid) by Owners (other than Declarant) less the portions thereof which are to be added to Reserves is less than the Community Expenses actually incurred with respect to such period, then the Declarant shall pay the difference to the Association. From time to time prior to the Turnover Date, the Declarant may (but shall not be obligated to) advance to the Association funds to be used by the Association to pay its expenses ("Advanced Funds"). A final accounting and settlement of the amount, if any, owed by Declarant to the Association shall be made as soon as practicable after the Turnover Date. If, and to the extent that, the final accounting determines that the Advanced Funds, if any, are less than the amount owed by the Declarant to the Association pursuant to this Section, the Declarant shall pay the difference to the Association. If, and to the extent that, the final accounting determines that the Advanced Funds, if any, exceed the amount owed by the Declarant to the Association pursuant to this Section, then the Association shall pay such excess to the Declarant.

6.03 PAYMENT OF COMMUNITY ASSESSMENT: On or before the first day of January of the ensuing calendar year, and on the first day of each month thereafter until the effective date of the next annual or revised Community Assessment, each Owner of a Lot which is Subject to Assessment shall pay to the Association, or as the Managers may direct, that portion of the Community Assessment which is payable by each Owner of a Lot under Section 6.02(e) or Section 6.07, as applicable, at such times as the Managers shall determine from time to time. For purposes hereof, a Lot shall only be Subject to Assessment hereunder from and after such time as a temporary, conditional or permanent occupancy certificate has been issued with respect to the Home constructed thereon.

6.04 REVISED ASSESSMENT: If the Community Assessment proves inadequate for any reason (including nonpayment of any Owner's assessment) or proves to exceed funds reasonably needed, then the Managers may increase or decrease the assessment payable under Section 6.02(e) by giving written notice thereof (together with a revised budget and explanation for the adjustment) to each Owner not less than ten (10) days prior to the effective date of the revised assessment.

6.05 SPECIAL ASSESSMENT: After the Turnover Date, the Managers may levy a special assessment as provided in this Section (i) to pay (or build up reserves to pay) expenses other than Community Expenses incurred (or to be incurred) by the Association from time to time for a specific purpose including, without limitation, to make alterations, additions or improvements to the Community Area, or any other property owned or maintained by the Association; or (ii) to cover an unanticipated deficit under the prior year's budget. Any special assessment shall be levied against all of the Lots which are Subject to Assessment in equal shares for each such Lot. No special assessment shall be adopted without the affirmative vote of Voting Members representing at least two-thirds (2/3) of the votes cast on the question and only those Owners of Lots against which the proposed special assessment shall be levied may vote on the question. The Managers shall serve notice of a special assessment on all Owners by a statement in writing giving the specific purpose and reasons therefor in reasonable detail, and the special assessment shall be payable in such manner and on such terms as shall be fixed by the Managers. Any assessments collected pursuant to this Section (other than those to cover an unanticipated

deficit under the prior year's budget) shall be segregated in a special account and used only for the specific purpose set forth in the notice of assessment.

6.06 CAPITAL RESERVE: The Association shall segregate and maintain a special reserve account to be used solely for making capital expenditures in connection with the Community Area (the "Capital Reserve"). The Managers shall determine the appropriate level of the Capital Reserve based on (i) a periodic review of the useful life of improvements to the Community Area and other property owned or required to be maintained by the Association, and (ii) periodic projections of the cost of anticipated major repairs or replacements to the Community Area and the purchase of other property to be used by the Association in connection with its duties hereunder. The Capital Reserve may be built up by separate or special assessments or out of the Community Assessment as provided in the budget. Special accounts set up for portions of the Capital Reserve to be used to make capital expenditures with respect to the Community Areas shall be held by the Association as agent and trustee for the Owners of Homes with respect to which the Capital Reserve is held and such accounts shall be deemed to have been funded by capital contributions to the Association by the Owners. The budgets which will be adopted from time to time by the Managers prior to the Turnover Date shall include reserve buildups which the Managers deem to be appropriate based on information available to the Managers. Managers elected by the Owners after the Turnover Date may use different approaches from those used by the Managers appointed by the Declarant prior to the Turnover Date, for the buildup of reserves or may choose not to provide for the buildup of reserves for certain capital expenditures or deferred maintenance for repairs or replacements of the Community Area. If the Managers choose not to provide for the buildup of reserves for a particular anticipated expenditure or if the buildup of reserves that the Managers do provide for in its budgets does not result in sufficient funds to pay for the expenditure when the expenditure must be made, then (i) neither the Manager(s) nor any of its past or present members shall be liable to the Association or the Owners for failing to provide for sufficient reserves and (ii) the Managers shall have the right and power to either levy a separate or special assessment to raise the funds to pay the expenditure or to borrow funds to pay the expenditure and repay the borrowed funds out of future Community Assessments, separate assessments or special assessments. The final accounting and settlement calculation between the Declarant and the Association (provided for in Section 6.02(e) above) shall not include any amounts allocated to, or deposited in, the Capital Reserve.

6.07 PAYMENT OF ASSESSMENTS: Community Assessments levied by the Association shall be collected from each Owner by the Association and shall be a lien on the Owner's Lot and also shall be a personal obligation of the Owner in favor of the Association, all as more fully set forth in Article Seven.

6.08 INITIAL CAPITAL CONTRIBUTION: Upon the closing of the sale of each Home by the Declarant to a purchaser for value, the purchasing Owner shall make a capital contribution to the Association in an amount equal to six (6) monthly installments of the then current Community Assessment (except that portion allocated to snow removal from driveways and service walks serving the Homes and landscaping) for that Home, which amounts shall be held and used by the Association for its working capital needs (and not as an advance payment of the Community Assessment). In addition, the purchasing Owner shall pay to the Association an amount equal to six (6) monthly installments of the then current Community Assessment (except that portion allocated to snow removal from driveways and service walks serving the Homes and landscaping) for that Home which shall be added to the Capital Reserve.

Article Seven

COLLECTION OF CHARGES AND REMEDIES FOR BREACH OR VIOLATION

7.01 CREATION OF LIEN AND PERSONAL OBLIGATION: The Declarant hereby covenants, and each Owner of a Lot by acceptance of a deed therefor (whether or not it shall be so expressed in any such deed or other conveyance) shall be and is deemed to covenant and hereby agrees to pay to the Association all Charges made with respect to the Owner or the Owner's Lot. Each Charge, together with interest thereon and reasonable costs of collection, if any, as hereinafter provided, shall be a continuing lien upon the Lot against which such Charge is made and also shall be the personal obligation of the Owner of the Lot at the time when the Charge becomes due. The lien or personal obligation created under this Article Seven shall be in favor of and shall be enforceable by the Association.

7.02 COLLECTION OF CHARGES: The Association shall collect from each Owner all Charges payable by such Owner under this Declaration.

7.03 NON-PAYMENT OF CHARGES: Any Charge which is not paid to the Association when due shall be deemed delinquent. Any Charge which is delinquent for thirty (30) days or more shall bear interest at the rate of twelve percent (12%) per annum or the maximum rate permitted by law, whichever is less, from the due date to the date when paid. The Association may (i) bring an action against the Owner personally obligated to pay the Charge to recover the Charge (together with interest, costs and reasonable attorney's fees for any such action, which shall be added to the amount of the Charge and included in any judgment rendered in such action), and (ii) enforce and foreclose any lien which it has or which may exist for its benefit. In addition, the Managers may add a reasonable late fee to any installment of an assessment which is not paid within thirty (30) days of its due date. No Owner may waive or otherwise escape personal liability for the Charges hereunder by nonuse of the Community Area or by abandonment or transfer of his Lot.

