

**DECLARATION OF RESERVATIONS, COVENANTS, RESTRICTIONS
AND CONDITIONS FOR THE J. J. DETWEILER DEVELOPMENT**

This Declaration of Reservations, Covenants, Restrictions and Conditions is made and entered into by the Developer Enterprises, Inc., an Ohio Corporation (hereinafter the "Developer") on this 18th day of March ~~2001~~ 2002.

WHEREAS, the Developer is the developer of a certain 174.824 acre parcel of real property located in Oxford Township, Guernsey County, Ohio, and situated in the Southeast Quarter of Section 25, Range 7 West, Township 10 North of the "Old Seven Ranges Survey" in said township, as more fully described in "Exhibit A" attached hereto and made a part hereof, which the Developer is developing into a single-family residential community (hereinafter referred to as "the Development"); and

WHEREAS, as part of the Development, the Developer intends to include certain open space within the Development, which includes all areas not included in a platted lot or within the public right-of-way and which include but are not limited to the Development amenities, such as the private roads, proposed lake, and dam improvements (hereinafter referred to as the "Common Area").

WHEREAS, the Developer hereby submits the Development to the within Declaration for the purpose of defining and dedicating areas of the Development as Common Area and to provide for certain rights and obligations of the Property Owners within the Development; and

WHEREAS, the Developer has formed the Potts Farm Property Owner's Association, Inc., hereinafter referred to as the "Association," a corporation not-for-profit, established pursuant to the laws of the State of Ohio, for the limited initial purpose of owning, operating, maintaining, and administering certain portions of the Development, including portions of the Common Areas and such improvements as may be constructed and developed thereon, with the costs incurred by the Association in connection with said ownership, operation, construction and development, and any maintenance, repair, replacement and administration of such portions of the Development, including the Common Areas, to be an encumbrance upon the Development, as further described herein. The Potts Farm Property Owner's Association, Inc., Bylaws are attached hereto and made a part hereof and marked "Exhibit B" (the "Bylaws").

NOW, THEREFORE, the following reservations, covenants, restrictions and conditions are imposed upon the Development, including the Common Area, which shall be covenants running with the land, binding upon and inuring to the benefit of the Developer, the Association and the respective Grantees taking deeds, interest, or executed Purchase Agreements for acquiring an interest in such real estate, their respective successors, purchasers, heirs, executors, administrators and assigns (the "Property Owners") as set forth herein and as set forth and permitted under the Bylaws:

1. **MAINTENANCE OF COMMON AREAS.** The Association shall maintain the Common Area in a clean, safe, neat, health...

For amendment See O.R. 340 Pg. 242

nonstructural, ordinary as well as extraordinary, as the same existed upon the completion of construction of the same. The Association shall provide equipment and supplies necessary for the maintenance (including landscape maintenance) and the enjoyment of the Common Area which the Association shall operate. All work performed by the Association shall be performed in a good and workmanlike manner. Notwithstanding the foregoing, the Developer shall be fully responsible for and shall maintain the Common Area in a clean, safe, neat, healthy and workable condition, and in good repair and shall promptly make all necessary repairs and replacements, structural and nonstructural, ordinary as well as extraordinary at the Developer's sole expense until such time as control of the Association has been fully transferred to the Property Owners as provided herein.

2. **ASSESSMENTS FOR THE DEVELOPMENT.** Any and all assessments for the operation, administration, development, maintenance and upkeep of the Common Area, including but not limited to the Development amenities, such as the private roads, proposed lake, and dam improvements, constructed by the Developer in the Development, shall be fixed and assessed by the Association annually against each Property Owner in the Development as set forth in the Association Bylaws.
3. **FORMATION OF DEVELOPMENT PROPERTY OWNER'S ASSOCIATION.** The Developer shall form a Property Owner's Association subsequent to the recordation of the within Declaration. The Property Owner's Association members shall be fully responsible for assessments as required in Section 4 hereinabove.
4. **USE AND SIZE RESTRICTIONS FOR DEVELOPMENT.** The Lots within the Development shall be used exclusively for single-family residential purposes, and only one such residence shall be permitted on each Lot. The Developer shall have the right to divide lots for the purpose of adding parts thereof to other lots to be used for one single-family residence on the enlarged tracts. The Developer, in its sole discretion, reserves the right to approve each and every site plan, building plans, and building material schedules for each Lot. There shall be no minimum size requirement for the improvements to be located on a Lot. Each Property Owner waives any claim against the Developer for the Developer's failure to approve any of the foregoing.
5. **DEVELOPMENT LOT RESTRICTIONS.**
 - a. **Proposed Lake:** The proposed lake in the Development shall be maintained by the Property Owners at a minimum level to provide for their original drainage, detention and retention functional purpose.
 - b. **Location of Buildings on Lots:** All buildings shall be located on each lot in full compliance with set back restrictions imposed by the Guernsey County Zoning Ordinance applicable to this Development, or a minimum of thirty (30) feet from the edge of the right of way, whichever is greater, except as may be approved by the Developer.
 - c. **Corner Lots:** The Developer or the Architectural Review Board shall have sole discretion as to which street a residence will front on.

- d. Variances: At its sole discretion, the Developer or the Architectural Review Board reserves the sole right to approve any setback variances, whether for the Developer's own construction or otherwise.

6. **PROHIBITED USES AND ACTIVITIES WITHIN THE DEVELOPMENT.** The following uses and activities shall be prohibited in the Development as a whole unless specific written approval is given by the Developer or the Association:

- a. Industrial or manufacturing uses of any kind;
- b. Mining or extraction of any minerals, including the removal of sand or gravel; provided, however, this restriction should not limit or prohibit the extraction of minerals pursuant to leases or rights granted prior to the date of these restrictions. This restriction shall not prohibit the removal of any material in connection with development of the property for permitted use.
- c. Erection or maintenance of any signs, billboards or advertising devices of any kind except (a) signs not larger than eight (8) square feet for offering premises for sale shall be permitted on the premises to be sold (one per lot) (b) Home Builders and General Contractor signs, not larger than eight (8) square feet (one per lot) and only until sold. The configuration of Home Builder and General Contracting signs shall be at the sole discretion of the Developer. Nothing herein contained shall limit the Developer's right to place entry signs to the Development or signs designating the existence and location of model homes. The size and design of said sign shall be within the sole discretion of the Developer. Directional signs, political signs, and garage or yard sale signs are strictly prohibited from being placed in the right of way.
- d. Nuisances and noxious or offensive activities of any kind.
- e. No inoperative or unlicensed vehicles will be placed or stored on said property. No accumulation of discarded personal effects, debris, waste, garbage or any unsightly objects or matter will be permitted on property.
- f. No unsightly growth shall be permitted to grow or remain upon any lot and no refuse, pipe or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon.
- g. No lot in this Development shall be subdivided or divided, unless or until the plat showing such proposed subdivision or division shall have been submitted to the Developer or the Architectural Review Board and the written consent of same has been obtained.
- h. The property will be used for residential and farming purposes only and conform to local zoning regulations.

- i. The property must be kept in a clean, sanitary and sightly condition, and in compliance with all laws or regulations imposed by any governmental authority having jurisdiction over any property for the care, safety, health and upkeep of real estate.
- j. There shall be no storage of refuse, trash or hazardous materials on said property nor may the property be used as a dump or landfill site.
- k. Any residence erected on the property must have the exterior completed within 6 months. The exterior must be constructed with new material.
- l. Before occupancy of any house or manufactured house, a sewage disposal system must be installed in conformity with the minimum standards required by the County Board of Health.
- m. Single-wide mobile homes must have factory installed vinyl siding and a shingled roof at the time of placement. Wheels must be removed and new mobile home-type skirting must be applied when home is placed.
- n. Camper units will not be used as a permanent residence. No temporary house, incomplete house, shack, garage, basement, tent, camper, school bus or recreational vehicle will be used as a permanent residence.
- o. Where protective covenants and County or Township zoning ordinances are in conflict, the stricter requirements will prevail.
- p. Invalidation of any of these covenants by judgment of court order will in no way affect any of the other provisions, which will remain in full force and effect.
- q. The purchasers of this property, for themselves, their heirs and assigns, by the acceptance of the conveyance of this property, agree to be bound by the covenants contained herein and are the primary enforcers of these covenants. J.J. Detweiler Enterprises will not be obligated to enforce these covenants.

7. **SUBMITTALS AND APPROVALS FOR DEVELOPMENT CONSTRUCTION.**

- a. At such time as all of the lots in the Development have been sold, or Purchase Agreements have been executed to acquire said lots, to individuals or entities other than the Developer, or an entity controlled by the Developer, or at such earlier time as the Developer may elect, the right to approve all further construction or other items contained therein, may be transferred from the Developer to an Architectural Review Board ("ARB") composed of the trustees of the Association. Nothing herein contained shall be construed as a diminution in the Developer's authority to appoint an initial ARB to make all reviews and approvals as contemplated herein until the Association's ARB assumes said duties pursuant to the terms hereof and until the Developer relinquishes authority as provided hereinabove or hereinafter.

- b. All matters herein requiring the approval of the Developer or the ARB by the terms of this instrument, shall be submitted to the Developer or the ARB in writing, accompanied by such specifications, details and other documents as are reasonably required by it to make a proper decision. In order to insure that the homes and other buildings will have a uniform high standard of construction, the Developer and ARB reserve the right to reject all such plans and specifications as aforesaid for any reasonable grounds, including, but not limited to aesthetic reasons. The Developer and the ARB shall approve or disapprove such written submission or application for approval, in writing within fourteen (14) days after its receipt of the same, and a failure by the Developer or the ARB to so act within said fourteen (14) day period shall constitute approval of the submitted plans.
- c. The ARB shall exercise its best judgment to see that all improvements in the Development conform to consistent with the Development. The actions of the ARB, through its approval or disapproval of plans and other information submitted pursuant hereto, shall be conclusive and binding on all interested parties with no right of appeal.
- d. Any builder within the Development shall strictly comply with the requirements of the Developer or the ARB for the Development and shall obtain plan approval from the Developer or the ARB as required herein. Approval shall be required by submission to the ARB of plans and specifications, which shall describe types of construction and exterior materials to be used, in duplicate, showing the following:
 - i. All Buildings, and other improvements, access drives, and other improved areas and the locations thereof on the site;
 - ii. Plans for all floors, cross sections and elevations, including projections and wing walls.
 - iii. Such other information, data, drawings as may be reasonably requested by the ARB.
- e. Approval shall be based, among other things, upon conformity and harmony of the proposed plans with the other homes in the Development; the effect of the location and use of improvements on neighboring property; and conformity of the plans and specifications to the purpose and general intent of these Restrictions.
- f. Neither the Developer, the ARB, nor any member thereof, nor any of their respective heirs, personal representatives, successors or assigns, shall be liable to anyone submitting plans for approval by reason of mistakes in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve any plans. Every person and entity who submits plans to the ARB agrees, by submission of such plans, that he or it will not bring any action or suit against the ARB or the Developer in law or equity or to recover any damages.

- a. The Developer reserves to itself and its successors and assigns, the right to petition for or grant future easement or rights of way for the construction, maintenance, extension and operation of all public or private utility facilities in or upon all streets, now and existing or hereafter established, upon which any portion of this subdivision may now or hereafter front or abut. The owners of any and all lots of this subdivision agree to and do hereby consent to and affirm all such agreements that may be entered into between the Developer and public or private utility companies, entities or authorities.
- b. The Developer or the Association reserve to themselves the right to relocate utility easements in accordance with the requirement of the Guernsey County Engineer, Oxford Township, or as necessary for the orderly progress of the Development.
- c. The Developer reserves the right for itself its agents, employees, successors and assigns to enter upon any lot for the purpose of carrying out and completing the development of the property, including but not limited to the completion of any dredging, filling, grading or installation of drainage facilities. Entry onto said property for such purposes shall not be deemed a trespass.
- d. The Association shall be responsible for the repair, maintenance and upkeep of all of the Common Areas, including but not limited to Development amenities, such as the private roads, proposed lake, and dam improvements.

