

Owner hereby dedicates perpetually the tracts shown on the Plat as "utility easements," and "utility and sidewalk easements" if any, to the public for use by utilities for public utility purposes, including but not limited to water, sanitary sewer, storm sewer and drainage, sidewalks, gas, telephone, electricity, and cable television. All such utility improvements shall be located underground. All grantees of easement rights hereunder shall hereinafter be referred to as "Grantees."

The Grantees of coextensive easement rights shall first determine whether improvements have been constructed or are planned by another authorized entity before commencing construction or maintenance hereunder, and shall construct and maintain improvements in a manner so as not to disturb, damage, or impede other pre-existing or reasonably anticipated utility or drainage improvements. Breach of the foregoing requirement shall entitle the party suffering damage to recover from the breaching party all costs of repair, as well as costs of collection of same, including reasonable attorney fees.

The Grantees hereby indemnify, hold harmless, and defend Owner and its successors and assigns against any and all claims, suits, or damages (including court costs and reasonable attorney fees incurred by the indemnified party) or causes of action for damages, and against any orders, decrees, or judgments which may be entered in respect thereof, as a result of any alleged injury to person and/or property or alleged loss of life sustained as a result of the use of the easements granted hereinabove to or by the indemnifying party, its licensees, invitees, lessees, sublessees, successors, and assigns EXCEPT to the extent such claims, suits, damages or causes of action for damages, or orders, decrees or judgments are caused by the negligence of Owner or its successors and assigns.

The Grantees will not cause or permit the escape, disposal or release on the subject real estate of Hazardous Substances, nor will such grantees do or allow anyone else to do anything that is in violation of any Environmental Law. "Hazardous Substances" are those substances defined as toxic or hazardous substances, wastes, or materials by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. "Environmental Law" means federal laws and laws of the jurisdiction where the real estate is located that relate to health, safety or environmental protection. The Grantees hereby indemnify, hold harmless, and defend Owner and its successors and assigns from and against any and all loss, penalty, fine, damage, liability or expense (including, without limitation, court costs and reasonable attorney fees) arising or resulting from or in any way connected with the breach of the foregoing obligations by such owners of easement rights.

Acceptance of the foregoing grants of easement by the Village of Fisher, public utilities, or any other party availing themselves of such easement rights shall bind such party to comply with any obligations set forth herein regarding use of such easement areas,

It is hereby provided that all conveyances of property hereafter made by the present or future owners of any of the lands described in the aforesaid Surveyor's Certificate shall, by

adopting the above description of said Plat, be taken and understood as if incorporating in all such conveyances without repeating the same the following restrictions as applicable:

DECLARATION OF COVENANTS. CONDITIONS and RESTRICTIONS

ARTICLE 1
DEFINITIONS

Unless the context clearly indicates a different meaning, the terms used in this Declaration and any deed to a Lot shall have the meanings specified in this Article.

1.1 ALTERATION:

The term "Alteration" shall mean constructing, performing, installing, remodeling, repairing, replacing, demolishing, and/or changing the color or shade of any Improvement. The term "Alteration" does not include repainting or refinishing any Improvements in the same color, hue, intensity, tone, and shade or repairing any Improvements with the same materials.

1.2 ARCHITECTURAL COMMITTEE:

The term "Architectural Committee: shall mean the committee described in Article VI.

1.3 VILLAGE:

The term "Village" shall mean the Village of Fisher, Illinois.

1.4 COUNTY:

The term "County" shall mean the County of Champaign, Illinois.

1.5 DECLARANT:

The term "Declarant" shall mean B & B Residential Development Group, LLC. The term "Declarant" shall also mean any successor or assign of Declarant, if (a) a certificate, signed by Declarant and Declarant's successor or assign, has been recorded in the County in which the successor or assign assumes the rights and duties of Declarant to some portion of the Project or (b) such successor or assign acquires all of the Project then owned by a Declarant which must be more than one (1) Lot. There may be more than one Declarant at any given time. Each Declarant shall be a Declarant only with respect to those portions of the Project owned by that Declarant. A Declarant shall cease being a Declarant when it no longer owns any portion of the Project.

1.6 DECLARATION

The term "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions of HERITAGE ESTATES SUBDIVISION NO. 5 and any amendments hereto.

1.7 IMPROVEMENTS:

The term "Improvements" shall mean everything constructed, installed or planted on property subject to this Declaration, including without limitation, buildings, streets, fences, walls, paving, pipes, wires, grading, landscaping and other works of improvement, excluding only those Improvements or portions thereof which are dedicated to the public or a public or quasi-public entity or utility company, and accepted for maintenance by the public, such entity or utility company.

1.8 INVITEE:

The term "Invitee" shall mean any person whose presence within the Project is approved by or is at the request of a particular Owner, including, but not limited to, lessees, tenants, and the family, guests, employees, licensees or invitees of Owners, tenants or lessees.