7.04 LIEN FOR CHARGES SUBORDINATED TO MORTGAGES: The lien for Charges, provided for in Section 7.01, shall be subordinate to the Mortgagee's mortgage on the Lot which was Recorded prior to the date that any such Charge became due. Except as hereinafter provided, the lien for Charges provided for in Section 7.01 shall not be affected by any sale or transfer of a Lot. Where title to a Lot is transferred pursuant to a decree of foreclosure of the First Mortgagee's mortgage or by deed or assignment in lieu of foreclosure of the First Mortgagee's mortgage, such transfer of title shall extinguish the lien for unpaid Charges which became due prior to the date of the transfer of title. However, the transferee of the Lot shall be personally liable for his share of the Charges with respect to which a lien against his Lot has been extinguished pursuant to the preceding sentence where such Charges are reallocated among all the Owners pursuant to a subsequently adopted annual or revised Community Assessment or special assessment, and non-payment thereof shall result in a lien against the transferee's Lot, as provided in this Article.

7.05 SELF-HELP BY MANAGERS: In the event of a violation or breach by an Owner of the provisions, covenants or restrictions of the Declaration, the Operating Agreement, or rules or regulations of the Managers where such violation or breach may be cured or abated by affirmative action, then the Managers upon not less than ten (10) days' prior written notice to the Owner, shall have the right to enter upon that part of the Premises where the violation or breach exists to remove or rectify the violation or breach; provided, that, if the violation or

breach exists within a Home, judicial proceedings must be instituted before any items of construction can be altered or demolished.

7.06 OTHER REMEDIES OF THE MANAGERS: In addition to or in conjunction with the remedies set forth above, to enforce any of the provisions contained in this Declaration or any rules and regulations adopted hereunder the Managers may levy a fine or the Managers may bring an action at law or in equity in the name of the Association against any person or persons violating or attempting to violate any such provision, either to restrain such violation, require performance thereof, to recover sums due or payable (including fines) or to recover damages, and against the Lot to enforce any lien created hereunder; and failure by the Association to enforce any provision shall in no event be deemed a waiver of the right to do so thereafter.

7.07 COSTS AND EXPENSES: All costs and expenses incurred by the Managers in connection with any action, proceedings or self-help in connection with the exercise of its rights and remedies under this Article, including, without limitation, court costs, attorneys' fees and all other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the rate of eighteen percent (18%) per annum or the maximum rate permitted by law, whichever is less until paid, shall be charged to and assessed against the defaulting Owner, and the Association shall have a lien for all the same, upon his Lot as provided in Section 7.01.

7.08 ENFORCEMENT BY OWNERS: Enforcement of the provisions contained in this Declaration and the rules and regulations adopted hereunder may be by any proceeding at law or in equity by any aggrieved Owner against any person or persons violating or attempting to violate any such provisions, either to restrain such violation or to recover damages, and against a Lot to enforce any lien created hereunder.

7.09 ENFORCEMENT BY CITY: The City is hereby granted the right, but shall not be obligated, to enforce covenants and obligations of the Association or the Owners hereunder. If the Association or one or more Owners fail to comply with any covenants and obligations hereunder, the City shall have the right (but shall not be obligated) to give notice to the Association or the offending Owner or Owners of its, his or their failure to perform its, his or their obligations. If such notice is given and the Association or the offending Owner or Owners do not perform to the reasonable satisfaction of the City within thirty (30) days after the giving of such notice, then the City may (but shall not be obligated to) enter upon the Premises and perform any and all work which it deems necessary and appropriate, either directly or through contractors engaged by the City. The Association or the offending Owner or Owners shall, upon demand, reimburse the City for the reasonable cost of such work, plus interest at the rate of twelve percent (12%) per annum from the date incurred and paid by the City through the date the City is reimbursed for such cost, and if payment is not made within thirty (30) days after demand, then the amount due, plus reasonable costs of collection, including reasonable attorneys' fees, shall become a lien on the property of the offending Owner or Owners or, in the case of the Association, the property of the Association, effective as of the date on which such work was completed; provided, however, that such lien shall be subordinate to the lien of any first mortgage on a Home Recorded prior to the date on which any such cost becomes a lien against the Home as provided above.

7.10 BACKUP SPECIAL SERVICE AREA: The City may establish one or more backup special service areas to give the City the power to levy special service area taxes to pay

for the cost of maintaining Community Area if the Association fails to do so and the City chooses to provide such services. By purchasing a Lot on the Premises, the Owner, its successors and assigns, waives any and all rights to challenge the designation of the special service area by the City by reverse referendum for other proceedings attacking the imposition of the special service area. Special service area taxes, however, shall be consistent with state law requirements pertaining to setting the amount of those taxes.

Article Eight USE RESTRICTIONS

8.01 RESIDENTIAL USE: Each Lot shall be used only for residential purposes, as a private residence, and no professional, business or commercial use shall be made of a Lot or any portion thereof, nor shall any Resident's use of a Lot endanger the health or disturb the reasonable enjoyment of any other Owner or Resident, except that professional and quasi-professional persons may use their residence as an ancillary or secondary facility to an office elsewhere. The foregoing restrictions shall not, however, be construed to prohibit a Resident from: (a) maintaining his personal professional library; (b) keeping his personal business or professional records or accounts; (c) handling his personal business or professional telephone calls or correspondence therefrom, or (d) conducting an in-home business not prohibited by applicable laws, ordinances or regulations.

8.02 OUTBUILDINGS, CLOTHESLINES AND DOG RUNS AND OTHER ACCESSORY STRUCTURES AND USES:

(a) No outbuilding, shed, storage shed, gazebos, doghouses, greenhouse or other temporary or permanent structure shall be constructed on any Lot or on the Community Area unless approved in writing by the City. There shall be no clotheslines or dog runs constructed or placed on any Lot or on the Community Area.

(b) There shall be no construction on any Lot which results in a building or structure inconsistent with the general architectural design and aesthetic flavor of either (i) the Home on the Lot or (ii) the remainder of the Homes on the Premises.

8.03 INDUSTRY/SIGNS: No industry, business, trade, occupation or profession of any kind shall be conducted, maintained or permitted on any part of the Community Area nor shall any "For Sale" or "For Rent" signs be maintained or permitted on any part of the Community Area or any Lot, except as permitted by the Managers or as permitted under Article Nine. No advertising signs, billboards, or objects of unsightly appearance or nuisances shall be erected, placed or permitted to remain on any portion of any Lot. The foregoing restrictions shall not apply to the signs and billboards, if any, of Declarant or its designees. Notwithstanding the foregoing, during the two (2) week period prior to and during the one (1) week period subsequent to a primary or general election, one (1) political sign (not to exceed 2 feet by 2 feet in size) may be placed in the window of a Home

8.04 PETS: No animals, livestock or poultry of any kind shall be raised, bred, or kept on the Community Area. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot except for dogs, cats, birds or fish, as household pets but not for breeding purposes. Farm animals, snakes, other reptiles, exotic animals and wild animals are prohibited. Owners are limited to no more than three (3) dogs or no more than three (3) cats (with the

exceptions that a litter may be kept for a period of time not exceeding four (4) months from birth) or combination thereof in any Home, but not in conflict with City Codes and Ordinances. The owner of any pet shall immediately remove any bodily waste deposited by its pet on any Lot, Community Area, parkways, cul-de-sac islands or dedicated streets. The Managers may from time to time adopt rules and regulations governing (a) the keeping of pets in the Home, which may include prohibiting certain species of pets from being kept in the Home and (b) the use of the Community Area by pets. This section is subject to change if the City Ordinance governing pets is revised or amended. All dogs kept on the Premises shall be leashed at all times.