9. **LIMITS, MODIFICATIONS AND ENFORCEABILITY.**

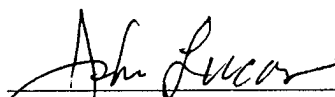
- a. The Developer reserves for itself, its successors and assigns, the right to amend, change, cancel or add to any or all of the aforementioned provisions when it deems such course of action advisable; provided, however, that no amendment, change, cancellation or addition shall be made unless an appropriate instrument is signed by Property Owners of two thirds of the Lots within the Development agreeing to such amendment, change cancellation or addition. The restrictions contained herein shall be deemed as covenants running with the land, part of the property herein described and all persons claiming-under them.
- b. The provisions herein shall run in favor of and shall be enforceable by any person or entity, and the heirs, assigns and successors for such person or entity, who is or becomes an owner of any Lot in this subdivision as well as the Developer, its successors or assigns. It is understood and agreed that all of the foregoing are part of a common and general plan for the development of this subdivision and the protection of all present and future owners of any part of the subdivision. Failure of the Developer to enforce any of the restrictions contained herein, shall in no event be construed to be in any manner a waiver of, acquiescence in, or consent to a further or succeeding violation of these restrictions. However, the failure, refusal or neglect of the Developer, its successors or assigns to enforce said restrictions or to prevent violations thereof shall in no event make the Developer, its successors or assigns liable for such failure, refusal or neglect.


10. **INTERPRETATION AND SEVERABILITY**. In case of uncertainty as to the meaning of any article, paragraph, sentence, clause, phrase or word in this Declaration, the interpretation by the Developer or the Association shall be final and conclusive upon all interested parties. Further, determination by any appropriate authority or court that any paragraph or provision of this Declaration is invalid or unenforceable shall in no way limit or restrict the validity and enforceability of any other paragraph or provision.
11. **PERIOD OF DURATION**. The within Declaration and the charges and liens provided for herein, shall be deemed to run with the land; shall continue in full force and effect for a period of fifty (50) years and shall be automatically reinstated for a like period unless written objection is theretofore declared upon proper authority and filed by the Association with the Recorder of Guernsey County, Ohio.
12. **CONSTRUCTIVE NOTICE AND ACCEPTANCE**. Every person who now or hereafter owns or acquires any rights, title or estate in any Lot in the Development, is and shall be conclusively deemed to have consented and agreed to every covenant, condition and restriction contained herein, whether or not a reference to the Declaration is contained in the instrument by which such person acquired an interest in said Lot.
13. **MUTUALITY**. All restrictions, conditions and covenants contained herein are made for the direct mutual and reciprocal benefit of the Developer, the Association, and the Property Owners and their successors and assigns. The Declaration shall create mutual equitable servitudes upon the Development in favor of other Lots in the Development. The Declaration shall create reciprocal rights and obligations between the respective Property Owners of all such property and privity of contract and estate between all Property Owners thereof; and the Declarations shall, as to the Property Owner of any such Lot, his or her heirs, personal representatives, successors and assigns, operate as covenants running with the land for the benefit of all such property and the Property Owners thereof.
14. **DEVELOPER ACTING AS ASSOCIATION OR ARB**. Consistent with the provisions hereinabove, until such time as all the Lots in the Development have been sold to individuals or entities other than the Developer, or an entity controlled by the Developer, or at such earlier time as the Developer may elect, the Developer shall, in its discretion, exercise all rights granted herein to the Association or the ARB. The Developer shall not be required to pay any assessments or other payments as a Property Owner or Lot owner within the Development prior to its sale and conveyance of any Lot to a third party purchaser.

IN WITNESS WHEREOF, this Declaration has been duly signed, acknowledged and delivered by the Developer, on the date and year set forth above.

Witnesses:

J. J. DETWEILER ENTERPRISES, INC.
an Ohio corporation



By: 

(type or print name)

Wendi L. Iberg

BOOK **311** PAGE **244**

Wendi L. Iberg

(type or print name)

STARK

STATE OF OHIO, GUERNSEY COUNTY, SS:

Before me, a Notary Public in and for said County and State, personally appeared the above-named **J. J. DETWEILER ENTERPRISES, INC.**, an Ohio corporation, by Joe Detweiler, its President, who acknowledged that he did sign the foregoing instrument, and that the same is the free act and deed of said corporation, and the free act and deed of him personally and as such officer.

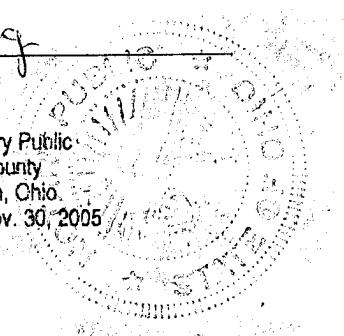
IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Uniontown, Ohio, this 18th day of March 2001.
2002

Wendi L. Iberg
Notary Public

This instrument prepared by:

Eric J. Williams, Esq.
KRUGLIAK, WILKINS, GRIFFITHS
& DOUGHERTY CO., L.P.A.
4775 Munson Street, N.W.
P. O. Box 36963
Canton, Ohio 44735-6963
Phone: (330) 497-0700
Fax: (330) 497-4020

WENDI L. IBERG, Notary Public
Residence - Stark County
State Wide Jurisdiction, Ohio.
My Commission Expires Nov. 30, 2005



**AMENDMENT TO
DECLARATION OF RESERVATIONS, COVENANTS, RESTRICTIONS
AND CONDITIONS FOR THE J.J. DETWEILER DEVELOPMENT, nka
POTTS FARM SUBDIVISION (PHASE I), AND AMENDMENT TO
DECLARATION OF RESERVATIONS, COVENANTS, RESTRICTIONS
AND CONDITIONS FOR THE POTTS FARM SUBDIVISION (PHASE II)**

THIS AMENDMENT TO THE DECLARATION OF RESERVATIONS, COVENANTS, RESTRICTIONS AND CONDITIONS ("Amendment") is made and entered into by J.J. Detweiler Enterprises, Inc., the Potts Farm Property Owners Association, Inc., and the Property Owners set forth below, effective this 24th day of April, 2012 (hereinafter "Effective Date").

WHEREAS, J.J. Detweiler Enterprises, Inc., as Developer of the Potts Farm Subdivision Phase I (formerly known as the "J.J. Detweiler Development" as further described below) situated in Guernsey County, Ohio, adopted a certain Declaration of Reservations, Covenants, Restrictions and Conditions for the J.J. Detweiler Development, Guernsey County, Ohio (hereinafter "Phase I Declaration"); and

WHEREAS, J.J. Detweiler Enterprises, Inc., caused said Phase I Declaration to be recorded in the office of the Guernsey County Recorder, being recorded in Book 311, Page 236 of the Guernsey County Official Records, on April 2, 2002; and

WHEREAS, J.J. Detweiler Enterprises, Inc., caused an amendment to the Phase I Declaration to be recorded in the office of the Guernsey County Recorder, being recorded in Book 340, Page 242 of the Guernsey County Official Records, on December 17, 2002, changing the name of the J.J. Detweiler Development to the Potts Farm Subdivision; and

WHEREAS, J.J. Detweiler Enterprises, Inc., as Developer of the Potts Farm Subdivision Phase II, situated in Guernsey County, Ohio, adopted a certain Declaration of Reservations, Covenants, Restrictions and Conditions for the J.J. Detweiler Development, Guernsey County, Ohio (hereinafter "Phase II Declaration")

WHEREAS, J.J. Detweiler Enterprises, Inc., caused said Phase II Declaration) to be recorded in the office of the Guernsey County Recorder, being recorded in Book 340, Page 244 of the Guernsey County Official Records, on December 17, 2002; and

WHEREAS, Article 16 of the Potts Farm Property Owners Association, Inc., By-Laws permits J.J. Detweiler Enterprises, Inc., the Potts Farm Property Owners Association, Inc., and

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the owners of the lots at the Potts Farm Subdivision Phase I and Phase II to amend the Phase I Declaration and Phase II Declaration.

NOW, THEREFORE, As of the Effective Date as set forth above, the Phase I Declaration and Phase II Declaration are hereby amended in the following respects:

I.

1. Paragraph 6(b), Prohibited Uses and Activities Within Development, which prohibits the following,

“Mining or extraction of any minerals, including the removal of sand or gravel; provided, however, this restriction should not limit or prohibit the extraction of minerals pursuant to lease or rights granted prior to the date of these restrictions. This restriction shall not prohibit the removal of any material in connection with development of the property for permitted use.”

be and is hereby deleted in its entirety.

All other provisions of the Phase I Declaration and Phase II Declaration not amended herein remain in full force and effect. The Property Owners set forth below represent seventy-one percent (71 %) of the Property Owner of both Phase I and Phase II.

This Amendment has been duly signed, acknowledged and delivered by J.J. Detweiler Enterprises, Inc., the Potts Farm Property Owners Association, Inc., and the Property Owners set forth below, as of the Effective Date set forth above.

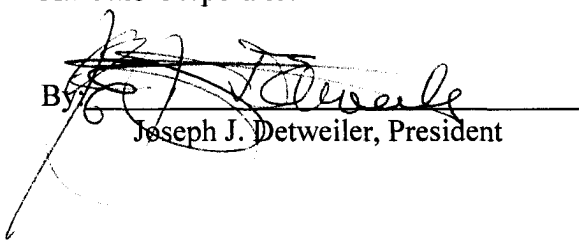
J.J. DETWEILER ENTERPRISES, INC.
An Ohio Corporation

Scott M. Zurkowski

Scott M. Zurkowski

(type or print name)
Mara B. Kraft

(type or print name)

By 

Joseph J. Detweiler, President

**AMENDMENT TO DECLARATION OF RESERVATIONS,
COVENANTS, RESTRICTIONS AND CONDITIONS FOR THE
J.J. DETWEILER DEVELOPMENT, GUERNSEY COUNTY, OHIO**

THIS AMENDMENT TO DECLARATION OF RESERVATIONS, COVENANTS, RESTRICTIONS AND CONDITIONS is made and entered into by J.J. Detweiler Enterprises, Inc., an Ohio Corporation (hereinafter the "Developer"), on this 6th day of November, 2002.

WHEREAS, J.J. Detweiler Enterprises, Inc., as Developer of the Potts Farm situated in Guernsey County, Ohio, adopted the Declaration of Reservations, Covenants, Restrictions and Conditions for the J.J. Detweiler Development, Guernsey County, Ohio; and

WHEREAS, J.J. Detweiler Enterprises, Inc., caused said Declaration of Reservations, Covenants, Restrictions and Conditions for the J.J. Detweiler Development, Guernsey County, Ohio, to be recorded in the office of the Recorder, and known as document number 200200002489 and recorded at Book 311, Page 236' of the official records, on April 2, 2002; and

WHEREAS, Article 16 of the Potts Farm Property Owner's Association, Inc., By-Laws permits the Developer to amend the Declaration of Reservations, Covenants, Restrictions and Conditions;

NOW, THEREFORE, effective as of the date of the recording of this document, the Declaration of Reservations, Covenants, Restrictions and Conditions for the J.J. Detweiler Development, Guernsey County, Ohio, is hereby amended in the following respects:

ITEM I

1. The first paragraph shall identify the name of the developer as J.J. Detweiler Enterprises, Inc.

ITEM II

2. The name of the Development as specified throughout the declaration shall be the Potts Farm Subdivision.

ITEM III

3. The Declaration of Reservations, Covenants, Restrictions and Conditions shall now be known as the Declaration of Reservations, Covenants, Restrictions and Conditions for the Potts Farm Subdivision.