1.9 LOT:

The term "Lot" shall mean the lots as shown on the Plat, except for Lots 125 and 126.

1.10 PLAT:

The term "Plat" shall mean the Plat of HERITAGE ESTATES SUBDIVISION NO. 5, unless otherwise stated, and includes any subsequently recorded amended final plats, parcel plats, certificates of correction, lot line adjustments and/or records of survey.

1.11 OWNER:

The term "Owner" shall mean the holder of record fee title to a Lot, including Declarant as to each Lot owned by Declarant. If more than one person owns a single Lot, the term "Owner" shall mean all owners of that Lot. The term "Owner" shall also mean a contract purchaser (vendee) under an installment land contract but shall exclude any person having an interest in a Lot merely as security for performance of an obligation.

1.12 PARTY FENCE:

The term "Party Fence" shall mean any fence or wall originally constructed and placed on the common boundary of two (2) or more Lots.

1.13 PROJECT:

The term "Project" shall mean all Lots, as shown on the Plat, and all improvements thereon, except for Lots 125 and 126.

1.14 RESIDENCE:

The term "Residence" shall mean a dwelling situated on a Lot, including any garage also situated on a Lot.

1.15 COMMON AREA:

The term "Common Area" shall mean Easements designated as "Common Area" on the Plat. Common Area includes all Improvements situated thereon or therein.

**ARTICLE II
OWNERSHIP AND EASEMENTS**

2.1 OWNERSHIP OF LOTS:

Title to each Lot in the Project shall be conveyed in fee to an Owner. If more than one person and/or entity own an undivided interest in the same Lot, such persons and/or entities shall constitute one Owner. Each Lot shall be subject to the easements described in Section 3.3 below.

2.2 OWNERSHIP OF PARTY FENCES:

Each Owner of a Lot upon which a Party Fence is situated shall own to the center of the Party Fence.

2.3 EASEMENTS:

Each of the easements reserved or granted herein shall be deemed to be established upon the recording of this Declaration, whether or not they are set forth in the grant deeds to Lots, and shall thenceforth be deemed to be covenants running with the land for the use and benefit of the Owners and their Lots superior to all other encumbrances applied against or in favor of any portion of the Project.

2.3.1 Easements On Plat: The Lots are subject to the easements and rights of way shown on the Plat.

2.3.2 Private Storm Drainage: There are reserved and granted for the benefit of each Lot, over, under, across and through the Project, except for portions of the Project on which a structure is situated, non-exclusive easements for surface and subsurface storm drains and the flow of storm waters in accordance with natural drainage patterns and the drainage patterns and Improvements installed or constructed by Declarant. In addition, the following specific easements are hereby granted and reserved. Each easement is referred to as a "Private Storm Drain Easement" and the Improvements located within the Private Storm Drain Easement which provide storm drainage are referred to as the "Drainage Improvements". Each Private Storm Drain Easement shall be used by

the holder of the Dominant Tenement solely for the purposes of (a) transporting storm water and surface water run-off to the public storm drain system and (b) maintaining, repairing, and replacing the Drainage Improvements. Party Fences: Each Owner of a Lot containing a Party Fence and the Lot upon which such party Fence is located shall have a reciprocal non-exclusive easement over and across such portions of the contiguous Lot as is necessary to maintain such fence. Utilities:

Each Owner shall have a non-exclusive right and easement over, under, across and through the Project (excluding those portions occupied by Residences) for utility lines, pipes, wires and conduits installed by Declarant.

2.3.4 Architectural Committee: The Architectural Committee and its duly authorized agents and representatives shall have a non-exclusive right and easement as is necessary to perform its duties and obligations set forth in this Declaration, including the right to enter upon Lots, subject to the limitations contained in this Declaration.

2.3.5 Additional Easements: Notwithstanding anything expressed or implied to the contrary, this Declaration shall be subject to all easements granted by Declarant for the installation and maintenance of utilities and drainage facilities necessary for the development of the Project and dedicated for public use.

**ARTICLE III
USES AND RESTRICTIONS**

3.1 ALTERATIONS:

Except as otherwise specifically provided in this Declaration, no Alteration may be made to any Improvement until plans have been submitted and approved by the Architectural Committee.

3.2 ANIMALS:

An Owner may keep two (2) customarily uncaged household pets within the Owner's Lot. Each Owner may also maintain a reasonable number of small caged animals, birds or fish. No other animals are permitted in the Project. No animals may be kept for commercial purposes. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except that dogs, cats, and other household pets may be kept on Lots, provided that they are not kept, bred or maintained for any commercial purpose.

3.3 ANTENNAS:

No antennas or satellite dishes shall be erected on any front portion (facing the street) of the house.

3.4 DRAINAGE:

No Owner shall alter the drainage patterns initially installed and constructed by Declarant and as established by the grading and natural course of surface and subsurface water runoff without the prior approval of the Architectural Committee and all necessary governmental

approvals and permits.