8.05 TRASH: All rubbish, trash, or garbage shall be kept so as not to be seen from neighboring Homes and roads, and shall be regularly removed from the Premises, and shall not be allowed to accumulate thereon. Garbage may not be burned on a Lot or on the Community Area. Trash containers shall be placed on the curb for collection and empty containers shall be removed on the pick-up day at such times as provided in the current City Ordinance, as may be amended from time to time.

8.06 NUISANCE: No nuisance, noxious or offensive activity shall be carried on in the Premises nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the Owners or occupants of any Home.

8.07 PLANTS: No plants, seeds, or other things or conditions harboring or breeding infectious plant diseases or noxious insects shall be introduced or maintained upon any part of the Premises.

8.08 PARKING: All parking of vehicles on the public rights of way serving the Premises shall comply with the City Code. All parking of vehicles on the Premises shall comply with the stricter of the City Code or rules adopted by the Managers from time to time, which rules and regulations may provide for the removal of any violating vehicles at the vehicle owner's expense or for the imposition of a fine for a violation of the rules and regulations. Without limiting the foregoing, the following shall apply:

(a) Residents shall not be permitted to park any vehicle (which has "D" or equivalent plates, more than two (2) axles, more than four (4) tires and/or a gross weight when fully loaded in excess of 8,000 pounds), recreational vehicle, boat, trailer or other similar vehicle on any portion of the Premises, other than within a garage which is part of a Home. In no event can any portion of a vehicle which is permitted to be parked on the Premises hereunder (including any ladder or other equipment attached thereto) block or overhang any portion of a sidewalk located on the Premises.

(b) Except for emergencies, no repairs or maintenance work shall be performed on any vehicle on the Premises, other than within a garage which is part of a Home.

(c) The Owner of any Lot shall keep the garage door of his residence shut at all times when it is not in use. No Owner shall park or store vehicles on public streets or on driveways within his Lot if there is capacity for storage for such vehicles in the garage on his Lot. No owner shall utilize the space within his garage to store any commercial materials or products or for purposes which adversely affect or limit the storage of vehicles therein to meet the designed capacity of such garage.

8.09 SATELLITE DISHES/ANTENNAE: Subject to applicable federal, state and local regulations, laws and ordinances, no satellite dish, television antenna or other similar device shall be attached to or installed (i) on any portion of the Community Area or (ii) on any portion of a Lot which is visible from the front of the Home. The installation of satellite dishes, television antennae and other similar devices shall be subject to additional reasonable rules and regulations adopted from time to time by the Managers provided, however, that ham radios, short wave radio towers and short wave radio antennas shall be prohibited. The restrictions set forth in this Section shall not apply to the Association with respect to the installation of equipment necessary for a master antenna system, cable television system or other similar systems within the Premises. Owners shall remove any equipment which is no longer functioning or utilized from the exterior of the Home within a reasonable time.

8.10 LANDSCAPE MAINTENANCE: Initially, all landscaping on the Premises shall be maintained by the Association. Prior to the Turnover Date the Owners shall not be permitted to install any landscaping on the Owner's Lot, with the exception Foundation Plantings installed adjacent to the Owner's Home. After the Turnover Date the Managers may adopt rules and regulations regarding landscaping on Lots, including the cost to maintain and replace such landscaping. The Association shall maintain all landscaping installed by the Declarant in accordance with Section 3.02. Notwithstanding the foregoing, the landscape buffer areas located on Outlot D and Lots 31 through 36 shall not be removed without the written approval of the City and the Managers.

8.11 FENCES No fencing shall be installed by an Owner on any Lot or on any portion of the Community Area; provided however, that Owners shall be permitted to install an invisible fence on their Lots. Before installing an invisible fence, the Owner shall notify the Association in writing at least five (5) business days before installation. The Owner who installs an invisible fence shall be solely responsible for the maintenance, repair, replacement and removal of the invisible fence and the restoration of the surrounding landscaping and the Association shall have no responsibility to provide such services. This provision shall not apply to any fencing installed by the Declarant or Association.

8.12 LAWN SPRINKLERS Owners shall be permitted to install lawn sprinklers on a Lot. Before installing lawn sprinklers, the Owner shall notify the Association in writing at least five (5) business days before installation. The Owner who installs lawn sprinklers shall be solely responsible for the maintenance, repair, replacement and removal of the lawn sprinklers and the restoration of the surrounding landscaping and the Association shall have no responsibility to provide such services.

8.13 PROHIBITION OF SWIMMING POOLS AND SAUNAS; HOT TUBS PERMITTED No swimming pools or saunas shall be installed on any Lot or on any portion of the Community Area. Hot tubs shall be permitted to be installed on a Lot provided that the hot tub is located immediately adjacent to the Home and is screened from neighboring lots with landscaping.

8.14 PROHIBITION OF RECREATION EQUIPMENT: Swing sets, jungle gyms, play houses, play forts, sandboxes, basketball apparatus, sports courts, treehouses, or similar recreational or play facilities or equipment shall not be installed or permitted on any Lot.
PROHIBITIONS IN AREAS AROUND HOMES No improvements, outside storage, or inoperable motor vehicles are permitted on any Lot or the Community Area adjacent thereto,

except for landscaping, decks, patios, and hot tubs as permitted herein. Hardscape walls for the purpose of landscaping shall be permitted so long as they do not affect or divert the drainage on or to any Lot or the Community Area. This provision shall not apply to any retaining walls installed by the Declarant or Association.

8.16 PROHIBITION OF WINDOW AIR CONDITIONERS OR WINDOW FANS No window air conditioners or window fans shall be placed in any home constructed on the Premises.

8.17 CLEARANCE OF UTILITIES The Owner of a Lot, and not the Association, shall be responsible for the clearance and relocation of any utilities that must be made in connection with the installation of any improvements by the Owner on his Lot.

8.18 COMPLIANCE WITH U.S. POSTAL SERVICE REGULATIONS: All mailboxes located in any right-of-way shall be in compliance with U.S. Postal Service Regulations and must be approved by the City.

8.19 DRIVEWAYS Driveways shall be constructed of concrete, asphalt or pavers.

8.20 LEASES OF LOTS Any Owner may lease his Lot, but no lease may be for less than the full Home, nor for a period of less than twelve (12) months. All leases must be made expressly subject to the terms of this Declaration. In the event any Owner leases his Lot, he shall at all times keep the Association advised in writing of the address of his own current residence and any changes thereto, and of the name(s) of his tenant(s). Notwithstanding the foregoing, Declarant and its successors and assigns shall have the right to rent any or all units located on Lots owned by Declarant.

8.21 CITY CODE: Construction and other activities not prohibited by this Declaration shall remain subject to the general application of the ordinances and code of the City.

Article Nine
DECLARANT'S RESERVED RIGHTS AND
SPECIAL PROVISIONS COVERING DEVELOPMENT PERIOD

9.01 IN GENERAL In addition to any rights or powers reserved to the Declarant under the provisions of this Declaration or the Operating Agreement, the Declarant shall have the rights and powers set forth in this Article. Anything in this Declaration or the Operating Agreement to the contrary notwithstanding, the provisions set forth in this Article shall govern. Except as otherwise provided in this Article, the rights of the Declarant in this Article shall terminate and be of no further force and effect five (5) years after the Declarant is no longer vested in or controls title to any portion of the Development Area ("Declarant Rights Period").

9.02 PROMOTION OF PROJECT The Declarant shall have the right and power, within its sole discretion, to (i) construct such temporary or permanent improvements, or to do such acts or other things in, on, or to the Premises as the Declarant may, from time to time, determine to be necessary or advisable, (ii) construct and maintain model Homes, sales or leasing offices, parking areas, advertising signs, lighting and banners, or other promotional facilities at such locations and in such forms as the Declarant may deem advisable and to use such model homes (including model homes which are sold and leased back to Declarant), sales or leasing offices or other facilities for the purpose of selling or leasing homes on the Premises or at other

properties in the general location of the Premises which are being offered for sale by the Declarant or any of its affiliates, without the payment of any fee or charge whatsoever to the Association. Declarant, its agents, prospective purchasers and tenants, shall have the right of ingress, egress and parking in and through, and the right to use and enjoy the Premises, at any and all reasonable times without fee or charge. The Declarant shall have the right and power to lease any unit owned by it or the Declarant to any person or entity which it deems appropriate in its sole discretion.