For Amendment See CR 4889 2758

IN WITNESS WHEREOF, this Amendment to the Declaration of Reservations, Covenants, Restrictions and Conditions for the J.J. Detweiler Development, Guernsey County, Ohio, has been duly signed, acknowledged and delivered by the Developer, on the date and the year set forth above.

Signed in the presence of:

J.J. DETWEILER ENTERPRISES, INC.
An Ohio Corporation

John Lucas
John Lucas
(type or print name)

By: *Joseph J. Detweiler Pres*
Joseph J. Detweiler, President

200200009605
Filed for Record in
GUERNSEY COUNTY, OHIO
COLLEEN WHEATLEY
12-17-2002 02:23 pm.
RESTRICTION 16.00
OR Book 340 Page 242 - 243

Wendi L. Iberg
Wendi L. Iberg
(type or print name)

200200009605
KNOWLTON & BENNETT
PICK UP

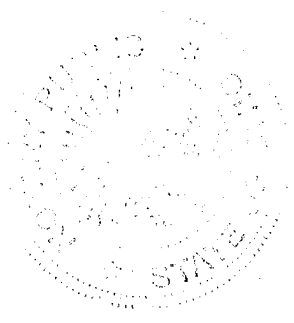
STATE OF OHIO, STARKCOUNTY, SS:

Before me, a Notary Public in and for said County and State, personally appeared the above-named J.J. Detweiler Enterprises, Inc., by Joseph J. Detweiler, its President, who acknowledged that he did sign the foregoing instrument, and that the same is the free act and deed of said corporation, and the free act and deed of him personally and as such officer.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Canton, Ohio, this 6th day of November 2002.
Wendi L. Iberg

Wendi L. Iberg
Notary Public

WENDI L. IBERG, Notary Public
Residence - Stark County
State Wide Jurisdiction, Ohio
My Commission Expires Nov. 30, 2005



This instrument prepared by:

Scott M. Zurakowski, Esq.
KRUGLIAK, WILKINS, GRIFFITHS
& DOUGHERTY CO., L.P.A.
4775 Munson Street, N.W.
P. O. Box 36963
Canton, Ohio 44735-6963
Phone: (330) 497-0700
Fax: (330) 497-4020

BOOK 340 PAGE 243

200200009606
Filed for Record in
GUERNSEY COUNTY, OHIO
COLLEEN WHEATLEY
12-17-2002 02:23 PM.
RESTRICTION 42.00
OR Book 340 Page 244 - 252

BOOK 340 PAGE 244

200200009606
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For Amendment See CR 488 P 1150

**DECLARATION OF
RESERVATIONS, COVENANTS, RESTRICTIONS
AND CONDITIONS
FOR THE
POTTS FARM SUBDIVISION
(PHASE II)**

DECLARATION OF RESERVATIONS, COVENANTS, RESTRICTIONS AND CONDITIONS FOR THE POTTS FARM SUBDIVISION (PHASE II)

This Declaration of Reservations, Covenants, Restrictions and Conditions is made and entered into by J.J. Detweiler Enterprises, Inc., an Ohio Corporation (hereinafter the "Developer") on this 6th day of November 2002.

WHEREAS, the Developer is the developer of a certain 105.790 acre parcel of real property located in Oxford Township, Guernsey County, Ohio, and situated in the Southeast Quarter of Section 25, Range 7 West, Township 10 North of the "Old Seven Ranges Survey" in said township, as more fully described in "Exhibit A" attached hereto and made a part hereof, which the Developer is developing into a single-family residential community (hereinafter referred to as "the Development"); and

WHEREAS, as part of the Development, the Developer intends to include certain open space within the Development, which includes all areas not included in a platted lot or within the public right-of-way and which include but are not limited to the Development amenities, such as the private roads, proposed lake, and dam improvements (hereinafter referred to as the "Common Area").

WHEREAS, the Developer hereby submits the Development to the within Declaration for the purpose of defining and dedicating areas of the Development as Common Area and to provide for certain rights and obligations of the Property Owners within the Development; and

WHEREAS, the Developer has formed the Potts Farm Property Owner's Association, Inc., hereinafter referred to as the "Association," a corporation not-for-profit, established pursuant to the laws of the State of Ohio, for the limited initial purpose of owning, operating, maintaining, and administering certain portions of the Development, including portions of the Common Areas and such improvements as may be constructed and developed thereon, with the costs incurred by the Association in connection with said ownership, operation, construction and development, and any maintenance, repair, replacement and administration of such portions of the Development, including the Common Areas, to be an encumbrance upon the Development, as further described herein. The Potts Farm Property Owner's Association, Inc., Bylaws are attached hereto and made a part hereof and marked "Exhibit B" (the "Bylaws").

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1. **MAINTENANCE OF COMMON AREAS.** The Association shall maintain the Common Area in a clean, safe, neat, healthy and workable condition, and in good repair and shall promptly make all necessary repairs and replacements, structural and

nonstructural, ordinary as well as extraordinary, as the same existed upon the completion of construction of the same. The Association shall provide equipment and supplies necessary for the maintenance (including landscape maintenance) and the enjoyment of the Common Area which the Association shall operate. All work performed by the Association shall be performed in a good and workmanlike manner. Notwithstanding the foregoing, the Developer shall be fully responsible for and shall maintain the Common Area in a clean, safe, neat, healthy and workable condition, and in good repair and shall promptly make all necessary repairs and replacements, structural and nonstructural, ordinary as well as extraordinary at the Developer's sole expense until such time as control of the Association has been fully transferred to the Property Owners as provided herein.

2. **ASSESSMENTS FOR THE DEVELOPMENT.** Any and all assessments for the operation, administration, development, maintenance and upkeep of the Common Area, including but not limited to the Development amenities, such as the private roads, proposed lake, and dam improvements, constructed by the Developer in the Development, shall be fixed and assessed by the Association annually against each Property Owner in the Development as set forth in the Association Bylaws.
3. **FORMATION OF DEVELOPMENT PROPERTY OWNER'S ASSOCIATION.** The Developer shall form a Property Owner's Association subsequent to the recordation of the within Declaration. The Property Owner's Association members shall be fully responsible for assessments as required in Section 4 hereinabove.
4. **USE AND SIZE RESTRICTIONS FOR DEVELOPMENT.** The Lots within the Development shall be used exclusively for single-family residential purposes, and only one such residence shall be permitted on each Lot. The Developer shall have the right to divide lots for the purpose of adding parts thereof to other lots to be used for one single-family residence on the enlarged tracts. The Developer, in its sole discretion, reserves the right to approve each and every site plan, building plans, and building material schedules for each Lot. There shall be no minimum size requirement for the improvements to be located on a Lot. Each Property Owner waives any claim against the Developer for the Developer's failure to approve any of the foregoing.
5. **DEVELOPMENT LOT RESTRICTIONS.**
 - a. **Proposed Lake:** The proposed lake in the Development shall be maintained by the Property Owners at a minimum level to provide for their original drainage, detention and retention functional purpose.
 - b. **Location of Buildings on Lots:** All buildings shall be located on each lot in full compliance with set back restrictions imposed by the Guernsey County Zoning Ordinance applicable to this Development, or a minimum of thirty (30) feet from the edge of the right of way, whichever is greater, except as may be approved by the Developer.
 - c. **Corner Lots:** The Developer or the Architectural Review Board shall have sole discretion as to which street a residence will front on.

- d. Variiances: At its sole discretion, the Developer or the Architectural Review Board reserves the sole right to approve any setback variances, whether for the Developer's own construction or otherwise.

6. **PROHIBITED USES AND ACTIVITIES WITHIN THE DEVELOPMENT.** The following uses and activities shall be prohibited in the Development as a whole unless specific written approval is given by the Developer or the Association:

- a. Industrial or manufacturing uses of any kind;
- b. Mining or extraction of any minerals, including the removal of sand or gravel; provided, however, this restriction should not limit or prohibit the extraction of minerals pursuant to leases or rights granted prior to the date of these restrictions. This restriction shall not prohibit the removal of any material in connection with development of the property for permitted use.
- c. Erection or maintenance of any signs, billboards or advertising devices of any kind except (a) signs not larger than eight (8) square feet for offering premises for sale shall be permitted on the premises to be sold (one per lot) (b) Home Builders and General Contractor signs, not larger than eight (8) square feet (one per lot) and only until sold. The configuration of Home Builder and General Contracting signs shall be at the sole discretion of the Developer. Nothing herein contained shall limit the Developer's right to place entry signs to the Development or signs designating the existence and location of model homes. The size and design of said sign shall be within the sole discretion of the Developer. Directional signs, political signs, and garage or yard sale signs are strictly prohibited from being placed in the right of way.
- d. Nuisances and noxious or offensive activities of any kind.
- e. No inoperative or unlicensed vehicles will be placed or stored on said property. No accumulation of discarded personal effects, debris, waste, garbage or any unsightly objects or matter will be permitted on property.
- f. No unsightly growth shall be permitted to grow or remain upon any lot and no refuse, pipe or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon.
- g. No lot in this Development shall be subdivided or divided, unless or until the plat showing such proposed subdivision or division shall have been submitted to the Developer or the Architectural Review Board and the written consent of same has been obtained.
- h. The property will be used for residential and farming purposes only and conform to local zoning regulations.

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- i. The property must be kept in a clean, sanitary and sightly condition, and in compliance with all laws or regulations imposed by any governmental authority having jurisdiction over any property for the care, safety, health and upkeep of real estate.
- j. There shall be no storage of refuse, trash or hazardous materials on said property nor may the property be used as a dump or landfill site.
- k. Any residence erected on the property must have the exterior completed within 6 months. The exterior must be constructed with new material.
- l. Before occupancy of any house or manufactured house, a sewage disposal system must be installed in conformity with the minimum standards required by the County Board of Health.
- m. Single-wide mobile homes must have factory installed vinyl siding and a shingled roof at the time of placement. Wheels must be removed and new mobile home-type skirting must be applied when home is placed.
- n. Camper units will not be used as a permanent residence. No temporary house, incomplete house, shack, garage, basement, tent, camper, school bus or recreational vehicle will be used as a permanent residence.
- o. Where protective covenants and County or Township zoning ordinances are in conflict, the stricter requirements will prevail.
- p. Invalidation of any of these covenants by judgment of court order will in no way affect any of the other provisions, which will remain in full force and effect.
- q. The purchasers of this property, for themselves, their heirs and assigns, by the acceptance of the conveyance of this property, agree to be bound by the covenants contained herein and are the primary enforcers of these covenants. J.J. Detweiler Enterprises will not be obligated to enforce these covenants.

7. **SUBMITTALS AND APPROVALS FOR DEVELOPMENT CONSTRUCTION.**

- a. At such time as all of the lots in the Development have been sold, or Purchase Agreements have been executed to acquire said lots, to individuals or entities other than the Developer, or an entity controlled by the Developer, or at such earlier time as the Developer may elect, the right to approve all further construction or other items contained therein, may be transferred from the Developer to an Architectural Review Board ("ARB") composed of the trustees of the Association. Nothing herein contained shall be construed as a diminution in the Developer's authority to appoint an initial ARB to make all reviews and approvals as contemplated herein until the Association's ARB assumes said duties pursuant to the terms hereof and until the Developer relinquishes authority as provided hereinabove or hereinafter.