This Declaration provides notice to each Owner to devote great care and attention to grading and to establish or maintain positive drainage away from the entire foundation line of the Owner's Residence. Positive drainage is achieved by shaping Lot grades establishing drainage "swales" or installing underground area drains. The swales and drains provide a receptacle and conduit to drain water away from the foundation, and the rear side and front of the Residence to offsite drainage disposal. Swales also prevent drainage water from moving across a Lot to another Lot or property. This Declaration also provides notice to each Owner that if existing drainage swales established on your Lot and around your residence are interrupted, blocked, filled, or otherwise altered, serious damage can result. Drainage must not be allowed to pond in a yard or run against or under a Residence, foundation, garage floor, driveway or other improvements. Serious damage may result even during a short period of time. If a Residence constructed by Declarant has a roof gutter system and downspouts which are directly connected to the Project's storm drainage system, the Residence shall at all

times remain connected to the Project storm drainage system; the Owner of such a Residence may not alter the Residence in any manner which results in additional roof waters draining anywhere other than directly into the Project's storm drainage system without the prior approval of the Architectural Committee and all necessary governmental approvals and permits.

3.5 INVITEES: Each Owner shall be responsible for compliance with the provisions of this Declaration by the Owner's Invitees.

3.6 MINERAL EXPLORATION:

No Lot shall be used to explore for or to remove any water, oil, hydrocarbons or minerals of any kind.

3.7 NUISANCES:

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

3.8 PARKING:

Vehicles shall not be parked anywhere in the Project except upon driveways or wholly within garages. No boat, trailer, camper, golf cart, commercial vehicle, mobile home, other recreational vehicle or inoperable vehicle shall be parked or stored in any area other than inside a garage.

3.9 RENTAL OF RESIDENCES :

An Owner shall be entitled to rent or lease the Owner's Residence, if (a) there is a written rental or lease agreement specifying that the tenant shall be subject to all provisions of this Declaration and failure to comply with any provision of this Declaration shall constitute a

default under the agreement; (b) the period of the rental or lease agreement is not less than thirty (30) days; (c) the Owner gives each tenant a copy of this Declaration; and Owner provides Declarant with a copy of the lease.

3.10 RESTRICTION ON BUSINESS:

Except for uses within Residences permitted by local ordinances, the construction of Residences and business of Declarant in completing the development and sale of the Lots in the Project, no business of any kind shall be established, maintained, operated, permitted or constructed in any portion of the Project.

3.11 SIGNS:

All signs displayed in the Project shall be attractive and compatible with the design of the Project and shall comply with all applicable local ordinances. The only sign of any kind which may be displayed to the public view on or from any Lot shall be as follows: (a) one (1) sign of reasonable dimensions may be placed on a Lot advertising the Lot for sale or rent; (b) signs may be displayed by Declarant on Lots owned or controlled by Declarant, as Declarant deems appropriate, advertising Lots owned by Declarant for sale or rent; (c) appropriate signs may be displayed to identify the Project; (d) other signs, posters and notices approved by the Architectural Committee or specified in this Declaration may be posted in locations approved by the Architectural Committee; and (e) signs required by legal proceedings may be displayed.

3.12 SPORTS APPARATUS:

No basketball standard, fixed sports apparatus or similar equipment shall be attached to the exterior of any Residence.

3.13 STORAGE OF WASTE MATERIALS:

No rubbish, trash, garbage or other waste material shall be kept or permitted upon any Lot except in appropriate sanitary containers. No trash containers or receptacles may be placed where visible from public streets serving the Project except on the night before and day that pick-up is to occur.

3.14 USE AND OCCUPANCY OF LOTS AND RESIDENCES:

Each Residence shall be used for residential purposes and for uses within Residences permitted by local ordinances. Otherwise, no business of any kind shall be established, maintained, operated, permitted or constructed in any portion of the Project, except for the business of Declarant in completing the development and disposition of the Lots in the Project. No Residence shall be permanently occupied by any more than two (2) persons per bedroom. No Owner may permit or cause anything to be done or kept upon, in or about the Owner's Lot which might obstruct or interfere with the rights of other Owners or which would be noxious, harmful or unreasonably offensive to other Owners. Each Owner shall comply with all of the requirements of all governmental authorities, federal, state or local, and all laws, ordinances,

rules and regulations applicable to the Owner's Lot and Residence.

3.15 DECORATIONS AND WINDOW COVERINGS:

Holiday decorations shall be removed in a timely manner after conclusion of applicable holiday.

3.16 ALTERNATIVE RESIDENCE:

No garage, tent, barn, shack, bus, basement, or other outbuilding appurtenant to a single family detached dwelling unit shall at any time be used as a residence either temporarily or permanent, nor shall any structure of temporary, portable or manufactured character be used as a residence.