9.03 CONSTRUCTION ON PREMISES In connection with the construction of improvements to any part of the Premises, the Declarant, its agents and contractors, shall have the right, at the Declarant's own expense, (but shall not be obligated) to make such alterations, additions or improvements to any part of the Premises including, without limitation, the construction, reconstruction and/or alteration of any temporary or permanent improvements which the Declarant deems, in its sole discretion, to be necessary or advisable, and the landscaping, sodding or planting and replanting of any unimproved portions of the Premises. In connection with the rights provided in the preceding sentence, the Declarant, its agents and contractors, shall have the right of ingress, egress and parking on the Premises and the right to store construction equipment and materials on the Premises without the payment of any fee or charge whatsoever.

9.04 DECLARANT CONTROL OF ASSOCIATION Prior to the Turnover Date, the Managers shall be the Declarant, or one or more entities or persons designated by the Declarant from time to time who need not be Owners or Voting Members. Initially the Declarant shall be the sole Manager. The rights and powers of the Declarant to manage the affairs of the Association, or designate the Managers of the Association shall terminate on the first to occur of (i) such time as Declarant no longer holds or controls title to any portion of the Development Area, (ii) the giving of written notice by Declarant to the Association of Declarant's election to terminate such rights, (iii) ten (10) years from the date of Recording hereof, or (iv) the date required under any applicable statute. The date on which the Declarant's rights under this Section shall terminate shall be referred to as the "Turnover Date". From and after the Turnover Date, the Managers shall be constituted and elected as provided in the Operating Agreement. Prior to the Turnover Date, all of the voting rights at each meeting of the Owners shall be vested exclusively in the Declarant and the Owners (other than Declarant) shall have no voting rights.

9.05 OTHER RIGHTS The Declarant shall have the right and power to execute all documents and do all other acts and things affecting the Premises which, in Declarant's opinion, are necessary or desirable in connection with the rights of Declarant under this Declaration.

9.06 ASSIGNMENT BY DECLARANT All rights which are specified in this Declaration to be rights of the Declarant are mortgageable, pledgeable, assignable or transferable in whole or in part. Any successor to, or assignee of, the rights of the Declarant hereunder (whether as the result of voluntary assignment, foreclosure, assignment in lieu of foreclosure, or otherwise) shall hold or be entitled to exercise the rights of Declarant hereunder as fully as if named as such party herein. No such successor assignee of the rights of Declarant hereunder shall have or incur any liability for the acts of any other party which previously exercised or subsequently shall exercise such rights.

9.07 GRANT OF EASEMENTS AND DEDICATIONS Declarant shall have the right to dedicate portions of the Community Area to the County, the City or other governmental

authority which has jurisdiction over such portions. Declarant shall also have the right to reserve or grant easements over the Community Area to any governmental authority, public utility or private utility for the installation and maintenance of utility services serving any Lot. The County, City or other governmental authority may accept or reject such dedications or grants of easement in its sole discretion.

9.08 MATTERS AFFECTING COMMUNITY AREA During the Declarant Rights Period, the Association shall not cause or permit a lien or encumbrance to be placed or imposed on any portion of the real estate legally describe in Section II of Exhibit B hereto (each a "Community Area Lot") without the prior written consent of the Declarant. Any such lien or encumbrance placed or imposed on a Community Area Lot without Declarant's consent shall be null and void. In order to reflect or conform to a change in the Declarant's Development Plan, any time prior to the end of the Declarant Rights Period, the Declarant shall have the right and power to require the Association to convey such portion or portions of a Community Area Lot which are so withdrawn and removed from the Community Area to Declarant or its nominee, free and clear of any liens or encumbrances other than those created by or consented to by the Declarant pursuant to this Section.

9.09 ARCHITECTURAL CONTROLS Prior to such time as the Declarant no longer holds or controls title to any portion of the Development Area, no additions, alterations or improvements (including, without limitation, changes in the exterior color of a Home or construction or installation of a deck, patio, terrace, antennae, satellite dish or similar changes) shall be made to the exterior of any Home or any part of the Home which is visible from outside the Home by an Owner without the prior written consent of the Declarant. If an addition, alteration or improvement which requires Declarant approval hereunder is made to a Home without the prior written consent of the Declarant, then the Declarant may seek injunctive relief to cause the Owner to cease construction of and/or remove the addition, alteration or improvement. Declarant's decision to approve or disapprove an alteration, addition or improvement in one instance shall not in any way create or establish a precedent for how the Declarant must respond to a request for an alteration, addition or improvement subsequently made, it being understood that circumstances, situations and standards may change and the Declarant reserves the right and power to grant or deny requests as Declarant believes are appropriate in Declarant's sole and absolute discretion.

Article Ten AMENDMENT

10.01 SPECIAL AMENDMENTS Anything herein to the contrary notwithstanding, Declarant reserves the right and power to Record a special amendment ("Special Amendment") to this Declaration at any time and from time to time which amends this Declaration (i) to comply with requirements of Fannie Mae, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Veteran's Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (ii) to induce any of such agencies or entities to make, purchase, sell, insure, guarantee or otherwise deal with first mortgages covering Lots, (iii) to correct errors, omissions, ambiguities or inconsistencies in the Declaration or any Exhibit, (iv) to bring the Declaration into compliance with applicable laws, ordinances or governmental regulations, (v) to amend Exhibit A to include additional real estate, (vi) to amend Exhibit B to remove real estate from the Premises and the

terms of this Declaration, and (vii) to reflect a change in the Declarant's Development Plan. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to make or consent to a Special Amendment on behalf of each Owner. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Declarant to make, execute and Record Special Amendments. The right and power of the Declarant to Record a Special Amendment hereunder shall terminate five (5) years after such time as Declarant no longer holds or controls title to a portion of the Development Area.

10.02 AMENDMENT Subject to Section 10.01 and Article Eleven, the provisions of this Declaration may be amended, abolished, modified, enlarged, or otherwise changed in whole or in part by the affirmative vote of Voting Members representing at least Seventy-Five percent of the total votes or by an instrument consented to, in writing, executed by Owners of at least Seventy-Five Percent (75%) of the Lots; except, that (i) the provisions of this Section 10.02 may be amended only by an instrument executed by all of the Owners and all First Mortgagees, (ii) amendments to this Declaration which affect the rights of the City, including, without limitation, Sections 2.03, 5.11, 7.09, 7.10, 8.21, 10.02 and 12.07, may only be amended with the written consent of the City (which consent shall not be unreasonably withheld but which consent may be withheld if the proposed amendment conflicts with the original Development approvals) and (iii) until such time as the rights and powers of the Declarant under this Declaration terminate, this Declaration may only be amended with the written consent of the Declarant. No amendment which removes Premises from the provisions of this Declaration shall be effective if as a result of such removal, an Owner of a Lot shall no longer have the legal access to a public way from his Lot. No amendment shall become effective until properly Recorded.

Article Eleven FIRST MORTGAGEES RIGHTS

11.01 NOTICE TO FIRST MORTGAGEES Upon the specific, written request of Mortgagee or the insurer or guarantor of a First Mortgagee's mortgage, such party shall receive some or all of the following and these notices can be delivered by any means the Managers determines which is not contrary to the provisions of the Act.