- b. All matters herein requiring the approval of the Developer or the ARB by the terms of this instrument, shall be submitted to the Developer or the ARB in writing, accompanied by such specifications, details and other documents as are reasonably required by it to make a proper decision. In order to insure that the homes and other buildings will have a uniform high standard of construction, the Developer and ARB reserve the right to reject all such plans and specifications as aforesaid for any reasonable grounds, including, but not limited to aesthetic reasons. The Developer and the ARB shall approve or disapprove such written submission or application for approval, in writing within fourteen (14) days after its receipt of the same, and a failure by the Developer or the ARB to so act within said fourteen (14) day period shall constitute approval of the submitted plans.
- c. The ARB shall exercise its best judgment to see that all improvements in the Development conform to consistent with the Development. The actions of the ARB, through its approval or disapproval of plans and other information submitted pursuant hereto, shall be conclusive and binding on all interested parties with no right of appeal.
- d. Any builder within the Development shall strictly comply with the requirements of the Developer or the ARB for the Development and shall obtain plan approval from the Developer or the ARB as required herein. Approval shall be required by submission to the ARB of plans and specifications, which shall describe types of construction and exterior materials to be used, in duplicate, showing the following:
 - i. All Buildings, and other improvements, access drives, and other improved areas and the locations thereof on the site;
 - ii. Plans for all floors, cross sections and elevations, including projections and wing walls.
 - iii. Such other information, data, drawings as may be reasonably requested by the ARB.
- e. Approval shall be based, among other things, upon conformity and harmony of the proposed plans with the other homes in the Development; the effect of the location and use of improvements on neighboring property; and conformity of the plans and specifications to the purpose and general intent of these Restrictions.
- f. Neither the Developer, the ARB, nor any member thereof, nor any of their respective heirs, personal representatives, successors or assigns, shall be liable to anyone submitting plans for approval by reason of mistakes in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve any plans. Every person and entity who submits plans to the ARB agrees, by submission of such plans, that he or it will not bring any action or suit against the ARB or the Developer in law or equity or to recover any damages.

8. **RESERVATIONS, EASEMENTS AND COMMON AREA.**

- a. The Developer reserves to itself and its successors and assigns, the right to petition for or grant future easement or rights of way for the construction, maintenance, extension and operation of all public or private utility facilities in or upon all streets, now and existing or hereafter established, upon which any portion of this subdivision may now or hereafter front or abut. The owners of any and all lots of this subdivision agree to and do hereby consent to and affirm all such agreements that may be entered into between the Developer and public or private utility companies, entities or authorities.
- b. The Developer or the Association reserve to themselves the right to relocate utility easements in accordance with the requirement of the Guernsey County Engineer, Oxford Township, or as necessary for the orderly progress of the Development.
- c. The Developer reserves the right for itself its agents, employees, successors and assigns to enter upon any lot for the purpose of carrying out and completing the development of the property, including but not limited to the completion of any dredging, filling, grading or installation of drainage facilities. Entry onto said property for such purposes shall not be deemed a trespass.
- d. The Association shall be responsible for the repair, maintenance and upkeep of all of the Common Areas, including but not limited to Development amenities, such as the private roads, proposed lake, and dam improvements.

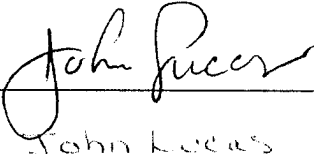
9. **LIMITS, MODIFICATIONS AND ENFORCEABILITY.**

- a. The Developer reserves for itself, its successors and assigns, the right to amend, change, cancel or add to any or all of the aforementioned provisions when it deems such course of action advisable; provided, however, that no amendment, change, cancellation or addition shall be made unless an appropriate instrument is signed by Property Owners of two thirds of the Lots within the Development agreeing to such amendment, change cancellation or addition. The restrictions contained herein shall be deemed as covenants running with the land, part of the property herein described and all persons claiming-under them.
- b. The provisions herein shall run in favor of and shall be enforceable by any person or entity, and the heirs, assigns and successors for such person or entity, who is or becomes an owner of any Lot in this subdivision as well as the Developer, its successors or assigns. It is understood and agreed that all of the foregoing are part of a common and general plan for the development of this subdivision and the protection of all present and future owners of any part of the subdivision. Failure of the Developer to enforce any of the restrictions contained herein, shall in no event be construed to be in any manner a waiver of, acquiescence in, or consent to a further or succeeding violation of these restrictions. However, the failure, refusal or neglect of the Developer, its successors or assigns to enforce said restrictions or to prevent violations thereof shall in no event make the Developer, its successors or assigns liable for such failure, refusal or neglect.

10. **INTERPRETATION AND SEVERABILITY.** In case of uncertainty as to the meaning of any article, paragraph, sentence, clause, phrase or word in this Declaration, the interpretation by the Developer or the Association shall be final and conclusive upon all interested parties. Further, determination by any appropriate authority or court that any paragraph or provision of this Declaration is invalid or unenforceable shall in no way limit or restrict the validity and enforceability of any other paragraph or provision.
11. **PERIOD OF DURATION.** The within Declaration and the charges and liens provided for herein, shall be deemed to run with the land; shall continue in full force and effect for a period of fifty (50) years and shall be automatically reinstated for a like period unless written objection is theretofore declared upon proper authority and filed by the Association with the Recorder of Guernsey County, Ohio.
12. **CONSTRUCTIVE NOTICE AND ACCEPTANCE.** Every person who now or hereafter owns or acquires any rights, title or estate in any Lot in the Development, is and shall be conclusively deemed to have consented and agreed to every covenant, condition and restriction contained herein, whether or not a reference to the Declaration is contained in the instrument by which such person acquired an interest in said Lot.
13. **MUTUALITY.** All restrictions, conditions and covenants contained herein are made for the direct mutual and reciprocal benefit of the Developer, the Association, and the Property Owners and their successors and assigns. The Declaration shall create mutual equitable servitudes upon the Development in favor of other Lots in the Development. The Declaration shall create reciprocal rights and obligations between the respective Property Owners of all such property and privity of contract and estate between all Property Owners thereof; and the Declarations shall, as to the Property Owner of any such Lot, his or her heirs, personal representatives, successors and assigns, operate as covenants running with the land for the benefit of all such property and the Property Owners thereof.
14. **DEVELOPER ACTING AS ASSOCIATION OR ARB.** Consistent with the provisions hereinabove, until such time as all the Lots in the Development have been sold to individuals or entities other than the Developer, or an entity controlled by the Developer, or at such earlier time as the Developer may elect, the Developer shall, in its discretion, exercise all rights granted herein to the Association or the ARB. The Developer shall not be required to pay any assessments or other payments as a Property Owner or Lot owner within the Development prior to its sale and conveyance of any Lot to a third party purchaser.

IN WITNESS WHEREOF, this Declaration has been duly signed, acknowledged and delivered by the Developer, on the date and year set forth above.

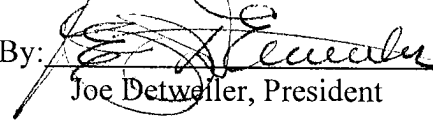
Witnesses:



 John Lucas

 (type or print name)

J. J. DETWEILER ENTERPRISES, INC.
 an Ohio corporation

By: 

 Joe Detweiler, President

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Wendi L. Iberg

BOOK 340 PAGE 252

Wendi L. Iberg

(type or print name)

STARK

STATE OF OHIO, GUERNSEY COUNTY, SS:

Before me, a Notary Public in and for said County and State, personally appeared the above-named **J. J. DETWEILER ENTERPRISES, INC.**, an Ohio corporation, by Joe Detweiler, its President, who acknowledged that he did sign the foregoing instrument, and that the same is the free act and deed of said corporation, and the free act and deed of him personally and as such officer.

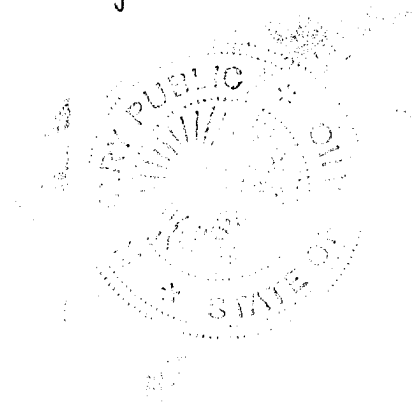
IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Uniontown, Ohio, this 6th day of November 2001.
2002

Wendi L. Iberg
Notary Public

This instrument prepared by:

Eric J. Williams, Esq.
KRUGLIAK, WILKINS, GRIFFITHS
& DOUGHERTY CO., L.P.A.
4775 Munson Street, N.W.
P. O. Box 36963
Canton, Ohio 44735-6963
Phone: (330) 497-0700
Fax: (330) 497-4020

WENDI L. IBERG, Notary Public
Residence - Stark County
State Wide Jurisdiction, Ohio
My Commission Expires Nov. 30, 2005



200200002490
Filed for Record in
GUERNSEY COUNTY, OHIO
COLLEEN WHEATLEY
04-02-2002 02:39 pm.
MISC 86.00
OR Book 311 Page 245 - 264

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BENNETT TITLE AGENCY
PICK UP

**POTTS FARM PROPERTY OWNER'S
ASSOCIATION, INC.
BYLAWS**

BYLAWS
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BYLAWS

**ARTICLE I
PURPOSE AND DEFINITIONS**

Section 1. Purpose

The within Bylaws are executed and annexed to the Declaration of reservations, covenants, restrictions and conditions for the Development dated March 15, 2001 (the "Declaration"), as may be amended as provided therein. Their purpose is to provide for the establishment of a Property Owners' Association for the government of the Development in the manner provided by said Declaration and these Bylaws.

Section 2. Definitions

Certain of the terms used in these Bylaws have been defined in the Declaration and, when used herein, shall have the same meaning as set forth in the Declaration, unless the context clearly indicates a different meaning therefor. For all purposes herein, J. J. Detweiler Enterprises, Inc., shall be known as "Developer."

**ARTICLE II
THE ASSOCIATION**

Section 1. Form of Association

The Association shall be a non-profit corporation. Upon incorporation, these Bylaws shall serve as the Code of Regulations for the incorporated Association. Said incorporated Association is intended to qualify for tax exempt status under the Internal Revenue Code, and to this end, the Association is organized solely to provide for the management and maintenance of a certain 174.824 acre development in Oxford Township, Guernsey County, Ohio (the "Development"). The Association, through its Board of Trustees, shall take proper steps to insure, if possible, that its operations meet the requirements of the Internal Revenue Code for tax exempt status, and if any provision of these Bylaws, or any amendment hereto, would prevent the Association from qualifying for such tax exempt status, said provision or amendment shall be deemed null and void.

Section 2. Membership

Each Property Owner upon acquisition of fee simple title to a Lot, or upon execution of a contract to purchase or acquire a Lot within the Development, shall automatically become a Member of the Association. Such membership shall be non-transferable and shall terminate upon the sale or other disposition by such Member of his or her Lot, at which time the new Property Owner shall automatically become a Member of the Association. In addition to any other rights Developer may have pursuant to the Declaration, Developer shall be a Member of the Association with respect to all Lots owned by Developer and shall have the right, without limitation, to exercise the voting power appurtenant to such Lots and the power to vote the same.

Section 3. Name of the Association

The Association shall be called the Potts Farm Property Owner's Association, Inc.