3.17 AUXILIARY BUILDINGS:

Any approved auxiliary buildings or facilities shall be located to the rear of the residence except that garages may be attached to the residence. No fencing is permitted between building lines and roadways shown on the plat unless approved as to location and design by the Architectural Committee. No outbuildings shall be larger than 10' x 12' or 120 sq. ft.

3.18 POST LANTERNS:

Concurrently with the occupancy of a residence upon each lot, the owner thereof shall provide a Post Lantern in the front yard located not more than ten (10) feet from the sidewalk and ten (10) feet from the nearest driveway boundary. Such Post Lantern shall be equipped with a photoelectric cell causing the Post Lantern to illuminate automatically at dusk throughout the year. The Post Lantern shall be equipped with appropriate lights of a minimum equivalent wattage as established by the Architectural Committee.

**ARTICLE IV
IMPROVEMENTS**

4.1 MAINTENANCE OF LOTS AND RESIDENCES:

Each Owner shall maintain and care for the Owner's Lot and all Improvements located in the Lot in a manner consistent with the standards established by this Declaration and other first class residential subdivisions within the vicinity of the Project. Each Owner shall regularly clear all storm drainage inlets and maintain the capacity and flow of all storm drainage Improvements situated on the Owner's Lot at that Owner's sole cost and expense. Special architectural design standards may be established by the Architectural Committee.

4.2 MINIMUM STANDARDS:

4.2.1 Each Residence shall have a minimum square footage of above-grade living area of 1,550 sq. ft for one-story dwelling, 1,750 sq. ft. for a one-and-a-half story dwelling, and

1,800 sq. ft for a two-story dwelling.

4.2.2 Each residence shall have a roof pitch not less than 5/12.

4.3 ALTERATIONS TO RESIDENCES AND OTHER IMPROVEMENTS:

Alterations may be made to the interior of an Owner's Residence, if the Alterations do not impair the structural integrity of the Residence and if the Owner complies with all laws and ordinances regarding alterations and remodeling. No Alterations shall be made to Lots or to the exteriors of Residences without the prior approval of the Architectural Committee.

4.4 MAINTENANCE AND REPAIR OF PARTY FENCES:

The Owners of a Party Fence shall be responsible for maintaining, repairing and replacing it. The costs of such maintenance, repair and/or replacement shall be shared equally by the Owners; provided, however, that all costs of any maintenance, repair or replacement necessitated by the negligent or willful action of an Owner shall be borne by that Owner. In the absence of negligent or willful conduct, any necessary maintenance, repair or replacement performed by an Owner shall entitle that Owner to a right of contribution from the other Owners of the Party Fence. The right of contribution shall be appurtenant to the Lot and shall pass to the successor(s) in interest of the Owner entitled to contribution.

4.5 LANDSCAPING:

Each Owner shall complete seeding of yard, minimal front shrubbery and two shade trees, within one year of date of possession. All landscaping in the Project shall be maintained and cared for in a manner consistent with the standards of design and quality as originally established by Declarant and in a condition comparable to that of other well maintained residential areas in the vicinity of the Project.

All landscaping shall be maintained in a neat and orderly condition. Any weeds or diseased or dead lawn, trees, ground cover or shrubbery shall be removed and replaced. All lawn areas shall be neatly mowed and trees and shrubs shall be neatly trimmed. Maintenance shall include pruning, mowing, weeding, cleaning of debris and trash. Any landscaping which is removed or altered must be immediately replaced with landscaping of like kind and quality unless otherwise approved by the Architectural Committee. Irrigation systems, if any, shall be fully maintained in sound operating condition with heads periodically cleaned and replaced when missing to ensure continued regular watering of landscape areas, and health and vitality of landscape materials. Each Owner shall also maintain any landscaping within the public right-of-way which adjoins the Owner's Lot.

4.6 INSURANCE:

Each Owner is responsible for determining and obtaining the type and amount of insurance needed to insure all Improvements and personal property located within his or her Residence and to otherwise protect the Owner against losses. Each Owner shall obtain and maintain in

full force and effect a policy of insurance which provides protection of the Owner's Residence against loss or damage by fire or other casualty, in an amount equal to at least one hundred percent (100%) of the current full replacement cost (without respect to depreciation) of the Owner's Residences, exclusive of land, foundations, excavation and other items normally excluded from coverage.

4.7 DAMAGE OR DESTRUCTION:

If all or any portion of a Lot or Residence, or sidewalk within an adjacent street Right of Way is damaged by accident, fire or other casualty, the responsible Owner shall either (a) restore the damaged Improvements or, if a Lot or Residence (b) remove all damaged Improvements, including foundations, and leave the Lot in a clean and safe condition. Any restoration under (a) preceding must be performed so that the Improvements are in substantially the same condition in which they existed prior to the damage, unless otherwise approved by the Architectural Committee. The Owner must commence such work within one hundred twenty (120) days after the damage occurs and must complete the work within one (1) year thereafter.