(a) Copies of budgets, notices of assessment, or any other notices or statements provided under this Declaration by the Association to the Owner of the Lot covered by the First Mortgagee's mortgage;

(b) Any audited or unaudited financial statements of the Association which are prepared for the Association and distributed to the Owners; provided, that, if an audited statement is not available, then upon the written request of the holder, insurer or guarantor of a Mortgage, the Association shall permit such party to have an audited statement for the preceding fiscal year of the Association prepared at such party's expense;

(c) Copies of notices of meetings of the Owners;

(d) Notice of any proposed action that requires the consent of a specified percentage of Eligible First Mortgagees;

(e) Notice of any substantial damage to any part of the Community Area or the Lot subject to the First Mortgagee's mortgage;

(f) Notice of the commencement of any condemnation or eminent domain proceedings with respect to any part of the Community Area or the Lot subject to the First Mortgagee's mortgage;

(g) In the case of a First Mortgagee, the right to be listed on the records of the Association as an "Eligible First Mortgagee" for purpose of Section 11.02 below; and

(h) Notice of any default by the Owner of the Lot which is subject to the Mortgagee's mortgage under this Declaration, the Operating Agreement or the rules and regulations of the Association which is not cured within 30 days of the date of the default;

(i) The right to examine the books and records of the Association at any reasonable times; and

(j) A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

The request of any such party shall specify which of the above it desires to receive and shall indicate the address to which any notices or documents shall be sent by the Association.

11.02 CONSENT OF FIRST MORTGAGEES:

(a) In addition to any requirements or prerequisites provided for elsewhere in this Declaration, the consent of First Mortgagees holding, in the aggregate, the first mortgages on at least two-thirds (2/3) of the Lots (by number) which are subject to first mortgages held by First Mortgagees which specifically request to be treated as "Eligible First Mortgagees" under Section 11.01(i) above will be required for the Association to do or permit to be done any of the following:

(i) Adoption of an amendment to this Declaration which (i) changes Article Six or otherwise changes the method of determining the Community Assessments or other Charges which may be levied against an Owner; (ii) changes Section 7.04 or Article Ten, (iii) changes this Article Eleven, or any other provision of this Declaration or by Operating Agreement which specifically grants rights to First Mortgagees, (iv) materially changes insurance and fidelity bond requirements, (v) changes voting rights, or (vi) imposes a right of first refusal or similar restriction on the right of an Owner to sell, transfer or otherwise convey his Lot;

(ii) The withdrawal of the Premises from the provisions of this Declaration;

(b) Whenever required, the consent of an Eligible First Mortgagee shall be deemed granted unless the party seeking the consent is advised to the contrary, in writing, by the Eligible First Mortgagee within sixty (60) days after making the request for consent.

11.03 INSURANCE PROCEEDS/CONDEMNATION AWARDS: In the event of (i) any distribution of any insurance proceeds hereunder as a result of damage to, or destruction of, any part of the Community Area or (ii) any distribution of the proceeds of any award or

settlement as a result of condemnation or eminent domain proceedings with respect to any part of the Community Area, any such distribution shall be made to the Owners and their respective First Mortgagees, as their interests may appear, and no Owner or other party shall be entitled to priority over the First Mortgagee of a Lot with respect to any such distribution to or with respect to such Lot; provided, that, nothing in this Section shall be construed to deny to the Association the right (i) to apply insurance proceeds to repair or replace damaged improvements or (ii) to apply proceeds of any award or settlement as a result of eminent domain proceedings as provided in Article Four.

Article Twelve MISCELLANEOUS

12.01 NOTICES Any notice required to be sent to any Owner under the provisions of this Declaration or the Operating Agreement shall be deemed to have been properly sent if (i) mailed, postage prepaid, to his or its last known address as it appears on the records of the Association at the time of such mailing, (ii) transmitted by facsimile or e-mail to his or its facsimile number or e-mail address as either appears on the records of the Association at the time of such transmittal, or (iii) when personally delivered to his or its Lot. The date of mailing, or the date of transmission if the notice is sent by facsimile or e-mail, shall be deemed the date of service.

12.02 CAPTIONS The Article and Section headings are intended for convenience only and shall not be construed with any substantive effect in this Declaration. In the event of any conflict between statements made in recitals to this Declaration and the provisions contained in the body of this Declaration, the provisions in the body of this Declaration shall govern.

12.03 SEVERABILITY Invalidation of all or any portion of any of the easements, restrictions, covenants, conditions, or reservations, by legislation, judgment or court order shall in no way affect any other provisions of this Declaration which shall, and all other provisions, remain in full force and effect.

12.04 PERPETUITIES AND OTHER INVALIDITY 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 provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then such provisions shall continue only until twenty-one (21) years after the death of the survivor of the now living lawful descendants of the President of the United States at the time this Declaration is Recorded.

12.05 TITLE HOLDING LAND TRUST In the event title to any Lot is held by a 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 beneficiaries thereunder from time to time shall be responsible for payment of all Charges and for the performance of all agreements, covenants and undertakings chargeable or created under this Declaration against such Lot. No claim shall be made against any such title holding trustee personally for payment of any lien or obligation hereunder created and the 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 the beneficial interest of any such trust or any transfers of title to such Lot.

12.06 WAIVER OF IMPLIED WARRANTY OF HABITABILITY AND OTHER WARRANTIES Illinois courts have held that every contract for the construction of a new home in Illinois carries with it a warranty that when completed, the home will be free of defects and will be fit for its intended use as a home. The courts have also held that this "Implied Warranty of Habitability" does not have to be in writing to be a part of the contract and that it covers not only structural and mechanical defects such as may be found in the foundation, roof, masonry, heating, electrical and plumbing, but it also covers any defect in workmanship which may not easily be seen by the buyer. However, the courts have also held that a seller-builder and buyer may agree in writing that the Implied Warranty of Habitability is not included as a part of their particular contract. Each buyer of a Home from Declarant agreed in the purchase contract that the Declarant has excluded and disclaimed the Implied Warranty of Habitability and all other implied warranties, whether created judicially, statutorily or by common law, including the implied warranty of fitness for a particular purpose. Such exclusion and disclaimer shall apply to and bind any subsequent Owner of a Home and, accordingly, no Owner of a Home shall be able to assert a claim against Declarant for a breach of the Implied Warranty of Habitability or any other implied warranty.

12.07 JURISDICTION This agreement and its validity, enforcement and interpretation shall be governed by the law of the state of Illinois (without regard to any conflict of laws, principles) and applicable United States federal law. Covenants and obligations enforceable by the City shall be subject to the exclusive jurisdiction and venue of the Eighteenth Judicial Circuit Court, Wheaton, DuPage County, Illinois.

[Signature page follows]

EXHIBIT A
TO
DECLARATION OF COVENANTS FOR LORETTO CLUB

The Development Area

ALL LOTS AND OUTLOTS IN LORETTO CLUB SUBDIVISION, A
SUBDIVISION _____
_____ EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNTY,
ILLINOIS, ACCORDING TO THE PLAT THEREOF RECORDED _____ AS
DOCUMENT NO. _____ ("Loretto Club Subdivision").

PIN: 05-29-201-025

Address: Various addresses along _____, in Wheaton, IL 60____

[Currently

PARCEL 1:

LOT 85 IN MARYWOOD SUBDIVISION, BEING A SUBDIVISION OF PART OF THE
SOUTH 1/2 OF THE NORTH 1/2 OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 10,
EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF
RECORDED APRIL 7, 1992 AS DOCUMENT R92-63725 AND CERTIFICATE OF
CORRECTION RECORDED MAY 1, 1992 AS DOCUMENT R92-81626, IN DU PAGE
COUNTY, ILLINOIS

PARCEL 1A:

EASEMENT FOR BENEFIT OF PARCEL 1 FOR INGRESS AND EGRESS CREATED BY
DOCUMENT 871202 RECORDED FEBRUARY 19, 1958.