ARTICLE III VOTING

Section 1. Voting

Each Property Owner shall be entitled to one vote for each Lot owned in fee simple or upon which the Property Owner has an executed Purchase Agreement. Such Property Owner may be present at any meeting of the voting members and may vote or take any other action as a voting member either in person or by proxy. The original Developer or its nominee shall be the voting member with respect to any Lot owned by the Developer that does not have an executed Purchase Agreement pertaining to that Lot.

Only Property Owners in good standing shall be entitled to vote at any meeting of the Association, either in person or by proxy. A Property Owner shall be deemed to be in "good standing" and "entitled to vote" if, and only if: (i) at least three days prior to the date fixed for a meeting, said Property Owner shall have fully paid all assessments and/or fines made or levied against him and all of his Lots by the Association as hereinafter provided, together with all interest, costs, attorneys fees, penalties, and other expenses, if any, properly chargeable to him and against all of his Lots, and (ii) as of the date of the meeting, his voting rights are not suspended through action taken by the Board, after notice and opportunity for hearing, as a penalty for infraction of the Rules and Regulations or any of the provisions of the Declaration or these Bylaws.

Section 2. Majority

As used in these Bylaws the term "Majority of Property Owners" shall mean those Property Owners holding in excess of 50% of the votes.

Section 3. Quorum

Except as otherwise provided in the Bylaws, the presence in person or by proxy of a "Majority of Property Owners" as defined in Article III Section 2. shall constitute a quorum.

Section 4. Proxies

Votes may be cast in person or by proxy. Proxies must be in writing in a form prescribed by the Association and filed with the Secretary before the appointed time of each meeting. The person appointed as a proxy need not be a Member of this Association. Each proxy shall be revocable at any time by actual notice to the Secretary of the Association.

ARTICLE IV ADMINISTRATION

Section 1. Place of Meetings

Meetings of the Association shall be held at the principal office of the Developer or at such other suitable place convenient to the Property Owners as may be designated by the Board.

Section 2. Annual Meeting

There shall be an annual meeting held in the first calendar quarter of each year, on a date and

Section 3. Special Meetings

It shall be the duty of the President or, in case of the President's absence, death, or disability, the officer authorized to exercise the authority of the President, to call a special meeting of the Property Owners as directed by resolution of the Board or upon a petition signed by a majority of the Property Owners representing over fifty percent (50%) of the voting rights and presented to the Secretary. Said special meetings of the voting members may be called at any time for the purpose of considering matters which, by the terms of this Declaration, require the approval of all or some of the voting members, or for any other reasonable purpose. Said meetings shall be called by written notice, authorized by a majority of the Board, or by the voting members having over fifty percent (50%) of the total votes. Said notice must be delivered not less than ten (10) days prior to the date fixed for said meeting. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice unless by consent of two-thirds (2/3) of the Property Owners present, either in person or by proxy.

Section 4. Notice of Meetings

It shall be the duty of the Secretary to hand deliver to the Lot of each Property Owner or to mail a notice of each annual or special meeting to the Lot of each Property Owner, stating the purpose thereof as well as the time and place where it is to be held, to each Property Owner of record, at least ten (10) days prior to such meeting. The delivery by hand or mailing of a notice in the manner provided in this section shall be considered notice served.

Section 5. Adjourned Meetings

If any meeting of Property Owners cannot be organized because a quorum has not attended, the Property Owners who are present, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called.

Section 6. Actions Without a Meeting

All actions, except removal of a Board member, which may be taken at a meeting of the Association, may be taken without a meeting with the approval of and in a writing or writings signed by Members of the Association having the percentage of voting power required to take such action if the same were taken at a meeting; provided, that not less than the majority of the voting membership, both in number and in percentage of voting power, signed the writing. Such writings shall be filed with the Secretary of the Association.

Section 7. Order of Business

The order of business at all meetings of members of the Association shall be as follows:

1. Calling of meeting to order.
2. Roll call.
3. Proof of notice of meeting or Waiver of Notice.
4. Reading of minutes of preceding meeting.
5. Reports of officers.
6. Reports of committees.
7. Election of Trustees and Officers (when appropriate).
8. Unfinished and/or old business.
9. New Business.
10. Adjournment.

**ARTICLE V
BOARD OF TRUSTEES**

Section 1. Number and Qualification

The affairs of the Association shall be governed by a Board of Trustees. The Board shall initially consist of three (3) members or Trustees, all of whom will be appointed by Developer. At the time when ownership of all of the Lots within the Development have been sold or conveyed or such earlier time as the Developer may elect, the Property Owners shall elect three (3) members to the Board of Trustees. All persons elected to the Board of Trustees by members of the Association, must be Property Owners within the Development.

The terms of the three (3) Board Members shall be staggered so that the term of either one (1) or two (2) members of the Board will expire and successors be elected at each Annual Meeting of the Association. The initial term of a Board Member shall be either 1, 2, or 3 years to accomplish the above-mentioned staggered terms thereafter. A Board Member may be elected to an unlimited number of terms.

Only persons nominated as candidates shall be eligible for election as Trustees and candidates receiving the greatest number of votes shall be elected. Election to the Board by the Property Owners shall be by secret written ballot. At such elections, the Property Owners or their proxies may cast, in respect to each vacancy, such voting power as they are entitled to exercise under the provisions of the Declaration. Cumulative voting is not permitted.

Nominations for the election of members of the Board to be elected by the Property Owners may be made by any Property Owner. Nominations may also be made from the floor at the meetings.

Section 2. Vacancies

Vacancies in the Board caused by any reason other than the removal of a Member by a vote of the Association shall be filled by vote of the majority of the remaining Members, even though they may constitute less than a quorum; and each person so elected shall be a Member until a successor is elected at the next annual meeting of the Association.

Section 3. Removal of Members

At any regular or special meeting duly called, any one or more of the Members may be removed with or without cause by a vote for removal of not less than two-thirds (2/3) of the voting power of the Property Owners, as provided in the Declaration, and a successor may then and there be elected to fill the vacancy thus created. Any Member whose removal has been proposed by the Property Owners shall be given an opportunity to be heard at the meeting. Failure to elect a Member to fill the unexpired term of any Member removed shall be deemed to create a vacancy on the Board.

Section 4. First Meeting of the New Board

The first meeting of a newly elected Board shall be held within ten (10) days of election at such place as shall be fixed by the Trustees at the meeting at which such Trustees were elected, and no notice shall be necessary to the newly elected Trustees in order legally to constitute such

Section 5. Regular Meetings

Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of the Board, but at least two, (2) such meetings shall be held during such calendar year. Notice of regular meetings of the Board shall be given to each Trustee personally or by mail, telephone, or telegraph, at least three (3) days prior to the day named for such meetings. At such meetings, any and all business within the power of the Trustees may be transacted.

Section 6. Special Meetings

Special meetings of the Board may be called by the President or, in case of the President's absence, death or disability, the Trustee authorized to exercise the authority of the President, on three (3) days' notice to each Trustee, given personally or by mail, telephone, or telegraph, which notice shall state the time, place (as hereinabove provided), and purpose of the meeting. Special meetings of the Board shall be called by the President or Secretary in like manner and on like notice on the written request of at least two (2) Trustees.

Section 7. Waiver of Notice

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

Section 8. Quorum

At all meetings of the Board, a majority of the Trustees shall constitute a quorum for the transaction of business, and the acts of the majority of the Trustees present at a meeting at which a quorum is present shall be the acts of the Board. If, at any meeting of the Board, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 9. Action Without a Meeting

Any action required to be taken, or any action which may be taken, at a meeting of the Trustees, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Trustees entitled to vote with respect to the subject matter thereof.

Section 10. Powers

The Board shall exercise all powers and authority, under law, and under the provisions of the Articles, these Bylaws, and the Declaration, that are not specifically and exclusively reserved to the Property Owners by law or by other provisions thereof, and without limiting the generality of the foregoing, the Board shall have the right, power and authority to:

- A. take all actions deemed necessary or desirable to comply with all requirements of law, the Articles, the Declaration, and these Bylaws;
- B. obtain insurance coverage no less than that required pursuant to the Declaration;

- C. enforce the reservations, covenants, restrictions and conditions set forth in the Declaration;
- D. repair, maintain and improve the Common Areas;
- E. establish, enforce, levy and collect assessments as provided in the Declaration;
- F. adopt and publish rules and regulations governing the use of the Common Areas, and the personal conduct of Property Owners and their guests thereon, and establish penalties and fines for the infraction thereof;
- G. suspend the voting rights of the Property Owner during any period in which such Property Owner shall be in default in the payment of any assessment and/or fines levied by the Association (such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for each infraction of published rules and regulations or of any provisions of the Declaration, these Bylaws, or the Articles);
- H. declare the office of a member of the Board to be vacant in the event such Trustee shall be absent from three (3) consecutive regular meetings of the Board;
- I. authorize the officers to enter into one or more management agreements with third parties in order to facilitate the efficient operation of the property; (it shall be the primary purpose of such management agreements to provide for administration, management, repair and maintenance as provided in the Declaration, and the receipt and disbursement of funds as may be authorized by the Board. The terms of any management agreements shall be as determined by the Board to be in the best interest of the Association, subject, in all respects, to the provisions of these Bylaws, the Articles, and the Declaration);
- J. purchasing or leasing or otherwise acquiring in the name of the Association or its designee (corporate or otherwise) on behalf of all Property Owners, Lots offered for sale or lease, or Lots subject to foreclosure or other judicial sales;
- K. do all things and take all actions permitted to be taken by the Association by law, the Declaration, these Bylaws, and the Articles, not specifically reserved thereby to others;
- L. granting licenses;
- M. establishing and maintaining a funded reserve for contingencies and replacements in any amount which it determines, in its sole discretion, to be necessary or advisable and, to the extent that it deems desirable, to create requirements for other reasonable reserves (such as maintenance and repair, working capital, bad debts, and depreciation) and designating trust funds for the benefit of Property Owners or the Association;
- N. forming committees of the board and/or composed of persons who need not be members of the Board, members of the Association, and delegating to such committees such powers, authority, and responsibilities as the Board may, in the

- O. borrowing from any reserve fund established and maintained by it for a maximum period of 90 days to fund expenditures authorized in the Declaration or these Bylaws.

Section 11. Duties

It shall be the duty of the Board to:

- A. cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Property Owners at the annual meeting of Property Owners, or at any special meeting when such statement is requested in writing by Property Owners representing fifty percent (50%) or more of the voting power of Property Owners;
- B. supervise all officers, agents and employees of the Association and see that their duties are properly performed;
- C. as more fully provided in the Declaration, to;
 - i. fix the amount of assessments against each Lot as provided therein;
 - ii. give written notice of each assessment to every Property Owner subject thereto within the time limits set forth therein; and
 - iii. foreclose the lien against any property for which assessments are not paid within a reasonable time after they are authorized by the Declaration to do so, or bring an action at law against the Property Owner(s) personally obligated to pay the same, or both;
- D. issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid;
- E. procure and maintain insurance as provided in the Declaration, and as the Board deems advisable;
- F. cause the property subject to the Association's scope of authority to be maintained within the scope of authority provided in the Declaration;
- G. cause the restrictions created by the Declaration, Rules and Regulations or hereby to be enforced and levy reasonable fines for violations thereof; and
- H. take all other actions required to comply with all requirements of law, the Articles, the Declaration and these Bylaws.

Section 12. Compensation

Unless otherwise determined by the Property Owners at a meeting duly called and noticed for such purpose, no Board member shall receive compensation for any service rendered to the Association as a Board member. However, any Board member may be reimbursed for his or her actual expenses incurred in performance of duties.

Section 13. Voting Power

Except as otherwise provided in the Declaration, Articles, or Bylaws, or by law, vote of a majority of the Board members voting on any matter that may be determined by the Board at a duly called and noticed meeting at which a quorum is present shall be sufficient to determine that matter.