**ARTICLE V
DEVELOPMENT RIGHTS**

5.1 LIMITATIONS OF RESTRICTIONS:

Declarant is undertaking the work of developing Lots and other Improvements within the Project. The completion of the development work and the marketing and sale, rental and other disposition of the Lots is essential to the establishment and welfare of the Project as a residential community. In order that the work may be completed and the Project be established as a fully occupied residential community as rapidly as possible, nothing in this Declaration shall be interpreted to deny Declarant the rights set forth in this Article.

5.2 RIGHTS OF ACCESS AND COMPLETION OF CONSTRUCTION:

Declarant, its contractors and subcontractors shall have the right to (a) obtain reasonable access over and across the Project and/or do within any Lot owned or controlled by it whatever is reasonably necessary or advisable in connection with the completion of the Project, and (b) erect, construct and maintain within any Lot owned or controlled by it such structures as may be reasonably necessary for the conduct of its business to complete the work, establish the Project as a residential community and dispose of the Project in parcels by sale, lease or otherwise.

5.3 MARKETING:

Declarant shall have the right to (a) maintain model homes, signs, banners, flags, sales offices, storage areas, parking lots, and related facilities in any Lots owned or controlled by Declarant within the Project as are necessary or reasonable, in the opinion of Declarant, for the sale or disposition of the Lots; (b) use Lots owned or controlled by Declarant in accordance with any promotional programs established from time to time by Declarant: and (c) conduct its business

of disposing of Lots by sale, lease or otherwise,

**ARTICLE VI
ARCHITECTURAL AND LANDSCAPING CONTROL**

6.1 ARCHITECTURAL APPROVAL REQUIRED:

Any approval of the Architectural Committee required by this Declaration must be obtained in accordance with this Article VI before any work is performed. The provisions of this Declaration requiring architectural approvals shall not apply to the construction of any Improvements on a Lot by Declarant, its agents, contractors or employees.

6.2 ARCHITECTURAL COMMITTEE:

The Architectural Committee shall initially be composed of 1 person, who shall be appointed by B & B Residential Development Group, LLC. The Architectural Committee may increase the number of its members from time to time.

6.3 POWERS OF THE ARCHITECTURAL COMMITTEE:

The Architectural Committee shall have the following powers:

6.3.1 Review Plans/Builder's Checklist:To review and approve, disapprove or conditionally approve all plans, submittals, applications and requests made or tendered to it by Owners, or their agents, pursuant to the provisions of this Declaration. In connection therewith, the Architectural Committee may investigate and enforce the architecture, design, layout, driveway and approach materials (concrete), landscaping, fence detail, and other features of the proposed improvement.

6.3.2 Specify Materials/Builder's Checklist:To require the submission of site plans, diagrams, photographs, materials or other presentation material as may be necessary for complete review and consideration of the proposed development. All such plans and specifications shall be submitted in writing in duplicate and each shall be signed by the Owner of the Lot or his or her authorized agent.

6.3.4 Adopt Rules: To adopt rules and regulations for the transaction of business, scheduling of meetings, conduct of meetings and related matters;

6.3.5 Adopt Criteria: To adopt criteria, consistent with the purpose and intent of this Declaration, to be used in making its determination to approve, disapprove or conditionally approve any matter submitted to it for decision; and

6.3.6 Fees: To adopt a schedule of reasonable fees for processing submittals, performing maintenance of Common Areas, insuring Common Areas and the Architectural Committee against loss or liability, and to establish the time and manner in which such fees

shall be paid. The Architectural Committee shall have the power to enforce collection of such fees and shall have a lien upon any Lot for which such fees are not timely paid. Such lien amount shall include costs and reasonable attorney fees incurred in collection thereof. In any action taken to enforce such authority, the prevailing party shall be entitled to recover costs and reasonable attorney fees.

6.4 DUTIES OF ARCHITECTURAL COMMITTEE:

The Architectural Committee:

6.4.1 Time Limitation: Shall render a decision on each matter submitted to it, in writing, within thirty (30) days of receipt of all data required by its rules and regulations. Failure to render a decision within said period of time shall be deemed to be an approval of the matter as submitted. The approved plans and specifications, if any, shall be signed in duplicate by a fully authorized member or employee of the Architectural Committee and shall be incorporated in the decision by reference. One copy shall be retained by the Architectural Committee and one copy shall be returned to the Owner or applicant;

6.4.2 Publish Rules: Shall publish and make available to Owners and prospective owners all of its rules, regulations and criteria from time to time adopted, if any;

6.4.3 Appointment and Designation: May, from time to time, by a majority vote of the members thereof, delegate any of its rights or responsibilities hereunder to one or more duly licensed architects or other qualified persons who shall have full authority to act on behalf of the Architectural Committee in all matters delegated.