PARCEL 1B:

NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1 FOR STORMWATER
DETENTION AND UTILITIES CREATED BY PLAT OF EASEMENT RECORDED JULY
31, 1992 AS DOCUMENT R92-145465.]

EXHIBIT B
TO
DECLARATION OF COVENANTS FOR LORETTO CLUB

The Premises

- I. Lots: Each of the following described lots shall be a “Lot” hereunder:
 - A. Lots 1 to 48, both inclusive, in Loretto Club Subdivision

- II. Community Area:
 - A. Outlots A, B, C and D in Loretto Club Subdivision

EXHIBIT C
TO
DECLARATION OF COVENANTS FOR LORETTO CLUB

Operating Agreement

[see attached]

**OPERATING AGREEMENT
OF
LORETTO CLUB HOMEOWNERS' ASSOCIATION, LLC**

This Operating Agreement is entered into as of _____, 20__ in _____, Illinois, between Loretto Club Homeowners' Association, LLC, an Illinois limited liability company (the "Association"), and Pulte Home Company, LLC, a Michigan limited liability company, its sole Member (sometimes referred to herein as the "Declarant").

A. Articles of Organization for the Association were filed with the Secretary of State of Illinois on _____; and

B. Declarant desires to set forth the terms and conditions governing the management, operation and affairs of the Association.

THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration, the sufficiency of which are hereby acknowledged, the parties agree as follows:

**ARTICLE I
NAME OF ASSOCIATION**

The full legal name of the Association is Loretto Club Homeowners' Association, LLC.

**ARTICLE II
PURPOSE AND POWERS**

2.01 **PURPOSES**: The purposes of the Association are to act on behalf of its Members (as defined in 4.01 below) collectively, as their governing body, with respect to the preservation, care, maintenance, replacement, improvement, enhancement, operation and administration of both real and personal property, for the promotion of the health, safety and welfare and the common use and enjoyment thereof by Members of the Association. This Operating Agreement is subject to the provisions of the Declaration of Covenant for Loretto Club ("Declaration") recorded with the Office of the Recorder of Deeds for DuPage County, Illinois, as amended or supplemented from time to time. All terms used herein (if not otherwise defined herein) shall have the meanings set forth in the Declaration.

2.02 **POWERS**: The Association shall have and exercise all powers as are now or may hereafter be granted by the Illinois Limited Liability Company Act (the "Act"), the Declaration and this Operating Agreement.

2.03 **TAX STATUS**. It is intended that the Association shall be treated as an association taxable as a corporation and, to the extent determined from time to time by the Board (as hereafter defined), shall elect to be treated as a "homeowners association" under Section 528 of the Internal Revenue Code, or any successor provision thereto.

ARTICLE III OFFICES

3.01 REGISTERED OFFICE: The Association shall have and continuously maintain in the State of Illinois a registered office and a registered agent whose office is identical with such registered office, and may have other offices within or without the State of Illinois as the Board may from time to time determine.

3.02 PRINCIPAL OFFICE: The Association's principal office shall be maintained on the Development Area or at the office of the managing agent employed by the Association, if any.

ARTICLE IV MEETINGS AND ACTIONS OF MEMBERS

4.01 MEMBERSHIP. The Owner from time to time of each Lot shall automatically be a "Member" of the Association. There shall be one membership per Lot. There shall be two (2) classes of membership. The Declarant shall be the "Class B Member" with respect to Lots which it owns from time to time. Each owner other than the Declarant shall be a "Class A Member" with respect to each Lot the Owner owns. Membership shall be appurtenant to and may not be separated from ownership of a Lot.

4.02 VOTING RIGHTS: Any or all Members may be present at any meeting of the Members, but the voting rights shall be vested exclusively in the representative designated by the Owner of each Lot, in writing or by electronic notice to the Association, and such representative shall be deemed a "Voting Member", as defined in the Declaration; provided, that, prior to the First Meeting (as defined in Section 4.04 below), the voting rights shall be vested exclusively in the Class B Member (the Declarant) and Owners other than Declarant shall have no voting rights. From and after the First Meeting, all of the voting rights at any meeting of the Association shall be vested in the Voting Members and each Voting Member who represents a Lot owned by a Class A Member shall have one vote for each Lot which the Voting Member represents, and the Declarant, as the Class B Member, shall have ten (10) votes for each Lot which it owns. The Voting Members may vote in person or by proxy. All proxies shall be in writing, revocable, valid only for eleven (11) months from the date of execution and filed with the Secretary.

4.03 PLACE OF MEETING; QUORUM: Meetings of the Members shall be held at the principal office of the Association or at such other place in DuPage County, Illinois, as may be designated in any notice of a meeting. All meetings shall be conducted in accordance with the rules and provisions set forth in Roberts Rules of Order as from time to time published. Voting Members representing at least twenty percent (20%) of the total vote shall constitute a quorum; provided, however, that in the event quorum is not met for a particular meeting, the number of Voting Members required for quorum shall be reduced by fifty percent (50%) and shall continue to be reduced by fifty percent (50%) until such time as quorum is met and a meeting can be held. Unless otherwise expressly provided herein or in the Declaration, any action may be taken at any meeting of the Members at which a quorum is present upon the affirmative vote of a majority of

the Voting Members present at such meeting, including any matter which, under the Act, would otherwise require the unanimous consent of the Members.

4.04 ANNUAL MEETINGS: The first meeting of the Members ("First Meeting") shall be held upon not less than twenty-one (21) days' written notice given by the Declarant to the Members. If not called earlier by the Declarant, the First Meeting shall be held no later than thirty (30) days after the Turnover Date. Thereafter, there shall be an annual meeting of the Members ("Annual Meeting") on the anniversary of the First Meeting, or at such other reasonable time or date (not more than sixty (60) days before or after such date) upon not less than twenty-one (21) days written notice given by the Board to the Members.

4.05 SPECIAL MEETINGS: A special meeting of the Members may be called at any time for the purpose of considering matters which, by the terms of the Declaration, require the approval of all or some of the Voting Members or for any other reasonable purpose. A special meeting shall be called by written notice to the Members by Declarant (prior to the First Meeting), a majority of the Board (after the First Meeting), or by twenty percent (20%) of the Voting Members (after the First Meeting), and delivered not less than twenty-one (21) days prior to the date fixed for said meeting. The notices shall specify the date, time, and place of the meeting and the matters to be considered.

4.06 NOTICE OF MEETINGS: Notices of meetings required to be given herein may be delivered either personally, by U.S. Mail or by E-mail to the Members, addressed to such Member at the address given by such Member to the Board for the purpose of service of such notice or to the Lot of the Member, if no address has been given to the Board. A notice of meeting may include an agenda of business and matters to be acted upon or considered at the meeting.

4.07 NO DUTY OWED BY MEMBERS: Except as otherwise provided herein or in the Declaration, a Member who is not also a Manager (as hereafter defined) owes no duty to the Association or to the other Members solely by reason of being a Member.

4.08 NO SERVICES DUE FROM MEMBERS: No Member shall be required to perform any services for the Association solely by reason of being a Member. No Member shall be entitled to any compensation for any services performed by such Member for the Association unless otherwise determined by the Board.

4.09 INDEMNIFICATION: The Association shall indemnify each Member for all authorized acts performed by such Member in respect of the Association, to the full extent permitted by the Act, but in no event for a Member's material breach of this Operating Agreement, criminal conduct, gross negligence or any fraudulent act committed by the Member.

ARTICLE V BOARD OF MANAGERS

5.01 IN GENERAL: After the First Meeting, the affairs of the Association shall be vested in the board of managers (the "Board"), which shall consist of three (3) persons (each a "Manager" and, collectively, the "Managers"), or such other number of persons as shall be fixed

from time to time by the affirmative vote of not less than fifty percent (50%) of the Voting Members.