Section 14. Fidelity Bonds

The Board may require that all officers and employees of the Association handling or responsible for Association funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Association, and shall be a Common Expense.

Section 15. Committees

The Board of Trustees may appoint a Nominating Committee, a Finance Committee or any other committees, comprised of at least one Board Member and up to four other Property Owners to make recommendations to the Board, as deemed appropriate in carrying out its purposes. It shall be the duty of the Board of Trustees to act as a Committee of the whole to receive complaints from members on any matter involving Association functions, duties and activities within its field of responsibility. It shall dispose of such complaints as it deems appropriate or refer them to such Trustee, officer or committee of the Association as is further concerned with the matter presented.

**ARTICLE VI
OFFICERS**

Section 1. Designation

The principal officers of the Association shall be a President, a Vice President and a Secretary-Treasurer, all of whom shall be elected by and from the Board. The Trustees may appoint an Assistant Treasurer, and an Assistant Secretary, and such other officers as in their judgment may be necessary who are not Trustees of the Association, but are members of such Association. Each such officer shall hold office during the pleasure of the Board, and perform such duties as the Board may prescribe.

Section 2. Election of Officers

The officers of the Association shall be elected annually by the Board at the first meeting of each new Board.

Section 3. Removal of Officers

Upon an affirmative vote of a majority of the members of the Board, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board of Trustees, or at any special meeting of the Board called for such purpose.

Section 4. President

The President shall be the Chief Executive Officer of the Association. He shall have all of the general powers and duties which are usually vested in the office of President of an Association,

affairs of the Association. He shall have authority to sign all contracts, notes, and other instruments requiring his signature and shall have all the powers and duties as the Board may from time to time assign to him.

Section 5. Vice President

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

Section 6. Secretary-Treasurer

The Secretary-Treasurer shall keep the minutes of all meetings of the Board and the minutes of all meetings of the Association; he shall have charge of such books and papers as the Board may direct, and he shall, in general, perform all the duties incident to the office of Secretary and such duties as the Board may prescribe. A copy of such minutes shall be posted in a place designated by the Board.

The Secretary-Treasurer shall also have responsibility for Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit of the Association in such depositories as may from time to time be designated by the Board and he shall perform such other duties as from time to time may be assigned to him by the Board.

Section 7. Duties of Officers May Be Delegated

In the absence of any officer of the Association, or for any other reason the Board may deem sufficient, the Board may delegate the powers or duties, or any of them, to such officer, to any Trustee, or to the Managing Agent.

**ARTICLE VII
GENERAL POWERS OF THE ASSOCIATION**

Section 1. Payments from Maintenance Funds

Each Property Owner shall pay Common Expenses and/or assessments for Common Expenses, as provided herein and/or in the Declaration to the Association, for the benefit of all of the Property Owners, and the Association shall place the funds so collected in one or more accounts of the Association (said account or accounts being hereinafter referred to as the "Maintenance Fund"), and out of the Maintenance Fund the Association shall arrange and pay for the following:

- A. Utility Services. The cost of water, electricity, and any other utility service for the Common Areas and the cost of waterlines, and/or any utilities which are not separately metered or otherwise directly charged to individual Property Owners; however, the Association may discontinue such payments at any time, in which case each Property Owner shall be responsible for direct payment of his share of such expenses as shall be determined by the Board of Trustees of the Association; and the Association reserves the right to levy additional assessments against any Property Owner to reimburse it for excessive use, as shall be determined by the Board of Trustees, by such Property Owner of any utility service having been charged against or to the Maintenance Fund;

- B. Casualty Insurance. The premiums upon a policy or policies of fire insurance, with extended coverage vandalism and malicious mischief endorsements, as provided in the Declaration, if any, the amount of which insurance shall be reviewed annually;
- C. Liability and Directors, Officers and Fiduciary Liability Insurance. The premiums upon a policy or policies insuring the Association, the members of the Board of Trustees, and its officers, against any liability to the public or to the Property Owners, and their invitees or tenants, incident to the ownership and use of the Lots and/or the Common Areas, and the Board of Trustees and its officers' actions in furtherance of the Declaration, Articles, and Bylaws, including fiduciary liability thereunder, if any, the limits of which policy or policies shall be reviewed annually;
- D. Worker's Compensation. The costs of worker's compensation insurance to the extent necessary to comply with any applicable law;
- E. Wages and Fees for Services. The fees for services of any person or firm employed by the Association, including, without limitation, the services of a person or firm to act as a Trustee or managing agent for the Development Property, the services of any person or persons required for the maintenance or operation of the Development Property, any legal and/or accounting services necessary or proper in the operation of the Development Property or the enforcement of the Declaration and these Bylaws and for the organization, operation and enforcement of the rights of the Association;
- F. Care of Common Areas. The cost of landscaping, gardening, snow removal, cleaning, maintenance, decorating, repair and replacements of the Common Areas which are to be maintained and repaired as Common Expenses pursuant to the Declaration and such equipment for the Common Areas as the Association shall determine are necessary and proper, and the Association shall have the exclusive right and duty to acquire the same for the Common Areas;
- G. Certain Maintenance of Lots. The cost of the maintenance and repair of any Lot if such maintenance or repair is necessary, in the discretion of the Association, to protect or improve the Development, and if the Property Owner of said Lot have failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair is delivered by the Association to said Property Owner, provided that the Association shall levy special assessments against such Property Owner for the cost of said maintenance or repair;
- H. Discharge of Mechanic's Liens. Any amount necessary to discharge any mechanic's lien or other encumbrance levied against the entire Development or any part thereof which may in the opinion of the Association constitute a lien against the entire Development rather than merely against the interests therein of particular Property Owners; it being understood, however, that the foregoing authority shall not be in limitation of any statutory provisions relating to the same subject matter, and where one or more Property Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any costs incurred by the Association by reason of said lien or

- I. Additional Expenses. The cost of any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance, Common Expenses or Assessments which the Association is required to secure or pay for pursuant to the terms of the Declaration and/or these Bylaws or by law or which is in the opinion of the Association necessary or proper for the maintenance and operation of the Development as a first class development project or for the enforcement of the Declaration and these Bylaws including, but not limited to, a proportionate share of the expenses associated with any and all easements.

Section 2. Limitation on Capital Additions and Improvements

The Association's powers hereinabove enumerated shall be limited in that the Association shall have no authority to acquire and pay for out of the Maintenance Fund any capital additions and improvements (other than for purposes of replacing or restoring portions of the Common Areas, subject to all the provisions of the Declaration and these Bylaws) having a total cost in excess of Five Hundred Dollars (\$500.00), nor shall the Association authorize any structural alterations, capital additions to, or capital improvements of, the Common Areas requiring an expenditure in excess of Five Hundred Dollars (\$500.00), without in each case the prior approval of fifty-one percent (51%) of the voting power of the Association.

Section 3. Contracts with Developer

Anything contained in these Bylaws and the Declaration to the contrary notwithstanding, the Developer shall not enter into any contract with the Association to provide any services to the Association which is for a period in excess of one (1) year from and after the date the Property Owners of the Development, other than the Developer, have assumed control of the Association, unless such management contract or other agreement is renewed and continued by the Association by a majority vote of the Property Owners, other than the Developer, duly taken and had in accordance with the Declaration and Bylaws.

Section 4. Association's Right to Enter Lots

The Association or its agents may enter onto any Lot within the Development when necessary in connection with any maintenance, repair, service and/or construction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Property Owners as practicable, and any damage caused thereby shall be repaired by the Association, at the expense of the Maintenance Fund.

Section 5. Right to Cure Delinquencies

In the event any Property Owners shall default in the payment of any monies required to be paid under the provisions of any mortgage against his Lot, the Board of Trustees shall have the right to cure such default, but shall not be obligated to do so by paying the amount so owing to the party entitled thereto. Thereupon the Board may levy a special assessment against such Property Owner and his Lot for the amount so paid, and the Association shall automatically have a lien therefor against such Lot.

Section 6. Special Services

The Association may arrange for the provision of any special services and facilities for the benefit of such Property Owners and/or occupants as may desire to pay for the same, including, without limitation, cleaning, repair and maintenance of Lots. Fees for such special services and facilities shall be determined by the Board of Trustees and may be charged directly to the

respective participating Property Owners, or paid from the Maintenance Fund and levied as a special assessment due from the respective participants.

Section 7. No Active Business to be Conducted for Profit

The Association shall have no authority to conduct an active business for profit on behalf of Property Owners or any of them; provided, however, that the Association shall have or lease in accordance with the provisions of the Declaration or these Bylaws.

Section 8. Delegation of Duties

Nothing herein contained shall be construed so as to preclude the Association, through its Board of Trustees and officers, from delegating to persons, firms or corporations of its choice, including any Trustee or managing agent, such duties and responsibilities of the Association as the Board of Trustees of the Association shall from time to time specify, and to provide for reasonable compensation for the performance of such duties and responsibilities.

Section 9. Applicable Laws

The Association shall be subject to and governed by the provisions of any statute applicable to the Association and the Development; provided, however, that all inconsistencies between and among the permissive provisions of any statute and any provisions of the Declaration and these Bylaws, shall be resolved in favor of the Declaration or these Bylaws, and any inconsistencies between any statute applicable to associations generally and to associations formed to administer property within the Development shall be resolved in favor of the latter statute. In the event of any conflict or inconsistency between the provisions of the Declaration and the Bylaws of the Association, the terms and provisions of the Declaration shall prevail, and the Property Owners and all persons claiming under them covenant to vote in favor of such amendments in the Bylaws as will remove such conflicts or inconsistencies.

**ARTICLE VIII
MAINTENANCE AND REPAIR**

Section 1. Maintenance and Repair

- A. The Board or the management agent, if one is employed, shall have the authority to contract specifically for the performance of ordinary repairs and maintenance, or to do both, and to purchase the tools and implements used in repair, maintenance, gardening, and snow removal. The execution of a management agreement with a managing agent or management company which authorizes or requires the managing or management company to perform certain duties shall be deemed to be a delegation and authorization to such managing agent or management company of such duties and of such power and authority necessary to carry out such duties.
- B. Every Property Owner must perform promptly all maintenance and repair work upon his own Lot, which is not the responsibility of the Association, or which if omitted would negatively affect the Development.

**ARTICLE IX
COMMON EXPENSES AND PROFITS**

Section 1. Common Expenses

The cost of maintenance and repair of Common Area, roads, landscaping, snow removal, hazard, liability, and other insurance, salaries, and fees of the management agent and employees, utilities not separately metered to individual Lots, the cost of tools and equipment, bonding fees, and all other charges, deemed necessary or appropriate to the proper functioning of the Development as set forth in the Declaration shall be deemed to be Common Expenses. The cost of such Common Expenses shall be defrayed by assessments levied against the Lots in the manner set forth below.

**ARTICLE X
ASSESSMENTS**

Section 1. Obligation of Property Owners to Pay Assessments

It shall be the duty of every Property Owner to pay his or her proportionate share of the Common Expenses which shall be equal to the share of all Property Owners. For purposes of this provision the Developer shall not be assessed as a property owner. Payment thereof shall be in such amounts and at such times as may be determined by the Board in accordance with these Bylaws.