6.4.4 Maintenance of Common Area: Shall be responsible for the maintenance, repair, replacement, management, operation, painting and upkeep of Common Areas and all Improvements situated in, upon or under a Common Area. The Architectural Committee shall keep Common Areas and Improvements thereon in good condition and repair, provide for all necessary services and cause all acts to be done which may be necessary or proper to assure the maintenance of the Common Area in first class condition.

6.5 CONDITIONS PRECEDENT TO APPROVAL:

As conditions precedent to approval of any matter submitted to it, the Architectural Committee must determine whether:

6.5.1 Best Interest of Owners: The approval of the plan will be in the best interests of the Owners;

6.5.2 Architectural Review: General architectural considerations, including the character, scale, and quality of the design, the architectural relationship with the site and other buildings, building materials, colors, screening of exterior appurtenances, exterior lighting and similar elements have been incorporated in order to ensure the compatibility of the proposed improvement with its design concept and the character of adjacent buildings;

6.5.3 Site Review: General site considerations including site layout, open space and topography, orientation and locations of buildings, building square footage requirements, vehicular access, circulation and parking, setbacks, height, walls, fences, and similar elements have been designed to provide a desirable environment; and

6.6 FORM OF APPROVALS AND DENIALS:

All approvals and denials shall be in writing, Any denial of a proposal must state the reasons for the decision to be valid. Any proposal which has not been rejected in writing within thirty (30) days from the date of submission shall be deemed approved. The date of submission shall be the date the submission is actually received by a member of the Architectural Committee.

6.7 PROCEEDING WITH WORK:

Upon approval of the Architectural Committee, the Owner shall diligently proceed with the commencement and completion of all work so approved. Work must be commenced within eight (8) months from the date of the approval. If the Owner fails to comply with the provisions of this Section, the approval given shall be deemed revoked unless the Architectural Committee extends the time for commencement. Any request for an extension shall be in writing. No extension shall be granted unless the Architectural Committee finds that there has been no change in the circumstances under which the original approval was granted.

6.8 FAILURE TO COMPLETE WORK:

Completion of the work approved must occur in the twelve (12) month period following the approval of the work unless the Architectural Committee determines that completion is impossible or would result in great hardship to the Owner due to strikes, fires, national emergencies, natural calamities or other supervening forces beyond the control of the Owner or the Owner's agents. If the Owner fails to complete the work within the one (1) year period, the Architectural Committee shall proceed in accordance with the provisions of Section 6.9, below.

6.9 DETERMINATION OF COMPLIANCE:

Any work performed, whether or not the Owner obtained proper approvals, shall be inspected and a determination of compliance shall be made as follows:

6.9.1 Notice of Completion: Upon the completion of any work performed by an Owner for which approval was required, the Owner shall give written notice of completion to the Architectural Committee. If the Owner fails to give the notice of completion of work performed for which approval was required, the Architectural Committee may enforce the provisions of this Declaration in accordance with 7.2 below.

6.9.2 Inspection: Within thirty (30) days after the Architectural Committee's receipt of the Owner's notice of completion, or, if the Owner fails to give a written notice of completion

to the Architectural Committee within the time specified in Section 6.8, above, a designee of the Architectural Committee shall inspect the work performed and determine whether it was performed and completed in substantial compliance with the approval granted. If the Architectural Committee finds that the work was not performed or completed in substantial compliance with the approval granted or if the Architectural Committee finds that the required approval was not obtained, the Architectural Committee shall notify the Owner in writing of such noncompliance. The notice shall specify the particulars of non-compliance and shall require the Owner to remedy the non-compliance.

6.10 FAILURE TO REMEDY NON-COMPLIANCE:

If the Owner fails to remedy the non-compliance in accordance with the provisions of the notice of non-compliance, then after the expiration of (30) days from the date of such notification, the Architectural Committee shall have the right to proceed in accordance with Section 6.2.

6.11 WAIVER:

Approval of any plans, drawings or specifications for any work proposed, or for any other matter requiring approval shall not be deemed to constitute a waiver of any right to deny approval of any similar plan, drawing, specification or matter subsequently submitted for approval.