5.02 DECLARANT AS MANAGER: Anything herein to the contrary notwithstanding, the Declarant shall be the sole Manager and sole member of the Board until the First Meeting.

5.03 DELIVERY OF DOCUMENTS: Within sixty (60) days of the First Meeting, the Declarant shall deliver to the Board:

(a) Original copies of the Declaration, this Operating Agreement and the Association's Articles of Organization and any other documents filed with the Secretary of State of the State of Illinois.

(b) An accounting of all receipts and expenditures made or received on behalf of the Association by the Declarant.

(c) All Association funds and bank accounts.

(d) A schedule of all personal property, equipment and fixtures belonging to the Association, including documents transferring the property to the Association.

5.04 ELECTION: At the First Meeting, the Voting Members shall elect a full Board to replace the Declarant as the sole Manager. The two (2) candidates receiving the greatest number of votes shall each serve a two-year term and the candidate receiving the next greatest number of votes shall serve a one-year term. Thereafter, each Manager shall serve a two-year term. Each Manager shall hold office until his term expires or until his successor has been elected and qualified. Managers may succeed themselves in office. In all elections for Managers, each Class A Member shall be entitled to the number of votes equal to the number of Managers to be elected, and the Class B Member shall be entitled to the number of votes equal to the number of Managers to be elected times ten (10). Cumulative voting shall not be permitted; provided that the Class B Member shall be entitled to cast up to 10 votes for each candidate that the Class B Member votes for.

5.05 BOARD MEETINGS: After the First Meeting, regular meetings of the Board shall be held at such time and place as shall be determined at the Annual Meeting or, from time to time, by a majority of the Board, provided that (i) the Board shall hold a meeting within thirty (30) days of the Annual Meeting, and (ii) not less than three (3) Board meetings (in addition to the Annual Meeting) shall be held during each fiscal year. Notice of regular meetings of the Board shall be given to each Manager, personally, by email, or by mail, at least two (2) days prior to the day named for any such meeting and such notice shall state the time and place of such regular meeting and such notice shall be posted conspicuously on the Premises so as to inform the Members of such meetings.

5.06 SPECIAL MEETINGS: After the First Meeting, a special meeting of the Board may be called by the President or at least one-third (1/3) of the Managers then serving.

5.07 WAIVER OF NOTICE: Before or at any meeting of the Board, any Manager may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Manager at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the Managers are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

5.08 QUORUM: A majority of the Managers serving from time to time shall constitute a quorum for the election of officers and for the transaction of business at any meeting of the Board, provided, that if less than a majority of the Managers are present at said meeting, a majority of the Managers present may adjourn the meeting from time to time without further notice. Except as otherwise expressly provided herein or in the Declaration, any action may be taken upon the affirmative vote of a majority of the Managers present at a meeting at which a quorum is present ("Board Action").

5.09 POWERS AND DUTIES OF THE BOARD: The Board shall have all of the powers and duties granted to it or imposed upon it by the Declaration, this Operating Agreement, and the Act, including, without limitation, the following powers and duties:

- (a) To engage the services of a managing agent upon such terms and with such authority as the Board may approve;
- (b) To provide for the designation, hiring and removal of such employees and such other personnel, including attorneys and accountants, as the Board may, in its discretion, deem necessary or proper;
- (c) To provide for any maintenance, repair, alteration, addition, improvement or replacement of the Community Area for which the Association is responsible under the Declaration and this Operating Agreement;
- (d) To procure insurance as provided for under the Declaration;
- (e) To estimate and provide each Member with an annual budget showing the Community Expenses;
- (f) To set, give notice of, and collect from the Members, Community Assessments and other assessments, as provided in the Declaration;
- (g) To pay the Community Expenses;
- (h) Subject to the provisions of the Declaration, to own, convey, encumber or otherwise deal with any real property conveyed to or purchased by the Association;
- (i) To adopt and, from time to time, to amend such reasonable rules and regulations as the Board may deem advisable for the use, enjoyment, administration, management, maintenance, conservation and beautification of the Community Area, and for the health, comfort, safety and general welfare of the Members and Residents. Written notice of any such rules and regulations or amendments thereto shall be given to all Residents affected thereby;

(j) To delegate the exercise of its power to committees appointed pursuant to Article Seven of this Operating Agreement;

(k) To borrow money and pledge the assets of the Association, including the right to receive future assessments, as collateral for repayment thereof; and

(l) To convey all or substantially all of the Association's assets to, or to merge with, another entity, including a not-for-profit corporation, to the extent permitted by law.

5.10 COMPENSATION/REIMBURSEMENT FOR EXPENSES: Managers shall receive no compensation, except as expressly provided in a resolution duly adopted by not less than 75% of the Voting Members. Upon the presentation of receipts or other appropriate documentation, a Manager shall be reimbursed by the Association for reasonable out-of-pocket expenses incurred in the course of the performance of his or her duties as a Manager.

5.11 REMOVAL OR RESIGNATION OF A MANAGER: Prior to the First Meeting, the Declarant may not be removed as Manager without the Declarant's written consent. After the First Meeting, any Manager may be removed from office, with or without cause, by the affirmative vote of at least two-thirds (2/3) of the Managers then serving at any Annual Meeting or at a special meeting called for such purpose. Any Manager may resign at any time by submitting his written resignation to the Board. If after the First Meeting, a Manager ceases to be a Member or Voting Member, he or she shall be deemed to have resigned as of the date of such cessation. A successor to fill the unexpired term of a Manager who resigns may be appointed by a majority of the remaining Managers at any regular meeting or a special meeting called for such purpose and any successor so appointed shall serve the balance of his or her predecessor's term.

5.12 NO EXCLUSIVE DUTY: Except as otherwise provided in this Operating Agreement, the Managers shall not be required to manage the Association as their sole and exclusive function and the Managers may have other business interests and engage in other activities in addition to those relating to the Association. Neither the Association nor any Member shall have any right to share or participate in such other investments or activities of the Managers or to the income or proceeds derived therefrom.

5.13 LIMITATION OF LIABILITY: The Managers shall perform the duties of the Manager in good faith, in a manner which the Managers believe to be in the best interests of the Association, and with such care as an ordinarily prudent individual in a like position would use under similar circumstances. See Section 5.06 of the Declaration for provisions concerning limitations on the liability of Managers and other indemnification provisions.

5.14 INDEMNIFICATION: The Association shall indemnify each Manager for all acts performed by the Manager in respect of the Association, to the full extent permitted by the Act, but in no event for fraud, deceit, theft, misappropriation, embezzlement, willful misconduct or gross negligence relating to the Association.

ARTICLE VI OFFICERS

6.01 OFFICERS: The officers of the Association shall be a President, one or more Vice Presidents, a Secretary, Treasurer, and such assistants to such officers as the Board may deem appropriate and shall hold office at the discretion of the Board. After the First Meeting, officers shall be Managers and shall be elected annually at the first Board meeting following the Annual Meeting.

6.02 VACANCY OF OFFICE: Any officer may be removed at any meeting of the Board by the affirmative vote of the majority of the Managers in office, either with or without cause. Any officer may resign at any time by submitting his or her written resignation to the Board. If after the First Meeting, an officer ceases to be a Member or Voting Member, he or she shall be deemed to have resigned as of the date of such cessation. A successor to fill the unexpired term of an officer who resigns or is removed may be appointed by the Board at any regular meeting or a special meeting called for such purpose and any successor so appointed shall serve the balance of his or her predecessor's term.