Section 2. Preparation of Estimated Budget

Developer shall have the exclusive right to fix and establish the budget of the Association until such time as the organizational meeting shall be held. Thereafter, on or before the 15th day of December of each year, the Board shall estimate the total amount necessary to pay the Common Expenses for the next calendar year together with reasonable amounts for reserves if so determined by the Board, and other amounts necessary or required in the operation of the Development as authorized by the Declaration including these Bylaws. On or before December 15 following the organizational meeting and each year thereafter, the Board shall notify each Property Owner in writing of the amount of such estimate, with reasonable itemization thereof. Said "estimated cash requirement" shall be assessed and invoiced to the Property Owners. Within thirty (30) days of receipt of an invoice, each Property Owner shall be obligated to pay to the Association the amount of the Assessment made pursuant to this section.

The failure or delay of the Association to prepare or serve the annual or adjusted estimate on any Property Owner shall not constitute a waiver or release in any manner of such Property Owner's obligation to pay his share of the Common Expenses.

Section 3. Working Capital Contribution

At closing, each original purchaser from the Developer before title is transferred shall pay to the Developer or to the Property Owners' Association, if formed at that time, an additional working capital contribution in an amount equal to One Hundred Dollars (\$100.00). Payment of such initial working capital contribution shall not relieve that purchaser of his or her obligation to separately pay the full amount of the first annual installments or any other assessments when due, nor shall he have any right to direct that this amount of working capital be applied against any assessments or be applied for any particular purpose. Any such working capital contributions made to the Developer shall be delivered by the Developer to the Property Owners' Association upon its formation.

Section 4. Reserve Fund

From time to time Developer, and after formation of and holding of the first organizational meeting of the Property Owners' Association, the Board, may determine to levy a special assessment against each Property Owner or subsequent purchaser for the purpose of establishing a reserve for capital improvements. Such assessment shall be maintained in a reserve fund. Upon the sale of a Lot by any Property Owner, such Property Owner shall have no right to any portion of the funds in the reserve account, nor shall such Property Owner have any claim against Developer or the Association with respect thereto.

Section 5. Assessments Due Prior to Organizational Meeting

Until such time as the Association shall hold its organizational meeting, each Property Owner shall pay the annual assessment established with respect to his Lot by the Developer or the initial Board, as the case may be, and such funds shall be used for the benefit of the Association. Notwithstanding anything in these Bylaws to the contrary, the Developer or the initial Board, as the case may be, shall have the right to increase or decrease the annual assessment at any time and from time to time to reflect increases or decreases in the actual Common Expenses applicable to the Development following the recording of this Declaration by notifying all Property Owners (other than Developer) of such increase or decrease.

Section 6. Status of Funds Collected by Association

All funds collected hereunder shall be held and extended solely for the purposes designated in the Declaration including these Bylaws and (except for special assessments as may be levied hereunder against less than all the Property Owners, and for such adjustments as may be required to reflect delinquent or working capital contribution) shall be deemed to be held for the use, benefit, and account of all Property Owners.

Section 7. Lien of Unpaid Assessments

Unpaid assessments shall be a lien upon the Lot and the Board of Trustees may record said lien against the Lot in any form as may be determined by the Board. The Board may charge interest up to the statutory rate and collect attorney fees associated with the collection of the assessment from the non-paying Property Owner.

Section 8. Remedies for Failure to Pay Assessments

If a Property Owner is in default in the payment of any charges or assessments for ten (10) days, the Association upon authorization of the Board, or the Developer prior to the first organizational meeting, may bring suit to enforce collection thereof or to foreclose the lien thereof as provided herein, together with interest as provided herein, and reasonable attorneys' fees. The amount of any delinquent and unpaid charges or Assessments, and interest, costs, and fees as above provided shall constitute a lien (as set forth above) and may be foreclosed by an action brought by the Association if authorized by the Board or the Developer prior to the first organizational meeting as in the case of foreclosure of liens against real estate. The Board, acting on behalf of consenting Property Owners, shall have the power to bid in the interest so foreclosing at the foreclosure sale, and to acquire and hold, lease, mortgage, and convey the same.

**ARTICLE XI
MORTGAGES**

Any Property Owner who mortgages his Lot shall notify the Association through the Secretary of the Board or the Developer in the event there is no record of the name and address of his or her mortgagee, and the Association shall maintain such information in a book entitled "Mortgagees of Lots."

**ARTICLE XII
GENERAL PROVISIONS**

Section 1. Books and Records

The Property Owners' Association shall keep correct and complete books and records of account, specifying the receipts and expenditures relating to the Common Areas and other common receipts and expenses, together with records showing the allocation, distribution, and collection of the common profits, losses, and expenses among and from the Property Owners; minutes of the proceedings of the Property Owners and Board of Trustees and records of the names and addresses of the Property Owners. The Property Owners' Association shall keep and make available at reasonable times to all Property Owners copies of all project documents, including the Declaration, Bylaws, Articles, and minutes of meetings of the Property Owners' Association.

Section 2. Annual Audit

The books of the Association shall be audited once a year by the Board of Trustees, and such audit must be completed prior to each annual meeting of the members. If requested by two members of the Board of Trustees, such audit shall be made by a Certified Public Accountant or an independent auditing firm. Upon written request, the statement will be provided to a Property Owner.

Section 3. Rules and Regulations

The Association, by the affirmative vote of the Members entitled to exercise a majority of the voting power of the Association, or the Board, by a vote of a majority of the authorized number of Trustees, or the Developer, prior to the first organizational meeting, may adopt such reasonable rules and regulations and from time to time amend the same supplementing the rules and regulations set forth in the Declaration and these Bylaws as it or they may deem advisable for the operation, use, maintenance, conservation, and beautification of the Development or any portion thereof, or for the health, comfort, safety, and general welfare of the Property Owners and Occupants of the Development. Written notice of such Development Rules shall be given to all Property Owners and Occupants, and the Development shall at all times be maintained subject to the Development Rules.

Section 4. Fines

The Association, by the affirmative vote of the members entitled to exercise a majority of the voting power of the Association, or the Board, by a majority of the authorized number of Trustees, or the Developer, prior to the first organizational meeting, may adopt such reasonable fines and from time to time amend the same to be assessed against a Property Owner for a breach of any covenant or restriction contained in the Declaration, the within Bylaws or any additional Rules promulgated in accordance therewith. The offending Property Owner shall be notified in writing in accordance with the provisions hereof as to the amount of violation and the

amount of the fine. Said Property Owner shall have five (5) business days from the date of receipt of said notice to pay said fine in full. A Property Owner's failure to pay a fine in accordance with this Section or as otherwise provided in the Declaration and/or Bylaws may result in a collection of the fine as an assessment against said Property Owner in accordance herewith.

Section 5. Developer's Rights Pending First Organizational Meeting

Until such time as the first organizational meeting of the Board is held, the powers, rights, duties, and functions of the Association and the Board, including, without limitation, the power to determine the amount of and levy Assessments and reserves, shall be exercised by the Developer.

Section 6. Severability

The invalidity of any covenant, restriction, condition, limitation, or any other provision of these Bylaws, or of any part of the same, shall not impair or affect in any manner the validity, enforceability, or effect of any other provision contained in these Bylaws or in the Declaration.

Section 7. Ratification

All present or future Property Owners or tenants or their employees or occupants shall be subject to the regulations set forth in the Declaration and in these Bylaws. The mere acquisition or rental of any of the Lots located within the Development, or the mere act of occupancy of any of said Lots will constitute acceptance and ratification of the Declaration and of these Bylaws. In the event of any conflict or inconsistency between any Development Rules and these Bylaws or the Declaration, it is agreed that the provisions of the Bylaws and the Declaration shall apply.

Section 8. Conflict Between Declaration and Bylaws

In the event of conflict or inconsistency between any of the provisions of the Declaration and of these Bylaws, it is hereby agreed that the provisions of the Declaration shall apply.

Section 9. Construction of Provisions

The provisions of these Bylaws shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a first-class development.

**ARTICLE XIII
FISCAL YEAR**

Unless otherwise changed by the Board, the fiscal year of the Association shall begin on the 1st day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation of this Association.

**ARTICLE XIV
AMENDMENTS**

Any modification or amendment of these Bylaws shall be made only by means of an Amendment to the Declaration, in a manner and subject to the approvals, terms, and conditions set forth therein, and shall be effective from the time a certificate setting forth such modification

IN TESTIMONY WHEREOF, the undersigned, being the sole Member of the Association, has caused these Bylaws to be duly adopted on or as of the 18th day of March 2001.
2002

In the presence of:

Developer

J. J. DETWEILER ENTERPRISES, INC.
an Ohio corporation

John Lucas
John Lucas
(type or print name)

By: Joe Detweiler
Joe Detweiler, President

Wendi L. Iberg
Wendi L. Iberg
(type or print name)

STARK
STATE OF OHIO, GUERNSEY COUNTY, SS:

Before me, a Notary Public in and for said County and State, personally appeared the above-named **J. J. DETWEILER ENTERPRISES, INC.**, an Ohio corporation, by Joe Detweiler, its President, who acknowledged that he did sign the foregoing instrument, and that the same is the free act and deed of said corporation, and the free act and deed of him personally and as such officer.

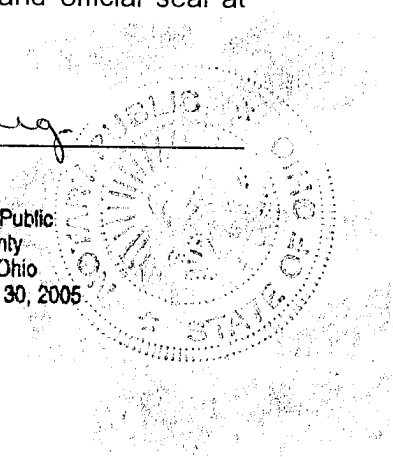
IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Uniontown, Ohio, this 18th day of March 2001.
2002

Wendi L. Iberg
Notary Public

This instrument prepared by:

Eric J. Williams, Esq.
KRUGLIAK, WILKINS, GRIFFITHS
& DOUGHERTY CO., L.P.A.
4775 Munson Street, N.W.
P. O. Box 36963
Canton, Ohio 44735-6963
Phone: (330) 497-0700
Fax: (330) 497-4020

WENDI L. IBERG, Notary Public
Residence - Stark County
State Wide Jurisdiction, Ohio
My Commission Expires Nov. 30, 2005



VARIANCE OF SETBACK REQUIREMENTS

WHEREAS, J. J. DETWEILER ENTERPRISES, INC., hereinafter referred to as "Developer" is a developer of property located in the State of Ohio, County of Guernsey, Township of Oxford, and being further known as the Potts Farm Subdivision, as delineated on a Plat recorded in the Guernsey County Recorder's Office at Cabinet 3, Slide 470, and POTTS FARM PROPERTY OWNERS ASSOCIATION, INC., hereinafter referred to as "Association"; and

WHEREAS, Developer sold Lot #5 of the Potts Farm Subdivision to Robert Duff and Jennifer Duff, hereinafter referred to as "Owner", located on Hereford Avenue, Quaker City, Ohio, said lot being located at the corner of State Route 513 and Hereford Avenue as plotted by Developer; and as recorded in Volum 321, Page 531, Guernsey County Official Records.

WHEREAS, Owner's builder commenced building a personal dwelling for the Owner, and built the foundation which encroaches across the thirty (30) foot setback line as shown on the Plat, by approximately 7.1 feet, and wherefore, Owner has petitioned Developer for approval of a variance from the thirty (30) foot setback as recorded on the Plat, and as also contained in the restrictions as recorded in Guernsey County Recorder's Official Record Volume 311, Page 236, and

NOW THEREFORE, Developer and Association hereby grant a variance of the thirty (30) foot setback line to Owners and hereby approve the location of the foundation as shown in the attached "Exhibit B".