6.12 ARBITRATION:

If an Owner seeking the approval of the Architectural Committee with respect to a matter affecting that Owner's Lot disputes the decision of the Architectural Committee in Connection with such decision, the dispute shall be submitted to, and conclusively determined by, binding arbitration in accordance with this Section 6.12. Binding arbitration shall not preclude any party from seeking injunctive or other provisional or equitable relief in order to preserve the status quo of the parties pending resolution of the dispute, nor shall the filing of an action seeking injunctive or other provisional relief be construed as a failure by that party to comply with the arbitration requirements of this Section. A single arbitrator shall be selected by the parties from individuals affiliated with the Federal Mediation and Reconciliation Service. The parties shall submit to the arbitration all written, documentary, or other evidence and oral testimony as is reasonably necessary for a proper resolution of the dispute. Copies of all written submittals shall be provided to the arbitrator and both parties. The arbitrator shall conduct such hearings as the arbitrator considers necessary, may require the submission of briefs or points and authorities and may submit written questions to the parties. The parties shall respond to such questions in writing. If a question is addressed to less than all of the parties, copies of the question and the answer thereto shall be served on the other parties. Except as provided above, the arbitration procedures applicable to the State of Illinois shall apply to the arbitration. The arbitration shall proceed with due dispatch. The arbitrator's decision shall be in writing and in a form sufficient for entry of a judgment in any court of competent jurisdiction in the State of Illinois. The arbitrator's decision shall pertain, and shall be limited to the granting of damages not to exceed any party's actual out-of-pocket expenses and the costs of undertaking any

repairs, maintenance or reconstruction relating to the dispute and the award of any injunction or other equitable relief. In no event shall the arbitrator's award include any component for punitive or exemplary damages. Costs of the arbitration proceeding shall be borne as determined by the arbitrator.

6.13 NO LIABILITY:

Neither Declarant, the Architectural Committee nor the members or designated representatives thereof shall be liable for damages to anyone submitting plans or specifications to them for approval, or to any Owner of property affected by this Declaration by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications, or for any defect whether in design or construction in any structure constructed from such plans and specifications. Neither the Declarant, the Architectural Committee nor any member thereof shall be responsible for reviewing or approving any plans with respect to the adequacy of engineering design. Every person who submits plans or specifications to the Architectural Committee for approval agrees, by submission of such plans and specifications, and every Owner of any of said property agrees that he or she will not bring any action, suit or claim against Declarant, the Architectural Committee or any of the members or designated representatives thereof with respect to any matters for which such persons or entities are relieved of liability pursuant to this Section.

6.14 EVIDENCE OF APPROVAL OR DISAPPROVAL:

After a determination of compliance is made pursuant to Section 6.9, the Architectural Committee may record a Notice of Determination of Compliance ("Notice"). The Notice shall be executed by any two (2) members of the Architectural Committee and shall certify that as of the date of the Notice, either (a) the work completed complies with the provisions of this declaration and the approval(s) issued by the Architectural Committee or (b) the work completed does not comply with the provisions of this Declaration or the approval(s) issued by the Architectural Committee. In the latter situation, the Notice shall also identify the particulars of the non-compliance. Any successor in interest of the Owner shall be entitled to rely on the Notice with respect to the matters set forth. The Notice shall be conclusive as between the Architectural Committee, Declarant and all Owners and such persons deriving any interest through any of them. Any Owner may make a written request that the Architectural Committee prepare and execute a Notice and the Architectural Committee shall do so within ninety (90) days of its receipt of the request. If no Notice has been recorded within six (6) months of the date the Architectural Committee received the written request, the contracted Improvements shall be deemed to be in compliance with all provisions of this Declaration and the approval(s) issued by the Architectural Committee.

**ARTICLE VII
AMENDMENT AND ENFORCEMENT**

7.1 AMENDMENTS:

These restrictive covenants may be amended or waived, in whole or in part, as to this subdivision by an instrument signed, acknowledged, and recorded by 75% of the Lot Owners as they may exist from time to time. Any amendment shall be affective upon the recording in the Official Records of the County of an instrument setting forth the terms of the amendment, duly certified and executed by any three (3) Owners.

7.2 ENFORCEMENT:

7.2.1 Generally: Declarant, the Architectural Committee and/or any Owner shall have the right, but not the obligation, to enforce the provisions of the Declaration in any manner provided by law or in equity, including arbitration, and in any manner provided in this Declaration. The provisions of this Declaration shall be equitable servitudes and covenants running with the land, enforceable by Declarant, any Owner and/or the Architectural Committee against any other Owner, tenant or occupant of the Project. Except as otherwise provided, the Architectural Committee or an Owner(s) shall have the right, but not the obligation, to enforce, in any manner permitted by law or in equity, including by arbitration, any and all of the provisions of this Declaration, including any decision made by the Architectural Committee upon the Owners or upon any property in the Project.

7.2.2 Enforcement by Declarant: Declarant has the right, but not the obligation, to enforce the provisions of this Declaration, including any decision made by the Architectural Committee, in any manner by law or in equity, including arbitration, and in any manner provided in this Declaration. The provisions of this Declaration are equitable servitudes and covenants running with the land, enforceable by Declarant against the Architectural Committee and/or any Owner, tenant or occupant of the Project. Declarant may elect to enforce any provision of this Declaration at any time against any Owner and no such action shall be construed to imply any obligation on the part of Declarant to enforce the same provision against another Owner.