6.03 POWERS OF OFFICERS: The respective officers of the Association shall have such powers and duties as are from time to time prescribed by the Board and as are usually vested in such officers, including but not limited to, the following:

(a) The President shall be the Chief Executive Officer of the Association and shall preside at all meetings of the Members and at all meetings of the Board and shall execute amendments to the Declaration and this Operating Agreement as provided in the Declaration and this Operating Agreement.

(b) The Vice President shall, in the absence or the disability of the President, perform the duties and exercise the powers of such office;

(c) The Secretary shall keep minutes of all meetings of the Members and of the Board and shall have charge of such other books, papers and documents as the Board may prescribe;

(d) The Treasurer shall be responsible for Association funds and securities and for keeping full and accurate accounts of all receipts and disbursements in the Association books of accounts kept for such purpose.

6.04 OFFICERS' COMPENSATION: The officers shall receive no compensation for their services, except as expressly provided by a resolution duly adopted by not less than 75% of the Voting Members.

ARTICLE VII COMMITTEES DESIGNATED BY BOARD

7.01 BOARD COMMITTEES: The Board may, by Board Action, designate one or more committees, each of which shall consist of two or more Managers, which committees, to the extent consistent with law and as provided in said resolution, shall have and exercise the

authority of the Board in the management of the Association; but the designation of such committees and delegation thereto of authority shall not operate to relieve the Board, or any individual Manager, of any responsibility imposed by law upon the Board or any individual Manager.

7.02 SPECIAL AND STANDING COMMITTEES: Other committees not having and exercising the authority of the Board in the management of the Association may be designated by a resolution adopted by Board Action. Except as otherwise provided in such resolution, members of each such special committee shall be Members or Voting Members and the President shall appoint the members of such special committee, as well as a Manager to act as the liaison between the special committee and the Board. Any member of such special committee may be removed by the President whenever in his or her judgment the best interests of the Association shall be served by such removal. The powers and the duties of any standing committee shall be as set from time to time by resolution of the Board. The President shall designate a Manager (who shall act as the liaison between the standing committee and the Board) to serve as the chairman of each standing committee, and the other members of the standing committee (who need not be Managers) shall be appointed and removed from time to time by such chairman.

7.03 TERM: Each member of a committee shall continue as such until the next Annual Meeting of the Board and until his or her successor is appointed, unless the committee shall be sooner terminated, or unless such member shall be removed from such committee, or unless such member shall cease to qualify as a member thereof.

7.04 CHAIRPERSON: Except as otherwise provided in Section 7.02 above, one member of each committee shall be appointed chairperson.

7.05 VACANCIES: Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointments to such committee.

7.06 QUORUM: Unless otherwise provided in the resolution of the Board designating a committee, a majority of the whole committee shall constitute a quorum and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

7.07 RULES: Each committee may adopt rules for its own governance not inconsistent with the Declaration, this Operating Agreement or with rules adopted by the Board.

ARTICLE VIII CONTRACTS, CHECKS, DEPOSITS AND FUNDS

8.01 CONTRACTS: The Board may authorize any officer or officers, agent or agents of the Association, in addition to the officers so authorized by this Operating Agreement, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association and such authority may be general or confined to specific instances. In the absence of any such authorization by the Board, any such contract or instrument shall be executed by the

President or a Vice President and attested to by the Secretary or an Assistant Secretary of the Association.

8.02 PAYMENTS: All checks, drafts, vouchers or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association shall be signed by such officer or officers, agent or agents of the Association, and in such manner as shall from time to time be determined by resolution of the Board. In the absence of such determination by the Board, such instruments shall be signed by the Treasurer or an Assistant Treasurer and countersigned by the President or a Vice President of the Association.

8.03 BANK ACCOUNTS: All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Board shall elect.

8.04 SPECIAL RECEIPTS: The Board may accept on behalf of the Association any contribution, gift, bequest, or devise for the general purposes or for any special purpose of the Association.

ARTICLE IX FISCAL MANAGEMENT

9.01 FISCAL YEAR: The fiscal year of the Association shall be established by the Association and may be changed from time to time by a resolution adopted by two-thirds (2/3) of the Board.

9.02 ANNUAL STATEMENT: Within a reasonable time after the close of each fiscal year, the Board shall furnish each Member with a statement of the income and disbursements of the Association for such fiscal year.

9.03 SPECIAL STATEMENT: Within ten (10) days after receipt of a written request from a Member, the Board shall provide the Member with a statement containing the following information:

- (a) The status of the Member's account and the amount of any unpaid assessments or other charges due and owing from the Member; and
- (b) The status and amount of any and all Capital Reserves.

9.04 ASSESSMENT PROCEDURE: Community Assessments and special assessments shall be made and collected as provided in the Declaration.

ARTICLE X TRANSFER OF MEMBERSHIP

10.01 MEMBERSHIP: The Owner of each Lot shall automatically be a Member of the Association. There shall be one membership per Lot. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Ownership of a Lot shall be the sole qualification for membership. The Association shall be given written notice of a proposed

change of ownership of a Lot within ten (10) days prior to such change. Any attempt to transfer membership in the Association separate from ownership of a Lot shall be invalid, null and void, and of no force and effect.

10.02 NO VOLUNTARY DISSOCIATION: Except as otherwise provided by Section 10.01 above, a Member shall not be permitted to voluntarily dissociate from the Association.

ARTICLE XI BOOKS AND RECORDS

The Association shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its Members, the Board, and committees having any of the authority of the Board, and shall keep at the registered or principal office of the Association a record including the following: (i) the names and last known address of the Members, setting forth the date on which each became a Member; (ii) a copy of the Articles of Organization of the Association, as amended or restated, together with executed copies of any powers of attorney pursuant to which any articles, applications, or certificates have been executed; (iii) copies of the Association's financial statements and federal, state, and local income tax returns and reports for the three (3) most recent years, where applicable; and (4) copies of the Operating Agreement and any amendments thereto. All books and records of the Association may be inspected and copied by any Member, or his or her mortgagee, agent or attorney, at any reasonable time. The Member shall reimburse the Association for all costs and expenses incurred by the Association in connection with that Member's inspection and copying of such records.

ARTICLE XII MISCELLANEOUS PROVISIONS

12.01 GOVERNING LAW. This Operating Agreement shall be interpreted in accordance with the internal laws of the State of Illinois, without regard to its rules governing conflict of laws.

12.02 VALIDITY. The provisions of this Operating Agreement are intended to be interpreted and construed in a manner which renders them valid and enforceable. In the event that any provision of this Operating Agreement is found to be invalid or unenforceable, such provision shall be deemed excised from this Operating Agreement without affecting the validity or enforceability of any of the remaining provisions hereof.

12.03 JURISDICTION AND VENUE. All disputes arising under or in connection with this Operating Agreement shall be resolved and disposed of by the federal and state courts located in the County where the Declaration is recorded, and the Association, Managers, and Members irrevocably consent to the exclusive personal jurisdiction of such courts and venue therein.

ARTICLE XIII
AMENDMENTS

This Operating Agreement may be amended or modified at any time, or from time to time, by the affirmative vote of two-thirds of the Managers then serving provided, that (a) no provision of this Operating Agreement may be amended or modified so as to conflict with the provisions of the Declaration or the Act, and (b) no provision of this Operating Agreement which affects the rights of the Class B Member may be amended or modified without the written consent of the Class B Member.

(Signature Page immediately follows)

IN WITNESS WHEREOF, the parties have executed this Operating Agreement as of the first date set forth above.

ASSOCIATION:

Loretto Club Homeowners' Association, LLC,
an Illinois limited liability company

By: PULTE HOME COMPANY, LLC, a Michigan
limited liability company

By: _____
Name: _____
Title: _____

MEMBER/DECLARANT:

PULTE HOME COMPANY, LLC, a Michigan
limited liability company

By: _____
Name: _____
Title: _____