This variance is granted on a conditional basis, due to a mistake made by the Owner's surveyor/contractor, and due to the extreme hardship which would result if the variance was not granted. Granting of this variance by Developer and Association is not to be construed as precedent for other subsequent variance requests received from other owners of the platted subdivision, and all future variances entertained by the Developer and Association shall be determined on a case-by-case basis.

Signed this 18th day of October, 2002.

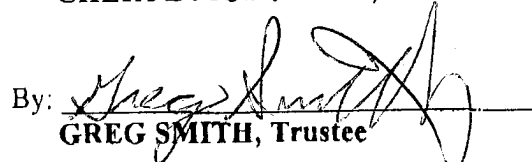
J. J. DETWEILER ENTERPRISES,
INC.


JOSEPH DETWEILER, President

POTTS FARM PROPERTY OWNERS
ASSOCIATION, INC.

By: 
JOSEPH DETWEILER, Trustee

By: 
CHERYL MCDONALD, Trustee

By: 
GREG SMITH, Trustee

FITZPATRICK,
ZIMMERMAN & ROBE
CO., L. P. A.
ATTORNEYS AT LAW
140 FAIR AVE., N.W.
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44603

BOOK 333 PAGE 847

200200008108
Filed for Record in
GUERNSEY COUNTY, OHIO
COLLEEN WHEATLEY
10-24-2002 12:14 pm.
AGRMT 22.00
OR Book 333 Page 847 - 849

200200008108
TUSCARAWAS COUNTY TITLE
203 FAIR AVE
PO BOX 549
NEW PHILA, OH 44663

STATE OF OHIO, COUNTY OF STARK, SS:

The foregoing instrument was acknowledged before me this 18th day of October, 2002 by **JOSEPH DETWEILER, President**, on behalf of J. J. Detweiler Enterprises, Inc., an Ohio Corporation, on behalf of the Corporation.

WENDI L. IBERG, Notary Public
Residence - Stark County
State Wide Jurisdiction, Ohio
My Commission Expires Nov. 30, 2005

Wendi L. Iberg
Notary Public

STATE OF OHIO, COUNTY OF STARK, SS:

The foregoing instrument was acknowledged before me this 18th day of October, 2002 by **JOSEPH DETWEILER, Trustee**, on behalf of Potts Farm Property Owners Association, Inc., an Ohio Corporation, on behalf of the Corporation.

WENDI L. IBERG, Notary Public
Residence - Stark County
State Wide Jurisdiction, Ohio
My Commission Expires Nov. 30, 2005

Wendi L. Iberg
Notary Public

STATE OF OHIO, COUNTY OF STARK, SS:

The foregoing instrument was acknowledged before me this 18th day of October, 2002 by **CHERYL MCDONALD, Trustee**, on behalf of Potts Farm Property Owners Association, Inc., an Ohio Corporation, on behalf of the Corporation.

WENDI L. IBERG, Notary Public
Residence - Stark County
State Wide Jurisdiction, Ohio
My Commission Expires Nov. 30, 2005

Wendi L. Iberg
Notary Public

STATE OF OHIO, COUNTY OF STARK, SS:

The foregoing instrument was acknowledged before me this 18th day of October, 2002 by **GREG SMITH, Trustee**, on behalf of Potts Farm Property Owners Association, Inc., an Ohio Corporation, on behalf of the Corporation.

WENDI L. IBERG, Notary Public
Residence - Stark County
State Wide Jurisdiction, Ohio
My Commission Expires Nov. 30, 2005

Wendi L. Iberg
Notary Public

FITZPATRICK,
ZIMMERMAN & ROBE
CO., L. P. A.
ATTORNEYS AT LAW
140 FAIR AVE., N.W.
PO. BOX 1014
NEW PHILADELPHIA, OHIO
44663

This instrument prepared by:
J. Greg Miller
Attorney at Law
New Philadelphia, Ohio

Exhibit A

Situated in the Township of Oxford, County of Guernsey and State of Ohio, and being furthered described as Lot #5. Of the Potts Farm Subdivision, as delineated on the Plat thereof of said subdivision filed in the Office of the Recorder, Guernsey County, at Cabinet 3, Slide 470.

BOOK 333 PAGE 849

201200008473
Filed for Record in
GUERNSEY COUNTY, OHIO
COLLEEN WHEATLEY, RECORDER
09-24-2012 At 12:24 pm.
LEASE 44.00
OR Book 494 Page 633 - 636

201200008473
ECLIPSE RESOURCES I LP
301 SCIENCE PARK RD
SUITE 308
STATE COLLEGE PA 16803

MEMORANDUM OF OIL AND GAS LEASE

This Memorandum of Oil and Gas Lease (this "**Memorandum**") is made and entered into as of the 6th day of **September, 2012**, by and between **Larry D. Schultz**, a single man, with an address at 444 Lorain Boulevard, Elyria, Ohio 44035 (hereinafter referred to as "**Lessor**"), and **ECLIPSE RESOURCES I, LP**, a Delaware limited partnership, with an office located at 301 Science Park Road, Suite 308, State College, Pennsylvania 16803 (hereinafter referred to as "**Lessee**").

RECITALS

WHEREAS, Lessor and Lessee have entered into that certain Oil and Gas Lease dated September 6, 2012 (the "**Lease**"), relating to the property more fully described below; and

WHEREAS, Lessor and Lessee desire, in lieu of recording the Lease, to execute and record a memorandum of lease in accordance with Section 5301.251 of the Ohio Revised Code.

NOW, THEREFORE, Lessor and Lessee hereby state as follows:

1. The name of the Lessor and address of the Lessor as set forth in the Lease is:

Larry D. Schultz, a single man
444 Lorain Boulevard
Elyria, Ohio 44035
2. The name of the Lessee and address of the Lessee as set forth in the Lease is:


Eclipse Resources I, LP
301 Science Park Road, Suite 308
State College, Pennsylvania 16803
3. The date of execution of the Lease is September 6, 2012.
4. The demised premises are parcels of land located in **Oxford Township, Guernsey County, State of Ohio**, as more fully described on **Schedule I**, attached hereto (the "**Leased Premises**"), together with the right to place one or more access roads, pipelines and water lines over property of Lessor.
5. The date of commencement of the term of the Lease is September 6, 2012.
6. The initial term of the Lease is for five (5) years expiring on September 6, 2017, unless oil and gas is produced in paying quantities in accordance with the provisions of the Lease, oil and gas operations are conducted on the Leased Premises or payments prescribed under the Lease are made.
7. The Lease provides for rights of extension or renewal for an additional five (5) year term as provided for in the Lease.
8. The Lease provides for a right of first refusal held by Lessee during the initial term of the Lease or any continuation or extension thereof.

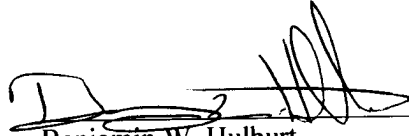
- 9. The Lease shall be and hereby is superior to any mortgage or deed of trust which Lessor may hereafter enter into with respect to the Leased Premises or any part thereof, and any renewal, replacement or modification thereof.
- 10. Information regarding the Lease may be obtained from either of the undersigned parties hereto at their respective addresses noted above.
- 11. All terms and conditions of the Lease are hereby incorporated herein by reference as if fully set forth herein. This Memorandum has been entered into for the sole purpose of placing the Lease of record and shall not be deemed to amend, modify, supplement, or change any of the terms and conditions of the Lease in any respect whatsoever. To the extent of any conflict between this Memorandum and the Lease, the terms of the Lease shall govern and control. This Memorandum may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute and be construed as one and the same instrument.

IN WITNESS WHEREOF, the Lessor and Lessee have executed this Memorandum effective as of the day and year first above written.

LESSOR:

LESSEE:


 Name: Larry D. Schultz
 Date: 9/6/2012


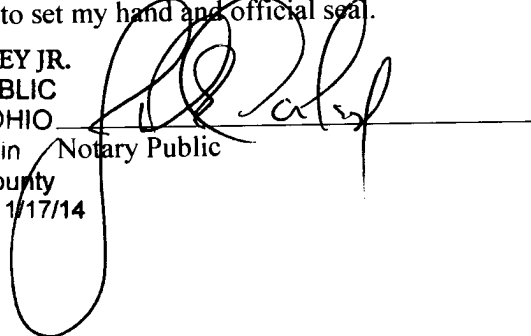
ECLIPSE RESOURCES I, LP,
 a Delaware limited partnership
 By: 
 Name: Benjamin W. Hulburt
 Title: President & CEO

LESSOR ACKNOWLEDGMENT

STATE OF OHIO
 COUNTY OF Cuyahoga

§
§
§

On this 6 day of August, 2012, before me, the undersigned officer, personally appeared Larry D. Schultz, a single man, known to me (or satisfactorily proven) to be the person(s) whose name(s) are subscribed to the within instrument, and acknowledged that they executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

 JOHN E. DAILEY JR.
 NOTARY PUBLIC
 STATE OF OHIO
 Recorded in Notary Public
 Cuyahoga County
 My Comm. Exp. 11/17/14
 My commission expires:


LESSEE ACKNOWLEDGMENT

COMMONWEALTH OF PENNSYLVANIA §
COUNTY OF CENTRE §

On this 19 day of Sept 2012, before me, the undersigned officer, personally appeared Benjamin W. Hulburt, who acknowledged himself to be the President and CEO of Eclipse Resource I, LP, a Delaware limited partnership, and that he, as such officer, being authorized to do so on behalf of the limited partnership, executed the foregoing instrument for the purposes therein contained by signing the name of the limited partnership by himself as such officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Marilyn Wright, Notary Public
Ferguson Twp., Centre County
My Commission Expires Aug. 26, 2014

[Handwritten Signature]
Notary Public

My Office is in Ferguson Twp., Centre County, PA

This document prepared by: Eclipse Resources I, LP, 301 Science Park Road, Suite 308, State College, Pennsylvania 16803

Once recorded, please return to Eclipse Resources I, LP, 301 Science Park Road, Suite 308, State College, Pennsylvania 16803

SCHEDULE I

Attached to and made a part of that certain Memorandum of Oil and Gas Lease by and between Larry D. Schultz, a single man, as "Lessor" and Eclipse Resources I, LP, as "Lessee" dated September 6, 2012

DESCRIPTION OF THE LEASED PREMISES

DESCRIPTION: The leasehold is located in the Township of **Oxford**, in the County of **Guernsey**, in the State of **Ohio**, and described as follows:

Parcel No. 1: TOWNSHIP 10 RANGE 7 SECTION 25

Tax Parcel Identification Number: **28-0000281.032 (2.466 acres, more or less)**, bounded formerly or currently as follows:

On the North by lands of: Lucart (Tax Parcel 28-0000281.033)

On the East by lands of: AFNOCO LLC (Tax Parcel 28-0000281.031)

On the South by lands of: Bradford Road

On the West by lands of: Graff (Tax Parcel 28-0000281.018)

including lands described in **Official Record Book 454, Page 558**, in the Office of the Clerk of the County Commission of **Guernsey** County, and described for the purpose of this Lease as containing a total of **2.466** leasehold acres, whether actually more or less, and including contiguous lands owned by Lessor (the "**Leasehold**"). The Leasehold also covers and includes, in addition to the lands described specifically above, all lands (including without limitation, any lakes, rivers, streams, roads, easements and right of ways), if any, contiguous or adjacent to or adjoining the land above described which are (a) owned or claimed by Lessor, whether by limitation, prescription, possession, reversion or unrecorded instrument or other any other right or claim or (b) as to which Lessor has a preference right of acquisition. Lessor agrees to execute any supplemental instrument requested by Lessee for a more complete and accurate description of said land.