7.2.3 Liquidated Damages: Declarant is developing and marketing Lots and Residences in the Project, The restrictions contained in Articles III and IV of this Declaration exist, among other reasons, for the benefit of Declarant in that they assist in creating and promoting a particular setting, appearance and atmosphere which is critical to the ability of Declarant to sell Lots and Residences in the Project. Any violation of any such restriction adversely impacts Declarant's ability to sell Lots and Residences in the Project. Declarant and each Owner, by acceptance of a grant deed to a Lot, expressly agree for themselves, and their respective successors-in-interest and assigns that if an Owner violates any provision of Article III or Article IV of this Declaration by the Owner's action or inaction, the action of the Owner's Invitee(s), or by permitting or causing the Owner's Lot or Residence to be in violation (collectively "Violation"), it would be extremely difficult and impractical to ascertain the actual damages suffered by Declarant. Therefore, in the event of any Violation of any provision of Article III or Article IV of this Declaration, the Owner of the Lot in Violation shall pay to Declarant the sum of twenty dollars (\$20.00) per day for each day that the Violation continues as liquidated and agreed upon damages. As a condition precedent to collecting liquidated damages, Declarant must first give written notice of the Violation to the Owner, The notice must specify the nature of the Violation of the action needed to correct the Violation. The

notice must be either personally delivered to the Owner or addressed to the Owner and sent by first class mail, postage prepaid, to the address which appears on the County Assessor's Rolls for the Lot for property tax purposes, return receipt requested. From the time of receipt of the notice, the Owner shall have forty-eight (48) hours to correct the Violation unless the Violation is of Section 3.1 in which case the Owner shall have ninety-six (96) hours to correct the Violation. If the Violation is not corrected by the specified time, liquidated damages shall accrue at the rate of Twenty Dollars (\$20.00) per day from the date of receipt of the notice. Declarant has the right, but not the obligation, to enforce payment of liquidated damages in any manner permitted by law or in equity, including an action in small claims court.

7.2.4 Violation of Law: Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any property within the Project is hereby declared to be a violation of this Declaration and is subject to any or all of the enforcement procedures herein set forth. Remedies Cumulative: Each remedy provided by this Declaration is cumulative and not exclusive.

7.2.5 No Waiver: The failure to enforce the provisions of any covenant, condition or restriction contained in this Declaration shall not constitute a waiver of any right to enforce any such provisions or any other provisions of this Declaration.

**ARTICLE VIII
MISCELLANEOUS PROVISIONS**

8.1 TERM OF DECLARATION:

This Declaration shall continue for a term of fifty (50) years from its date of recording. Thereafter, this Declaration shall be automatically extended for successive periods of ten (10) years until a vote of the Owners of at least fifty-one percent (51%) of the Lots determine that this Declaration shall terminate.

8.2 CONSTRUCTION OF PROVISIONS:

The provisions of this Declaration shall be liberally construed to affect its purpose of creating a uniform plan for the development and operation of the Project.

8.3 BINDING EFFECT:

This Declaration shall be for the benefit of and be binding upon all Owners, their respective heirs, legatees, devisees, executors, administrators, guardians, conservators, successors, purchasers, tenants, encumbrancers, donees, grantees, mortgagees, lienors and assigns.

8.4 SEVERABILITY OF PROVISIONS:

The provisions hereof shall be deemed independent and severable, and the invalidity or unenforceability of any one provision shall not affect the validity or enforceability of any other

provision hereof.

8.5 GENDER, NUMBER AND CAPTIONS:

As used herein, the singular shall include the plural and masculine pronouns shall include feminine pronouns, where appropriate. The title and captions of each paragraph hereof are not a part thereof and shall not affect the construction or interpretation of any part hereof.

8.6 REDISTRIBUTION OF DECLARATION:

Upon the resale of any Lot by any Owner, the Owner shall supply to the buyer of the Lot a copy of this Declaration.

8.7 SUCCESSOR STATUTES:

Any reference in this Declaration to a statute shall be deemed a reference to any amended or successor statute.

8.8 MORTGAGE PROTECTION:

Any Owner may encumber its Lot with a mortgage or deed of trust. A breach of any of the conditions contained in this Declaration shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value as to any Lot in the Project; provided however that the conditions contained in this Declaration shall be binding upon and effective against any Owner of a Lot if the Lot is acquired by foreclosure, trustee's sale or otherwise.

8.9 INCORPORATION OF PLAT.

All notes and restrictions indicated on the Plat are incorporated herein by reference.

8.10 ZONING.

The use of said subdivision shall conform to the zoning ordinances of the Village of Fisher.

8.11 SET BACK LINES.

There are also indicated and shown on the Plat certain lines identified as "Building Setback Lines". No buildings shall be erected on any of said lots in violation of any of said building setback lines, except as provided in the Village of Fissner Zoning ordinance. For the purposes of this covenant, eaves, steps and open porches shall not be considered as a part of a building provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot or easement.

IN WITNESS WHEREOF, this instrument has been executed on this ____ day of March, 2022.

